

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
June 8, 2022

John H. Reagan Building
Room 120
1400 Congress Avenue
Austin, Texas 78701

COMMISSIONERS:

ROBERT C. PATE, Chair
CONNIE McNABB, D.V.M., Vice Chair
MARGARET MARTIN (absent)
ARVEL "A.J." WAIGHT
MICHAEL "MIKE" MOORE (absent)
REBECCA CONTRERAS (absent)

EX OFFICIO MEMBERS:

TIM KLEINSCHMIDT, Texas Department of
Agriculture
STEVEN P. MACH, Public Safety Commission

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P R O C E E D I N G S

CHAIRMAN PATE: Good morning. At this time, I'd like to call today's meeting of the Texas Racing Commission to order. The time is 10:30 a.m.

Phil, please call the roll.

MR. FOUNTAIN: Chairman Pate?

CHAIRMAN PATE: Here.

MR. FOUNTAIN: Vice Chair McNabb?

DR. McNABB: Here.

MR. FOUNTAIN: Commissioner Martin?

(No response.)

MR. FOUNTAIN: Commissioner Moore?

(No response.)

MR. FOUNTAIN: Commission Waight?

MR. WAIGHT: Here.

MR. FOUNTAIN: Commissioner Contreras?

(No response.)

MR. FOUNTAIN: Commissioner Mach?

MR. MACH: Here.

MR. FOUNTAIN: Commissioner Burgess?

MR. BURGESS: Here.

CHAIRMAN PATE: Do we have a quorum?

MR. FOUNTAIN: Yes.

CHAIRMAN PATE: All right. Commissioners, I'd like to welcome you to our June Commission meeting.

1 As I look back on the dramatic changes in this
2 Commission and in the Agency following the 2021 Sunset
3 Commission review, my appointment as the Chair of the
4 Commission just about one year this week, and the
5 selection of our new Executive Director, Amy Cook, it
6 occurs to me that we are at a tipping point in the history
7 of horseracing in Texas. Things are changing for the
8 demonstrable better across the Agency.

9 This change continues today with the
10 preparation for our legislative appropriation ask
11 buttressed by the strategic plan recently adopted. Now,
12 the legislature may see things differently, but I think
13 we've done our level best to honestly plan for a well-
14 staffed, effective agency going forward. It will be up to
15 us to explain to the legislature and gain their support
16 for our plan in the next biennium budget, but more change
17 is coming.

18 About a month ago, I visited Lone Star Park
19 with Amy. And as we walked the grounds, the test barn,
20 and the turf, I asked Amy whether we had a viable safety
21 checklist reflecting Agency rules that the Agency staff
22 could rely upon to ensure that a track was race-ready
23 every day of a meet.

24 I wanted to be assured that we were focused on
25 track safety in Texas, as well as the host of other

1 animal-related safety rules which we enforce. The answer
2 she gave me was no. I was told there was no clear safety
3 checklist which could be generated based on our current
4 rules of racing that the Agency could rely on as
5 enforcement standards that both the Commissions as
6 regulators, as well as the regulated licensees, could
7 consistently turn to as the model for track safety.

8 This is unacceptable. Accordingly, my
9 direction to staff this month to begin a sweeping rules
10 review was then precipitated in part by this exchange at
11 Lone Star Park, as well as by the Sunset review earlier
12 reports, which also encourages our rules review.

13 I'm pleased today to note that as a result of
14 our increased communication with the race tracks, our
15 breed organizations, and all horsemen organizations about
16 all facets of Texas Racing Commission operations, which
17 our Executive Director has nurtured over the last year,
18 each stakeholder has uniformly welcomed the opportunity to
19 participate in the thoughtful redesign and modernization
20 of the Agency rules. Their input is critical to our
21 success.

22 Earlier this year, our Rules Committee, led by
23 Vice Chair Dr. McNabb, chaired a series of public
24 engagements to address the express concerns surrounding
25 the how and when of the implementation of hair testing in

1 Texas. We had numerous public meetings and engagements to
2 update those sections of our rules to get the
3 implementation of that critical testing policy right, as
4 part of our ongoing safety program. Public meetings were
5 held at both Retama and Sam Houston Race Parks, with a
6 diverse and interested racing community explaining
7 concerns from different perspectives.

8 Draft rules language was cleaned up --
9 tightened up, as necessary. The results were fully
10 vetted, clear, and enforceable rules ready for adoption by
11 the Commission today.

12 Of particular concern, generally, is the
13 current rules, in most cases, are several decades old,
14 very generic, and obtuse, and do not clearly provide the
15 enforcement mechanisms we need today in order to conduct
16 our enforcement mission and to clearly set forth the
17 performance standards that are expected of the
18 participants at every level.

19 Now, Dr. McNabb will begin the important work
20 of reviewing the Texas Rules of Racing in their entirety,
21 while considering international, national, and state law
22 as we rewrite them with the input of our key stakeholders,
23 the citizens of Texas. We expect to provide every
24 opportunity for public comment as we begin this process,
25 hoping to take up the rules in logical groupings, and will

1 announce our strategy and the dates and times of public
2 meetings to provide every opportunity for feedback as we
3 prepare draft rules for consideration.

4 This will not happen overnight, nor should it.

5 There is no more important Racing Commission task than
6 providing an opportunity for Texans to have their voice
7 heard on the topic of effective regulation of the sport of
8 horseracing, and how we can explain and perform our
9 mission with integrity, transparency, and accountability.

10

11 More change is coming from the outside forces,
12 particularly the new HISA legislation. We will be honored
13 later today to receive some remarks from Ms. Lisa Lazarus,
14 the Chief Executive Officer of the HISA Authority, and her
15 counsel, Mr. John Roach.

16 I want to make it very clear that this
17 Commission agrees with the HISA goals of increasing the
18 integrity and safety of the sport. What we do not agree
19 with is the implementation of a law passed by Congress as
20 part of the COVID relief massive legislation package on a
21 House voice vote and without hearings in the United States
22 Senate, followed by a set of regulations posted for
23 comment where it appears few of the industry stakeholders
24 comments were heard or adopted.

25 This lack of a normal Congressional committee

1 process is at the heart of the problems, not only to
2 Texas, but, I believe, to a host of other states, as well.

3 Now, I want to tell you, this is not the fault of Ms.
4 Lazarus or Mr. Roach, our guests here today. But it is
5 the truth.

6 I certainly hope that any of you who might have
7 public comment in a few minutes will remember that there
8 probably isn't anyone who wishes the enabling legislation
9 was more clear, more consistent with varying state law, or
10 allowed more time to prepare and to become effective than
11 Lisa or John. They have a tough job to do.

12 Our concerns are not personal to them, but they
13 are real. And these decisions have real consequences to
14 many, and are taken seriously by many Texans here today.
15 Unfortunately -- but again, truthfully -- HISA very poorly
16 harmonizes with Texas law.

17 I sense that maybe is true with other states,
18 as well. For one example among many, we in Texas will
19 likely have duplicate licensing requirements for
20 thoroughbred owners, trainers, and related parties because
21 of the nature of Texas racing.

22 In Texas, we have five state recognized equine
23 breeds. The existence of mixed meets is not unusual, and
24 confused jurisdiction between the Commission and HISA
25 amplifies these jurisdictional problems.

1 The horse barns at each track each day can have
2 any of the five breeds in them next to each other. The
3 make up of the barns is not by breed. Rather, it is
4 determined by whether it's a haul-in or a daily rental of
5 the barn, versus a barn reserved for months to participate
6 in a specific set of races.

7 To enter the restricted areas of our
8 racetracks, you need a Texas Racing Commission-issued
9 license. That includes HISA personnel, who must apply,
10 pay a fee, and pass the background check. Under Texas
11 law, there are no exceptions to the statute for the health
12 and safety of Texas racing participants. We have a
13 statutory duty to protect all breeds in the back side, and
14 we will continue to do so.

15 Moreover, the HISA Authority has not seriously,
16 today, prepared to assume jurisdiction over racing. One
17 example, independent of Texas law -- HISA proposed a
18 registration rule on May 16, 2022, that is technically not
19 yet effective, that also requires that covered persons are
20 registered with and accredited by them. Covered persons
21 seems to be a shifting definition, and what being
22 accredited is is unclear.

23 The question is who is required to be
24 accredited, and what are the consequences of not becoming
25 accredited, since the rule has not been approved by the

1 FTC. And the comment period was supposed to be, we
2 thought, for the usual federal 60-day period -- until July
3 16th -- but it actually closed after only 14 days? It
4 just recently closed. So, we're going to determine, or
5 we're going to find out what happens when this rule is
6 approved and how it will be implemented.

7 All of that said, Texas Racing Commission
8 personnel will not be checking HISA accreditation. And,
9 in fact, it appears that many Texans will be accredited
10 because there is only one way to get accredited, and that
11 is online. This current process presents significant
12 difficulties for a large portion of the back side
13 community who are not computer literate, creating a have
14 and have not situation, and threatens to impair the
15 livelihood of those who make their living in the equine
16 industry.

17 A basic question is, if I'm a groom for two
18 horses -- one thoroughbred, one quarter horse -- and I do
19 not have a computer, do I lose my job if the day I'm
20 taking care of the thoroughbred -- since I'm not
21 registered or accredited?

22 Finally, everyone in Texas needs to understand
23 how Texas horse wagering law works. As I have said
24 before, although the Horseracing Integrity and Safety Act
25 is understood to have a preemptive effect on the various

1 states, in Texas, that effect is significant.

2 In Texas, HISA will kill pari-mutuel on-site
3 wagering, and result in the prohibition of simulcast
4 export wagering. Wagering on horseracing is a unique
5 regulatory responsibility we have under the Texas Racing
6 Act and the rules of racing, which is inextricably tied to
7 all functions of the Texas Racing Commission through the
8 Texas Racing Act.

9 If the Texas Racing Commission, under the Texas
10 Racing Act, isn't involved in every aspect of a horse meet
11 and its races, pari-mutuel wagering on such races is
12 against the explicit terms of the Texas Racing Act. The
13 HISA statute makes no mention of pari-mutuel wagering.

14 And as Judge Hood in his June 3, 2022, opinion
15 in the case *The State of Oklahoma and others against the*
16 *United States of America* made clear, "HISA, however, does
17 not affect existing state and federal regulation on any
18 matters unrelated to any doping, medication control, and
19 racetrack and racing safety of covered horses and covered
20 races."

21 And further, "HISA limits the scope of
22 rulemaking to medication control and racetrack safety."
23 Therefore, the Federal Trade Commission, enabled by the
24 federal statute enacted through and acting through HISA,
25 does not replace Texas Racing Commission or its authority

1 in this state with respect to pari-mutuel wagering.
2 Period, full stop.

3 The decision the Texas tracks may make is to
4 voluntarily give up their simulcast export signal, at
5 least for the immediate future, and thus, deny HISA its
6 federal jurisdiction through the Interstate Horseracing
7 Act of 1978, so that business in Texas can continue almost
8 as usual, and provide immediate certainty to owners,
9 trainers, the Commission, and the track association.

10 If Texas is denied required involvement in any
11 race in favor of the HISA Authority, that same track will
12 not only lose its ability to export simulcast signal, but
13 on-site wagering, as well, as such race will not be in
14 compliance with Texas law.

15 Now, this is not a Texas Racing Commission
16 decision. It is a Texas Racing Commission duty. These
17 jurisdictional problems and the admitted delays of the
18 HISA Authority to actually begin to regulate could not
19 possibly have been the results for Texas or any other
20 state that Senator McConnell intended when he attached
21 this piece of legislation to the COVID relief package with
22 passage assured without debate.

23 The solution that is begging for advancement is
24 the recognition that the effective date for this
25 legislation needs to be pushed back 18 to 24 months to

1 allow HISA the time to thoughtfully adopt its rules with
2 widespread industry involvement and to reasonably resolve
3 these absolutely real jurisdictional issues -- not just
4 for Texas, but for all states.

5 And not just for thoroughbreds, but for all
6 racing equine athletes and their jockeys, and to allow
7 certainty to the track associations, owners, trainers, and
8 others involved in this sport until the law's fully
9 understood and can actually be effectively implemented.

10 We're now going to move on to Public II, public
11 comment. Phil, I've got several cards here.

12 Mindy Coleman is recognized for three minutes
13 for public comment. Good morning. Thank you for coming.

14 MS. COLEMAN: Good morning, Commissioners.
15 Mindy Coleman on behalf of the Jockeys Guild. As the
16 representative of all the jockeys of the United States --
17 that includes quarter horse and thoroughbred both --
18 including all of those who regularly ride in Texas -- is
19 this close enough?

20 I'm short. Sorry. Make sure you can hear.

21 We want to give a sincere appreciation to the
22 Texas Racing Commission, as well as the representatives of
23 the Horseracing Integrity Authority who are here today to
24 have this most important meeting and discussion allowing
25 for the rest of the industry participants to express its

1 opinions and concerns about the implementation of the
2 approved regulations.

3 The Guild has long stated that the health and
4 welfare of both the equine and human athletes is
5 paramount, and should always take precedence in our
6 industry. It's the jockeys' lives and well being that is
7 risked when there are risks to the horses.

8 We have long been a proponent of creating and
9 establishing uniform guidelines throughout the country.
10 And in doing so, it was in hopes of creating the safest
11 racing environment possible.

12 Throughout the past several years, the Guild
13 has worked with the industry and regulators in an attempt
14 to create these safety regulations. However, we've been
15 supportive of the concepts and ideas that were introduced
16 by the various organizations through and considered by
17 HISA when they were -- excuse me -- the Horseracing
18 Integrity Authority.

19 With regards to the jockeys, we've been working
20 for over a decade with the industry to adopt safety
21 standards, including concussion protocols and
22 return-to-ride guidelines, as well as a centralized health
23 database to be accessed by racetrack personnel and medical
24 personnel in the event of an injury to the jockeys.
25 However, due to lack of enforcement, communication, and

1 cooperation, many of the protocols and programs were
2 unsuccessful or never fully adopted.

3 In general, the racetrack safety regulations,
4 as presented and adopted by the Horseracing Integrity --
5 HISA are necessary for our sport, in general, to assure
6 the safest racing environment, while establishing
7 uniformity. The Guild and our members recognize and
8 appreciate the efforts put forth by the members of the
9 Authority to improve the safety for the human and equine
10 athletes, as well as the integrity and public perception
11 of our sport.

12 It should be noted that our co-chairman, Hall
13 of Fame jockey, John Velasquez, was appointed as a member
14 to the Authority Racetrack Safety Standing Committee as an
15 industry representative for the jockeys. Since the
16 formation of the Authority -- in particular, that
17 committee -- the Guild has been submitting our comments
18 and what was best interest for the horses and the jockeys,
19 as well as the industry in a whole. Some of our
20 suggestions and comments were taken into consideration and
21 implemented and adopted with regard to the safety.

22 With that being said, we do still have concerns
23 with some of the regulations as presented that we think
24 are going to have an effect on the realities of our
25 industry. One major area of concern for our membership is

1 the use of the riding crop, including the specifications
2 of the riding crop being permitted and the penalties.

3 Much of the information and articles that were
4 relied upon by the committee members were outdated and
5 prior to the implementation of the existing safety riding
6 crop, known as the ProCush, which is the riding crop
7 that's primarily used throughout the world in
8 international jurisdictions.

9 Additionally, the rules were adopted that are
10 very similar to the rules that had been circulated
11 throughout the industry in the previous two years.
12 However, after much consideration and discussion, those
13 rules were not adopted. There was a reason -- they were
14 not realistic and they did not work.

15 MR. FOUNTAIN: The speaker's time has expired.

16 CHAIRMAN PATE: All right. Just finish your
17 thoughts, ma'am.

18 MS. COLEMAN: Okay. I'll hurry, and I
19 apologize. It should be recognized that the change with
20 the use of the riding crop was for public perception. We
21 recognize that, and we wanted it to happen.

22 However, the Guild, along with many industry
23 representatives, had worked to create a riding crop rule
24 that we thought was necessary and beneficial for the
25 industry. The Kentucky Horseracing Commission did adopt

1 that regulation. It went into effect last year.

2 However, the Authority, against the
3 recommendations and the input of the one person who truly
4 had the best understanding and whose life is at risk, was
5 disregarded. They did not adopt it.

6 I had two other points. I don't know if you
7 want me make those or --

8 CHAIRMAN PATE: Well, we're going to move on.
9 We do have a schedule, but Ms. Coleman, thank you very
10 much for coming.

11 MS. COLEMAN: Thank you.

12 CHAIRMAN PATE: Is it -- Tracy Sheffield is now
13 recognized for public comment. The Texas Thoroughbred
14 Association. Good morning.

15 MS. SHEFFIELD: Good morning. Good morning.
16 As a board member for the Texas Thoroughbred Association,
17 I would take this opportunity to thank you for hearing me,
18 and to address some racing industry concerns that have
19 been brought to my attention by owners, breeders,
20 trainers, veterinarians, and jockeys in regard to the
21 Horseracing Integrity and Safety Act.

22 At present, HISA is a bureaucratic nightmare of
23 partial rules, rules yet to be developed, requirements
24 that cannot be met due to HISA failings, and what appears
25 to be a deliberate opacity in regards to how the Authority

1 will conduct its stated business.

2 We request that the Racing Commission assist
3 the thoroughbred industry in navigating and clarifying the
4 rules. This assistance is vital to the smooth
5 implementation of federal law that is currently in the
6 hands of an authority that has yet to complete its
7 developmental work.

8 This assistance should include a solution for
9 the funding of HISA, as far as possible, to determine at
10 this time costs that will be passed on to the tracks and
11 horsemen. I strenuously urge the Racing Commission to
12 find state or federal funding for the program.

13 As federal law states, people involved in
14 racing must register with HISA by July 1, 2022. I would
15 ask the Racing Commission to find some type of grace
16 period or postponement of the enforcement compatible with
17 the law until the rules can actually be written. And then
18 those registering with HISA will have the ability to know
19 to what they are agreeing.

20 Everyone wants racing clean and free from the
21 improper use of medication or use of banned substances.
22 The State Racing Commission is already doing an admirable
23 job in this area. There is no need for HISA to come in
24 and duplicate what is already being done well.

25 I sincerely hope that the State Racing

1 Commission will find a way to create a system within
2 HISA -- as it is now required by federal law to abide by
3 it -- until HISA can be legally dismantled and control of
4 racing can be returned entirely to state racing
5 commissions where it has been successfully managing racing
6 for over 125 years.

7 Under the thoughtful and able leadership of Amy
8 Cook, the Texas State Racing Commission is in a position
9 to guide Texas horseracing into an even greater economic
10 powerhouse for the State. We hope the Racing Commission
11 can find a way to support the thoroughbred industry
12 through this unprecedented change. Thank you.

13 CHAIRMAN PATE: Thank you, Ms. Sheffield.

14 Next recognized is Liberty Labrun. Did I say
15 that correctly?

16 MS. LABRUN: Labrun.

17 CHAIRMAN PATE: Thank you.

18 MS. LABRUN: Good morning.

19 CHAIRMAN PATE: Good morning.

20 MS. LABRUN: Can you hear me okay?

21 CHAIRMAN PATE: We can. You have a light
22 voice, so speak up.

23 MS. LABRUN: Yes, sir. My name is Liberty
24 LaBrun, and I am here on behalf of thousands of racehorse
25 trainers affected by the implementation of the new

1 Horseracing Integrity and Safety Act's rules and
2 regulations.

3 As a member of this magnificent sport, I was
4 not in a huge opposition to the upcoming medications
5 regulations. However, our disappointment came shortly
6 after the regulations and rules were publicized by the
7 Authority this past month.

8 The understanding was that the Authority was to
9 establish a uniform anti-doping and controlled medications
10 program for the purpose to improve the integrity and
11 safety of horseracing. Why all of these additional
12 regulations not pertaining to anti-doping and
13 medication -- is the Authority stepping over its true
14 boundaries and purpose?

15 Our question is, however, the anti-doping rules
16 and regulations mixed with the trainers' regimen and
17 training. HISA defined a trainer in their website as -- a
18 trainer means a person engaged in training covered horses.

19 The accurate definition of a trainer is an independent
20 contractor engaged by a consumer, which is the owner, to
21 provide a service of professionally preparing an athlete
22 for competition.

23 One of the issues the horsemen have with the
24 Authority is the statement recently made by Ms. Ann
25 McGovern on June 3rd during a webcast interview. Ms.

1 McGovern stated, If a horse get claimed, you, the trainer,
2 are responsible for making a copy of those training
3 records and giving them, along with the veterinary
4 records, to the new trainer of the claimed horse.

5 She also stated in the interview that trainers
6 will need to give the past 30 days of the horse's
7 training, the supplements, and the feed, whether or not
8 the horse jogged, walked, worked, et cetera. She wants
9 the current trainer to tell the new trainer what they did
10 on a daily basis for that horse.

11 Now, this is not a clear rule in the rules and
12 regulations. On the website, it stated that trainers'
13 responsibilities provide a chart upon the claim or
14 transfer to another trainer. At this point, this rule
15 technically is against the Federal Trade Commission,
16 entirely based on the comments made by Ms. McGovern.

17 The sole purpose of the Federal Trade
18 Commission is to empower, among other things, to prevent
19 unfair methods of competition. This rule is not covered
20 by this authority, as it is null and void based on the
21 U.S. Department of Labor for independent contractors.
22 Additionally, the Sherman Act of 1890, the Clayton Act of
23 1940, and the Restricted Trades Act of 1959.

24 MR. FOUNTAIN: The speaker's time has expired.

25 CHAIRMAN PATE: Okay. Thank you very much for

1 coming, ma'am. We appreciate it.

2 And Marnie McCormick is recognized for public
3 comment.

4 MS. McCORMICK: Commissioners, I'm Marnie
5 McCormick. I'm here on a different matter. I'm here on
6 item 5.

7 CHAIRMAN PATE: Oh, I'm sorry. All right.
8 And then, I think, Kristine Fullerton? Good
9 morning.

10 MS. FULLERTON: My cheat sheet's out.

11 CHAIRMAN PATE: Go ahead.

12 MS. FULLERTON: It's not what I do for a
13 living. Good morning, Commissioners. Welcome to Texas,
14 Ms. Lisa Lazarus, John Roach. Thank you all very much for
15 the opportunity to address today many of the concerns my
16 fellow horsemen have.

17 My name is Kris Fullerton. While I am on a
18 board, I speak today only for myself and horsemen that
19 have reached out to me, and not on behalf of any
20 association. We appreciate this opportunity to address
21 the concerns that many of us have about the looming
22 implementation of HISA.

23 Most of us were in support of the idea behind
24 HISA breeding uniformity in both medication rules and
25 penalties, as well as the involvement of the USADA was

1 seen as a positive move. We had no idea, at that time,
2 that signing away our Fourth Amendment right was going to
3 be the very first thing we were required to do.

4 While many of the rules, as written, place an
5 undue and largely undeserved burden on honest horsemen --
6 which are the majority -- the most egregious of all is
7 rule 8400, which demands that we allow the Authority or
8 their designees free access to our property. Section 2 of
9 Rule 8400 allows that the Authority or their designees may
10 "seize any medication, drug, substance, or paraphernalia
11 in violation or supposed violation of the regulations of
12 the Authority."

13 Most of us have injectable medications and the
14 means to give them, which includes hypodermic needles and
15 syringes on our property to treat other horses and
16 livestock, and this is well within the bounds of Texas
17 state law. Unfortunately, this places us in direct
18 violation as covered persons with covered horses of HISA
19 Rule Number 2230.

20 In a recent industry article, a HISA rep said,
21 "This is not what we mean." They said they will not going
22 to farms, nor seizing our medications, nor penalizing us
23 for possession of such.

24 My question and my fellow horsemen's question
25 is, if you did not mean that, why did you write it that

1 way? You wrote the rules. You passed the rules and
2 submitted them for approval.

3 The pending revisions on those exact same rules
4 that have been quoted in the articles only remove the type
5 of business that is allowed for search and seizure,
6 restraining it to places where covered horses are cared
7 for by covered people, which is, by definition, our farms.

8 There is no rule divining the difference in a
9 farm versus track for covered person and covered horses
10 under HISA Authority. We would like to know how HISA can
11 offer us platitudes which directly contradict the rules
12 they wrote, while simultaneously asking us to just trust
13 them.

14 In another interview, a HISA director
15 exaggerated a rule well beyond the scope of what is
16 written in the actual rule, and stated that expansion as
17 fact of rule. As HISA has finally started at the eleventh
18 hour to engage horsemen, they have contradicted their
19 actual rules to suit their narrative. Yet, they still
20 continue to ask us for trust.

21 The only thing undecided with all the different
22 versions of their rules between what was promulgated,
23 versus what they say they mean, is if the discrepancies
24 are the result of incompetence or deliberate deception.
25 It is time to push these rules back, get everybody to the

1 table, let's do the inception in a fair and measured
2 manner with input from everybody, we beg you.

3 MR. FOUNTAIN: The speaker's time has expired.

4 CHAIRMAN PATE: Thank you, Ms. Fullerton.

5 MS. FULLERTON: Made it.

6 CHAIRMAN PATE: Is there any other public
7 comment?

8 (No response.)

9 CHAIRMAN PATE: All right. At this time, the
10 Chair recognizes that Commissioner Kleinschmidt came in.
11 I guess his electric car did not run out of juice. And
12 he'll be tagging in for Commissioner Burgess.

13 And we will go to staff reports, Item 3. We'll
14 go to staff reports, the Executive Director's report.
15 Amy?

16 MS. COOK: Good morning, Commissioners, ladies
17 and gentlemen. I just want to take a moment to say how
18 grateful I am for this moment and the attendees here
19 today.

20 I think that the most important responsibility
21 of government is to provide public dialog and conversation
22 around how governments that are of the people and for the
23 people are run. And I hope, to the extent that we are
24 doing our job at the staff level, that we're doing a job
25 that is transparent, and we're doing that job well.

1 So my report today will cover a couple of items
2 on what has happened since the last Commission meeting,
3 which was a mere three weeks ago, because the pace is
4 picking up and we're doing great things. And the team at
5 the Texas Racing Commission, while we've had a lot of
6 people depart, we've had some great folks come. And we
7 really are appreciating all the opportunities we have to
8 lead and serve the State of Texas.

9 First, I wanted to update on the Commission
10 meeting dates for next year of 2023. Those dates have
11 been set. They will be published on our website. And to
12 the Commissioners, they will be the third Wednesday of
13 every even-numbered month.

14 And we'll post that out there this week -- with
15 the exception of Christmas, which will be the second
16 Wednesday of the month to give us all time with our
17 families.

18 Second, the Agency's finally moved. We've been
19 hearing about this move for years, right? So, we're three
20 blocks down the road. Can't walk there, though, because
21 there's construction. Can't invite visitors into the
22 building because it's still under construction.

23 And, you know, the Texas Facilities
24 Commission -- I have to give them and the Department of
25 Public Information Resources great applause for the work

1 they're doing, because it's really difficult to move
2 multiple agencies into one building. And they're doing a
3 great job, speaking as the agency that led the way going
4 in the building.

5 So we will hope to have an open house when we
6 are allowed to have visitors to the building. But what's
7 great about the move is not just the fact that we're in a
8 position to be right down the street, but we've also saved
9 approximately \$20,000 a month in lease-based expenses by
10 moving into that building. So that's good news for the
11 taxpayers.

12 The third item is the Agency enforcement
13 database. As you all know, it was a source of concern for
14 public folks, for the legislature, for the Sunset
15 Commission -- the way we were running our enforcement
16 database and the old software we were using to run that
17 database. That database was located on a fragile physical
18 server at the lease-based location.

19 We moved the application and the data with it
20 with the help of Department of Information Resources.
21 However, it does not currently -- it has not currently
22 come back online. So to mitigate the impact on licensees,
23 we've put forth a grace period. That grace period is all
24 expiring licenses from June 1st through August 31st are
25 now extended so they do not expire, to really allow for

1 horsemen, trainers, owners, breeders, licensees to
2 continue the business that they need to continue.

3 And that's minimal impact to the Agency in
4 terms of collecting fees. You know, and we are fine in
5 terms of revenue, so I really thought it was important to
6 mitigate the impact on licensees of us not having that.

7 We do have a back up plan to put in place --
8 another application, and we're working on that. We hope
9 the database comes back up. But at this time, it does not
10 work.

11 And so this challenge really comes at a time
12 for us where we're trying to align ourselves with the
13 Texas Occupations Code. So as we move to a new model --
14 as we maybe get the database working or what have you --
15 we intend to continue to strengthen our alignment with the
16 Texas Government Code, as well. And this will be part of,
17 when we go through rules review, what we ask of our
18 stakeholders -- is how we go about licensing and how we do
19 that well. And I'll talk about that a little bit more in
20 a moment.

21 On the enforcement side of the house, I want to
22 thank Major General Retired Duke Bodish for coming along
23 and helping me really understand how to get Texas law
24 enforcement right for the Racing Commission in our own
25 lane. He's done a great job with that, and I've asked him

1 to stay on for a period of time and really be an advisor
2 as we go through rule review, legislative session, and
3 helping us really get our enforcement mission right
4 because it is kind of the centerpiece of how the Agency
5 runs its business. And I'm grateful for him and the
6 support that he provided.

7 I mean, we've obviously taken a hard look at
8 how we do things, and we're looking to make sure we take
9 great steps in professionalism, training tools, and
10 technology for our investigative forces we build up.

11 For the Texas legislature, I had my first
12 opportunity to testify yesterday. I hope I represented
13 the Texas Racing Commission and the Commissioners well.
14 It was a great opportunity to talk about illegal
15 racetracks, is what the legislature calls them -- we call
16 them brush tracks on the industry side -- and really talk
17 about the future that is possible for the Texas Racing
18 Commission to lead in that space.

19 Because up to this point, the Racing Commission
20 might have identified a brush track, but we would turn to
21 local law enforcement or city, county, or Department of
22 Public Safety to really take the lead on that. I think
23 there was actually a misunderstanding when I first got the
24 phone call to testify that we didn't have anything really
25 to do with that -- that it might have some connection to

1 the Texas Racing Act, so maybe we should come talk.

2 And I hope we were able to explain that we can
3 really provide some leadership in that space. Our
4 jurisdiction is not just the fences of the race park.
5 It's actually the entire state of Texas.

6 And those illegal tracks are an economic and
7 safety and health concern for every horseman and every
8 industry stakeholder in the state of Texas and, of course,
9 the Commission. So, that legislative testimony -- we'll
10 post a link to that to our web page so you can go watch,
11 and I look forward to the feedback.

12 On the Agency's strategic plan, one of the
13 things that I'm so grateful for is the great advice I get
14 from folks that I've asked to come along on this journey
15 with me. So Phil Fountain, our new Government Relations
16 Officer, suggested we hand out to the legislators that
17 strategic plan and talk from it.

18 And we actually modified it slightly just to
19 kind of go a little deeper on brush tracks and some other
20 items so we could really use that as a centerpiece for
21 testimony at the legislature. And I think that was
22 effective yesterday, and it's something that we'll
23 continue to use as the handout.

24 On rule review, as you know, Chairman Pate
25 announced a sweeping review of the Texas rules of racing.

1 And I have to say that we're excited to continue the same
2 level of public engagement across the State of Texas. And
3 actually, we'd like to expand that to other areas of
4 Texas, in addition to the current operating race tracks.

5 And I'm talking to a few folks about where we
6 can have those meetings to support that process because I
7 don't think there's anything more powerful than a
8 rulemaking process that is accomplished in partnership
9 with the very community that has to live by the rules that
10 are being made.

11 I'll be visiting all the race tracks this month
12 in person, starting tomorrow with Gillespie County Fair.
13 Going to Sam Houston, Lone Star Park, and to Retama Park
14 really to visit with them in person and talk to them about
15 this rule review, as well as other things on their mind
16 and really make sure we get that right so I can report
17 their perspectives to the Commission.

18 Subject to your questions, that concludes the
19 Executive Director's report for this meeting.

20 CHAIRMAN PATE: All right. Thank you, Amy.
21 Commissioners, any questions?

22 (No response.)

23 CHAIRMAN PATE: All right. Thank you, Amy.
24 Next on the Agenda, Item 4A, staff actions, the
25 presentation of Agency resource considerations for the

1 2023-2027 legislative appropriations request.

2 Amy, please address this Agenda item.

3 MS. COOK: So I could give you a long, boring
4 discussion of how we need to be funded, and what that's
5 going to look like. And what I promise you we'll have is
6 in detail, down to the penny, what the request will be in
7 the legislative appropriations request. We'll present the
8 full request to the Commission, and post that publicly and
9 socialize that before we bring it.

10 What I really want to talk to you today is how
11 we've had some opportunities missed in the past that the
12 Commission will not miss, which will help reduce what we
13 do ask for in the end. We went through a process about
14 three weeks ago called the base reconciliation report,
15 which is a reconciliation of previous years.

16 I'm sad to report that the Agency let \$187,000
17 in funds lapse. In other words, those were funds that the
18 Agency had available to spend within our appropriation,
19 and we did not spend those funds. We also let seven FTEs
20 lapse.

21 So those are funds that we did not access and
22 FTEs that we did not fill last year. And that was before
23 I got this position. Now what we've realized after going
24 through that process in great detail, preparing for the
25 LAR, is we have some riders -- contingent riders in our

1 appropriation. One of them being the number of live race
2 days that we can exercise.

3 To that extent, we actually have 37 race days
4 on our calendar approved by the Commission last year above
5 the 146 that are typically in the base appropriation. And
6 so we've just sent a request to the Texas Comptroller
7 allowing us to access \$129,537 in appropriated funds, and
8 \$68,265 in unappropriated funds that are paid for employee
9 benefits, and 3.7 FTEs.

10 So, what does that really mean, Amy? What that
11 means is that the Agency can fill 43 FTEs. The Agency has
12 had a longstanding issue of we have an appropriation of
13 \$3.7 million a year.

14 Our revenue typically runs about \$700,000 to
15 \$800,000 above the appropriation limit. We cannot access
16 that revenue. And so that revenue lapses if we don't
17 exercise riders.

18 So when I say \$129,000 plus 60, which is, like,
19 \$197,000 that we can access to provide support to
20 stakeholders, it doesn't mean the stakeholders pay more
21 because the money's already available to the Commission.
22 So we're able to access it. But the even better news is
23 we have the ability, at the same time, to exercise access
24 to \$84,175 in the Texas-bred Incentive Program.

25 What that allows us to do is, for those 37 days

1 race days, is pay out more Texas-bred Incentive money for
2 horses and horsemen competing in races. So that's good
3 news for the horseracing industry, as well as the
4 Commission, that we're going to exercise that rider. We
5 will not let FTEs within in my power lapse, or funds
6 lapse, while I am the Executive Director.

7 We are hiring, if anybody's looking for a job.

8 And so, we really want you to come along on this great
9 journey with us and be part of the solution to help me
10 executive those FTEs -- just saying.

11 So, additional cost savings that we have -- I
12 mean, I've already talked to you about reducing the
13 Agency's IT contracting responsibilities from \$750,000 a
14 year in costs down to \$78,000 a year. And some of those
15 are the cost savings.

16 All of those costs savings are really being
17 recognized by restoring partnerships with the Texas
18 Facilities Commission, Texas Department of Information
19 Resources, and even the Texas Department of Public Safety
20 on the process of fingerprints and background checks that
21 really was kind of confusing and archaic, and we've just
22 straightened some of that out thanks to them.

23 So what I want to turn to now -- and I'd like
24 you to turn to your strategic plan. And if you're on the
25 Commission meeting materials, the Commissioners have a

1 copy in front of them. But it's page 29 of the strategic
2 plan, and it's page 32 of your Commission meeting
3 materials.

4 And I want to talk for a moment about what is
5 this budget going to be based on? Well, it's based on the
6 four goals -- enabling the horseracing industry in the
7 great State of Texas and protecting that industry;
8 communicating effectively. And communication means
9 everything from language barriers to technology and
10 partnering.

11 So, if you'd look on page 29 or page 32 in your
12 materials -- I mean, what we see up here is Action Plan 1,
13 which completely matches what the Chairman said, which is
14 a complete review of the Texas rules of racing. And then,
15 of course, modernizing our licensing program to align with
16 Texas Code.

17 The next page -- goal B, protect. You know, it
18 really goes to deterring, investigating, and adjudicating
19 violations of the act and effectively addressing equine
20 and human safety. And I'll have to tell you, I appreciate
21 Mindy Coleman coming and standing up here and reaching out
22 to us the other day because I feel like there's a lot of
23 focus on the horse.

24 However, when that horse goes down and
25 something happens and jockey falls off, and the Commission

1 is supposed to have occupational health employees and
2 physician's assistants or medical folks to check them and
3 make sure they're okay. And we don't have that right now,
4 and that would be part of what we hope to get in place.

5 And I think that when we look at some of those
6 safety aspect of what we do, we did look at the way that
7 HISA rules were being made and what the discussions were
8 because I think there's some great take aways there that
9 can be adopted in our state.

10 Goal C, communicate -- of course, modernizing
11 and leveraging all of the capabilities. I spoke to
12 Department of Information Resources' strategic plan
13 director, John Holland, about what we should say in our
14 plan. And he has a statewide accessibility coordinator
15 that works for him.

16 You know, in terms of accessibility -- no
17 matter what your language is -- no matter what your
18 technology capabilities are, you need to be able to get a
19 license from us and we need to be inclusive and able to be
20 found and accessed anywhere you are in the great State of
21 Texas or, frankly, in the world because we have
22 international participants for the horseracing community
23 in Texas. And we talked about that page.

24 And last is page 32, the partnership goal.
25 Really, I think the key thing I want to highlight there --

1 I'm going to say for just a moment -- because I want you
2 to turn with me, please, to page 33. And this is where I
3 keyed into legislature.

4 These are the six priorities of the Agency, and
5 some of them do involve funding. You know the regulatory
6 structure; we've spoken about that. The self-funded
7 nature of the Agency has been a model that we've had in
8 Texas since the inception of the Racing Act -- that the
9 Agency will become self-funded, we'll collect our own
10 fees.

11 And that has really created a lot of concern
12 and a lot of criticism of the Agency from the Sunset
13 Commission report after report. And so, now, we're
14 looking to actually change the way fees are collected.

15 And this helps us, quite frankly, because if
16 you look deeply in the Horseracing Integrity and Safety
17 statute, because our state opted out of collecting fees by
18 our statute -- which is what we had to do -- you could
19 read the rules to say that, then, the State Racing
20 Commission may not collect fees for some races and some
21 covered horse races and some covered persons.

22 And so because we'll need a legal
23 interpretation on that, it's going to be better for the
24 Commission, and this is just one more reason that all
25 these fees are paid to the Comptroller. We put forth a

1 public transparent LAR, and that money is appropriated
2 back to us, different from the direct fee relationship we
3 had.

4 And I'm not talking about reimbursable programs
5 where we collect for TVMDL. You know, TVM does its lab
6 testing. They send us an invoice. We pay the invoice and
7 collect from the parks, which is the process I'd let to
8 get to. I'm not talking about reimbursable programs.

9 I'm talking about the Commission falls short on
10 funding, which is the supplemental fee invoicing rule that
11 I recommended we repeal, and will be presented by Virginia
12 here in a moment for adoption by the Commission.

13 And, quite frankly, that practice, to me,
14 didn't give the public accountability transparency that it
15 should in terms of what Texas taxpayers should be able to
16 see in terms of how money is spent. So I think that
17 really helps us.

18 So if you look at the next page, the Agency
19 fiscal structure is directly tied to that. Same concern,
20 different aspect of it, which is the fiscal structure tied
21 to the statute. If you look at the next redundancy, it's
22 the Agency staffing model. So, this is based on live race
23 dates.

24 The Agency conducts business 24/7, 365 --
25 sometimes more than 24 hours, it feels like right now.

1 But it's a great job and a great opportunity. And so,
2 we're going to change some of our funding structure and
3 model so that we get that right.

4 But I really want to focus on page 38 or page
5 41 in your materials. When we talk about partnership and
6 we talk about having the premier lab in Texas -- the Texas
7 Veterinary Medical Diagnostic Lab -- so glad Travis is
8 here today.

9 I really think it's important that there's a
10 stable source of funding so that we can get it right in
11 Texas. And there is this equine drug council that was in
12 place, and I've got that laid out here.

13 And there's money the Commission already pays
14 to Texas A&M -- and we had this conversation three times
15 at A&M and with the lab folks, and with the A&M
16 leadership -- that money's already going in. But it
17 actually -- because the legislature, then, took this
18 council out of existence, the money continues to go to
19 A&M, but it doesn't go to lab and it doesn't really help.

20
21 And so my idea is that you take this stable
22 source of funding and you increase that, and you actually
23 stand up -- and I'm going to steal a little bit of a page
24 from another state -- an equine drug research council. So
25 you actually use the testing to prevent this from

1 happening.

2 You also do internships and educational
3 partnerships as part of this. And that council would be
4 the Racing Commission, the lab at A&M, and it would be
5 members of the Texas horsemen's industry that would be
6 part of that council, and really look at a stable source
7 of funding to modernize their lab and keep it up-to-date
8 and pay for testing.

9 That way, there's not any one person that feels
10 like it's their burden to pay for testing. And so I'm
11 hopeful that that will take off and be a great model for
12 maybe all the other states.

13 The next page is, of course, modernizing the
14 Texas Occupations Code and bringing ourselves in line with
15 the Licensing Act. And then of course, the page I focused
16 on yesterday at the legislature was page 41, page 44 in
17 your materials.

18 So as I said before, this idea that we don't
19 have statewide jurisdiction -- we should have the ability
20 to do cease and desist orders, the administrative orders
21 like you would have, some of the other enforcement
22 agencies who are administrative like Texas Alcohol and
23 Beverage Commission -- where we go out and say, We
24 understand you're running an illegal bush or brush track
25 -- pick your term. You're ordered to cease and desist.

1 And then, we go about it that way. And we
2 really do as much of the enforcement mission as we can
3 with our Agency empowered to do so. So I think that's
4 what's important for you to know.

5 On page 55 of your materials -- page 58, if
6 you're looking at the Commission materials, or page 55 of
7 the strategic plan -- Agency workforce plan. And this is
8 where the rubber meets the road. This is fundamentally a
9 personnel budget.

10 It's not complicated. You've got to have
11 enough people. Those people need to have the tools,
12 training, technology, and development plan to get it
13 right.

14 And they need to have a career ladder, which is
15 in a statute -- which in my interview, I said, I'm sorry.

16 Do you all have a career ladder here? And the answer was
17 no, because the previous work chart looked like this,
18 right? Like, director, director, director, director,
19 director.

20 Now it looks like the triangle that it's
21 supposed to look like. And so you're kind of going to see
22 some description here, but what I really want you to look
23 at is, take a look at page 57, or 60 in your materials.
24 So, this is what I think we actually need.

25 If you look at the little racetrack-looking

1 thing on the bottom there, the racetrack staffing model
2 for a live racing event should be 21 FTEs. We should have
3 enough people -- three boards of stewards folks, a safety
4 steward, the investigators, and licensing -- which will
5 become one department.

6 So professionally-trained licensing
7 investigators will actually, at some point, be the ones
8 that check your background and make sure that you should
9 have a license. And they also will have that customer
10 service aspect of their job, as well as the enforcement
11 mission, because we are not a criminal enforcement agency.

12 We are a public service agency just like other
13 agencies, and we enable you to race. And then, if you
14 violate the rules, we come and say, Hey, you violated the
15 rules. There is an issue here.

16 We need to have enough veterinarians. We don't
17 need to have one human being that tries to work 90 hours a
18 week to keep horses safe. We need vet technicians. We
19 need to take over from the tracks, that we have the vet
20 technicians in the test barn actually work for the
21 Commission. I think that's important.

22 And we need to have an auditor that watches
23 pari-mutuel. And a physician's assistant. If somebody
24 gets hurt on the track, we should make sure we are there
25 supporting them, and not just rely on others.

1 So to the right-hand side, you see it's 96 FTEs
2 that we'd be asking for -- 26 to the headquarters, 70 to
3 the field. That is the right mix -- 30/70, or maybe a
4 little more to the field, because that's where the work is
5 done and that's where the manpower should be.

6 And fundamentally, the math looks like this.
7 The median salary in the Commission is \$57,000 a year --
8 \$57,000. For a veterinarian, it's \$68,000. That is a not
9 a living wage.

10 And these salaries -- and this median salary
11 was put into place years ago, long before you ever had
12 inflation or the rest of the things that are going on
13 right now in the country. So the median salary, I
14 believe, should be \$85,000 a year -- median. And that
15 means that some of the veterinarians and more professional
16 folks like the lawyers and the doctors or the physician's
17 assistants -- they fall somewhere in that range.

18 But \$57,000 a year is not an acceptable salary.

19 And when we put out professional -- we have a
20 veterinarian position. We've had it out for 90 days. No
21 applicants because we are not able to pay the salary for
22 the limited equine industry community that is out there.

23 So that's what we're talking about. So,
24 fundamentally, that's the plan. I mean, it's a personnel
25 budget -- the right people in the right place, manning all

1 the tracks, planning ahead for other racetracks that want
2 to open, and really being able to support every aspect of
3 the industry, and adopting all the best practices that are
4 out there for the great State of Texas.

5 Because I really believe we will be --
6 challenge has been issued -- not only the best state
7 agency in the great State of Texas and the most
8 professional racing commission in America, but we will be
9 the premier state for horseracing in the United States of
10 America.

11 Subject to your questions, that concludes my
12 briefing.

13 CHAIRMAN PATE: All right. Thank you, Amy.

14 Commissioners, I want everybody to
15 understand -- I mean, and just remember because we're
16 going to get all of your collective help when the
17 legislature comes back in session and your thoughts on how
18 to proceed -- because we're fundamentally proposing the
19 change in the way -- I want to make sure you understand --
20 the change in the way we're financed.

21 We're going to a general appropriation model
22 from an industry pays model. Not that the industry
23 doesn't already pay a lot of things that don't even get
24 booked -- I mean, things they have to do for us. And it's
25 a big shift and it's going to take some work to get that

1 accomplished.

2 But it is a direct answer to the Sunset review
3 criticisms of the Agency that this relationship between
4 the regulator and the regulated, where the regulated had
5 to pay for the regulator to work. It unnecessarily
6 creates tension, and those tensions are what, in my
7 opinion, largely drove this Agency into trouble in past
8 years.

9 That's my view. But Commissioners, do you all
10 have any questions or comments?

11 (No response.)

12 CHAIRMAN PATE: All right. Thank you very
13 much, Amy.

14 DR. McNABB: Thank you.

15 CHAIRMAN PATE: And I don't see anybody signed
16 up for public comment on this. All right. Thank you.

17 We'll now go to racetrack proceedings, Item 5A.

18 Let me ask Ms. McCormick -- which one of these are you
19 going to speak on? All of them?

20 MS. McCORMICK: Actually, I'm here just as a
21 resource if you have any questions.

22 CHAIRMAN PATE: Got it. All right. Thank you
23 very much.

24 The next is Agenda Item 5A, racetrack
25 proceedings with Sam Houston Race Park, Valley Race Park,

1 LLC, and Hill Lane, LLC, also known as Manor Downs,
2 requesting Commission approval to changes in the entities'
3 officers. Virginia will present this item.

4 MS. FIELDS: Good morning, Commissioners. It's
5 still morning a little bit. Virginia Fields, for the
6 record, on Agenda Item 5A. I'm going to take all three
7 items overall.

8 CHAIRMAN PATE: All right.

9 MS. FIELDS: I'm asking today that the
10 Commission approve the request of Sam Houston Race Park to
11 approve Dwight Berube as Vice President and General
12 Manager effective May 1, 2022. And the request of Valley
13 Race Park to appoint Dwight Berube as Vice President and
14 General Manager, also effective May 1, 2022. And finally,
15 the request of Hill Lane, also known as Manor Downs, to
16 appoint Dwight Berube as Vice President and General
17 Manager effective May 1.

18 Staff recommends that the Commission approve
19 these appointments for all three race parks, and advises
20 the Commissioners that Dwight is also a current licensee
21 as an association officer, association director with
22 Commission licenses.

23 I am available to answer questions. And again,
24 Marnie McCormick is also available to answer questions.

25 CHAIRMAN PATE: Commissioners, are there any

1 questions?

2 MR. MACH: Mr. Chairman, I move the approval of
3 all items under 5A of our Agenda.

4 CHAIRMAN PATE: Is there a second?

5 DR. McNABB: I'll second.

6 CHAIRMAN PATE: Thank you.

7 CHAIRMAN PATE: There's been a motion made and
8 seconded. Any further discussion?

9 (No response.)

10 CHAIRMAN PATE: Hearing none, all those in
11 favor, say aye.

12 (A chorus of ayes.)

13 CHAIRMAN PATE: Any opposed?

14 (No response.)

15 CHAIRMAN PATE: Hearing none, motion carries.

16 Item B, acknowledge of changes to the officers,
17 directors, and managers of VGB Operations, LLC, VGB
18 Management, LLC, and VG Beverage, Inc., effective March
19 17, 2021. Virginia, please present these items.

20 MS. FIELDS: Specifically, Commissioners, on
21 Agenda 5.B.1, 2, and 3 -- these are just for
22 acknowledgment. No Commission approval or action is
23 required. The information has been provided by the law
24 firm and Marnie McCormick, also here today to answer any
25 questions.

1 But we are asking that Dwight Berube be
2 appointed as Sole Manager effective March 17, 2021, for
3 VGB Operations, that VGB Management appoint Dwight Berube
4 as the Sole Manager effective March 17 of 2021, and Item
5 C, VG Beverage, Inc., appointing Chris McErlean as Sole
6 Director and Secretary, and Dwight Berube President
7 effective, again, March 17.

8 Again, both have current licenses as
9 association officers and directors.

10 CHAIRMAN PATE: All right. Is there any
11 further discussion?

12 (No response.)

13 CHAIRMAN PATE: Is there a motion to approve
14 those changes?

15 DR. McNABB: So moved.

16 CHAIRMAN PATE: Is there a second?

17 MR. KLEINSCHMIDT: Second.

18 CHAIRMAN PATE: Thank you. There's been a
19 motion made and seconded. Is there any further
20 discussion?

21 (No response.)

22 CHAIRMAN PATE: Hearing none, all those in
23 favor, signify by saying aye.

24 (A chorus of ayes.)

25 CHAIRMAN PATE: Any opposed?

1 (No response.)

2 CHAIRMAN PATE: The motion carries. Thank you.
3 Dwight, we know what you look like. Your name's
4 prominently displayed, okay? All right.

5 Thank you, Virginia. We'll now move on to
6 proceedings on rules. The next item is the proceedings
7 on rules and the Texas Administrative Code, Agenda Item
8 6.A.1, discussion and possible action to repeal Section
9 '309.13, supplemental fee. Virginia, please present this
10 item.

11 MS. FIELDS: Commissioners, Virginia Fields
12 again. Agenda Item 6.A.1 is the repeal of the
13 supplemental fee rule in Texas 16 -- Texas Administrative
14 Code rule '309.13. The purpose of the supplemental fee was
15 to pay for the Commission's cost to procure an independent
16 audit -- a review of the economy, efficiency, and
17 effective of the operations as requested by the racing
18 industry.

19 The fee had been assessed, in addition to
20 racetrack license fees, as prescribed under rules '309.8,
21 and other racetrack license fees or fees under '309.11 and
22 '309.12. The proposed repeal that the rule is necessary as
23 the audit unnecessary, and it would save the racetrack
24 significant fees.

25 There were no public comments in the 30-day

1 comment period of this rule repeal. Staff recommends that
2 the Commission adopt the repeal of the supplemental fee
3 rule as published in the April 29th issue of the *Texas*
4 *Register* with an effective date of June 28th. And I'm
5 happy to answer any questions.

6 CHAIRMAN PATE: Thank you, Virginia.

7 Phil, no one signed up for public comment on
8 this?

9 MR. FOUNTAIN: No, sir.

10 CHAIRMAN PATE: All right. If there's no
11 further discussion for public comment, the Chair would
12 entertain a motion to adopt the repeal of supplemental
13 fee, Section 309.13 as proposed in the April 29, 2022,
14 issue of the *Texas Register*.

15 MR. MACH: So moved.

16 DR. McNABB: I second.

17 CHAIRMAN PATE: Motion made by Mach, seconded
18 by McNabb. Any further discussion?

19 (No response.)

20 CHAIRMAN PATE: Hearing none, all those in
21 favor, please signify by saying aye.

22 (A chorus of ayes.)

23 CHAIRMAN PATE: Any opposed?

24 (No response.)

25 CHAIRMAN PATE: All right. The motion carries.

1 Next item is Item 6.A.2, discussion and
2 possible action to adopt the amendment to approval of
3 charity race days, Section '303.42. Virginia will present.

4 MS. FIELDS: This rule amendment is necessary
5 to broaden the charity opportunities to participate in
6 charity race days at racetracks. For example, charities
7 benefitting veterans' organization on a veteran holiday
8 race day will increase public participation and will also
9 greatly benefit veteran charitable organizations.

10 The proposed rule amendments were presented to
11 the Commission at its meeting on April 13th of this year,
12 and initially proposed by Commission Vice Chair Connie
13 McNabb. Thereafter, the proposed rule was published in
14 the April 29th issue of the *Texas Register*.

15 There were no public comments to the proposed
16 rule amendments to Rule '303.42 in the 30-day comment
17 period, and the propose rule as published is before you
18 today for adoption with an effective date of June 28th.

19 Staff recommends the Commission adopt the
20 amendments as published to Rule '303.42 in the April 29th
21 *Texas Register* issue.

22 CHAIRMAN PATE: Thank you, Virginia.
23 Commissioners, do you have any questions?

24 DR. McNABB: Just a comment. Given the example
25 of veteran charity and given that there's a preponderance

1 of veterans around here, we think those are great, but I
2 don't want folks to think that we are dictating a specific
3 kind. Our intent was to broaden the envelope to charities
4 that do more good for more people in Texas, and doing good
5 is good business.

6 MS. FIELDS: Thank you.

7 CHAIRMAN PATE: Phil, there's no public comment
8 signed up for this, is there?

9 MR. FOUNTAIN: No, sir.

10 CHAIRMAN PATE: All right. Thank you. If
11 there is no further discussion or public comment, the
12 Chair would entertain a motion to adopt the amendment to
13 the charity race days as proposed in the April 29, 2022,
14 issue of the *Texas Register*.

15 MR. KLEINSCHMIDT: So moved.

16 MR. MACH: Second.

17 CHAIRMAN PATE: Motion made by Commissioner
18 Kleinschmidt. Second by Commissioner Mach. Any further
19 discussion?

20 (No response.)

21 CHAIRMAN PATE: Hearing none, all those in
22 favor --

23 (A chorus of ayes.)

24 CHAIRMAN PATE: -- signify by saying aye.
25 Thank you. Any opposed?

1 (No response.)

2 CHAIRMAN PATE: All right. Motion carries.

3 Agenda Item 6.A.3 is next -- discussion and
4 possible action to adopt amendment to Section
5 '301.1(b)(74), definition of specimen. Virginia, will you
6 present this Agenda item?

7 MR. FIELDS: Yes, thank you, sir. Rule
8 amendment to the definition of specimen was necessary to
9 clarify the definition to include a hair follicle and
10 shaft. This is to promote the integrity of racing and the
11 safety of the racing participants.

12 The Texas Racing Act states that the Commission
13 rules must require state-of-the-art testing, and that
14 testing can be pre-race, post-race, as determined by the
15 Commission, and be by invasive or non-invasive method.

16 The proposed rule amendment was presented to
17 the Texas Racing Commission Health and Safety Subcommittee
18 at its open meetings held on February 2nd and March 8th
19 for implementation of the hair testing that is to begin on
20 September 1st, in addition to the current serum and urine
21 testing of racehorses and occupational licensees.

22 The Subcommittee recommended that the proposed
23 rule amendment be placed on the Texas Racing Commission
24 Agenda for publication in the *Texas Register*. The
25 proposed rule amendments were before the Commission at its

1 April 13th meeting, which were approved for publication in
2 the April 29th issue of the *Texas Register*.

3 There were no comments to the proposed rule
4 within the 30-day comment period to rule '301.1(b)(74), and
5 we are before you today to recommend the adoption of the
6 proposed rule as published with an effective date of June
7 28, 2022.

8 CHAIRMAN PATE: All right. Thank you,
9 Virginia.

10 Commissioners, do any of you have any
11 questions?

12 (No response.)

13 CHAIRMAN PATE: All right. Hearing none, Phil,
14 has anybody signed up for public comment on this?

15 MR. FOUNTAIN: No, sir.

16 CHAIRMAN PATE: All right. Thank you. If
17 there is no further discussion or public comment, the
18 Chair will entertain a motion to adopt the amendment to
19 the definition of specimen as proposed in the April 29,
20 2022 issue of the *Texas Register*.

21 MR. MACH: So moved.

22 CHAIRMAN PATE: Motion made by Commissioner
23 Mach.

24 DR. McNABB: I'll second.

25 CHAIRMAN PATE: Second by Commissioner McNabb.

1 Any further discussion? Hearing none, all those in
2 favor, signify by saying aye.

3 (A chorus of ayes.)

4 CHAIRMAN PATE: Any opposed?

5 (No response.)

6 CHAIRMAN PATE: Motion carries.

7 Next item is Agenda 6.A.4, discussion and
8 possible action to adopt the amendment to the rule on
9 medication restricted, Section 319.3F. Virginia will
10 present this Agenda item.

11 MS. FIELDS: Thank you, Chair. These
12 amendments are proposed amendments necessary, again, to
13 clarify for the implementation of the hair testing
14 scheduled to start on September 1st for prohibited
15 substances to include beta-agonists, and to promote the
16 integrity of racing and safety of the racing participants.

17 The rule amendments to the medication
18 restricted rule provide clarity and upgrade the drug-
19 testing process with the implementation of state-of-the-
20 art hair testing to determine the use of a prohibited
21 substance to influence the outcome of a horse race.

22 The proposed rule amends Rule Number '319.3(f)
23 by removing specific prohibited substances, clenbuterol
24 and albuterol, replacing those specific prohibited
25 substances with a group of beta-agonists.

1 The proposed rule also includes attending
2 veterinarian to distinguish between the attending and the
3 Commission veterinarian. This will better distinguish
4 between the duties of the attending veterinarian and those
5 duties of the Commission veterinarian.

6 The proposed rule amendments were presented to
7 the Texas Racing Commission Health and Safety Committee at
8 its open meetings on February 2nd and March 8th for
9 implementation of the hair testing, in addition to current
10 serum and urine drug testing of racehorse and occupational
11 licensees.

12 The Subcommittee recommended the proposed rule
13 amendments be placed on the Racing Commission's April 13th
14 Agenda for approval to be published in the *Texas Register*.

15 The proposed rule amendments were before the Commission
16 at its April 13th meeting, and were thereafter set for
17 publication and published in the April 29th issue.

18 There were no public comments to the proposed
19 rule amendments on rule '319.3(f) within the 30-day comment
20 period, and staff recommends that the Commission adopt the
21 amendments as published in the April 29th issue of the
22 *Texas Register*.

23 CHAIRMAN PATE: Thank you, Virginia.

24 Commissioners, do you have any questions?

25 (No response.)

1 CHAIRMAN PATE: Phil, has anybody signed up for
2 public comment on this item?

3 MR. FOUNTAIN: No, sir.

4 CHAIRMAN PATE: All right. If there is no
5 further discussion or public comment, the Chair will
6 entertain a motion to adopt the amendment to the
7 medication restricted rule as proposed in the April 29,
8 2022, issue of the *Texas Register*.

9 MR. MACH: So moved.

10 CHAIRMAN PATE: Motion made by Commissioner
11 Mach.

12 DR. McNABB: Second.

13 CHAIRMAN PATE: Second by Commissioner McNabb.
14 Any further discussion?

15 (No response.)

16 CHAIRMAN PATE: Hearing none, those in favor,
17 signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRMAN PATE: Any opposed?

20 (No response.)

21 CHAIRMAN PATE: Motion carries.

22 Next item is Agenda Item 6.A.5, discussion and
23 possible action to adopt the amendment to the rule on
24 testing authorized, Section '319.301. Virginia will
25 present this Agenda item.

1 MS. FIELDS: Thank you. The proposed rule
2 amendment to 319.301, testing authorized, is to provide
3 clarity and, again, update the drug testing process with
4 the implementation of the state-of-the-art hair testing to
5 determine the use, again, of a prohibited substance to the
6 influence the outcome of a race.

7 The proposed rule amends Subsection A by adding
8 the words "hair" and "tissue" to the type of specimen to
9 be collected from a race animal. And it also clarifies
10 Subsection C by removing the word "Secretary" and
11 replacing that to "Executive Director" to more accurately
12 reflect the title of the position.

13 The proposed rule amendments were, again,
14 presented at the Texas Racing Health and Safety
15 Subcommittee open meetings on February 2nd and March 8th
16 for implementation of the hair testing, in addition to the
17 current serum and urine drug testing of racehorses and
18 occupational licensees.

19 Subcommittee recommended the proposed rule
20 amendments be placed on the Racing Commission Agenda for
21 the April 13th meeting for approval to be published in the
22 *Texas Register*. Those proposed rule amendments were
23 before the Commission at the April 13th meeting, which
24 were approved for publication in the April 29th issue.

25 There were no public comments to the proposed

1 rule amendments to rule '319.301 within the 30-day comment
2 period, and the proposed rule as published is before you
3 today for adoption.

4 CHAIRMAN PATE: Thank you, Virginia.

5 Commissioners, any questions?

6 DR. McNABB: Just a comment. We wanted folks
7 to know who were not at those meetings that if
8 associations want to have a requirement for hair testing
9 for participation, and that's something that is being done
10 under the authority of that association, we think that
11 that's a grand idea.

12 Doing that level of testing is beyond our scope
13 and our budget. But if, indeed, an association wants to
14 make those restrictions to make horses eligible as part of
15 their program, we think that that is a very good thing,
16 and we applaud your efforts.

17 CHAIRMAN PATE: That's correct.

18 Phil, did anybody else sign up for public
19 comment?

20 MR. FOUNTAIN: No, sir.

21 CHAIRMAN PATE: All right. If there is no
22 further discussion or public comment, the
23 Chair would entertain a motion to adopt the amendment to
24 the testing authorized rule as proposed in the April 29,
25 2022, issue of the *Texas Register*.

1 DR. McNABB: So moved.

2 CHAIRMAN PATE: Motion by McNabb.

3 MR. MACH: Second.

4 CHAIRMAN PATE: Second by Mach. Any further
5 discussion?

6 (No response.)

7 CHAIRMAN PATE: Hearing none, all those in
8 favor, signify by saying aye.

9 (A chorus of ayes.)

10 CHAIRMAN PATE: All opposed?

11 (No response.)

12 CHAIRMAN PATE: Motion carries.

13 And I think the final item, Agenda Item 4.B,
14 discussion and possible action on the opening rule review
15 of Chapter 301, Definitions and Chapter 303, General
16 Provisions. Virginia Fields, General Counsel, please
17 present this Agenda item.

18 MS. FIELDS: Commission, Chair has opened up
19 for major rule reviews, and as such, we are starting as
20 well under the Texas Government Code to review and
21 consider for the readoption of Chapters 301 and 303.
22 Staff recommends that the Commission move and approve
23 Chapters 301 and 303 for rules review.

24 CHAIRMAN PATE: Commissioners, any questions?

25 MR. MACH: I'll make that motion.

1 CHAIRMAN PATE: All right. Thank you.

2 And no public comment, Phil? No? All right.

3 Motion made by Commissioner Mach to --

4 MR. KLEINSCHMIDT: Second.

5 CHAIRMAN PATE: All right. Second by
6 Commissioner Kleinschmidt. Thank you. Any further
7 discussion?

8 (No response.)

9 CHAIRMAN PATE: All those in favor, signify by
10 saying aye.

11 (A chorus of ayes.)

12 CHAIRMAN PATE: Any opposed?

13 (No response.)

14 CHAIRMAN PATE: All right. Motion carries.

15 MS. FIELDS: Thank you, Commissioners.

16 CHAIRMAN PATE: All right. I guess we'll now
17 move on to the main event. By way of introduction, we're
18 pleased to have here today, at our invitation, the
19 Executive Director and General Counsel for the Horseracing
20 Integrity and Safety Authority to discuss their
21 implementation of the federal Horseracing Integrity and
22 Safety Act of 2020.

23 Imminently qualified, Lisa Lazarus and John
24 Roach came into their current positions with significant
25 legal and public service experience. Ms. Lazarus, I

1 think, is a graduate of Fordham University School of Law.

2 She is the Authority's Chief Executive Officer in
3 Lexington, Kentucky.

4 She began her legal career as an associate at
5 Akin Gump, and then clerked for a federal district judge
6 in Memphis in Tennessee. Ms. Lazarus has extensive
7 experience in equine sports, having established and led
8 equestrian practice for Morgan Sports Law.

9 Prior to her time with Morgan, she also served
10 as General Counsel and later Chief Business Development
11 Strategy at the Federation Equestre Internationale, the
12 international body for equestrian sports.

13 Additionally, Ms. Lazarus spent more than a
14 decade providing legal counsel to the National Football
15 League -- Lord knows they need it -- culminating in her
16 time supporting the NFL International as the League Senior
17 Director of Partner Development.

18 Mr. Roach is a former Kentucky Supreme Court
19 Justice. He has served as General Counsel to a governor
20 of Kentucky, and is a former vice-chairman of the Kentucky
21 Horseracing Commission. After graduating from the
22 University of Kentucky College of Law, Mr. Roach clerked
23 with the senior judge of the U.S. Court of Appeals for the
24 Sixth Circuit.

25 Before returning to the Bluegrass State, he

1 spent time in Washington, D.C. as a corporate and
2 securities attorney with the Akin, Gump, Strauss, Hauer,
3 and Feld Law Firm. In addition to a vigorous trial
4 practice, Mr. Roach has successfully argued appellate
5 cases before the Kentucky Court of Appeals, the Kentucky
6 Supreme Court, and the U.S. Court of Appeals for the Sixth
7 Circuit. He's also been included in the Best Lawyers in
8 America for the last several years, and is an American
9 Arbitration Association panel member.

10 I want to thank you both for taking your time
11 to travel to Texas from your offices in Kentucky to visit
12 with us, and we look forward to your comments.

13 MS. LAZARUS: I will start. I want to start
14 first by thanking you for that very generous introduction.

15 I'm genuinely very appreciate of the invitation to come
16 here today and to speak with the Texas Horseracing
17 Commission and, of course, with Ms. Cook, who's doing a
18 phenomenal job, obviously, leading the Texas Racing
19 Commission.

20 I think you sort of mentioned this briefly
21 earlier, but I was appointed CEO only in February of this
22 year. And so I'm in the job about four months, and I was
23 not involved with drafting the legislation, nor was I
24 involved with lobbying for it or getting it passed. My
25 job is to implement it, really nothing more or nothing

1 less. And so I'm hoping that will get me a little bit of
2 empathy from this esteemed body and sort of trying to do
3 really, ultimately, what Congress has ordered me to do.

4 So I guess I want to start by saying Texas is
5 very important to horseracing -- very important. And I am
6 going to do everything I possibly can to find a way
7 forward with this Commission and with your state.

8 We share the same goals. You know, we want the
9 same things for horseracing, which is continued expansion,
10 public confidence, integrity, safety. And I genuinely
11 believe that your perspective of whatever -- for the
12 federal -- how we feel about the federal law, that we can
13 do that together.

14 And I guess I've given Texas' position a lot of
15 thought. And I guess I -- what I'd like to do is sort of
16 offer this as a proposal of sorts. HISA respects Texas'
17 position on the constitutionality and legality of the Act.

18 And that conversation is sort of happening over here,
19 which is going through the federal courts. And the
20 federal courts will determine through the various circuit
21 decisions what the answers to those questions are.

22 My conversation is about what's going to happen
23 on July 1, and how do we move forward together. And I
24 genuinely think that if we have that conversation about
25 what can we practically do as of July 1 that's good for

1 Texas, that stays within what Congress has required me to
2 do, and prevents having to shut down pari-mutuel wagering
3 in Texas -- I really don't think that's necessary.

4 One of the things I want to maybe make clear --
5 and I think there might be some misconception about is --
6 there are very few hard rules that actually will be
7 enforced as of July 1. There's two -- I think most of you
8 know there's two programs that, essentially, HISA has been
9 authorized to run. One is the racetrack safety program
10 and the other is the doping medication control program.

11 That -- the doping medication control program
12 isn't going to come into effect until January of 2023.
13 So, we're only talking about racetrack safety. And within
14 racetrack safety, there's really two series of rules --
15 the 2100 rules, which a lot of the rules that reference
16 frequently, are the rules around accreditation. And those
17 rules we will not be enforcing as of July 1.

18 Those rules are really an ongoing conversation.
19 It's around accreditation for tracks that already have an
20 NTRA accreditation. They'll get a three-year provisional
21 accreditation. And for those that don't, they'll get one
22 year.

23 And we will work with the tracks to ultimately,
24 essentially, accomplish all of those kind of safety
25 requirements -- and many of which, having hearing you all

1 speak today and hearing Ms. Cook -- really very similar
2 for what you're doing here in Texas. So I genuinely don't
3 think that's going to be a very heavy lift for you.

4 And we've actually been able to sit down and
5 talk to you, racing commissions and tracks -- even those
6 that feel very similar to you about the law. There's
7 really often a realization that, You know what? We're
8 actually doing most of this already. This isn't so
9 difficult.

10 So, that's the 2100 series, and that's not
11 going to be enforced automatically on July 1. Then we
12 have about seven rules around the crop rule and some
13 veterinary reporting, et cetera, that will be enforced on
14 July 1. And I think that those are rules that we really
15 can work together to seamlessly enforce in a way that
16 makes sense, and in a way that just allows things to move
17 forward while this other conversation is being resolved.

18 So that's really what I wanted to say today. I
19 also want to mention that I had the opportunity to read
20 the Texas Racing Commission's strategic plan, which I
21 think is really excellent. And what really resonated with
22 me is that it states that the Agency is in full agreement,
23 meaning the Texas Racing Commission, that increased
24 uniformity of safety standards among the states is an
25 appropriate directive for the future of horseracing.

1 So what I'm asking is, let's put aside our
2 feelings about the law and let's just kind of see if we
3 can work together on that, and at least have a
4 conversation. If at the end of the day, it doesn't work,
5 I can accept that. But I want to at least be able to have
6 that conversation and that dialog.

7 Just a couple more points before I turn over to
8 John Roach, who's going to answer some of the specific
9 concerns that were raised during the public comment. But
10 we're open to dialog. We're listening. Every single
11 comment and criticism that I hear, I write down and I
12 listen.

13 You know, we can't change everything
14 immediately, and it's not going to be perfect from day
15 one. This is what Congress decided this is what we need
16 to do. And I think you'll find if you work with us, it's
17 going to be a lot better, ultimately, especially for the
18 horsemen of your state and the racetracks in your state.

19 I really genuinely think that there is a way
20 forward, and we're not -- you know, people who get to know
21 me personally or to John Roach -- we really want to be
22 cooperative. We don't want to come in and take things
23 over. Ninety percent of what's being run by the Racing
24 Commission is going to stay being run by the Racing
25 Commission.

1 There's a few things that Congress is requiring
2 us to do that we want to do with you, and I hope that
3 you'll give us that chance and at least have the
4 conversation. So I appreciate your time in listening to
5 me.

6 I'm going to turn it over to John because there
7 was a few things that were raised during public comment --
8 though, while I don't want to get into too much detail
9 today -- I think are important to maybe explain so that
10 there's an understanding among stakeholders, et cetera.

11 So, thank you very much for your time today. I
12 look forward to hopefully speaking with each of you a
13 little bit more as the day progresses. And I'm going to
14 now turn over to John. Thank you.

15 MR. ROACH: Thanks, Lisa. Thank you, Judge
16 Pate and Members of the Commission. I appreciate the kind
17 introduction. The one part of the bio that was missed out
18 is I'm married to a Texan. And she reminds -- even though
19 we've been married 32 years, when people ask her, she's
20 from Texas.

21 I was married in Texas. My wife reminds me she
22 is the only person in her direct family that's ever left
23 the state. So, you can hold that against me, and I would
24 probably imagine I'm the only outsider here that's been to
25 Manor Downs. So, and I've fished at Port O'Connor and

1 vacationed at Galveston and South Padre, so I know this
2 state.

3 And why am I telling you this? It wasn't
4 obvious in my bio, but I was the most conservative person
5 that's ever served on the Kentucky Supreme Court until the
6 voters sent me to early retirement. Somebody that's been
7 involved with the Federalist Society since founding it at
8 the law school that I went to.

9 And people ask me that know me, Why are you
10 involved in this federal program? And the real reason is
11 I've been betting on horses since I was 15 years old. My
12 parents were public school teachers. I don't come from
13 the blue bloods.

14 I came from -- I love horseracing. I don't bet
15 on anything else, but I bet on horses. And I came around
16 to the idea that although I truly believe in my
17 principles, that I couldn't imagine that the circus has
18 stopped that I took my kids to.

19 And when I kind of had that realization, I
20 realized that this sport -- this profession for many of
21 people -- this game is facing a massive crisis. And so,
22 for what it's worth, yep, I'm the outside paid lawyer. I
23 get paid to do this.

24 But I want this Commission to know that I'm
25 also a true believer in this. And I think that it's so

1 important that we do everything we can to protect this
2 beautiful sport by protecting the athletes and the horses.

3 Just a couple of quick hits, Judge Pate, and
4 then, I'll sit down. Okay, I just -- on a few of the
5 public comments about rule 2230 and the treatment
6 restrictions -- on the face of those regulations, they
7 only apply at the racetracks and official training
8 centers.

9 I would point out about the safety rules,
10 although it might sound offensive -- those safety rules
11 have been out in the public sphere since last fall. They
12 were submitted to the Federal Trade Commission in
13 December, but were sent out to probably 40 or 50 industry
14 organizations throughout the fall last year. The safety
15 rules are the rules that were submitted in December.

16 And we still want to hear comments. We sent
17 the enforcement rules in. There were comments. We change
18 them. We're going to be -- we've gotten comments about
19 the funding methodology. We're going to be doing a new
20 round of those changes.

21 So, I think Lisa is right. Lisa, under her
22 leadership, has made clear we're going to listen and
23 respond when we can.

24 Judge, just so you know, the 14-day comment
25 period -- we have nothing to do with that. The Federal

1 Trade Commission, that's their deal. Every one of our
2 rules that have been placed on the *Federal Register* have
3 been subjected to the same 14-day requirement.

4 As it relates to the definition of the trainer,
5 I think it's kind of a perfect example, and I think,
6 Judge, you pointed this out. I might have come up with a
7 better definition. It's the definition that's in the
8 statute.

9 So, as you pointed out earlier on, you
10 understand this isn't personal. Congress has passed this
11 law. We're trying -- but when Congress sets forth the
12 definition, we don't think we have a lot of flexibility of
13 setting forth the definition.

14 And so as it relates to the registration
15 process, I did want the Commission to know this -- we are,
16 first of all, we have been helping -- we're going to be
17 doing like parachute events. Lisa is actually going to go
18 Evangeline Downs here in a week or so, too. We're going
19 to send in teams with laptops and help folks register on
20 the back side.

21 The horsemen's organization in New York did an
22 event last Saturday that registered over 500 people. You
23 can register on the phone. And I would also say that
24 we've made clear that there's -- as we ramp up this
25 process, a groom on the back side is not -- you know, he's

1 going to be given every opportunity to register.

2 There's not going to be enforcement actions
3 brought against a person like that. And our registration
4 requirement does not supersede your licensing
5 requirements. It has nothing to do with -- you know, so,
6 we've had some racetracks in other states say, Do you have
7 to have a HISA registration to access to the back side?

8 The answer is no. Our registration is separate
9 and apart from each state's licensure requirements. You
10 all control within your licensure rules those access
11 rules.

12 We are not attempting to preempt those. We'll
13 have to have a conversation about the HISA folks, and
14 that's something we can talk about. And I can't imagine
15 reasonable minds -- we can figure that out.

16 But I wanted to assure the Commission -- and
17 we've made all these statements before -- we're not
18 supplanting state licensure requirements. Our
19 registration -- the truth of the matter is our
20 registration -- the statute says we have to have a
21 registration. And our registration, if any of you all
22 have seen it, takes about three minutes.

23 You can do it on your phone. And it's really a
24 contact system. The covered horse part of it will
25 allow -- particularly when the anti-doping and medication

1 control program's up and running -- will really help us in
2 terms of whereabouts and identifying where the horses are.

3 So I just wanted to kind of take a few random
4 thoughts as it relates to the comments, and just would
5 echo what Lisa said -- totally understand and respect,
6 particularly from my background, your all's perspective on
7 the litigation and your views about the statute. But I
8 have found when we sit down with folks, we are basically
9 going to be able to enter into some type of relationship,
10 whether through a letter or an agreement, with probably at
11 least -- I think we're going to have every state -- there
12 might be -- it'll probably be less than five.

13 And for the ones that have sat down with us,
14 we've been able to try to work a path forward. And
15 hopefully, we can do that. But at the end of the day, I
16 share and would amplify what Lisa said, which is we are
17 appreciative that you invited us here.

18 We welcome the chance to sit down and talk to
19 you all and to see if we can put a path forward. And I
20 appreciate all of you all's work on behalf of horseracing
21 here in Texas.

22 CHAIRMAN PATE: We appreciate you all coming
23 very much. Commissioners, do you have any questions of
24 Mr. Roach and Ms. Lazarus? Anything you'd like to discuss
25 at this time?

1 (No response.)

2 CHAIRMAN PATE: It's very encouraging to hear
3 your remarks -- both you and Ms. Lazarus. We have some
4 serious discussion to occur to see if we can get over the
5 humps, and for the benefit of all the horsemen and tracks
6 and the entire equine industry here in Texas.

7 But we're willing to do it. We're willing to
8 sit down and see if we can work it out. But you have
9 constraints and we do, too. And we're just going to
10 figure them out. So --

11 MR. ROACH: Well, we're glad to be here.

12 CHAIRMAN PATE: Thank you. Thank you for
13 coming. And I'm sure there are going to be some people
14 that want to say something to you when this over. So, be
15 prepared. And you might get some cards.

16 And I want to make sure you meet our
17 representative from the Texas A&M lab back here. Travis,
18 be sure you come up and talk to him. I want to make sure
19 you all know who he is because it's one of the finest labs
20 in the world.

21 Commissioners, anything else?

22 (No response.)

23 CHAIRMAN PATE: All right. No other -- thank
24 you -- business. Let's see. There's no executive session
25 this time.

1 Commissioners, the next meeting is scheduled
2 for Wednesday, August 24, 2022 at 10:30 a.m. to be held in
3 this room.

4 The time is now 11:55, and with all business
5 concluded, we are now adjourned. Thank you.

6 (Whereupon, at 11:55 a.m., the meeting is
7 adjourned.)

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C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: June 8, 2022

I do hereby certify that the foregoing pages,
numbers 1 through 77, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Elizabeth Stoddard before
the Texas Racing Commission.

DATE: June 17, 2022

(Transcriber)

On the Record Reporting
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