

In the Matter Of:

INDIANA HORSE RACING COMMISSION MEETING

IHRC Meeting

January 28, 2015

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INDIANA HORSE RACING COMMISSION
MEETING

HELD ON

JANUARY 28, 2015

9:00 A.M.

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APPEARANCES

Thomas Weatherwax, Chairman
Susie Lightle
George Pillow
William McCarty

Joe Gorajec, Executive Director

Lea Ellingwood, Esq.
Holly Newell, Esq.
INDIANA HORSE RACING COMMISSION
1302 North Meridian Street, Suite 175
Indianapolis, IN 46202

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1 (At this time the oath was administered to the
2 court reporter by Chairman Weatherwax.)

3 CHAIRMAN WEATHERWAX: We will now officially
4 start our business for the day. We have already
5 sworn in our reporter. Commissioner Pillow, we are
6 welcoming you.

7 First on the agenda is the approval of the
8 minutes, which I think were sent to each of you
9 from our last meeting on November 17. If you could
10 review those. If you've already done so, I'll
11 entertain a motion to your pleasure.

12 COMMISSIONER MCCARTY: Mr. Chairman, I move to
13 accept the minutes of November 17, 2014 meeting.

14 COMMISSIONER LIGHTLE: Second.

15 CHAIRMAN WEATHERWAX: Second. All those in
16 favor signify by saying "aye."

17 THE COMMISSION: "Aye."

18 CHAIRMAN WEATHERWAX: So the motion is
19 approved of the minutes.

20 Next on this agenda we have quite a few things
21 here that Joe Gorajec, our executive director, is
22 going to bring us up to speed on, Joe, because he
23 had a pretty exciting year. That's a clarity of
24 term that some people don't agree with. If you
25 would be so kind as to fill us in on what your

1 reports all about.

2 JOE GORAJEC: Absolutely. Good morning,
3 Commissioners.

4 COMMISSIONER LIGHTLE: Morning.

5 JOE GORAJEC: The Executive Director's report
6 covers two areas. One is cobalt testing, and one
7 is our overall equine drug program. With regard to
8 cobalt testing, the Commissioners and the public
9 have a copy of the report that I drafted after the
10 conclusion of the race meet. They also have the
11 press release that accompanied the report. And I
12 don't plan on going through the report point by
13 point, although I will be glad to respond to any
14 questions or comments that the Commission might
15 have.

16 I would like to talk about a few things that I
17 thought were of interest when we analyzed the data.
18 We got probably the best data there is in North
19 America with respect to cobalt levels in a
20 regulated environment. And one of the things that
21 was noticeable is the steep decline when you look
22 at what the cobalt levels were this summer when we
23 were doing our pre-regulation testing and what the
24 cobalt levels were during our regulated period
25 after September 30th.

1 And what I focused on to bring home a point on
2 how successful this program was is when I was
3 looking at the data, one thing that was striking
4 was the near absence of cobalt levels that were
5 considered very high. And for very high, I just
6 arbitrarily picked the number, the round number of
7 a hundred. As you know, our cobalt threshold is 25
8 parts per billion.

9 The average in the median of all of the horses
10 that were tested in the regulated environment was
11 three. So the average is three. Over 90 percent
12 were under ten. Our cutoff is 25. So a hundred is
13 not only high, it's very high. And when we look at
14 what we had in the unregulated environment this
15 summer, we had 2.8 percent of the horses we tested
16 overall were over a hundred.

17 So 2.8 percent, if you just extrapolate, if
18 there's a hundred horses on a day's program, and
19 2.8 of them have high levels of cobalt, then you
20 really have a serious issue. And that was
21 reflected in our first report when we said that we
22 have reason to believe that this is occurring on a
23 daily basis.

24 But what I find most satisfying with looking
25 at these numbers is that these extremely high

1 levels of cobalt virtually disappeared in the
2 regulated environment. We had none in
3 Standardbreds over a hundred. We had none in
4 Thoroughbreds. And we only had one in Quarter
5 Horses. One Quarter Horse, I'm not able to reveal
6 the circumstances with regard to the person whose
7 name it is because his case is under adjudication,
8 but I can tell you it was an Honest Abe Quarter
9 Horse horseman. Wasn't in Indiana.

10 When you take that 2.8 percent and you
11 extrapolate it, what would have happened if we
12 didn't have cobalt regulation, and we just let it
13 slide, and we let what was going on during the
14 summer happen during the fall. I looked at the
15 Standardbred race meet. Starting on
16 September 30th to the conclusion of the race
17 meet, there were 35 Standardbred race days. In
18 those 35 Standardbred race days, there were 238
19 races. In those 238 races, there was 3995
20 starters. We test approximately 20 percent of the
21 horses. We take the winner of every race and
22 oftentimes another horse what we call special.

23 If we didn't implement this rule in the
24 Standardbreds of horses participated in the fall
25 like they did in the summer, we probably would have

1 had 22 positive tests for extremely high levels of
2 cobalt.

3 Now, we only test 20 percent. So if you want
4 to extrapolate it from there, most likely we would
5 have had over a hundred, probably 111 or 112 horses
6 on extremely high levels of cobalt running during
7 our Standardbred race meet. That was one of the
8 reasons why we got such unequivocal support from
9 the Standardbred horse racing industry and the
10 letter from Jack Kieninger and his board. They
11 want this to continue. And the Commission, by
12 passing that regulation, you've put a stop to it.
13 And I think that the racing was cleaner because of
14 that.

15 I want to go through the report that was
16 issued in August that you took up at the
17 September 4th meeting. There were four staff
18 recommendations, excuse me, five staff
19 recommendations that you approved. I will just
20 quickly go through this.

21 The staff recommendations were promulgate
22 proposed rules establishing a 25 parts per billion
23 threshold for cobalt in both post race and out of
24 competition testing and identifying cobalt as a
25 Class A substance. The effective date of the

1 threshold will be with races beginning on
2 September 30, 2014 and out of competition testing
3 samples on January 1, 2015. The effective date of
4 out of competition testing rule will be
5 December 30, 2014. That was done.

6 Approve the University of Kentucky Veterinary
7 Diagnostic Laboratory as a primary testing
8 laboratory and UC Davis as a split sample testing
9 laboratory for cobalt testing. You've done that.

10 Pursuant to IC, pursuant to 71 IAC 2-21, waive
11 71 IAC 8-4-3 requiring ISO 17025 accreditation for
12 split sample laboratory testing at UC Davis. You
13 did that.

14 Direct the Commission Staff to report to the
15 Commission the results of all cobalt testing
16 completed pursuant to the promulgated rules upon
17 the conclusion of the 2014 race meet. That's the
18 report that you have in your packet. And this is
19 the report I'm giving to you verbally.

20 The last one is yet to be done, number five.
21 Prior to the commencement of the pari-mutuel racing
22 in 2015, the Commission Staff shall report on any
23 progress made nationally on the cobalt testing, on
24 the issue of cobalt testing in racehorses. The
25 report shall include but not be limited to updates

1 from the Association of Racing Commissioners
2 International, Racing Medication Testing
3 Consortium, evaluation of any relevant studies and
4 peer review publications. The report shall include
5 any staff recommendations.

6 This is what I would like to have diaried up
7 for our March 10th meeting. I can report up
8 until now there hasn't been a lot of progress
9 between the last time we discussed it and now
10 regarding anything definitive on cobalt with regard
11 to further information on threshold levels and
12 penalties. Although, there has been a lot of
13 behind-the-scenes conversation.

14 I've talked to several people about it. I've
15 kept in touch with the RMTTC periodically asking
16 about, asking them about progress on the subject.
17 So what I will be doing in the next six weeks is
18 putting together any tweaking for the program that
19 I would like to bring to your attention for review
20 at the March meeting. That will most likely have
21 to do with the threshold levels and penalties. I
22 don't see any major changes, but I do see some
23 tweaking to the program that we have.

24 That concludes my report on cobalt testing.
25 Before I get onto the general drug testing report,

1 is there any questions or comments from the
2 Commission?

3 COMMISSIONER MCCARTY: I have a question.
4 Just probably too early to measure this. Does this
5 have any impact on the number of entrants? Will
6 there be any kind of suppressive effect of people
7 wanting to run races in Indiana with this program
8 or is everybody enthused and totally on board and
9 especially out of state?

10 JOE GORAJEC: That question would probably be
11 best directed to the track. Having said that, it's
12 not uncommon that when the Commission makes a rule
13 or policy that is somewhat restrictive in some way,
14 especially if we act before other jurisdictions
15 act, there is often a claim that, well, you're
16 going to have trouble filling races because of
17 this.

18 I don't know if it happened in this particular
19 instance or not. I have no reason to believe that
20 it impacted any of the Standardbred entries. If it
21 impacted any of the Thoroughbred or Quarter Horse
22 entries, you know, there's probably a possibility
23 that those that were impacted were those that might
24 have been receiving excessive levels of cobalt and
25 decided not to enter. So I would argue that would

1 be a good thing, but to give you any kind of
2 measurement that, yes, it happened or, no, it
3 didn't happen, I just couldn't tell you.

4 CHAIRMAN WEATHERWAX: I think that's a good
5 question, Senator, but I think it's also important
6 that we try to stabilize the playing field so to
7 speak this year so we don't have to make changes
8 during the year. I think we did some pretty bold
9 statements and did some pretty bold moves. If
10 everybody knows what the rules are, and we are not
11 changing those rules, I think it will make for a
12 better race year this year. Go ahead, Joe.

13 JOE GORAJEC: With regard to our equine drug
14 testing program, that program this past year to say
15 was extremely challenging would be an
16 understatement. We had some serious issues in our
17 drug testing program with our new laboratory. Our
18 new laboratory that we utilized last year, LGC out
19 of Lexington, is a top notch elite laboratory that
20 had done a great job quality wise and did do a
21 great job for us quality wise.

22 Having said that, there was serious, serious
23 deficiencies as far as them taking care of the
24 business in a timely fashion. We're not the only
25 state that experienced that. They have several

1 other clients. Their two other major clients in
2 addition to Indiana is Kentucky and Delaware. And
3 both of those states experienced the same
4 difficulties we did.

5 I tried to keep the Commission posted during
6 the race meet as to what was going on. As you
7 know, we have issued a few press releases in the
8 middle of the race meet. One of them was something
9 that, as far as I know, hasn't been done, at least
10 in my tenure as an executive director, by any state
11 with regard to changing a laboratory in the middle
12 of the year. That's something that very seldom, if
13 ever, happens.

14 And LGC did a fine job quality wise, but like
15 I said, it was very problematic with regard to not
16 doing things in a timely basis. And it affected so
17 many people. It affected the owners, trainers. It
18 affected the breeders. It affected, of course,
19 most of the Commission Staff. And it's something
20 that we tried to correct it as best we could during
21 the race meet. We were successful in the
22 corrective action that we did take because when we
23 sent our samples from Kentucky to Denver to have
24 Industrial analyze those samples, they were done
25 within a month. And most of them were done in a

1 matter of just a couple weeks.

2 We were in a position to notify all the
3 horsemen of any positive tests prior to the
4 conclusion of the race meet. And I can tell you
5 without any equivocation, I know that in Kentucky
6 and Delaware they could not do that. And quite
7 frankly, horsemen that race in Delaware might get a
8 phone call during their blizzard now saying that
9 they got a positive test from sometime in July. As
10 far as I know, LGC is still working on Delaware's
11 testing, which is just something that is just
12 inexcusable.

13 Having said that, looking forward to 2015, we
14 have put on the street an RFP for laboratory
15 services through the state bidding process, the
16 procurement process. We are going through that
17 process as we speak. We don't have for you an
18 identified laboratory that will be doing our
19 business this year. But between now and the
20 Commission meeting on March 10th, that should be
21 determined.

22 As I believe you know, that's not a decision
23 that's made by the Commission or the Commission
24 Staff. Any contract of this nature has to go
25 through a very time consuming and somewhat arduous

1 process through the Department of Administration.
2 We do have a role that we do play. We do evaluate
3 a portion of the Request for Proposal, but we don't
4 evaluate it all. And we make comments and we make
5 contributions, but we don't make that decision. So
6 we are in the middle of that process. I would
7 anticipate prior to the March 10th meeting, we
8 would have an answer on that.

9 One of the things that looking at what we
10 experienced this past year, not only with the
11 timeliness issue, we had a significant number of
12 positives, a significant increase over the previous
13 years. The number of positives we've had in past
14 years varied. They are a relative low number so
15 they tend to go up and down.

16 When you throw out 2013, which was an odd
17 year, the three years prior to that we averaged
18 about 20 or 21 positive tests between all breeds
19 for all three race meets in a given year. We had
20 118 positives this past year. And depending on how
21 you count positives, we typically tend to count
22 them as the number of horses that came up positive.
23 We had a few horses that came up positive for more
24 than one drug. I think we had five of those. So
25 we had 118 horses. We had five of those with more

1 than one drug. Ninety-six of those have been
2 adjudicated, and the remainder are in the process
3 of being adjudicated.

4 There are several reasons why we had those
5 kind of numbers. I'll share with you what the top
6 two reasons were. One of them is we just spoke
7 about, the timeliness. The timeliness or the lack
8 of timeliness didn't cause any positive tests.

9 Having said that, it could have prevented some
10 from occurring. Typically, horsemen are notified
11 usually two weeks after the races. Sometimes as
12 many as three if their horse came up positive. We
13 had issues where two months would pass, three
14 months would pass, and we still wouldn't have a
15 finding from the lab.

16 And we had on a handful of occasions, horses
17 that were tested that came up positive, ran back
18 and came up positive again because we were unable
19 to notify the trainer that he had a positive in the
20 first instance because we weren't notified. So
21 that was one reason that we had the number of
22 positives that we did.

23 Another reason was the model rules that we put
24 into place at the beginning of the race meet, the
25 national model rules. I think every state that

1 implemented those rules had a spike in the number
2 of positive tests. They had a spike just because
3 they had threshold levels for a number of drugs
4 that they previously did not have threshold levels
5 for. And that caused a lot of horsemen to do what
6 they have always done. And the first year is a
7 learning curve for everyone, including the
8 horsemen.

9 I put in your packet, I have a handout that I
10 would just like to reference here. And this
11 handout is under tab one. And it is beneath this
12 salmon-colored sheet.

13 It's a graph I put together of the positive
14 test history in Minnesota. And I took these
15 numbers from a series of their annual reports that
16 are online. The reason I put it in here, and the
17 reason I think it's germane to this particular
18 conversation is because in Minnesota in 2010, they
19 changed their regulation. They didn't pass these
20 model rules that we passed early last year, but
21 they had a significant change in their testing
22 methodology for a classification of drugs called
23 corticosteroids, which is the classification of
24 drugs that we experienced most of our positive
25 testing this past year.

1 As you can see when you look at 2010, they had
2 a dramatic spike. In fact, they had 140 positive
3 tests between their two breeds in 2010. And we had
4 118 last year. That number, quite frankly, is a
5 lot worse than it looks because they don't run
6 nearly as many days as we do in Indiana.

7 The number in parentheses is the total number
8 of horses tested. They had 2100 horses tested in
9 that year. We have between 4,500 and 5,000 horses
10 tested. So if we had that rate that they had in
11 2010, we wouldn't be looking at 118 positives. We
12 would probably be looking at 250 positives. That's
13 not why I have the table in front of you, the graph
14 in front of you. It's because what happened after
15 that.

16 After 2010, 2011, as best as I can determine,
17 they didn't make any changes to the regulations,
18 but the horsemen got accustomed to what was going
19 to be called a positive. Then the positive tests
20 plummeted.

21 So I would anticipate not having the same
22 experience this year as we had last year for
23 several reasons, but the two primary reasons is
24 whatever, whoever our lab is, they're going to be
25 on time. And secondly is the horsemen have had an

1 opportunity to adjust to the new regulations with
2 regard to testing. And so I could see going
3 forward our graph looking somewhat similar to that.
4 I don't see it continuing to slide like Minnesota,
5 but I think it will reach a plateau that is much
6 lower than where we are right now and continue on
7 from there.

8 So I would anticipate well under half the
9 number of positives this year as we had next year
10 with the asterisk that that would not include
11 cobalt testing. I'm uncertain where we're going to
12 be for cobalt testing for a year period because we
13 only had it for a brief period of time. But in all
14 drugs and all medications, other than cobalt, I
15 would expect numbers from this year to be
16 substantially below what they were last year.

17 A couple things that we're going to do to help
18 improve those numbers in addition to getting a new
19 lab is try to help educate the horsemen with regard
20 to these. We'll be putting out a trainer's
21 newsletter this spring, one for each breed, one for
22 each race meet focusing on education and focusing
23 on drug issues and focusing on the drugs that have
24 caused the most problems at this last year's meet.
25 And we try to put the horsemen in the position and

1 will redouble our efforts to try to keep horses
2 from getting positives. We would rather deter them
3 from getting positives than detect them getting a
4 positive. That's our approach.

5 I think I will conclude my presentation on
6 that. Are there any questions or any concerns you
7 would like to voice about the drug testing program?

8 CHAIRMAN WEATHERWAX: Any questions from our
9 commissioners? The one thing, Joe, you might want
10 to share with everybody is the volume Indiana
11 brings to the testing race samples compared to
12 other states, which I thought was overwhelming,
13 because I think we're not as big as Kentucky but
14 yet we're not small. You add it up, we're pretty
15 big.

16 JOE GORAJEC: It's interesting. LGC, the lab
17 we started with last year, their biggest client
18 previous to last year was Kentucky. Last year they
19 took on for the first time Indiana and Delaware.
20 When you talk about volume, volume equates to the
21 number of samples. Samples equates to the number
22 of race days. Quite frankly, we have the exact
23 number of race days in Indiana that Kentucky and
24 Delaware has combined because we have two
25 substantial race meets that race for spring, summer

1 and fall. Kentucky has a year-round circuit. Much
2 of that circuit is three or four days. And their
3 Standardbred program has been emasculated over time
4 where they only run a handful of race days. When
5 you take our race dates for Standardbred and
6 Thoroughbred, I believe they equate or add up to
7 300. And that's what Kentucky's and Delaware's
8 Thoroughbred add up combined. And then when you
9 factor in that our laboratory also does the testing
10 for the fairs because we run the fairs through our
11 contract, that would mean that what LGC was
12 experiencing from Indiana, our volume was bigger
13 than their two biggest clients combined, two other
14 biggest clients combined.

15 COMMISSIONER PILLOW: I have a question. Joe,
16 I know there's probably eight million economic
17 reasons for this, but I had to ask this question.
18 Eli Lilly's branch of Elanco, which is an animal
19 operation, have you ever thought about engaging
20 them in some kind of conversation, maybe them
21 taking a look at -- if we're sending this kind of
22 volume out, then I assume it has to be profitable
23 at some point because people wouldn't do it. I'm
24 sure there's a million reasons why not. Have you
25 thought about engaging in conversations with a

1 private operation like that?

2 JOE GORAJEC: No, we haven't. We have, on a
3 couple of occasions several years ago, had some
4 preliminary conversations with Purdue University.
5 And it's, I think, to an extent the same idea of
6 keeping it in state. And the investment in the
7 equipment is very significant. And it's
8 specialized equipment for horse race drug
9 detection. We have experienced that just with our
10 cobalt testing where there's very few racing labs
11 that even test for cobalt. If the Commission wants
12 cobalt testing, they have to send it to a third lab
13 because it's specialized equipment.

14 One of the things that I know that may be just
15 not right on point to your answer, but I think it's
16 germane is that the lab in Kentucky, LGC, they're a
17 relatively new lab. They're an extension of a
18 laboratory in England that had done a lot of horse
19 racing samples. When they were trying to get off
20 the ground, and Kentucky was in the middle of
21 wooing that company to Kentucky to do horse racing
22 samples because Kentucky wanted their own lab,
23 there was in the press a report about what a lab
24 would need to kind of break even, what kind of
25 volume they would need to break even. The number I

1 remember reading was they needed 10,000 samples a
2 year in order to break even. And we would provide
3 a lab with 4,500 to 5,000. So maybe that doesn't
4 answer your question.

5 COMMISSIONER PILLOW: It does.

6 JOE GORAJEC: I think it speaks to that
7 because most of the labs that are out there, if
8 they're not a lab that's located in a university,
9 that is required by statute to do testing for that
10 particular state, and there are some like that.
11 Ohio is a big example.

12 What we have in this country is a small
13 handful of commercial labs that do testing for
14 several states. Industrial in Denver, which we
15 utilized the second half of the year is like that.
16 Truesdail in California is like that. So there are
17 a few big commercial labs that probably couldn't
18 make it alone on one state, but when they have
19 contracts from four, five, or six states, that's
20 what makes it profitable.

21 COMMISSIONER PILLOW: One last question. When
22 we send the samples out, and, say, it takes three
23 weeks to get back to your office, how soon do you
24 get it to the horsemen and let them know they have
25 been notified that they tested positive?

1 JOE GORAJEC: We try to turn that information
2 around within 24 hours. The exception would be if
3 it's a dark day or a weekend. If we get the
4 information in the office on Saturday, it might not
5 get to the stewards until Tuesday or Wednesday
6 because they're dark on Mondays. But absent that,
7 we try to turn it around right away.

8 And the stewards, typically stewards or judges
9 depending on what breed, it's easy if the horses
10 are, excuse me, if the horses are stabled on the
11 grounds because they would just call the trainer
12 in. If not, then they just try to pick up the
13 phone and get a hold of them as soon as they can.

14 CHAIRMAN WEATHERWAX: Any other questions?
15 Well, I think you can see why labs and the results
16 of what we do are so important. I had the pleasure
17 of looking at some of these bid proposals. I can
18 tell you they seriously are very detailed, and the
19 steps they go through are quite extreme. So this
20 is a very important part of our operation, our
21 charge, our responsibility. I hope that we can do
22 a much better job this year.

23 Next on the agenda, Lea, you may want to help
24 us. This is one of these things where we
25 occasionally have to take part in an administrative

1 law judge's proposed findings. This is on the Mike
2 Norris summary suspension. Why don't you give this
3 commission sort of the background.

4 MS. ELLINGWOOD: Certainly. Thank you,
5 Chairman. Agenda item 2 is an oral argument by
6 counsel in the administrative proceedings of the
7 Indiana Horse Racing Commission Staff against Mike
8 Norris. That's a disciplinary action wherein
9 Mr. Norris was subjected to the administrative law
10 judge's recommended order, which was dated
11 November 5, 2014.

12 The disciplinary action against Mr. Norris has
13 two elements. The first is a summary suspension
14 against him, and the second are underlying
15 allegations regarding drug positives. At this
16 time, the Commission is only considering the
17 summary suspension. The matter regarding the
18 underlying drug positives is scheduled to be heard
19 by an ALJ in late April, at which point it will
20 come before the Commission for consideration.

21 By way of procedural background though, on
22 August 26 of 2014, the stewards summarily suspended
23 Mr. Norris' license. On September 5th, the
24 stewards held an evidentiary hearing to determine
25 if the summary suspension was appropriate. The

1 stewards found in the affirmative stating that
2 there's sufficient evidence to indicate that
3 Mr. Norris' actions constitute an immediate danger
4 to public health, safety, and welfare or are not in
5 the best interest of racing or compromise the
6 integrity of operation at a track or satellite
7 facility.

8 Mr. Norris has filed a motion to vacate the
9 stewards' ruling, which was treated as an appeal to
10 the ruling. The matter was assigned to
11 Administrative Law Judge Buddy Pylitt. Judge
12 Pylitt heard oral arguments in the matter on
13 October 30th and gave each party the opportunity
14 to submit briefs in support thereof.

15 On November 5th, Judge Pylitt issued a
16 recommended order in which he found that the IHRC
17 acted within the authority in promulgating
18 administrative rule 71 IAC 10-2-3. The stewards'
19 decision to summarily suspend Mr. Norris was
20 appropriate and within their statutory and
21 regulatory authority, and that the summary
22 suspension was supported by sufficient evidence in
23 the record.

24 Mr. Norris timely filed his objections to the
25 ALJ's recommended order. On January 12th, the

1 Chairman issued a notice of opportunity to present
2 briefs and oral arguments, which gave each party
3 until January 16th to submit briefs or any other
4 relative documents in support of their position.
5 Counsel for Norris and Commission Staff both timely
6 submitted a brief, which has been provided to you.
7 No other documents have been filed with the
8 Commission in the matter.

9 Pursuant to the Administrative Orders and
10 Procedures Act, the Commission may either affirm,
11 modify, or dissolve Judge Pylitt's recommended
12 order. The Commission may also remand it back to
13 the ALJ for further proceedings. Copies of all the
14 documents have been provided to you. Each party
15 will have ten minutes to present their arguments,
16 during which Commission members are free to ask
17 questions.

18 I'm going to hold up my hand when we get to
19 minute number nine that they have one minute left
20 just so everybody knows that they are about to get
21 the shepherd's hook. Mr. Shanks will go first
22 since he filed his objection. Miss Newell will
23 follow. After she concludes, the proceedings will
24 close, and the Commission will deliberate.

25 CHAIRMAN WEATHERWAX: So is there any

1 questions from our Commission to understand what we
2 are ready to do? This is the hearing to listen to
3 their objection to the ruling. And then, if I
4 understand it correctly, we are either to support
5 or deny the stewards' recommendation.

6 MS. ELLINGWOOD: The ALJ's ruling is an
7 analysis of the stewards' summary suspension. And
8 the Commission's role at this time is to either
9 affirm, modify, or dissolve Judge Pylitt's
10 recommended order.

11 CHAIRMAN WEATHERWAX: At this time, John, do
12 you want to start?

13 MR. SHANKS: Good morning. Thank you for this
14 opportunity to address you.

15 Very interesting case. This case deals with a
16 drug called hydrocortisone sulfonate. I hope I
17 pronounced that right. It's a synthetic.
18 Hydrocortisone, we all have some hydrocortisone in
19 us. It's an indigenous hormone steroid that all
20 mammals have, but this particular drug that we're
21 talking about is a synthetic.

22 The Norrises are here, Sherry and Mike. They
23 are from Kentucky. He has been racing or a trainer
24 for many years.

25 This case sort of got caught up in the lab

1 problem that we experienced this summer. We all
2 can agree that we want a drug free racing
3 environment. The issue is how do we do that.
4 Well, one of the ways you do that is you have a
5 reliable laboratory. This year the laboratory, as
6 you've already heard, had a problem.

7 The first sample was taken. There were five
8 involved. The first sample was taken on
9 May 28th. The results were not released until 79
10 days later on August 15th. There were three
11 samples that had they been timely processed might
12 have voided the last two. And Mr. Gorajec has
13 already mentioned the issue that if the lab was
14 timely, it might have prevented some other
15 positives because then the trainer has an
16 opportunity to investigate the situation, try to
17 figure out how the animal got the drugs, and
18 prevent future problems. The second test took 70
19 days, third test 63 days, fourth test 79 days, the
20 fifth test 54 days. So Mike really didn't have an
21 opportunity to investigate this before it was all
22 done.

23 Doctor Sams, who is the director, I believe is
24 his title, of the laboratory in Lexington, in his
25 report which is part of the material you have, the

1 letter to Mr. Gorajec indicated that he had reason
2 to believe that this was same day administration.
3 Well, he was relying on a study out of South Africa
4 of two horses. You don't have that material in
5 front of you. It is very interesting. The staff
6 just recently got it and shared it with me. There
7 are two studies presented in New Zealand at a
8 convention. I don't know when though. There is no
9 date on it. And Doctor Sams referred to it in his
10 report to sustain his opinion it was same day
11 administration. Well, we don't know.

12 Our argument has to do with the authority of
13 the stewards to summarily suspend Mr. Norris, and
14 has to do with sufficiency of the evidence. What I
15 didn't realize until this morning is you did not
16 have access to the transcript of the stewards'
17 hearing. Had I realized that sooner, I would have
18 provided that as part of our brief. There's only
19 so much time to read all this stuff.

20 Our argument is there was not sufficient
21 evidence to substantiate that, first of all, there
22 was an emergency; second, that the alleged actions
23 of Mr. Norris created an immediate danger to the
24 public health, safety, and welfare. As you've seen
25 in my brief and the brief from Miss Newell was the

1 argument about the authority of the Commission and
2 the stewards and the evidence that is needed to
3 support their findings.

4 Everything with the Commission seems to be an
5 emergency. The rules are implemented on an
6 emergency basis, which I looked at which is very
7 interesting because having been a department head
8 of two governors, when we had to do rules, they had
9 to go a particular process which provided more
10 public scrutiny and more opportunity for public
11 input. The emergency rules don't provide that.

12 The recommended order that's been provided to
13 you by Miss Newell presumes that you have seen all
14 of the record. Well, part of the record is this
15 transcript. Again, I didn't realize that you
16 didn't have access to that. I assumed that was
17 part of the Commission's file.

18 Mr. Norris was suspended on August 26. That's
19 already been five months. It's been devastating to
20 him. He can't race anywhere. If you're suspended
21 in Indiana, other states recognize that suspension,
22 and you're just out of business. So a stroke of a
23 pen can put someone completely out of business and
24 ruin their life.

25 The strict liability of trainers is an

1 interesting situation. I can't find anyplace in
2 the United States where this issue has been taken
3 up to the U.S. Supreme Court on the constitutional
4 issues. This is a law or a rule in my opinion that
5 no one can follow. You can't be with a horse 24-7.

6 Many of the drugs that are found in horses can
7 be administered by simply walking by the stall and
8 throwing something in their food dish. There is no
9 way a trainer can supervise a horse 24-7 and get
10 any sleep at all. It's unduly burdensome on the
11 trainers.

12 Third-party action is very significant. There
13 is a tremendous opportunity out there for trainers
14 to be sabotaged by someone with a grudge against
15 them, particularly if they have a winning horse or
16 a horse that has very good potential to be winning.
17 Trainers are at unreasonable risk. And I don't
18 think many trainers understand the risk that they
19 are looking at in supervising these horses.

20 Again, I don't think a trainer can comply a
21 hundred percent with this rule. If the horses are
22 stabled at a Commission facility, there's in my
23 opinion tremendous lack of security. There is no
24 video. Anybody really can get in the stable. They
25 say they can't. They can. There are ways to get

1 into the stable other than going through the gate.

2 So if someone or a jockey, say, has a grudge
3 against someone, wants to drug a former employer's
4 horse, it's very simple. Some drugs can be
5 absorbed, I've been told, through the hooves. Some
6 drugs can be given to the horse because the gunny
7 sack that had their feed in it contained a drug
8 that was legal for other animals but not for
9 horses. There are many ways that a horse can
10 obtain these illegal drugs. If they win, they're
11 done.

12 Now, again, going back to the lab.
13 Mr. Gorajec is right. These labs have to be
14 diligent about these samples. You also have chain
15 of custody issues. But important is that the lab
16 results are reported timely to the trainers, and
17 the staff does that. But they can't do it until
18 they get it from the lab. So I'm hoping that in
19 the future the lab that is selected by the
20 Commission will provide timely results.

21 I would like for you to meet the Norrises.
22 And, Mike, if you would step forward, could you
23 please just give a quick summary of the impact of
24 this on you. Introduce yourself.

25 MIKE NORRIS: I'm Mike Norris. And this -- I

1 was a jockey for 17 years. That's all I know.
2 Ever since I got out of the hospital, it's been a
3 dream for me to do this. And I put all my heart
4 and soul into it. And I would never do anything to
5 a horse or anyone.

6 You can ask anybody, anywhere about me. I've
7 got a big heart, and I care for my animals. And I
8 would never put them or anybody else in jeopardy.
9 I just want you all to know that I did not give my
10 horses anything. How they got in their system, I
11 don't know.

12 I've had to sell everything I've ever had to
13 work for all my life. And I have daughters 11 and
14 13. And I'm about to lose their home. If I don't
15 get to where I can race horses and make a living,
16 and the only thing that I know, I will probably
17 lose that too.

18 MR. SHANKS: Sorry, Mike. In summary, I would
19 ask that the Commission consider setting aside the
20 suspension order and in the alternative modify the
21 suspension. Mr. Norris, under your rules, if he's
22 suspended, he can't even be on one of your
23 facilities. That's assuming that he has done
24 something wrong.

25 So we have four seconds. Thank you for your

1 attention. I appreciate it. I appreciate the
2 timing. And I hope you will consider all this in
3 the best interest of the trainers and horse racing.

4 MS. ELLINGWOOD: I need just a second.

5 CHAIRMAN WEATHERWAX: You've heard the
6 testimony. And I would ask legal counsel because I
7 think this is the first step in a multi-step
8 process. Is that true?

9 MS. ELLINGWOOD: Yes, in a number of respects.
10 Miss Newell will present her oral arguments with
11 respect to the Commission Staffs' position, at
12 which time the oral argument will close, the record
13 will close, and you can deliberate. You are
14 welcome to ask Miss Newell questions as she goes.
15 You're welcome to ask me questions. But, again,
16 you will either affirm, modify, or dissolve Judge
17 Pylitt's recommended order.

18 MS. NEWELL: Thank you. This case presents
19 two issues that are fundamental to the integrity of
20 the pari-mutuel racing product here in Indiana:
21 The doping of race horses; and the race-day
22 administration of any substance other than Lasix.

23 Mr. Shanks discussed lab problems and the
24 delay of notification to his client. And when you
25 say things like it took 76 days or it took 80 days

1 for notification, that conveys something, but it
2 doesn't really convey the truth in this case.

3 Mr. Norris' first draw was on May 28th.
4 That was a Wednesday. Lab received that blood
5 sample on May 31st, which is a Saturday. If the
6 lab were completely compliant with the contract,
7 which requires a two-week turnaround time, we would
8 have been notified of those results on Saturday,
9 June 14th.

10 That would have been downtown notification.
11 Downtown office is closed on Saturday. The track
12 is dark Sunday, Monday, and, I believe, Tuesday at
13 that period. The stewards would not have been
14 notified until June 17th. Mr. Norris' positives
15 were May 28, June 7, June 10, June 14, and
16 June 20th. The only positive that he have may
17 have able to avoid would be the June 20th
18 positive. That's if the lab had been operating at
19 optimum capacity. In Mr. Norris' case,
20 notification simply was not an issue.

21 The stewards summarily suspended him after
22 they were advised that five horses had tested
23 positive for a prohibited substance over that
24 three-week period. Commission Staff asks that the
25 Commission affirm the findings of ALJ Pylitt who

1 issued a well-reasoned, appropriate decision that
2 stemmed from a thorough review of the evidence.
3 Both parties were given an opportunity to brief the
4 issues and argue their case before Judge Pylitt.

5 Commission Staff respectfully requests that
6 Mr. Norris' objections be overruled, and the
7 Commission enter a final order consistent with
8 Judge Pylitt's recommendation upholding Mr. Norris'
9 summary suspension.

10 Why is it appropriate? The answer is simple.
11 It was provided by the state legislature when it
12 enacted the pari-mutuel statute in 1989. The
13 marching orders the legislature gave were
14 straightforward. The IHRC, and by extension, the
15 IHRC staff was to ensure that pari-mutuel wagering
16 on horse races in Indiana would be conducted with
17 the highest of standards and the greatest level of
18 integrity. There is the mission statement of the
19 IHRC, our guiding directive.

20 Upon its creation, the IHRC enacted many rules
21 to govern horse racing. One such rule provides for
22 the summary suspension of a licensee under certain
23 circumstances. That rule is at 71 IAC 10-2-3(a).
24 The rule provides for the issuance of a summary
25 suspension if the licensee's actions constitute an

1 immediate danger to public health, safety, or
2 welfare or not in the best interest of racing or
3 compromise the integrity of operations at a track
4 or satellite facility.

5 Commission Staff is tasked with establishing
6 by a preponderance of the evidence that Mr. Norris'
7 actions posed an immediate danger to public health,
8 safety, or welfare or were not in the best interest
9 of racing or compromised the integrity of
10 operations at a track or satellite facility.

11 To determine if the preponderance of the
12 evidence exists, the question is whether it is more
13 likely than not that a certain fact exists. The
14 Norris case boils down to this question: Did
15 Commission Staff establish by a preponderance of
16 the evidence that Mike Norris' actions posed an
17 immediate danger?

18 The evidence presented by the Commission Staff
19 and considered by the stewards and Judge Pylitt was
20 not complicated. The Commission's primary lab
21 reported five findings of Norris-trained horses
22 with a prohibited substance in their blood. I
23 single positive test is prima facie evidence that
24 such a foreign substance was administered and
25 carried in the body of the horse while

1 participating in the race. Mr. Norris had five
2 positive tests. He declined split sample testing
3 on all of the positive findings. Mr. Norris
4 presented no evidence to contradict the positive
5 tests.

6 Mr. Shanks also referred to there possibly
7 being sabotage. Mr. Norris has presented no
8 evidence that anybody sabotaged his horses. The
9 lab detected in all five horses levels of this
10 substance consistent with race-day administration
11 via injection. Mr. Norris presented no evidence to
12 contradict the Commission Staff's evidence that the
13 horses were injected on race day.

14 In light of this evidence, the stewards and
15 Judge Pylitt essentially had to consider whether
16 Mr. Norris's action in administering a race-day
17 injection to five separate horses constituted an
18 immediate danger. The stewards' decision to
19 summarily suspend Mr. Norris was made with full
20 consideration of protecting the integrity of horse
21 racing in Indiana.

22 Mr. Norris is a trainer who on at least five
23 occasions injected a horse on race day. Should he
24 have been allowed to remain on the track and train
25 horses? Absolutely not. Mr. Norris' continued

1 presence on the backside would be a disservice to
2 the other horsemen who honorably participate in
3 racing.

4 Judge Pylitt's proposed order upholding the
5 summary suspension is considerate of the
6 evidentiary standard, and specifically states that
7 Commission Staff met its burden.

8 Mr. Norris' objections further argue that
9 IHRC's summary suspension is contrary to the
10 pari-mutuel enabling statute. The statute, at IC
11 4-31-13-2 and 4-31-12-15, provides for a summary
12 suspension in the event of a licensee's actions
13 constituting an immediate danger to the public
14 health, safety, or welfare. Norris has argued that
15 IHRC impermissibly expanded upon its statutory
16 authority allowing for summary suspension by
17 including two more factors: not in the best
18 interest of racing; and compromising the integrity
19 of operations at a track or satellite facility.

20 This argument is without merit, and if
21 recognized, yields an absurd result. It is
22 tantamount to suggesting that the IHRC is without
23 authority to promulgate a rule that honors the most
24 basic purpose of the agency: ensuring that
25 pari-mutuel wagering on horse races in Indiana will

1 be conducted with the highest of standards and the
2 greatest level of integrity.

3 The IHRC was well within its right to
4 promulgate the summary suspension rule. State
5 agencies are tasked with interpreting the laws they
6 enforce. In light of this broad charge, ensuring
7 that pari-mutuel wagering on horse races in Indiana
8 will be conducted with the highest of standards and
9 the greatest level of integrity, it was acceptable
10 for this Commission to draft the summary suspension
11 rule to include those terms. The inclusion of the
12 terms does not expand the law, rather the terms fit
13 under the rubric of public health, safety, and
14 welfare. And the Indiana Supreme Court has
15 consistently found that "when a statute is subject
16 to different interpretations, the interpretation of
17 the statute by the administrative agency charged
18 with the duty of enforcing the statute is entitled
19 to great weight, unless that interpretation is
20 inconsistent with the statute itself." There is no
21 inconsistency here. The IHRC honored the statute
22 with its promulgation of the summary suspension
23 rule.

24 Even if we assume that Mr. Norris' argument
25 about the rule being promulgated outside the scope

1 of Commission authority is correct, the summary
2 suspension should stand. As Judge Pylitt noted in
3 his proposed order: "Even if the latter two
4 circumstances, actions that are not in the best
5 interest of racing, or compromise the integrity of
6 operations at a track or satellite facility, were
7 stricken from the rule, the summary suspension of
8 Norris must stand, as his actions were an affront
9 to public health, safety, or welfare."

10 Mr. Shanks brought Mr. Norris up here.
11 Sympathetic client. I understand why he did it.
12 Fact of the matter is it's not an issue. It's not
13 something you should consider. The financial
14 distress, emotional hardship is not to be
15 considered. Judge Pylitt found that in his order
16 as well.

17 Staff asks that you do as the General Assembly
18 charged you: Ensure that pari-mutuel wagering on
19 horse races in Indiana will be conducted with the
20 highest of standards and the greatest level of
21 integrity. The way to do that today is by
22 overruling Mr. Norris' objections to Judge Pylitt's
23 recommended order and enter a final order of the
24 Commission consistent with Judge Pylitt's
25 recommendations and upholding the summary

1 suspension the stewards issued to Mr. Norris.

2 Thank you.

3 CHAIRMAN WEATHERWAX: Lea, Commissioners, do
4 you understand the presentation? Do you understand
5 our responsibility?

6 I guess I would ask this question because
7 there are so many positive tests, I can't
8 comprehend how they can happen so quickly in
9 sequence unless there's a pattern. But every one
10 of these tests that was found had to be a test on
11 those horses in that quick an order. So this is a
12 lot of tests that are positive. Does that mean
13 that he was racing other times other than here?
14 Other horses?

15 MS. ELLINGWOOD: That, I don't. We need to be
16 very careful to not get to the underlying drug
17 positive issue because that matter will come before
18 the ALJ. What we need to focus on, the Commission
19 needs to focus on is really determining whether the
20 summary suspension is appropriate based on
21 information about the positives you have in front
22 of you.

23 CHAIRMAN WEATHERWAX: That's really the focus
24 of the extent of what we should be looking at.

25 MS. ELLINGWOOD: Yes.

1 CHAIRMAN WEATHERWAX: Commissioner McCarty.

2 COMMISSIONER MCCARTY: This is probably
3 outside that focus as well, and you've touched on
4 this at the very beginning, and I apologize if I
5 missed that. When is the hearing on the merits?

6 MS. ELLINGWOOD: It's late April, I think,
7 April 21st. It's before the same administrative
8 law judge, so Judge Pylitt, I believe. And I would
9 invite Mr. Shanks or Miss Newell to correct me on
10 that. I think it's scheduled for a hearing on the
11 merits April 21st, at which time or after the
12 hearing rather the judge will put together another
13 set of proposed findings of fact, conclusions of
14 law, and that will come before the Commission. So
15 you'll have another bite at the apple, so to speak,
16 with respect to questions you may have about the
17 underlying drug positives and other circumstances
18 surrounding that issue.

19 COMMISSIONER MCCARTY: Why would the hearing
20 on the merits be scheduled six, seven months after
21 the decision on the summary suspension?

22 MS. ELLINGWOOD: I would have to defer to
23 counsel to answer that. I think it's scheduling
24 issues. There are a number of depositions that I
25 think they have to do. Either of you, if

1 Mr. Shanks or Miss Newell wants to give a more
2 specific response to that. I believe it's just a
3 scheduling issue.

4 MS. NEWELL: Without straying too much into
5 the merits, this case began with an administrative
6 complaint. When you start there, it sort of
7 lengthens the process. As General Counsel
8 Ellingwood stated, we have multiple depositions we
9 are in the process of scheduling. Mr. Shanks and I
10 agreed to the date with consultation with Judge
11 Pylitt. There isn't an attempt to drag anything
12 out. In fact, Judge Pylitt is highly encouraging
13 that we move things along as fast as we can.

14 MS. ELLINGWOOD: Before the Commission begins
15 its deliberations, there was a point I wanted to
16 clarify for you. As I mentioned in the procedural
17 overview, AOPA provides that you, again, have the
18 ability to affirm, modify, or dissolve the ALJ's
19 proposed order. Judge Pylitt's proposed order
20 contains what appears to be a misstatement in the
21 second to last sentence in that it recommends the
22 summary suspension be remanded to the stewards for
23 a hearing pursuant to 71 IAC 10-2-3(c). However,
24 that cite refers to the evidentiary hearing that
25 was already held on September 5th.

1 So for that reason, I just recommend the
2 Commission issue a final order that amends Judge
3 Pylitt's recommended order so it's consistent with
4 AOPA in outlining proposed findings of fact,
5 conclusions of law, and recommended order that's
6 consistent with your wishes regarding the summary
7 suspension issued by the stewards.

8 For example, if your wish is to have the
9 summary suspension remain in effect until the
10 underlying matter comes before the Commission, we
11 will just want to clarify that in the Commission's
12 final order.

13 CHAIRMAN WEATHERWAX: Okay. So that's on page
14 11?

15 MS. ELLINGWOOD: Yes.

16 CHAIRMAN WEATHERWAX: Go to page 11 and you
17 see what the recommended decision-making process is
18 supposed to be. Then that's what she's trying to
19 say should be amended or in our decision of our
20 ruling.

21 MS. ELLINGWOOD: Right.

22 CHAIRMAN WEATHERWAX: Okay. Commission
23 members, you've heard the testimony and the case.
24 Of course, you heard from counsel. This is going
25 to have one more step depending on what we do. On

1 April 21st, there's a final determination at that
2 point?

3 MS. ELLINGWOOD: April 21st a hearing will be
4 held.

5 CHAIRMAN WEATHERWAX: Then what happens next?

6 MS. ELLINGWOOD: Then Judge Pylitt will make a
7 decision. He'll prepare proposed findings of fact
8 and conclusions of law and a recommended order.
9 That will come before the Commission just like this
10 has come before the Commission for the summary
11 suspension.

12 CHAIRMAN WEATHERWAX: We'll have a chance to
13 review this and make a decision on this sometime
14 after that.

15 MS. ELLINGWOOD: Yes. You'll have an
16 opportunity to make a determination on the
17 underlying drug positives.

18 CHAIRMAN WEATHERWAX: Yes, John.

19 MR. SHANKS: Just for clarification, it's
20 April 14th.

21 CHAIRMAN WEATHERWAX: April 14th. Okay.
22 Now, do we have a moment to deliberate this?

23 MS. ELLINGWOOD: Absolutely. The record is
24 officially closed so deliberations can begin. The
25 only people who can talk are you. You can ask me

1 questions or ask questions of anybody you want to,
2 but time for submitting additional information is
3 over.

4 CHAIRMAN WEATHERWAX: Let's go ahead. Do you
5 have a question?

6 COMMISSIONER PILLOW: No.

7 CHAIRMAN WEATHERWAX: Therefore, we're ready
8 to vote on this decision. Any other questions?
9 Recommendation? There's three things we can do. I
10 think one is to affirm, modify, or --

11 MS. ELLINGWOOD: Dissolve.

12 CHAIRMAN WEATHERWAX: Dissolve. This is the
13 ruling that came to us from the first step. What
14 we do determines the second step. There will be a
15 third step.

16 MS. ELLINGWOOD: What you will do is you'll
17 determine whether or not Mr. Norris continues to
18 remain summarily suspended under the stewards'
19 ruling.

20 CHAIRMAN WEATHERWAX: Any other questions? Go
21 ahead and speak up.

22 COMMISSIONER MCCARTY: Yes. Can somebody
23 briefly describe what the stewards' ruling process
24 is? What is the procedure? Who is passing
25 judgment?

1 MS. ELLINGWOOD: The stewards are a panel of
2 three individuals who are selected by the
3 Commission essentially to act as a disciplinary
4 body at the race meet. They're on the track. And
5 they deal very quickly with issues that come up.
6 And they've got a threshold with respect to the
7 penalty they can then impose. It's usually smaller
8 penalty kinds of issues.

9 So the stewards received notification of the
10 lab results indicating there were a number of
11 positive tests. And they summarily suspended
12 Mr. Norris. Mr. Norris then had a right to have a
13 hearing on that, which he did on September 5th.
14 He was represented by counsel at the time. So the
15 judge --

16 COMMISSIONER MCCARTY: What date?

17 MS. ELLINGWOOD: September 5th. At that
18 time the stewards heard evidence submitted by both
19 Miss Newell and Mr. Shanks and had an evidentiary
20 hearing to determine if the positives and what
21 Mr. Norris had done constituted a threat to the
22 health, safety, and welfare of the sport. Based on
23 the evidence that they collected, they made a
24 determination that it had.

25 Those rulings are what Mr. Shanks asked to go

1 before the ALJ. The ALJ had a separate evidentiary
2 hearing essentially on the same matter and made the
3 conclusion and recommendation that is before you
4 now.

5 COMMISSIONER MCCARTY: The background of the
6 three stewards, not the names, what's the
7 background?

8 MS. ELLINGWOOD: If you are comfortable, I
9 would defer that to Mr. Gorajec. He's very
10 familiar with the stewards. I know they have among
11 them, like, a hundred years of experience.

12 JOE GORAJEC: May I?

13 CHAIRMAN WEATHERWAX: Go ahead, Joe.

14 JOE GORAJEC: The stewards are contract
15 employees of the Commission. They are the
16 Commission's highest ranking racing officials at
17 the race meet. They are the individuals who have
18 the authority to enforce our rules and regulations
19 at the race meet. They are the ones who officiate
20 the race meet, not only in the morning with
21 administrative matters but also in the evening or
22 the afternoon races as far as being up in the stand
23 and watching the races.

24 Our three stewards, every one of them is
25 accredited by the -- they have accreditation

1 through the ROPE program, Racing Organization of --
2 I forget the acronym. But, anyway, they are all
3 accredited. In fact, our senior state steward,
4 Stan Bowker, our senior state steward is also the
5 senior state steward at Oaklawn Park in Arkansas in
6 Hot Springs. In fact, he's officiating at that
7 meet today as we speak. He's the official there.

8 We have three highly competent, highly trained
9 stewards. They're top notch. They have a lot of
10 experience. They work for us. And they're fully
11 accredited.

12 CHAIRMAN WEATHERWAX: Does that address your
13 question?

14 COMMISSIONER MCCARTY: Yes.

15 CHAIRMAN WEATHERWAX: But I think what you're
16 saying and what I feel is we have to respect the
17 process. We have to respect the people that are
18 there in the trenches that have learned to do this
19 professionally. We, as Commissioners, have to
20 either support that, modify it, or change it, okay,
21 knowing there's more process to come about here.
22 So any other questions from the Commission?

23 COMMISSIONER LIGHTLE: I don't have questions.
24 I'm fine.

25 CHAIRMAN WEATHERWAX: Well, I think we should

1 entertain a motion as to what we want to do. That
2 is, do we have a consensus that we will support the
3 ruling thus far, the stewards' findings? Question?
4 Is that a motion? I think we need a motion to make
5 that happen or else we have to modify it or we have
6 to change it. Do I have a motion?

7 COMMISSIONER PILLOW: I will move a motion.

8 CHAIRMAN WEATHERWAX: We have a motion to
9 accept it. Is there a second?

10 COMMISSIONER LIGHTLE: Second.

11 COMMISSIONER MCCARTY: Now, the motion is to
12 reaffirm or to approve the order of the ALJ with
13 the amendment in the order as suggested.

14 MS. ELLINGWOOD: Just to make sure I'm on the
15 same page and the order reflects accurately what
16 you intend to do, you intend to affirm. Do you
17 intend to modify Judge Pylitt's order and affirm
18 the summary suspension issued by the stewards?

19 CHAIRMAN WEATHERWAX: Yes. With the changes
20 you made, right? Does everybody understand the
21 motion? Okay.

22 All those in favor say "aye."

23 THE COMMISSION: "Aye."

24 CHAIRMAN WEATHERWAX: It's passed.

25 Okay.

1 COMMISSIONER MCCARTY: Mr. Chairman, I would
2 like to comment now that we have acted on the
3 matter before us. I do want to express my concern
4 as a summary suspension is a drastic procedure.
5 And in any proceeding it is in my opinion a very
6 drastic thing. I think the process must move
7 forward expeditiously to resolution of the merits
8 of the issue.

9 And I'm cognizant of the need for depositions
10 and investigation, but I'm a little troubled by the
11 length of time that is being consumed when -- you
12 know, summary actions are like temporary
13 restraining orders or injunctions or really more
14 drastic than that. And in courts, courts are
15 pretty sympathetic to moving on to the substantive
16 issue then and getting it resolved. I think the
17 Commission should look at the process and make sure
18 that it can be done expeditiously as possible even
19 if that means that the Commissioners are subjected
20 to a special review, something shortly after the
21 hearing in April. Just let us think about this
22 process.

23 COMMISSIONER LIGHTLE: I agree.

24 CHAIRMAN WEATHERWAX: Good point. Okay.

25 Thank you, gentlemen.

1 Next part of our agenda is John Keeler,
2 Centaur regarding the race meets dates, 2015
3 preview.

4 MR. KEELER: Mr. Chairman, I think we may have
5 a mix-up on the agenda. We are talking about past
6 meets, and that would be Rick Moore and Jon
7 Schuster.

8 CHAIRMAN WEATHERWAX: However you like to do
9 it. On mine it says three, presentation by Centaur
10 regarding 2014 race meets and 2015 preview. That's
11 fine. Welcome.

12 RICK MOORE: Rick Moore, vice-president and
13 general manager of racing at Hoosier Park.
14 Mr. Chairman, Members of the Commission, Joe,
15 staff, thank you for allowing me the opportunity to
16 speak to the accomplishments that Hoosier Park
17 Racing and Casino was able to achieve in 2014.

18 It truly was a bellwether year, but before I
19 enumerate on those accomplishments, it is incumbent
20 that I thank a number of individuals and groups for
21 whom without none of these successes would have
22 been a possibility.

23 First and foremost, I want to recognize and
24 thank our chairman and CEO, Rod Ratcliff; our
25 president and COO, Jim Brown; and our

1 vice-president of racing who's here today, Brian
2 Elmore, for their leadership, support, and
3 encouragement, and access to financial resources.

4 I've been in horse racing for the majority of
5 my life. And the support we receive from these
6 three gentlemen has been beyond what I could have
7 ever expected. Their unwavering commitment to
8 horse racing and the agribusiness in Indiana is
9 without equal.

10 I also want to thank all our team members at
11 Hoosier Park who embrace horse racing and work to
12 make it a focal point of the overall experience
13 when one visits Hoosier Park. I want to thank the
14 members of the Indiana Horse Racing Commission and
15 your executive director Joe Gorajec and his staff
16 for ensuring that everyone competing on the
17 racetrack at Hoosier Park does so on an even
18 playing field. I also want to thank the horsemen
19 of Indiana, the Indiana Standardbred Association,
20 in particular president Jack Kieninger and his
21 board of directors for never being satisfied and
22 living in the moment but always looking to see how
23 together we can promote and grow harness racing in
24 the state of Indiana.

25 And, finally, I want to thank the Standardbred

1 Breed Development Advisory Board and the
2 Standardbred Advisory Board for all the hard work
3 in putting together a sires stakes program that was
4 the best ever in 2014.

5 Now on to 2014 accomplishments. We completed
6 a \$300,000 track renovation that was ready for the
7 start of the 2014 meet. We opened our state of the
8 art driver's lounge in early August. We added a
9 new starting gate truck, a 2014 Chevrolet
10 Avalanche. We continued our growth in overall
11 handle. While 2013 was up 27 percent over 2012, we
12 were still able to show handle growth in 2014 with
13 a six percent increase.

14 Speaking of handle growth, we continue to see
15 wager increases from the race day EDW platforms.
16 We created our first ever Dan Patch festival
17 weekend. We saw the Dan Patch on Friday, and a
18 concert on Saturday featuring a nationally renowned
19 band. I'm pleased to say we saw a 23 percent
20 increase in handle from the previous Dan Patch
21 night.

22 We introduced the first driver's challenge
23 where driver LeWayne Miller drove away the winner
24 of a 2014 Chevrolet Corvette Stingray. We also
25 introduced the first East meets Midwest drivers'

1 challenge where five of the top drivers from the
2 East Coast competed in a three race competition
3 with the top five Hoosier Park drivers.

4 For the first time ever, we sent our live
5 simulcast signal to Australia three days a week.
6 We added audiovisual capabilities to the backside
7 paddock where live interviews can now be conducted
8 during the live race card. We completed our
9 hardware software upgrades so live Twitter feeds
10 can now be scrolled as part of our simulcast
11 presentation.

12 We extended our partnership with HRTV that
13 included several live and remote appearances from
14 HRTV on-air personalities. We had a new track
15 record set at Hoosier Park one mile at 1:47.2 by
16 Sweet Lou in this year's Dan Patch race. We had an
17 Indiana bred filly, Color's A Virgin, a three-year
18 old Indiana-sired filly who was named the National
19 three-year-old filly pacer of the year. Everyone
20 should take pride in that.

21 We added the Dan Patch Brewhouse to our
22 terrace area that features a multitude of Indiana
23 microbrew beers, including our own Dan Patch
24 microbrew. Also in the terrace area, we added new
25 simulcast area for simulcast horseplayers. We

1 completed a complete renovation of our paddock that
2 included the addition of double-gated stalls as
3 well as we completed the asphaltting in the
4 aisleways.

5 We continued our support of the Animal
6 Protection League, which is near and dear to our
7 hearts in Anderson with the inaugural prolonged
8 walk. To date we've raised over \$50,000 for the
9 Animal Protection League in Anderson.

10 We made an emergency donation to the
11 Standardbred Retirement Foundation that saved 13
12 retired Standardbred horses from going to slaughter
13 the following day. I can tell you they are now
14 romping in paddocks throughout, I believe most of
15 them are in Pennsylvania at this point. Probably
16 might be the biggest accomplishment of the year
17 here, to be honest with you. We've expanded
18 handicapping information supplied to us through our
19 partnerships with Trakus and Track Master.

20 Two of our biggest announcements came towards
21 the end of the year. The first was that Hoosier
22 Park would be the host for the 2017 Breeder's Crown
23 event, the premiere event in harness racing. The
24 second was that our own Emily Gaskin, our publicist
25 and on-air personality, had been named the winner

1 of the United States Harness Riders Association's
2 Dan Patch breakthrough award for outstanding
3 journalistic efforts.

4 Yes, 2014 was a special year, but what about
5 2015. Well, we'll continue to build on our
6 successes. We already have a half a dozen backside
7 projects underway that will make life in the barn
8 area more comfortable and enjoyable for our
9 horsemen. We will have a new jog track ready for
10 the horsemen's use when we open the barn area for
11 training.

12 Speaking of opening, we will be opening the
13 track for training earlier this year to accommodate
14 the horsemen and help them get their horses race
15 ready. We will be expanding our presence in
16 Australia by at least an additional day per week
17 this year. We will build on our signature racing
18 and promotional days to make them even bigger. And
19 we will be increasing our use of social media.

20 Finally, Hoosier Park has emerged as one of
21 the top harness tracks in the nation through the
22 diligence, dedication, and commitment of purpose of
23 all involved in this effort in Indiana racing; our
24 management staff, our team members, our horsemen
25 partners, the Indiana Standardbred Association, our

1 regulators, our legislators, and most importantly
2 our fans. In Anderson, in Indiana, and across the
3 nation, I'm proud to be a part of our
4 accomplishments and look forward to an exciting
5 year ahead. Thank you for your time this morning.

6 JOE GORAJEC: Good job.

7 CHAIRMAN WEATHERWAX: We really appreciate all
8 you're doing. Please, give your best to all of
9 your people. Without that, we would not have a
10 program that we're talking about.

11 JON SCHUSTER: It's been a tough act to follow
12 since I came back to Indiana. I would like to
13 start out -- Jon Schuster with Indiana Grand Racing
14 and Casino.

15 Thank you, Commissioners, for this
16 opportunity. I would like to start by thanking our
17 various partnerships as well; the HBPA, Joe Davis
18 and Mike Brown, Mike Lauer; QHRAI, Quarter Horse
19 Racing of Indiana, Roger Lewis, Randy Haffner, Paul
20 Martin, has been with us this year, and an ITOBA
21 and Herb Likens, all the horsemen groups have
22 partnered with us in amazing ways this year and in
23 this coming year.

24 I would like to thank the breed development
25 for both breeds -- I know Wendy's here. I was

1 sitting next to Wendy -- for all they have put into
2 it and also on the Quarter Horse side as well. I
3 would like to thank the Commission itself. You
4 have paved the way for us to do some amazing
5 things. We appreciate all the help we've received
6 over the years and this year in particular.

7 Finally, Centaur Gaming, Rick already
8 mentioned Rod, Jim, and Brian. I would like to add
9 John Keeler. I would like to add my senior
10 leadership staff at Indiana Grand Racing and
11 Casino. Over the last two years we have integrated
12 our operations, and we have people on board. And
13 Rick alluded to the support that he gets. It's
14 amazing what we're getting down there as well.
15 It's changed the game.

16 I would also like to add Rick and his team up
17 at Hoosier Park. They also provide an awful lot of
18 support and resources to us in what we do at
19 Shelbyville. We truly are a better together
20 company. It's kind of a tag line, but it's really
21 a lot more than that. I just thought it was worthy
22 to note.

23 In 2014, we spent \$5.2 million on some
24 additional property in addition to 304 new stalls
25 and some new barns on the property. We had a one

1 million dollar comprehensive racetrack renovation.
2 We completely redid the racetrack for safety
3 purposes. That's borne out to be a success and a
4 good expenditure.

5 We spent \$1.1 million on a new tote board,
6 which includes the Jumbotron. Those of you that
7 have been out to the track will appreciate the
8 difference that's made for our guests.

9 We built an \$800,000 state-of-the-art
10 simulcast arena, our Winner's Circle Brewpub and
11 OTB right in the heart of the casino mirroring the
12 gaming and racing experience with great success.
13 Since the live meet ended on November 1st, the
14 simulcast import handle, what we wager on the other
15 tracks around the country, is up 14 percent in
16 November, 16 percent in December, and 46 percent in
17 January. January admittedly is heavily skewed just
18 in the extreme weather differences from this year
19 and last year. But you can see the trend is a
20 viable one and is quite clear it has been a
21 success. It's good for purses. It's good for the
22 state of Indiana, and it's good for Indiana Grand.

23 We became accredited by the NTR Safety
24 Alliance this year. We are very proud of that. We
25 were told that several of our protocols were best

1 in class. Tracks around the country were going to
2 take some of these to other tracks around the
3 country and introduce what we did here in
4 Shelbyville.

5 With the partnership and support of our
6 friends at the HBPA and the QHRAI, we purchased a
7 new state-of-the-art Kimzey-style equine ambulance,
8 which unfortunately we use too often, but now we
9 have state of the art, the best possible care we
10 can give to our injured horses.

11 We partnered with the Jockey's Guild,
12 permanently disabled jockeys fund with a group of
13 former riders assisting the permanently disabled
14 jockeys fund known as Jockeys In Jeans. We will be
15 holding a huge event on May 30th of this coming
16 year, that's a Saturday, between the Indy 500 and
17 the Belmont Stakes for Jockeys In Jeans, which
18 promises to be a huge benefit fundraiser for our
19 permanently disabled jockeys who are also partners
20 with us.

21 We have a new well padded starting gate this
22 year that we implemented. We increased our
23 promotional use of HRTV to highlight Indiana's
24 racing industry on the national stage to great
25 success in an extensive television upgrade on the

1 second and third floor of the building in
2 Shelbyville at Indiana Grand, formerly Indiana
3 Downs.

4 Handle on our races in Shelbyville, the races
5 we ran and broadcast around the country were up
6 7.8 percent this year on a per race basis. Down in
7 total handle but we ran less races. So on a per
8 race basis, which is typically how we looked at how
9 handle increases over the last handful of years
10 with a vastly changing landscape is a very positive
11 sign.

12 Construction was begun on 45 additional
13 dormitory rooms to compliment the 58 that we have
14 in place. And the 58 existing rooming were
15 remodeled. Shuttle service to Wal-Mart twice a
16 week to assist our backside partners to help was
17 implemented also with great success and
18 appreciation.

19 Indiana Grand took over all backside food
20 services this year offering fresher, inexpensive
21 options over a much greater time span each day to
22 the folks on the backside. Our track kitchen also
23 added a small convenience store aspect to help
24 folks that don't have transportation and can't get
25 out as often.

1 We reconfigured our grandstand apron setup to
2 be more fan friendly, more comfortable seating and
3 viewing. This kind of brings the Jumbotron into
4 play and some of the others things that we did. We
5 added significant fresh food and drink options out
6 on the apron. It was a huge hit with our guests.

7 We took the horsemen's bookkeeping process
8 in-house. Took that over in 2014. We also created
9 our first attempt at an Indiana Derby festival-type
10 weekend with a Friday concert, first one we've
11 rarely done on that scale, a 5K run, a car show,
12 and some other attractions. Look for our moving
13 the Indiana Derby to July this year, on Saturday,
14 July 18th to make this festival atmosphere even
15 greater in 2015 than it was in 2014. We also
16 partnered with our friends at Friends of Ferdinand
17 to further help repurpose retired racehorses into
18 second careers.

19 Couple things to look for in 2015.
20 Construction is going to be underway on another 101
21 stalls designed specifically for our friends in the
22 Quarter Horse business. Dorms will be operational
23 and functional this year. Forty-five rooms that we
24 started on last year will be in use this year. It
25 will help our horsemen. The Jockeys in Jeans event

1 on May 30th, which I alluded to, will help raise
2 significant funds for the permanently disabled
3 riders. Over the course of the next seven to ten
4 days once we get all our ducks in a row, and get
5 some I's dotted and T's crossed, look for some big
6 announcements on that. It's going to be quite a
7 major event.

8 A long overdo television upgrade is scheduled
9 for the first floor at Shelbyville, which was the
10 old OTB, in an area where a lot of our fans come in
11 from outside to wager and so forth. We will also
12 be doing this down at our Clarksville OTB down in
13 Clark County. We will be going to Friday day
14 racing this year.

15 We're going to add green space to our
16 backside. We had meetings yesterday. This has
17 been one of the things that the horsemen had been
18 looking forward to, as is management. Now we have
19 the resources thanks to Centaur's backing to make
20 the backside a little nicer, a little more pleasant
21 for everyone, including us.

22 The Indiana Derby will be moving to Saturday,
23 July 18. I alluded to that. We will be installing
24 Trakus this year at Indiana Grand. If any of you
25 folks have been up to Hoosier Park and you've seen

1 the little chicklets on the bottom, what we call
2 chicklets, we'll be installing that program this
3 year. That's a significant investment in
4 partnership with our friends at QHRAI and the HBPA.
5 They're going to help us pay for that and enhance
6 racing for all of?

7 Us. That's what we did last year. And that's
8 what we're looking forward to this year. I thank
9 you for your time.

10 CHAIRMAN WEATHERWAX: Thank you, Jon. I have
11 a question for you because it's just amazing to me
12 the amount of simulcast that you've grown since you
13 remodeled. Is it really the point of that
14 commercial, the Winner's Circle has been revised?

15 JON SCHUSTER: I don't know if it's really a
16 commercial. It's more of a historical thing. If
17 it plays like a commercial, that's good news for
18 us. It's a state-of-the-art facility much like you
19 would find in Las Vegas, sort of a race book type
20 of atmosphere. But in addition to just the racing
21 part, there's also a huge food and beverage
22 component. What happens when you walk in, you can
23 see the racing, but you also have the craft brew
24 and all that and food and beverage.

25 So we're, I hate to use the word inoculating,

1 but inoculating fans sort of by proxy with racing.
2 I think some of that spillover has been good. I
3 think also the environment is just so much nicer
4 than what we had in the past. The TVs are state of
5 the art. We are getting some of that upgraded, but
6 the entire experience when you come in there is
7 just top notch. I think with it being right next
8 to the gaming floor, the two are right there
9 together, I think that adds an element of people
10 being able to come out and share an experience
11 where maybe one can enjoy some races while someone
12 else is gaming or dining or something like that.

13 CHAIRMAN WEATHERWAX: I think it's good. Of
14 course, that was your goal and what you tried to
15 tell us a year ago when you were explaining why you
16 were doing all these things. So I think it proves
17 to be a very smart move. Did you have a question?

18 COMMISSIONER PILLOW: I was just going to say
19 you guys are doing a great job. I want to commend
20 everybody involved in Centaur and Indiana Grand and
21 Hoosier Park. You guys, since you're growing so
22 great, you wouldn't consider building a lab over
23 there, would you?

24 JON SCHUSTER: No.

25 COMMISSIONER PILLOW: I just thought I would

1 ask. Okay. You guys have done a wonderful full
2 job. Congratulations to you.

3 JON SCHUSTER: I'm glad to be the one standing
4 her taking the accolades, but believe me, the team
5 that Rick and I both alluded to are the folks that
6 make it happen. I'm really in the caboose and
7 enjoying the ride.

8 COMMISSIONER LIGHTLE: That's wonderful.

9 CHAIRMAN WEATHERWAX: Now, John, maybe this is
10 your turn at bat to try to explain the
11 decision-making process on the Merrillville OTB.

12 MR. KEELER: Thank you, Mr. Chairman, Members
13 of the Commission. My name is John Keeler. I'm
14 general counsel for Centaur. And I'm here today to
15 present our petition with regard to the
16 Merrillville offtrack betting parlor.

17 We have served on the Commission a petition
18 notifying Commission that it was our intent to
19 close that facility on March 15th of this year,
20 also seeking the Commission's leave to take that
21 license and hold it much the same as the Commission
22 has done with the old Indiana Downs Clarksville OTB
23 license, until such time as we can find, and the
24 Commission can agree upon, another location to site
25 that. Finally, for authority to enter into a real

1 estate listing agreement for the sale of the
2 Merrillville facility.

3 As you can see everybody else gets to talk
4 about all of our accomplishments. And I drew the
5 short straw to talk about a tough decision that we
6 had to make with regard to Merrillville.

7 I think the bottom line is no business can
8 succeed if it's not nimble and recognizes changes
9 in circumstance. As the petition indicates in the
10 case of Merrillville over the course of time, the
11 handle has decreased by over 50 percent. We're
12 losing money. We're in a very highly competitive
13 part of the state in terms of since that facility
14 was sited and opened, we've got four or five
15 Indiana riverboats, riverboats in Illinois, 18,000
16 VLTs in Illinois, Native American gaming in
17 Michigan. And the list just goes on and on with
18 all the competitive pressures. The facility is not
19 profitable.

20 We don't think it is in a location that merits
21 trying to make it a Winner's Circle like we did in
22 New Haven that recently opened this week. I would
23 just digress so I get to say something good. I
24 will tell you the New Haven grand opening went
25 extremely well. The facility has been very well

1 received in New Haven. And we hope at the
2 Commission meeting in March to maybe have an
3 opportunity to show you some pictures of the
4 facility and describe it in more detail.

5 I think to me the most important thing about
6 the Merrillville closing is how we've gone about
7 it. Most important thing is the team members up
8 there. There are 33 employees who are affected by
9 this. We've offered all of them opportunities at
10 our facilities elsewhere, but, frankly, that's a
11 pretty hollow offer because it's a long way away.
12 We have a fairly generous severance program that
13 many, if not all, the employees up there are
14 eligible for. We have worked with the Indiana
15 Department of Workforce Development and are
16 offering seminars and opportunities on resume
17 writing, unemployment insurance compensation, and a
18 number of other transitional services for those
19 employees who will be affected.

20 So moving on, we would ask the Commission to
21 grant our request that you hold the license in
22 escrow so to speak and authorize us to go ahead and
23 enter into the real estate listing agreement that
24 was attached to the petition. And I would be happy
25 to answer any questions. Thank you.

1 CHAIRMAN WEATHERWAX: Very good, John. Yes, I
2 know that was a tough decision because you put a
3 lot of thought into it and a lot of money into it.
4 Any other comments from Commission members? Thank
5 you, John.

6 MS. ELLINGWOOD: Commissioners, at this moment
7 the Commission will need to officially take a vote
8 to give Centaur the permission to enter into the
9 contract to list the Merrillville OTB.

10 CHAIRMAN WEATHERWAX: I know that this is a
11 tough decision because they care about the people.
12 They care about the investment, but this is a
13 business decision. And I guess we need to be the
14 ones to authorize this since we're the ones that
15 granted it in the first place.

16 So we have a motion before the Commission to
17 allow Centaur to close the Merrillville facility
18 OTB?

19 COMMISSIONER MCCARTY: And to enter into a
20 listing agreement to sell the property.

21 CHAIRMAN WEATHERWAX: Yes, and to enter into a
22 listing agreement to sell the property.

23 COMMISSIONER MCCARTY: I so move.

24 COMMISSIONER LIGHTLE: Second.

25 CHAIRMAN WEATHERWAX: Second. All those in

1 favor say "aye."

2 THE COMMISSION: "Aye."

3 CHAIRMAN WEATHERWAX: John, you can proceed.

4 Next, Holly is this review of the Commission
5 rulings for, what, the last two months?

6 MS. NEWELL: Yes, Chairman. What you have at
7 tab five are the rulings issued in the last two
8 months of 2014. As you know, racing concluded at
9 Indiana Grand on November 1st and at Hoosier Park
10 on November 15th. The volume of rulings is due
11 to us catching up on some of the backlog positives.
12 So normally the last two months wouldn't bring
13 quite this many rulings. If you have questions on
14 any of them, I would be happy to address them.

15 CHAIRMAN WEATHERWAX: They are listed here.
16 There are two pages. I think from the previous
17 hearings you know this doesn't look like too many
18 more than normal.

19 MS. NEWELL: It's not reflective of six weeks
20 of down time though.

21 CHAIRMAN WEATHERWAX: That's true. This is a
22 ruling the Commission has to approve. Do we need a
23 motion on this to accept this?

24 MS. NEWELL: No.

25 CHAIRMAN WEATHERWAX: It's just for our

1 review.

2 MS. NEWELL: Right.

3 CHAIRMAN WEATHERWAX: At this time, I think we
4 need to take a break because some people need to
5 feed the parking meters and keep ourselves legal
6 here. We will take a 15-minute break.

7 (A brief recess was taken.)

8 CHAIRMAN WEATHERWAX: The meeting is back.
9 Next on our agenda we have the presentation of the
10 Thoroughbred Breeders Development Advisory
11 Committee's findings. Jessica.

12 WENDY BROWN: Wendy Brown, chair of the
13 Indiana Thoroughbred Breed Advisory Committee.
14 Thank you, Commissioners for the opportunity to
15 speak to you this morning. I would also like to
16 thank you for putting me first on the breed
17 advisory agenda. This way I don't have to worry
18 about following somebody like Tom Mosley. It will
19 only get better from here.

20 The breed advisory committee met twice this
21 year. The meetings were well attended by the
22 various segments of the Thoroughbred industry. I
23 would like to thank all of those who took the time
24 to attend and provide input into our races. I
25 would especially like to thank Brian Elmore, Jon

1 Schuster, and Kevin Greely from Indiana Grand.
2 Their expertise and willingness to promote Indiana
3 breds has been invaluable. ITOBA and HBPA were
4 well represented, and we appreciated their input as
5 well.

6 Last year we made a rule adjustment that
7 caught some of the breeders off guard. That
8 consisted of informing them they must register
9 their mares within ten days of foaling if the mare
10 entered Indiana after the November 1st deadline
11 in order for the foal to be registered as Indiana
12 bred. Some legitimate cases came before the
13 committee asking for reconsideration, and we did
14 recommend that a waiver be requested of the
15 executive director for this year or that would be
16 last year, and that new reminder notices be sent to
17 the breeders for the current breeding season. I
18 believe that's been done.

19 JESSICA BARNES: Yes.

20 WENDY BROWN: The proposed 2015 program before
21 you doesn't vary much from last year's. The issue
22 before the committee as it has been in the recent
23 past has been the decline of available funds and
24 the desire to have more Indiana-bred races. Due to
25 several factors, such as racinos in neighboring

1 states intensifying competition for gambling
2 dollars and for horses to fill races, there has
3 been less pari-mutuel and slot money. This
4 directly impacts breed development budgets. I
5 believe there is about 900,000 less this year,
6 which translates into 20 to 50 fewer Indiana-bred
7 races proposed for 2015.

8 Ironically, due to the improvement of the
9 Indiana-bred horses, the budget for out of state
10 awards had to be increased as did the budget for
11 open race awards. This is the good news-bad news
12 event. It's a trend that's likely to continue as
13 our horses and horsemen continue to improve. The
14 budget is a fixed pot so when you add on one place,
15 it goes away from another.

16 However, there is one place where additional
17 funds may be found. The racetrack purse account
18 funded by pari-mutuel and slot revenues has by
19 guideline been divided according to a formula
20 whereby when all monies are considered, purses,
21 supplements, and awards for Indiana bred and sired
22 races. The aggregate of these monies be 50 percent
23 plus or minus five percent of the total monies paid
24 out of the purse account.

25 The committee feels that considering the

1 growth in quality of the Indiana-bred population
2 and the shortage of open racehorses available to
3 fill the open races, that the entire Indiana
4 Thoroughbred racing industry would be better served
5 if the funding guidelines would call for the
6 aggregate of monies paid out from all sources be
7 60 percent plus or minus five percent of the total
8 monies paid out.

9 If the Commissioners should approve this
10 change in the guidelines, we feel the most
11 efficient way to deal with this funding increase
12 would be to give the executive director the
13 authority to approve any changes to our 2015
14 proposal.

15 I think it's fair to say that Rod Ratcliff and
16 his team are committed to fostering the
17 Indiana-bred program and approve of this change. I
18 know the breeders and owners, as represented by the
19 HBPA and ITOBA, are supportive of any increase in
20 the funding and opportunity.

21 Finally, I'd like to express my gratitude to
22 the Indiana Horse Racing Commission Staff. They
23 are committed to the Indiana-bred program.
24 Different staff members would come to our meetings
25 just to get a broad understanding of what we do.

1 From the ladies in legal to Jessica and Tabitha,
2 the staff was professional and knowledgeable.

3 Thank you for your consideration. I
4 respectfully recommend that you should approve the
5 2015 Indiana breed development proposal and
6 proposed funding guideline.

7 CHAIRMAN WEATHERWAX: Thank you, Wendy. Any
8 other comments? I noted in my packet they gave me
9 the very question you brought up. And I guess for
10 my knowledge so I can learn, do you believe this
11 change in the 50 to 60 percent is going to help the
12 Indiana-bred horses?

13 WENDY BROWN: Absolutely, it will provide
14 more --

15 CHAIRMAN WEATHERWAX: That's the whole
16 purpose.

17 WENDY BROWN: That's the whole purpose.
18 Money.

19 CHAIRMAN WEATHERWAX: Has it been 50 percent
20 for a long time?

21 WENDY BROWN: Yes. Well, it was 50 percent
22 plus or minus one percent. And then last year that
23 was changed to 50 percent plus or minus
24 five percent, correct?

25 JESSICA BARNES: There was a policy approved

1 by the Commission in 2010. And that policy was
2 written a little differently than the one that was
3 approved last year. In essence, the policy that
4 was approved last year, that kind of simplified how
5 the money was used because the previous policy said
6 that for Indiana-bred races you were able to
7 utilize the 40 percent of slot money that was
8 specified for the breed development programs plus a
9 proportionate amount of the money generated by
10 pari-mutuel wagering. So it was kind of a
11 complicated formula when you looked at that.

12 Indiana Grand came to this Commission last, it
13 was actually December 2013, I believe, and asked
14 for the policy to be changed. And it actually, it
15 reworded the policy. The impact when you looked at
16 the old policy with the 40 percent plus the
17 proportional amount of pari-mutuel money, what was
18 being utilized was about 50 percent.

19 So, in essence, what the Commission did last
20 year when they approved the new policy, it gave the
21 track a plus or minus five percent. So, in
22 essence, it enabled them to increase those dollars
23 by five percent. What breed development is asking
24 is that that 50 percent be changed to 60 percent.
25 The net impact of that is about 1.3 to \$1.5 million

1 from the purse account from the racetracks that
2 could be utilized.

3 WENDY BROWN: It doesn't have to be.

4 JESSICA BARNES: Yes. My understanding in
5 talking with Mr. Greely is that that increase may
6 not definitely take place unless it's needed. If
7 there's an adequate number of filled races and
8 those races are needed for the track's program.

9 WENDY BROWN: But they aren't precluded from
10 using.

11 JESSICA BARNES: Right.

12 CHAIRMAN WEATHERWAX: Very good. One thing I
13 think we should mention is because I'm learning
14 too, when there are issues that come before the
15 Thoroughbred, Standardbred, and Quarter Horse, they
16 go to these people first. They have to sign off,
17 detailed issues go to them, and then we approve
18 after they are here. My question is: Does this
19 cash flow you adequately so you're not short
20 because it sounds like you had a plus from the out
21 of state, and the decline was on the Indiana?

22 JESSICA BARNES: One of the things that is
23 happening, and you'll see in the first paragraph of
24 the proposal, the Thoroughbred Breed Development
25 Advisory Fund has a surplus in their fund. The

1 Commission in 2010 approved, I believe it was 2010,
2 approved a schedule in order to pay down that
3 reserve. We realize that if we dump all the money
4 that's in our reserve into the program one year,
5 the next year you will have to make drastic cuts.
6 We had a schedule where you utilized so much money
7 each year, and it gradually decreased so you don't
8 see a large impact and problem to the fund.

9 So when we set our budget, there's many things
10 in the program that I try to get the committee to
11 set that there are finite amounts that we are
12 spending. The stakes purses, the overnight purses,
13 those types of things are finite amounts.

14 Unfortunately, the way the program is set up,
15 there are a few items in our budget that can by
16 design go over budget. That's one of the reasons
17 that we do maintain a \$2.3 million reserve is that
18 if we have an increase in Indiana bred's racing in
19 open races and our open race awards go over budget,
20 we've got the money to cover it in the fund to do
21 so. And then we have to make adjustments the
22 following year.

23 If you look at last year's budget, the open
24 race awards we budgeted 250,000, actually spent
25 363,000. When we looked at this year's program, we

1 had to make an adjustment to that budget moving
2 forward because we can't continue to do so. Each
3 year when we sit down and look at the program, I
4 look at what the ending balance is going to be at
5 the end of the year, how that falls in line with
6 our schedule to pay down the reserves and then make
7 appropriate adjustments to the budget.

8 CHAIRMAN WEATHERWAX: Very good. Thank you
9 for clarifying that and helping us understand. I
10 think you are doing a great job.

11 JESSICA BARNES: If you guys do approve the
12 request to change the 50 to 60 percent, what we
13 will have to do is -- the guts of this program will
14 not change. The budget sheet will have some
15 modifications to it. What I'm asking is that you
16 delegate to the executive director the ability to
17 approve those slight budget changes in this sheet.
18 The amount of money that breed development is
19 putting into the program will not change. It will
20 be the amount of money coming from the racetracks.

21 CHAIRMAN WEATHERWAX: That's good to clarify.
22 Then, of course, we always get a report back from
23 you as to the success of these changes, which we
24 hope will be very good. Thank you.

25 Okay. You've heard the presentation. I don't

1 know if we have to vote on this or not.

2 MS. ELLINGWOOD: Yes.

3 CHAIRMAN WEATHERWAX: I will entertain a
4 motion to allow these changes to be made with the
5 executive director's oversight.

6 COMMISSIONER PILLOW: So moved.

7 CHAIRMAN WEATHERWAX: Have a motion.

8 COMMISSIONER MCCARTY: Second.

9 CHAIRMAN WEATHERWAX: Second. All those in
10 favor say "aye."

11 THE COMMISSION: "Aye."

12 CHAIRMAN WEATHERWAX: The next part is the
13 Quarter Horse breed development. Jessica.

14 JESSICA BARNES: Yes, I have to tell you that
15 our Quarter Horse Breed Development chairman,
16 Michael Gross sends his regrets. The breed
17 development committees each have three members
18 appointed by the governor's office. Many of those
19 members, they are horsemen from the industry. A
20 lot of them have also have full-time jobs that they
21 do. He is a lawyer by trade. And he's in court
22 all day today. He sends his regrets that he could
23 not be here.

24 You have in front of you the proposal for the
25 2015 Quarter Horse breed development program. I

1 have highlighted the 2014 program, the
2 expenditures, where we ended up with that, and the
3 budget for 2015. As Wendy said with the
4 Thoroughbreds, we work closely with the racetracks
5 and the Quarter Horse Racing Association of Indiana
6 in formulating these programs.

7 This committee actually had three meetings in
8 preparing their programs. We carefully consider
9 their input in putting the programs together.

10 Quarter Horse Breed Development receives 30 percent
11 of the slot revenues generated by the racetrack
12 into their breed development fund. So they have to
13 work a lot closer with the racetracks in funding
14 and setting up the program because they do receive
15 more funds from the racetrack into their races.

16 We have an addition to the program this year,
17 which is a new stake race that they have been able
18 to add. It is a sires derby. It's actually going
19 to be named the Harley Green Derby. Which a little
20 history of Harley Green, Harley Green was the first
21 inspector for the Indiana Horse Racing Commission
22 when the Thoroughbred and Quarter Horse breed
23 development programs started.

24 We contract an inspector to go out and make
25 sure that participants are complying with our rules

1 for registration. So different programs have
2 different guidelines, Quarter Horses, the mare has
3 to be here by July 1 and has to foal in Indiana in
4 order for that foal to be registered as an Indiana
5 bred. If they're not here by July 1, they have to
6 then breed back to an Indiana stallion. We
7 actually send an inspector out. He goes to farms
8 across the state of Indiana and checks all those
9 mares. Make sure everybody is playing by the rules
10 making sure it's a level playing field. Before
11 Harley's time with us, he was heavily involved with
12 the Quarter Horse program. He's actually in the
13 Quarter Horse Racing Association of Indiana's Hall
14 of Fame. So I think that's a great name for that
15 new stake race.

16 We also have, there is a deletion or the
17 repeal of two rules from the Quarter Horse Breed
18 Development program in the proposal. And this is
19 the purse supplement and open races and the sired
20 purse supplement. These were great programs, but
21 they're one of those budget items that are
22 open-ended. They were too successful. We actually
23 came to you mid season last year and had to stop
24 those programs because they were causing the budget
25 to go too far.

1 So Quarter Horses, Indiana-bred Quarter Horses
2 were actually doing very, very well against their
3 open counterparts. And it was costing breed
4 development too much money. So we feel that that
5 program is no longer needed as an element in the
6 program.

7 So I would be happy to answer any additional
8 questions you have about the proposal.

9 COMMISSIONER PILLOW: I've got a question.

10 CHAIRMAN WEATHERWAX: Commissioner Pillow.

11 COMMISSIONER PILLOW: Did you say 30 percent
12 of the budget?

13 JESSICA BARNES: Of the slot revenue. Of the
14 money that is generated from the adjusted gross
15 receipts at the slot machine, the 12 percent that
16 is earmarked for the racing industry, the Quarter
17 Horse breed development program receives 30 percent
18 of the money that's for Quarter Horses.

19 CHAIRMAN WEATHERWAX: Maybe this is just an
20 observation. Have you always had the owner's award
21 for the Quarter Horse?

22 JESSICA BARNES: Yes.

23 CHAIRMAN WEATHERWAX: As a part of your
24 program?

25 JESSICA BARNES: Yes, it has been in since the

1 beginning of the program.

2 CHAIRMAN WEATHERWAX: I notice each horse
3 racing association determines how they want to
4 divide their money up and how they want to promote
5 their racing because I don't see where there's
6 anything called owner's awards in Thoroughbreds.

7 JESSICA BARNES: No, there is not, and there
8 is not in Standardbreds. Thoroughbreds actually
9 had owner's awards until 2010.

10 CHAIRMAN WEATHERWAX: The Quarter Horse
11 believes this the best way to promote racing in
12 Indiana the way they divide the money?

13 JESSICA BARNES: Yes.

14 CHAIRMAN WEATHERWAX: Questions?

15 COMMISSIONER MCCARTY: Quick question. In
16 striking this rule, is this really because you only
17 have Indiana horses competing?

18 JESSICA BARNES: I'm sorry?

19 COMMISSIONER MCCARTY: The striking of the
20 rule that for the supplement payment, Indiana
21 owner, Indiana sired, is that because the Indiana
22 horses were running faster than anybody else or is
23 that because there are only Indiana horses running?

24 JESSICA BARNES: No, they were actually doing
25 quite well in open races. We sat down at the

1 beginning, in the fall of 2013 when we put together
2 2014's budget, and we looked at all the numbers.
3 There was a lot of study going into how much we
4 should budget for how many horses, how many
5 Indiana-bred horses we thought would compete in
6 open races and get these bonuses. And by July 1,
7 we had exceeded our budgets for those.

8 COMMISSIONER MCCARTY: But are there out of
9 state participants?

10 JESSICA BARNES: Yes, there are.

11 CHAIRMAN WEATHERWAX: Very good question. So
12 we have this proposal before us to adopt what this
13 association wants to do with their money, as well
14 as strike the rules on purse supplements and sired
15 purse supplements. Any questions?

16 MS. ELLINGWOOD: One point of clarification,
17 is this appropriate for an emergency rule? Is this
18 rule change an emergency or should this go through
19 the regular?

20 JESSICA BARNES: Yes, I believe it should be
21 an emergency because if it is not stricken, we will
22 have to, again, ask for a waiver for it to be not
23 enforced. And it could have substantial impacts to
24 the budget if it has to be paid out. We have not
25 included any funding for this program in our budget

1 whatsoever.

2 MS. ELLINGWOOD: It would fit under the
3 emergency rule policy as a timeliness issue.

4 JESSICA BARNES: Yes.

5 CHAIRMAN WEATHERWAX: With this motion, we're
6 going to have to add the caveat it's an emergency
7 rule so this works immediately once adopted. Does
8 everybody understand the suggested motion?

9 COMMISSIONER LIGHTLE: Yes.

10 CHAIRMAN WEATHERWAX: Do I have a motion?

11 COMMISSIONER MCCARTY: Yes.

12 CHAIRMAN WEATHERWAX: Commissioner Lightle?

13 COMMISSIONER LIGHTLE: I will second the
14 motion.

15 CHAIRMAN WEATHERWAX: All those in favor say
16 "aye."

17 THE COMMISSION: "Aye."

18 CHAIRMAN WEATHERWAX: It's passed.

19 Now we are down to, I guess it's you, to the
20 proposed amendment to the Quarter Horse Embryo
21 Transfer Rule.

22 JESSICA BARNES: Yes. This is a rule that is
23 under the Quarter Horse Breed Development rules in
24 our Commission rules. And, actually, this rule
25 change came from a horseman who actually petitioned

1 the Quarter Horse Breed Development Advisory
2 Committee to take a look at our current embryo
3 transfer rule.

4 In essence, what this rule does is it allows
5 there to be more than one embryo transfer foal
6 registered per year. The previous rule allowed
7 that a mare could have an embryo transferred into a
8 donor mare and have one foal registered that was
9 from a donor mare and one from the original mare.

10 This rule actually makes our rule coincide
11 with the American Quarter Horse Association rules
12 that allows for more than one transfer. So you can
13 have a Quarter Horse mare that has an embryo
14 transferred into three different Quarter Horses,
15 three different donor mares. And you can actually
16 register all of those foals. It also allows for
17 the donor mare to leave the state if they are in
18 the state and registered by a certain time for a
19 period of time to go have those embryos flushed.

20 My understanding is that there are some
21 specific areas of the United States that specialize
22 in this, particularly Oklahoma, that do a very good
23 job of flushing embryos. So a lot of people prefer
24 to go have that done there, and then bring that
25 mare back here to Indiana.

1 So I'm asking for this to be an emergency rule
2 because it does affect our breeding season and
3 timeliness. People are breeding horses now that
4 will not foal until next year. They're also
5 looking at a two-year period before that horse hits
6 the racetrack. So they're making substantial
7 investments into our industry. And I believe this
8 rule helps the program, helps improve the quality
9 of the program and needs to be approved.

10 CHAIRMAN WEATHERWAX: So really does this mean
11 that a championship mare could have the ability to
12 duplicate itself as an Indiana horse?

13 JESSICA BARNES: Yes. What it allows is it
14 allows a mare owner who has the financial means --
15 this is very expensive. It's very costly to do --
16 a mare owner who has the financial means to
17 transfer embryos and multiple combinations of
18 embryo into donor mares. It also helps if you have
19 a champion mare that's older and for some reason
20 can't carry a foal, then it allows that mare to
21 still reproduce.

22 CHAIRMAN WEATHERWAX: Do we have this with the
23 Thoroughbreds and Standardbreds?

24 JESSICA BARNES: No, Thoroughbred's rules
25 require live cover. So there is no artificial

1 insemination and no embryo transfer.

2 CHAIRMAN WEATHERWAX: But you believe this
3 would greatly enhance the Quarter Horse?

4 JESSICA BARNES: Yes, I believe it would help
5 us. Standardbreds, they allow embryo transfer, but
6 the United States Trotting Association, which is
7 equivalent to the American Quarter Horse
8 Association, that registers as the ultimate
9 registration, only allows one donor. This is
10 consistent with the AQHA.

11 CHAIRMAN WEATHERWAX: Very good. We've heard
12 the suggested motion with the emergency clause to
13 allow this to happen in the Quarter Horse. Do I
14 have a motion?

15 COMMISSIONER PILLOW: Yes. Why not. I'll
16 make a motion.

17 CHAIRMAN WEATHERWAX: We have a motion.
18 Second.

19 COMMISSIONER LIGHTLE: Second.

20 CHAIRMAN WEATHERWAX: All those in favor, say
21 "aye."

22 THE COMMISSION: "Aye."

23 CHAIRMAN WEATHERWAX: Thankk you, Jessica, for
24 educating us.

25 Now, the Standardbred presentation for the

1 2015 program from the advisory board.

2 JESSICA BARNES: Yes. Again, the chairman was
3 not able to be here so I told him I would make this
4 presentation. The Standardbred Breed Development
5 Advisory Committee works closely with the
6 Standardbred Advisory Board -- you'll see their
7 proposal next -- with the racetracks, Hoosier Park,
8 and the Standardbred Association. In fact, almost
9 all of our meetings are joint meetings,
10 Standardbred Advisory Board and Breed Development
11 together. And there is always participation from
12 the ISA in our proposal.

13 The program for 2015 is pretty much identical
14 to the program from 2014. The guts and the main
15 component of the Standardbred program is the
16 Indiana Sires Stakes. That's our premiere event.
17 We made some pretty drastic changes to that program
18 for 2014. And I'm happy to say those changes were
19 well received. I heard a lot of great compliments
20 on the program this year from the racetracks, from
21 the horsemen.

22 So when we were looking at the program this
23 year, there was only some minor things what I would
24 call splitting hairs on how you would enforce
25 things that needed to be changed. You will see

1 those outlined here in the overall budget. There's
2 very few changes. We have Sires Stakes. The breed
3 development program funds the races at the county
4 fairs. We also have a breeder's award program, the
5 Indiana-bred bonus is being phased out. That was
6 actually approved by the Commission in 2013, the
7 long-term phaseout of that program. And then we
8 work with the tracks to race overnights and late
9 closers.

10 So I would be happy to answer any questions
11 you have on this proposal.

12 CHAIRMAN WEATHERWAX: Any questions from
13 Commission members? So there's really not that
14 many changes?

15 JESSICA BARNES: No. They are -- we have made
16 a change to the sires stake conditions how the
17 horse is chosen for the final for the elimination.
18 This past year it was drawn at lot. It's going to
19 be decided by time. So if two or more horses are
20 tied, they will look at that horse's time and
21 decide who gets in.

22 We also addressed what happens if a
23 consolation fills with less than seven horses. One
24 thing we really strive to do in working with the
25 tracks, we want a good product out there for

1 bettors to bet on. We all realize that a five
2 horse field or four horse field is not a good
3 product. We have written in a mechanism that if we
4 get less than seven in that consolation, that that
5 race would be opened up to allow for a full field,
6 which I think benefits the horsemen. It benefits
7 wagering. It benefits everyone.

8 CHAIRMAN WEATHERWAX: Very good. Questions
9 from the Commission? So we want to take this
10 before we go to the next step? So do we want to
11 make a motion here?

12 COMMISSIONER MCCARTY: I move that we approve
13 the 2015 program of the Standardbred Breed
14 Development.

15 CHAIRMAN WEATHERWAX: I have a motion. Do I
16 have a second?

17 COMMISSIONER PILLOW: Second.

18 CHAIRMAN WEATHERWAX: All those in favor say
19 "aye."

20 THE COMMISSION: "Aye."

21 CHAIRMAN WEATHERWAX: Thank you, Jessica. Now
22 we have the 2015 program.

23 JESSICA BARNES: For the Standardbred Advisory
24 Board. The Standardbred Advisory Board is actually
25 a board, because we have some new commissioners,

1 that began in the Office of Commissioner of
2 Agriculture back in the 1970s. Their role has
3 always been primarily with the county fairs, and
4 they write the conditions so the rules of the sires
5 stakes program. In 1999, a bill was introduced to
6 move that board over to the racing commission.
7 That was passed. So that board, which was the
8 Board of Regulation at the time moved over to the
9 racing commission.

10 This board does not receive any funding from
11 slots revenue. It actually comes from
12 appropriation from gaming funds. So it's an
13 appropriation annually from the legislature. This
14 board has five governor-appointed members. And
15 they work closely with the Standardbred Breed
16 Development Advisory Committee because as they set
17 the rules for the sires stakes, the conditions for
18 the races, breed development funds it because they
19 don't have the money to fund it. Everything is
20 intertwined in working together.

21 The Standardbred Advisory Board also oversees
22 the racing at the county fairs. The county fair
23 program in Indiana is run under the rules of the
24 United States Trotting Association because that's
25 how our statute has things set up. But we

1 administer from this advisory board the county fair
2 drug testing program. That is where the majority
3 of the funds go to administer the program.

4 We do drug testing at each of the county fair
5 races on the horses. Every winner goes to a test
6 barn. They also do blood gas testing so prerace
7 testing, draw samples beforehand. The USTA has a
8 rule on their books that actually enforces all of
9 the Commission's efforts for drug testing. So any
10 of our rules for drug testing apply because the
11 USTA enforces them. So that is their proposal and
12 their budget. And I will be happy to answer any
13 questions about it.

14 CHAIRMAN WEATHERWAX: So is their focus mainly
15 on the county fairs?

16 JESSICA BARNES: The primary use of their
17 funds is the county fairs. They do set the
18 conditions for the sires stakes. So the change in
19 how the horse gets into the sire stake finals, that
20 had been approved by the advisory board. But the
21 primary focus is the county fair. That's where the
22 resources are utilized for drug testing.

23 They also provide each county fair that hosts
24 a program with operational funds. This enables the
25 county fairs to put on the racing program. It is

1 an amount of, we have proposed \$3,500 a day. That
2 enables the county fair to hire the judges that are
3 required by the USTA, the clerk, of course, the
4 charter, the starting gate, the photo finish, the
5 announcer, all the things that are required by the
6 USTA helps them put on the fair program.

7 CHAIRMAN WEATHERWAX: You tried to explain it,
8 but I didn't catch it. This budget, is this their
9 own money directly, and allocation from the General
10 Assembly?

11 JESSICA BARNES: It's not an appropriation
12 from the General Assembly, and it's not from
13 General Fund. It's from gaming and lottery surplus
14 that it's allocated. So it comes from the same
15 pool of money that the Commission's budget is
16 allocated.

17 CHAIRMAN WEATHERWAX: Are they paying for
18 their own drug testing?

19 JESSICA BARNES: It's through the Commission.
20 It's called the Standardbred Horse Fund. So it's a
21 separate horse fund within the Commission that that
22 money goes into and it administers. So the bills
23 come to me. I sign off on them.

24 CHAIRMAN WEATHERWAX: This is their budget and
25 their presentation that you are giving us for this

1 year.

2 JESSICA BARNES: Yes, to be approved today.
3 They are an advisory board. So they make a
4 recommendation to the Commission. The Commission
5 has final authority.

6 CHAIRMAN WEATHERWAX: Very good. Thank you.
7 So we've heard the presentation and their budget
8 and their responsibility. Do we have a motion to
9 accept this?

10 COMMISSIONER MCCARTY: So moved that we
11 approve the 2015 program for the Standardbred
12 Advisory Board.

13 CHAIRMAN WEATHERWAX: Do I have second?

14 COMMISSIONER LIGHTLE: Second.

15 CHAIRMAN WEATHERWAX: All those in favor say
16 "aye."

17 THE COMMISSION: "Aye."

18 CHAIRMAN WEATHERWAX: Approved.

19 JESSICA BARNES: Thank you.

20 CHAIRMAN WEATHERWAX: Thank you. Next on my
21 agenda I have Old Business, which will be the time
22 when we bring up things that we haven't settled
23 that you want to cover. Yes.

24 JOE GORAJEC: I would just like to bring up
25 and respond to one question that was asked earlier

1 but to respond to it in a more thorough manner.
2 Commissioner McCarty asked the question about the
3 cobalt testing and did it have any negative impact
4 on attracting horses. One of the things that I
5 thought of since I responded is that the initial
6 reaction to the cobalt testing amongst the
7 Thoroughbreds, not as much as the Standardbreds but
8 the Thoroughbreds, was just a concern that, you
9 know, am I going to get a positive test, an overage
10 by just doing what I've been doing and not thinking
11 they had been doing anything that they shouldn't be
12 doing.

13 That was addressed relatively quickly even
14 before the regulation started because what happened
15 is that there were a number of trainers that took
16 advantage of their ability to, their opportunity to
17 send their sample to the University of Kentucky and
18 get their own testing done. I know there is one
19 operation that races here in Indiana that has
20 horses all over the country. And they have
21 probably 20 or 30, probably 30 stabled at Indiana
22 Grand. But when we passed regulation, they tested
23 every horse that they had in training. It amounted
24 to over 200 horses because they wanted to know what
25 are our horse's level.

1 That particular trainer, I've been told, that
2 their results came back where every one of the
3 horses without exception came back under three
4 parts per billion. They weren't some one, some
5 three, and some ten, and some 12. They had a
6 routine that they feed their horses what they feed
7 their horses, and they feed all their horses the
8 same thing.

9 And once those results started coming back,
10 then people said I'm okay with it. I tested my
11 horse, and my horse was four or my horse was one
12 and a half, my horse was three so I don't have
13 anything to worry about. The people that took
14 advantage of that program, people that took
15 advantage of getting their horses tested for 20
16 bucks a pop before the regulation talked to other
17 people. And they said, well, if you're just doing
18 X, Y, and Z, you have nothing to worry about unless
19 the people that really had something to worry
20 about.

21 CHAIRMAN WEATHERWAX: That's good to know.
22 Thank you. Any new business?

23 MS. ELLINGWOOD: Yes, Chairman, I think
24 Centaur would like to make a presentation about
25 approval of their contract with respect to

1 construction of some Quarter Horse barns.

2 CHAIRMAN WEATHERWAX: John.

3 MR. KEELER: Thank you, Mr. Chairman, Members.
4 Of the Commission. My name is John Keeler, general
5 counsel of Centaur. When Jon Schuster was making
6 his presentation, he mentioned four new barns that
7 we've constructed in 2013 and 2014 at Indiana Grand
8 at a total cost of about five and a half million
9 dollars. Like with any great construction project,
10 you never get it right the first time. And one of
11 the defects that we've noticed is that the
12 ventilation in those barns is not ideal and what we
13 want.

14 So we've negotiated a construction management
15 with Hagerman Construction, which does most, if not
16 all, of our construction to install ventilation
17 equipment in those barns. Because the contract is
18 over \$50,000, under the Commission's rules, it
19 requires your approval. And so we are seeking
20 Commission approval to enter into that account with
21 Hagerman Construction, a copy of which has been
22 presented to the Commission?

23 CHAIRMAN WEATHERWAX: John, do you know how
24 much it's going to cost?

25 MR. KEELER: Yes, 212,000.

1 CHAIRMAN WEATHERWAX: Okay. Very good.
2 Therefore, we need to make a motion to allow you to
3 proceed over that because the threshold is over
4 \$50,000. Do I entertain a motion?

5 COMMISSIONER MCCARTY: I would move that
6 Centaur be authorized to go forward with this
7 contract.

8 CHAIRMAN WEATHERWAX: Second?

9 COMMISSIONER LIGHTLE: Second.

10 CHAIRMAN WEATHERWAX: All those in favor say
11 "aye."

12 THE COMMISSION: "Aye."

13 CHAIRMAN WEATHERWAX: I recommend anybody that
14 hasn't been to Indiana Grand or Hoosier Park, take
15 a moment to tour the place because it's state of
16 the art. It's even getting better as it sounds as
17 we speak, but it's a very professional, thorough
18 facility. We thank you for what you're doing.

19 Any other business to come before the
20 Commission? If not, we're adjourned.

21 (The Indiana Horse Racing Commission meeting
22 adjourned at 11:35 a.m.)
23
24
25

1 STATE OF INDIANA
2 COUNTY OF JOHNSON
3

4 I, Robin P. Martz, a Notary Public in and for
5 said county and state, do hereby certify that the
6 foregoing matter was taken down in stenograph notes
7 and afterwards reduced to typewriting under my
8 direction; and that the typewritten transcript is a
9 true record of the Indiana Horse Racing Commission
10 meeting;

11 I do further certify that I am a disinterested
12 person in this; that I am not a relative of the
13 attorneys for any of the parties.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 5th day of
16 February 2015.

17 Robin P. Martz



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21
22 My Commission expires:
23 March 2, 2016

24 Job No. 93923
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