

1 THE COMMONWEALTH OF MASSACHUSETTS
2 MASSACHUSETTS GAMING COMMISSION

3
4 PUBLIC MEETING #80

5
6 CHAIRMAN

7 Stephen P. Crosby

8
9 COMMISSIONERS

10 Gayle Cameron

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga

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15 RE: Horse Racing Forum

16
17 October 16, 2013, 9:30 a.m.

18 HYNES CONVENTION CENTER

19 Room 202

20 900 Boylston Street

21 Boston, Massachusetts

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1 P R O C E E D I N G S :

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3 CHAIRMAN CROSBY: I will call this
4 meeting to order. I am Steve Crosby. I am the
5 chair of the Mass. Gaming Commission. It is my
6 pleasure to welcome everybody here to this
7 event. As I've said to many of you, we are the
8 regulators, as you know, we are the regulators
9 of the Gaming Commission and we are now also
10 the regulators of the racing industry.

11 But in addition to being regulators
12 of the racing industry, we consider ourselves
13 partners with the racing industry. We have a
14 job to do as regulators and we will do it
15 rigorously, but we also are invested in trying
16 to figure out with you all how this industry
17 can be sustained, an industry with a tremendous
18 tradition in Massachusetts and an industry that
19 independent of the gaming licensing issues, we
20 would like to help find a way to prosper and be
21 successful.

22 So, as you know led by Dr. Jennifer
23 Durenberger, our Director of Racing, we have
24 undertaken a host of steps to try to rethink

1 the industry, rethink the regulatory
2 environment, rethink the safety/medication
3 issues, rethink the structure, rethink the
4 organization, the payouts, the whole business.
5 And begin to think about what we can do once
6 the licensing decisions are made, the gaming
7 licensing decisions are made, how can we put
8 ourselves in a position to be ready to have a
9 successful horseracing industry after that lay
10 of the land is chipped out.

11 This forum is one of many, many
12 steps in that process to get us the information
13 and to build a strategy that can sustain
14 horseracing in Massachusetts for a long, long
15 time.

16 So, I thank you again for coming. I
17 thank our guests from out of town with
18 flattering us with your presence there. I
19 thank our director, Jennifer Durenberger who
20 has been terrific as you all know. And I look
21 forward to in informational session. Thank
22 you.

23 DR. DURENBERGER: Thank you, Mr.
24 Chair. Welcome to everyone in the room. We

1 hope this is the first of what will be many
2 annual horseracing forums. As a racing
3 aficionado, I would hope that this would be the
4 first of several semiannual forums. But I want
5 to thank you all for coming.

6 I know that the stakeholders in the
7 room on both sides you've got busy schedules,
8 not just today but every week, every month.
9 So, we really appreciate your making the time
10 to be here. I also want to thank this
11 morning's speakers, who when we reached out to
12 them not very long ago kind of last-minute
13 notice, they each agreed within minutes to join
14 us here today.

15 And I think that that speaks volumes
16 to the commitment of our industry's leaders,
17 both breed organizations are in the immediate
18 run up to their respective national and
19 international and end of season world
20 championships. So, for them to be here today
21 is a big deal as well.

22 We have two goals for today's
23 sessions. For the morning session, we are
24 hoping to educate audience members on the

1 general state of the horseracing industry as it
2 stands of the country. I'm a firm believer
3 that as the nation goes so the local industry
4 goes. It certainly informs the issues that we
5 face here.

6 We'd also like to enhance our
7 Commission's developing understanding of our
8 industry. And I'm delighted that all five of
9 them are here today. That's fantastic.

10 For the first session here, we have
11 chief executives from both the thoroughbred, or
12 running horse as we call it in Massachusetts,
13 and standardbred or harness horse registries to
14 describe the state of their breeds. We've also
15 got members of the National Thoroughbred Racing
16 Association and we're going to set that
17 national stage for you.

18 In the afternoon session, our goal
19 is to have open and honest dialogue about the
20 state of the industry in the Commonwealth at
21 what is really a critical time as the Chair
22 said. Just about all of our stakeholders from
23 the operators to the breeders to owners and
24 trainers to the Racing Division, we are all

1 attempting to make our business plan for the
2 next year and beyond in the face of some pretty
3 significant unknowns.

4 So, to the extent we can all be on
5 the same page about what is knowable, when it
6 is knowable, the parties can be as informed as
7 possible as they make their decisions going
8 forward. More about that this afternoon.

9 First, this morning, I would like to
10 welcome Mr. Matt Iuliano. Matt is the
11 Executive Vice President and Executive Director
12 of the Jockey Club. This is the breed registry
13 for all thoroughbred horses in North America.

14 The organization is dedicated to the
15 improvement of thoroughbred breeding and
16 racing, and fulfills that mandate through its
17 subsidiaries, strategic partnerships and
18 charitable foundations. The Jockey Club
19 provides support to a broad range of industry
20 initiatives, many focused on the safety of both
21 horse and rider.

22 Mr. Iuliano moved into his current
23 position with the Jockey Club in 2010 after
24 eight years of service as the Vice President of

1 Registration Services. Prior to that he served
2 in several executive capacities with Churchill
3 Downs. Mr. Iuliano has a whole lot of letters
4 after his last name, holding a bachelor's
5 degree in agriculture, and a master's in
6 physiology and biophysics, an MBA and a law
7 degree. We welcome Mr. Iuliano.

8 MR. IULIANO: Thank you. And thank
9 you for extending this invitation to us to
10 address the Gaming Commission. We always
11 welcome these opportunities to discuss our
12 shared interests and our passions that we have
13 for this sport along with our friends and
14 fellow advocates.

15 I could talk about this but I
16 probably shouldn't. Today I'd like to cover a
17 couple of topics with you. The first is recent
18 trends in breed and racing and the interaction
19 that these two important segments have on our
20 industry for fueling growth.

21 Secondly, I'd like to update you on
22 a number of our growth initiatives that we've
23 recently undertaken to competitively position
24 horseracing for long-term sustainable growth.

1 And more importantly, I want to discuss the
2 vital role that we believe medication reform
3 plays in achieving that long-term sustainable
4 growth.

5 Let's start with the breeding end of
6 it first. So, after more than a decade with
7 the number of foals registered each year varied
8 by at most a couple of thousand, 2005 marked
9 the modern era peak at 38,400 registered foals,
10 which is the numbers here depicted in blue.
11 From that high-water mark, the registered foals
12 have declined by nearly 40 percent with the
13 2014 foal crop estimated at 22,000. These are
14 levels that we have not seen since 1967.

15 The year of foaling for the 1970
16 Kentucky Derby Dust Commander also the year
17 when Kelso was inducted into the Hall of Fame.
18 And I think for the locals, it also marks the
19 year after the Beatles played one of their
20 final concerts in Massachusetts in the infield
21 of Suffolk Downs.

22 The decline of registered foals
23 obviously indicates the decline in broodmare
24 population as well as shown here in red. From

1 a high point of around 60,000 mares bred in
2 2004 that produced the 2005 foal crop, this
3 year 34,200 mares were reported bred that
4 result in an estimated 22,000 foals next year.

5 As shown here in green, the number
6 of stallions in production has been trending
7 downward. And if we extend this back into the
8 peaks of foal production that occurred back in
9 the mid-80s when over 50,000 thoroughbred foals
10 were registered, the decline in the number of
11 stallions in production has consistently
12 trended downward. Even as the foal crop
13 remained relatively stable during the period of
14 time between 1995 and 2005, the number of
15 stallions have trended slightly downward each
16 year.

17 In order to maintain the foal crops,
18 average book sizes increased on a commensurate
19 level, which indicates the popularity of some
20 of the more commercially and economically
21 popular stallions.

22 On the racing side of the equation,
23 it pretty much mirrors the events that are
24 occurring on the breeding side. This is

1 information that is taken from our fact book
2 that's available online at Jockeyclub.com.

3 But not unlike the foal crop, after
4 an extended period where the number of starters
5 shown here in blue only varied by a few
6 thousand between 2009 and 2012, the number of
7 thoroughbreds that started in a race declined
8 by nearly 15 percent.

9 Shown here in red and green, the
10 number of races and the number of starts have
11 paralleled these downward trends. With
12 starters, races and starts declining anywhere
13 from 14 to 17 percent, the math would tell us
14 that per starter and the average field size
15 must have remained relatively constant. And
16 that's certainly the case.

17 Starts per starter declined by just
18 over two percent during this period of time.
19 And actually, they started to trend upward
20 slightly starting in 2010. And field size has
21 declined by just a little over three percent.

22 So, what happens when we extend
23 these trends into the future? Looking at the
24 historical information is always useful, but

1 obviously for purposes of us in this room today
2 as we plan future courses of action, whether
3 it's from a business strategic aspect or
4 regulatory aspect, when we pull these trends
5 forward, what do we see? Well, Equibase
6 recently presented the results of various
7 models at the TRA's simulcast convention in
8 Lexington.

9 Building upon estimates of the foal
10 crop, Equibase estimated a handful of key
11 racing metrics three years from now under a
12 particular set of assumptions. First, declines
13 in horses of racing age are based upon a very
14 fundamental driver and that's the foal crop.
15 And the foal crop is something we know with a
16 fairly high degree of certainty.

17 Once that number is obtained, other
18 mathematical relationships that exist between
19 starts per starter, the number of horses that
20 are entering racing as two-year-olds and three-
21 year-olds the first time, it becomes a very
22 useful exercise in modeling out racing.

23 The blue line represents the total
24 population of thoroughbreds that are of racing

1 age and are available at any given time or
2 during any given year. So, that's basically
3 the universe of horses, the universe of
4 thoroughbreds that are available to race based
5 on registration figures.

6 Second is an estimate of the total
7 number of race days with the race day defined
8 as the sum of all races that are held in the
9 United States and Canada. So, much like man-
10 hours or man-days, race days are simply the
11 total number of days over the total number of
12 racetracks that are currently in operation.

13 So, for background, if we look at
14 these numbers, the assumptions that are made
15 here would include that the population of
16 horses that are available for racing will
17 decline according to the estimates of the foal
18 crop.

19 And at least in the short term, the
20 number of race days will remain relatively
21 flat, which is about what they've done. They
22 have trended downward, but for the most part
23 they've remained relatively flat. So, that's
24 the background assumptions. Now let's look at

1 some of the key metrics.

2 When we estimate the number starters
3 that are available to start a race using foal
4 crop estimate and holding the proportion of
5 starters by age category constant, the number
6 of starters could decline by as many as 20,000
7 horses in three years.

8 Now assuming that these historical
9 relationships between field size and the number
10 of races continue to hold, a reduction in
11 starters would reduce the average number of
12 starters per race by close to two full horses.
13 And that's again, all tied back to the initial
14 foal crop estimate and then holding constant
15 those mathematical relationships that are
16 proven to be very stable over time.

17 Now alternatively, assuming that
18 field size continues to hold at historical
19 numbers and starts per starter remain
20 relatively flat, to maintain these levels of
21 activity, the number of races would need to
22 decline from an estimated 50,000 in 2013
23 nationally down to around 35,000 in 2015 in
24 order to keep the same level of competitiveness

1 in the fields that are going to the track.

2 Now it's important to understand
3 that obviously these numbers are numbers that
4 have been modeled. And they're based upon
5 several assumptions. Those of you in the
6 audience that have been involved in these
7 exercises, as you vary assumptions clearly, it
8 can create different results.

9 We've conducted sensitivity analysis
10 on a number of these assumptions in order to
11 look at the range or the confidence levels that
12 we can have in some of those estimates. But
13 suffice it to say that the relationship is
14 fairly simple. When the number of foals
15 registered go down, the competitiveness of the
16 fields, the number of races, field size, etc.
17 are likewise could be expected to go down as
18 well.

19 With the certainty of an estimated
20 foal crop for 2014 at 22,000 foals, adjustments
21 to these key assumptions, all of these models
22 are going to point eventually to fewer races in
23 our future, in our immediate future. Those
24 declines will impact, have an impact on handle

1 and consequently on purses as well.

2 That's kind of the negative news.
3 That's kind of where we're at, what are we
4 saying. What are the trends? Again, there are
5 some assumptions that are built in when you
6 look at forecasting these numbers forward. But
7 let's see what kind of conclusions this will
8 draw.

9 With all other things held constant,
10 fewer horses will ultimately lead to fewer
11 races as we discussed. And with fewer races
12 out there, the importance of quality and
13 scheduling to maximize exposure to the market
14 are critical for maximizing revenue. In fact,
15 this is one of the strategic initiatives we
16 have been executing upon it for the past couple
17 of years.

18 One of our commercial subsidiaries,
19 Encompass Solutions, has developed a scheduling
20 tool to assist racetracks in scheduling their
21 biggest races to maximize revenues by
22 minimizing the amount of cannibalistic overlaps
23 that occur in race schedules. To better
24 position racing for long-term growth, all of

1 our work indicates racing has tremendous appeal
2 on television. And our advisors tell us
3 television is critical for developing new
4 markets and extending the reach of horseracing.

5 These were then motivations behind
6 our recent partnership with Fox Sports One to
7 position our best racing among the already
8 impressive sports lineup. And that sports
9 lineup that's emerging on this exciting new
10 network already has a reach of 90 million homes
11 coming out of the gate.

12 So, providing existing and new
13 owners with a one-stop resource for their
14 information needs is the motivation behind our
15 partnership with TOBA in developing owner view.

16 Owners and introducing new owners
17 are the lifeblood of this sport. It is
18 inarguable that it is the owners that provide
19 the majority of the capital that fuels the
20 engine of commerce in our industry from
21 breeding to sales to racing. And back to
22 breeding again when those horses reenter
23 production.

24 Owner view is there to assist owners

1 in decision-making ranging from who to train
2 their horse to how to get a license in a
3 particular state. Our research indicated that
4 each of these strategies however was affected
5 by a very powerful undercurrent. It's an
6 undercurrent that we noticed when we first did
7 our comprehensive industry analysis a couple of
8 years ago. And it reemerged again when we
9 conducted additional surveys just this summer.

10 That is that racing, like any other
11 business, must each day go out and win the
12 confidence of our customers and continually
13 improve the public's perception of our sport.
14 The surveys we conducted a couple of years ago
15 as part of that larger industry analysis in
16 addition to surveys conducted earlier by the
17 NTRA and an even more recent surveys this
18 summer have all told us that efforts to grow
19 the business would be tempered somewhat if the
20 public's confidence in the integrity, animal
21 welfare and safety record of the sport were
22 shaken in any way.

23 So, this past summer we asked the
24 premier marketing research and consulting firm,

1 Penn, Schoen, Berland to update surveys that
2 were conducted as part of a comprehensive
3 analysis we did in 2011.

4 With the help of Jeff Plaid at
5 Hannah and Jerry Brown at Thorograph, we gained
6 insight into the factors and motivations that
7 shape preferences and buying behaviors among
8 our sports most committed fans.

9 Here is what they discovered. Four
10 of five of those fans who wager in excess of
11 \$10,000 per month list drugs and takeout as
12 very most important in their decisions. Again,
13 there are just the factual background. Eight
14 of 10 consider illegal drugs when betting
15 certain tracks and states. Three of four avoid
16 certain tracks and states because of these
17 perceptions. And I think it's important to
18 point out that term perception.

19 We have all heard the term or the
20 phrase about perception being reality.
21 Obviously, many of these things are simply
22 based on open surveys and asked for the
23 respondents to give their honest and candid
24 answers to these types of questions. And

1 invariably, they have these perceptions that
2 have already been planted in their head. And
3 those perceptions have affected the way that
4 they conduct their business. 91 percent of
5 them want uniform medication rules across all
6 jurisdictions and they want that immediately.

7 So, these are our most devoted fans.
8 That is as the economists would say, they vote
9 every day for their preferences with their
10 wallets. Interestingly, we saw the same
11 results a couple of years ago in our larger
12 industry analysis when it comes to new fans and
13 potential fans entering the sport. Those
14 responsible for growing our sport from where it
15 is now to where we would like to take it.

16 Interestingly these data confirm
17 those same preferences exist and the same
18 perceptions now, the perceptions are at work in
19 the minds of our most committed fans. Those
20 that are responsible for sustaining our sport.

21 When we see data like this and we
22 see results like this, it represents
23 opportunity for us to investigate and to
24 develop strategies in order to reverse those

1 perceptions.

2 So, all of the data point to the
3 importance of medication reform and uniformity
4 and the role that that plays in positioning our
5 industry for long-term sustainable growth.

6 I do want to thank you for extending
7 this opportunity to allow us to share some of
8 this data with you. We applaud Massachusetts
9 in taking the leadership position that they
10 have on medication reform. And at the Jockey
11 Club, we have been working diligently with a
12 number of regulatory authorities around the
13 nation to follow your lead. Thank you.

14 DR. DURENBERGER: Matt, before you
15 sit down, did the Commissioners have any
16 questions of you? We've got plenty of time
17 built in. We've got about five minutes for
18 interaction with the individual speakers. And
19 then we'll have about 15 minutes for a
20 roundtable at the end. But did any of you have
21 questions for Ms. Iuliano?

22 COMMISSIONER MCHUGH: Where is the
23 pushback on a uniform set of medication rules?
24 Where is that coming from? It's there.

1 MR. IULIANO: I don't know if I
2 would necessarily point to a single issue. And
3 we are fortunate to have the new chairman of
4 the RMTC with us who is actually my partner in
5 this endeavor as we work towards national
6 uniformity.

7 But it's really difficult to point
8 to any single source when you look at it.
9 There's obviously the great caution involved
10 with any type of regulatory change, just
11 because of the magnitude and the sheer volume
12 of the amount of change that is required in
13 order to pull all states into similar
14 alignment. So, you'll see that. Let's just
15 tag it as cautionary. Perhaps it's an
16 overabundance of caution at that point.

17 Probably the second area is there is
18 some degree of parochialism. It's hard to
19 avoid. Most of us who have been in this
20 business for a number of years have seen that
21 type of very regional, a very local approach to
22 regulatory or to the regulation of horseracing
23 based on a unique set of circumstances within
24 that jurisdiction.

1 We spent a great deal of time within
2 the RMTC and within a number of the safety
3 committees that we host and that we provide
4 support for studying those very issues, to see
5 if there are things at the core fundamentally
6 that would support some type of regional
7 preference or regional need for a particular
8 set of rules. So far we've been unable to
9 identify those.

10 So, I think the efforts that we've
11 spent a great deal of time on in the past
12 couple of months, at least with the Jockey Club
13 in supporting the RMTC, in supporting the RCI
14 in this initiative is educational.

15 It's really to sit down one-on-one
16 with regulators, lay all of the data out on one
17 side. Lay out their existing rules on the
18 other and then do what's referred to as a
19 classic gap analysis. Here's the gaps that
20 exist between the regs.

21 COMMISSIONER CAMERON: Other than
22 adopting the uniform medication policies, are
23 there other things that can change that
24 perception, other steps? If you are one of

1 those states, for example, that happens to be
2 in that situation where there is a perception
3 that -- the bettors do not feel comfortable, is
4 there something else?

5 MR. IULIANO: I think one of the
6 undercurrents throughout a number of the
7 surveys is the need for transparency. It's
8 interesting that not only the new fans that are
9 entering into the sport, but even the existing
10 fans ask for more transparency. For those of
11 us with Mike and Alex, Jennifer, myself up
12 here, when you drill into those kinds of
13 questions, transparency is a hard thing to
14 define.

15 What does it mean? Is it to the
16 level of testing? Is it to the level of
17 information that's provided in the program on
18 particular horses? It's a very expansive
19 universe that we are attempting to put our arms
20 around right now as it relates to transparency.

21 If I had to say there was one
22 element that seems to stitch together all of
23 that, it's that the people that we've talked to
24 that have participated in these types of

1 surveys have said we want your sport to be more
2 transparent. We want to be able to see into
3 it. We want to know what is the horse. It's
4 not necessarily a horse specific issue, horses,
5 jockeys, owners, trainers, etc., regulatory
6 rulings for that matter. And I think what it
7 tells us is the more information we provide to
8 the marketplace, they seem to respond to it.

9 COMMISSIONER CAMERON: Thank you.

10 CHAIRMAN CROSBY: Those actual and
11 projected drops in foals and all the things
12 that cause a drop in foals, and all of the
13 consequences of the drops in foals are really
14 precipitous. That's a huge rapid drop. We've
15 talked a little bit about this in sort of
16 general terms. How do you describe what's
17 happened? What has happened in the industry
18 that has caused this drop to be so incredibly
19 precipitous?

20 MR. IULIANO: Gosh, I wish - this
21 almost reminds me of the 2008 financial
22 incident. If I could have only predicted that.
23 I think there's probably a number of factors
24 that contributed to this decline that we're

1 seeing, at least from the breeding side of it.
2 We're also seeing a lot of recovery signs on
3 that end of it when you look at the recent
4 auction results for example.

5 At some of the larger auction
6 companies around the country and even
7 internationally, we're starting to see some
8 very, very positive signs of recovery on it.
9 But I think if you had to factor out those
10 issues that played the biggest role in that, I
11 think there was a rush into the business when
12 you looked at some of the numbers, the
13 registration numbers that occurred and when you
14 looked at mares in production.

15 We spent a great deal of time back
16 in 2006/2007 where we actually kind of peeled
17 back the covers of those 60 - 65,000 mares that
18 were in production at that time, and tried to
19 do an assessment of quality on those horses.
20 In other words, why are those mares being
21 bread?

22 When you look at the quality of
23 their pedigrees, the quality of their race
24 records themselves and you looked at the

1 stallions that they're being bred to and -- as
2 a breed registry, we're kind of uniquely
3 positioned, because we do offer a number of
4 products, production indices so to speak, that
5 you can apply to these horses and say how does
6 horse A compare to horse B, state A compare to
7 state B?

8 And in that analysis, we concluded
9 that there were large bans of horses where we
10 couldn't attribute anything other than perhaps
11 exuberance, perhaps expectations, perhaps
12 speculation in terms of those mares being in
13 production.

14 When you follow them through, you
15 look at the foals. Where did the foals wind
16 up? How many went through public auction? Who
17 started a race? It wasn't surprising to see
18 that out of that kind of ban of horses that we
19 would never say -- perhaps more speculative in
20 their nature, at least their breeding decision
21 was more speculative, when you follow those
22 horses through, you didn't see a lot of result
23 in the foal.

24 Either they didn't go through a

1 sale. They didn't start in a race. A number
2 of them didn't re-enter the breeding shed
3 either. So, representing that population of
4 horses you just simply lose track of.

5 So, taken in its totality, you stand
6 back from those long-term trends and you look
7 at it, I would have to say the majority of that
8 decline was when kind of the economic reality
9 caught up with some of the economic
10 expectations that were placed on those mares
11 when they were originally placed in production
12 the first time.

13 This is a business that is very,
14 very competitive in the marketplace. If a
15 mare's produce record doesn't substantiate her
16 being in production after a few years, you
17 start seeing those horses removed from
18 production. You start seeing the kind of
19 declines we did.

20 Now interestingly, we've gone back
21 and revisited that analysis. And we discovered
22 that again those same kind of indices, the mare
23 produce index and so forth, those same kind of
24 indices have responded very positively.

1 As mares were taken out of
2 production and didn't return to the breeding
3 shed for covers, the quality, the overall
4 quality of the breeding herd has gone up
5 tremendously. It's always hard for us as a
6 breed registry to say a good horse versus a bad
7 horse.

8 Again, using those types of
9 production indices that a lot of consigners,
10 buyers, etc. use, those numbers have trended
11 northward. That tells us that the horses that
12 are out there in production now are good
13 economic risks.

14 CHAIRMAN CROSBY: That was
15 absolutely not the answer that I expected. So,
16 in a supply and demand problem, what you're
17 saying is the issue here was an oversupply
18 rather than a decline in demand.

19 I would've expected what you were
20 going to talk about was why has demand
21 declined. And that the supply responded to a
22 decline in demand. But that's not what you
23 said at all.

24 MR. IULIANO: What's interesting is

1 when you look at the percentage of the foal
2 crop that actually went or actually the raw
3 numbers of foals that went and started in their
4 first races, two-year-olds and three-year-olds,
5 those numbers are fairly consistent.

6 What we did see throughout that
7 period of time though is that the number of
8 horses entering racing the first time as two-
9 year-olds went down. It was either because
10 they weren't a good risk and simply the owners
11 didn't want to take the risk of putting their
12 horses into training.

13 Or it could be that after the second
14 or third foal out of the mare with perhaps a
15 less than stellar produce record, I think the
16 speculation ground to a halt on that. And that
17 mare was removed.

18 It's rather interesting when you
19 look at one of the key indicators that we watch
20 very carefully is the number of races, just how
21 many races are run in the United States. It's
22 always hovered around 50- to 60,000 or so. And
23 throughout a lot of this correction or
24 throughout a lot of this decline, you'll see

1 the tracks have responded.

2 They have changed the inventory of
3 races that they offer. But for the most part,
4 they haven't responded to the same degree that
5 we would expect them to respond as it relates
6 to the decline of the foal crop.

7 So, what that's telling us with the
8 field size still remaining relatively static,
9 is that that demand is still there. I think
10 from the customer standpoint that demand is
11 still there.

12 COMMISSIONER ZUNIGA: I just want to
13 follow up on that. Isn't also, at least in
14 Massachusetts, the number of race days is a
15 legislative requirement. I suspect that may
16 also be the case in other states. So, when you
17 aggregate the number of races holding steady,
18 isn't there a disconnect in terms of the point
19 that you make with this foal decline?

20 MR. IULIANO: Right, right. Well,
21 the way these assumptions were modeled too is -
22 - And maybe I didn't do a very clear job of
23 explaining it. But there are some key
24 variables that you have to assume in order to

1 model the future to look at these predictive
2 figures.

3 One of those key estimates that you
4 have to look at is to ask yourself the question
5 if you hold race days constant and field size
6 constant, what is that going to do to starts
7 per starter, underlying starts per starter,
8 which likewise is going to have an effect on
9 the total number of starts, which drives to
10 handle, purses, etc.?

11 Because there's so many variables,
12 there's more than two variables that are
13 involved in that equation, the other way to
14 look at it is to turn it on its head and say
15 what would happen, what's required to happen to
16 keep field size constant and to keep starts per
17 starters constant? And the only other variable
18 then that's left to change is race days.

19 So yes, you're absolutely right.
20 When you look at a number of state regs., it's
21 mandated. There's a certain number of race
22 days that have to be run each year. Those two
23 analytical approaches are really two ways of
24 coming to the same point. And that is there's

1 going to be pressure.

2 There's going to be pressure on the
3 number of race days. Without that pressure on
4 race days, what could happen is you'll see
5 changes in field size or you'll see changes in
6 starts per starter. One of those three either
7 in concert or individually would have to
8 change.

9 COMMISSIONER MCHUGH: Can I follow
10 up on Steve's supply and demand analysis
11 question, because none of this fascinating
12 analysis mentioned attendance or total
13 revenues. What are the trends in both of
14 those? And do they have an impact on the
15 decline in the foal crop?

16 MR. IULIANO: Well, I'm a horse guy.
17 And this guy right here is the people guy.

18 COMMISSIONER MCHUGH: So, I should
19 hold that question?

20 MR. IULIANO: I would probably hold
21 that question. We look at it from the horse
22 side of the equation. From the consumer side
23 of the equation there is a whole other
24 analysis.

1 COMMISSIONER MCHUGH: That's
2 interesting. I would have thought they were
3 connected.

4 MR. IULIANO: They are. Absolutely
5 they are. And it's one of the things we've
6 done. At least is you look at the strategic
7 initiatives that we've undertaken, they've all
8 been rather horse centric. We do have a media
9 partnership with Fox Sports in order to
10 increase coverage.

11 But when you look at safety and
12 integrity initiatives, medication reform
13 initiatives even things that date back as far
14 as 2006 when we launched in an effort to
15 improve safety plannings and injury mitigation
16 strategies, launched things like the equine
17 injury database and so forth. Those were very
18 horse centric. As advocates for the horse,
19 those are the areas that we wanted to focus
20 upon.

21 Our exposure on the consumer side of
22 it through surveys, through discussions, focus
23 groups, etc., they've relayed to us some of
24 those key factors that shape their preferences.

1 The principle of which being transparency. The
2 principle of which being what happens to a
3 horse after he retires?

4 What's the safety record, the
5 overall safety record for both horse and rider?
6 Things of that sort. But how that translates,
7 in other words, if you change on the supply
8 side or on the safety side a factor of .2 as an
9 example, what does that do to the dollars, to
10 the demand dollars? We haven't done that.

11 COMMISSIONER MCHUGH: Thank you.

12 DR. DURENBERGER: Time for one more
13 question and it will be mine. Thoroughbred
14 racing is not just a national sport, but it's
15 an international sport. And you have just come
16 back from some meetings in Europe. What can
17 you tell us about what the rest of the world
18 says about racing in the United States?

19 MR. IULIANO: It's interesting.
20 There's probably a number of conclusions that
21 we can draw from those trips overseas. The
22 principal of which is lessons that can be
23 learned from human sports. When you look at
24 human sports, there's been a great deal of

1 interest now, not necessarily -- Well, there's
2 always been interest when an athlete competes,
3 but there's interest in the period of time
4 leading up to the competition. That has
5 occupied a lot of attention.

6 When you look at some of the large
7 regulatory bodies that are responsible for
8 human sports, what does the athlete do in
9 training? What are some of the substances that
10 the athlete is exposed to while in training,
11 etc., etc.?

12 It is principally a response to, I
13 guess, as a general term you could call it the
14 increased pharmacological sophistication of
15 some of these substances. Whether that's true
16 or perceived again, it's hard to look at.
17 Whether you can actually treat something months
18 in advance and produce that effect at the time
19 of the race, obviously, there's some very clear
20 examples that we have in racing both human and
21 horse with EPO, for example.

22 Suffice it to say that that area of
23 training is attracting more interest. And
24 internationally, the rest of the world is

1 becoming very interested in what these horses
2 are doing during that period of time.

3 In fact, I think you may have all
4 heard about the recent scandal. I only call it
5 a scandal because some of the newspapers that
6 picked up on it over in London were
7 interesting. But it's with anabolic steroids
8 and the use of anabolic steroids in training.

9 And it boils down to a fundamental
10 question of are we collectively as an industry
11 sufficiently regulating at the time after the
12 race, in a post-race sample, to ensure that
13 those effects are gone. Now whether it's
14 anabolic steroids or whatever the latest
15 biologically active peptide or substance is
16 that same model is in place. Are we doing a
17 sufficient job in focusing our efforts post-
18 race? And should we also be looking at periods
19 of time prerace?

20 So, that is probably one of the most
21 interesting things that came out of it. From
22 other aspects of it, the competitiveness of the
23 horse, I always look at the auction results.
24 And I always look at -- Although you are

1 looking at buyers that may not necessarily have
2 a direct connect to the ultimate buyer of the
3 horse, but it's interesting that I think there
4 is still strong demand for the US thoroughbred.
5 The US thoroughbred is a good horse. And is a
6 very significant horse when it comes to
7 international pedigrees.

8 DR. DURENBERGER: Thank you very
9 much. Next we have Mike Tanner. Mr. Tanner is
10 executive vice president and chief executive
11 officer for the Unites States Trotting
12 Association, which I think will be of interest
13 to most of the audience this morning.

14 The United States Trotting
15 Association is not only the breed registry for
16 the standardbred racehorse, it's also organized
17 to provide administrative, rulemaking and
18 licensing services to its members, as well as
19 promote the sport and business of harness
20 racing.

21 Mr. Tanner has been with the USTA
22 since 2008 following a three-year stint as
23 director of racing operations Harrah's Chester
24 Casino Racetrack. Along the way, he has worked

1 in a variety of front-office positions with
2 Ladbroke, Gulfstream Park, Magna Entertainment
3 Breeders' Cup Limited and participated in the
4 National Thoroughbred Racing Association's
5 technology group communications task force.
6 Mr. Tanner, who has a degree in psychology as
7 well as an MBA. Thank you, Mr. Tanner.

8 MR. TANNER: Thank you. I think
9 I've immediately shown who technologically
10 savvy I am. So, I'll beg your indulgence on
11 this.

12 Good morning, everybody and thank
13 you very much for inviting me here. My name is
14 Mike Tanner, as Director Durenberger said. I
15 am the executive vice president and CEO of the
16 United States Trotting Association.

17 We've been around since 1938. So,
18 we are celebrating our 75th anniversary. We
19 are a membership-based organization. Our
20 membership is comprised of drivers and trainers
21 and other horsemen and racetracks and
22 officials. Pretty much if you're involved in
23 the sport of harness racing in any of those
24 capacities, you're a member of our

1 organization.

2 This is what we do. We license
3 owners, trainers, drivers and officials. We
4 formulate rules. We maintain the records
5 perhaps the biggest and most important job that
6 we have is to service the breed registry. We
7 promote the integrity of the industry and the
8 humane treatment of standardbreds. I can talk
9 a little bit later about some of those
10 programs. We publicize the sport of harness
11 racing and the standardbred breed.

12 We came about back in the late 30s.
13 There were four or five governing bodies at the
14 time involved in harness racing. And they
15 figured that was probably about three or four
16 too many. So, there was a merger. The biggest
17 one was located in Columbus. That was us. So,
18 we wound up in that capacity.

19 As state racing commissions
20 developed and proliferated, our jurisdictional
21 power waned. We really don't have any except
22 we oversee the fairs. But we have retained our
23 role in doing the things that I just described.
24 So, I am proud to say that we looking forward

1 to hopefully another 75 years.

2 That said, here's what I'm going to
3 do today. I'm going to walk you through some
4 of the key metrics of the industry. That will
5 be the first part of presentation.

6 Then I'm going to talk to you a
7 little bit about the state breeding programs
8 that we've seen that have been very successful
9 and have provided some bright spots in an
10 industry that has seen its challenges over the
11 past 25 or 30 years. And talk about some other
12 things that are pertinent to the standardbred
13 industry today. Then I'll welcome questions.

14 CHAIRMAN CROSBY: Are those
15 inflation-adjusted?

16 MR. TANNER: No, those are actual
17 numbers. Our trajectory as a sport in terms of
18 handle mirrors that of my thoroughbred
19 counterparts. You can see that those are
20 actual numbers, handle numbers. Those are
21 total amount bet on harness racing in the
22 United States from 1960 on. You can see that
23 there was a pretty steady growth through the
24 60s into the 70s. And our sport peaked in 1980

1 at \$2.8 billion in money bet on US harness
2 racing.

3 It started to go down in '85. And
4 then you can see a rather precipitous decline
5 into 1990. The primary reason for that were
6 the tax reform laws of 1986, I think. We saw
7 people leaving the game. As a result, field
8 sizes shrunk a bit.

9 I agree with what Matt was saying
10 about how ownership is the lifeblood of our
11 sport. Everything seems to flow off of that.
12 It seems as if ownership numbers as they've
13 gone up or down that's affected breeding
14 numbers. That's affected handle numbers. It's
15 all interrelated.

16 Saw a brief bump up in the late 90s
17 and into 2000. And that really reflects the
18 spread of full card simulcasting. What
19 happened there is people had more signals and
20 more opportunities to bet on harness racing and
21 on horse racing. And the numbers showed that.

22 And then we get into the most recent
23 decade, the first decade of the 2000 and you
24 see some precipitous declines. I can tell you

1 from having -- was in the position of running a
2 racetrack in 2007, when the economy collapsed,
3 it was like the numbers falling off a cliff.
4 What we've been encouraged by, what doesn't
5 show in there is that we were up last year by a
6 percentage point or two.

7 And we're trending right now up
8 about four and half percent as compared to the
9 same date in 2012. So, we think that
10 stabilizing is coming back a bit. But those
11 are the numbers that would reflect our business
12 levels as an industry from 1960 to the present.

13 This chart shows US North American
14 purses and the number of races from 1986 to the
15 present. Again, I chose 1986 because that's
16 when we first started to see changes. We see a
17 little over 80,000 races in 1986. And last
18 year, the number of races in the United States
19 was 46,848.

20 You'll notice purses, however, have
21 gone up rather dramatically from 1986. And
22 that is due almost entirely to casino gaming
23 and the racino model, which has proven very
24 successful in several states.

1 North America that just includes
2 races from Canada. I'm sure you are all
3 familiar that races that Ontario has
4 experienced quite a bit of upheaval in the past
5 year or two. So, you'll see some changes in
6 those numbers.

7 So, foal crop. In 1986 we had
8 23,000, a little more than 23,000. You can see
9 then a decline over the years. Last year we
10 were at 9359. We are anticipated this year to
11 be about 9000, so a slight decrease.

12 What we're seeing though and we go
13 state-by-state, we're seeing the states where
14 there are incentives and where purses are
15 strong, those numbers have held pretty steady.
16 And we've even seen some growth in some.

17 In other states, I was thinking
18 about Michigan for example, which in 1990 was
19 one of the stronger spots in America for
20 harness racing. And it has just been decimated
21 by the Indian casinos there and by a relatively
22 weak breeding program to where they're just
23 hanging on. Those numbers for example, have
24 declined by I think about 80 percent.

1 So, it's kind of a tail of the haves
2 and have-nots. We've got some states where
3 racing is thriving. And we've got some others
4 where it's really suffering. And it's almost
5 entirely due to what incentives are and are not
6 in place for standardbred horseman.

7 This takes a look about where the
8 racing is, standardbred racing in the United
9 States. You can see the two biggest states in
10 my sport right now are New York and
11 Pennsylvania. Both have the racino model.
12 They have many races. They have big purses.
13 Illinois is still pretty important to us. The
14 Chicago market is quite strong. And you can
15 take a look again -- I was talking about take a
16 look at Michigan and you can see what I'm
17 talking about. To where they're still there
18 but as compared to where they were, it's quite
19 a difference.

20 Indiana has been kind of a success
21 story for us in the industry. Racino
22 legislation was passed in 2007 and slot
23 machines were introduced in April of 2008.
24 Twelve percent of slot revenue goes towards the

1 horse racing industry. I think the
2 standardbred see 46 percent of that.

3 Of that 12 percent, 46 and a half
4 percent goes to racing, 50 percent goes to
5 breeder awards and incentives and three and a
6 half percent goes to the horsemen association
7 for insurance and other administrative costs.

8 You can see what happened in 2007
9 there were 1807 maress bred. And then the year
10 after the slots came into play, that number
11 shot up over 50 percent, 2737 mares bred.
12 Registered foals from 2007 to 2009 went up 34.2
13 percent. And you can see our membership
14 dropped a little bit and then came back last
15 year I think as people are becoming more aware
16 of what's happening in Indiana.

17 Another interesting metric that we
18 saw, the average sale price for an Indiana bred
19 yearling in 2007, I think, was \$1750. It was
20 very small. It's more than tripled now. It's
21 up over \$5000 in terms of the average sales
22 price for Indiana breds.

23 There's been a bit of a shift in
24 that state. There were two venues hosting

1 harness racing pari-mutuelly, Indiana Downs and
2 Hoosier Park. They came to an agreement last
3 year where now Hoosier has gone solely
4 standardbred and Indiana Downs has gone solely
5 thoroughbred. The numbers continue to trend in
6 a positive direction. And we are pretty
7 excited about that.

8 Similarly, Pennsylvania, and I can
9 speak very closely to this, because I ran the
10 racing operations for Harrah's Chester from
11 2006 through 2008. The legislation was passed
12 in 2004. The machines came on board in January
13 2007.

14 Again, similar numbers here. Mares
15 bred went up 4.3 percent. The registered foals
16 went up 18.9 percent. The average Pennsylvania
17 bred yearling was selling for a little over
18 \$19,000 in 2007. By 2009, it was up to
19 \$26,000. And then you can see handle there
20 going from \$214 million down to 166 and then
21 shooting back up to 226.

22 I should mention the difference
23 between 2005, we added a track. We went from
24 two tracks to three, but that was in 2006. So,

1 the numbers from eight and 12 are apples to
2 apples, and that the handle is trending there.

3 When I started at Harrah's Chester
4 back in 2005, the place was a hole in the
5 ground, literally a hole. We were building the
6 track. We got up and running in 2006. And we
7 had trouble filling our entry box.

8 We were offering daily purses of
9 about \$60,000 a day, which was decent. But the
10 breeder's incentives weren't quite in place
11 yet. So, we might have for a 12 or 13 race
12 card, I might get 120 horses in the entry box.

13 The following year with the
14 breeder's incentives and the sales had started
15 to pick up and the purses shot up, we would
16 card 13 or 14 races and I'd have 280-300 horses
17 in the box each day. We were turning people
18 away, because the incentive was there to where
19 they wanted to race.

20 What I started seeing also was that
21 people from New Jersey, horsemen from New
22 Jersey, Delaware, out of state were coming into
23 Pennsylvania and they were buying up residences
24 because they wanted to be based there to

1 qualify for the incentive awards. So, we were
2 kind of excited about that.

3 We also despite that fact that if
4 you take a look at the USTA numbers, which show
5 declines nationally especially at that time
6 happening rather rapidly, we were seeing lapsed
7 members get back into the game as well. People
8 who had owned horses back in the 70s or the 80s
9 but perhaps couldn't afford to stay in. Or had
10 gotten out for any number of reasons, we found
11 them coming back in. A lot of time they were
12 coming back in in partnerships, but they were
13 getting back into the game. That's some
14 anecdotal information.

15 I don't have a slide for New York,
16 but that's another jurisdiction that has done
17 awfully well with its breeders program. Again,
18 the racino came online there in 2006 or 2007.
19 And racing in New York had really been
20 struggling at that point. The sire states
21 money however has made it such that they are
22 now a key racing center in the standardbred
23 industry.

24 They give away \$12.1 million in sire

1 stakes money last year. Their Excelsior series
2 was another \$3.8 million. And they divided it
3 into two categories. Performance based, which
4 is what happened on the race tracks that was
5 more directed towards the owner. Then the
6 residency bonus that was more breeder centric.

7 One of the neat metrics, also again
8 coming from a racetrack management background,
9 there are a couple of things that jump out at
10 me that kind of indicate the health of the
11 various racing programs. Activity at the claim
12 box, there are people buying horses. And in
13 New York, there were 561 claims in 2005. Last
14 year they were over a thousand.

15 In Pennsylvania, the year or two
16 before the racino legislation field purses and
17 field the breeding industry, I think there were
18 330 claims. Last year there were 1300. So, we
19 are seeing a lot of activity there. People are
20 looking to buy horses and wanting to race,
21 because it just kind of makes sense to do so.

22 One of the neat things about harness
23 racing, I think, is that thoroughbred racing is
24 the sport of kings. It's a wonderful sport. I

1 made my living on that side of the industry for
2 a good long while and I'm still a fan. If
3 thoroughbred racing is the sport of kings, then
4 harness racing is really the sport of the
5 people.

6 There is a relatively low rate of
7 cost for entry. Day rates for horses to train
8 are less. Sales prices tend to be a bit lower.
9 There's a reasonable expectation of a return on
10 investment in several jurisdictions. And I
11 have a personal story to tell you about that in
12 a moment. It's hands-on participation.
13 Another thing that I think makes our sport very
14 sellable.

15 When I was a kid, I wanted to be a
16 jockey. It didn't quite work out. Why are you
17 laughing? Obviously, it did not work out.
18 However, I am able to climb in a bike and with
19 some training jog a racehorse. My wife is a
20 fifth-grade teacher. She has no horse
21 background.

22 I took this job at the USTA. She
23 heard about the driving school that we have in
24 which we actually teach people how they can

1 enjoy the sport firsthand. And she hadn't
2 found a teaching job yet. We had just moved
3 out there. So, she had a little bit of free
4 time and said, I want to do this.

5 She did it. She got trained. And
6 the next thing I know, she was negotiating with
7 the trainer to go clean out stalls on the
8 weekends so she could spend more time at the
9 bike. I don't tell that to too many people.

10 At any rate, the next thing you know
11 we have a horse and it goes from there. The
12 breed is terrifically adaptable. You can train
13 them to do just about anything. They are very,
14 very durable.

15 The frequency and longevity of
16 competition is such that our fans tend to get
17 attached horses because they see them race
18 every week, because they can race every week.
19 And I'll show you some stats on that.

20 This is the percentage of horses who
21 -- number of horses who made starts in North
22 America is the first column. Then the number
23 that started between 30 and 35 times in that
24 given year. So, basically about seven percent

1 of the horses that start are going to race 30
2 to 35 times. Another six percent or so will
3 race more than 35 times. They just keep going.

4 And that is a reason why despite the
5 fact that our foal crops overall are relatively
6 modest, we're able to compete and make as many
7 starts as our thoroughbred brethren. Our
8 average starts per year of a horse is a little
9 over 17 right now.

10 The reason I kind of bring this up
11 and again, this kind of ties into the
12 participation and the economic side of the
13 incentives. I said that we got a horse. We
14 did. We bought a claimer, a piece of a claimer
15 with some friends. The horse was racing at the
16 Meadows in Pennsylvania not in Ohio. I'm from
17 Columbus.

18 The reason it was racing at the
19 Meadows was because the purses at Ohio just
20 made it such that it didn't make financial
21 sense for us to keep the horse in Ohio. The
22 horse raced once and got claimed.

23 Gail was disappointed because she
24 didn't get to see the horse. Didn't get to go

1 out and touch the horse, wanted to feed the
2 horse. I was like good enough. If they get
3 claimed, that's all fine and good. You wind up
4 with a good home and he did reasonably well.

5 About four or five months ago, a
6 friend of ours came to us and said there's an
7 Ohio bred yearling that I'm looking at. Would
8 you and your wife like to be part of that? And
9 Gail wanted to do it. And I said let me take a
10 look at this.

11 Ohio is installing the racino model
12 right now. Scioto Downs has already raised
13 their purses. Northfield Park is building a
14 Hard Rock Casino that's attaching to it. And I
15 looked at the Ohio bred program for two- and
16 three-year olds and it's very, very generous.
17 There are some real opportunities to make money
18 back. Looked at the number of horses in the
19 foal crop and it's going to shoot up next year,
20 but for this one year, it's still somewhat
21 small.

22 The horse is by a sire who had been
23 standing in Indiana but has relocated back to
24 Ohio. So, I thought, okay, this is pretty

1 cool. Where is the horse going to be stabled,
2 it was going to be stabled at the Delaware
3 Fairgrounds.

4 So, now I have an opportunity to buy
5 him at a relatively cheap price, to actually
6 see the horse on a weekly basis. Gail will
7 probably jog him. The business side of me
8 looks at that and says I've got a reasonable
9 chance of getting out of this horse and maybe
10 even make a little money and having a whole lot
11 of fun.

12 So, since then we've recruited two
13 partners who have not been involved in the game
14 but thought it would be a pretty cool thing and
15 always wanted to own a racehorse and didn't
16 know it was that easy. And we went through the
17 prospectus with them, my primary partner did.

18 To me this is just one stupid story
19 and I don't mean to make this about me and it's
20 not about me. What it's about is putting
21 incentives in place to encourage participation.
22 Because there is an audience out there, we just
23 need to tell our story and make it attractive
24 to them.

1 I want to touch upon one thing that
2 Matt talked about. And Commissioner McHugh,
3 you asked a question regarding uniform rules
4 and where was the pushback coming from. The
5 USTA is in favor of uniform rules. We
6 absolutely want to see that. And we share the
7 Jockey Club's commitment to trying to research
8 and prevent and deter people who would use
9 substances that most impact the integrity of
10 racing, those illicit substances.

11 And Matt had mentioned something
12 else that one of their surveys said that eight
13 out of 10 people that they surveyed were
14 concerned with illegal medications and so are
15 we.

16 We differ a little bit in that we
17 see our breed as being fundamentally different.
18 And that some of the recommendations that came
19 out of RMTC regarding withdrawal times, we felt
20 prohibited our guys from using therapeutic
21 medications that were important and humane in
22 treating the standardbred athlete.

23 So, we are not part of RMTC anymore,
24 at least not for now. I look forward to

1 continuing dialogue, but I wanted to make sure
2 -- And Matt was very generous, I think, and not
3 throwing us under the bus per se because I know
4 that we disagree on this fundamental issue.

5 I wanted to put it right out there
6 that we are in favor of uniform rules. We just
7 think there should be a separate category for
8 standardbreds because the breed, their needs,
9 the number of times that they perform are
10 fundamentally different. So, we'll be putting
11 forth some recommendations of our own probably
12 within the next couple of months.

13 That's pretty much all I have for
14 now, but I would welcome your questions. And I
15 thank you so much for being such an attentive
16 audience.

17 CHAIRMAN CROSBY: Thank you. I'd
18 be interested in having you expand on the issue
19 about the differences from the thoroughbreds.
20 I would think that it would be a relatively
21 objective fact about whether they should be
22 subject to the same medication rules and
23 lengths of time and so forth. Why is there a
24 dramatic difference of opinion between the two

1 regulatory bodies?

2 MR. TANNER: I can talk about this.
3 And I know Alex can follow up and probably give
4 a slightly different side of it. I'll give you
5 two examples. Two of the substances that were
6 discussed at RMTC were methylprednisolone,
7 which is a corticosteroid and clenbuterol which
8 is a bronchodilator. They're commonly used as
9 therapeutics to treat horses between starts.

10 The withdrawal times that were
11 recommended, I think it was 14 days for
12 clenbuterol? -- Was it 14 for methylpred. and
13 21 for clenbuterol. -- would have basically
14 taken those therapeutic right out of the hands
15 of the standardbred horsemen. Our horses race
16 largely every week. If you can't treat within
17 14 days or within 21 days, it's like not using
18 it at all.

19 The thoroughbreds, they tend to have
20 more space in between their starts. It would
21 not affect them as much. Our horses because
22 they compete every week, we don't have a
23 problem with catastrophic breakdowns. It just
24 really doesn't happen in our sport, very, very

1 rarely. But they do race hard every week.
2 They do get aches and pains. They do get nicks
3 and cuts.

4 We've seen no evidence that
5 methylprednisolone or clenbuterol was being
6 misused in the standardbred community. And we
7 felt that the attention was better used, not
8 necessarily on examining the therapeutics but
9 on going after substances like EPO and growth
10 hormone and things like that we see as being
11 much more threatening.

12 CHAIRMAN CROSBY: I'd be interested
13 in your response to that because that sounds
14 like a fairly, like I said, an objective fact.
15 They race much more frequently, therefore they
16 don't have the amount of time to have the
17 withdrawal. Why do you see that as not
18 something you would readily agree to?

19 MR. IULIANO: Although you didn't
20 intend to start a debate -- I'm just teasing
21 Mike. Our approach to this has been guided by
22 the recommendations from the RMTC from the
23 start.

24 When we introduced our reform racing

1 medication rules, which was basically a model
2 book, we introduced that with a simple premise.
3 And that was the fundamentally we believe that
4 horses should only be allowed to compete when
5 they are free from the influence of medication.
6 That's kind of been the golden thread that
7 courses through everything that we've done up
8 to this point.

9 We heard Mr. Langley make some very
10 logical documents. And Mike has echoed those
11 arguments here today on frequencies of starts,
12 just kind of the rigors of the race itself. We
13 do disagree with them on even the tasset tie to
14 catastrophic breakdowns. That's a subject that
15 still needs more research. We don't know what
16 causes those.

17 We've got a couple of
18 epidemiologists that have been secured for the
19 last three years that are studying what are the
20 factors that actually drive that. So, we're
21 really not prepared to discuss any type of
22 medication association to it.

23 But at the end of the day, when we
24 make our recommendations and likewise when RMTC

1 and RCI came out with theirs, we support the
2 idea that there is somewhat of a bright line
3 that's established between the use of these
4 therapeutic medications for purposes of
5 treating the heal and uses of the medications
6 for purposes to point a horse to a race.

7 It's probably a philosophical
8 difference more than anything. We realize that
9 it is somewhat of a controversial position.
10 But Mike and I have known each other for years.
11 We love each other. We work together on so
12 many issues. But it's really that fundamental.

13 I don't mean to put words in your
14 mouth, but I think it really boils down to
15 that. And I'm not going to say that one
16 position is right or wrong. I just don't think
17 we can. There was too much research and too
18 much intelligence that went into the position
19 from the USTA for us to discount and to simply
20 ignore. But from our perspective, it really
21 gets to the fundamental purpose of treating a
22 horse, treating a horse to heal versus treating
23 a horse to race. It's kind of within that area
24 that we probably disagree.

1 MR. WALDROP: Mr. Chairman, if I
2 may, I would like to interject on behalf of the
3 RMTC that's the Racing Medication and Testing
4 Consortium.

5 First understand, this really isn't
6 a debate between the Jockey Club and the USTA.
7 This is really something that the Racing
8 Medication and Testing Consortium determined
9 after extensive research and analysis. All of
10 the recommendations are based on science.

11 And when the USTA presented its
12 position to us at its last meeting, we agreed
13 to relook at the science, to take another look
14 at the science to make certain that how they
15 use these two medications was a proper use of
16 the medication and not an abuse that in some
17 way led to either a safety or an integrity
18 issue for horseracing. And we're in the
19 process of doing that. We have not completed
20 that analysis yet.

21 Once we do that, we'll come back
22 perhaps with a modified recommendation that
23 might in some way alleviate some of the
24 tension. We don't know. But we are committed

1 to looking at this from a scientific point of
2 view.

3 What we are not committed to doing
4 is to modifying our rules based upon a
5 perception that a business model needs to be
6 accommodated. That is to say if you're using
7 clenbuterol that frequently or corticosteroid
8 that frequently that maybe all are well
9 intended, but they may have effects that aren't
10 good for the horse or good for competition.
11 And we have to determine that scientifically.
12 And that's the way the Racing Medication and
13 Testing Consortium is proceeding.

14 In good-faith we are continuing the
15 dialogue. We're continuing with this issue.
16 There will be more to come. But for now, we
17 respect the USTA. We want them back in the
18 RMTTC. We are going to look at this and see if
19 we can come to terms.

20 Ultimately, it becomes a question
21 for commissions whether they want their own
22 rules perhaps. That may be the ultimate
23 discussion. Right now, we're not inclined to
24 allow to recommend their own rules one for each

1 breed. But that's really something that is
2 driven by the Racing Commissioners
3 International, the RCI and their values.

4 DR. DURENBERGER: If I could just
5 step back for just a moment for educational
6 purposes, because we've entered a realm that
7 maybe unfamiliar for some of the people in the
8 room. I just want to take a minute to talk
9 about how these rules come into effect.

10 Because what we are talking about
11 are rules that affect that the participants in
12 horseracing, but they start somewhere else.
13 These are just rules that are determined -- I
14 go to the Commission. I present them. They
15 approve them. We put them in force.

16 So, what happens with medication
17 regulations right now is they start out in
18 committee level with the Racing Medication and
19 Testing Consortium. Scientific advisory
20 committee, there's a number of committees and
21 they look at that. So, they're looking at the
22 science.

23 Those committee members make
24 recommendations to the Board of Directors of

1 the RMTC. And if they are approved at that
2 point, then they are under consideration by
3 Racing Commissioners International, which is a
4 group of North American regulators.

5 That has a model rules committee.
6 The model rules committee listens to what the
7 RMTC's recommendation is, takes that into
8 consideration, speaks with the regulators. I
9 can't speak to the RMTC's committees, but I can
10 speak to the RCI committees. We have
11 conference calls that are epic, hours long. I
12 was on the phone for eight-and-a-half hours one
13 day. That's a true story. So, the committees
14 consider that.

15 If it makes it out of the model
16 rules committee, then it goes to the Board of
17 Directors of RCI. If the RCI Board of
18 Directors approves that then at that point I as
19 Director of Racing would bring it forth to the
20 Commission, make the recommendation. This is
21 the rule. And the Commission would consider it
22 for approval after the rulemaking process.

23 The rulemaking process in
24 Massachusetts is something that you are all

1 familiar with because that's just touching you.

2 So, I want to let you know that this
3 is the culmination of several years of work
4 beginning at a very detailed level and rising
5 to the level of this Commission considering and
6 adopting these rules. I just want to take that
7 overview for this group.

8 MR. TANNER: I think if you've been
9 involved in racing for any amount of time,
10 you're probably familiar that people don't
11 always get along and there's been too much
12 disagreement in our sport.

13 This is not a war. This is just a
14 different in opinion. I appreciate Matt's kind
15 words. I have a great amount of respect for
16 him and Alex. They're both very bright, very
17 capable committed guys.

18 We both want to get to the same
19 point. We just have different opinions at this
20 point as to the road that we need to take to
21 get there.

22 COMMISSIONER ZUNIGA: Can I ask a
23 question, Mr. Turner, about you mentioned in
24 1986 there were tax reforms that had an effect

1 on actual handle. We have a version of that
2 going on in Massachusetts. Could you point out
3 what those reforms were?

4 MR. TANNER: In a nutshell, it made
5 it harder to write off business losses as a
6 deduction for stable. There was less economic
7 incentive for people to stay in the game or buy
8 horses because it was harder to write it off as
9 a business expense.

10 I remember at the time I was in
11 college at the time. I thought it was
12 innocuous. But you take a look at the numbers
13 after that and I'm sure it shows the same thing
14 on the thoroughbred side.

15 COMMISSIONER ZUNIGA: So, the same
16 narrative of the ownership driving the industry
17 not the consumer necessarily.

18 MR. TANNER: Yes.

19 COMMISSIONER MCHUGH: A couple of
20 your charts show the relationship between
21 revenues and racino purses and racino
22 participation. Is a standalone harness
23 enterprise a viable business today?

24 MR. TANNER: It could be, but I

1 think and again drawing on my own background
2 because when I was at Chester it was married.
3 I think from a racing perspective, my goal was
4 always to expose as many people as possible to
5 the sport. I think our facility there did a
6 really good job of integrating. You could not
7 go to the casino without seeing the racetrack.
8 To me that was preferable. That said, could a
9 standalone work, I'm sure that it could.

10 COMMISSIONER MCHUGH: Is the
11 marriage between a casino and a track one that
12 is viable and accelerates the revenue
13 production because more people get exposed to
14 the racing? Or because the money from the
15 casino flows into the purses elevating the
16 participation by the horsemen regardless of how
17 many people watch the sport or is it a
18 combination of both?

19 MR. TANNER: I think it's a
20 combination of both. It's undeniable that the
21 bulk of the purses that you saw on that chart
22 are from casino sources in those states that
23 have them. It certainly was the case when I
24 was at Chester.

1 We notice some interesting phenomena
2 though. One was that when we would have a big
3 day at the racetrack, we would drive business
4 at the casino as well.

5 My first year there, the president
6 of the property was leery about us racing on
7 Sunday afternoons because we had limited
8 parking. And obviously, you're trying to
9 maximize your revenue. In his mind, that meant
10 accommodating the casino folks before the
11 racing patrons. We were able to show him
12 pretty quickly that it was good for both sides
13 when we had big days at the racetrack. And
14 soon we began to kind of cross market that way.

15 I think there's less of a learning
16 curve from a horseracing bettor to a casino
17 bettor. You have to press a button or pull a
18 lever. Whereas if you want to successfully
19 handicap on racing, there's a vernacular and a
20 jargon that has to be learned. For those of us
21 that love puzzles, that to me is just -- It's
22 always been part of the appeal.

23 It's a slightly slower pace. You
24 have 15 or 20 minutes between races. It's more

1 social. Obviously, you can tell on which side
2 of the question I lie, but there is crossover.
3 There is more from racing into the casino than
4 there is from the casino into racing but it
5 does occur.

6 COMMISSIONER ZUNIGA: You also
7 mentioned Indiana and Pennsylvania in some of
8 the numbers that you gave. It would appear
9 that the handle was clearly a lagging indicator
10 after the incentives kicked in with the
11 approval of gaming.

12 MR. TANNER: It's slower. It takes
13 a lot more time to develop handle over time.
14 It used to be there was an adage. A very
15 famous racing writer on the thoroughbred side
16 named Joe Hirsch. And one of Joe's maxims, and
17 he had many, was that good racing is good
18 business.

19 When I got to Chester what we
20 thought we would do -- We knew we were going to
21 have fantastic purses in the second year. We
22 thought you know what, we are going to be the
23 new Meadowlands. We are going to go out and we
24 are going to try to attract their drivers and

1 their trainers by writing a program that would
2 appeal to them. And it worked. It absolutely
3 worked.

4 We got most of the biggest names in
5 the sport to come and race at our place. But
6 the Meadowlands still continually out handled
7 us because it's a brand. It's been built up
8 over time. And people are used to betting
9 that. We saw gains year over year, and I
10 understand those gains have continued there.
11 But people like to get what they are familiar
12 with betting. And it takes time to convert
13 them over to your product.

14 Whereas in terms of attracting
15 owners and breeders and things like that, much
16 more economically driven. And if there are
17 reasons to breed a race in a particular state,
18 i.e. financial reward, then that's what they
19 are going to do. They've businessmen.

20 Thank you very much.

21 DR. DURENBERGER: I think what we
22 will do, since we are a little bit ahead of
23 schedule here is we'll take our 15-minute break
24 right now. And we will resume at 11:00.

1 (A recess was taken)

2
3 DR. DURENBERGER: This morning it is
4 my pleasure to introduce Mr. Alex Waldrop. He
5 is president and chief executive officer for
6 the National Thoroughbred Racing Association.
7 The NTRA is the thoroughbred industry's
8 national office responsible for matters
9 pertaining to federal legislative advocacy,
10 racing safety and integrity, marketing and
11 promotion of the sport, and improving the
12 economic conditions for industry participants.

13 The NTRA includes the Safety and
14 Integrity Alliance, a political action
15 committee and the NTRA charities.

16 Prior to joining the NTRA in 2006,
17 Mr. Waldrop spent 13 years with Churchill Downs
18 first as general counsel, then president and
19 general manager of the racetrack and ultimately
20 senior vice president of public affairs. He
21 currently serves, as we've heard, as chair of
22 the Racing Medication and Testing Consortium.
23 A group which this Commission gets to hear
24 about from ad nauseum.

1 He is a trustee of the American
2 Horse Council, an associate member of the
3 International Masters of Gaming Law and an
4 advisor to the University of Arizona's
5 racetrack industry program. Mr. Waldrop holds
6 a BA, an MA and a JD.

7 MR. WALDROP: Thank you, Dr.
8 Durenberger, Chairman Crosby, members of the
9 Commission. It's a pleasure and an honor to be
10 with you today to talk with you about federal
11 issues important to horseracing.

12 First, let me begin with a little
13 bit of specificity about the NTRA. We're
14 headquartered in Lexington, Kentucky, which is
15 unusual for a national organization. But
16 Lexington, as you know, is the center of
17 thoroughbred breeding. So, it's the logical
18 place for us to be. Nonetheless our membership
19 -- I do not have a PowerPoint. I'm sorry. I
20 have no charts and graphs. We've got a lot of
21 ground to cover and this just slows me down.

22 So, we're headquartered in
23 Lexington, as I said, but we serve a diverse
24 mix of racetracks, owners, breeders, trainers

1 and industry organizations. We're not a
2 traditional trade association. We represent
3 virtually every organization and every
4 participant in horseracing.

5 We work closely with state
6 regulators like this Commission, with tracks
7 and horsemen to promote safe and fair racing
8 through our NTRA Safety and Integrity Alliance.

9 As you know the Alliance has just
10 recently reaccredited Boston's own Suffolk
11 Downs. It was just last week I believe that we
12 announced that. Our inspection team could not
13 have given Suffolk Downs and the Massachusetts
14 Gaming Commission staff higher marks for the
15 safe and fair racing here in Boston.

16 You should know that and you should
17 understand that. Suffolk Downs is a model for
18 this industry and don't let anyone say
19 otherwise in any debate that goes forward. It
20 has done well here in Boston. Congratulations
21 to Suffolk and its team for a job well done.

22 NTRA has offices in New York City as
23 well. And that is where we do our marketing
24 and promotions efforts. But most importantly

1 for today's discussions, we also have a staff
2 in Washington, DC. And that's where we
3 headquarter our advocacy efforts for Congress.

4 Dr. Durenberger has asked me to
5 address three issues of national significance
6 to the sport and the business of horseracing.
7 First, we are going to talk about Congressional
8 interest in regulating horseracing. We're
9 going to talk about federal and state tax
10 withholding and the NTRA's efforts to clarify
11 the calculation of pari-mutuel winnings for
12 federal tax purposes. That's going to be fun.

13 And we're going to talk about
14 proposed federal legislation pertaining to
15 Internet gaming and its potential impacts on
16 horseracing and pari-mutuel majoring. Each of
17 these issues is critical to the future of
18 horseracing in the United States. And you are
19 well advised to be educating yourself on these
20 matters today.

21 The NTRA is very supportive of this
22 forum because we believe that a local
23 supervisory body such as this Massachusetts
24 Gaming Commission, one that is well-informed,

1 well-funded and professionally staffed is the
2 best way to ensure the safety of our human and
3 equine athletes and the integrity of our sport.
4 So, thank you for inviting us.

5 Let's start with the Congressional
6 interest in horseracing. It's undeniable that
7 Congress is interested in our business. And
8 that by and large Congress's regulation of our
9 sport has been measured and appropriate. In
10 '78, Congress promulgated something called an
11 Interstate Horseracing Act. If you don't know
12 anything about it, you're going to hear a lot
13 about it from me. You probably heard a lot
14 about it from Jennifer already.

15 It was promulgated to regulate
16 interstate wagering on horseracing. In so
17 doing, Congress affirmed the proposition that
18 the primary responsibility for the regulation
19 of horseracing lies with the states where pari-
20 mutuel wagering is conducted. As the IHA
21 states right up front in its statement of
22 findings and policies, and I quote, "Congress
23 finds that the states should have the primary
24 responsibility for determining what forms of

1 gambling may legally take place within their
2 borders."

3 So, Congress is happy to let states
4 to the lead in matters pertaining to gambling.
5 Nonetheless, Congress believes that it has a
6 role to play in regulation of our sport. In
7 section 2 of that same statement IHA, they say:
8 "The federal government should prevent
9 interference by one state with the gambling
10 policies of another and should act to protect
11 identifiable national interests."

12 Continuing in section 3 of the
13 statement, Congress says: "In the limited area
14 of interstate off-track wagering and
15 horseracing, there's a need for federal action
16 to ensure states will continue to cooperate
17 with one another in the acceptance of legal
18 interstate wagering."

19 So, on the basis of these findings,
20 the IHA grants to state regulators like
21 yourself, tracks and horsemen the legal
22 authority to conduct interstate simulcasting
23 and online advance deposit wagering. Because
24 of Congressional action via this IHA,

1 interstate wagering now accounts for nearly 90
2 percent of all wagering on horseracing. Let
3 that sink in a little bit, 90 percent comes off
4 the racetrack.

5 So, the federal government does
6 indeed play an important and effective role in
7 regulation of interstate wagering on
8 horseracing. Given this fact, it would be a
9 mistake to categorically oppose any further
10 federal regulation.

11 Nonetheless, Congress has never
12 successfully intervened further in
13 horseracing's affairs. 1981 Senator Mack
14 Mathias proposed a legislation to establish a
15 federal drug testing and enforcement agency for
16 horseracing. But his committee was persuaded
17 by the industry that we could handle these
18 issues at the state level. So, the bill never
19 made it to the Senate floor.

20 In fact, it's not until 2011 that
21 another bill to regulate horseracing was
22 introduced in Congress. That proposed
23 regulation known as the Interstate Horseracing
24 Improvement Act of 2011 was an ill-fated

1 attempt to expand the scope of the Interstate
2 Horseracing Act to include the federal
3 regulation of drugs and medications in racing.

4 It made little progress in the 112
5 Congress but a similar bill has been filed in
6 the 113 Congress by Representatives Pitts and
7 others in the House and by Senator Udall in the
8 Senate. The bill is known as the Horseracing
9 Integrity and Safety Act of 2013. I'll refer
10 to it in my remarks as HISA, H-I-S-A, in short.

11 HISA takes a different approach but
12 the intent is the same to promote safer, fairer
13 racing by centralizing the regulation of drugs
14 and medications in horseracing at the national
15 level under the purview of the US Anti-Doping
16 Agency.

17 HISA charges USADA with
18 responsibility for developing rules with
19 respect to both prohibited substances and
20 practices as well as controlled substances and
21 methods.

22 It also includes a ban on race day
23 medications including Lasix after a two-year
24 transition period.

1 HISA also charges USADA with
2 responsibility for anti-doping research,
3 testing and adjudication. HISA also charges
4 USADA with developing rules, but it does not
5 mandate even consultation with the racing
6 industry.

7 Last but not least, HISA subjects
8 all interstate wagers to yet another consent
9 right in addition to the consent rights already
10 required by the Interstate Horseracing Act that
11 being the consent of USTA. This has become a
12 major sticking point for many in racing.

13 Here's some of my observations and
14 concerns about HISA. The NTRA respects the
15 goals and intent of this legislation. Tough,
16 fair and most importantly uniform regulation of
17 drugs and medications in racing nationwide is
18 the right goal. HISA's strong support from
19 some segments of the business, including
20 prominent owners, breeders and even horse
21 players.

22 But there are problems, legal and
23 political, that cannot be ignored. There are
24 questions related to delegation of authority,

1 of legislative authority. There are questions
2 about federal preemption of state law.

3 For instance, if HISA becomes law,
4 what if any authority do states like
5 Massachusetts have over horseracing in your
6 jurisdictions. But beyond these significant
7 legal issue that we'll leave for another day,
8 HSIA poses major political challenges that is
9 some ways are more serious and more immediate.

10 HISA has been and will continue to
11 be opposed from within the racing industry by
12 tracks and horsemen's groups because it would
13 grant a private entity like USADA some control
14 over lucrative simulcasting and ADW rights
15 without any assurance of legal recourse or
16 political accountability. For these and other
17 reasons most federal lawmakers have taken no
18 position relative to the bill. Congress itself
19 has taken a hands-off approach.

20 The fact is Congress, like many
21 state Legislatures, has no interest in
22 arbitrating horseracing's disputes. Rather
23 than take up HISA in earnest, Congress would
24 much rather prefer that our industry work out a

1 consensus solution and bring it to Congress for
2 enactment, if necessary, which is exactly what
3 happened when Congress promulgated the IHA.

4 The industry drafted the Interstate
5 Horseracing Act. We brought it to Congress and
6 it's helped us ever since. That's what they
7 want out of us. Tracks, horsemen and state
8 regulators are not going to agree to any
9 delegation of current power to a private party,
10 not USTA, not to the NTRA, to any private
11 organization.

12 Congress simply is not excited about
13 imposing its will on unwilling industries. Are
14 congressional hearing is likely, yes,
15 possibility. But it's my expectation at those
16 hearings the industry will have positive
17 developments to report about our current
18 uniformity efforts coming out of RMTC and the
19 RCI. We've talked about these two groups
20 extensively already.

21 The efforts that I'm happy to report
22 are broadly supported and making real progress,
23 not only here in Massachusetts and throughout
24 the mid-Atlantic but with racing commissions

1 nationwide. For the first time, we are making
2 nationwide progress in the areas of tough,
3 fair, uniform drug and medication regulation,
4 multiple violator penalties, strict regulation
5 of a single race day medication, namely Lasix,
6 and RMTCC lab accreditation.

7 It's too early to say much, but we
8 are optimistic that by early 2014 most major
9 racing states will be fully on board with these
10 critical reforms and a plan in place to bring
11 the remainder of the states into uniformed
12 compliance. When we are successful in
13 accomplishing these major reforms across the
14 industry, there will be far less pressure from
15 within the industry for federal intervention.

16 Next, let's talk about another
17 matter that significantly impacts horseracing,
18 tax withholding on pari-mutuel winnings and the
19 NTRA's efforts to minimize withholding's
20 negative impacts on wagering.

21 First understand that taxation of
22 horseplayer winnings is uncommon outside the
23 US. But the federal government takes it a step
24 further. The IRS not only taxes winnings, but

1 also requires that racetracks withhold taxes
2 from pari-mutuel winnings under certain
3 circumstances.

4 This withholding is detrimental to
5 racing because it takes money out of the hands
6 of players who otherwise would re-bet or churn
7 their winnings. Lower churn means less
8 wagering. Lower wagering means reduced pari-
9 mutuel revenue to fund the business and the
10 taxes that they pay. And the strangest of
11 ironies, the lower handle that results from
12 withholding also hurts government. Ultimately
13 lowering its total cumulative tax receipts from
14 gamblers.

15 And candidly, this is a matter of
16 unusual importance in Massachusetts because
17 your horseplayers also suffer from perhaps the
18 most onerous withholding tax structure in the
19 United States. And I don't say that lightly.

20 As you know, starting last June
21 horseplayers in Massachusetts who were paid
22 winnings of \$600 or more by Massachusetts
23 racetracks are subject to an immediate
24 nonrefundable five percent tax which is

1 withheld from winnings.

2 The state tax burden on horseplayers
3 is in addition to an already burdensome federal
4 withholding of 25 percent which takes place on
5 popular multi-horse and multi-race exotic bets
6 such as trifectas and pick sixes. Don't forget
7 that the pari-mutuel system in that system
8 winnings are already reduced by state excise
9 taxes paid by operators out of the takeout.

10 These federal and state tax policies
11 are burdensome, they're unfairly applied and
12 they're counterproductive. Let me explain
13 that. Tax withholding on winning pari-mutuel
14 wagers is burdensome because it bears no
15 relationship to the actual winnings of
16 horseplayers who often stake large sums of
17 money in hopes of hitting a single winning
18 ticket.

19 Under the current IRS withholding
20 rules, federal withholding applies to winning
21 tickets when the winning payoff exceeds \$5000
22 and is at least 300 times as large as the
23 amount wagered. That phrase amount wagered is
24 critical to this discussion.

1 To determine the amount wagered, the
2 IRS treats the amount paid for the one winning
3 combination as the only amount wagered, even
4 though the entire cost of the typical exotic
5 wager is much higher due to the high number of
6 potential combinations.

7 I'm not going to go into lots of
8 detail, but I submitted a letter to you that
9 explains the mass of the situation in greater
10 detail. And I've used in that situation a
11 seven-horse exacta box. So, I commend that
12 letter to you for further analysis of this
13 specific issue.

14 For this morning's purposes, suffice
15 it to say that the IRS's way of withholding on
16 pari-mutuel payouts shows a basic
17 misunderstanding of the way our game is played
18 and the risks that horseplayers take. Perhaps
19 it's due to the fact that the current rule has
20 been in place for more than 35 years at a time
21 when exotic wagering was really fairly
22 uncommon, in fact, even unheard of.

23 Also, unlike federal law which
24 provides a mechanism for possible federal tax

1 withholding refund by allowing a bettor to
2 offset any taxable pari-mutuel winnings with
3 pari-mutuel losses on the taxpayer's annual tax
4 return, Massachusetts appears to provide no
5 such mechanism for a state tax refund.

6 Thus, the Massachusetts law unfairly
7 taxes winnings but ignores losses. This policy
8 does nothing but raise the price of betting on
9 horseracing at a time when this industry and
10 the patrons cannot afford price increases.

11 Federal withholding also unfairly
12 discriminate against horseplayers. This is
13 because no form of casino gambling is subject
14 to IRS withholding. Understand this point,
15 racetrack, we withhold 25 percent. Casino no
16 problem, it's your money. Withholding is
17 applied only to pari-mutuel winnings. This is
18 simply unfair to horseracing. And we wonder
19 why players tend to abandon horseracing in
20 favor of casino games, for big players it's an
21 easy discussion, it's an easy decision.

22 Your Massachusetts tax on winnings
23 discriminates as well. And any eventual
24 Massachusetts racino where racing and gaming

1 are both taking place, the tax will apply to
2 horseplayers but not to card players in the
3 casino. Frankly, this is outrageous. For this
4 reason alone, the Massachusetts tax must be
5 eliminated.

6 Tax withholding is also
7 counterproductive for government. Studies show
8 that each pari-mutuel dollar returned to
9 bettors in the form of winnings is a re-bet
10 seven times. Yes, I said that seven times
11 throughout the course of the race day.

12 Pari-mutuel churn is dramatically
13 diminished by the automatic 25 percent federal
14 withholding on winnings and further by the five
15 percent tax on those same winnings as we've
16 already said. Diminished churn will inexorably
17 lead to lower handle, which means receipts for
18 the federal government and Massachusetts will
19 be reduced. In the long run, the government
20 loses more than it gains.

21 So, to counteract this problem at
22 least at the federal level, the NTRA has been
23 working with the IRS to find a relief from the
24 application of federal tax withholding to our

1 wagering business.

2 First, we've attempted to repeal the
3 provision entirely. Difficult to do in an
4 environment where Congress is willing to hang
5 onto every tax dollar it can possibly find.
6 We're asking the Service to reconsider its
7 long-standing interpretation of phrase amount
8 wagered. And instead take into account the
9 total amount wagered by the recipient of the
10 winning proceeds into the pari-mutuel pool from
11 which the proceeds are paid.

12 If I spent \$25 on that seven horse
13 exacta box that \$25 ought to be considered the
14 amount wagered, but that's not the way the
15 federal government does. You won on a \$1
16 combination. That was the minimum wager. So,
17 they consider it a \$1 bet not a \$25 bet.
18 That's got to change, and that's where we are
19 advocating the amount wager is to every dollar
20 that goes into that pool.

21 Doing so would reflect the true cost
22 of a wager and eliminate about 80 percent of
23 withholding under current law. No progress to
24 report on this front, but we will keep forcing

1 the issue with the Service. We will continue
2 to lobby Congress for complete elimination of
3 withholding for all of the reasons I've
4 mentioned.

5 As I've said, a similar change is
6 needed in Massachusetts. The five percent tax
7 must be eliminated or your Massachusetts tracks
8 and casinos, mostly tracks will be at a
9 competitive disadvantage with the many well-
10 established casinos in surrounding states.
11 This is bad tax policy. It's also frankly very
12 bad business. You're putting yourself in a
13 very difficult position vis-a-vis a very
14 competitive gaming environment in the
15 Northeast.

16 So, I'm two-thirds of the way
17 through. I'm ready to talk about the proposed
18 federal legislation pertaining to Internet
19 gaming and its potential effects on
20 horseracing.

21 First, some background on online
22 wagering. Racing has had a strong interest in
23 online wagering since at least 2000 when the
24 NTRA helped to secure passage of an amendment

1 to the IHA to authorize Internet and account
2 wagering for horseracing. That change opened
3 up online markets for horseracing and led to
4 some of that 90 percent number that we talked
5 about earlier.

6 And today, the top priority for the
7 NTRA legislative team in Washington is to
8 insure that Suffolk Downs' ability to legally
9 offer interstate simulcasting and advance
10 deposit wagering is protected under federal
11 law. That'll give Suffolk a real competitive
12 advantage, because you see unlike wagering on
13 horseracing, interstate online casino gambling
14 is prohibited by federal law.

15 Think back to the year 2011 when
16 several offshore operators were arrested in the
17 US in connection with sideswipe full tilt poker
18 and poker stars. Some account holders are
19 still trying to get their money back from those
20 groups.

21 These companies and their officers
22 were prosecuted under federal statutes for
23 allegedly allowing US citizens to illegally
24 access their online poker sites. These high-

1 profile prosecutions spurred players to urge
2 Congress to pass federally regulated online
3 casino gaming. Most casino companies including
4 many of the big casinos in Las Vegas support a
5 tax and regulated approach to online gaming so
6 long as there are uniform regulations and
7 strong consumer protections.

8 The champion of this approach has
9 been none other than Senate Majority Leader
10 Harry Reid from Nevada, not a bad friend to
11 have in the U.S. Congress. Let's just hope he
12 gets the job done today and stops the craziness
13 that's happening in Washington.

14 To date, no online gaming bill has
15 moved through the Congress, but it has not been
16 for a lack of effort. Several members of
17 Congress have worked closely with the casino
18 industry and poker players to craft federal
19 online gaming legislation. In the current
20 Congress, two bills are pending, one sponsored
21 by Representative Peter King of New York, and
22 one by Texas Representative Joe Barton.
23 Surprisingly there's been very little action on
24 these or any other federal bills for iGaming.

1 And that's been the case for some time.

2 And frankly, there appears to be
3 little chance of any movement on the federal
4 level at least for now. Why do I say this lack
5 of progress is surprising? Because an
6 important event happened in 2011 that presaged
7 a major expansion of online gaming especially
8 at the federal level.

9 In late 2011, the US Department of
10 Justice reversed its long-held position on the
11 legality of Internet gambling by issuing an
12 opinion that essentially exempted casino gaming
13 from the reach of the Wire Act. Another act
14 I've thrown at you hear. It's another
15 important federal act. It was passed in 1961.

16 It's a criminal which has
17 historically has been relied upon by the
18 Department of Justice to prohibit any form of
19 online wagering including casino gaming. One
20 exception to the Wire Act prohibition is the
21 IHA, which secures for us the right to conduct
22 our interstate online ADW wagering. That's why
23 the IHA is so important to racing.

24 With this reversal by the DOJ, it

1 was the opinion of many that at a minimum
2 online poker would explode nationally. The DOJ
3 opinion specifically paved the way for
4 intrastate online lotteries in New York and
5 Illinois. But the DOJ also created a clear
6 path for states to regulate online casino
7 gaming intrastate, which simply means online
8 games among those citizens located within the
9 borders of the regulated state.

10 Groups like Poker Players Alliance
11 were ecstatic at the idea of legal poker and
12 its expansion. There was also speculation that
13 the prospect of online gaming expansion at the
14 state level would prompt Congress to preempt
15 state expansion by passing federal legislation
16 legalizing and regulating interstate online
17 poker while simultaneously prohibiting all
18 forms of online casino gaming at the state
19 level. In a strange twist, some of the most
20 ardent, anti-gaming folks in Congress were
21 willing to take that route to limit expansion.

22 Federal preemption is the preferred
23 route of the big casinos in Las Vegas and the
24 American Gaming Association. They say they want

1 to avoid a patch quilt of state laws and
2 regulations in the online arena. But here we
3 sit two years later and nothing has happened at
4 the federal level.

5 In fact, Harry Reid who is, as I
6 stated earlier, the primary proponent recently
7 all but declared all efforts to legalize poker
8 at the federal level dead. A new AGA chief, a
9 guy named Jeff Freeman, agreed with Reid's
10 assessment at the AGA's Global Gaming Expo last
11 month. He said that they would continue to
12 push for a federal solution to online gaming.

13 What has stopped Reid and the AGA?
14 I think at least four things have stopped them
15 if not more. One, the Council of State
16 Governments got very involved. They didn't
17 like the idea of federal gaming because they
18 wanted to secure revenue. And they didn't want
19 to hurt revenues like we will be getting from
20 your own brick-and-mortar properties here in
21 the state.

22 State lotteries don't like it
23 because they want that exclusive right to
24 conduct these online lotteries. Native

1 American tribes have billions and brick-and-
2 mortar facilities on tribal lands across the
3 country. They certainly don't want to see an
4 online move into their area. And social
5 conservatives in Congress who you would expect
6 also have opposed the expansion.

7 So, the lack of federal action is
8 meant that since 2011 all of the action has
9 been at the state level. But states have also
10 been slow to act. And their business prospects
11 have been hampered by the small-scale
12 operations. The states of Nevada, Delaware and
13 New Jersey have each legalized intrastate web
14 gambling, again that is among only their state
15 residents. And players located within the
16 borders of Nevada already able to play on a
17 couple of state regulated sites. It's up and
18 running already.

19 Delaware will be up and running with
20 a target launch of the 31st of this month they
21 say. And New Jersey hasn't scheduled a launch,
22 but they have a statutory deadline of November
23 26. That changes every day. It changes by the
24 hour. I may already be wrong about that.

1 The real questions remain about the
2 size of these three relatively small state
3 markets and the lack of sufficient liquidity or
4 churn -- There's that word again. -- to make
5 these states' online gaming sites competitive.
6 You need a lot of players to make these sites
7 work.

8 Particularly, the concern is whether
9 they will be competitive with illegal offshore
10 sites. While no one knows for sure the size of
11 the illegal online gaming market in the US,
12 it's been estimated at about \$2.6 billion
13 annually, which is down from high of about \$5.6
14 billion before the prosecutions. It was at its
15 highest in 2010.

16 We engaged a company to give us the
17 estimated impact of illegal online gaming on
18 horseracing and at that time we thought we
19 concluded that the impact was about \$50 million
20 a year in lost revenue to tracks and horsemen.
21 So, online gaming does affect horseracing.

22 To become more competitive Nevada,
23 New Jersey and Delaware are already looking at
24 ways to combine their efforts through

1 interstate compacts which might allow them to
2 combine efforts, which would increase liquidity
3 and attract more action, get more play.

4 Another approach which is
5 interesting is to allow citizens from nongaming
6 states to cross borders via cyberspace and
7 participate in online games offered in Nevada,
8 New Jersey or Delaware. States which already
9 have invested heavily in these complex
10 regulatory licensing structures. This would
11 allow states to move quickly and inexpensively
12 yet enjoy the benefits of new revenue through
13 cross border partnership agreements.

14 The big states like California and
15 Illinois are currently considering whether to
16 joining Nevada, New Jersey and Delaware in this
17 intrastate online arena, but there are
18 obstacles in these two states and no guarantee
19 that either will legalize anytime soon.

20 Other states have tried and failed.
21 Massachusetts being one of those. You may know
22 more about that than I do, but based upon my
23 information most recently it's not happening.
24 Hawaii tried it. Iowa, Kansas, Mississippi New

1 York, Pennsylvania, Texas, Florida, Louisiana,
2 Washington, there's a lot of interest out
3 there. It just hasn't worked yet. That
4 expansion that we expected is moving a lot
5 slower than we thought and its impact is less
6 dramatic.

7 Unfortunately, and fortunately that
8 means the impact on legal domestic online
9 gaming on racing's ADW and its brick-and-mortar
10 operations has been less impacted than we
11 thought so far. We don't expect states to
12 delay forever.

13 In fact, we expect that eventually
14 the number of states offering intrastate poker
15 online and other casino games will grow much
16 larger. We do not anticipate the passage of a
17 federal bill allowing casino gaming anytime
18 soon.

19 Probably what Congress is going to
20 do is for the near-term continue to kick the
21 issue of gambling back to the states to decide
22 as we talked about earlier. That's generally
23 the policy.

24 Something they made do eventually is

1 legislation akin to the Interstate Horseracing
2 Act, a sort of interstate poker act, meaning
3 legislation that would clearly legalize
4 interstate poker, interstate online poker or
5 casino games as long as such online games are
6 legal and regulated in both states involved.

7 That would be good for all online
8 operators. It wouldn't be good for
9 horseracing's online business or our brick-and-
10 mortar businesses either. Because any online
11 expansion will negatively impact racing and
12 Massachusetts horseracing should be compensated
13 for that impact.

14 For that reason I've spoken recently
15 and I've encouraged the horseracing industry in
16 Massachusetts to engage with lawmakers with
17 this Commission and others to protect racing's
18 interest in any online gaming bill. I can
19 assure you that the NTRA will continue to the
20 same with respect to any federal bill that
21 legalizes online gaming.

22 So, let me conclude with these
23 thoughts. I thank you for your attention and I
24 commend you for your commitment to learn about

1 this crazy business of horseracing. Be aware
2 that Congress is unlikely to intervene in
3 Massachusetts if we can get together other
4 states to follow your lead with respect to
5 uniform medication penalties and testing
6 reforms. Stay involved.

7 Urge regulators in other states
8 outside the mid-Atlantic and the Northeast to
9 follow your lead. Horse players will bet more
10 on Massachusetts horseracing and Massachusetts
11 will net more in excise taxes if we can find a
12 way to limit or eliminate federal and/or state
13 tax withholding on pari-mutuel wagers in this
14 state. Elimination of the withholding is a
15 priority for the NTRA and it should be a
16 priority for this Commission.

17 Finally, new competition for
18 Massachusetts horseracing is coming in the form
19 of legal online casino gaming. Be vigilant,
20 give racing a seat at the table. Make sure
21 that any Massachusetts online gaming is
22 structured in a way that it's fair to
23 horseracing, does not unduly harm the jobs and
24 economic activity that racing supports. I

1 thank you for your attention. And if there's
2 time, I'll take questions now.

3 DR. DURENBERGER: Plenty of time.

4 COMMISSIONER CAMERON: Question,
5 Sir. Has Delaware or New Jersey done anything
6 to compensate when they legalized online
7 gaming?

8 MR. WALDROP: New Jersey has not.
9 In fact, horseracing made attempts, but there
10 is nothing in the bill in New Jersey. I
11 honestly, don't know the answer to Delaware's
12 question, but tracks in Delaware already have
13 brick-and-mortar casinos. I think they have
14 the opportunity to be in the business if they
15 so choose. But I'm not aware of any specific
16 carve outs for horseracing in that bill either.
17 Of course, in Nevada there is no horseracing.

18 COMMISSIONER ZUNIGA: You mentioned
19 that there's some initial stages of some states
20 getting some compacts relative to this
21 interstate -- Internet, I'm sorry, wagering
22 poker. Wouldn't the DOJ have some kind of
23 interpretation relative to the Wire Act if that
24 were to happen?

1 MR. WALDROP: That's a great
2 question. The Wire Act is not the only
3 prohibition against interstate wagering. In
4 fact, the Wire Act, one of the things that the
5 DOJ said was that the Wire Act doesn't apply to
6 casino gaming. But there are other acts that
7 apply to casino gaming that prohibit cross-
8 border gambling into areas where it's not
9 legal.

10 The compact, it's being argued would
11 override or circumvent some of these legal
12 impediments. Let me say, the 2011
13 prosecutions, they weren't under the Wire Act.
14 They were under a whole other set of
15 regulations. So, the compact would satisfy
16 those legal impediments and it would allow them
17 to go interstate. That would be the argument.

18 I'm sure the Department of Justice
19 would argue otherwise, because they do. The
20 Department of Justice is very aggressive on
21 these things. Whether they would prosecute or
22 stop it, that's another question. I suspect
23 that if states entered -- two states entered
24 into a legal compact, they would not intervene.

1 COMMISSIONER MCHUGH: I want to talk
2 to you a second about the withholding bit. I
3 understand and agree with the idea of having
4 the gross be deducted from the gross winnings
5 rather than this silly -- the way it is now.
6 But if you're going to tax something, why isn't
7 withholding a perfectly legitimate means of
8 ensuring that you collect the tax?

9 MR. WALDROP: You're right.
10 Withholding applies in a variety of context.
11 The point about horseracing, a couple of
12 points. One, by withholding in the middle of
13 the event you're damaging the event itself.
14 You're in effect getting involved in
15 undermining the integrity -- the economic
16 integrity of the event because people need that
17 money to re-bet.

18 For the reason I said, it's
19 counterproductive. You can do that but you're
20 not going to get any more money in the long run
21 because we still report. I didn't even talk
22 about reporting. Reporting starts much sooner.
23 It's a very effective way of making people pay
24 taxes. You simply collect the information and

1 you report it to the federal government. We do
2 that every day.

3 In fact, many, many more people
4 report than do withhold. So, there's plenty of
5 ways for the government to get at the funds.
6 Withholding somehow suggests that gamblers are
7 less honest than they're not going to pay their
8 taxes. I don't really know.

9 They don't withhold in every
10 situation. We do some for the convenience of -
11 - For my convenience, my employer withholds my
12 taxes. I control that myself but it's really
13 as much for my convenience as for the
14 government's convenience.

15 But doing it in the context of
16 horseracing, I think, suggest that horseplayers
17 are dishonest. They're not going to pay their
18 taxes, when in fact they're going to be
19 reported and they're going to step up and
20 they're going to be able to pay those taxes.

21 The other point, and I didn't get
22 into this since it's a very complicated
23 technical point, but many times once that money
24 is taken by the federal government, even though

1 ultimately a player can show through his losses
2 that he made no money that year, the government
3 keeps every nickel of it. Because in order to
4 get those losses back, you have file the long
5 form 1040.

6 And certain deductions get kicked
7 out if you fall into alternative minimum tax
8 range. If you've ever been in that, heck of a
9 place to be. You don't want to be there, but
10 once you get there, you lose the ability to
11 offset your losses against your winnings.

12 So, some of our players pay these
13 taxes even though they don't owe them. And the
14 government's like that's your problem, not
15 mine. I got the money, come try to get it from
16 me now. And that happens frequently.

17 It over taxes our players. It
18 distrusts our players. There are better ways
19 of calculating the value through reporting and
20 not withholding. And it's ultimately
21 counterproductive, because you're going to see
22 less revenue from that because you're taking
23 money out of circulation.

24 We suspect that on Derby day, some

1 \$10 million comes out of circulation on that
2 one day alone from withholding. And if that
3 money were re-bet that would be almost \$70
4 million in handle. And the taxes that would be
5 earned to the government from that are
6 significant. But that just underscores the
7 short-term thinking that's involved.

8 COMMISSIONER MCHUGH: Is there any
9 data that deals with the shortfall or deals
10 with the percentage of taxes that are in fact
11 paid by gamblers who have had their winnings
12 reported as opposed to other forms of taxation?

13 MR. WALDROP: Yes, the IRS keeps
14 that information. They know exactly who is
15 paying what and who is not paying and how this
16 money is flowing. We can get that for you. I
17 don't know how much detail we can do that. It
18 would take some time.

19 The IRS has to open back up, I
20 guess. I don't know if they're closed or not.
21 I suspect they are. So, we may lose a little
22 ground there. But I'd be happy to find what I
23 can about that information.

24 We actually delved into that with

1 them. They understand the problem. Believe
2 me, the IRS understands our position. And I
3 think if it were within their ability to make
4 the change, they would.

5 But because of the size and the
6 amount of money we're talking about here, the
7 tens of millions of dollars, the actual
8 legislation that we introduced some years ago
9 that would eliminate withholding was scored by
10 the government accounting office which is done
11 in the federal ranks.

12 Whenever you submit a piece of
13 legislation, it has to be scored which is to
14 say what is the impact on the Treasury. This
15 impact was in the hundreds of millions of
16 dollars over 10 years, which surprised us that
17 it was that large. But it just tells you how
18 much they think it's worth to them as a
19 government.

20 We frankly think that part of that
21 is because they lose interest that's paid on
22 the money. Part of it is because so many of
23 our players can't get it back because of the
24 alternative minimum or don't because they don't

1 know how or don't have the record-keeping. So,
2 it's a windfall for the federal government.
3 And what little they do keep would have been
4 gotten from regular taxation anyway.

5 COMMISSIONER MCHUGH: Well, I'd
6 welcome whatever you have.

7 MR. WALDROP: Okay. I'll talk to
8 you afterwards. And we'll talk a little bit
9 more about what you think you. And we'll see
10 if we can go get it.

11 CHAIRMAN CROSBY: You said in the
12 case of Internet gambling, you'd like to have
13 horseracing industry be at the table and have
14 the mitigation efforts. What are the
15 mitigation efforts? Besides just paying money,
16 like we've done in Massachusetts, some of the
17 casino revenues are going to go to a Racehorse
18 Development Fund, are there other strategies?

19 MR. WALDROP: First thing I would do
20 if I were at the table is I'd say get rid of
21 the five percent tax, period, right now.
22 That's off the table. That's the number one
23 thing on the table. Until that's off, we're
24 going to oppose everything you do.

1 I'd also look at other legislation
2 that would be positive to the industry that
3 would be included. At the federal level for
4 instance, we included reported withholding. We
5 also got some additional concessions from the
6 Department of Justice on certain online gaming
7 conduct. We finally got a share on the tax
8 revenues that came -- They agreed, they didn't
9 pass it yet obviously, but we attempted to get
10 some funds to mitigate.

11 So, if there were taxes being paid
12 by the online groups, some percentage of that
13 money would come back, just like you see the
14 brick-and-mortar casinos sending money to
15 racetracks in the form of purses and revenues.
16 Why? Because you're essentially taking a
17 market away from racing.

18 You're essentially acquiring that
19 market, a market that they have, that exists
20 and they've been in that space for some time.
21 And to take it from them without giving is
22 unjust. It's unconstitutional. Something has
23 to be paid for the market, whether it's online
24 or brick-and-mortar.

1 And it is perpetual. It's not just
2 here today. It's not just here a year from
3 today. It needs to be ongoing and long-term.
4 Not like you see in Ontario in Canada where
5 five years into the experiment well never mind.
6 You've done a great job for us, but we're going
7 to take it over now. We're going to take your
8 market from you.

9 CHAIRMAN CROSBY: How is it
10 different from if a state permits online
11 retailing, which is going to take revenues away
12 from brick-and-mortar retailing, we don't ask
13 the online retailers to return some money to
14 the brick-and-mortar retailers. Isn't it just
15 the world that we live in? If somebody prefers
16 to put their money into online gaming than
17 horseracing that's the competitive world we
18 live in? Such is life?

19 MR. WALDROP: One major difference,
20 one very major difference. Horseracing is a
21 regulated market. You regulate the market of
22 horseracing. You decide who is in the market,
23 who can't be in the market. What their market
24 is. So, you limit access to that market so

1 that you can maximize revenues to Suffolk Downs
2 and to -- I can't think of the harness track
3 that is here. So, you can maximize revenues to
4 those tracks.

5 You are responsible for those two
6 permit holders. You can't do something to harm
7 them if you are limiting them or if you are
8 creating that -- you're not allowing other
9 people in because of the, I would say, the
10 vulnerability of that market to competition.
11 That's why you're here to make sure that you
12 conduct horseracing in a way that maximizes its
13 benefits through jobs, economic activity.

14 CHAIRMAN CROSBY: Well, we regulate
15 public utilities. We regulated the telephone
16 industry. When there were competitors with the
17 telephone industry, we didn't tax the
18 competitors to the telephone industry to pay
19 them back for the business they were losing
20 when there were new --

21 MR. WALDROP: Well, you're getting a
22 little bit outside of my area expertise. But I
23 think still in those cases, there are limits to
24 how many competitors can come into the market.

1 I'm thinking of Kentucky where there are just a
2 handful of entrants in the market there. I
3 don't think that's the case of the cell phone
4 market, but on the landline market, it's a
5 little different. I'm going to stop there
6 before I say something I know nothing about.

7 CHAIRMAN CROSBY: It's
8 philosophically interesting. I am sympathetic
9 to the point you're making, but I don't just
10 want to be defending something because we're
11 committed to this industry. It's got to be
12 philosophically consistent with the way we
13 treat other industries in order to have a
14 chance of actually working.

15 MR. WALDROP: Think of it this way,
16 you as a Commission are in a unique position to
17 oversee all gaming that occurs in this state,
18 whether it's online, brick-and-mortar, racing
19 whatever. It's incumbent on you to make sure
20 that the mix of those three does not unduly
21 damage the other. They have to coexist. And
22 that's part of your charge, I presume is to be
23 a partner, is to make sure they coexist.

24 If one partner is going to be

1 severely disadvantaged by the introduction of a
2 new competitor, you have got to take that into
3 consideration long-term when it comes to the
4 viability of one of those partners. That's the
5 way I would see it.

6 That's a very unique charge but it's
7 because of the unique nature of gambling and
8 the way we as a society view it. And your
9 charge is to make sure that it's done all the
10 right ways in all the right places. And it's
11 regulated and overseen and it's fair and it's
12 safe.

13 It's also on your shoulders to make
14 sure that it's economically viable too.
15 Because if it's not economically viable, it
16 goes away. And then you're going to lose the
17 jobs and the economic benefit and the stature
18 that racing brings to the state of
19 Massachusetts.

20 COMMISSIONER MCHUGH: Following up
21 again on something that Steve has said the most
22 of the major brick-and-mortar retailers also
23 have an online presence. In fact, the online
24 component is changing the business model in

1 some dramatic way. Has any state explored the
2 possibility of allowing a track to have its
3 races and pari-mutuel activity available over
4 the Internet?

5 MR. WALDROP: Absolutely.

6 COMMISSIONER MCHUGH: Just so I
7 could do it on my mobile device?

8 MR. WALDROP: Yes, absolutely. I
9 haven't been to Suffolk Downs, but come to
10 Keeneland, come to most of the major
11 racetracks. Absolutely, you can wager online.
12 You've got TVG, which is one of the primary
13 distributors. You've got HRTV, which is
14 another distributor. You've got
15 Twinspires.com.

16 There are many, many ADW companies
17 that will provide you a chance to watch and
18 wager from anywhere, mobile device. Assuming
19 you're in a place which is considered to be
20 legal under the Interstate Horseracing Act,
21 absolutely.

22 That's the sort of thing that racing
23 has today. That's what we do that nobody else
24 can do. That's the very sort of unique form of

1 wagering that we have and distinguishes us from
2 every sport and other form of wagering right
3 now with the exception today of what's
4 happening in Nevada where you can do some
5 casino gaming online in Nevada.

6 That's the point. You're doing
7 something today. You're allowing Suffolk to do
8 something online that is very unique. It's
9 very important to their business. And if you
10 allow someone else to come into that market, as
11 the regulator of that market, there has to be
12 an allowance for the group that's already in
13 there. Because in the process you can't
14 undermine those existing permit holders that
15 are there today.

16 I'm not saying you give them carte
17 blanche and you don't allow competitors in.
18 But if you do, you do it in a way that allows
19 everyone to coexist. Otherwise, you're going
20 to lose racing.

21 Are there any other questions from
22 the Commissioners? Yes, Sir.

23 MR. SPADEA: Do you see anything
24 coming out of the country simulcasting to

1 horsemen here? From what I understand, I don't
2 know if we've got it anywhere, but I'm afraid
3 of a Breeders' Cup going to London or the
4 Breeders' Cup going to Hong Kong. And I'm
5 looking at the revenues to be generated to the
6 industry and the horsemen in this country.
7 Are you doing any work out of the country
8 simulcasting revenues to be split with horsemen
9 in this country?

10 MR. WALDROP: I think your question
11 is if the Breeders' Cup or any other is
12 simulcasting internationally, are we the NTRA
13 doing anything to make sure that horsemen in
14 this country get a piece of that interstate
15 simulcasting revenue.

16 I can tell you, the NTRA is not
17 involved in those discussions. Those are
18 commercial discussions between operators,
19 tracks and horsemen. I think the group that's
20 best positioned to control that would be the
21 horsemen in the location where that racing is
22 occurring.

23 For instance, when it comes to the
24 Breeders' Cup in a couple weeks, the money that

1 is generated from the interstate simulcasting
2 comes back to the participants in the Breeders'
3 Cup racing in the form of additional purses.
4 That's part of the entire negotiation among the
5 various parties to that arrangement.

6 I am not sure that there are other
7 tracks that have significant international
8 wagering. But if they do, I'm certain that
9 those local horsemen have a stake in that.

10 MR. SPADEA: Everything you've said
11 I kind of know, but I'm trying to find out if
12 there was an area, a direction we can go to
13 find out more about it. I just thought you
14 might know as horsemen in this country have
15 worrying about the extreme loss of revenue from
16 ATMs and everything else is taking a big part
17 of our industry away. Looking to try to get
18 any other new avenues of revenue before we have
19 that -- an initiative now to get involved with
20 that. What direction would we take as horsemen
21 trying to get involved with that ourselves?
22 Where would we go?

23 MR. WALDROP: You're asking me where
24 horsemen should go to get more revenue out of

1 wagering. And I think especially when you've
2 got so many new ways of distributing
3 horseracing -- What we're talking about here is
4 sort of a good problem. It's a success
5 problem. In the old days, horseracing happened
6 80 days a year at Suffolk Downs. And if you
7 wanted to bet on horseracing, you had to come
8 to Suffolk Downs.

9 Then we had simulcasting, which
10 meant that you could come to Suffolk on an off
11 day and you could bet on racetracks from across
12 the country. And that diluted on-track
13 attendance. People came throughout the year.
14 People started seeing racing dying not
15 understanding that what was happening was
16 racing with expanding.

17 You asked a question earlier about
18 attendance. Attendance is the worst model.
19 Live attendance at the racetrack is the worst
20 indicator of the health of horseracing. And
21 it's why many tracks no longer even report it,
22 because 90 percent of people who are betting on
23 that race that day are somewhere else. They've
24 not there.

1 In the old days, they all came
2 there. But today we are not like football. We
3 are not like other sports where you have to be
4 there. That's probably not a great example.
5 But you can enjoy, you can participate directly
6 in the economics of horseracing from anywhere
7 in the country if you're in a location that
8 allows either simulcasting our ADW wagering.

9 And that for you is the challenge is
10 to get a bigger piece of that wagering that is
11 occurring remotely from the live track. All I
12 can say there is that many of us have been
13 concerned for some time that the ADWs which are
14 content companies, they sell, they distribute
15 the product online. Some are racetracks, many
16 are not.

17 And there is a constant tension
18 between all of the groups that the distributors
19 are taking more out of the pot. And that they
20 are taking more than they are generating in
21 terms of additional new handle. That's a
22 constant back-and-forth.

23 We're not involved in those
24 negotiations. Those kinds of commercial

1 arrangements are conducted via the Interstate
2 Horseracing Act at the very local level between
3 track and horsemen. And there really is no
4 national table where that occurs.

5 DR. DURENBERGER: If there are no
6 other questions, it's high noon. So, we could
7 adjourn for lunch. And convene again at 1:00.

8

9 (A recess was taken)

10

11 CHAIRMAN CROSBY: Sorry to have my
12 back to everybody. This afternoon's meeting is
13 actually a formal public meeting of the Gaming
14 Commission since the Commissioners might be
15 involved in discussions about issues with the
16 panelists.

17 So, I am pleased to call to order
18 the 80th, I think, meeting of the Massachusetts
19 Gaming Commission on October 16 at the Hynes
20 Auditorium. And with that, I pass the ball
21 back to Director Durenberger.

22 DR. DURENBERGER: Thank you, Mr.
23 Chair.

24 CHAIRMAN CROSBY: Excuse me one

1 second. Our monitor isn't on.

2 DR. DURENBERGER: I can begin.

3 Welcome back everybody. I tend to talk low and
4 I tend to back away. Am I good? Can you hear
5 me? Are we all right? Okay.

6 So, thank you all for coming this
7 afternoon. Thank you to the panelists for
8 agreeing to be here this afternoon. I think
9 the morning session was really a very
10 interesting presentation from all three of our
11 speakers. I'm really delighted that they were
12 here and that that's being webcast and that
13 that will be available to other people who were
14 not able to for various reasons participate and
15 be here this morning.

16 Our goal this afternoon is at once
17 simple and complex. And I really didn't script
18 this part here, but essentially, we're in a
19 situation where we have racing, an existing
20 industry in the Commonwealth. We have gaming,
21 which will be coming to the Commonwealth. And
22 there are places where that intersects. And
23 there are a lot of unknowns and contingencies
24 this that everybody is trying to deal with at

1 the moment.

2 So, what I thought we would do -- We
3 get a lot of questions, the Racing Division
4 gets a lot of questions about some of practical
5 matters and the administration of how things
6 are going to work. But we've also got parties
7 that are trying to make business decisions
8 right now.

9 Business decisions in the racing
10 like any other industry are made some distance
11 in the future. People forecast budgets.
12 People forecast their personnel needs, their
13 staffing needs. The Commission does the same.

14 We negotiate contracts with third
15 parties based on various contingencies. When
16 you start talking about contingencies,
17 contingencies are great because the parties are
18 able to contract sort to a level of acceptable
19 risk. So, they're great in the sense that the
20 parties are free to do what they need to do to
21 protect their own interests in the event of any
22 unforeseen circumstances, contemplated
23 circumstances.

24 But some of the dangers that I see

1 when you get into that is if the information is
2 not equal on both sides, and there's a lot of
3 misinformation out there, there's a lot of
4 unknowns. So, what I thought we'd do this
5 afternoon is figure out what we do know. The
6 things that we don't know, when we are going to
7 know them. And that will inform the parties to
8 the extent that they are knowable. And we will
9 generate some dialogue. And we will enhance
10 the Commission's developing understanding of
11 our industry.

12 What we've got this afternoon for
13 panelists, I have this empty chair next to me.
14 This is Catherine Blue, General Counsel who
15 will be joining us when she is able. She was
16 called away but she should be back joining us
17 this afternoon.

18 We have Mr. Steve O'Toole. Steve
19 O'Toole is the general manager of Plainridge
20 Racecourse], the Commonwealth's harness
21 racetrack. To his left is Mr. Chip Tuttle,
22 chief operating officer of Sterling Suffolk
23 Racecourse, LLC which is the Commonwealth's
24 thoroughbred racetrack. We have Mr. Anthony

1 Spadea. Anthony is the president of the New
2 England Horsemen's Benevolent and Protective
3 Association. To his left is Mr. Mike Perpall.
4 Mike is the president of the Harness Horsemen's
5 Association of New England. We have Mr. George
6 Brown. George Brown is President of the
7 Massachusetts Thoroughbred Breeders
8 Association. And on the end we have Mr. Steve
9 Quinn. Mr. Quinn is representing the
10 standardbred owners of Massachusetts.

11 To the extent that Counsel is not
12 sitting with me at the table, I may have to
13 take some of these issues out of order. But I
14 thought the first thing we would start with is
15 just the Racehorse Development Fund in general,
16 how it works, how it's going to operate and
17 some of the mechanisms there.

18 I'm hoping that the handouts that
19 you have copies of slides because the
20 formatting on my slides did not agree with the
21 MAC which is why we took down the projector.

22 I have slides that were missing.
23 There were serious gaps in information. And I
24 figured the gaps in information were going to

1 be more confusing than having partial slides up
2 there.

3 Were there enough handouts for
4 everybody? Or how many of you are not able to
5 follow along? The Racehorse Development fund.
6 The Racehorse Development fund is a little bit
7 different than the development funds we see in
8 other states. It's established in section 60
9 of the Gaming Act. I am not going to go into
10 all of the individual provisions of the law
11 because they are there for you if you need go
12 come back and look them up.

13 But essentially it's a pot of money
14 that is designed for three different sources of
15 income. One is from the gaming licensing fund.
16 Fiver percent of the monies that go into the
17 licensing fund are going to go to the Racehorse
18 Development fund. So, that's money from the
19 initial licensing for the Category 2 licensee
20 as well as the Category 1 licensees. Those are
21 one-time fees at this point, five percent to
22 the Racehorse Development fund.

23 When the Category 2 operators are up
24 and running, nine percent of gross gaming

1 revenue will be going to the Racehorse
2 Development fund. And when Category 1 licenses
3 are up and running, of the 25 percent that goes
4 to the Commonwealth, 2.5 percent of that will
5 go into the Racehorse Development fund.

6 Once it's in the Racehorse
7 Development fund those monies become an
8 aggregate. That pot of money is going to be
9 split up. It's going to be distributed between
10 the thoroughbred and standardbred industries.

11 Within that piece that goes to each
12 industry, it's going to be distributed 80
13 percent to purse monies, 16 percent to breeders
14 and four percent to benevolency programs.

15 So, on this first page you just have
16 an overview basically, of the monies in and the
17 monies out. You'll notice that at the bottom
18 of the slide, the picture of the thoroughbred
19 industry and the standardbred industry we left
20 some question marks. The determination of that
21 split has not yet been made.

22 CHAIRMAN CROSBY: Who gets to make
23 that?

24 DR. DURENBERGER: If you turn to the

1 next page, we'll answer the Chairman's burning
2 question. So, this is being provided strictly
3 as an informational item for the benefit of the
4 audience.

5 A horseracing committee was also
6 established in section 60. The horseracing
7 committee is charged with recommending the
8 distribution split of that pot to the
9 Legislature. We've got five people on that
10 committee. We have a designee of the Governor,
11 the Treasurer and the Commission. The
12 Commission's representative is Commissioner
13 Cameron. We have an appointee of the
14 thoroughbred horsemen and breeders, and an
15 appointee of the standardbred horsemen and
16 breeders

17 The criteria that the committee is
18 considering are laid out there before you.
19 They include but are not limited to the average
20 purse monies awarded each breed, the employment
21 numbers attributable to each industry, the
22 relative need of each industry for increased
23 purses, the amount of live racing handle
24 generated by each breed and the number of

1 breeding or training farms for each industry
2 located within the Commonwealth. We then have
3 a picture of a pot being broken.

4 The timetable of this committee's
5 recommendation to the Legislature, this is
6 important, is currently] February 2014. And
7 I'd like to point out the language in the
8 statute says that this recommendation is due no
9 later than 30 days before submitting the
10 recommendations to the Commission for final
11 approval.

12 And I think a lot of people have
13 been waiting for the committee to make its
14 decision but that is not the final
15 determination. The committee makes its
16 decision. It makes a recommendation to the
17 Legislature. And then at some point after that
18 comes back to the Commission for final
19 approval. So, that's the first point that I
20 wanted to make there. Are there any questions
21 for the panelists about that process? The
22 panelists are stunned into silence.

23 The more important question I think
24 probably is when are those monies available to

1 the industry. Some of this we know with
2 certainty. If you turn to the next page -- I
3 say certainty. I am going to back pedal from
4 certainty, reasonable certainty.

5 We know that the statute says that
6 30 days after the award of a license, the money
7 for the licensing fee is payable to the gaming
8 licensing fund. The statute is silent as to
9 how quickly the gaming licensing fund monies
10 are distributed to the various places that it
11 goes. And racing is only one piece of that.
12 The Racehorse Development is only five percent
13 of that gaming licensing fund.

14 There are a number of organizations
15 that are standing in line for their percentage
16 cut. At this point, a determination has not
17 been made about how quickly that transfer will
18 take place. We are working on the process --
19 General Counsel has joined us. Racing Division
20 staff is working with legal and we're going to
21 be working with the Comptroller's office as
22 well as to figure out the mechanisms of all of
23 this.

24 There are some questions about

1 whether the monies once they reach the
2 Racehorse Development fund will go directly to
3 the licensee. And the licensee will distribute
4 the 80, 16 and four percent. Or if the
5 Commission is going to distribute directly to
6 the beneficiary, the 80, 16 and four percent
7 three separate accounts that are considered.

8 We are still working on that. That
9 is a work in process. I don't have any solid
10 answers for you at this time. But that
11 determination on the mechanisms, I'm thinking,
12 will be ready by the end of the year.

13 CHAIRMAN CROSBY: And we will be
14 asking for comment and advice and suggestions
15 on how to do that.

16 DR. DURENBERGER: Absolutely. The
17 point that I want to make here is that we do
18 know that the monies payable into the gaming
19 licensing fund within 30 days of the award of a
20 license. But when they are going to be
21 available to the industry at this point is
22 still a little bit unclear.

23 The best answer that I can give you
24 is spring and anyone is welcome to disagree

1 with me. But I think that's what we're looking
2 at is spring is the best we can do. Catherine
3 would you like to join me?

4 One of the policy questions that the
5 Racing Division will be bringing to the
6 Commission and I pose it here so we can get
7 input from our stakeholders, what does the
8 depletion schedule for these monies look like?

9 In other words, the gaming license
10 funds come in in a big lump sum. The lump sum
11 is \$1.25 million from the Category 2 licensee.
12 It's \$4.25 million from each of the Category 1
13 licensees. The question is does that come in
14 in a lump sum and then go out in a distribution
15 schedule that parallels the operational monies?
16 Or does it go out in a lump sum as it came in?
17 There is some considerations there that I'm
18 going to ask our panelists.

19 But I just want to describe to you
20 the operations monies that comes in from
21 operations within the casino, the statute
22 describes a schedule of a weekly disbursement
23 to the purse accounts, a monthly dispersal to
24 the benevolency accounts. And it's actually

1 silent on the dispersal to the breeders and
2 we'll talk about that again today as well
3 because that will be another policy question.

4 To the extent that these options may
5 not be available to us but these are the two
6 possible scenarios, which is a depletion
7 schedule which would deplete the fund by the
8 end of 2015, December 31, 2015 or coming in in
9 a lump sum and going out in a lump sum. I am
10 open to hearing the opinions and the
11 considerations that we need to think about from
12 any of the panelists. I guess we'll start with
13 the operators, Mr. O'Toole.

14 MR. O'TOOLE: Thanks for having me.
15 I really enjoy this view from here as you guys
16 get to see the rest of us.

17 That's an interesting question
18 because every year it's very difficult to
19 forecast what the handle is going to be for an
20 entire season, and then project purses paid to
21 the end of the year.

22 At Plainridge, we start in April and
23 we end sometime around Thanksgiving. What my
24 racing secretary and I do is we forecast what

1 our handle looks like for that year based on
2 previous years. And then we figure out how
3 many days we're going to go, how many races
4 we're going to go, what the average race we
5 want to assign purses to for the races.

6 Of course, when I say an average
7 purse, that purse ranges anywhere from \$2000 to
8 \$5- and \$6000. So, we figure what our average
9 purse is going to be off of our projections.

10 The reason I say this is an
11 interesting question is because if it comes in,
12 as long as we know what the figures are that
13 are going to be added to the purse monies, we
14 can project those. And my race secretary can
15 then put on his condition sheets the purses for
16 those particular races consistent with the
17 year's projection.

18 So, I don't think it really matters
19 if it's lump sum or not as long as we know what
20 the end numbers are going to be. I don't see
21 either way being problematic other than if it
22 doesn't come through the purse account that's
23 set up by the track. If it comes through -- I
24 wasn't sure if you meant you were going to have

1 a different account for that.

2 DR. DURENBERGER: I think that will
3 be a question we'll address in a short while.

4 MR. O'TOOLE: Other than that I
5 think either way would work as long as we know
6 it at the beginning of the year. Of course,
7 you outlined it well so we know what the
8 numbers at least for the licensees.

9 DR. DURENBERGER: Mr. Tuttle?

10 MR. TUTTLE: Thank you, Dr.
11 Durenberger and members of the Commission. I
12 want to give a qualified answer here in that I
13 think one of our considerations in this will be
14 our customary purse agreement with the HBPA,
15 and what that schedule is and how we factor
16 this into that schedule. And considering that
17 the license fee funds expire at the end of
18 2015, and given the fact that there could be
19 the Category 2 proceeds coming in, I think we'd
20 want to have the flexibility to build a purse
21 program that accounts for both of those things.
22 So, we want you to have the flexibility to
23 distribute that money in a way that makes the
24 most sense.

1 DR. DURENBERGER: From the
2 horsemen's perspective?

3 MR. SPADEA: First of all, I want to
4 thank all the Legislators for allowing us and
5 Dr. D. This is so unusual for us to be able to
6 be part of a process. Most of the people in
7 this room that have been horsemen as long as I
8 have, that's 50 years, we've never had the
9 ability to be part of anything like this
10 before. So, I really mean this from all of the
11 horsemen, just being here and allowing us to
12 take part and say what we all believe is such a
13 new experience. I forget your name. I'm that
14 sincere about being here today.

15 What is very hard for the horsemen
16 and very unusual - every year is a very
17 difficult time for all New England horsemen,
18 harness, thoroughbred, because we don't race
19 for enough money for our people to make a
20 living. So, every year it's a terrible,
21 terrible process. More than any other year
22 this year is so terrible because none of us
23 know what's going to happen.

24 In other words, when the meets close

1 for both of us, our horsemen for the most part
2 at least the thoroughbred horsemen, most of
3 them don't have another place to go race.
4 There is not a circuit that fits with our
5 horsemen. For those of you who don't
6 understand that is that many times horsemen
7 have the ability to race in a circuit. When
8 one meet closes they go to another meet. A lot
9 of our horsemen don't have that luxury.

10 First of all, you have to have two
11 homes most of the time. You are moving
12 children in and out of schools. It's a very
13 difficult process especially when you don't
14 race for a lot of money. Just the burden of
15 that now with the problem of not knowing if
16 there is going to be a race next year.

17 DR. DURENBERGER: Anthony, we'll
18 actually dive into that with I think quite a
19 bit of depth in just a few minutes. You will
20 absolutely have the opportunity to finish your
21 thoughts. We are going to hear the same
22 thoughts, I think, from the gentleman to your
23 left.

24 However, in terms of the

1 disbursement whether or not the monies from the
2 gaming licensing fund would be dispersed in a
3 lump sum as they come into the fund or whether
4 it should be on a weekly schedule or a monthly
5 schedule, would that affect the horsemen in
6 any, way shape or form?

7 MR. SPADEA: For us right now, I
8 couldn't answer that question until I know some
9 of the situations that we can clear up later
10 on.

11 DR. DURENBERGER: Mr. Perpall?

12 MR. PERPALL: I have pretty much the
13 same answer. Without knowing how many of the
14 licenses are really going to be issued in 2014,
15 it's hard to figure what the amount of funds
16 are. Without knowing that it's difficult to
17 say how you would want to distribute it.

18 DR. DURENBERGER: For the breeders,
19 Mr. Brown?

20 MR. BROWN: I think for the breeders
21 if we have this money to work with, not knowing
22 where we're going to be racing or if we are and
23 so forth, I think probably just guessing it
24 would probably be best for us if it was split

1 up over two years.

2 DR. DURENBERGER: Mr. Quinn?

3 MR. QUINN: I would say just give us
4 the money. And we'll go from there. The
5 breeding program is starving for dollars. The
6 bigger and the fattest amount you can put into
7 it and quickest way you could do it would give
8 assurance to the industry and promote what we
9 are trying to do.

10 DR. DURENBERGER: Thank you. That's
11 why we brought him here, right? We are heading
12 in the direction that Mr. Spadea was trying to
13 take us. But on the next page there are some
14 administrative questions.

15 I just put these out here. This
16 outlines for everyone in the audience how the
17 statute actually reads. The Racing Division
18 staff is trying to figure out exactly how we
19 implement this. But this is the breakdown.

20 And it calls for 80 percent of the
21 funds to be deposited weekly, as I mentioned
22 before. This is the operations money. This is
23 the money coming in from gross gaming
24 revenue. So, the earliest we are looking at these

1 in a best case scenario is late in 2014.
2 Eighty percent of the funds deposited weekly
3 into separate interest bearing purse account to
4 be established by and for the benefit of the
5 horsemen.

6 Sixteen percent of the funds for the
7 thoroughbred track to be deposited to the
8 Massachusetts thoroughbred breeding program
9 authorized by the Commission. We're going to
10 talk about that a little bit later.

11 Or for standardbred track into the
12 Massachusetts standardbred breeding program
13 authorized by the Commission. The four percent
14 is to be deposited within five business days of
15 the end of each month, again into a separate
16 account to be established by each respective
17 horsemen's organization at a banking
18 institution of its choice.

19 This is the language here. We have
20 to figure out how to promulgates some
21 regulations. Catherine and the Racing Division
22 staff have quite a bit of work to do there.
23 And as I mentioned before, we are working with
24 the Comptroller's office on some of the

1 mechanisms. So, this page four is just for
2 informational purposes for everybody.

3 When you turn the page, we're going
4 to talk about some of the policy questions that
5 will come before the Commission. Again, the
6 purpose of this today is to get some input from
7 the stakeholders. We are taking notes on the
8 input. And when we are ready to present a
9 package to the Commission, then the Commission
10 can consider these and vote on these.

11 So, we are not voting on any of
12 these policy questions today. We're just
13 discussing them. So, the first question is how
14 should distributions be made? It's a threshold
15 issue. Does the money go to the licensee, the
16 licensee then is responsible for distributing
17 it to the three accounts? Or does the
18 Commission deposit it directly to the three
19 accounts?

20 And before I ask the stakeholders, I
21 just want to make sure from Commissioner
22 Zuniga, am I missing a piece here or this is
23 still a threshold question on the table. Okay.

24 Perhaps we can talk about current

1 distributions. For example, when we have
2 unclaimed wagers, we send those to the track.
3 And those go into a purse account at the track.
4 Maybe you gentlemen could speak to what is the
5 mechanism there.

6 MR. O'TOOLE: The purse account is,
7 at least the way it is set up now, is almost a
8 virtual account, which has a lot of ebb and
9 flow to it.

10 Because of the monies are earned on
11 a yearly basis, our contract with the
12 horsemen's association is that we can carry a
13 very small number over to the next year. So,
14 our projections need to be pretty accurate.
15 When we close six weeks earlier and then we
16 gain money back.

17 We usually over pay at the end of
18 our race meet and then we gain money back from
19 simulcasting revenues back into the purse
20 account. And we try to be at zero at the end
21 of the year. We've never accomplished that
22 zero number, but we come very close.

23 The funds to the breeders is a
24 little bit different. The breeders, and I

1 believe this is the same way with the
2 thoroughbred breeders, the money is actually
3 paid to the breeders. And then they are
4 allowed to take an operating expense from that
5 money that's paid to them and then cut us back
6 a check when the sire stake races are held.

7 So, the purse account now -- it's a
8 virtual account. It's not real account. It
9 always has the purse money in it but at times
10 it's overdrawn and at times it's not. I don't
11 mean the account is overdrawn, I just mean the
12 numbers are overdrawn.

13 So, I think the question was would
14 this go into a separate account? And if it did
15 go into a separate account, then how would
16 those monies be paid out in the form of purses
17 to the owners? And it would be cumbersome to
18 have another account. One account that would
19 have simulcast money and money from my live
20 racing, handle on live racing and then another
21 account that would have gaming revenues coming
22 in.

23 So, I would think that the purse
24 account at least for our purses is we would

1 want to mingle that money because it is all
2 going to be mingled in the end anyway.

3 Now if it would be a suggestion that
4 it would be one account, go into the one
5 account, then all of the monies would come out
6 of that one account. But I don't see the need
7 to have two separate accounts. But Chip might
8 have a different view on that. At least that's
9 the way that we operate as we pay our purses
10 and track that purse account.

11 MR. TUTTLE: I won't go through the
12 same explanation on how purses are generated
13 and reserved. I do think it would be
14 potentially cumbersome to set up a duplicate
15 system. We are set up to administer the purse
16 account, pay the purses based on the formulas
17 that we agreed to with horsemen on an annual
18 basis as part of our purse contract.

19 So, as long as the monies are
20 reserved in a dedicated purse account, I think
21 that's probably the easiest way to go. I'm
22 envisioning a system where if you did it in
23 another way, you would have to maintain two
24 separate accounts and then track -- set up a

1 system to track all of the racing results and
2 everything else, which clearly could be done.
3 But it seems like potentially a waste of effort
4 if the system already exists and the accounting
5 measures are in place to ensure that the
6 dedicated funds are in the purse account.

7 DR. DURENBERGER: It seems as though
8 we might have answered C as well, which was
9 should the recipient purse account be in
10 addition to or merged with the existing purse
11 account. If there's nothing else on that --
12 Mr. Spadea.

13 MR. SPADEA: What you're saying is
14 that typically for the thoroughbred industry,
15 management has always managed the purse
16 account. And what we normally do is we keep
17 track of purses daily as they do to make sure
18 that at the end of a certain period of time
19 they pay what they should and we know that.

20 What you're saying here is that the
21 purses would be distributed into an account
22 that would be managed by or run by the Racing
23 Commission?

24 DR. DURENBERGER: No, I'm not saying

1 that. Just noting that although that is the
2 typical situation is the one that we're hearing
3 described here, there are a minority of states
4 some of them actually maintain an account with
5 the treasurer and others do with the
6 Commission. They're a definite minority. I
7 think there is two or three of them but it is
8 an alternate model.

9 MR. SPADEA: And if that did happen,
10 then we would be totally responsible for what
11 races but also we would then have to work with
12 the racing office. And along we would take the
13 place of maybe Chip's office of them doing it?
14 We would do it? Is that how it would work? Is
15 that how it works in other states?

16 DR. DURENBERGER: I don't believe
17 so. You look like you have an answer.

18 MR. TUTTLE: I don't want to be
19 presumptive. I think the question for the
20 horsemen is would you rather have the purse
21 funds distributed from one account that the
22 track -- that the licensee manages on your
23 behalf? Or would you rather have the licensee
24 paying a portion of purses and then the state

1 paying a portion of purses from a separate
2 dedicated account?

3 I think we've got a pretty good
4 history of paying on a relatively regular basis
5 and on schedule and things like that. But it's
6 certainly your organization may have a
7 different opinion.

8 MR. SPADEA: No.

9 CHAIRMAN CROSBY: Jennifer, could I
10 ask a question.

11 DR. DURENBERGER: Absolutely.

12 CHAIRMAN CROSBY: The money that
13 goes to the "breeders" what is that for? How
14 does that get utilized?

15 DR. DURENBERGER: I will actually
16 have our gentlemen here on the panel answer
17 that question.

18 MR. BROWN: We get 16 percent of the
19 money from the development fund. And of the 16
20 percent, 92 percent of it goes to the stake
21 races or the daily awards of horses, Mass. bred
22 horses that race. They get a percentage of
23 that money. Horses that finish first, second
24 or third. And the eight percent that's left

1 over is for the administration of the breeders
2 program.

3 CHAIRMAN CROSBY: So, 92 percent of
4 the 16 percent is in effect in addition to the
5 purse?

6 MR. BROWN: It's an award, a
7 breeders award that is paid out if a Mass. bred
8 horse finishes first, second or third in a
9 race.

10 CHAIRMAN CROSBY: Only to Mass.
11 horses that finish first, second or third. I
12 understand.

13 DR. DURENBERGER: That's actually
14 administered through the Department of Ag.
15 statute 128 with no letter after it.

16 MR. QUINN: The standardbreds do not
17 have an incentive program for finishing first,
18 second or third. They put it all exclusively
19 to the purse for dedicated races for Mass.
20 breds only. So, to race in there you have to
21 be a Mass. bred as by the law. That's where
22 your benefits come from.

23 CHAIRMAN CROSBY: Interesting.

24 DR. DURENBERGER: Hearing no other

1 comment. Mr. Patton is the director of the New
2 England HBPA.

3 MR. PATTON: I just wanted to ask
4 about interest. I would just like to ask about
5 the interest distribution, because I believe
6 the interest was to be retained for the benefit
7 of the horsemen. So, as the money is moving
8 from point to point, eventually it will get to
9 the so-called purse account held by the
10 racetrack. We would like to maximize the
11 amount of interest of course to retain for
12 purses. How would that be done if funds are
13 comingled?

14 DR. DURENBERGER: If funds are
15 comingled, okay. I will have to look at that.
16 I thought you were getting to one of my future
17 questions, but we will look at that.

18 MR. O'TOOLE: I could be wrong but I
19 think I read and I just confirmed with Chip
20 that I think under the legislation that now the
21 purse account won't be a virtual account as I
22 explained the way that we've been doing it.

23 I believe I read it and Chip thinks
24 he saw it too, that we will actually have a

1 purse account that gains interest. And that
2 the racing monies will actually be deposited
3 into that account on a real-time basis. So, I
4 assumed all along that the gaming funds and the
5 racing funds would be comingled in that
6 account.

7 When I read it, I mentally took note
8 of it that we would have to change business
9 practices that that would not be a virtual
10 account anymore. That we would set up an
11 account that always had a either daily deposit
12 or a weekly deposit.

13 DR. DURENBERGER: Under that
14 scenario if the accounts were merged, then the
15 128A and C purse monies would now suddenly
16 start to benefit from interest.

17 MR. SPADEA: Would that be
18 cumulative year to year if there was excess
19 depending on how you used it?

20 DR. DURENBERGER: I would assume it
21 goes on your average daily balance. I'm not
22 sure. Maybe I'm not understanding your
23 question. If the interest is credited back to
24 the account, then yes, it would be there.

1 MR. SPADEA: The money we're
2 speaking about now, you're assuming it's going
3 to be used from licensing fees, number one to
4 start out with. Am I correct? Is that what
5 we're primarily assuming right now?

6 DR. DURENBERGER: Yes, that too.
7 So, monies that come into the Racehorse
8 Development fund.

9 MR. SPADEA: I guess what's
10 important and I guess I'm putting the pony
11 before the cart again, but what's so important
12 to us is I don't want to just go by it, is
13 coming up in another six or seven months, we're
14 going to find out if there's going to be a
15 living or not a living. And being able to use
16 the money and how it's going to be kept and
17 when it can be used.

18 I don't want to let that get by this
19 hearing today. I want to get that etched in
20 stone so that we can start a process or come up
21 with some help. In our case, management has
22 been very willing to talk us about it. And we
23 just want to get some help from Gaming and
24 Racing Commission to let them know how really

1 concerned we are about this. And how emphatic
2 I want to be today that we can try and let you
3 all know how this date is such a terrible date
4 for the livelihood of our people in the
5 thoroughbred industry not knowing until April
6 if a license is going to be available, who is
7 going to get it.

8 And our people have to make plans to
9 start racing by April. And that's the only
10 time we can race. It's just such a terrible,
11 terrible situation that is happening every day.
12 I get 10 calls a week begging me to try find
13 out how we can get some help so these people
14 can make plans in knowing what they are doing
15 next year.

16 CHAIRMAN CROSBY: This is a
17 different issue from what you're asking about.
18 But I just do want to tell you, we are very
19 much aware of the fact that because of the
20 coincidence the way the licensing schedule
21 coupled with the reality of the world for the
22 two present racing license holders, where it
23 puts you, it puts the track owners and it puts
24 the Commission in the position of not knowing

1 how to organize for next year, your people in
2 particular.

3 This has been raised by Jennifer.
4 We have talked to the tracks about it. And for
5 what it's worth (A) we are sensitive to it, for
6 what that's worth. But (B) we're trying to see
7 whether there's anything we can do to try to
8 come up with some strategy that would get some
9 kind of clarity so you all could plan your
10 lives.

11 MR. SPADEA: I guess why I'm
12 confused is when we started talking about the
13 money from the licensing, Mr. Crosby, I thought
14 that that would be an avenue for money that
15 could be used to get the stigma away from that
16 date.

17 CHAIRMAN CROSBY: It might be. I
18 don't know anything about that specifically,
19 but we are pooling everybody's ideas about what
20 we could do. Is there anything we can do that
21 can give enough certainty that the tracks can
22 make a decision so everybody else can go about
23 their lives?

24 Maybe that is a possible use of the

1 monies, I don't know. But that is what we're
2 looking for. And we'll try to convene on this
3 and try to come to some kind of resolution on
4 this as quickly as possible.

5 MR. SPADEA: Thank you.

6 DR. DURENBERGER: And we will come
7 back to your point. And if you give me five or
8 10 more minutes we will circle back to your
9 point.

10 MR. SPADEA: Okay.

11 COMMISSIONER ZUNIGA: I'd just like
12 to mention that the statute is clear that the
13 monies that come for the benefit of the
14 horsemen and the breeders are to be deposited
15 into an interest bearing account.

16 Where that account will reside is
17 among the policy questions that essentially
18 Jennifer was teeing up, whether it's managed by
19 the track managed by the track or somewhere
20 else. The minute those monies get distributed,
21 then there is no more interest to be bearing
22 on.

23 So, there's not going to be in my
24 opinion a lot of interest generated unless the

1 money sits there for a while, which is the
2 scenario that you may be alluding to and we can
3 get to that.

4 DR. DURENBERGER: And to be fair, we
5 could have started out this panel by hitting on
6 your issue, but I thought we'd get to some of
7 the mechanistic questions first before we turn
8 that -- because when we turn that corner, the
9 conversation is going to turn. So, I just
10 wanted to get through some of the basics first.
11 If you bear with me, we are almost there.

12 So, the transfer to the breeders
13 accounts, the statute is silent as to the
14 timing of those distributions. Again, we look
15 at monies going into the purse accounts on a
16 weekly schedule.

17 Monies going to the benevolency
18 accounts five days before the end of the
19 business month's schedule. So, that's monthly.
20 But the statute is silent as to the 16 percent
21 to breeders. The policy question that will
22 eventually come to the Commission is should
23 that be weekly, should that be monthly? I'm
24 happy to hear from the breeders on your

1 thoughts on that.

2 MR. BROWN: We pay out our awards on
3 a monthly basis. So, it would probably be good
4 for us if we received the money on a monthly
5 basis.

6 DR. DURENBERGER: Mr. Quinn?

7 MR. QUINN: The distribution of the
8 standardbred monies is usually through the
9 sires stake racing. That's like four or five
10 weeks, six weeks during the year. So, if came
11 in a lump that would be good. If it was filled
12 up for the year monthly, it wouldn't matter.
13 As long as it was all there for the events.

14 DR. DURENBERGER: Thank you. Then
15 the parallel question to that the statute
16 refers to breeders programs that shall be
17 authorized by the Commission. Currently,
18 Commission you may remember that the
19 standardbred owners of Massachusetts came
20 before you to request recognition as the
21 authorized group to administer the sire stakes
22 program.

23 The Department of Ag. actually
24 recognizes the Massachusetts Thoroughbred

1 Breeders Association as an entity itself. So,
2 there would just be a question there as to what
3 form should these folks -- do they need to come
4 to you, the Commission to be recognized as the
5 representative group?

6 We do have the racetrack software
7 programs where you could imagine a scenario
8 where they come to us with a list of all of the
9 participants, the breeders that had horses that
10 ran there in the previous year. And if a
11 petition was signed by the majority of them,
12 they could be recognized by the Commission or
13 they could just request of me. So, we will
14 speak to you at that point.

15 Do either of you have any comments
16 on what you think that process should be?

17 MR. QUINN: In the past, the
18 breeders association went to the Racing
19 Commission to get recognized. The last I know
20 it is still that same way and it is the Mass.
21 Standardbred Breeders Association today.

22 DR. DURENBERGER: And that's to
23 administer the sire stakes program. This would
24 be to receive the monies -- to be the recipient

1 entity for the monies that go to the
2 standardbred breeders.

3 MR. QUINN: Well, it would go to the
4 same entity that you recognize.

5 DR. DURENBERGER: George, any
6 thoughts?

7 MR. BROWN: I think we've already
8 filed with the Department of Agriculture that
9 we represent the Massachusetts breeders. I
10 would think that the money would be sent to the
11 breeders.

12 DR. DURENBERGER: Okay. Moving on.
13 Now we're going to get into some of the more
14 interesting questions. Should the Racehorse
15 Development fund itself be established within
16 the Commission as an interest-bearing account.

17 The main question here that would
18 guide that policy decision of course is what is
19 going to be the average daily balance on that
20 account. Do we anticipate that it will be
21 depleted, monies going out as quickly as they
22 came in. Or would there be periods of time
23 where there was a substantial balance there?

24 We note the following: There may be

1 some times when monies received from the gaming
2 licensing fund are sitting there. It could be
3 a matter of weeks. Hopefully, it's not a
4 matter of months. But the balance during that
5 time at least initially is going to be \$1.25
6 million. I've never had that amount in my bank
7 account, but I would like to earn interest on
8 that.

9 Monies flowing into the gaming
10 revenue fund will be coming in on a daily
11 basis. The statute is silent as to the
12 transfers from the revenue fund to the
13 Racehorse Development fund. From cash flow
14 perspective, we're going to need to do that
15 probably at least weekly for the 80 percent of
16 the monies that go to the purse account. But
17 that does leave a balance of 20 percent that we
18 are hearing is going to possibly be transferred
19 out monthly.

20 The order of magnitude here from low
21 case to high cases is somewhere of monies in
22 between \$1.5- and \$2.5 million. So, 20 percent
23 of those are sitting in there for a month, it
24 may be worth setting this up as an interest-

1 bearing account.

2 Of course, as conversation starts to
3 turn, we could have a period of time here where
4 there is no existing 128A licensee for one or
5 both classes. And we have a couple of things
6 talk about there.

7 One is is the money sitting and
8 earning interest? And two what happens to that
9 money? But those are the considerations as to
10 whether or not it should be an interest-bearing
11 account. And I would imagine that most people
12 are in agreement that it should be but we have
13 to look at the mechanism behind that.

14 So, we'll move right onto to G then,
15 which is what happens to monies in the
16 Racehorse Development fund in the event of a
17 dark year or years, plural, for one or both
18 classes of licensee.

19 The statute doesn't give us any
20 guidance on this. Some of the things that
21 we're looking at is whether it should or it can
22 be escrowed. If so, for how long. To the
23 extent that the monies in the Racehorse
24 Development fund continue to grow and add up,

1 that provides incentive for a new operator to
2 consider doing business in the Commonwealth.

3 On the other hand, if you are the
4 remaining class of licensee and the other guy
5 isn't running, wouldn't you like to get your
6 hands on that money to improve your own
7 product. Then we see what happens in other
8 states. We pass gaming legislation. There's a
9 percentage that goes to the development fund.
10 And at some point, the Legislature says we want
11 it back.

12 So, these are some things we're
13 looking at. And what I would posit and I would
14 ask the Commission to deliberate on right now
15 is should the Racehorse Committee consider this
16 as an additional recommendation to the
17 Legislature? If so, I can put it on as an
18 agenda item for the October 31 public meeting
19 or for the next scheduled meeting for the
20 Racehorse Committee.

21 My recommendation to you as the
22 Director of Racing is that we should seriously
23 look at protecting this money for our industry.

24 CHAIRMAN CROSBY: Is that in answer

1 to the question about whether we should make a
2 recommendation to the Legislature?

3 DR. DURENBERGER: The Racehorse
4 Committee is charged with recommending the
5 split, the proportional division of the
6 Racehorse Development fund.

7 CHAIRMAN CROSBY: The question was
8 should the Racehorse Committee consider this as
9 an additional recommendation. And you just
10 said, your recommendation to us is that we act
11 to protect the money on behalf of the industry.

12 Does that relate to this question?
13 Are you saying your judgment is making a
14 recommendation to the Legislature about this
15 money will protect it for the industry?

16 DR. DURENBERGER: My recommendation
17 is to protect it. And I think the mechanism to
18 do that is to have this Commission vote or show
19 its support that that be a recommendation that
20 the Horseracing Committee take. And then
21 Commissioner Cameron would go back to that
22 committee and discuss with them.

23 CHAIRMAN CROSBY: There are people
24 in this room that probably know more about the

1 relationship with the Legislature on this kind
2 of stuff than I do. But I think we'd want to
3 get out front. I'm not quite sure what the
4 best strategy is.

5 The issue what happens if it's
6 building up there for a while. How does the
7 industry keep it from getting scooped by
8 somebody else. I am not quite sure what the
9 answer to that is.

10 But I think probably if we have a
11 plan in place that in advance of that happening
12 to any material extent, and all of the
13 stakeholders have bought off on it and it's
14 kind of cast in stone, and we report it back to
15 our respective legislative bodies and so forth,
16 it would make it harder.

17 You can't insulate it totally
18 against getting scooped. But the more we have
19 it part of a plan as opposed to just sitting
20 there waiting for a plan, I think the less
21 likely somebody is to come in and get it. I'm
22 not quite sure how that fits to the
23 orchestration here, but I think we would want
24 to get that locked into stone well before there

1 is any kind of material money in that fund.

2 MR. PERPALL: Mr. Chairman, I
3 thought a lot about this subject in particular.
4 And one of the things that I think would be
5 very helpful is if we could come up with, if
6 the committee could come up with --

7 CHAIRMAN CROSBY: The committee or
8 the Commission?

9 MR. PERPALL: The committee that
10 makes the recommendation comes up with a plan
11 that allows a certain percentage approved by
12 the Horsemen's Association to be used for
13 administrative expenses of operating a
14 racetrack.

15 Because as the law presently reads,
16 we can only use it for purses, which limits our
17 ability to if we are dark and we want to
18 reinvigorate the business, if we can have a
19 certain portion of this money to use to operate
20 a racetrack, we might be able to accomplish
21 that.

22 And I thought that if it could be
23 amended to allow a certain percentage approved
24 by the Horsemen's Association it would be a way

1 to maybe reinvigorate racing.

2 CHAIRMAN CROSBY: Either now or some
3 other time I would have to know what other
4 people think about that. I know the
5 Legislature in general is very reluctant to
6 reopen the Gaming Act. And there are certain
7 related sensitivities. Because once it's open,
8 you never know what's going to happen. Whether
9 you could move a targeted amendment like that
10 and not run the risk of having God knows what
11 else happen, I just don't know.

12 As I say, there are wiser heads than
13 I to talk about that. We are certainly game to
14 talk about it and think about it and just
15 collaborate together. At this point, since
16 none of us knows whether anybody is going to be
17 dark and if somebody is dark, who is going to
18 be dark, we are all in it together.

19 So, trying to get a decision made
20 and collaborate on a strategy sooner than later
21 we are very much in support of.

22 COMMISSIONER ZUNIGA: There's of
23 course two major milestones I would call them
24 that we should be -- I just want to emphasize.

1 Of course, the decision, the licensing decision
2 that we'll get to at the end of this year,
3 beginning of next year in terms of the gaming
4 licenses.

5 Shortly after I expect that there
6 will be the 128D, the Legislature would need to
7 act on the chapter that then regulates
8 simulcasting and live racing, my guess is on
9 the heels of whatever happens in terms of the
10 licensing decisions.

11 I would hope that at that juncture
12 that second milestone that the Legislature
13 could look at the landscape at that time and
14 entertain things like what you suggest. That's
15 only a guess. Only in terms of sequencing we'd
16 have to just be cognizant of those two major
17 milestones.

18 MR. PERPALL: Right.

19 DR. DURENBERGER: Any other thoughts
20 on the Racehorse Development fund before we
21 turn to Mr. Spadea? Anything else on the
22 development fund? We're working. We're trying
23 to figure out the mechanism so the mechanism
24 question the Racing Division staff is working
on.

1 And I think we have a number points
2 to come back to the Commission with on policy
3 questions. So, I'd like to move on, if we can.

4 That is to the elephant in the room,
5 which the timing of the award of the Commission
6 licenses, which everyone here has been talking
7 to, alluding to. And everyone in the audiences
8 is starting to talk about as well, I'm sure.

9 So, here's the deal. I'm just going
10 to lay it all out on the table for everybody in
11 here. Racing as Mr. Tanner said earlier today,
12 racing is a business. Everyone in this room is
13 a stakeholder in this industry, whether they
14 are breeding racehorses, whether they are
15 training racehorses, whether they own
16 racehorses. Whether they are growing food for
17 the racehorses, whether they are acting as a
18 veterinarian or as a farrier, a track operator,
19 a Commission employee, everybody in this room
20 is invested in this industry. We are all
21 making business decisions.

22 The timing of the award of the
23 gaming licenses is going to have very practical
24 effects. It is already having very practical

1 effects. It's going to have some significant
2 effects on the industry next year. So, let's
3 talk about it.

4 And one of the ways I think to talk
5 about it is to discuss a year in the life of
6 these different stakeholders so that we can
7 understand what the business cycle is. For
8 some of them for the breeders, they are making
9 breeder decisions right now to breed horses
10 next year, which would be a foal in 2015, which
11 would be a three-year-old in 2018.

12 If you are an operator, you're
13 coming up with your budget forecasting for
14 years down the road. The Commission is in the
15 same boat. So, I think we'll just go around
16 the table and we'll talk about a year in the
17 life and at what times of year you make what
18 kinds of business decisions so we can all
19 understand what everybody's going through at
20 the moment.

21 I'm actually going to start with Mr.
22 Quinn and work back this way. Mr. Quinn, a
23 year in the life of the standardbred breeder.

24 MR. QUINN: Yes, thank you. My

1 total career, although I've been a breeder and
2 a racer of standardbred horses is I worked for
3 the Department of Agriculture and set up our
4 breeding program to be significant years ago.

5 It got shortchanged when the Foxboro
6 Raceway shut down and our income levels
7 stopped. I contacted Carol Hepburn yesterday
8 who is in Amherst, Mass. who ran the largest
9 standardbred/thoroughbred breeding farm we had
10 in the state. Each year she was breeding over
11 100 standardbreds and thoroughbreds up in
12 Amherst Mass.

13 When I asked her when do you get
14 started here, this is what I obtained from her.
15 July and August is usually the months that the
16 farms are figuring who are they going to get to
17 stand predicated on who could be available, how
18 big is your program you're going to be going
19 for and who wants to move their stallions to
20 Massachusetts.

21 Contracts have to be signed with
22 these owners. Everything has got to be etched
23 in. And they have to have this done by the end
24 of August so that September 1 they can start

1 sending out flyers to the industry saying these
2 are the stallions that we're standing next year
3 to be located here. This is the stud fees.
4 This is what the board fees will be and the
5 rest of the agenda.

6 As soon as the flyers go out,
7 they'll start booking mares. As in their case,
8 they were booking probably 300 horses a year,
9 because not all of them took. At that time of
10 year too, they have to put together a real top
11 notch vet service. We had a vet out in that
12 area in Amherst, as a matter of fact that took
13 care of the breeding at this particular farm.

14 He also was in the dairy industry.
15 Just as a side note, these businesses overlap.
16 He was actually going to a big Holstein farm
17 out there in Hadley, Mass. that had a cow that
18 came out of Carlisle years ago. And flushing
19 this cow and sending a live embryo to China at
20 \$10,000 a crack.

21 So, there's other businesses that
22 offshoot. But he wouldn't have had his
23 breeding team put together to do the cattle
24 business if he wasn't doing the horse business.

1 So, we need a real top notch vet outfit.

2 Farriers have to be signed on
3 because all of the animals coming into this
4 place are going to have to have their feet
5 taken care of. The mare's booking starts in
6 November, but as soon as you knew that a
7 stallion was standing, you would call, contact.

8 Bookings are usually to a certain
9 level that they can do. In this case for the
10 standardbred artificial insemination is
11 allowed. So, the semen can be broken down and
12 you can multiple breed. The thoroughbreds wear
13 a live cover. And if they can get 30 or 40
14 mares, that's probably a lot. Standardbreds, I
15 know some stallions that were inseminating 200
16 broodmares because of the fact that it could be
17 spread out.

18 They come to the farms usually a
19 month before they are going to foal if in fact
20 they are already pregnant. The farm foals them
21 out, which is another whole line of work
22 because these animals have got to be watched.
23 They're in stalls where they are under camera
24 surveillance 24 hours a day.

1 The mare foals. A normal breed back
2 is on a foaled heat which is anywhere from nine
3 to 10 days to try to get the mare back, bred or
4 if it doesn't conceive, they go on. I was just
5 catching this morning here, they can tell if a
6 mare is bred within two weeks of being
7 inseminated, which is incredible. I can
8 remember years ago sending a mare in and you
9 waited 30 days after if you weren't sure if she
10 didn't show that she was. So, those things
11 have all got to come in. It is very, very
12 labor intensive, horse breeding and horse
13 operations.

14 The mares, like I said, are bred
15 back within the nine to 10 days. Anywhere from
16 the 15th of February to July 15 is the breeding
17 season. The mare has to foal the next year.
18 All of our birthdays in the standardbred
19 business are January 1. So, if you have a
20 horse that was born the 25th of December,
21 January 1 it's going to be one year old, which
22 doesn't do anybody any good.

23 So, it takes 11 months gestation
24 you've got to wait. So, they usually start

1 about 15th of February they start breeding.
2 Hopefully, they're all bred after January 1 so
3 they are not a year old until the next year.
4 So, those things are all taken into account and
5 going from there.

6 This operation, and it was a good
7 operation, it was probably over 100 acres.
8 I'll tell you since the program stopped funding
9 to the fashion it was, the land has already
10 been since sold and gone. Actually, it's taken
11 up by riding horses, which is a separate entity
12 in the state.

13 Twenty percent the mares that were
14 foaled on this farm stayed there. So, they
15 were raised up through their weaning year,
16 through their yearling year. They were handled
17 that they could go to the auctions when they
18 became yearlings of their yearly year, I should
19 say, in the fall, because that's when the sales
20 come up. The animals had to be worked with.
21 They were shod. Grooming was a big thing with
22 them out there. And they were prepped for
23 these sales.

24 If you go back to like farming and

1 how the Department of Agriculture farming has a
2 cash crop. You mow a field, sell the hay.
3 That's your cash crop. In the horse business,
4 the cash crop is that yearling. I just heard
5 from one of the speakers here earlier that when
6 yearlings can bring \$5- \$10,000, it's a lot of
7 money.

8 But without a good sire stakes
9 program, you're going to sell these yearlings
10 for \$1000, \$1500. And you'll be lucky if you
11 can to get it. Or you try to race them all
12 yourself. So, the program big enough, it'll
13 make that price of that yearling go up.

14 I had a friend this year, went to
15 New York to buy a New York bred. He says I
16 missed it. He said, I bid up to \$50,000 and he
17 couldn't buy this offspring, because it was a
18 good one but New York has a tremendous program.
19 That's what you're going on.

20 The last parting gesture from her,
21 because we've been in the breeding business two
22 or three times and stopped, you had people
23 commit five broodmares, have a stallion stand.
24 And all of a sudden, the program is gone.

1 When the program is gone, you've got
2 no money coming back from that original
3 investment. And to rejuvenate the industry
4 would mean a guarantee in blood and stone. I
5 heard stone a few times today. There's got to
6 be a solid commitment.

7 The sooner the industry realizes
8 that we're really serious here and maybe even
9 aspects. You heard New York is paying \$12-\$15
10 million into their sire program every year.
11 That's why those yearlings bring big money.
12 That's why those farms are making money out
13 there. And that's the intent of this program.

14 I like you, we did meetings across
15 the state in the early 80s with thoroughbreds,
16 standardbred and greyhound dogs to promote the
17 state. We got the legislation passed that we
18 thought we needed. We were running great until
19 the track ran out.

20 The current legislation that we're
21 sitting under was changed around 1990. By then
22 though there were not a whole pile of
23 standardbred available to it. The program that
24 we started was sort of like a quick shift.

1 Today, if we did quick shift, we do
2 what we do. Bring some broodmares in that are
3 bred. They'll be Mass. breds so that the
4 program would be continuous and you would have
5 plenty of entries. But it stayed stagnant
6 since then because the monies are not
7 sufficient enough to encourage anybody to
8 breed.

9 DR. DURENBERER: Thank you, Mr.
10 Quinn. And I think one of the interesting
11 points that you brought up that sometimes I'm
12 neglectful to bring in front of the Commission
13 is the intertwining of not just what goes on on
14 the horse farms but as well the associated.
15 The dairy business, for example that was a
16 perfect illustration.

17 I talk a lot about veterinarians and
18 feed growers and farriers and things like that.
19 But that cross -- I'm at a loss for words
20 today. -- cross-pollination between
21 agricultural industry is really important. Mr.
22 Brown.

23 MR. BROWN: There was a movie made
24 not too many years ago it was if you build a

1 field they will come to play. It was about
2 baseball. The same is true with breeding and
3 raising horses. You have to have some sort of
4 an incentive for somebody either within the
5 state or to come into the state and invest
6 money in farms, stallions, broodmares, farm
7 equipment, buildings, fences. It costs an
8 awful lot of money to set up a horse farm.

9 And I was talking with Matt Iuliano
10 and we had a long talk about the states who
11 have put money into the horsemen development
12 act and into the breeding. He said that
13 there's been a tremendous increase in activity
14 as far as the number of farms, the number of
15 mares, stallions and all of the activity that
16 goes on with running a breeding farm.

17 Right the way this is set up, even
18 if all of this money comes in, there really
19 isn't enough money there to get many people to
20 get involved in Massachusetts. Something would
21 have to be done to increase the amount of money
22 that's there. It's better than it is, because
23 right now it's practically nothing. To make
24 this industry grow and become something

1 worthwhile, you need to have a bigger apple up
2 there, a bigger carrot.

3 All of the things that he mentioned
4 about booking the mares and foaling out the
5 mares and people deciding what stallions they
6 want to breed to and so forth, all of that has
7 to be done in advance.

8 And it looks like we're going to end
9 up losing another breeding season in 2014,
10 because by the time these issues are settled,
11 most of the mares are going to already have
12 foaled and the ones that are going to be re-
13 bred will be re-bred if any, because there is
14 so much indecision out there. It's a big
15 investment breeding a mare and then feeding her
16 for a year. And then having a foal and raising
17 that for two years before you get to race.

18 We don't even know if there is going
19 to be a place to race by the time those horses
20 are old enough to race. So, it's a really
21 tough situation right now as far as the
22 breeders are concerned. So, I am hoping that
23 sooner or later we settle all of these issues
24 and I can sit under my tree and relax.

1 DR. DURENBERGER: Thank you, George.
2 Mike, why don't you tell us about the business
3 operations of the horsemen. In Massachusetts,
4 we essentially have -- the harness is a little
5 bit different. The thoroughbred have a pretty
6 good seasonal circuit, probably more of the
7 harness men stay here year around and just race
8 seasonally. Some of them go other places. So,
9 if you can talk about the times of year that
10 you make your decisions about where your base
11 of operations is going to be.

12 MR. PERPALL: Most of our horsemen
13 spend the entire year here. As a matter of
14 fact, the Horsemen Association leases the track
15 and we keep the track open all 12 months. It
16 is never closed.

17 Most of our horsemen are family men,
18 kids in school that type of thing. So, they
19 don't move around like they did years ago.
20 Years ago it was frankly some kind of a gypsy
21 business because we did move from place to
22 place and it was pretty common. It's not like
23 that anymore.

24 The season for us we always close,

1 so probably this year late November. And we
2 always open around April 15 right around that
3 day, Patriots' Day. Generally, what happens is
4 we give the horses off the month of December
5 and some of us give off half of January, some a
6 little bit different but not much different and
7 put them back in training January 15 to get
8 them ready for April 15. It takes them about
9 three months to get them back after they've
10 been off from a month and a half.

11 That's really the way we work it.
12 That's why we keep the track open all year so
13 that they can do that training and there's
14 ample stable space, etc.

15 DR. DURENBERGER: When you're
16 advising clients and you may not be yourself in
17 this position, but some of your members maybe,
18 when you're advising clients on horses to
19 purchase at the sale, for example, what goes
20 into making the decision that you want to buy a
21 Maine registered horse instead of a Mass. bred
22 for example?

23 MR. PERPALL: I just bought a Maine
24 bred for the first time. I've been a breeder

1 for years. I did lose my broodmares this year.
2 Normally, I would go to Harrisburg and replace
3 them, but I'm not going to do that because I
4 don't know.

5 Harrisburg is in November. So, I
6 would have to buy the mares now before we know
7 whether or not how the licenses are going to be
8 issued. So, I can't go buy the broodmares.
9 So, I'm going to have to pass a year. I did
10 buy a Maine bred because I enjoy having the
11 young horses. To me that's the exciting part
12 of the business because you don't know what
13 they're going to be. They may be nothing and
14 they may be great. And I find that very
15 exciting.

16 I enjoy racing my older horses but
17 you know what they're going to do most of the
18 time. And you know what they're capable of and
19 it's fun. I won a race yesterday. And I still
20 get excited. I've been doing it for 40-odd
21 years. And I still get excited and run down
22 and get my picture taken.

23 I do love the young horses. So, I
24 did buy a Maine bred. Just to give you an idea

1 of the program up there, and it's not a giant
2 program but it's a good program. They race for
3 10 races, about \$11,000 a race and the final
4 went for \$77,000 this year.

5 The first eight horses make the
6 final. My horse was number nine. So, they
7 have a \$15,000 consolation, which will be this
8 Friday. Unfortunately, my horse had an
9 infection and he was out for five weeks and
10 that's why I ended up ninth. It was still
11 exciting. The young horses and you don't know
12 how they're going to perform. And you just
13 enjoy it. And that's what I do.

14 The other thing that happens
15 typically is and I just want to show you this
16 book to give you an idea. This is the book of
17 the babies that are going to be sold in
18 Harrisburg starting November 4. There's maybe
19 about three or four millionaires in here. And
20 there's may be 100 good ones and the rest of
21 them a going to be.

22 Most people would be analyzing their
23 inventory and deciding what they're going to do
24 next year. And go even though many of these

1 horses are sire stakes horses for New York and
2 Pennsylvania and would go for a lot of money,
3 there are also a lot of them that don't go for
4 a lot of money.

5 Horses that you can buy for \$7500
6 that are very useful animals. Because most of
7 these horses are pretty well bred. For
8 whatever reason some mares don't throw great
9 horses, they throw decent horses. And there's
10 a useful place for them.

11 But you can't go this year because
12 we don't know. We don't know. Last year I
13 went and I spent \$10,000 and had fun. So, it
14 is very difficult right now. It's very
15 difficult to restock our inventory.

16 DR. DURENBERGER: Thank you.
17 Anthony, thank you for your patience.

18 MR. SPADEA: The way we look at
19 racing in Massachusetts is like a coin.
20 There's the heads and the tails. Heads for me
21 would be if Suffolk Downs gets a gaming
22 license, I think racing in Massachusetts could
23 as fine as it would be any other place.

24 I think breeding would flourish. I

1 think our horsemen would become alive again and
2 start spending as much money as they spent
3 anywhere, if we had the opportunity to earn
4 money. I think horsemen would stay home, race
5 here. And I think we would attract people to
6 breeding. We would attract dairy farmers to
7 start taking those dairy farms and start
8 growing hay, start growing grain. I think we
9 would start to take the vacant farms and maybe
10 see some more horse farms.

11 I think you might see a lot more
12 farm workers such as veterinarians,
13 blacksmiths, horse dentists, fencing,
14 contractors, all those things may explode if
15 the coin flips heads.

16 What I've been trying to say
17 probably for the last two hours is what's most
18 important to me is what happens of it's tails.
19 Rather than look at it like it's just another
20 day in the life of the thoroughbred industry,
21 that's not the case.

22 Why I was trying to get a commitment
23 to some of that money that was put aside for
24 licensing is because how do we attract horsemen

1 to move 25, 30 horses to Suffolk Downs March 15
2 in anticipation on the track opening maybe May
3 1 to run a race program?

4 If they don't get that license, I'm
5 not going to say they're going to race or not
6 race because that's none of my business.
7 What's my business is we try to help lure our
8 horsemen to come back to race here if there's a
9 meet or the horsemen that have been on the farm
10 all winter, boarding their horses, earning no
11 money, hoping for an anticipated meet that may
12 start May 1. And now everybody's been at the
13 track five, six, seven weeks getting horses
14 ready, looking for that first race May 1 and we
15 don't get the luckiness of getting that
16 license, what do I do for them? How do I get
17 them back home?

18 We have no money. We've accrued
19 only money in the purse account. And I don't
20 know if that's going to be able to be used for
21 me to help my horsemen. I don't know if I have
22 any ability to be able to get funds, to get
23 them relocated, to be able to ship back. I
24 don't know what we're looking at for a meet. I

1 don't know construction situations. I don't
2 know weather situations.

3 Suffolk has been more than fair
4 talking with us about our problems. It's not
5 their problem if we can't race because they
6 don't get a license. We are looking for every
7 avenue we can to give our horsemen answers so
8 that we can help them make a decision. So, if
9 they want to come back and there isn't racing,
10 we want to be able to help them.

11 So, what I'd like to know if there's
12 some way possible if there are any funds that
13 could be used or if that could be a part of,
14 any part of the revenues that could be escrowed
15 for whatever reason that would use to help our
16 horsemen. If they came and we want to make
17 sure they can get back to a possibility of
18 racing and earning a living.

19 DR. DURENBERGER: So, I sound like a
20 broken record. That's actually a specific
21 agenda item coming up a little bit later.

22 Can you frame that in the context of
23 -- Anthony, if you can explain or maybe I'll
24 just get the bit between my teeth and I'll do

1 it. So, I'm at Suffolk right now. What am I
2 doing right now?

3 MR. SPADEA: Right now, you're
4 worried to hell.

5 DR. DURENBERGER: Outside the
6 context of this being a gaming license
7 application year, I'm preparing to go to Tampa.
8 I've already submitted stall applications. I
9 know where I'm going at this point. I'm not
10 sure about a Tampa stall, but anyway I'm making
11 my plan to make my base of operations somewhere
12 else over the next few months.

13 MR. SPADEA: Some of the horsemen.
14 Most of our breeders like George Brown, and a
15 lot of the local horsemen stay here year-round
16 weather their horses. They stay here year-
17 round. So, they're going to go to a local
18 farm. They're going to turn their horse out.
19 They're going to weather their horse.

20 And then they're going to make a
21 decision in late March based on what did racing
22 promise looks like. We're going to assume that
23 they're going to come back. And we're going to
24 try to want to tell them that we want them to

1 make all the plans to race here next year and
2 to come back. And they may.

3 But if we want to lure the horsemen
4 that's got 40 or 50 horses that are doing
5 exactly what you just said, going to Tampa, and
6 we want to lure them to come back, if they ship
7 30 or 40 horses here, and they are here on May
8 1 and there's no racing program because of the
9 fact it's nobody's fault and we want to help
10 them, is there going to be any way we can help
11 our horsemen that came here to support a meet
12 if there's not a meet.

13 DR. DURENBERGER: Again, outside the
14 context of this particular year, in terms of
15 the business operations cycle, at what point
16 when I'm in Florida do I make my plans about
17 whether I go to Finger Lakes or whether I go to
18 Suffolk?

19 MR. SPADEA: Probably sometime early
20 March. I would say you make a stall
21 application sometime around early March. Would
22 that be right? Sometime around early March you
23 make a stall application.

24 And we are going to tell our

1 horsemen to come back because there's racing
2 here because we believe that. And we want to
3 make sure they come back because we want to run
4 a meet here next year.

5 DR. DURENBERGER: And how about
6 advising clients or as Mike pointed out the
7 great example, the November sale, what time of
8 year are the thoroughbred sales and what are
9 you advising clients to do this year in terms
10 of what kind of stock they should purchase and
11 whether they should purchase?

12 MR. SPADEA: A perfect example, I
13 think George bred 30 mares last year.

14 MR. BROWN: Thirty-seven.

15 MR. SPADEA: Thirty-seven, there's a
16 lot of people that still have a lot hope that
17 there is going to be a place to race a Mass.
18 bred. That's just one farm, he bred 37 mares.
19 And most people are going to the sales this
20 year, but as anybody knows who is in the
21 thoroughbred business, the price of buying a
22 thoroughbred is probably up 50 to 75 percent.

23 You heard it this morning, there is
24 such a shortage of horses throughout the

1 country right now that horses are a premium.
2 The Wall Street Journal, if anybody remembered
3 last year, did two stories about buying
4 broodmares is a proven investment because of
5 the shortage of thoroughbreds.

6 So, there is a significant shortage.
7 And for people to go out and spend a lot of
8 money in sales right now when there is no
9 certainty that's a difficult thing. That is a
10 difficult thing for our horsemen. Actually, if
11 you were racing in other parts of the country,
12 it's different.

13 Jennifer, being sincere and honest,
14 I don't know what to tell people that are going
15 to spend a substantial amount of money because
16 I don't know what's going to happen. And I
17 don't think anybody in this room really knows.
18 I want to make it easier for the families that
19 can't afford a mistake.

20 DR. DURENBERGER: Before we get to
21 the operators, I am going to step in, because I
22 don't want to end with the Commission on this.
23 So, the kinds of things we're looking at for
24 next year, the majority of my staff, I have 35

1 staff between in-house and in the field, the
2 majority of those 32 of them are seasonal -- 31
3 of those are seasonal. And we would be posting
4 for those jobs and January or February.

5 And in the face of uncertainty, I've
6 been on the other side of it. And I know that
7 if I am an employee that's doing seasonal
8 meets, I have options. Where do I want to work
9 this summer? And I start thinking about that
10 in January or February. What meet do I want to
11 work?

12 And you typically apply for those
13 jobs three or four months before they start.
14 So, you're always thinking one meet ahead when
15 you do this gypsie lifestyle. And I'll use the
16 word, because I'm not ashamed of it. You're
17 always looking three or four months ahead as a
18 regulatory official. This goes for the
19 veterinarians. This goes for the stewards.
20 And it goes for some of the racing officials as
21 well if you have a program that is worth
22 traveling for. We start posting those
23 positions three or four months in advance.

24 If I have a maybe meet coming up

1 over here and this meeting looks like it's
2 going to go over here, it's difficult for me as
3 an applicant to put in an application over at
4 the maybe meet. Or maybe I put in an
5 application at both and I just keep the one
6 warm. But I'm forced at some point to make an
7 employment decision and make a commitment to go
8 to the meet that I think is going to be the
9 sure thing.

10 We're gambling too. The employees
11 in this industry are gamblers too just like the
12 pari-mutuel customers are, just like Mr.
13 Perpall and his unraced two-year-old.
14 Everybody in this industry, we can all tolerate
15 a certain amount of risk. We all have that in
16 us. We are risk takers or we wouldn't be in
17 this industry. There are too many
18 uncertainties in a good year. Right? Am I in
19 agreement. Anyone can nod. Help me out here.

20 So, that's our timeline. How do I
21 get officials next year in the face of
22 uncertainty just looking at the timing of these
23 things. This goes true for both the harness
24 and for the thoroughbred side. That's just

1 sort of a year in our timeline.

2 We budget forecast. We presented a
3 fiscal year budget to Commissioner Zuniga and
4 to the rest of you based on what we anticipated
5 would be live racing in both classes through
6 the end of next year. And that may or may not
7 pan out. We certainly have contingencies. And
8 there's a lot of considerations that we have as
9 well.

10 And I'll turn to the operators now.
11 Thank you for letting me interject. Mr. Tuttle?

12 MR. TUTTLE: I think the other
13 panelists have done a very fair job indicating
14 that this is more than a profession for a lot
15 of the people who work with horses. It's a way
16 of life. It's certainly something that the
17 people who are the horse people, the horsemen
18 and women at our facility and at Plainridge,
19 they live, eat and breath this. It is part of
20 -- It is what they do.

21 And there is some uncertainty. I'm
22 in the market for answers. Like everyone,
23 we've had some discussions with the horsemen as
24 to how we plan for different contingencies. We

1 are an applicant for a racing license next
2 year. We plan to race. That is our plan.

3 We don't see much of an alternative
4 beyond that plan given what's in front of us.
5 Certainly, there are lots of junctures and
6 milestones coming up that will determine what
7 happens in the future. As we get further along
8 in the process, I think it's reasonable for
9 people to have discussions about some levels --
10 what levels of assurance the various
11 stakeholders are entitled to.

12 DR. DURENBERGER: Any comments as to
13 a year in the cycle as to when you are
14 contracting with other third parties, third-
15 party service providers and employees and
16 making staffing decisions?

17 MR. TUTTLE: We are in midst of some
18 of those decisions and those cycles right now,
19 but all with the anticipation of a 2014 racing
20 season.

21 DR. DURENBERGER: Mr. O'Toole?

22 MR. O'TOOLE: I guess I should ask
23 for some clarification. Should I comment on a
24 typical racing season or this particular racing

1 season?

2 DR. DURENBERGER: This was meant to
3 be a year in the life so we that could
4 understand the business operations and the
5 business cycle. And I think that is probably
6 the best contact.

7 MR. O'TOOLE: Okay. Most racing
8 seasons are like a roller coaster ride. You
9 have your ups and you have your downs. This
10 year's been definitely one of those. As well
11 as being gamblers in this business as all of us
12 are, you buy a horse and that's a gamble.
13 Today operating a racetrack is a gamble.
14 Probably the only ones that aren't gambling are
15 you five right here. You've got a sure thing
16 going for another few years.

17 Typically, after the application is
18 awarded, the license for racing, and we're
19 going into the following year, the employees,
20 they're somewhat seasonal. Our racing season
21 is so long that there's a very short lay off
22 period for track crew and for our racing staff.

23 The pari-mutuel clerks, cleaners and
24 the people that work in the facility, they are

1 year-round with the simulcasting. So, they
2 continue on. We have simulcast contracts. My
3 simulcast director is working all the time.
4 They're getting simulcast contracts from the
5 other tracks. Setting our schedules for our
6 simulcasting to continue throughout the year.

7 When our live racing comes up, we'll
8 start, usually a few months before our meet
9 starts. My race secretary will start coming in
10 and we'll start going over the next year's
11 development of what our schedule looks like,
12 what we have for purse money, what our
13 anticipated purse monies are.

14 And then it's almost automatic from
15 year to year. A few things that do change
16 though is, and it goes right from the ground
17 up, right from our track surface.

18 Every year we have a different
19 combination -- We race over stone dust. It's a
20 much more compact and much harder surface than
21 the thoroughbreds race over. But every year we
22 have a different grind from our local quarry.

23 I'm pointing this out because these
24 are some of the small things that go along with

1 the racetrack management. What my track
2 supervisor and I will do is he will go out and
3 get samples of grade. And we'll actually mix
4 the samples of grade to try and come up with
5 the right combination of small stone dust to
6 try and replicate the best track that we've had
7 which was around 2004 or 2005. That was the
8 best racing surface.

9 So, we try to duplicate that, but
10 it's not easy every year because of the
11 different grind that comes out of the quarry
12 because they are getting into a different rock
13 mix. It's similar, but it's not always the
14 same. So, those are some of the very mundane
15 things that go into racetrack management.

16 Some of them are very obvious. And
17 that's hiring judges and hiring people to run
18 the cameras and all that. But there's a lot
19 into it.

20 One of the things that I find very
21 interesting about my job is that when I walk in
22 the door in the morning, I might need to get a
23 request to Jennifer for a replacement
24 veterinarian. And I might have other things

1 that I need to do. And the first customer that
2 I see when I walk in the door asks me a
3 question, has a problem and then my day's on a
4 whole different roll.

5 I am thrown off. I'm working late
6 at night, getting her the request very late
7 before a deadline or whatever it is. There are
8 certain things that you do have to do. But my
9 job can really take me in different places.
10 And that guy over there is one of the culprits,
11 because he might call me up with some complaint
12 or some issues or something that will throw my
13 day all off.

14 It's an exciting job to do, but it
15 is a passion. I think we all have this passion
16 that's up here. The 30 or 40 horsemen that are
17 out there that came from Plainridge today to be
18 here today, it's not easy for them to take the
19 day.

20 They were probably up at four
21 o'clock this morning taking care of their
22 stock. If they take a weekend and go
23 somewhere, they're making calls to their
24 friends to feed the horses, clean the stalls,

1 whatever. It's a passion for all of us.

2 It's been a roller coaster ride and
3 a gamble for all of us. Whatever the outcome,
4 it's always rewarding. This business is always
5 rewarding. Did I answer your question?

6 DR. DURENBERGER: You did, thank
7 you.

8 MR. TUTTLE: Dr. Durenberger, I feel
9 I was not responsive to your question in terms
10 of our planning. Short of what's happening, we
11 are winding down this year's meet. It ends
12 November 2.

13 That involves an orderly transition
14 for our horsemen and our seasonal employees.
15 There are about 350 employees at the track at
16 the height of the racing season. And we have
17 about 690 horses in our barn area. And they
18 all go someplace because the barn area closes a
19 couple of weeks after the end of the race meet.
20 Some of those horses no longer race. Some of
21 them are near the ends of their careers. And
22 we pride ourselves on finding good and
23 responsible homes for them with our partners in
24 the HBPA and the breeders and other

1 organizations.

2 You heard this morning about a
3 shortage of horses and things like that. In
4 2008, we had over 1200 horses in the barn area.
5 And every year that number has declined. Last
6 year we had about 900 at the high point. And I
7 just mentioned we have 690.

8 So, we are planning and working on
9 recruiting. And what we do for next season.
10 And how we go about that. That's one of the
11 things that we're talking about. We're also
12 talking about contract renewals and other
13 contingencies.

14 Over the last couple of years, we
15 have had multiyear purse agreements with the
16 HBPA. And those multiyear purse agreements, we
17 guaranteed a certain amount of purse money to
18 give certainty to the members of Mr. Spadea's
19 organization so that they would know what it
20 was that they were going to be running for if
21 they chose to put in their stall application
22 and come to Suffolk Downs.

23 So, there's a lot of things like
24 that that we are taking a look at how we

1 address those in the coming months.

2 DR. DURENBERGER: We've got a few
3 minutes left before our scheduled break. For
4 the Commissioners are there specific questions
5 that you have of any of our panelists vis-à-vis
6 their business cycles or anything else that
7 you've heard during this first half of the
8 afternoon session?

9 CHAIRMAN CROSBY: I have a question
10 for the operators, this is in your annual
11 reports, but I don't have it at the top of my
12 head. What's your operating net or deficit for
13 a given year? This year, just your horse
14 operations, or I'm not quite sure what the
15 languages is. But your business which is
16 associated with having a meet, what is your
17 annual operating deficit or net, round numbers?

18 MR. TUTTLE: Mr. Chairman, you are
19 correct that this is in our racing application
20 annually. For our 2014 racing application,
21 it's our 2012 loss. Suffolk Downs has not been
22 profitable since 2005 or 2006. So, that
23 deficit has been substantial, upwards of \$10
24 million a year and sometimes higher than that.

1 I think every year higher than that for the
2 last five or six years.

3 Some of that is racing operational
4 losses. And some of that is money we've
5 invested to try to be successful in our other
6 business endeavor, but they are very much
7 related. As an operator, asking our ownership
8 to continue to absorb those losses is
9 difficult.

10 CHAIRMAN CROSBY: I understand that.
11 And I'm not asking them to. I'm just
12 curious --

13 MR. TUTTLE: I'm the one asking. I
14 want to clarify that.

15 CHAIRMAN CROSBY: We may get to
16 that, but I wasn't there yet. Just as an order
17 of magnitude, if you peeled away all of your
18 other, all of the gaming related expenses and
19 you were simply operating your meet, whatever
20 that requires, do you know the order of
21 magnitude what that deficit is?

22 MR. TUTTLE: I would be afraid that I
23 wouldn't be giving you an accurate estimate
24 right now, but it is substantial.

1 CHAIRMAN CROSBY: I was going to ask
2 you the same thing, Steve. Do you know?

3 MR. O'TOOLE: We run at least \$1
4 million a year deficit.

5 CHAIRMAN CROSBY: Just on the
6 operating of the meet.

7 MR. O'TOOLE: Yes. Simulcasting
8 boosts up our bottom-line, and the live racing
9 does drain it down. We did have a few years,
10 2003 and 2004 maybe, we had a purse account of
11 -- we had offered purses that were comparable
12 to the same class of horses at Saratoga, at
13 Monticello, at Vernon Downs, Yonkers Raceway.
14 As a matter of fact, our \$4- and \$5,000 claims
15 were going for more than their \$4,000 and
16 \$5,000 claimers.

17 As the gaming became legalized in
18 the other states -- We were killing Maine. And
19 you just heard Maine's numbers from Mike. Once
20 those gaming operations were up and going at
21 those tracks and those tracks were
22 supplemented, those operations there, they
23 didn't get operational money, most of them
24 didn't get operational money but their purses

1 got money. Their purses were better. They
2 drew our horses away, any high-caliber type
3 horses.

4 And our purse account now is half of
5 what it was then all direct from handle. To me
6 it's attributable just to those quality horses
7 being raced in other jurisdictions. We are
8 just not getting the horses to do that.

9 So, we've had better years. And I
10 think Chip's year, I think he said his year is
11 2005. I remember our best years as 2003 and
12 2004 where we were flashing horses. As a
13 matter of fact, in 2004 we had 125 or
14 thereabouts plus or minus one or two horses
15 claimed at Plainridge in an eight- or nine-
16 month meet. At that time five percent sales
17 tax not 6.25 percent sales tax was attached to
18 every one of those claims. Purse money drove
19 those claims.

20 It wasn't because those horses were
21 such a great value. The reason that those
22 horses were claimed was because the new owner
23 could tape them and race for decent purses.

24 Last year, I think we had about a

1 half-dozen horses claimed. So, it's purse
2 money that drives the claim that drive the
3 economy and that drives the bottom line.

4 DR. DURENBERGER: Do any of the
5 panelists have additional thoughts before we
6 take a break? Anything that occurred to you as
7 we moved down the line?

8 MR. PERPALL: The only thing I
9 didn't mention was the reason that all horsemen
10 don't have as much flexibility that about 70
11 odd percent of all horses are shipped in.
12 They're not stabled at the grounds. And the
13 reason they're shipped in is they're at farms
14 owned by the trainer. So, he is somewhat
15 committed to New England.

16 DR. DURENBERGER: On that we'll five
17 minutes early take a break, come back at 2:55.

18

19 (A recess was taken)

20

21 DR. DURENBERGER: Thank you all for
22 coming back. A couple of administrative items.
23 One, we had a question about whether or not
24 members of the audience would be able to ask

1 questions. We did build in some time at the
2 end. There is a microphone up here behind the
3 Chairman, but we are going to save all of those
4 until the end so that we can make sure we get
5 through all of the agenda items. So far we've
6 been five minutes ahead all day. So, my
7 anticipation is that we will have time for
8 questions from the audience.

9 Number two is that I didn't promise
10 solutions to any of our problems. I only
11 promised discussion. I really thank the
12 panelists for their candidness in the first half
13 of this afternoon session. We're going to hope
14 that we have additional candor as we proceed.
15 The questions get a little bit tougher,
16 stickier, however you want to describe them.

17 So, I think we will jump right in.
18 The first thing we're going to here if you turn
19 to the section of your packet that says who is
20 the applicant entity. This is designed to be a
21 question-and-answer between myself and General
22 Counsel. So, we might steal the microphone that
23 is there before the operators.

24 The background here, I think

1 everyone in the room is probably painfully aware
2 of this background, because you probably all
3 fought for it. But there may be those watching
4 at home who aren't familiar with it. And it's
5 always helpful as a review. That chapter 23K
6 imposes significant operational requirements on
7 applicants for gaming licenses who are existing
8 128A, which means live-racing licensees.

9 At the time that legislation was
10 written and enacted and indeed until very
11 recently, this requirement would've been
12 applicable to operators of both classes of
13 racing in the Commonwealth, thoroughbred and
14 standardbred.

15 Today, we find ourselves in a
16 situation where none of the remaining applicants
17 for a gaming license is currently a qualifying
18 128A harness horseracing licensee. So, Counsel
19 and I are going to discuss the statute as it
20 appears and some initial thoughts on this.

21 The first thing we're going to start
22 with is the annual live racing season
23 requirement that we find in sections 19 and 20
24 of Chapter 23K.

1 By the way, just as an aside, just
2 to kind of warm things up, I don't usually tell
3 jokes. But it seems like this might be a moment
4 for such levity. I am in charge of 128A and C,
5 which are really complicated in and of
6 themselves. And I have for many months put my
7 hand out and said not my statute when it comes
8 to Chapter 23K. Unfortunately, we are now
9 finding provisions where the two intersect. So,
10 it is now suddenly my statute or at least parts
11 of it are.

12 So, here we go with section 19
13 provision E, which states that if a Category 1
14 license is awarded to an applicant with a live
15 racing license under Chapter 128A as of July 1,
16 2011, a condition of the gaming license shall be
17 to maintain and complete the annual live-racing
18 season under said Chapter 128A. Upon failure to
19 conduct live racing, the Commission shall
20 suspend the Category 1 license.

21 Counsel, at the moment this
22 provision would appear only to apply to our
23 current running horse licensee. Any comment?

24 MS. BLUE: Right now in our current

1 Category 1 licensees for Region A and B, we have
2 one applicant who is an existing racing licensee
3 as of July 1, 2011. That would be where we
4 stand. We currently have one applicant that
5 fits that definition.

6 DR. DURENBERGER: And the annual
7 live racing season would be defined how?

8 MS. BLUE: It's defined under 128A
9 for that particular category of licensee. So,
10 I'd have to look at it.

11 DR. DURENBERGER: It would apply to
12 2014?

13 MS. BLUE: Yes, it should. I
14 believe so.

15 DR. DURENBERGER: Section 20
16 subsection C states if a Category 2 license is
17 awarded to an applicant with a live- racing
18 license pursuant to Chapter 128A as of July 1,
19 2011 a condition of the gaming license shall be
20 to maintain and complete the annual live racing
21 pursuant to said Chapter 128A. Upon failure to
22 conduct live racing, the Commission shall
23 suspend the Category 2 license.

24 Counsel is this provision applicable

1 at this point?

2 MS. BLUE: I'd like to start out by
3 saying as a lawyer, I like to always assume that
4 the Legislature drafted something that meant
5 something. I never like to think that the
6 Legislature put in something that's not
7 applicable. However, when the Legislature
8 enacted the law, the status of the racing
9 industry may have been different than what they
10 anticipated.

11 I would say at the moment we do not
12 have a Category 2 applicant that held a live
13 racing license as of July 2011. When you look
14 at it that way, it technically they would not
15 fit that category. Again, we always try to find
16 the meaning in what the Legislature puts into an
17 act. And we try to make their language work as
18 much as possible.

19 Right now when they have the
20 qualifier of July 2011, we don't have an
21 applicant that matches that description.

22 DR. DURENBERGER: Okay. For the
23 above provisions an applicant for a gaming
24 license shall be considered to be the holder of

1 the license under Chapter 128A if the applicant
2 one, owns 50.1 percent or more of the common
3 stock of the company, which obtained a license
4 under 128A or C, and two, includes a person who
5 owns more than five percent of the common stock
6 of the applicant company directly or indirectly
7 or is an institutional investor in the gaming
8 license.

9 Counsel, in layman's terms what does
10 that mean?

11 MS. BLUE: I think first, the
12 Commission hasn't drafted regulations under this
13 section. So, this is a section that would
14 benefit from more research and regulations to
15 help define it. As it's currently defined, it's
16 not particularly clear.

17 But I think with the Legislature was
18 trying to do was it understood the applicants
19 would have multiple parties potentially. And so
20 they wanted to make sure that at least an
21 applicant that had a 50.1 percent interest could
22 be called a licensee. They were trying to
23 anticipate different applicant structures. So,
24 that's part of it.

1 I also think that when they talk
2 about person, they are also trying to think
3 about various ways that applicants would be
4 structured, whether they would be entities or
5 whether they would be individuals.

6 This particular section we need to
7 look at. We need to think about regulations
8 under the section and get some Commission input
9 on it before we finally try to determine where
10 it's going to lead us.

11 DR. DURENBERGER: The number of live
12 racing days requirement. This is on the next
13 page of the handout. This is the number of live
14 racing days requirement found in section 24 of
15 chapter 23K.

16 This provision states that an
17 applicant for a gaming license who holds a live
18 racing license under Chapter 128A shall maintain
19 an existing racing facility on the premises
20 provided however that the gaming licensee shall
21 increase the number of live racing days to a
22 minimum of 125 days according to the following
23 schedule.

24 One, in first calendar year of

1 operation, a gaming licensee shall hold 105
2 racing days. Two, in the second calendar year
3 of operation, a gaming licensee shall hold 115
4 racing days. And three, in the third and
5 subsequent calendar years of operation, a gaming
6 licensee shall 125 racing days.

7 I will add, although I didn't put it
8 in here, there's a provision that follows that
9 affording the Commission flexibility after the
10 third year of operation. But this is the
11 relevant provision that we are discussing here.

12 What I noticed about this provision
13 was that there was no time limiting phrase to
14 describe the existing racing licensee. So, we
15 saw in the previous provisions that there was a
16 limiting phrase in there that the licensee as of
17 July 1, 2011, and you don't see that here in
18 this provision.

19 So, my question and I'll slow down
20 here is is the correct reading of an applicant
21 who holds a live racing license, is it someone
22 who held a live racing license at the time they
23 applied for the gaming license?

24 Is it they were a live racing

1 licensee at the time of the award of the racing
2 license? Do they become a live racing licensee
3 at the time of the effective date of the racing
4 license? Or do we look at their live racing
5 license at the time of the award of the gaming
6 license?

7 MS. BLUE: So, there's a couple of
8 things to keep in mind. This also is a section
9 that benefits from further review and
10 regulations to flesh it out. There's a couple
11 of things I think, a couple of assumptions you
12 can make.

13 The Legislature was very clear in
14 other sections to put in the time limitation of
15 July 2011. The fact that they didn't put it in
16 this section I would view as intentional. They
17 knew where they wanted that limitation. They
18 didn't put it in this section. So, that
19 limitation, I wouldn't read it into this
20 section.

21 But I think if you look at some of
22 the language in it, an applicant for a gaming
23 license becomes an applicant when they file an
24 application. So, we have a list on our website

1 of all of the applicants. Those are the
2 applicants that we currently have.

3 A gaming licensee becomes a licensee
4 upon the award of a license. And licenses are
5 awarded when the Commission votes to make that
6 award as of the date of that award.

7 So, it is possible to look at this
8 section and to read it to say that someone who
9 has a racing license somewhere between the time
10 that they become an applicant and the time that
11 they are awarded a license, a gaming license if
12 they are would be a racing licensee under this
13 section.

14 Again, we really do need to draft
15 regulations under this. We do need to get the
16 Commission to weigh in on it, but it is possible
17 that someone could get a racing license in that
18 period and potentially be covered by this
19 section.

20 DR. DURENBERGER: Any further
21 comments on those provisions? Anything from our
22 panelists?

23 CHAIRMAN CROSBY: I hadn't looked at
24 this before, but it says an applicant for a

1 gaming license --

2 DR. DURENBERGER: Yes.

3 CHAIRMAN CROSBY: -- who holds a
4 live racing license. That seems to preclude
5 getting your live racing license after you've
6 been awarded the license.

7 MS. BLUE: Except then it goes onto
8 say that the gaming licensee.

9 CHAIRMAN CROSBY: I know. They
10 switch from applicant to licensee. In one
11 sense, it doesn't make sense. I think it meant
12 an applicant for a gaming license who holds a
13 live racing license and goes onto win a gaming
14 license then.

15 MS. BLUE: That maybe what they
16 intended. And that's another reason why we
17 would look at regulations for that. But that's
18 not what they drafted. So, there is some
19 ambiguity between the terms that they use and
20 how to interpret those terms. So, definitely we
21 have to look at regulations to address that.

22 DR. DURENBERGER: So, I think the
23 question there is that applicant for a gaming
24 license, there's some period of time from the

1 time that they filed the license until the award
2 of the license. They're an applicant for that
3 whole period of time. But things change to
4 their status as a live racing licensee during
5 that period of time that they remain an
6 applicant, right, that's fair? That's the crux
7 of the argument?

8 MS. BLUE: That would be one way to
9 look at it. That you start as an applicant, but
10 when you become the licensee, the gaming
11 licensee --

12 CHAIRMAN CROSBY: To many of our
13 audience, this may sound like a lot of
14 gobbledygook. What this law says could be
15 really material when we are all trying to sort
16 this out and particularly after license awards
17 are made.

18 Obviously, this is why it relates to
19 this conversation and to this audience here.
20 This might give us more or less flexibility on
21 trying to figure out a way to make sure that we
22 end up with a racing industry.

23 COMMISSIONER ZUNIGA: On that note,
24 would part of this clarification have to include

1 the timing and decisions of our racing
2 applications prior to our gaming applications?

3 MS. BLUE: It might. We would talk
4 about that. That will be one of the things we
5 will consider and how we would address that in
6 regulations, yes.

7 DR. DURENBERGER: And again because
8 the period of time that everyone will still be a
9 gaming applicant at the time of the award of the
10 racing license. So, it is a sequencing issue
11 that we are looking at very closely. Okay.

12 The next item what happens to purse
13 monies earned in the event a facility goes dark.
14 And by a facility goes dark, everybody in the
15 room understands that there is no live racing.
16 Could happen if -- we've seen it happen with
17 operators that shut down in the middle of a meet
18 or it could just be for a year there is no
19 racing. Either way, we refer to that as going
20 dark.

21 The background here is that purse
22 monies are earned, they are offered by the 128A
23 licensee for each individual race. These are
24 the monies awarded to the licensed owners of the

1 horses in a race and the percentage formula and
2 structure which is negotiated by private
3 contract.

4 There's several sources of purse
5 money. Some of them are statutory. And some of
6 them are contractual. So, a percentage of
7 takeout from wagers placed on live races is
8 mandated to be paid into purse accounts. There'
9 money from unclaimed tickets in the Commonwealth
10 after a prescribed period of time they go into
11 purse accounts.

12 The premium, which in Massachusetts
13 are a statutory form of signal fee. We've got
14 monies from profit sharing agreements and other
15 contractual arrangements, all of these are going
16 into purse accounts.

17 So in one sense, and maybe this is a
18 loose use of the term, in one sense the
19 racetrack licensee acts as a pass-through on
20 these monies. So, what would happen to these
21 monies since they are earned in that sense of
22 the word? And the statutory provisions
23 regarding premiums and unclaimed wagers are very
24 simple in their language. They provide no

1 guidance. They just say these monies shall be
2 paid into purse accounts.

3 But we find this interesting in the
4 other sections that have to do with live racing
5 monies in particular. The amounts withheld from
6 handle for purses to be used, and the statutory
7 language is "solely for the payment of purses to
8 the horse owners in accordance with the rules
9 and established customs of conducting running or
10 harness horseracing meetings."

11 So, we have a couple of questions on
12 the table. One would be if the facility were to
13 go dark temporarily could the money be escrowed,
14 if so, for how long? We have existing contracts
15 with horsemen that describe payments of other
16 monies that are considered to be purse payments.

17 These often go to the representative
18 horsemen's organization at the track for
19 promotional and marketing costs, administrative
20 costs, different benevolency programs. Are
21 these evidence of established customs, which
22 might permit some payment of funds to the
23 organization? I think this is what Mr. Spadea
24 was asking about previously and perhaps Mr.

1 Perpall as well.

2 Then again we have the if a facility
3 were cease operations altogether, again, there's
4 money that sits there and that is earned. And
5 that should not be going to the operator but
6 what happens to it? How does it get paid out?
7 I think although I wasn't in the Commonwealth at
8 the time that greyhound racing was abolished, I
9 would imagine this was the impetus for the
10 creation of the Racing Stabilization fund.

11 So, is that something the Commission
12 would be in a doomsday scenario would we be
13 involved in some sort of working with
14 Legislature on some sort of a fund?

15 I think that I would like to hear
16 from our panelists if they feel up to discussing
17 this issue. Mr. Quinn, I'll start that way and
18 work back.

19 MR. QUINN: I'll skip. No.
20 Usually, the breeders programs or whatever, the
21 breeders association usually do not get into
22 this. In the past, if a track was down we have
23 had breeders program where the designated track
24 to race and compete for these funds was down, we

1 moved to another location.

2 If the money was in the account,
3 there was no restriction that it had to be spent
4 there.

5 So, I would say if a place went
6 black -- As a matter of fact, years ago, we
7 raced an event at Suffolk Downs. We've raced
8 them at the Northampton Fair because they were
9 scheduled to go and we had the money. So, it
10 was just a question of changing venues. So, I
11 would say you would want to keep the money there
12 but just move the locations.

13 DR. DURENBERGER: Those were
14 temporary. They were limited, contractual
15 arrangements.

16 MR. QUINN: That's right. That was
17 a band-aid repair for that year.

18 DR. DURENBERGER: And non-pari-
19 mutuel or pari-mutuel?

20 MR. QUINN: They were non-pari-
21 mutuel, most of our stake races weren't around,
22 but we just moved because we had to.

23 DR. DURENBERGER: Mr. Brown?

24 MR. BROWN: We have a problem, I

1 think if Suffolk goes dark. I don't think
2 there's any other location in Massachusetts that
3 we could run our races. So, if the money is put
4 in escrow, it would have to be put in for a
5 period of time so that maybe there would be
6 someone who would come along and build another
7 facility, another racetrack. But I don't see
8 how we could run the program in the state.
9 There's no other place to race.

10 DR. DURENBERGER: Mr. Perpall.

11 MR. PERPALL: As you know, there's
12 been a long history of a certain percentage of
13 the purse money to be used for administrative
14 expenses of running the Horsemen's Association.
15 And that goes back for a period of over 40
16 years. It's been known by the Racing Commission
17 and accepted.

18 That's why I earlier talked a little
19 bit about maybe that percentage could be
20 increased, if you will, in the event that we go
21 dark. Because if we just accumulate this money,
22 and let's say we have a pool of \$15 million for
23 purses but no place to race, it's not going to
24 do us any good.

1 But if we have a pool and a certain
2 percentage of that money can be used for
3 administrative expenses of running a racetrack,
4 we might be able to open a racetrack.

5 Plainridge Racecourse for example
6 will exist if it goes dark. The track is there.
7 It really doesn't lend itself for any other
8 development with the pond in the center and the
9 way the rules are today about wetlands, etc.

10 So, that land is really dedicated, I
11 think, to a racetrack. And if we ever did go
12 dark, that would be opportunity maybe for
13 another group to put together something. And if
14 the Horsemen's Association could support it, you
15 might be able to develop the business again.

16 MR. QINNN: Jennifer, can I
17 interject for one second before we go on. In
18 case there's confusion between the standardbred
19 and the thoroughbred breeding programs, his
20 program, the thoroughbred program is based on a
21 horse finishing competitively in the first three
22 places of a competitive overnight event.

23 Hence, his organization is approved
24 by the Department of Agriculture because they

1 register who's the Mass. bred. They follow
2 who's winning. And they fill out the paperwork
3 to say to this association pay that person.

4 The standardbred program is all
5 based on a stake race limited to what you want
6 to call a Mass. bred. And that's where we
7 differ night and day. So, we have monies to put
8 the race on. And we do our own racing, which
9 could be competed anyplace that we had to. The
10 programs are distinct, separate and not the
11 same.

12 DR. DURENBERGER: Mr. Spadea?

13 MR. SPADEA: This gives us a lot of
14 hope for a lot of things. One thing would be if
15 some of our horsemen that we were concerned
16 about came back and there was not going to be a
17 meet, some of this could be used to do a number
18 of things. One of the things I would like to be
19 able to work out with Chip when we have some of
20 our talks in the future is that this could be
21 used no matter what to maybe make up some
22 revenue if there wasn't casino license and
23 whatever. I don't want to discuss it all here
24 now.

1 But I would love to have the
2 opportunity to work with management and to do
3 something with this if we had to have to have a
4 shorter meet per se to give our people an
5 opportunity to earn some money, make some money
6 and then help them relocated if there wasn't a
7 meet. This could be a wonderful pool of money
8 that may be able to do something like that with
9 if it was possible.

10 I haven't explored any of those
11 ideas. But that or some other availability, or
12 find some other way depending on some type of an
13 agreement we could make and work out. That
14 would probably be something that our horsemen
15 could have some surety of knowing they could
16 have 30, 40 days to make other plans, but know
17 they would have some place to go. And this
18 money could well probably take care of that on a
19 limited time if that's possible. And I don't
20 know all of those answers. But I'd love to be
21 able to have an opportunity to try and work it
22 out.

23 MR. TUTTLE: Given the restrictions
24 on the Racehorse Development fund in the

1 legislation that were acknowledged earlier
2 today, certainly there is a quandary if any
3 facility was to go dark for a period of time.

4 We certainly are happy to be party
5 to the discussion on what would happen in those
6 circumstances. But it is I think a daunting
7 challenge without reopening the Gaming bill that
8 Commissioner Zuniga pointed out earlier that
9 128A and 128C are sunseting in July of next
10 year, which may give people an opportunity to
11 come to grips with this.

12 If there are millions of dollars in
13 license fees and millions of dollars in Category
14 2 revenue piling up into the Racehorse
15 Development fund, certainly, I think it would be
16 wise for people to look at how to treat that,
17 how to deal with it.

18 CHAIRMAN CROSBY: Jennifer, you
19 refer in your introduction to the question about
20 the sources of money. Those are today's sources
21 of money independent of the new money that will
22 be coming in.

23 MR. TUTTLE: So, even today's sources
24 of money, presuming that Suffolk Downs is

1 granted a racing license for 2014, we would
2 begin simulcasting on January 1 as we have
3 traditionally for the last several years that
4 we've been awarded a license. We will segregate
5 money for the purse account and plan to
6 segregate money for the purse account so that
7 it's used only for those purposes.

8 CHAIRMAN CROSBY: I was just going
9 to ask is this purse money for next year already
10 accrued at the end of this year?

11 COMMISSIONER ZUNIGA: Yes.

12 CHAIRMAN CROSBY: So, it's awarded
13 in arrears. Next year's purse money has been
14 accrued from this meet, this year's meet?

15 DR. DURENBERGER: No.

16 MR. TUTTLE: No, that's not the case.
17 Purse money is accrued on an annual basis
18 beginning January 1 of each year. So, even
19 though we will finish our live racing meet on
20 November 2 this year, we will pay substantially
21 more into the purses than we will have already
22 earned.

23 The onus is on us in November and
24 December to continue to generate simulcast

1 revenue to the earned purse account that we've
2 already paid to the owners of the horses who
3 have run during the live racing meet.

4 CHAIRMAN CROSBY: So, when you get
5 to the beginning of the meet, you do have an
6 accrued balancing in your purse accounts, but
7 you pay in effect deficit spend, as Steve said,
8 and then catch up by the end of your simulcast
9 period?

10 MR. TUTTLE: Correct, yes.

11 MR. O'TOOLE: So, I guess this is
12 probably one of the most difficult questions
13 here on the page. If a track goes dark, the
14 likeliness of another track being built or
15 coming in is highly unlikely. The question came
16 earlier in the day by Commissioner McHugh and
17 then playing off of the question that you asked
18 me of what kind of a deficit do we run at the
19 end of each year, it's highly unlikely that an
20 operator would come in or someone would operate
21 a track just to pay purse money.

22 CHAIRMAN CROSBY: Just to lose a
23 million a year.

24 MR. O'TOOLE: Just to lose a million

1 a year. And while all of the suggestions are
2 good ones, this is probably the most difficult
3 one to solve. I've lived in the racing business
4 for 25, 30 years even though I look as good as I
5 do. It hasn't taken that much of a toll on me.

6 For the last 15 years, this gaming
7 legislation has been talked about and beat up
8 and talked about and brought to a vote and
9 talked about, and voted down. For a legislative
10 fix to put a band-aid on this somehow, I don't
11 know how likely that would be knowing our
12 Legislature and watching it over the course of
13 the years for this this gaming legislation to
14 come through. I don't know how that would
15 translate.

16 I don't see another track being
17 built. I know Mike doesn't think that that
18 property is developable, but I think it probably
19 is. There's some real potential for the
20 continuance of racing with the applicants that
21 are on the table. I would just hope that this
22 disastrous day would never come.

23 DR. DURENBERGER: As do we all.
24 Again, the framework for this discussion was

1 that it remains a possibility. And that's a
2 reality. So, I think that some of our parties
3 are asking these questions and they deserved to
4 be brought out in the open of this forum. That
5 was the purpose of this discussion.

6 But I don't feel like we are ready
7 to quite leave this topic yet. Was there more
8 comment over here, Anthony?

9 MR. SPADEA: It's funny, Mr. Crosby
10 asked a question of Mr. Tuttle a few moments ago
11 about how much money Suffolk Downs had been
12 using each year at the thoroughbred level,
13 because of the deficit and handles and all of
14 that. They kept paying an adequate purse
15 account.

16 I wish they'd ask the horsemen some
17 of them the money they've lost over the last 25
18 years because it's something that somebody said
19 here before. For most of these people, this
20 business has been their life. They love it.
21 You would think that they do it for money but I
22 don't think there's a guy in this room that
23 races -- I think it's something that's either in
24 your blood and it stays and you do it because

1 you love it.

2 But the horsemen are putting new
3 money into this industry every day. If you race
4 in this part of the country, it's almost
5 impossible to make money unless your whole
6 family is working and working hard.

7 When you bring up the question if
8 there was money accruing and money accruing in
9 these accounts if either racetrack decides not
10 to open, we've had an idea right along and we've
11 discussed it before that we do think some states
12 found it very practical to form nonprofits and
13 to allow horsemen, if they thought that the
14 opportunity was there to have possibly a
15 racetrack under a situation.

16 NYRA has done it, New Jersey has
17 done it. But we do think that sometimes maybe
18 the money, if certain people didn't want to
19 maintain a racetrack, we do think that the
20 revenue streams from the casinos and the
21 possibility of state-funded bonds and a group of
22 loyal, honorable and I think intelligent enough
23 horsemen, businessmen could to a pretty good job
24 at it.

1 And I think we can run a nonprofit
2 if the availability was given and the
3 opportunity was given if there was an income
4 stream from casinos. It would be no burden on
5 anybody because the income stream would be there
6 and that's what it was generated for if the
7 possibility of a license was available. I just
8 wanted to get that out when we had an
9 opportunity because we thought of that for a
10 long, long time.

11 COMMISSIONER ZUNIGA: I have a
12 question. I'm sorry this takes out of order
13 some the questions you had teed up. But we
14 heard this morning that the trend or what other
15 states have done in terms of preserving the
16 industry with the economics of the marketplace.
17 Some of it I've also learned from you in prior
18 conversations has been shorter meets with more
19 horses as opposed to more meets that 23K
20 requires.

21 I'd be interested in the panel
22 whatever they may think about this particular
23 piece of 23K, the requirement of additional days
24 for racing licensees that become gaming

1 licensees.

2 MR. TUTTLE: I should preface this by
3 saying it is a challenge that we would welcome.
4 Having additional racing days is a challenge
5 that we would welcome.

6 Commissioner Zuniga, I think if we
7 had a PowerPoint or a chart, there's dynamic
8 tension between the betting fan, the racing
9 public and the horsemen. And as the track
10 operator sometimes you're in the middle of that.
11 Because what is ideal for horsemen is more
12 opportunities to race in one market so that they
13 don't have to pack up and go to Tampa for the
14 winter although it's an unfortunate reality.
15 There's not demand for year-round racing in this
16 market.

17 So, the horsemen ideally, and this
18 may be an oversimplification, but more races
19 with fewer horses is great because we pay purses
20 to the finishers first through five. So,
21 there's only five horses in every race, then
22 everyone gets a check.

23 But bettors hate that. They want 10
24 and 11 and 12 horse fields of the most

1 competitive horses and if fewer racing days is
2 what gives them that. And we've seen racetracks
3 that are and have been successful, they
4 generally have a mix where it is -- they try to
5 create a sense of urgency and special events.
6 Some of those have shorter race meets around the
7 country.

8 So the operator, we have a great
9 group of horsemen that have been loyal to
10 Suffolk Downs over the last five or six years
11 through some very thin times. We have the
12 public on a regular basis telling us with their
13 wagering dollars what it prefers. And we try to
14 strike a balance between those. And would
15 certainly look forward to working with our
16 horsemen in the future on how we continue to
17 strike that right balance.

18 MR. SPADEA: Your question is funny.
19 It's between two different scopes of what it's
20 really all about. You're trying to provide an
21 industry a way of life by giving us a revenue
22 stream and helping us bring in a revenue stream
23 from someplace other than the racing industry,
24 from casino wagering.

1 What you've seen is that the tracks
2 that have done it and have lived it, for
3 example, in New York especially we say the
4 Finger Lakes Region, small racing where they
5 have -- they are breeding not hundreds,
6 thousands of New York breds. They don't run for
7 a log of money, they have a lot of
8 opportunities.

9 But the differences is when you make
10 an industry, you're making home and you're
11 building an industry. When you limit the amount
12 of opportunities then if the opportunities are
13 because you don't have enough horses, you ain't
14 going to be able to get enough horses for a
15 number of years to run the type of races that
16 the horsemen here want to run.

17 But in time, if the revenue keeps
18 coming and the breeding becomes what we believe
19 it could be, there is 11,000 acres of space in
20 Massachusetts right now that has a thoroughbred
21 or an ex-thoroughbred standing on it right now
22 as I speak to you, still active today. And some
23 of those thoroughbreds naturally are being used
24 for dressage and other situations.

1 What we're praying to do is if we
2 have a stream of revenue and we have an
3 opportunity, we think we can build an industry
4 and have horses stay here 12 months of the year.
5 We think we can build an industry that is going
6 to give you as many jobs, as much revenue as
7 you're going to get from a casino.

8 We think there's still a space in
9 Massachusetts in the heritage of this part of
10 the country for a racetrack because there is no
11 other racetrack. We are the only thoroughbred
12 track in this part of the country.

13 We know all of the competition for
14 the entertainment dollar has went to other
15 places. But yet when you run a racetrack on any
16 one of the major race days, if you look at
17 Suffolk Downs or any racetrack, I'm sure the
18 harness industry has big days, but if you go to
19 any racetrack on the major holidays, when you
20 have the Derby, the Preakness, the Belmont, the
21 Breeders' Cup, those tracks are still full of
22 people.

23 And you're going to have to learn
24 how to live on the big days. The normal days,

1 you're going to have small attendance all the
2 time. But we want the opportunity to build an
3 industry.

4 We want to do what they're doing in
5 New York, in Indiana. We want to show that we
6 can have that type of an industry flourish here.
7 And we think that we can still do it, but I do
8 agree it's going to be difficult.

9 Days are going to be difficult
10 because of such a shortage in horses, even
11 though I think our people will do as good a job
12 as anybody on restocking and buying more horses.
13 But it's going to take time.

14 If he can breed 37 mares when
15 there's no money at all, and that's just one
16 farm and that's not an exaggeration.

17 CHAIRMAN CROSBY: I have a question, just
18 some general background. What are the
19 projections for the amount of money that would
20 go to the Racehorse Development fund to purses,
21 so, I guess 80 percent of the Racehorse
22 Development fund more or less when the industry
23 is up and running -- I mean when the casino
24 industry is fully up and running what is that

1 number projected to be, more or less?

2 MR. SPADEA: \$22 million all in all.

3 DR. DURENBERGER: That fits in the
4 range. I've been working with a range, a low-
5 case range, a high-case range, but that's in
6 there.

7 CHAIRMAN CROSBY: So, in the \$20
8 million range, something like that.

9 DR. DURENBERGER: Eighty percent of
10 that --

11 MR. TUTTLE: I think that presumes
12 that the presumption is here about Category 1
13 and Category 2 licensees and whether or not the
14 southeast region, and so there are ranges. But
15 they are substantial.

16 CHAIRMAN CROSBY: Okay. Maybe 10 to
17 15 after discounts and you've got an issue with
18 southeast, somewhere like that. How does that
19 compare to total purse monies now? In other
20 words, how material is that as a contribution to
21 your purses?

22 MR. TUTTLE: We pay \$8.5 million a
23 year in the last two years over 80 racing days
24 by contract. That's the amount we agreed upon.

1 We generate, according to the statute and other
2 formulas probably about \$7 million.

3 So, we invest \$1.5 million roughly
4 annually in purses as part of our partnership
5 with our horsemen. That 105,000 a day is the
6 lowest on the East Coast for thoroughbred
7 racetracks. And it compares with 250 - 275
8 upwards of 600,000 a day at Saratoga. Somebody
9 might correct me on that but that's a rough
10 number for what's paid there.

11 CHAIRMAN CROSBY: Steve what's your
12 total purse and commitment?

13 MR. O'TOOLE: We're at about \$2.5
14 million a year.

15 CHAIRMAN CROSBY: So, between the
16 two, it's like \$10.5 million. So, you're
17 talking about doubling or more the total purse
18 amount if this all were to come to pass. That's
19 really material in terms of the impact on the
20 whole economic model. Thanks.

21 DR. DURENBERGER: Which leaves the
22 last item on the agenda which is -- This is
23 shifting gears quite a bit. So, I'm just
24 struggling if we should just go into this or

1 maybe take questions from the audience at this
2 point on the previous questions. Seeing nobody
3 burning to get out of their chairs, let's go
4 through E, the effect of state pari-mutuel tax
5 reporting and withholding requirements on
6 handling and industry stakeholders.

7 I just want to preface this by
8 saying you heard a little bit from Mr. Waldrop
9 this morning. This has been an item that we
10 have brought before the Commission at several
11 meetings earlier this summer. We are composing
12 a summary of the story thus far of the stories
13 that we've told, the information that we've
14 collected.

15 We did receive a letter from the
16 NTRA. That's going to come before you. We
17 received a letter early on from HBPA, Mr.
18 Spadea's organization. We'll have all of that
19 before you as an agenda item at the October 21
20 meeting.

21 And Racing Division staff is
22 prepared at that point to make a recommendation
23 to you incorporating the things that we've heard
24 today, both in this morning's discussion and the

1 discussion we are going to have right now after
2 we hear from operators and stakeholders. That's
3 an agenda item for October 31.

4 The background here for those of you
5 who couldn't follow this morning's discussion,
6 which started at the federal level and then came
7 down. We are going to start at the local level
8 and then move up, which is basically that the
9 Expanded Gaming Act changed the tax statute in
10 Massachusetts.

11 It changed the fact that that there
12 used to be an exception on taxes on reporting
13 withholding taxes for the state. Let me just
14 back up here. There's a federal reporting
15 threshold, which is triggered when the amount
16 paid is \$600 or more and the proceeds, the
17 payout odds are at least 300 times as large as
18 the amount wagered.

19 You get withholding at the federal
20 level triggered by proceeds of more than \$5000
21 from the wagering transaction, if the amount of
22 any such proceeds is at least 300 times the
23 amount wagered. The amendment what it did in
24 Massachusetts was it removed the state

1 withholding tax exception that existed.

2 Pari-mutuel winnings had been
3 excepted under Massachusetts law prior to the
4 Expanded Gaming Act. And then it dropped the
5 reporting threshold to winnings of \$600 or more
6 regardless of payout odds. So, now there is a
7 state tax, five percent, reporting and
8 withholding threshold of \$600 regardless of
9 payout odds.

10 I think what I'd like to do this
11 afternoon is just hear from some of the
12 operators and from the stakeholders about the
13 effects that they are feeling at the ground
14 level. And one of the things that we talked
15 about at one of the meetings was that anything
16 that can affect handle in the Commonwealth,
17 affects a whole number of stakeholders.

18 It affects the Commission's
19 operating budget for one. But it affects all of
20 the stakeholders that sit at this table because
21 money from handle is all percentage driven.
22 Percentages go into benevolency funds, into
23 breeders funds, into purse monies. So, all of
24 -- And there's a bunch of them we don't think

1 about, division affairs, Tufts Veterinary
2 school. So, all of those are directly affected
3 by anything that impacts handle.

4 And as we heard very emphatically
5 this morning, this is something that has an
6 impact on handle. We're putting together the
7 numbers, the hard numbers on what was happened
8 before and after this requirement our racetracks
9 started withholding and reporting this summer.
10 And we'll present that to you again on the 31st.

11 That is why this is an issue of
12 importance to the industry is because it affects
13 a lot of people. So, we'll start with the
14 operators, Mr. O'Toole.

15 MR. O'TOOLE: So, I was kind of
16 puzzled this morning when Alex Waldrop started
17 talking and giving his presentation, because I
18 guess he never heard the term Taxachusetts. He
19 was pretty emphatic about the effects that that
20 particular withholding has on handle. And I
21 think he's accurate.

22 And the reason I think he's accurate
23 is because we've seen over three months about
24 \$60,000 withheld from our patrons. And to

1 define a term that he used churn, when he used
2 the term churn this morning, for anybody that
3 doesn't know what the term churn means -- I
4 actually had a fellow say to me, boy that guy
5 over there, he's a big bettor. He came in and
6 bet \$200 on that race. But he left because he
7 lost. He's a big bettor.

8 And I know people that will come to
9 the track with \$200 and bet \$1000 in a day, but
10 leave with 200 or 300 or 100. They churn that
11 money through the windows. They keep taking
12 their winnings and they keep churning it
13 through.

14 So, for somebody to come in and just
15 throw a big wad, that's not a big bettor. A big
16 bettor or a good bettor, I should probably
17 clarify, is somebody that can come in and they
18 can use their knowledge of the industry and
19 churn that money through the windows over and
20 over and over.

21 If you keep withdrawing -- we are
22 withdrawing it now 26 percent on exotic wagers,
23 19 percent on win, place and show wagers. Now
24 this just more. We're withdrawing more from

1 those gamblers. So, they don't have that money
2 at the end of the day or as they are churning
3 that money through.

4 And the cumulative bets, you can
5 invest a lot of money. You hit a race and get a
6 tax ticket on that race, have the money withheld
7 and actually lose money on the race. Those are
8 rare instances, but it can happen using all the
9 bets that you need to put into that race to grab
10 a winning ticket.

11 So, we've seen an effect besides
12 irate customers when they first started
13 realizing and they've adapted. They started
14 betting in smaller increments, using minimal
15 bets, not betting \$500 to win or \$200 to win.
16 They bet \$20 a bunch of times to get around that
17 looking at the odds of the horses.

18 So, they've adapted, but they
19 haven't adapted enough because the numbers are
20 still holding true month-to-month. It's about
21 \$20,000 in Massachusetts withholding and federal
22 withholding is probably one-third of that,
23 federal withholding which is a \$5000 threshold.

24 So, we've definitely seen an effect.

1 And I think that as you take that money out of
2 the churn then you take it out of the horseman's
3 pocket. You take it out of everyone's pocket
4 because the handle goes down.

5 MR. TUTTLE: Whether Massachusetts
6 withholding has been since the enactment, I will
7 for perspective just give you some figures. Our
8 average daily on-site handle from January
9 through May was actually up 5.61 percent this
10 year, which is relatively unheard of these days.
11 And a trend that we are hoping would continue.

12 When this was enacted on June 1
13 coinciding with our live racing day, our average
14 daily handle on-site since then has been down
15 5.41 percent. So, we've got an 11 percent swing
16 from pre the enactment of this to post the
17 enactment of this.

18 Now clearly there are some other
19 variables but this seems to be the most
20 significant variable.

21 DR. DURENBERGER: Mr. Spadea, your
22 organization submitted a letter. Would you like
23 to speak to that?

24 MR. SPADEA: When it first came

1 about, at Suffolk there's a Turf Club for where
2 the gamblers normally go upstairs. It's a
3 pretty nice room. Management has always
4 provided a nice atmosphere up there. And the
5 food is very good for a racetrack. Most of the
6 professional gamblers go upstairs.

7 If some of the major league teams
8 are in town most of the sports figures go up
9 there. You have a chance every now and then to
10 feel important. You might sit next Steinbrenner
11 when he was with the Yankees because he is a
12 great horse fan. So, it was a nice place to go.

13 Since that tax got passed, there
14 isn't three people in that room. We have lost
15 every major league player the bets amount of
16 money that would have a problem with those tax
17 tickets. It's really -- I thought that it would
18 have been a lot worse than the numbers that Mr.
19 Tuttle just said.

20 Originally, when I saw it, right
21 away I got several phone calls from some very
22 prominent horse owners and horseplayers. So, I
23 did the best I could. And I thought we were
24 going to get lucky.

1 I thought we had some Legislators
2 sponsored a bill right away. And I thought that
3 it was going to get rescinded right away. But
4 somehow it fell apart. I don't want to talk too
5 much more about that, but somehow it didn't get
6 amended.

7 I wonder what' going to happen if we
8 have a casino? What are you going to do, stop
9 everybody in the middle of -- if they're
10 shooting craps or playing blackjack? What do
11 you do? Do you stop the game and take the tax?

12 DR. DURENBERGER: So, as it stands
13 right now, actually, the table games are
14 exempted but that is not true of the slot
15 machines. So, a \$600 win at a slot machine --

16 MR. SPADEA: They stop the game and
17 you got to pay the tax.

18 DR. DURENBERGER: If you're \$2000 in
19 and you have a \$600 win as it stands right now,
20 that would trigger reporting and withholding.

21 MR. SPADEA: That's what we didn't
22 really need at this time, I guess. Everybody in
23 this room knows that. We just don't need that.
24 It's not helping us.

1 DR. DURENBERGER: Mr. Brown?

2 MR. BROWN: I just wanted to point
3 out that that tax affected the on-track betting.
4 And the breeders get a percentage of the on-
5 track betting. And the drop in the amount was
6 so large that we had to either cancel two of our
7 stake races or reduce the value of the races
8 down so that we could run our program. That's
9 how much it affected us. It was quite a bit of
10 money. So, that five percent tax is hurting a
11 lot of people.

12 DR. DURENBERGER: Anything from Mike
13 or Steve? If I may just direct the question to
14 Mr. Maclarane in the audience. You are with
15 Penn National Gaming Incorporated. I want to
16 make sure I have the entity correct. And you
17 operate a number of facilities both harness and
18 thoroughbred in a number of different
19 jurisdictions.

20 I would just ask that you use the
21 microphone. Can you comment on -- Do you
22 operate currently in any other states that have
23 state tax withholding because there's a fair
24 number of states that do have reporting and

1 withholding requirements. They use the federal
2 threshold, most of them. So, we're not in the
3 minority in charging that, but I'm just curious
4 about your experience as a multijurisdictional
5 operator.

6 MR. MACLARANE: Thank you, Dr.
7 Durenberger, Chris Maclarane from Penn National
8 Gaming. The only one that I'm aware of is New
9 Jersey, which has a three percent surcharge but
10 that is only for the \$5000 threshold for the 25
11 percent that they actually take out at that
12 time.

13 None of the other states that I'm
14 aware of that we operate in have a similar rule
15 to Massachusetts.

16 Quite honestly, I think it's pretty
17 regressive and while I haven't seen the exact
18 numbers, I would think that there would be a
19 negative impact not only short-term but this is
20 almost like -- it is a tax and it has trickle-
21 down and longer term effect as well that you
22 don't necessarily see right at the beginning,
23 but it's cumulative and has a long-term impact
24 on the wagering handle.

1 DR. DURENBERGER: Were you operating
2 in New Jersey -- That statute had been in place
3 in New Jersey before you --

4 MR. MACLARANE: That's been there
5 for a long time.

6 DR. DURENBERGER: So, you can't
7 speak to any before or after.

8 MR. MACLARANE: That's correct.

9 DR. DURENBERGER: So, we're in the
10 process of assembling these numbers. And
11 actually, George, that's a very interesting
12 thing that breaking it out as a percentage that
13 did go to the individual funds. I opened that
14 door by talking about how all of the different
15 programs receive a percentage of handle and
16 therefore are all affected. But it might be
17 useful for us over the next week or so to break
18 that down by the individual funds and see how
19 the contributions going in have been increasing
20 or decreasing before and after.

21 Commissioners? What we could at
22 this point, we have a microphone behind the
23 Chair here. If there are burning questions in
24 the audience, I would say raise your hand and I

1 will signal you to come up. There must be
2 questions because we had a request for a
3 microphone. Sir, come on up. And please
4 identify yourself.

5 MR. LEWIS: My name is Graham Lewis.
6 I'm originally from Wales, Great Britain. My
7 uncle was one of the largest exporters and
8 importers of standardbred racehorses in Wales.
9 His name was John Saunders Jones. We owned
10 Saunders farm. And horses were Saunders pearls.
11 They came to the states. During the 70s and 80s
12 the exporting and importing business of the
13 standardbred racehorses was at its peak. We
14 found that to be a drop. There's no more
15 exporting and importing. My question here is
16 basically this. May I ask Steve O'Toole a
17 question? Steve, how long have you been in this
18 business? I'm sorry to ask, but I'm building up
19 to a questions.

20 MR. O'TOOLE: 1973.

21 MR. LEWIS: How long has the state
22 of Massachusetts been begging for the slots?

23 MR. O'TOOLE: I would say in the
24 early 90s, it started in the early 90s.

1 MR. LEWIS: During that time, how
2 many horsemen have you seen pass away? Your
3 friends, people that have been waiting for the
4 slots, how many are no longer with us?

5 MR. O'TOOLE: A number.

6 MR. LEWIS: Quite a few, right?
7 Heartbreaking news when you see a friend. One
8 of the blacksmiths that I know Bobby
9 Constantino, he was a very fine man. He is no
10 longer with us. He prayed for the slots on a
11 daily basis. We are still praying for the
12 slots. We need them. We definitely, definitely
13 need them.

14 As you say, the industry is failing
15 and an industry is going downhill. We've been
16 standing around waiting too long. Other states
17 are up and running, making money and doing well.
18 And we see the flux of money leaving this state
19 and going to other states. It's a faucet drip
20 that should be stopped.

21 If we love this state as much as we
22 do, as well as the horsemen and yes, it is a
23 livelihood.

24 CHAIRMAN CROSBY: Graham, excuse me,

1 I'm sorry to interrupt you, but I appreciate
2 your passion. But it's not fair to the other
3 bidders in this business to have you have a
4 chance to speak your piece on behalf of this
5 relationship. Otherwise, you will hurt
6 yourself, because they will want to have a
7 chance to come in. So, if you've got specific
8 questions about the issues that we're
9 discussing.

10 MR. LEWIS: Plenty of these
11 racecourses have been around for 10 years. And
12 it's been affordable and it's been a fine
13 racetrack. I came here to race 10 years ago.
14 And it's become my home. I don't want to race
15 anywhere else. I want to race here in the state
16 of Mass. I made it my home. I want to say
17 thank you, Sir, for allowing me to race at your
18 racetrack. And I think you are one fine human
19 being.

20 MR. O'TOOLE: I appreciate that, but
21 I'm going to do an Alex Trebek and ask you to
22 please state that in the form of a question.

23 MR. LEWIS: We've lost an awful lot
24 in this state because they're dragging our feet

1 both in thoroughbred and in standardbred. And
2 we are here for one purpose and that is to get
3 the slots. Plainridge Racecourse is operable.

4 Would you say that if Plainridge
5 were to go dark and give an opportunity for
6 another person to come in, wouldn't you agree
7 that it would be equivalent to jumping out of a
8 perfectly fine airplane just to hope that a
9 glider passes by?

10 DR. DURENBERGER: I'm not sure that
11 that's an answerable question, but thank you for
12 your comment. Anybody else? How do you follow
13 that up, right? Go ahead Dr. Duggan.

14 DR. DUGGAN: My name is Mike Duggan
15 and I'd be damned if I let a Walesman have the
16 last word.

17 I just think in my own opinion -- I
18 grew up in Ireland. -- it would be a shame to
19 see the farms close. I think that when I was
20 going to vet school we had 500 farms back in
21 '92. We are now down to 100. I just see it as
22 a tough industry to be in. And I think it's an
23 opportunity for these people to have a new lease
24 on life. And I'll leave it at that.

1 DR. DURENBERGER: Any Massachusetts
2 natives willing to take the microphone? We have
3 a number of -- almost all of you are
4 occupational licensees. Go ahead, come on up.

5 MR. KERKORIAN: My name is Bill
6 Kerkorian. I'm a current owner, trainer, driver
7 racing at Plainridge Racecourse. I've lived in
8 Massachusetts my entire life, been in the
9 horseracing business since 1970.

10 I didn't plan on speaking today, but
11 since you asked for somebody that was a
12 Massachusetts resident, I guess that qualified
13 me.

14 DR. DURENBERGER: I should have
15 qualified that we are looking for questions. I
16 just want to make sure that that's where you're
17 headed.

18 MR. KERKORIAN: Okay. The situation
19 is my son and I own a breeding business with
20 racehorses. We have a farm in Townsend. We
21 have eight horses there, three broodmares. And
22 we are very seriously concerned about the
23 viability of our investment in this industry.

24 We feel as though the Commission

1 needs to make a determination and a vote to
2 continue horseracing at Plainridge Racecourse as
3 viable source of revenue for this industry.

4 CHAIRMAN CROSBY: I have got to cut
5 this off. This is totally not the right topic.
6 I'm sorry to do that.

7 MR. KERKORIAN: No, Mr. Chairman. I
8 feel as though the Commission has a vested
9 interest to protect an industry in this state.
10 I'm just concerned that we are headed in that
11 direction.

12 CHAIRMAN CROSBY: Okay. There's a
13 time and a place for those comments. I
14 understand where you are coming from. But this
15 isn't the time or the place for those comments.
16 I don't want to any way distort what the agenda
17 is here with the discussion that is unfair to
18 other folks.

19 MR. KERKORIAN: I am somewhat
20 confused as to what you claim the agenda is. I
21 think that this is a serious issue. And we are
22 all here to find out what is the protection of
23 our interest in this business.

24 I've invested a tremendous amount of

1 money, time and energy in this industry, which
2 right now is in your hands. I'm seriously
3 concerned about what direction we are headed in.

4 I have a farm. I've got hundreds of
5 thousands of dollars in time and energy
6 invested. And I'm seriously concerned about the
7 direction this Commission is headed in in
8 protecting harness racing in this state. And I
9 think it's a serious and legitimate concern.

10 CHAIRMAN CROSBY: Thank you, I
11 appreciate it. Great. I'm going to move on to
12 the other agenda, if I may. The clear, clear,
13 clear takeaway from this meeting, I know it's in
14 my mind, Commissioner McHugh said the same thing
15 to me, is the sense of uncertainty about what's
16 going on here with respect to the existing
17 industry, the existing livelihood of a host of
18 dedicated people to this industry.

19 The solutions about who is going to
20 have a license are going to be made, the
21 decisions are going to be made in the next six
22 months or so. At that point, we'll have one big
23 data point dealt with. All of these things will
24 be taken into consideration as are a host of

1 other issues being taken into consideration.

2 What this meeting was intended to do
3 and it has done, I think, is to help our
4 Commissioners in particular begin to get a more
5 thorough understanding of the range of issues
6 that are before us once the decisions are
7 finally made about what's going to be happening
8 with the gaming licenses and therefore the
9 consequences for the racing industry.

10 And the two sets of speakers, the
11 two panels, it's been tremendously helpful.
12 There is this interim period where everybody is
13 up in the air about what they are supposed to
14 do. It affects us. We don't know what to do
15 with our own employees as well as it affects you
16 all much more. We understand that.

17 If it is possible to figure out a
18 strategy for doing something relative to next
19 year, this gray area, uncertain year, while the
20 casino, the gaming licenses are playing
21 themselves out, if there is a way to address
22 that, we will. I don't know that there is. It
23 may just be we are stuck. This is the deck of
24 cards, so to speak, that we've been dealt. That

1 may be the only solution there is.

2 But if we can think of a way to do
3 something to get some kind of decision soon so
4 you have an idea of what's going to be happening
5 next year at the two tracks, we will do that.

6 There's a second problem, which one
7 of you alluded to, which is that the whole
8 statute authorizing gaming sunsets on July 31 of
9 next year. -- Sorry, horseracing sunsets on
10 July 31 of next year.

11 I know very little about this. I've
12 begun to learn but as I understand it, year
13 after year after year this has sort of been
14 rolled over. It's been kicked down the road.
15 There's never been any really comprehensive
16 rethinking of what the statute should look like.
17 It's just kind of been let's renew it a year,
18 another year, two years.

19 That's clearly not the way we want
20 to keep going. We don't want to keep kicking
21 the can down the road. We don't want to just
22 keep doing these year by year renewals. We want
23 some kind of a thoughtful, strategic, long-term
24 initiative once we know what the lay of the land

1 is that can help this industry back to not only
2 good health, but conformance with the best
3 standards across the United States.

4 We've started. We have the
5 Commission with Jennifer's leadership has
6 already made a whole host of recommendations
7 about changes we can make in the industry. We
8 are talking about modernizing the statute to
9 conform to the new business model. It was
10 written back before there was much in the way of
11 simulcasting.

12 We're talking about trying to
13 reconcile or what we call harmonize the racing
14 statutes with the new gaming statute. But
15 there's a lot more that needs to be done, other
16 issues that we need to take a look at for the
17 long-term status of the industry including the
18 takeout structure in the light of the new
19 economics and the Racehorse Development fund.
20 We need to at least review the takeout
21 structure.

22 We need to talk about thinking about
23 the cash flow from simulcasting. Is that a
24 rational cash flow pattern at this point?

1 There's a whole host of issues that we need to
2 think about.

3 Our sense is, and this is just our
4 sense at this point, is that this is just not
5 the time for all of us to be able to sit down
6 over the next few months and work out a macro
7 fix to the horseracing legislation. There's too
8 many variables. We don't know the lay of the
9 land. There's too much anxiety. Everybody is
10 caught up in wrestling with their own tough
11 decisions that have to be made now.

12 So, we think that we want to put on
13 the table the suggestion that we all get
14 together and go to the Legislature and say we
15 need one more renewal. We need to get one more
16 renewal of the basic statute for one more year
17 so at least we know that where not going to get
18 sunsetted on July 31.

19 Then come January 10 and April,
20 we'll make the licensing decisions and then
21 we'll know what the lay of the land is. We can
22 then pool our resources and really figure out
23 what kind of real long-term fix, new racing
24 legislation we need to file for the future.

1 So, we're going to ask you and there
2 may be other solutions, there may be other
3 things on this issue. But just on the issue of
4 what happens on July 31, we are going to talk to
5 you about maybe all getting together so we're
6 all on the same side of the table and going to
7 the Legislature and just dealing with that one
8 issue of the sunset so we at least take away
9 that one piece of uncertainty at this stage of
10 the game. Did I say that approximately right?

11 DR. DURENBERGER: You hit it out of
12 the ballpark, Mr. Chairman. And if I could just
13 bring it back to a comment that Mr. Waldrop made
14 this morning and I heard him say and I'm going
15 to paraphrase him because I'm hearing the
16 message, not the words.

17 He was talking about this in the
18 context of congressional interest in regulating
19 horseracing. And he made a comment to the
20 effect of if the industry comes together and has
21 a consensus on a piece of legislation that's how
22 you get legislation done.

23 So, if we can do that if the
24 stakeholders here, if we can all do that and go

1 to them, it's not going to cause consternation.
2 If we can get together, the regulator, the
3 regulated we are all in agreement that this is
4 what this industry needs right now for
5 stabilization and protection until such time as
6 we can see what the future actually looks like
7 that's how we get legislation done.

8 We're happy to take the lead on
9 that. We recognize what a challenging time this
10 is for you all, but one of the reasons that I'm
11 paid to be in this position is to take a
12 leadership role in this. And I'm certainly
13 willing to do it at the Commission's direction.

14 CHAIRMAN CROSBY: I think it's worth
15 thinking about, and I'm just now going to
16 violate my own principle. If we could get the
17 leadership of the industry in the room and I'm
18 not sure that that could be done, but if we
19 could to think about this idea, it might be that
20 we could put one or two other little things in
21 there.

22 The five percent withholding is not
23 something the Commission hasn't talked about.
24 We don't have a position on it. It doesn't come

1 from us. But if there were a consensus that
2 that was a problem, we could at least consider
3 whether it'd be worth sticking it in there. I
4 don't know whether it is not.

5 But a minimalist strategy to at
6 least take away the July 31 uncertainty is
7 something that we'll be talking to you all about
8 and hope maybe we can get a consensus on.

9 This is -- Actually, this afternoon
10 is a formal meeting of the Commission. So,
11 we'll have to adjourn and have a motion to
12 adjourn. But before we do that, I just want to
13 say thank you to you all.

14 I say I can appreciate what you all
15 including Mr. Duggan and Graham go through.
16 Obviously, I can't really. Although I have been
17 an entrepreneur who had a very hard time paying
18 his bills for a long time. So, I can share that
19 experience with you. But I know how important
20 this is to you.

21 We have come to begin to care about
22 the industry too. We wear a lot of hats. It's
23 not a simple set of decisions that we have to
24 make. But we really do appreciate I think

1 beginning to be in an emotional way as well as a
2 rational way the way you feel about your
3 industry and what this industry means.

4 One way or the other, independent of
5 the gaming decisions we'll be doing what we can
6 to pitch in. So, thank you all very much for
7 coming. Thank your earlier speakers. It was
8 terrific. It was really helpful for us. All
9 five of the Commissioners I think have sat here
10 spellbound.

11 Do we have motion to adjourn?

12 COMMISSIONER MCHUGH: So moved.

13 CHAIRMAN CROSBY: Is there a second?

14 COMMISSIONER CAMERON: Second.

15 CHAIRMAN CROSBY: All in favor, aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER STEBBINS: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSISONER MCHUGH: Aye

20 CHAIRMAN CROSBY: The ayes have it.

21

22 (Meeting adjourned at 4:13 p.m.)

23

24

1 GUEST SPEAKERS:

2 Matthew Iuliano, The Jockey Club

3 Mike Tanner, USTA

4 Alex Waldrop, RMTC

5

6 George Brown, Massachusetts Thoroughbred Breeders
7 Association

8 Steve O'Toole, Plainridge Racecourse

9 Mike Perpall, Harness Horsemen Association of
10 New England

11 Steve Quinn, Standardbred Breeders

12 Anthony Spadea, New England Benevolent
13 and Protective Association

14 Chip Tuttle, Suffolk Downs

15

16 MASSACHUSETTS GAMING COMMISSION STAFF:

17 Catherine Blue, General Counsel

18 Dr. Jennifer Durenberger, Director of Racing

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C E R T I F I C A T E

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Laurie J. Jordan, further certify I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by Verbatim means, and transcript produced from computer.

WITNESS MY HAND this 25th day of October, 2013.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018