

**In the Matter Of:**

*INDIANA HORSE RACING COMMISSION MEETING*

---

*June 08, 2016*

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2 INDIANA HORSE RACING COMMISSION  
3 MEETING

4  
5 HELD ON  
6 JUNE 8, 2016  
7 9:00 A.M.

8  
9 HOOSIER PARK  
10 4500 DAN PATCH CIRCLE  
11 ANDERSON, INDIANA

12  
13  
14 TAKEN BY:  
15 ROBIN P. MARTZ, RPR  
16 NOTARY PUBLIC  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES

Thomas Weatherwax, Chairman  
Greg Schenkel  
George Pillow  
William McCarty

Michael Smith, Executive Director

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

AGENDA

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1           CHAIRMAN WEATHERWAX: I'm Chairman Weatherwax.  
2 This is Commissioner Pillow, Vice-chairman  
3 Schenkel. We are also going to be missing today  
4 Susie Lightle, who is in Florida, but I didn't know  
5 about Chairman McCarty.

6           DEENA PITMAN: As far as I know, he will be  
7 here.

8           CHAIRMAN WEATHERWAX: First of all, I want to  
9 say thank you so much to Centaur for making this  
10 beautiful arrangement possible. I think it is very  
11 neat to start our Commission meeting with this type  
12 of entertainment and food. This is never going to  
13 happen again. Let's give them a round of applause.

14           (Audience applause.)

15           CHAIRMAN WEATHERWAX: I'm reminded by Deena  
16 that I have a 1994 inaugural season program of  
17 Hoosier Park. We don't come to these racetracks  
18 very often. I guess the last time somebody thought  
19 we should go to the racetrack was about 15 years  
20 ago.

21           The reason we're here, I think it's important  
22 that we as Commissioners, our staff, maybe some of  
23 you get to go where the rubber meets the road right  
24 out here. So we have a lot to learn, but I think  
25 the best way to learn is by coming and touring the

1 facilities. So that's exactly why we're here  
2 today. I want to thank our hosts for all that.

3 Before I swear in our reporter, Lea reminds me  
4 that we have -- here comes Chairman McCarty right  
5 now. Right on time. Welcome, Chairman. Lea tells  
6 me we have five new interns as part of our Indiana  
7 Horse Racing Commission staff. So would you please  
8 stand up, our five new interns.

9 (Audience applause)

10 CHAIRMAN WEATHERWAX: I see three, but I  
11 didn't see five.

12 MS. ELLINGWOOD: The others are sprinkled  
13 around.

14 CHAIRMAN WEATHERWAX: We thank you so much for  
15 being here. At this point in time, let's start our  
16 meeting officially.

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

19 CHAIRMAN WEATHERWAX: First order of business  
20 for my Commissioner members is review of last  
21 meeting, March 15th minutes. I guess this has  
22 all been presented to us.

23 COMMISSIONER SCHENKEL: Move approval.

24 COMMISSIONER MCCARTY: Second.

25 CHAIRMAN WEATHERWAX: All those in favor say

1 "aye."

2 THE COMMISSION: "Aye."

3 CHAIRMAN WEATHERWAX: Also, I'm reminded that  
4 when you testify, please make sure you speak  
5 directly into the microphone so it's easier for  
6 everybody to hear. And I have to remind my  
7 Commissioners to do that also.

8 Okay. First item on the agenda is the  
9 administrative judge's summary judgment on Scott  
10 McNair.

11 MS. ELLINGWOOD: Yes, Commissioners. On May  
12 15, 2015, the race horse Love That Mustang tested  
13 positive for a drug called Terbutaline after  
14 finishing first in the eighth race at Indiana  
15 Grand. Scott McNair was the trainer of that horse.

16 Mr. McNair availed himself of his right to a  
17 split sample, which was tested by LGC Lab at  
18 McNair's request. LGC confirmed the presence of  
19 Terbutaline in the system in the sample. As a  
20 result, the stewards held a hearing in which they  
21 decided to suspend Mr. McNair for 15 days, fine him  
22 \$500, and redistribute the purse money earned.  
23 That penalty is consistent with the ARCI  
24 guidelines.

25 Mr. McNair filed an appeal, and an ALJ was

1 assigned to hear the matter. Staff submitted  
2 discovery requests and filed a Motion for Summary  
3 Judgment. As a result of the Motion for Summary  
4 Judgment, the ALJ issued proposed findings of fact  
5 and conclusions of law, and a recommended order  
6 granting Staff's Motion for Summary Judgment and  
7 dismissing McNair's appeal.

8 Mr. McNair didn't file any objections to the  
9 ALJ's decision. As a matter of fact, he didn't  
10 file anything in response to anything that was sent  
11 to him so no word from him at all.

12 As your counsel in this matter will no doubt  
13 tell you, pursuant to the Administrative Orders and  
14 Procedures Act because Mr. McNair failed to file  
15 objections to the ALJ's recommended order,  
16 respectfully, the only course of action available  
17 to the Commission at this point is to adopt the  
18 ALJ's recommended order as written.

19 Accordingly, staff respectfully requests the  
20 Commission adopt the ALJ's order, which will result  
21 in a 15-day suspension, \$500 fine, and a  
22 redistribution of the purse money.

23 CHAIRMAN WEATHERWAX: And I think we should  
24 remind ourselves that there is no substance, any  
25 foreign substance is a violation in any kind of

1 drug, therapeutic or any kind. I think it's pretty  
2 clear to me the charges. Questions from the  
3 Commission members?

4 COMMISSIONER SCHENKEL: The 15-day suspension  
5 is when to when?

6 MS. ELLINGWOOD: Well, originally it was  
7 scheduled to take place in September, but because  
8 he appealed, which is his right, the suspension was  
9 stayed until the matter is resolved. And so the  
10 suspension is not going to begin until a ruling is  
11 entered on the matter after today.

12 COMMISSIONER SCHENKEL: So in effect it's 15  
13 days from now.

14 MS. ELLINGWOOD: Right.

15 COMMISSIONER SCHENKEL: I guess my other  
16 question is: Is he presently licensed in Indiana  
17 still?

18 MS. ELLINGWOOD: Honestly, I don't know if  
19 Mr. McNair is licensed. He would have been able  
20 to -- he could have still submitted a license  
21 application even though the matter is pending.  
22 Honestly, I don't know the answer to that.

23 COMMISSIONER SCHENKEL: But it will be 15 days  
24 from then.

25 MS. ELLINGWOOD: Yes.



1           CHAIRMAN WEATHERWAX: Questions,  
2 Commissioners? All right. We have the recommended  
3 judge's decision on this matter. Call for the  
4 question from my Commission members.

5           COMMISSIONER SCHENKEL: Move approval.

6           COMMISSIONER PILLOW: Second.

7           CHAIRMAN WEATHERWAX: Motion to approve and  
8 second. All those in favor say "aye."

9           THE COMMISSION: "Aye."

10          CHAIRMAN WEATHERWAX: Okay. Second item on  
11 here, Holly, I think you're going to be taking the  
12 case on this one representing us.

13          MS. NEWELL: Yes, sir. Commissioners, item  
14 number two on the agenda is your consideration of  
15 the proposed findings of fact, conclusions of law,  
16 and recommended order issued by ALJ Bernard Pylitt  
17 in the Guerrero case. Today I will act as your  
18 counsel. Commission staff is represented by Lea  
19 Ellingwood. And Juan Guerrero is represented by  
20 John Shanks. Lea and John are both here today to  
21 present.

22          At the outset, there will be some procedural  
23 discussions. Mr. Guerrero has filed objections,  
24 and Commission Staff has objected to those  
25 objections becoming part of the record. The issue

1 relates to the timing of the filing of objections.  
2 Both parties have briefed this issue. And I will  
3 leave it to them to argue their respective sides.

4 Assuming you move forward to hear the  
5 objections, the underlying matter in this case is  
6 whether Guerrero possessed a machine in 2015. ALJ  
7 Pylitt conducted an evidentiary hearing on this  
8 case in April. His findings are before you for  
9 your consideration.

10 ALJ Pylitt concluded that Guerrero did possess  
11 a machine, and he recommended a ten-year suspension  
12 and a \$5,000 fine. Notice of opportunity to  
13 present briefs and oral argument issued by Chairman  
14 Weatherwax allowed each side ten minutes. I will  
15 keep the time and signal at three, two, and one  
16 minute marks.

17 Commissioners may ask questions as you see  
18 fit. At the close of arguments, the Commission  
19 will have four options: Affirming, modifying,  
20 dissolving, or remanding for further proceedings.

21 If the Commissioners don't have any questions  
22 at this time, Mr. Shanks will be up.

23 CHAIRMAN WEATHERWAX: Just for the benefit of  
24 the general public, this is a case dealing with a  
25 Quarter Horse jockey. So we just want you to

1 understand, not that it makes any difference, but  
2 it's just a fact of background history.

3 So, John, are you ready?

4 MR. SHANKS: Do you want me to move it?

5 CHAIRMAN WEATHERWAX: Yes, why don't you put  
6 it wherever it fits you best and where the people  
7 can hear.

8 MR. SHANKS: Well, good morning, thank you  
9 Mr. Chairman, Members of the Commission for this  
10 opportunity to speak on behalf of my client, Juan  
11 DeLeon Guerrero. Juan is right here.

12 First let me -- we're on time, right? Okay.  
13 First, let me tell you about things that the  
14 Commission and Staff and we agree with. And that's  
15 the duty of the Commission to fulfill it's  
16 statutory mission, which reads in part to ensure  
17 that pari-mutuel wagering on horse races in Indiana  
18 will be conducted with the highest standards, and  
19 the greatest level of integrity. That's something  
20 we agree on.

21 Now we can talk about the things we disagree  
22 about; certainly, the issue of the objections that  
23 have been filed; second, the order recommended by  
24 Judge Pylitt; and third, how the Commission can  
25 fulfill its duty under a situation like this.

1           The delay in our filing the objections 72  
2 minutes late was a result of a problem with our  
3 Internet service at the office. When I received  
4 the e-mail -- finally, we got it up and running. I  
5 received an e-mail from Holly telling me we had  
6 missed the deadline, I immediately sent it out.  
7 There was a problem though with the objections  
8 being scanned and sent.

9           Judge Pylitt advised me a little while later  
10 that he couldn't open the attachment. Okay. So I  
11 went back. We rescanned it. I checked it on the  
12 flash drive that we downloaded it to make sure it  
13 was readable and then sent it out again.

14           Now, the reason this was an issue is because  
15 we were trying to be sure that this got before you  
16 today. It took almost six months for the  
17 administrative complaint to be filed against Juan,  
18 and we wanted to move this as quickly as possible.

19           Indiana Code 4-21.5-3-29(d)2 provides 15 days  
20 for parties to file objections to a recommended  
21 order. However, at the hearing, finally at the end  
22 of the hearing to expedite this process, we agreed  
23 to cut that time short to noon on the 27th of  
24 June. I'm sorry, of May.

25           And if the deadline had been statutory, it

1 would have been on Memorial Day on May the 30th.  
2 We made an effort to comply. I didn't think it was  
3 a big deal because of the cooperation we had had  
4 with the Commission staff during this process. It  
5 was not something that was intentional. It was  
6 something over which we had no control.

7 We did file our brief pursuant to the  
8 executive director's timeline. We filed it  
9 actually on the 27th, I believe, which was before  
10 the deadline. The deadline would have been  
11 Memorial Day, which would have made it the next day  
12 because under the rules of trial procedure, if the  
13 deadline falls on a holiday or a weekend, it  
14 becomes the next business day. But both our side  
15 and the Commission staff filed their briefs on a  
16 timely basis. I did include a copy of our  
17 objections as part of the brief as an exhibit.

18 This unexpected delay in my opinion didn't  
19 create a problem for the Commission staff. It  
20 didn't slow down the process. It didn't create any  
21 undue influence on the part of my client on the  
22 Commission. There was no unjust enrichment to my  
23 client as a result of this. It was just a  
24 technical thing. And now with E-filing becoming  
25 sort of the standard in the courts, all lawyers are

1 going to have to be very, very cautious about  
2 deadlines involving the Internet.

3 Had the shoe been on the other foot, had the  
4 Commission staff had an error like this, we would  
5 not have objected because it didn't affect the  
6 process of the case and how the case would go  
7 forward. We are asking if you will consider the  
8 objections and not reject them, as has been asked  
9 by the Commission staff. So now the issue is  
10 before you.

11 The next thing is the recommended order. We  
12 strongly disagreed there was sufficient and  
13 reliable evidence to find that Juan had an  
14 electrical device, normally called a machine. That  
15 term makes me think of something much bigger than  
16 this little device. That he had this device in the  
17 tenth race on August 11, 2015. And the proposed  
18 sanctions are arbitrary and capricious.

19 Juan was the leading jockey in the 2015  
20 Quarter Horse season. As his trainer, Randy Smith,  
21 was the leading trainer that season. It is  
22 illogical that Juan would have jeopardized that  
23 status to shock his horse ironically known as Stone  
24 Toasted, especially since he had broken that horse.  
25 He had ridden her many times. He and the horse's

1 trainer, Randy Smith, testified that the horse  
2 would react badly to even a whip, much less an  
3 electronic device.

4 In brief, our position is that this is a witch  
5 hunt created by a confidential informant, probably  
6 a jealous jockey, who the Commission staff refused  
7 to identify so he could be confronted and testify  
8 as to his observations and statements to Kevin  
9 Tompkins. There is no substantial and reliable  
10 physical evidence to connect Juan to the machine  
11 found on the roof of the Indiana Grand Casino on  
12 August 12th, which was the next day.

13 Juan has testified he did not possess the  
14 machine. He did not use the machine on that horse.  
15 And no one testified that they saw a machine in his  
16 possession.

17 The stewards were informed the morning of  
18 August 11 by Kevin Tompkins, a security guard, that  
19 he had a credible tip from a confidential informant  
20 that Juan would have a machine in his possession  
21 during race number ten at approximately 10:30 p.m.  
22 that evening.

23 Associate commission steward William Troilo,  
24 who is also a retired jockey, testified that it is  
25 not uncommon to find machines on the grounds of

1 Indiana horse racing tracks. He also used one of  
2 them to demonstrate that it is possible for someone  
3 Juan's size -- he and Juan are pretty close --  
4 three minutes, okay -- pretty close to the same  
5 size that he could throw a machine from the  
6 jockey's quarters patio to the roof of the casino.

7 If a horse were shocked by a machine, that  
8 could endanger the other jockeys. And he, as a  
9 steward, had a duty to protect the integrity of  
10 racing and the other jockeys. I covered all this  
11 in my brief, but it is illogical to me that if the  
12 Commission employees, both stewards and security,  
13 had reliable and credible information that a jockey  
14 was carrying a machine, they would let that jockey  
15 in the race, that they would not confront him at  
16 the gate.

17 You will be told about two other cases dealing  
18 with machines, Serna and Sarna. These cases are  
19 only consistent in that in both cases, the  
20 Commission employees had information that jockeys  
21 were carrying the machine but did not confront them  
22 before the race.

23 In short, we believe that this is not a way to  
24 meet the obligation of the statutory mission of the  
25 Commission. When there is reliable and credible



1 information that a jockey is carrying a machine  
2 that could not only endanger other jockeys, but  
3 impact the integrity of that race.

4 We appreciate your time. We believe that the  
5 sanction that's recommended is inconsistent with  
6 previous sanctions, and it's inappropriate. My  
7 client has admitted that he failed to cooperate  
8 with Security Officer Tompkins. He regrets that  
9 and apologizes. But a ten-year suspension and the  
10 fine that's proposed is in my opinion completely  
11 inappropriate. Thank you for your time.

12 CHAIRMAN WEATHERWAX: Thank you, John.

13 Questions from our Commissioners?

14 MS. NEWELL: You can either ask him questions  
15 now or after. I assume John will stay close.

16 CHAIRMAN WEATHERWAX: Let's wait until we  
17 hear.

18 MS. ELLINGWOOD: Commissioners, counsel, thank  
19 you for affording me the opportunity to appear  
20 before you in the matter of the IHRC Staff versus  
21 Juan Guerrero.

22 CHAIRMAN WEATHERWAX: Can you hear her? Speak  
23 right into it, Lea.

24 MS. ELLINGWOOD: I'm going to commit as little  
25 time as possible to address this matter. Although

1 I think it's extremely important, I do also believe  
2 that the issues have been thoroughly briefed, as  
3 John mentioned.

4 As you know from the numerous hearings that  
5 you've held, when an ALJ issues a recommended  
6 order -- and when I say "recommended order," I mean  
7 the document that includes proposed findings,  
8 conclusions of law, and a recommended order --  
9 there's a deadline by which the parties have to  
10 object to that document.

11 In the absence of objections under AOPA, the  
12 Commission has no option but to adopt the ALJ's  
13 order, as it did in the McNair matter. If  
14 objections are filed by the deadline, the  
15 Commission has four choices; one, to adopt the  
16 ALJ's proposed order; two, to amend it; three to  
17 dissolve it, and, four, to remand it back to the  
18 ALJ for further proceedings.

19 Now, there's an initial matter before you  
20 regarding the timeliness of Guerrero's objection,  
21 which I need to address. As you know from the  
22 briefs, Guerrero asked for a shortened deadline for  
23 filing objections. Staff agreed to the shortened  
24 deadline. The reason for the shortened deadline  
25 was to make sure there was enough time for this

1 matter to get on the agenda for this meeting. If  
2 the deadline hadn't been shortened, the matter  
3 wouldn't have been heard until September.

4 The deadline was clear from the hearing  
5 transcript and the ALJ's order, it was set for noon  
6 on Friday, May 27th. That deadline came and went  
7 with no objections filed. Shortly thereafter,  
8 Commission counsel sent an e-mail to parties  
9 acknowledging that the deadline had expired, that  
10 no objections had been filed, and without  
11 objections, the Commission would be required to  
12 adopt the ALJ's recommended order.

13 An hour after that e-mail was sent, Guerrero  
14 sent an e-mail with an attachment that purported to  
15 be his objections to all parties. His e-mail  
16 indicated that he hadn't been able to file his  
17 objections timely because of technical issues, as  
18 John explained.

19 Unfortunately, the attachment that he sent was  
20 illegible. Both the staff and ALJ told Guerrero  
21 that the attachment couldn't be read. An hour  
22 after that, Guerrero made a second attempt to file  
23 his objections, which was successful.

24 Guerrero neither contacted the parties before  
25 the deadline expired to advise them that he had

1 technical difficulties, nor did he opt to file his  
2 objections by fax or in person, all of which are  
3 allowed under the trial rules.

4 As a result, Commission staff's position is  
5 that the objections were not timely filed. And  
6 consequently the Commission rather has no  
7 alternative but to adopt the ALJ's recommended  
8 order. Irrespective of the timeliness issue,  
9 however, Staff believes the Commission should adopt  
10 ALJ's recommended order based on the merits of the  
11 case. Guerrero would have you believe he's a  
12 victim of a witch hunt and that Commission staff is  
13 out to get him. That couldn't be further from the  
14 truth. In fact, this case came to us.

15 The morning of August 11th a reliable  
16 confidential informant came to our investigator and  
17 gave him a very specific credible tip that Guerrero  
18 would be carrying a machine during a race later  
19 that night at Indiana Grand. The informant said  
20 the machine would be carried in his glove. That  
21 the glove would have holes punched in the palm  
22 through which the machine prongs could make contact  
23 with the horse and also named the horse Guerrero  
24 would be riding and the race he would be riding in.  
25 Every bit of information that was provided to the

1 Commission by that informant was corroborated  
2 during the course of this investigation.

3 For those of you who haven't seen it, this is  
4 a machine. As you can see, it's missing the AAA  
5 battery for your safety and primarily for mine. It  
6 is approximately the size of a tube of Chapstick.  
7 As you can tell, it's going to be very easy to hide  
8 this in the glove.

9 Based on the information provided by the  
10 informant, a plan was devised. And pursuant to  
11 that plan, a staff investigator, who is generally  
12 well known and recognized on the backside,  
13 approached Guerrero and his valet at the winner's  
14 circle immediately after Guerrero won the race.  
15 The investigator told Guerrero he was going to be  
16 searched as the result of a tip and asked if he  
17 would find anything. Guerrero laughed and said no.

18 However, during the walk to the jockeys'  
19 quarters, where the search was scheduled to take  
20 place, Guerrero was fidgety and attempted to hide  
21 his left hand from sight. His left glove is the  
22 one with the holes in it, the one that was  
23 concealing the machine.

24 Seconds after entering the jockeys' quarters,  
25 Guerrero took off at a sprint running away from the

1 staff investigator despite being told to stop. To  
2 his credit, the investigator was able to stay steps  
3 behind Guerrero despite being quite a bit older and  
4 observed Guerrero throwing a small object as hard  
5 as possible towards the adjacent casino building.

6 The next morning, the machine, which fit the  
7 specific holes made in Guerrero's glove, was found  
8 on the roof of that building. Later that day,  
9 Guerrero was summarily suspended, and the  
10 Commission made an administrative complaint against  
11 him.

12 It's hard to believe that something that small  
13 is dangerous. But possession of or use of that  
14 little thing is among the most serious of  
15 violations that affect the integrity of horse  
16 racing. It can change the outcome of a race, and  
17 it can cause an accident. And, unfortunately, we  
18 all know that accidents can prove to be fatal, both  
19 to humans and to equine athletes. That's why Staff  
20 seeks this penalty.

21 In rendering his recommended order, Judge  
22 Pylitt had the benefit of reviewing approximately  
23 20 exhibits. He participated in a tour of the area  
24 related to the incident. He received information  
25 from three forensic experts. He conducted a

1 day-long hearing and weighed the credibility  
2 firsthand of five witnesses. Each of them were  
3 subject to cross-examination.

4 In addition, this particular ALJ has the  
5 expertise of sorts in that he is the ALJ who has  
6 presided over all the Commission's previous machine  
7 cases. This ALJ is about as familiar with this  
8 case as any person could be.

9 Based on his personal observations and his  
10 review of the evidence, he was convinced by the  
11 preponderance of the evidence that Guerrero was  
12 guilty of being in the possession of a machine at  
13 the regulated area. That he interfered with or  
14 obstructed the Commission staff while performing  
15 their official duties. And he was untruthful with  
16 the Commission staff during the course of the  
17 investigation.

18 The ALJ concluded that the appropriate penalty  
19 for Mr. Guerrero is a ten-year suspension, \$5,000  
20 fine, exclusion from the regulated area, and  
21 redistribution of the purse money that was earned.  
22 Staff believes it's met its burden in establishing  
23 Guerrero was in violation of the administrative  
24 rules and statutes outlined in its administrative  
25 compliant and, therefore, respectfully ask the

1 Commission to adopt the ALJ's recommended order.

2 Do you have any questions for me?

3 CHAIRMAN WEATHERWAX: Commission members, a  
4 question? You've all read the case. You've all  
5 read the rebuttal, and you've all read the  
6 information that you gave us.

7 My only observation to both of you is that  
8 this is probably one of the most serious violations  
9 we've ever had to look at since I've been a  
10 commissioner for only two years.

11 COMMISSIONER PILLOW: Can we see the machine?

12 MS. ELLINGWOOD: Sure. This isn't the machine  
13 that was involved in this case. It's an example.

14 CHAIRMAN WEATHERWAX: It is exactly the way it  
15 is though?

16 MS. ELLINGWOOD: This is exactly -- they all  
17 pretty much function the same way. There are  
18 different evolutions. That's basically what it  
19 looks like. How it works is --

20 COMMISSIONER PILLOW: These prongs here?

21 MS. ELLINGWOOD: Yeah, these are prongs that  
22 fit through the glove so it would be like that.  
23 One prong is stationary. And when you push it into  
24 the horse, this one goes down, and that sends the  
25 current. And so there's wound copper wire in



1 there.

2 CHAIRMAN WEATHERWAX: I'm very familiar with  
3 cattle prods. As a young boy, some of my friends  
4 used to try to do that to me. I didn't think it  
5 was very funny.

6 But this is a pretty serious charge, I  
7 imagine. But when you have a cattle prod that I'm  
8 used to using, it was about like from here to  
9 Greg's plate that probably had eight double D  
10 batteries. This thing, even though it's small,  
11 must have a tremendous shock.

12 MS. ELLINGWOOD: Yes, sir. One of the  
13 forensic experts submitted a report in which he  
14 stated that one of those machines can get up to  
15 10,000 volts. It's in many respects equivalent to  
16 a cattle prod.

17 COMMISSIONER SCHENKEL: Can I go back to  
18 the -- let's deal with the procedural issue first.  
19 John, Mr. Shanks, I have a couple questions for  
20 you. Obviously, you know all of us very well.  
21 You've represented clients before the Commission,  
22 and you know the staff.

23 Did you know that morning -- let me put it  
24 this way: It's my understanding that you asked for  
25 this compressed or shortened time frame so you very

1 well knew the deadline was at your request.

2 MR. SHANKS: Yes.

3 COMMISSIONER SCHENKEL: Secondly, I guess, and  
4 this is an observation and not a question. I would  
5 be surprised that because you were the requester  
6 that you would have waited until the morning of the  
7 deadline to do it. But my question is: Did you  
8 know that you were having Internet and  
9 technological problems that morning?

10 MR. SHANKS: I got to the office about 11:30  
11 with the scanned objections, put them in the  
12 computer. Thought, well, I'll get it there a half  
13 hour early. I didn't realize until probably after  
14 12 that it hadn't gone through. I checked our  
15 phone system. We're on Comcast. If something goes  
16 down, often other things go down.

17 We started working on that through the system.  
18 And when I got the e-mail -- I finally got it up  
19 and running, got the e-mail from Holly that missed  
20 the deadline. Well, I know we missed the deadline.  
21 I couldn't drive it down there.

22 COMMISSIONER SCHENKEL: But knowing you had  
23 missed that deadline, did you attempt to call  
24 Holly --

25 MR. SHANKS: No.

1           COMMISSIONER SCHENKEL:  -- or call anybody at  
2 the Commission?  You know all the numbers.  You  
3 know how to get a hold of people.  There was no  
4 effort to let them know that due to a technological  
5 thing that --

6           MR. SHANKS:  The result would be the same.

7           COMMISSIONER SCHENKEL:  I would agree with  
8 that.  I will give you that.  I guess I'm just  
9 surprised with all the technological ways of  
10 communication we have that I'm surprised that you  
11 wouldn't make some attempt --

12          MR. SHANKS:  I understand.

13          COMMISSIONER SCHENKEL:  -- at that deadline to  
14 advise people.

15          MR. SHANKS:  We still would have missed the  
16 deadline.  And it would have been up to Commission  
17 staff.

18          COMMISSIONER SCHENKEL:  Missing the deadline  
19 but with some knowledge that there were extraneous  
20 circumstances, that's just.  Okay.  Thank you.

21          CHAIRMAN WEATHERWAX:  Questions from other  
22 members?  George?

23          COMMISSIONER SCHENKEL:  Are we going to deal  
24 with the two issues separately?

25          MS. NEWELL:  I think at the outset you need to

1 decide -- it's a little awkward obviously --  
2 whether or not you actually want to consider the  
3 objection. They have been briefed and argued at  
4 this point, but you need to make a decision as a  
5 Commission whether or not those objections will be  
6 heard over Commission staff's objection to the  
7 hearing of the objections.

8 CHAIRMAN WEATHERWAX: Did you have a question,  
9 Commissioner?

10 COMMISSIONER PILLOW: No, not after that  
11 statement.

12 COMMISSIONER MCCARTY: I do. So if we waived  
13 the deadline requirement, what would then, what  
14 would procedurally follow, the allowance of the  
15 objections?

16 MS. ELLINGWOOD: Yes, Mr. McCarty. If the  
17 Commission goes ahead, if the Commission determines  
18 that it wants to waive that and consider the case  
19 on its merits, then you have the four options that  
20 are outlined under AOPA. You can adopt the ALJ's  
21 proposed order. You can amend it. You could  
22 dissolve it, and you could remand it back to the  
23 ALJ for further proceedings.

24 If you decide to move forward with hearing  
25 this, then your next step is to figure out if you

1 feel comfortable with the ALJ's decision, if you  
2 want to change it and proceed from that point on.

3 MS. NEWELL: And to be clear, they have  
4 already argued it so as delightful as it was, you  
5 won't be hearing substantive arguments orally. But  
6 they can answer any questions about the substance  
7 and the underlying merits at this point if you are  
8 going to hear the objections.

9 CHAIRMAN WEATHERWAX: So we really do want to  
10 decide the first step.

11 MS. NEWELL: Correct.

12 CHAIRMAN WEATHERWAX: The due process that got  
13 us here versus either affirm, remand, or send it  
14 back. If we do that, then the clock stops and goes  
15 back and comes up six months or.

16 MS. ELLINGWOOD: No, this is a final hearing.

17 CHAIRMAN WEATHERWAX: This is it.

18 MS. ELLINGWOOD: Yes.

19 MS. NEWELL: If you choose not to hear these  
20 objections pursuant to AOPA, it is appropriate to  
21 accept the ALJ's order without question or  
22 consideration unless it's, of course, at your  
23 behest. If you choose to hear the objections, you  
24 will consider what both John and Lea have had to  
25 say and have briefed. And that's the point where

1 you will make the decision to move forward.

2 MS. ELLINGWOOD: Does that answer your  
3 question?

4 COMMISSIONER MCCARTY: So we would consider  
5 those objections today?

6 MS. ELLINGWOOD: Yes.

7 MS. NEWELL: Yes.

8 MS. ELLINGWOOD: The initial decision you have  
9 to make is whether or not the objections were  
10 timely filed and, therefore, subject to being heard  
11 by the Commission. If you decide that they weren't  
12 timely filed, then the Commission doesn't have an  
13 option other than to adopt the ALJ's recommended  
14 order.

15 If you decide to waive that argument with  
16 respect to timeliness, you decide that you want to  
17 go ahead and hear the case on its merits  
18 irrespective of the timing issue, then you have  
19 those four options provided to you by AOPA; the  
20 adopt, amend, remand, or dissolve.

21 COMMISSIONER PILLOW: One question, Lea. So  
22 the Agency's position is that we should not go any  
23 further with this other than because it was filed  
24 not in a timely fashion.

25 MS. ELLINGWOOD: Yes. But I would stress that

1 the Commission does also very strongly believe that  
2 even if the Commission opts to hear the matter,  
3 that based on the merits of this case, it's  
4 appropriate for the Commission to adopt the ALJ's  
5 recommended order. But the short answer to your  
6 question is yes.

7 CHAIRMAN WEATHERWAX: Okay. So let's make a  
8 motion or decision on the first part about the  
9 objection to the timely filing of the due process  
10 per the discussion both for and against and the  
11 reasons for the non-timely filing as the will of  
12 the Commission.

13 COMMISSIONER MCCARTY: Well, I would argue  
14 that because of the severity of the penalty, I  
15 think we ought to be openminded. We ought to open  
16 up and listen to the or consider the objections to  
17 the order because of the severity of the penalty.  
18 And that technical deadlines can be missed, and  
19 they can be missed -- well, not technical  
20 deadlines. Deadlines can be missed for technical  
21 difficulties. And this was a shortened time frame  
22 that was actually suggested by Mr. Shanks.

23 But I just, I think in the interest of  
24 fairness, I would argue that we ought to allow the  
25 objections to be considered. That would be my

1 perspective. I certainly respect other people's  
2 perspective on this too.

3 CHAIRMAN WEATHERWAX: Go ahead.

4 COMMISSIONER SCHENKEL: If we do that, what's  
5 the procedure then for if we argue those again, do  
6 we go through the whole thing with the time limits?

7 MS. NEWELL: No. I think the parties sort of  
8 agreed without saying, that they would go ahead and  
9 make their arguments already. If you agree to the  
10 objections, you essentially already heard them.  
11 And you guys can begin your deliberations, asking  
12 any questions. This presumably should conclude  
13 your dealing with the matter at the end of this  
14 meeting, depending on what happens. But it's not  
15 going to be back in front of you in September or  
16 anything.

17 CHAIRMAN WEATHERWAX: That's helps explain it.

18 COMMISSIONER SCHENKEL: I didn't know if we  
19 were going to be here another two hours to go  
20 through everything again.

21 MS. NEWELL: Absolutely not.

22 CHAIRMAN WEATHERWAX: Do you want to make a  
23 motion?

24 COMMISSIONER MCCARTY: Well, I would move we  
25 allow the objections to be entered as part of the



1 record, admitted and allowed as part of the record.  
2 That we consider the objections in considering how  
3 we respond to the ALJ's proposed order and then  
4 act.

5 So I move to consider the objections, make  
6 them part of the record, and proceed to a decision.

7 CHAIRMAN WEATHERWAX: We have a motion. Do I  
8 have a second?

9 COMMISSIONER PILLOW: I'll second.

10 CHAIRMAN WEATHERWAX: We have a second. All  
11 those in favor say "aye."

12 THE COMMISSION: "Aye."

13 CHAIRMAN WEATHERWAX: Okay. Go on with the  
14 case.

15 MS. NEWELL: Now you will consider the actual  
16 merits which is whether or not Mr. Guerrero  
17 possessed the machine and whether or not the ALJ's  
18 order is appropriate.

19 CHAIRMAN WEATHERWAX: Very good. So now we  
20 can ask the questions you all have. You've studied  
21 the case and heard the testimony both for and  
22 against the accusations and the charges.

23 Commission Schenkel, would you have an  
24 observation?

25 COMMISSIONER SCHENKEL: Well, just a couple of

1 questions, as well as an observation. Maybe I  
2 missed it, but in the pages and pages of things  
3 that I read, the depositions and so forth from all  
4 sides, there was no dispute that the person  
5 involved threw something.

6 MR. SCHENKEL: There was a dispute.

7 COMMISSIONER SCHENKEL: That there was even  
8 anything thrown?

9 MR. SHANKS: Yes, we disputed that. It's in  
10 the record.

11 COMMISSIONER SCHENKEL: As I read the record,  
12 you may have disputed it. I guess, am I correct  
13 that there were witnesses, more than one witness  
14 that --

15 MS. ELLINGWOOD: The Staff investigator, Kevin  
16 Tompkins, who was the one who met Guerrero and the  
17 valet at the winner's circle and escorted them back  
18 to the jockeys' quarters. When Juan took off  
19 running, Kevin followed him and had him in his  
20 vision. Juan ran through the back door of the  
21 jockeys' quarters into an enclosed patio and  
22 observed Juan running toward the fence, and as  
23 Kevin said, threw a small object as hard as  
24 possible. So that's the witness to which we are  
25 referring.

1           COMMISSIONER SCHENKEL: I don't want to get  
2 bogged down in minutia. There was the action of  
3 his running from the investigator and, obviously,  
4 throwing something, whether it was that particular,  
5 that's disputed. I understand. So okay.

6           The other, I guess, kind of an observation  
7 would be along the lines of nowhere in this whole  
8 process did I see anything about the trainer being  
9 involved or being questioned.

10          MS. ELLINGWOOD: That's accurate, Your Honor.  
11 We haven't -- as you know, we have a trainer  
12 responsibility rule that is used very regularly in  
13 drug cases. The trainer responsibility rule hasn't  
14 been applied to the best of my knowledge in a  
15 machine case in Indiana. I don't know about  
16 surrounding jurisdictions, but I will point out  
17 that we've got a new executive director. You know,  
18 we've got a young commission. If that's a route  
19 which you want, which direction --

20          COMMISSIONER SCHENKEL: Thank you for calling  
21 us all young. Let the record show that, Robin.

22          MS. ELLINGWOOD: That's certainly, if that's  
23 something the Commission and administration is  
24 interested in pursuing, then certainly --

25          COMMISSIONER SCHENKEL: Again, I don't want to

1 detract from the argument of this case, but I think  
2 that's something that is a little bothersome to me  
3 because, obviously, in question here is the jockey  
4 and the horse. But there are other entities  
5 involved in this. And I hope going forward, it has  
6 nothing do with this case, but I hope going forward  
7 we are cognizant of that so that future matters  
8 take into account all the participants, if you  
9 will.

10 MS. ELLINGWOOD: Understood.

11 COMMISSIONER SCHENKEL: That's just an  
12 observation.

13 COMMISSIONER PILLOW: John, are you saying or  
14 denying that your client ran?

15 MR. SHANKS: No.

16 COMMISSIONER PILLOW: So he did take off  
17 running?

18 MR. SHANKS: Yeah, the testimony is pretty  
19 clear. He got agitated. He does not speak English  
20 well. We had an interpreter at the hearing. His  
21 wife also interprets for him. She's very fluent in  
22 both English and Spanish.

23 COMMISSIONER PILLOW: Did she tell him to take  
24 off?

25 MR. SHANKS: No.

1           COMMISSIONER PILLOW:    So then what?

2           MR. SHANKS:    Just to clarify and we don't have  
3 the chart here with us, but he was -- instead of  
4 being, instead of encountering him at the gate  
5 before the race, they chose to encounter him at the  
6 winner's circle after the race.  Both Security  
7 Officer Kevin Tompkins and his valet walked with  
8 him from the winner's circle to the jockey  
9 quarters.  When they got to the jockey quarters, he  
10 took off.  He said he had to go pee.  That's in the  
11 record.

12          COMMISSIONER PILLOW:    He had to do what?

13          MR. SHANKS:    He had to go to the bathroom.

14          COMMISSIONER PILLOW:    So that's why he took  
15 off?

16          CHAIRMAN WEATHERWAX:    But he ran by the  
17 restroom.

18          COMMISSIONER PILLOW:    But he ran by the  
19 restroom.

20          MR. SHANKS:    He went past the restroom to the  
21 enclosed porch.  There's an enclosed porch with a  
22 privacy fence about eight feet high.  He went out  
23 on that porch.  Kevin Tompkins was inconsistent as  
24 to whether he saw him actually throw something.  At  
25 one point he said he saw him throw something.  At

1 another point, I think in the deposition, he got to  
2 the gate or got to the door to the porch too late.  
3 I'm sort of summarizing.

4 MS. ELLINGWOOD: Respectfully, I would  
5 disagree.

6 COMMISSIONER PILLOW: I guess I'm trying to  
7 get to the point he ran. He had to go to the  
8 bathroom. He ran past the bathroom.

9 MR. SHANKS: He ran past the bathroom then.

10 COMMISSIONER PILLOW: Instead of using the  
11 bathroom, he threw something.

12 MR. SHANKS: Well, no, we don't know that he  
13 threw something. He said he didn't. There's no  
14 one, other than Kevin Tompkins, that said he threw  
15 something.

16 COMMISSIONER PILLOW: Well, if he didn't throw  
17 anything, did anybody see him use the bathroom?

18 MR. SHANKS: No.

19 CHAIRMAN WEATHERWAX: Here's the other point.

20 COMMISSIONER PILLOW: I'm done.

21 CHAIRMAN WEATHERWAX: When I read this, they  
22 did find the glove on him with the holes in it.

23 MR. SHANKS: Yes. And the testimony you will  
24 see is consistent, he bought that glove used. It's  
25 not uncommon for gloves to have holes in them.

1 Now, they were able to match the holes in the glove  
2 to the prongs in the device, but we don't know when  
3 those holes were punched.

4 He testified consistently that he bought them  
5 used. Okay. But there's no physical evidence  
6 connecting him to that machine. There was no  
7 fingerprints, no DNA, nothing. Okay. There is  
8 inconsistent testimony that's uncorroborated by  
9 anyone else other than Security Officer Tompkins.

10 MS. ELLINGWOOD: Commissioners, I do  
11 respectfully -- there are a number of points in  
12 which John and I disagree. I don't think it is  
13 necessary to get into all of them. But I would  
14 like to point out that we had an eyewitness, a  
15 Commission investigator who's been there a couple  
16 of years, well known on the backside, personally  
17 observed Juan through a small object toward the  
18 casino roof where the machine was found. The  
19 machine prongs facing, fits exactly the holes in  
20 the gloves, the holes that were created,  
21 manufactured in Juan's gloves.

22 Staff again believes that we have met the  
23 preponderance of the evidence burden, which is to  
24 prove that it's more likely than not that Juan is  
25 guilty of these violations.

1           CHAIRMAN WEATHERWAX: Okay. We have read the  
2 transcript. We've heard the discussion amongst  
3 ourselves. Any comments, questions?

4           COMMISSIONER MCCARTY: I need to ask a  
5 question procedurally. Why is this challenge not  
6 made prior to the race? Why is it made subsequent  
7 to the race?

8           MS. ELLINGWOOD: The Staff's practice has been  
9 to handle complaints in attempts regarding machines  
10 this way. They do it because you never know where  
11 the machine is going to make it onto the jockey.  
12 Sometimes the jockey has it with him. Sometimes  
13 the gate crew will give the machine to the jockey.  
14 The stewards and the investigators got together and  
15 decided that the best course of action was to catch  
16 the jockey with the machine after the race has been  
17 won.

18           COMMISSIONER SCHENKEL: As I read in the  
19 transcripts and all the filings, that was a  
20 conscious decision made by Staff.

21           MS. ELLINGWOOD: It was. The investigator  
22 went to a senior state steward and to the other  
23 stewards who were there. Together they  
24 collectively devised a plan to meet Mr. Guerrero  
25 immediately after the race and escort him



1 immediately to the search. It was a conscious  
2 decision, and it's the same decision, the same way  
3 they have executed that plan in other instances.

4 MR. SHANKS: Mr. Chairman, may I address that  
5 issue? It's not uncommon to find machines on the  
6 track. Steward Troilo testified that machines are  
7 found along the track. If you wait until after the  
8 race, if a jockey had one at the gate, it could be  
9 disposed of before he ever got to the winner's  
10 circle. That's why I think it's important that to  
11 fulfill the mission if there is a credible  
12 information and the jockey has one of the machines  
13 that puts other people in danger and really mess up  
14 the race, they should be confronted at the gate. I  
15 didn't know that process until I got into this  
16 case. I was shocked because I believe it was  
17 wrong.

18 MS. ELLINGWOOD: We believe that has no  
19 bearing on his guilt or innocence in this case. We  
20 believe he had the machine. He ran. He was afraid  
21 he was going to get caught. He was seen throwing  
22 something irrespective when he was going to be  
23 searched.

24 COMMISSIONER SCHENKEL: Yeah, I guess that  
25 point is arguable in terms of it was a Staff

1 decision, whether it was right or wrong or whether  
2 you agree with it or not.

3 COMMISSIONER MCCARTY: I agree with that. I  
4 would ask for some rethinking of that. If the  
5 argument is the protection of the horse and all the  
6 participants, it would seem that prevention would  
7 be more important than the apprehension. Before  
8 the race is prevention. And if you're interested  
9 in apprehending somebody, you wait until the race  
10 is over, I guess. I would like to see some  
11 thinking about prevention.

12 MS. ELLINGWOOD: Absolutely.

13 CHAIRMAN WEATHERWAX: I would like to see some  
14 serious avoiding of the problem. This is a  
15 terrible reflection on a beautiful industry, one  
16 that I personally, along with Chairman McCarty,  
17 were responsible for including the Quarter Horse in  
18 our big picture of life. There was a time when  
19 those guys didn't have a chance to dance the dance.

20 So I would expect the Quarter Horse group to  
21 live up to that exciting, which I think it's very  
22 exciting but professional and well-regulated  
23 industry. The fact that we're having this  
24 discussion on something this tragic is really a bad  
25 idea. It's a reflection.

1           We're here to try to avoid any kind of  
2           impropriety. Integrity is the key word of what  
3           we're trying to fight for. I'm not going to have  
4           any tolerance of this whatsoever. It's really a  
5           sad subject for us to have to cover, but we have to  
6           resolve it.

7           Any other questions from the Commission?  
8           You've heard the testimony. You've heard the  
9           facts. You've heard the rebuttal. You've heard  
10          the argument to try to dissuade as far as what's  
11          facts versus what is assumed. There's  
12          eyewitnesses. There's total avoidance of the due  
13          process and obstruction, I think, avoiding.

14          You can see why the ALJ has come down -- this  
15          is an editorial comment. He has heard all this  
16          testimony. The ALJ that handled this case has had  
17          much more experience in these matters than we have.  
18          He has come to this conclusion, this finding of  
19          facts.

20          So now we have to either affirm, amend, I  
21          guess, dissolve, or recommend back. So what is the  
22          will of our Commission members on this particular  
23          case, unless you have other questions?

24          MS. NEWELL: If you guys are going to make any  
25          modifications, I just want to ask that they be very

1 clear so they can be noted in the order.  
2 Obviously, the decision is entirely up to you. To  
3 the extent you are going to make any modification,  
4 we want to be very clear on what they are and what  
5 the intent of the Commission is.

6 COMMISSIONER SCHENKEL: I would move that we  
7 affirm and adopt the ALJ's recommendation.

8 COMMISSIONER PILLOW: I second that.

9 CHAIRMAN WEATHERWAX: Okay. I'm going to call  
10 for the question and the vote. All those in favor  
11 say "aye."

12 THE COMMISSION: "Aye."

13 CHAIRMAN WEATHERWAX: Passed unanimously.

14 I think we can go ahead because the next item  
15 on our agenda is not nearly as intense as that.

16 We have the consideration for the amendment to  
17 the agreement between Hoosier Park and the  
18 Standardbred association. So who will be  
19 presenting that? You are, John.

20 COMMISSIONER SCHENKEL: Just off of injured  
21 reserve.

22 MR. KEELER: Thank you, Mr. Chairman. John  
23 Keeler, I'm general counsel for Hoosier Park.

24 You have before you a proposed amendment to  
25 the contract between Hoosier Park and the Indiana

1 Standardbred Association. It's a very simple  
2 modification. It just adjusts a little bit,  
3 \$187.50 a day, the amount which Hoosier Park will  
4 retain from the ISA's share of simulcast revenues.  
5 And reason for that is the new high definition  
6 television broadcast system that we have here at  
7 Hoosier Park. The ISA has gradually or, excuse me,  
8 very nicely consented to split the cost of that.  
9 So if there's any questions, I would be happy to  
10 answer.

11 CHAIRMAN WEATHERWAX: So this whole regulation  
12 or amendment to the agreement is 187.50. Is that  
13 the dollar change of what it used to be?

14 MR. KEELER: Mr. Chairman, within the  
15 contract, the basic premise is that we split the  
16 simulcast revenues. And then previously there were  
17 several ingredients, if you will, for Trakus and  
18 other costs of simulcasting that were deducted.  
19 This just deducts an additional \$187.50 per day.

20 CHAIRMAN WEATHERWAX: It's a very minor  
21 technical change of the big picture of life.

22 MR. KEELER: Extremely minor. The only reason  
23 you have to approve it is that your rules require  
24 that you approve contracts with the track.

25 COMMISSIONER SCHENKEL: That's per day, right,

1 John?

2 MR. KEELER: Yes, sir.

3 CHAIRMAN WEATHERWAX: Did you have?

4 MR. YOUNG: Roger Young, attorney for the ISA.  
5 My president is not here. Yes, we would ask the  
6 Commission to approve this amendment to the  
7 contract. The horsemen believe this will be a true  
8 benefit in marketing our product. We look forward  
9 to this.

10 CHAIRMAN WEATHERWAX: I think it's a very good  
11 move. Thank you, gentlemen.

12 So you've heard the recommended amendment for  
13 us to decide and vote upon. You understand what it  
14 does do for the simulcast high definition, which I  
15 think will be a huge improvement. What is the will  
16 of the Commission?

17 COMMISSIONER MCCARTY: I move to approve.

18 CHAIRMAN WEATHERWAX: We have a motion to  
19 approve the amendment to the agreement. Do I hear  
20 a second?

21 COMMISSIONER SCHENKEL: Second.

22 CHAIRMAN WEATHERWAX: We have a second. All  
23 those in favor say "aye."

24 THE COMMISSION: "Aye."

25 CHAIRMAN WEATHERWAX: Okay. It's approved.

1           Fourth item is Commission rulings. Is that  
2 you, Holly?

3           MS. NEWELL: Yes, sir. These are the rulings  
4 from March through April so you're seeing some of  
5 the beginning of the race meet rulings. If you  
6 have any questions on any of them, I'm happy to  
7 take them.

8           CHAIRMAN WEATHERWAX: Do you see any  
9 improvement, Mike, on infractions in your opinion?

10          MIKE SMITH: Mr. Chairman, I think there's --  
11 I haven't really compared year to year. I think  
12 most of these or a lot of these we have are driving  
13 infractions. The judges have been vigilantly  
14 watching whipping action and strictly enforcing the  
15 rule of the limited elbow movement and wrist. And  
16 I think we've seen a great decline year over year  
17 in that category. The drivers are getting used to  
18 driving in this fashion.

19          And our last meeting changing the rule that  
20 you have to have a hand in each hand hold at all  
21 times when driving a horse to avoid people putting  
22 the lines into both hands and whaling away at the  
23 horses. So I think from that perspective, yes,  
24 we've seen a decline in those.

25          We have one issue that isn't reflected in this

1 report yet. I think it's probably a good idea to  
2 bring it out now because we've had a few positives  
3 of Levamisole, which is -- it's an interesting  
4 drug. It metabolizes into something called  
5 Pemoline. And we have had a few of these.

6 And just last night found out that it is  
7 because of the administration of a drug called  
8 Baycox. It's a compounding drug. And it's made  
9 for EPM, I think. And we have obtained some --  
10 actually we had a veterinarian who was involved  
11 with some of these horses and went to the trouble  
12 of trying to figure out what these horses may have  
13 in common.

14 And this product came from a different source,  
15 from a new source. And last night I got the  
16 results that it does contain Levamisole in it. I  
17 think if you take that out, I think, yes, I think  
18 it's very good from the violation standpoints on  
19 some drugs, a huge improvement.

20 In fact, we are the lowest of Industrial Labs,  
21 which is our laboratory in Colorado, we are the  
22 lowest positive jurisdiction that they do business  
23 with. We have 61 hundredths of one percent  
24 positives last year. And I think the horsemen  
25 ought to be commended for doing their due diligence



1 and the veterinarians as well in their prescribing  
2 in the treatment of horses. It's a real remarkable  
3 statement for them because the rules are pretty  
4 strict.

5 CHAIRMAN WEATHERWAX: That's very nice to  
6 know. I mean, 61 hundredths of one percent. How  
7 does that compare to other states?

8 MIKE SMITH: Some are considerably higher than  
9 that. I have a graph. I thought I had sent that  
10 to you folks earlier, but some are much, much  
11 higher. They're multiples of what we are. I think  
12 because of the stance that the Commission has taken  
13 in the past, people have adapted here and adapted  
14 to treatments and have done very well at doing it.

15 CHAIRMAN WEATHERWAX: That's good.

16 COMMISSIONER PILLOW: Mike, back up just for  
17 one second on the drug. Is that a banned drug that  
18 you said you have come across here in the last?

19 MIKE SMITH: Some of the drugs that we deal  
20 with -- the Commission has adopted the ARCI model  
21 rules for tolerances. So some drugs are absolutely  
22 prohibited, substances that are not found normally  
23 in a horse. Some therapeutic medications have  
24 thresholds.

25 The way this has all come about, the national

1 consortium, RMTTC, they take horses, and they give  
2 them drugs. And they watch the withdrawal times,  
3 and they graph how these horses metabolize. And  
4 then they also look at the drugs to see what those  
5 drugs metabolize into. In this case you have a  
6 drug called Levamisole, which is not a class one  
7 drug or an A penalty, but it metabolizes to a drug  
8 called Pemoline, which is --

9 COMMISSIONER PILLOW: Okay.

10 MIKE SMITH: -- a pretty bad drug, prohibited.  
11 So it's a very complex thing, and you almost have  
12 to be a chemist to figure some of this out.

13 COMMISSIONER PILLOW: I guess. Okay.

14 MIKE SMITH: So all of the things are looked  
15 at, the metabolites of the drugs. We test for  
16 metabolites. Some drugs have a tolerance level and  
17 some are just an absolute prohibited substance.

18 CHAIRMAN WEATHERWAX: Back to our ruling.  
19 We've had this review of those violations, which I  
20 do believe is an improvement. So this is more of  
21 just a matter of public awareness to us?

22 MS. NEWELL: Yes, you don't need to take a  
23 vote or anything. I just want to make sure you're  
24 aware of what's happening.

25 COMMISSIONER PILLOW: Holly, and Mike, you can

1 jump in here too, what is the whip indiscriminate?  
2 I mean, are they just whaling away at the --

3 MS. NEWELL: I think Judge Hall may have gone  
4 up, but he can certainly speak to that. It's just  
5 making sure that no extra or excess force is used.

6 Mike, do you want to speak to that?

7 MIKE SMITH: Yes, I would like to speak  
8 because it isn't necessarily just whaling away. A  
9 couple of them that we've had where they put the  
10 lines in both hands and whale away. I will say  
11 it's a judgment call. It's a judgment call on  
12 behalf of the judges.

13 And an action where you have limited elbow  
14 movement and wrist action is permitted. Once your  
15 elbow starts flying -- Judge Hall is here. I told  
16 him I was in the paddock giving drivers tips on how  
17 to avoid the \$300 whipping fine. But it doesn't  
18 necessarily mean that someone has just been  
19 absolutely cruel to an animal. We have a pretty  
20 tight.

21 COMMISSIONER PILLOW: Once he raises that  
22 elbow, then he's past the point of no return.  
23 Okay.

24 MIKE SMITH: In some cases, you know, if we  
25 have somebody that whips a horse 34 times coming

1 down the homestretch, he's going to get the call  
2 and a fine. I don't want you to think that these  
3 people are absolutely destroying these horses.

4 COMMISSIONER PILLOW: Understand.

5 MIKE SMITH: We have not to my knowledge had a  
6 single welt at this point on a horse.

7 COMMISSIONER PILLOW: That's great.

8 MIKE SMITH: I lot of times when you're  
9 hitting, you're hitting the shaft, you're hitting  
10 the saddle pad, the number pad. To my knowledge,  
11 there has not been a welt this year.

12 COMMISSIONER PILLOW: Thanks, Mike.

13 CHAIRMAN WEATHERWAX: Any other comments?

14 Number five is a consideration of the  
15 emergency rules regarding.

16 MS. ELLINGWOOD: Yes. Chairman, there are a  
17 couple of, five rules before you. The first one is  
18 a Standardbred rule regarding the Judge's list. As  
19 you probably recall at the last Commission meeting,  
20 the judges had prepared a list of recommended rule  
21 changes to be in effect at the beginning of the  
22 race meet. Frankly, the rule before you today is  
23 one that inadvertently was left off of that list.

24 The rule change would eliminate 71 IAC 3-2-9.  
25 And specifically it's the provision that says

1 scratched and sick, lame horses in a race, I'm  
2 sorry, scratched sick/lame in a race previous or  
3 subsequent to a break line. This rule, according  
4 to the judges, encourages trainers to race sick or  
5 lame horses in order to avoid the horse going on  
6 the qualifying list.

7 The change was so important that the executive  
8 director issued a waiver of that rule when the  
9 omission was discovered. And the waiver is in  
10 effect until such time that the Commission had the  
11 opportunity to change it, which is now. I don't  
12 believe this rule is controversial. I would be  
13 happy to -- I'm sure you would be happy to hear  
14 comments.

15 CHAIRMAN WEATHERWAX: Maybe for the benefit of  
16 everyone, Mike, can you explain more of why that's  
17 so important and talk about what the qualification  
18 thresholds are because that's what triggers the  
19 previous reason for this rule and why it should be  
20 changed.

21 MIKE SMITH: Actually, I think we were going  
22 to change this last meeting. And somehow it was  
23 missed. But basically if you end up having to  
24 qualify again, and in this case where you would be,  
25 you know, more or less by rule encouraged to go

1 ahead and race that sick horse.

2 CHAIRMAN WEATHERWAX: Well, tell people what  
3 that means as far as qualifying.

4 MIKE SMITH: To qualify in the Standardbreds,  
5 if you don't go qualifying time or if you have a  
6 slow race or your horse doesn't look good, you can  
7 be put on a list and made to requalify by the  
8 judges. So in this case if you have a horse that  
9 was sick, and you raced that horse, and there's  
10 encouragement there to race them because otherwise  
11 you may have to go back and requalify him again.  
12 You're going to have to go back in a qualifier.  
13 You're going to miss another week of racing. This  
14 just kind of is a no nonsense kind of cleanup of we  
15 really don't want people racing sick horses.

16 CHAIRMAN WEATHERWAX: At least that explains  
17 why we think this is important.

18 COMMISSIONER SCHENKEL: You said that you  
19 indicated by executive order you had waived it.

20 MIKE SMITH: Right.

21 COMMISSIONER SCHENKEL: So, in effect, this  
22 has been deleted operationally on a day-to-day  
23 basis already. We're just confirming.

24 MIKE SMITH: I am just hoping you bless my  
25 good work.

1           COMMISSIONER SCHENKEL: I would so move that  
2 we approve that.

3           COMMISSIONER PILLOW: Second.

4           CHAIRMAN WEATHERWAX: We have a motion and a  
5 second. All those in favor say "aye."

6           THE COMMISSION: "Aye."

7           MS. ELLINGWOOD: Thank you. There are four  
8 other rules regarding Thoroughbred and Quarter  
9 Horse rules that are before you to be changed as  
10 emergency rules. Two of those rules are rules  
11 regarding claiming certificate. Our senior steward  
12 is here to address any questions you may have about  
13 that. The second two rules are rule changes  
14 regarding apprentice jockeys, which I just learned  
15 are also called bugs.

16          COMMISSIONER PILLOW: Called what?

17          MIKE SMITH: Bugs.

18          MS. ELLINGWOOD: Stan can address those too,  
19 but the purpose of the rule change with respect to  
20 the apprentice jockey is to make trainers be more  
21 willing to take a risk on a new jockey. I would  
22 like to point out just for the record, should you  
23 choose to adopt the rule, there is a suggested  
24 change in 71 IAC 6.5-1-3(a). And that change would  
25 be to remove the phrase "except an owner/trainer,"

1 which appears in that first sentence.

2 Stan, if you could confirm that that's the  
3 change that you want made to get that in the  
4 record.

5 STAN BOWKER: Thank you, Lea. My name is Stan  
6 Bowker. I'm senior steward at Indiana Grand for  
7 Thoroughbreds and Quarter Horse racing. We have  
8 several rule changes before you today.

9 After we put together these proposed rule  
10 changes, they were sent to the ACPA for their  
11 review. They have reviewed this and made the  
12 suggestion that we take the wording out that she  
13 just mentioned to you. We are agreeable with that.  
14 We would ask that you please delete that from  
15 paragraph A of that rule.

16 Let's go back through. Let me give you a  
17 quick overview. The first one involves 6.5-1-2,  
18 claiming of horses. All we have changed up there  
19 is under paragraph two, you'll see it says holder  
20 of a valid open claiming is now the terminology we  
21 are using instead of a claiming certificate.

22 Open claiming is another way of explaining the  
23 claiming certificate, but it's something that is  
24 more universally used throughout the country. So  
25 that's changed just to inform all the rest of the



1 information that we have here.

2 If you go again down to the part under  
3 6.5-1-3, we eliminate the wording there. Basically  
4 what we have now is what we call open claiming  
5 where there's a couple things we're trying to  
6 accomplish with this change. First of all, the  
7 claiming of Thoroughbreds and very rarely are  
8 Quarter Horses claimed but mostly Thoroughbred.  
9 It's to get more claiming activity at Indiana  
10 Grand.

11 Claiming is the way you get horses so that  
12 they are evenly matched. And so if you have a  
13 \$12,500 claiming race, you're not going to have a  
14 \$50,000 horse in there running against a 12,500.  
15 It's an effort to make claiming more viable.

16 I will tell you that in addition to working  
17 here, I also work at Oak Lawn Park in Arkansas. I  
18 just came from there. And we had a three and a  
19 half month meet that we had \$7 million worth of  
20 horses claimed. That's a lot of horses because  
21 here I don't believe we hardly did much over a  
22 million dollars last year. In a meet that's 120  
23 days, Arkansas is 57 days. So you can see there's  
24 a lot more claiming going on.

25 But, anyway, the track itself put in a house

1 rule which is incorporated into this, which  
2 requires an owner to start a horse at the meet  
3 before they can claim a horse. The alternative is  
4 if you don't own a horse, let's say you lost your  
5 last horse in a claiming race before you came here,  
6 you can get an open claiming certificate and be  
7 eligible to claim right away.

8 If you have horses here, but for some reason  
9 that horse is not going to be to run for, let's  
10 say, two months, it's going to take it a while to  
11 get ready, you want to claim, you can come in and  
12 get an open claiming certificate. So that's  
13 basically what this new rule incorporates is a new  
14 way of claiming.

15 I think it's fair to say, and Mike is here if  
16 you have any questions with the HBPA, they are in  
17 agreement with this. We are already moving forward  
18 on it. I think we've had one horse so far that we  
19 used the old claiming certificate on that one, but  
20 as of now, we are in a position to start this meet.  
21 We have probably half a dozen horsemen that have  
22 come in and asked for open claiming certificates.  
23 We'll put that together and get that started.

24 If you have any questions, I will happy to  
25 answer them?

1 CHAIRMAN WEATHERWAX: This is an emergency  
2 rule?

3 MS. ELLINGWOOD: Actually, I wanted to make  
4 sure the Commission understands that adoption of  
5 these rules qualifies as treatment as an emergency  
6 rule under the timeliness exception of the  
7 Commission's rule adoption policy because these are  
8 rules that need to go into effect immediately.  
9 They will become effective as soon as they're filed  
10 with the Legislative Services Agency.

11 CHAIRMAN WEATHERWAX: Which would be like  
12 tomorrow?

13 MS. ELLINGWOOD: Yes.

14 CHAIRMAN WEATHERWAX: My question is: This is  
15 not something we knew before we started the season?

16 MS. ELLINGWOOD: I can't address that. I  
17 don't know.

18 STAN BOWKER: I can't either because it didn't  
19 come up until I got here. I don't know if it was  
20 something that people were talking about.

21 CHAIRMAN WEATHERWAX: Other states are kind of  
22 doing this, are they?

23 STAN BOWKER: Almost all states. There may be  
24 an exception, but almost all states have what they  
25 call open claiming.

1 CHAIRMAN WEATHERWAX: So it makes sense.

2 COMMISSIONER SCHENKEL: I was going to ask  
3 you: This revised rule that you have before us  
4 clarifies that concern on the earlier draft between  
5 whether it's trainer or owner?

6 MS. ELLINGWOOD: Yes. And that's a good point  
7 just to be clear for the record.

8 COMMISSIONER SCHENKEL: I saw that in a couple  
9 different places. I see in this draft it does say  
10 owner now. That's addressed all throughout.

11 MS. ELLINGWOOD: As I understand it though,  
12 the change is only to be made in the first sentence  
13 in paragraph A.

14 MS. PITMAN: For now.

15 MS. ELLINGWOOD: So it would read an owner may  
16 claim any horse --

17 COMMISSIONER SCHENKEL: That clarifies that  
18 issue that was raised during the drafts.

19 STAN BOWKER: Yes.

20 COMMISSIONER SCHENKEL: Thank you.

21 CHAIRMAN WEATHERWAX: Thank you. Do we have  
22 other witnesses who want to testimony to the next  
23 subject? Yes, Michael.

24 MIKE BROWN: I'm Mike Brown, executive  
25 director of the Indiana HBPA. We are fine with the

1 changes after our conversation with the stewards.  
2 I did have one question about what I think was  
3 simply, I think, a typo on the second page of the  
4 amendment. This would be in 71 IAC 6.5-1-3,  
5 claiming certificate under B number three, the  
6 draft we originally looked at had the word "nor" in  
7 the second line of number three.

8 STAN BOWKER: I think your version,  
9 Commissioners, I believe have A and B in there.  
10 That's the way we corrected that version. Yes.  
11 This is correct. We under three you see A and B.  
12 That's what we incorporated that correction in  
13 there. So it's been taken care of, Mike. So we  
14 are good.

15 MIKE BROWN: The only other thing we note is  
16 that we would -- our board talked about it. We  
17 would be happier with claiming being allowed on the  
18 same day for that person approved to claim. The  
19 stewards explained to us they needed longer than  
20 that to do an investigation, a proper  
21 investigation. So we understand that. We just  
22 would have been happier with the same day claiming.

23 CHAIRMAN WEATHERWAX: So the ruling we are  
24 going to vote on you are okay with. What about the  
25 subject you said wording, are we voting on the

1 amendment that you want on the wording?

2 STAN BOWKER: The only amendment at this point  
3 is taking that, in paragraph A taking out "except  
4 an owner/trainer." We would request that you take  
5 that out. Other than that, I think --

6 CHAIRMAN WEATHERWAX: Okay. So we've already  
7 done that as far as what we're looking at.

8 MIKE BROWN: That was it for us.

9 CHAIRMAN WEATHERWAX: Thank you.

10 STAN BOWKER: I do want to address,  
11 Mr. Chairman, we don't just automatically approve  
12 these people for open claiming. We want to know a  
13 little bit something about them so it takes a  
14 little bit of time for the gals in the office to  
15 pull up the information from RCA and any other  
16 additional information that we believe is  
17 appropriate before we approve. That's why we ask  
18 that it not be the same day, that it be the  
19 following day. So it gives us the rest of that day  
20 to check the information.

21 CHAIRMAN WEATHERWAX: Very good. But it's  
22 very timely if you're doing it the next day.

23 STAN BOWKER: It's pretty quick, yes. You're  
24 right.

25 CHAIRMAN WEATHERWAX: Okay. Do we have any

1 other testimony, Lea?

2 MS. ELLINGWOOD: No, unless there's somebody  
3 else who would like to speak to the rule. There  
4 aren't changes other than the removal of where it  
5 says "except an owner/trainer." Other than that, I  
6 think we are ready to go.

7 CHAIRMAN WEATHERWAX: We are only on the first  
8 two.

9 MS. ELLINGWOOD: You would be approving all  
10 five, the judges list rule and then the four  
11 Thoroughbred/Quarter Horse rules.

12 CHAIRMAN WEATHERWAX: That's really a part of  
13 this motion.

14 MS. ELLINGWOOD: Yes.

15 STAN BOWKER: Mr. Chairman, I would like to  
16 speak to the apprentice jockey situation if we can  
17 take a minute here.

18 CHAIRMAN WEATHERWAX: Sure.

19 COMMISSIONER PILLOW: Are you talking about  
20 the bugs?

21 STAN BOWKER: Yes, the bugs. This is one of  
22 the few states in the country where apprentices  
23 only get one weight allowance. That is  
24 seven pounds here. Most places you get ten pounds,  
25 seven pounds, five pounds. And the reason for that

1 is it has to do with their experience. As they win  
2 more races, they have to carry more weight.

3 You try to give the apprentice riders a break  
4 to start with because they are inexperienced. Some  
5 trainers don't want to use them, but they will use  
6 them to help get them experience as long as they  
7 get some weight off the horse. So that's why you  
8 use a 10-pound bug, which is an apprentice rider  
9 who is just starting out.

10 After they win a few races, it goes to seven  
11 and finally goes to five. Sometimes trainers,  
12 quite frankly, they will use a bug rider at  
13 10 pounds, but they won't use them at five. So the  
14 weight makes a difference to some of them. That's  
15 why we've asked that.

16 CHAIRMAN WEATHERWAX: Why is that? What's the  
17 logic?

18 STAN BOWKER: A lot of trainers think weight  
19 supports. A lot the handicappers think the weight  
20 supports. That's one of the factors that goes into  
21 deciding if you use an experienced, journeyman  
22 jockey, if you will, or apprentice. It's like an  
23 apprentice in any trade. They are under the  
24 supervision. We look a little closer at apprentice  
25 riders because we're seeing their progress as well.



1 We are watching them very closely in every race  
2 that they ride in. It's not that we don't watch  
3 all the riders, but you just pay special attention  
4 to the apprentices.

5 CHAIRMAN WEATHERWAX: How many apprentice  
6 jockeys do have at any given time?

7 STAN BOWKER: I believe we have five right  
8 now.

9 CHAIRMAN WEATHERWAX: It's not a big number.

10 STAN BOWKER: Not a big number, no.

11 MIKE SMITH: Mr. Chairman.

12 CHAIRMAN WEATHERWAX: Yes.

13 MIKE SMITH: I would like to make a comment  
14 about the bug ruling. Obviously, being more on the  
15 Standardbred side, I didn't understand what a bug  
16 was.

17 This conversation came up one morning in the  
18 track kitchen down in Shelbyville. I sat down and  
19 started talking to some of the jock agents. They  
20 started talking about bugs. And I wasn't sure. It  
21 took me a long time just listening because I didn't  
22 want to appear I was totally ignorant. I was in  
23 the track kitchen. I was worried about  
24 cockroaches.

25 Anyway, one of the reasons that they wanted,

1 this was one of their first asks was we consider  
2 this because they have a hard time getting  
3 apprentice jockeys to come because of the weight  
4 allowance and training willingness to put somebody  
5 on that doesn't have a lot of experience without  
6 that kind of a weight advantage. Then we got to  
7 talking about it.

8 And I also just like to mention while Stan is  
9 standing here, one thing I have found is that Stan  
10 is very well regarded nationally as a steward --  
11 there's even a rule called the Bowker rule -- and  
12 teaches, and we are very fortunate to have him as  
13 our senior steward. Just a little plug.

14 STAN BOWKER: If you could indulge me for one  
15 more minute. The rulings came up a little bit ago  
16 and medication issues came up. I just want -- and  
17 I'm going to knock on wood when I say this. We've  
18 had no medication violations at all yet in  
19 Thoroughbred and Quarter Horses. Now we are in  
20 about a third of way through the meet.

21 That's a far cry from two years ago when we  
22 had 60-some positives when we went to the new  
23 rules. So I think the trainers certainly in our  
24 end of the business are getting used to it, and the  
25 vets are getting used to it. I'm not saying that

1 there aren't some people that still play with fire  
2 a little bit and could end up getting caught, but  
3 we so far have had no violations.

4 And I came from Oak Lawn, as I told you  
5 before. At Oak Lawn we had five medication  
6 violations, four of which were just warnings. In  
7 other words, they weren't high enough to have a  
8 purse redistribution or a fine or a suspension.  
9 They were just warnings. It showed they were just  
10 a little bit over the quoted level.

11 The horsemen are getting used to this. We had  
12 a meeting with the horsemen before the meet  
13 started. I say this every year to them. These new  
14 rules are to your advantage. Before, most of these  
15 drugs were zero tolerance. Now there is no such  
16 thing as zero tolerance. All that means is that's  
17 as low as the lab is testing for. But they were  
18 zero, and now you have thresholds on right around  
19 30 drugs. So they can use them as long as they  
20 don't go over the thresholds. Those thresholds  
21 were the things that were catching everybody back  
22 two years ago when we had 60 some.

23 I apologize for taking the extra time, but I  
24 did want you to know that's where we are at.

25 CHAIRMAN WEATHERWAX: Very good, Stan. Okay.

1 Sounds like some good changes and needed emergency  
2 rule change. Do I hear a motion?

3 COMMISSIONER PILLOW: So moved.

4 COMMISSIONER MCCARTY: Second.

5 CHAIRMAN WEATHERWAX: Have a motion and a  
6 second. All those in favor say "aye."

7 THE COMMISSION: "Aye."

8 CHAIRMAN WEATHERWAX: Okay. Number six.

9 MS. ELLINGWOOD: Yes, Chairman, that's also  
10 going to be me. As you know, every administrative  
11 rule that is written expires automatically at the  
12 end of the seventh year after it's been adopted.  
13 All of the rules that are outlined in number six  
14 are those rules. So what you're doing now is  
15 approving the Commission to move forward with  
16 readopting those rules without changes.

17 CHAIRMAN WEATHERWAX: So all these rules are  
18 evidently okay?

19 MS. ELLINGWOOD: Yes, they've been quoted to  
20 staff. Everybody is comfortable with them at this  
21 time the way they're written. Of course, there's  
22 always the possibility that at some point down the  
23 road they may be retinkered, but these are ones at  
24 this point we want to move forward with readopting  
25 and make sure they stay on the books.

1           COMMISSIONER SCHENKEL: So without this motion  
2 being approved, these would expire January 1st of  
3 2017?

4           MS. ELLINGWOOD: December 31st of this year  
5 but yes.

6           COMMISSIONER SCHENKEL: They haven't expired.  
7 I just want to make sure today.

8           MS. ELLINGWOOD: Yes, just as we move forward  
9 in the years to come, you're probably going to see  
10 there are just going to be a handful of them. As  
11 you remember a couple of years ago, we readopted  
12 900 of them. God willing, we're not going to have  
13 a situation like that come up again for some time.

14           COMMISSIONER PILLOW: Lea, every year will  
15 some rules come up at the seven year mark?

16           MS. ELLINGWOOD: Yes. The Legislative  
17 Services Agency actually contacts me about the  
18 beginning of the second quarter of the year telling  
19 me we have some rules scheduled to expire. I run  
20 through them. Circulate them to staff. We have  
21 discussions to see if there is any reason why the  
22 rule shouldn't continue to be in place. If there  
23 is, then we handle it that way.

24           CHAIRMAN WEATHERWAX: This is housekeeping.  
25 So do I hear a motion?

1           COMMISSIONER MCCARTY: I move to readopt the  
2 rules listed here.

3           COMMISSIONER SCHENKEL: Second.

4           CHAIRMAN WEATHERWAX: Motion and a second.  
5 All those in favor say "aye."

6           THE COMMISSION: "Aye."

7           CHAIRMAN WEATHERWAX: Approved unanimous.

8           Now update regarding our Indiana Horse Racing  
9 Commission agency and the breed development.  
10 Jessica, tell us some of the new and exciting  
11 things you are doing.

12           JESSICA BARNES: I don't think everyone else  
13 is as short as I am this morning.

14           Good morning, I want to touch on a few things  
15 that we've been doing and things that are in  
16 progress and are coming along. Last time I spoke  
17 to you, I highlighted some things that were in the  
18 works. Since then, we have been utilizing our  
19 online applications on the website. I'm told that  
20 about 50 percent of our Thoroughbred and Quarter  
21 Horse applications are coming in electronically  
22 through our website.

23           Standardbred, there is a much smaller  
24 percentage. I do have to say we have not hit our  
25 major Standardbred deadline, which is August 1st.

1 So it will be interesting to see how those online  
2 applications are utilized once we reach that  
3 deadline.

4 We sent out two newsletters, a flat racing  
5 newsletter and a Standardbred racing newsletter at  
6 the beginning of each of the race meets. We sent  
7 those electronically to everyone that had e-mail  
8 addresses on file with the Commission. And then  
9 those that did not have e-mail addresses, we sent a  
10 hard copy to them and included a postcard letting  
11 them know that we are going to be doing a lot of  
12 things digitally now and asking them to either go  
13 to our website and sign up or send us back that  
14 postcard, and we would be happy to sign them up to  
15 get the e-mail newsletters. We have gotten quite a  
16 few of those back, and they are still coming in.

17 We're working on the next issue of our  
18 newsletter. We've gotten some -- from those  
19 newsletters, we got some great coverage in the  
20 American Racehorse magazine, which I e-mailed to  
21 the Commissioners yesterday. And then also the ISA  
22 magazine that the Indiana Standardbred Association  
23 puts out, they picked up a lot of things from our  
24 newsletter to get our news out to horsemen, which  
25 is great.

1           Mike touched on it a little bit. We recently  
2 did a notice to the industry on the use of two  
3 medications just to alert the horsemen that we were  
4 seeing some positives containing these medications.  
5 So this is the first time we ever did anything like  
6 this just to try to give the horsemen a heads up  
7 and say if you're using these types of medications,  
8 please be aware that they're showing up in tests.  
9 You might want to look at your regimen and talk to  
10 your veterinarian.

11           We have continued the -- this past year we  
12 entered into the partnership with Centaur with  
13 their contract with WISH TV, which was, I think,  
14 one of the greatest things that the breed  
15 development program did. They offered a lot of  
16 great coverage for the racing industry as a whole.  
17 And I actually asked Centaur to ask WISH TV to put  
18 together just a short recap of that coverage. And  
19 they're going to show that right now.

20           (At this time a video was viewed).

21           JESSICA BARNES: That's just a few snippets.  
22 Of course, that partnership had hours of coverage  
23 on TV and had a lot of great exposure for the  
24 racing industry.

25           And the New Year's Eve broadcast from Indiana



1 Grand, I sat at home in my living room and watched  
2 it. You may think, that was New Year's Eve. There  
3 wasn't racing going on. But if I remember  
4 correctly, Jon was actually interviewed and talked  
5 about the impact of racing during that broadcast.  
6 Even in a time we're not racing, we're able to get  
7 the message out there.

8 CHAIRMAN WEATHERWAX: I'm just happy you  
9 didn't cover New Year's Eve here because I was  
10 here. And I don't want to be in that type.

11 JESSICA BARNES: We'll note that for next  
12 time.

13 CHAIRMAN WEATHERWAX: Very good. I think your  
14 goal was to try to educate the general population  
15 around us. Does that mean Indianapolis or how far  
16 does this go?

17 JESSICA BARNES: Well, it's going to again  
18 this year, but I'll let Jim Brown and Rick Moore  
19 talk a little bit about that when they talk about  
20 the next item. They will mention the coming year's  
21 contract. Breed development intends to again put  
22 in money for that.

23 COMMISSIONER PILLOW: Are you going to be  
24 doing any specials on Commissioners?

25 JESSICA BARNES: Do you have any ideas?

1 CHAIRMAN WEATHERWAX: Bad idea.

2 COMMISSIONER MCCARTY: Hold that thought.

3 JESSICA BARNES: We're also, we have been  
4 working with Asher advertising agency with a  
5 branding package for the racing commission. We are  
6 in the midst of creating a logo and a look for the  
7 Commission. This will be spread out through  
8 everything that we do; our newsletters, we'll get  
9 three new brochures for our breed development  
10 programs. Our social media pages, that new look  
11 will be applied to it once it's complete.

12 Social media, we've gotten the approvals with  
13 the state agencies. There are certain steps we  
14 have to go through to institute social media pages.  
15 That has to go through an approval process. We  
16 have gotten the approvals. As soon as we get the  
17 branding package with Asher, we're able to go live  
18 with those social media pages.

19 We are also working with Asher to try to  
20 target what exactly our digital campaign is going  
21 to be and where we are going to target. Once we  
22 get those social media pages live, we have the  
23 opportunity to target people, like, other horse  
24 racing industry entities. So we will be working  
25 with them. They are experts in that area. So I'm

1 glad that we have them on board to do that.

2 We're also working on getting an intern from  
3 the IU School of Journalism in Indianapolis just to  
4 help us create content. Once we go live with the  
5 social media pages, we want them to be active, and  
6 we want them to be utilized. We're working with  
7 the school to get an intern to help us do that and  
8 to write some human interest stories.

9 CHAIRMAN WEATHERWAX: Very good. Sounds like  
10 you're having fun.

11 How does the budget look as far as the money  
12 we have to do this promotion? Are we okay?

13 JESSICA BARNES: Yes. We're trying to look at  
14 our budget and use it wisely. There is a portion  
15 of the money that is ear marked for administration  
16 of the breed development program, and there's an  
17 additional two percent that goes to promotions.  
18 We're trying to look at every dollar we spend and  
19 maximize that.

20 CHAIRMAN WEATHERWAX: So the money you're  
21 spending, there's probably a time versus return on  
22 investment. Are you trying to do it before too  
23 much more time goes by this season or can you save  
24 that for next season?

25 JESSICA BARNES: The money that's ear marked

1 each year does not roll over. The four percent is  
2 based on the previous fiscal year's slot revenue  
3 deposit in the breed development program. Now, we  
4 do have some ability to encumber some funds for  
5 some things that we knew were coming up so we were  
6 able to encumber some funds to use out of this  
7 past, this fiscal year's budget, those type of  
8 funds.

9 CHAIRMAN WEATHERWAX: Very good. Well, I  
10 appreciate that update. It sounds like we're doing  
11 well in trying to expand our promotional role,  
12 which is what we all want to try to do. I think  
13 maybe Jim and the next folks can tell us how that's  
14 working out. Thanks, Jessica.

15 Next, we have the new idea called virtual  
16 ownership. Jim, Rick, are you taking that?

17 RICK MOORE: Rick Moore, Vice-president,  
18 General Manager of Racing Hoosier Park.  
19 Mr. Chairman, Members of the Commission, Staff,  
20 pleasure to be before you this morning and let you  
21 know about First Turn Stable.

22 First Turn Stable is a stable where 50 people  
23 are going to get a chance of a lifetime to be part  
24 of a club that is going to own a real live  
25 racehorse. For a one time only investment of \$250,

1 they will be part of this club. And we're looking  
2 to purchase a horse in the 15 to \$20,000 range.

3 Obviously, the 50 times 250 isn't going to  
4 include the total it's going to cost for the horse  
5 or expenses that will come along the way. Hoosier  
6 Park is bearing the brunt of those expenses, but  
7 we're very, very excited to announce this program  
8 this morning.

9 This is a chance for folks who have never  
10 owned a racehorse to learn what it's like to be  
11 part of the group that owns a horse. They'll get  
12 to experience everything that is involved in owning  
13 a horse. They'll get to meet the trainer. There  
14 will be a meet and greet where they'll meet each  
15 other. There will be e-mail announcements letting  
16 them know when their horse is going to race. There  
17 will be other e-mail announcements letting them  
18 know when the horse is going to have a significant  
19 training mile. And they will be issued a monthly  
20 statement that will itemize all expenses and  
21 revenues.

22 Now, we're getting ready to launch this  
23 program probably within the next week. We thought  
24 we actually had a horse. We did have a horse that  
25 we were going to purchase. Unfortunately, you've

1 heard a lot about claiming this morning. That  
2 horse got claimed last Saturday night. We're back  
3 to the drawing board. We're looking at our  
4 options, but we'll find a horse.

5 I can tell you our trainer will be Jeff  
6 Cullipher, one of the most successful trainers here  
7 in Hoosier Park. If you go back, and hopefully you  
8 will have a chance to do that today, you'll see his  
9 shedrow, which is second to none.

10 This is a great way to showcase harness  
11 racing. Also we want to get people involved in  
12 becoming real owners, not that they won't. They  
13 will actually have a small share in the club. We  
14 want them to have an experience that will stay with  
15 them where they will want to own horses going into  
16 the future.

17 Now, at the end of the meet, we'll add up all  
18 the debits and credits, the revenues and expenses.  
19 If the revenues outweigh the expenses, which we  
20 hope they will, those additional revenues will be  
21 split among the 50 members of the program.

22 CHAIRMAN WEATHERWAX: What about the other  
23 way?

24 RICK MOORE: Hoosier Park will take care of  
25 all the deficits.

1           CHAIRMAN WEATHERWAX: This is not a real word  
2 group.

3           RICK MOORE: They'll be issued a statement;  
4 how did we do this month, how much did it cost of  
5 the training bill, the vet bill, the blacksmith  
6 bill, the vitamins, what did we take in, how many  
7 times did we race, how did we do. You know, it  
8 will add up.

9           CHAIRMAN WEATHERWAX: That's very generous. I  
10 just wish we had the ability to be a part of this.  
11 That's the farthest away from our job description  
12 we could ever have.

13           COMMISSIONER SCHENKEL: I think by law we're  
14 excluded.

15           MS. ELLINGWOOD: Yes. There is a problem with  
16 that.

17           RICK MOORE: I will let you know that this  
18 stable will be licensed by the IHRC. Our  
19 vice-president of marketing, Becky Young, will be  
20 our marketing manager, will be the managing partner  
21 for the group. So we will be following all of the  
22 IHRC's rules and regulations as far as licensing is  
23 concerned. And then at the end of the meet, we  
24 still have the horse. We will sell the horse to  
25 someone looking to purchase him or her. And the

1 money that we garner from selling the horse, we  
2 will donate to the Standardbred Retirement  
3 Foundation.

4 So we think there's nothing but pluses in this  
5 program. I will tell you this is kind of a test we  
6 are doing here at Hoosier Park. We want to expand  
7 this program to Indiana Grand next year. We are  
8 really, really excited about it.

9 CHAIRMAN WEATHERWAX: Do you have all your 50  
10 applicants?

11 RICK MOORE: No, we don't. We're getting  
12 ready to launch this through e-mail and advertising  
13 and other different methods letting folks know  
14 about this opportunity. And we think the 50 slots  
15 will be filled rather quickly.

16 CHAIRMAN WEATHERWAX: I do too.

17 COMMISSIONER SCHENKEL: And are you, I guess I  
18 don't want to get ahead of you, are you prepared to  
19 if those 50 fill up quickly, do you intend to  
20 continue that or are you just going to do one first  
21 to see how everything goes?

22 RICK MOORE: Commissioner Schenkel, that's a  
23 great question. At this point we are planning on  
24 doing one horse. But depending on the response  
25 that we get --



1           COMMISSIONER SCHENKEL: Depending on the  
2 market.

3           RICK MOORE: I will say this has been a very  
4 active claiming market here at Hoosier Park.  
5 People want to own racehorses. They want to own  
6 harness horses. There has been a lot of horses  
7 trading hands. So that's a good thing.

8           COMMISSIONER PILLOW: Rick, if the stewards  
9 find any infractions on this, who's going to come  
10 up and plead their case?

11          RICK MOORE: Not me.

12          MIKE SMITH: Poor Becky.

13          RICK MOORE: Commissioner Pillow, that is a  
14 great point. We will have an agreement with the  
15 trainer that outlines all of our expectations with  
16 him. With Mr. Cullipher, I don't expect there  
17 would be anything untoward that would come forward.

18          CHAIRMAN WEATHERWAX: Thank you, Rick. That  
19 sounds like a very nice program. Goal is to get  
20 more of the general public to be more interested  
21 and excited and vested in being a partner in what  
22 we are doing here.

23          RICK MOORE: We will talk a little bit further  
24 today, but owners are the lifeblood of our sport.  
25 We have to get more folks involved in being owners.

1 It's a great experience.

2 CHAIRMAN WEATHERWAX: Thank you. Thank  
3 Centaur for that excellent -- you call it First  
4 Turn Stable?

5 RICK MOORE: First Turn Stable.

6 CHAIRMAN WEATHERWAX: Not to be the same as  
7 virtual ownership, is it?

8 RICK MOORE: It's First Turn Stable.

9 CHAIRMAN WEATHERWAX: That's what you're going  
10 to call it?

11 RICK MOORE: Yes, sir.

12 MIKE SMITH: I just called it virtual  
13 ownership because it is a rather virtual ownership.  
14 We have been working on details on the whole  
15 regulatory process and the virtual ownership part  
16 because you don't own the expenses.

17 RICK MOORE: I do want to thank the Commission  
18 and staff for their willingness to work with us on  
19 this venture.

20 CHAIRMAN WEATHERWAX: Very good.

21 COMMISSIONER SCHENKEL: While you're there,  
22 thanks again for hosting us today.

23 RICK MOORE: It's our pleasure. We are really  
24 proud of our facility and really glad to have  
25 everyone here.

1 CHAIRMAN WEATHERWAX: Old business? New  
2 business? I find this meeting adjourned.

3 MIKE SMITH: I think Jim had.

4 CHAIRMAN WEATHERWAX: Jim, do you have  
5 something?

6 JIM BROWN: We have a ten-minute presentation  
7 on what's going on at our.

8 CHAIRMAN WEATHERWAX: I'm sorry. I didn't  
9 think it was on my agenda. Maybe I overlooked it.

10 JIM BROWN: I think they put it under New  
11 Business without a topic.

12 CHAIRMAN WEATHERWAX: It's important. You're  
13 going to share with us the progress of what you're  
14 doing.

15 JIM BROWN: Yes, sir. We were tricking you  
16 guys into thinking the meeting was over when it  
17 wasn't.

18 Good morning, Chairman Weatherwax,  
19 Commissioners, Executive Director Smith, Staff, and  
20 our guests. And we are very proud to have you here  
21 today at Hoosier Park. I'm Jim Brown, our  
22 president and COO. And as Rick said, we are very  
23 proud of our facility. We feel it's one of the  
24 finest Standardbred facilities in the country. And  
25 it's been a long time since the racing commission

1 has been here. And I understand that you'll be at  
2 Indiana Grand in September.

3 So today, Rick and I are going to concentrate  
4 on doings at Hoosier Park. And before I get  
5 started, I'd like to acknowledge, and it was about  
6 24 hours ago, that we had a tragic freakish  
7 accident at Hoosier Park. And a three-year old  
8 owned and trained by Brent Wilfong and the Wilfongs  
9 on the back stretch, veered left, broke through the  
10 fence and ended up in the lake. And the horse did  
11 not survive.

12 This is the first fatality of that nature  
13 that's occurred here in our 22 years of racing.  
14 And our facilities are some of the safest in the  
15 country. In March, there was an article in Blood  
16 Horse that listed the safest tracks in the US,  
17 Thoroughbred tracks. And out of over 70, Indiana  
18 Grand was listed as number seven in terms of  
19 fatalities per start.

20 And we're hopeful that -- we're sad for the  
21 family and move on. It has been interesting the  
22 media attention that we've received. I think I got  
23 a push notification on my phone as breaking news  
24 from the Indy Star. And then it was top of the  
25 news, like, taped the local TV station so at

1 10 o'clock last night, I was watching local news.  
2 And a couple of them had it on the number one  
3 story.

4 We're saddened by it. And I don't want to  
5 diminish the value of a horse versus a human being,  
6 but it got more attention than a baby drowning or a  
7 violent murder taking place. And we're here to  
8 talk about the good news happening in our industry  
9 and particularly at Hoosier Park.

10 And a long time ago, Tom Runley, a reporter  
11 for the Evansville Press, when I was complaining  
12 all you do is report anything bad that happens but  
13 how come nothing good about the benefits that at  
14 the time Casino Aztar Evansville had provided to  
15 Evansville. He said, Jim, if you don't toot your  
16 own horn, nobody else is going to toot it for you.

17 That's what Rick and I are here to do today,  
18 toot our horn a little bit because we have a racing  
19 program that company wide we are extremely proud of  
20 and believe that, and, again, concentrating on  
21 Hoosier Park, we have one of the top harness  
22 programs in the country.

23 And there are various ways to measure that,  
24 whether it be through handle or the facility or the  
25 quality of the horses, the quality of ownership,

1 drivers, trainers, the experience. And I could go  
2 through a measurement tool and show you that we're  
3 in the top three or four in every single one of  
4 those categories, including handle.

5 And this is all due to a partnership that  
6 started many years ago but has really come to  
7 fruition over the last several years. And that  
8 includes Centaur. It includes our horsemen, our  
9 owners, our trainers, our drivers, our racing  
10 associations, the Indiana Horse Racing Commission,  
11 our legislators, and our team at Hoosier Park. And  
12 we've accomplished so much. Sometimes it's good to  
13 take a snapshot and time out to see where you've  
14 gotten to.

15 We're going to concentrate more in the next  
16 ten minutes on the physical facility and our  
17 marketing programs, but there's a passion, and  
18 there's a belief in what Indiana racing is and what  
19 Indiana racing can become. Rod couldn't be here  
20 today, but if you want to mention a person driving  
21 our bus that gives his heart and soul and guidance  
22 to much of what we do with racing, and it's  
23 absolutely a team effort.

24 COMMISSIONER SCHENKEL: Jim, would you mind a  
25 question?

1           JIM BROWN: Sure.

2           COMMISSIONER SCHENKEL: I'm curious on the all  
3 signal sales.

4           JIM BROWN: I'm headed there. If you saw my  
5 notes, they are pen and ink.

6           We're in the middle chapters of our story.  
7 We've had some great results at both facilities  
8 with handle over the last few years. Handle is one  
9 of the measuring tools of success. That converts  
10 directly to commission on revenue, and they can  
11 work side by side. What we're showing is 2016  
12 handle meet to date at both facilities, and as of  
13 the other day, Hoosier Park this year is up  
14 20 percent from prior year.

15           Last year our handle was flat, but we faced a  
16 number of adverse circumstances. The New York OTB  
17 system, which was responsible for six percent of  
18 our handle, got in a feud with Churchill who  
19 handles our signal. And they stopped taking us at  
20 mid season. The Virginia OTB systems and Colonial  
21 Downs shut down. We had the influenza breakout on  
22 the backside. And we were getting a couple,  
23 actually, six to ten scratches a night, which  
24 didn't help our field size, which didn't help our  
25 handle.

1           There are a few other circumstances. You  
2 know, Red Mile started taking Thoroughbred signals.  
3 You could bet on Thoroughbreds at Red Mile. That  
4 cut into our business.

5           But we rebounded this year to date. We are up  
6 20 percent. And interestingly, the year before,  
7 Hoosier Park was up nine percent. And the year  
8 before that Hoosier Park was up 26 percent. So  
9 from 2013 to 2012 up 26 percent, then up  
10 nine percent, then flat, now up 20 percent.

11           And our all signal sales include our live  
12 handle on Hoosier Park races only and our export  
13 signal, which goes, actually, it goes across the  
14 country and actually across the world. And those  
15 together, that handle becomes our signal sales.

16           And, actually, we are broadcast into Australia  
17 four days of the week now. And our average handle  
18 from Australia is getting close to a hundred  
19 thousand dollars per broadcast. That's exciting.  
20 I didn't realize how popular Standardbred racing  
21 was in Australia and New Zealand because we get the  
22 Thoroughbred signal only.

23           They have some pretty interesting races. You  
24 can watch them on YouTube. That have starter cars  
25 that look like spaceships. You can watch Sweden



1 where they run around in a circle. And then the  
2 starter says go, and they all just line up and go.  
3 A lot of the tracks don't have a starter car. It's  
4 interesting.

5 But in the US, we believe through our handle,  
6 through other measuring sticks, through the  
7 Breeders Crown coming next year, we have one of the  
8 top programs in the country. That's a  
9 collaboration from a lot of people that have helped  
10 accomplished that. We are probably in one of the  
11 middle chapters of our book now.

12 I think we're going to look at a reminder of  
13 all the things that have happened over the last few  
14 years. I'm not going to take too much time with  
15 this, but the beautiful new tote board, Jumbotron,  
16 only Standardbred track in the US that features  
17 Trakus, our new state-of-the-art drivers' lounge, a  
18 new jog track on the backside. The list goes on.

19 And our facility for our customers, new  
20 restaurants, a beautiful showroom, our Dan Patch  
21 festival. The Dan Patch is becoming one of the top  
22 races in the country. There's a lot more. I don't  
23 want to bore you with it because you know most of  
24 it. But it's been exciting to be a part of this.

25 Rick is going to talk for a couple of minutes

1 about what's new this year.

2 RICK MOORE: Thank you, Jim. I will keep my  
3 remarks brief. But I do want to go on record and  
4 kind of tag onto what Jim said. I want to thank  
5 Rod Ratcliff and Jim Brown for allowing all the  
6 things that have happened and are happening here at  
7 Hoosier Park to become a reality.

8 It doesn't happen, folks. Trust me, I look  
9 around the rest of the country. It doesn't happen  
10 at any other facility. The amount of money and  
11 effort, time to put into racing, it's  
12 unprecedented. So I want to go on record thanking  
13 Rod and Jim for all they have done.

14 Now, Jim talked about some of the things we've  
15 accomplished in 2016. Like I said, I'll be brief,  
16 but it doesn't quit. Everything I'm going to talk  
17 about is either new or improved. We have a whole  
18 new marketing campaign, all brand new. We have  
19 invested in HD broadcasting technology. We are one  
20 of three harness tracks that broadcast our signal  
21 in high definition. The other two being  
22 Meadowlands and Woodbine. That happens to be the  
23 other two tracks that hold the Breeders Crown. Jim  
24 will talk about that in a minute.

25 We have invested \$1.2 million in new broadcast

1 cameras that include 26 different hookups from  
2 around the facility to get unique camera shots of  
3 racing. You see we have new finish line pole  
4 signage outside.

5 We're getting ready to unveil our new  
6 simulcast studio. When I say simulcast studio,  
7 it's actually three studios wrapped into one.  
8 There's a broadcast desk, an interview sofa, and a  
9 stand-up handicapping center. That broadcast desk,  
10 I want you to think ESPN, Fox Sports, that's what  
11 you're going to see.

12 New water trucks, new tractors, Club Centaur  
13 bettor bonus, considering how much you wager in a  
14 month's time at Hoosier Park or Indiana Grand, you  
15 may receive a monetary reward. We have instituted  
16 the Hoosier High Five wager. We have our new  
17 Caballo Loco Grill Cantina. You've already heard  
18 about First Turn Stables.

19 Jessica talked about WISH TV. I won't talk  
20 about that, but trust we are expanding what we are  
21 doing with WISH TV. The Indiana Derby. Grand  
22 circuit racing will now have two hour windows.  
23 Think about that, two hour shows, horse racing,  
24 network TV.

25 Our partnerships go on and on with TVG, Twin

1 Spires. This is where we are seeing our increases  
2 in handle.

3 JIM BROWN: You're back in my area.

4 RICK MOORE: I'm turning it back to Jim.

5 JIM BROWN: Rick, if you had something else  
6 planned, come on back.

7 RICK MOORE: I'm good.

8 JIM BROWN: We did expand our media coverage  
9 this year. I want to mention our team and our  
10 commentary team. We have one of the best in the  
11 country with Emily Gaskin, Peter Lurie, Steve  
12 Cross.

13 Emily was last year's United States Harness  
14 Writer's Association breakout award winner. We  
15 have just completed an agreement with USHWA to host  
16 the Dan Patch awards next year in Las Vegas and be  
17 listed as their sponsor throughout the year.  
18 That's in conjunction with USTAA and other  
19 organizations.

20 But as Rick was stealing my material, and we  
21 were talking about media efforts, we really made a  
22 concentrated effort over the winter to expand our  
23 media efforts wherever reasonable. I know I heard  
24 a lot about TVG. How come you're not on TVG  
25 anymore? I heard it from Thoroughbred. I heard it

1 from Standardbreds. And I tried to explain about  
2 TVG. It was TVG and it was HRTV. And they bought  
3 HRTV, and now it's TVG2 and 1. We bought all the  
4 packages TVG would permit us to purchase this year.

5 We bought six premier days, three per track that  
6 would include Indiana Derby Day, include Dan Patch,  
7 and Grand Circuit Day, and Centaur Stakes Day where  
8 they send coverage out, reporters, and we're  
9 featured throughout the day.

10 We bought two secondary days per week for each  
11 track where we get expanded coverage with post  
12 parades, reports during the racing program, and a  
13 little bit up the hierarchy of the way that they  
14 broadcast. Those were all added costs to do that.

15 In terms of coverage per race, they look at  
16 their ratings, and they charge you per race. It's  
17 about \$300 a race to be on TVG and about 175 a race  
18 to be on TVG2. We've told them we want to be on as  
19 much as possible. And so now it's up to them to  
20 put us on to look at their handle and where it's  
21 coming from, who's going to get them the highest  
22 rating. So we have attempted to get as much  
23 coverage from TVG as possible.

24 As Rick and Jessica pointed out, our WISH TV  
25 initiative has expanded. It is in the Indianapolis

1 area. And we are trying to get into Fort Wayne,  
2 Terre Haute, and other markets. We've gotten from  
3 them as much as they're going to give us right now,  
4 but we have longer broadcasts this year. We have  
5 more broadcasts. If anybody is interested in the  
6 detail, we would be glad to provide it in another  
7 conversation.

8 Both tracks are on Sirius XM on their weekly  
9 horse racing show now. We have expanded promotions  
10 with Twin Spires. We're advertising in the Paulick  
11 Report. We're advertising in the Harness Racing  
12 Update.

13 And through a huge effort on our part after  
14 being absent from the Las Vegas race and sports  
15 books for four years, they have a consortium that  
16 makes a decision what tracks are going to go out  
17 there. And you're either all in or all out. We  
18 were all out. We were successful in getting  
19 Indiana Grand in this year through a lot of effort  
20 by a lot of people and a lot of mediums.

21 Now we have a group, which includes Rick Moore  
22 and Peter Lurie, meeting in Las Vegas with the  
23 consortium on June 15 attempting to get Hoosier  
24 Park into the harness racing program. And they  
25 only broadcast about five tracks. Interestingly,

1 those five tracks are owned by companies that have  
2 facilities in Las Vegas. So it's a mountain to  
3 climb, but they've agreed to host us by the entire  
4 group. So we have high hopes. And we're hoping  
5 that the question isn't we'll put you on, but you  
6 can only take Indiana Grand's place. We are hoping  
7 we don't get to that. We get Hoosier Park on this  
8 year.

9 And there are other media efforts that we've  
10 undertaken. And, hopefully, they'll be beneficial  
11 to our handle and our continued emergence in racing  
12 in the US.

13 Our OTBs, the Winner's Circle downtown is a  
14 premium facility. Clarksville, we are planning a  
15 major renovation starting this summer. And we just  
16 added VooDoo Barbecue and Grill to the Winner's  
17 Circle in Fort Wayne. And business has improved  
18 dramatically. I guess they like VooDoo Barbecue  
19 food more than Centaur food.

20 A couple of final items are updates. These  
21 are concerning the Centaur Equine Speciality  
22 Hospital. Construction is underway. It's going to  
23 be located just south of Indiana Grand. It's a  
24 \$9 million project. We have contributed  
25 3.1 million to the project. And it is going to be

1 operated by the Purdue University College of  
2 Veterinary Medicine. It's going to be one of the  
3 most technologically advanced medical facilities of  
4 that size to diagnose and treat equine patients and  
5 provide other research and educational opportunity  
6 for students.

7 The facility has already, as I said, begun  
8 site work that started in October of 2015 when we  
9 broke ground. And this state of the art facility  
10 is expected to be completed by the end of 2016. We  
11 are very excited about that. Hopefully, we will be  
12 able to get it open by the end of the year.

13 And, finally, we have something very exciting  
14 happening here next year. And we're finalizing the  
15 dates. It looks like the last weekend in October.  
16 And there was an article that came out in Harness  
17 Racing Update, last week, a couple weeks ago called  
18 Indiana Rising. That's so true. If you look at  
19 our Indiana-bred horses from Natural Herbie to  
20 Rockin Ron to last year's Little Brown Jug winner  
21 Wiggle It Jiggleit; Breeders Crown champs, Always B  
22 Miki, Colors a Virgin, and Freaky Feet Pete, we  
23 have some of the best Standardbreds in the country,  
24 and others are seeing it.

25 And from our racing team to our overall team



1 to our horsemen, we're very proud of where we are  
2 and where we're headed. We are so happy you had  
3 your meeting up here this morning. And we're  
4 thankful you gave us some time to toot our  
5 collective horns. Thank you.

6 CHAIRMAN WEATHERWAX: Thank you, Jim. Thanks  
7 to all of you at Centaur.

8 (Audience applause).

9 COMMISSIONER SCHENKEL: Before you get away, I  
10 think you answered my question, but I just want to  
11 make the observation that with those handles going  
12 up, to me that's a -- I don't think I'm reading too  
13 much into it -- but it's a recognition that more  
14 than just here in Madison County, people are paying  
15 attention to Hoosier Park. It's obviously being  
16 noticed and people are participating all across the  
17 country.

18 JIM BROWN: We wish we could build bigger live  
19 crowds. We have good live crowds on the weekends.  
20 During the week, we don't. But as a matter of  
21 fact, 95 percent of our handle is from other places  
22 across the country.

23 COMMISSIONER SCHENKEL: Which is great. I'm  
24 with you, I would love to see more people here, but  
25 the good news is it's successful in other ways too.

1           JIM BROWN: We are everywhere from the Bahamas  
2 to now Australia and New Zealand and Canada and  
3 California. It's great right now.

4           CHAIRMAN WEATHERWAX: Good job.

5           JIM BROWN: Grant Scharton is going to hand  
6 you a report that we're just finishing. It will be  
7 published in a couple of weeks. This is a  
8 comprehensive community impact report that we put  
9 out annually to show a community report card of  
10 what we believe are the positive impacts we've made  
11 from employment to purchasing to tax payments to  
12 our racing industry and the economics of that and a  
13 comprehensive view of giving back to the community,  
14 to charitable organizations. We work with the  
15 boards we serve on. But we wanted you all to have  
16 a copy before it was fully distributed. Again,  
17 thank you.

18           CHAIRMAN WEATHERWAX: Thank you, Jim. Great  
19 job.

20           It's not everybody in the world that has a  
21 partner in the horse racing business like you guys.  
22 We know that. Those in the business, they know  
23 that. I've traveled around our country, not to  
24 every track, but I know some places in our country,  
25 we're looked at with envy because of the ownership

1 of Centaur and the commitment to the horse racing  
2 business. It's not that way everywhere. Thank  
3 you, Jim.

4 Little bit of housekeeping, don't forget our  
5 next meeting is September 14th at Indiana Grand  
6 just out in Shelbyville at nine o'clock.

7 Also, Mike, I think it's maybe the right time  
8 to say thank you. You're doing an excellent job.  
9 I know you're not brand new on the job, but what  
10 has it been, three months?

11 MIKE BROWN: Four.

12 CHAIRMAN WEATHERWAX: We have a man who is  
13 doing a tremendous job. He is so committed to the  
14 job of doing the integrity as part of the whole  
15 process by which we are so wanting to have happen.  
16 So I think the transition has been good. I think  
17 the communication is excellent. And I think your  
18 interest is noted. And so we just want to thank  
19 you for what you're doing.

20 MIKE SMITH: Thank you very much.

21 CHAIRMAN WEATHERWAX: Now, if I'm not out of  
22 order, the meeting is adjourned. Thank you all for  
23 being here.

24 (The IHRC meeting was adjourned at 11:09 a.m.)

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 24th day of  
16 June 2016.

17 *Robin P. Martz*  
18



19  
20 My Commission expires:  
21 March 3, 2024

22 Job No. 106271  
23  
24  
25

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