

**In The Matter Of:**  
*Illinois Racing Board Meeting*  
*Chairman Jeffrey Brincat*

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*January 24, 2017*

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*Marzullo Reporting Agency*  
*345 North LaSalle, 1605*  
*Chicago, IL 60654*  
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ILLINOIS RACING BOARD MEETING

January 24th, 2017, at 10:00 o'clock a.m.

Report of Proceedings had at the meeting on January 24th, 2017, at the hour of 10:00 o'clock a.m, pursuant to notice, in the Office of the Department of Financial and Professional Regulation, 100 West Randolph Street, Ninth Floor, Chicago, Illinois, before CHAIRMAN BRINCAT.

1 APPEARANCES :

- 2 CHAIRMAN JEFFREY BRINCAT
- 3 COMMISSIONER ROBERT SCHIEWE
- 4 COMMISSIONER GREG SRONCE
- 5 COMMISSIONER ROBERT MURIEL
- 6 COMMISSIONER ROBERT LUNT
- 7 COMMISSIONER ARLENE MULDER
- 8 COMMISSIONER HUGH SCATES
- 9 COMMISSIONER THOMAS McCAULEY
- 10 COMMISSIONER TRAVIS SWOOPE (Via teleconference)
- 11 EXECUTIVE DIRECTOR DOMENIC DICERA
- 12 MR. ROBERT LANG
- 13 MR. MICKEY EZZO
- 14 MR. MICHAEL PIECZONKA
- 15 MR. MARC LAINO

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1 CHAIRMAN BRINCAT: Good morning, everyone.  
2 Good morning, everybody. Thank you all for coming.  
3 Welcome to our first meeting in 2017.

4 As in our prior periods, we're going to  
5 continue our tradition in 2017 starting with the  
6 Pledge of Allegiance. If you'll all stand, face the  
7 flag, and say the Pledge of Allegiance.

8 (WHEREUPON, the Pledge of  
9 Allegiance was recited.)

10 CHAIRMAN BRINCAT: Thank you. We'll start with  
11 the roll. Mr. Ezzo?

12 MR. EZZO: Commissioner Skates?

13 COMMISSIONER SCATES: Here.

14 MR. EZZO: Commissioner Muriel?

15 COMMISSIONER MURIEL: Here.

16 MR. EZZO: Commissioner Sronce?

17 COMMISSIONER SRONCE: Here.

18 MR. EZZO: Chairman Brincat?

19 CHAIRMAN BRINCAT: Here.

20 MR. EZZO: Commissioner McCauley.

21 COMMISSIONER McCAULEY: Here.

22 MR. EZZO: Commissioner Schiewe?

23 COMMISSIONER SCHIEWE: Here.

24 MR. EZZO: Commissioner Mulder?

1 COMMISSIONER MULDER: Here.

2 MR. EZZO: Commissioner Lunt?

3 COMMISSIONER LUNT: Here.

4 MR. EZZO: Commissioner Swoope?

5 COMMISSIONER SWOOPE: Here.

6 MR. EZZO: Let the record reflect all  
7 Commissioners are presented except for Commissioner  
8 Kalita.

9 CHAIRMAN BRINCAT: Two quick things.  
10 Commissioner Kalita, due to a death in the family,  
11 wasn't able to attend. Being an excused absence,  
12 wouldn't enable her to attend due to some family  
13 business. She is actually unable to dial in this  
14 morning.

15 Besides our condolences, by motion we do  
16 approve Travis Swoope's attendance and voting this  
17 morning. So I'll make a motion we allow  
18 Commissioner Swoope to participate and vote by  
19 telephone, due to his excused absence, due to also  
20 family emergency, which we've already ascertained  
21 the motion.

22 COMMISSIONER SRONCE: I'll second that motion.

23 CHAIRMAN BRINCAT: Mr. Ezzo?

24 MR. EZZO: Commissioner Scates?

1 COMMISSIONER SCATES: Here.

2 MR. EZZO: Commissioner Muriel?

3 COMMISSIONER MURIEL: Here.

4 MR. EZZO: Commissioner Sronce?

5 COMMISSIONER SRONCE: Yes.

6 MR. EZZO: Chairman Brincat?

7 CHAIRMAN BRINCAT: Yes.

8 MR. EZZO: Commissioner McCauley?

9 COMMISSIONER McCAULEY: Yes.

10 MR. EZZO: Commissioner Schiewe?

11 COMMISSIONER SCHIEWE: Yes.

12 MR. EZZO: Commissioner Mulder?

13 COMMISSIONER MULDER: Yes.

14 MR. EZZO: Commission Lunt?

15 COMMISSIONER LUNT: Yes.

16 MR. EZZO: Let the record reflect all

17 Commissioners approve the motion.

18 CHAIRMAN BRINCAT: Before we proceed to our  
19 first agenda item, a little bit of housekeeping and  
20 update.

21 We want to welcome an old friend of  
22 Illinois racing Tom McCauley to our Board.  
23 Commissioner McCauley was recently appointed. We're  
24 very excited to have him back, and maybe I'll ask

1 him to say a few words, if you don't mind. Please  
2 note how happy we are to have you here.

3 COMMISSIONER McCAULEY: Thank you, gentlemen.  
4 I appreciate that. I feel very privileged to be  
5 here.

6 I know it's been challenging times for  
7 quite a while in this industry, but I think that  
8 just means, you know, people in this room on both  
9 sides of this bench need to be applauded for  
10 sticking it out and having the hope that things will  
11 get better, and I think they will.

12 And in any small way I can help to make  
13 that happen, I will. So thank you.

14 CHAIRMAN BRINCAT: We're very happy to have you  
15 and welcome to the Board again.

16 COMMISSIONER McCAULEY: Thank you.

17 CHAIRMAN BRINCAT: Second welcoming aboard.  
18 Clearly, the only way to for sure to lose a fight is  
19 stop swinging, and I don't think that's anybody up  
20 here. So if we're ready to go. Director?

21 DIRECTOR DICERA: Thank you, gentlemen. Good  
22 morning Commissioners, along with myself. We also  
23 have IRB staff Bob Lang, Mickey Ezzo, Mike  
24 Pieczonka, and former Executive Director Marc Laino.

1           Agenda item time No. 1, a request  
2 submitted by Post Time Sports Bar and Grill, LLC,  
3 for approval of a change in ownership pursuant to  
4 IRB Rule 402.110.

5           Post Time Sports Bar and Grill, LLC, is  
6 licensed by the Board for calendar year 2017 as a  
7 concessionaire at the Green Oaks OTB. IRB Rule  
8 402.110 requires approval by the Board of a change  
9 of owners, officers or directors of a  
10 concessionaire.

11           In a letter to the Board dated  
12 December 22nd, 2016, Vincent Palmieri, owner of Post  
13 Time Sports Bar and Grill, advised the Board that  
14 Pasquale Panico has become a 40 percent owner of the  
15 LLC.

16           Mr. Panico has filed a disclosure  
17 statement, his tax compliance with the Illinois  
18 Department of Revenue, and has submitted his  
19 fingerprints. Staff recommends approval of Pasquale  
20 Panico, conditioned upon a satisfactory result of  
21 the criminal background check.

22           CHAIRMAN BRINCAT: Will there be testimony?

23           MR. DICERA: Does the Board wish to hear from  
24 Mr. Panico? He is present here.



1 CHAIRMAN BRINCAT: We have no scheduled  
2 testimony.

3 DIRECTOR DICERA: None whatsoever? No one  
4 requested to speak on this issue.

5 CHAIRMAN BRINCAT: Great. Thank you. Motion?

6 COMMISSIONER MULDER: I move for approval based  
7 on the fact all the information was submitted. My  
8 question was to make certain that we did get all the  
9 information.

10 DIRECTOR DICERA: Commissioner, yes, all the  
11 information was submitted and is complete. We are  
12 waiting the results of a criminal background check  
13 by way of fingerprints.

14 CHAIRMAN BRINCAT: Thank you.

15 COMMISSIONER SRONCE: I would make a motion to  
16 approve.

17 CHAIRMAN BRINCAT: Is there a second?

18 COMMISSIONER MULDER: Second.

19 CHAIRMAN BRINCAT: Mr. Ezzo?

20 MR. EZZO: Commissioner Scates?

21 COMMISSIONER SCATES: Here.

22 MR. EZZO: Commissioner Muriel?

23 COMMISSIONER MURIEL: Yes.

24 MR. EZZO: Commissioner Sronce?

1 COMMISSIONER SRONCE: Yes.

2 MR. EZZO: Chairman Brincat.

3 CHAIRMAN BRINCAT: Yes.

4 MR. EZZO: Commissioner McCauley?

5 COMMISSIONER McCAULEY: Yes.

6 MR. EZZO: Commissioner Schiewe?

7 COMMISSIONER SCHIEWE: Yes.

8 MR. EZZO: Commissioner Mulder?

9 COMMISSIONER MULDER: Yes.

10 MR. EZZO: Commissioner Lunt?

11 COMMISSIONER LUNT: Yes.

12 MR. EZZO: Commissioner Swoope?

13 COMMISSIONER SWOOPE: Yes.

14 MR. EZZO: The motion passes unanimously.

15 DIRECTOR DICERA: Agenda item No. 2, a request  
16 submitted by Fairmont Park, Incorporated, for  
17 approval of racing officials for calendar year 2017.

18 Pursuant to Board Rule 422, each  
19 organization licensee shall submit to the Board for  
20 its approval the names of all persons selected as  
21 racing officials. All of the officials submitted by  
22 Fairmount Park have been licensed and approved  
23 previously, with the exception Perkins Scales, Derek  
24 Sturniolo.

1           Mr. Sturniolo has been licensed by the  
2 Board as a jockey since 2004. Staff recommends  
3 approval of all racing officials; however  
4 Mr. Sturniolo's approval is conditioned upon  
5 satisfactory results of the criminal background  
6 check.

7           COMMISSIONER MULDER: Has this come in the  
8 background check?

9           DIRECTOR DICERA: It's in the process.

10          CHAIRMAN BRINCAT: Do you have any testimony?

11          DIRECTOR DICERA: No testimony. No one has  
12 requested to speak on this issue.

13          COMMISSIONER SRONCE: So moved.

14          COMMISSIONER SCATES: Second.

15          CHAIRMAN BRINCAT: Mr. Ezzo.

16          MR. EZZO: Commissioner Scates?

17          COMMISSIONER SCATES: Yes.

18          MR. EZZO: Commissioner Muriel?

19          COMMISSIONER MURIEL: Yes.

20          MR. EZZO: Commissioner Sronce?

21          COMMISSIONER SRONCE: Yes.

22          MR. EZZO: Chairman Brincat?

23          CHAIRMAN BRINCAT: Yes.

24          MR. EZZO: Commissioner McCauley?

1 COMMISSIONER McCAULEY: Yes.

2 MR. EZZO: Commissioner Schiewe?

3 COMMISSIONER SCHIEWE: Yes.

4 MR. EZZO: Commissioner Mulder?

5 COMMISSIONER MULDER: Yes.

6 MR. EZZO: Commissioner Lunt?

7 COMMISSIONER LUNT: Yes.

8 MR. EZZO: Commissioner Swoope? Commissioner.

9 Swoope, are you still there?

10 COMMISSIONER SWOOPE: Yes.

11 MR. EZZO: The motion passes unanimously.

12 DIRECTOR DICERA: Agenda item No. 3, a request  
13 submitted by Suburban Downs, Incorporated, to  
14 approve initiation of rulemaking to amend  
15 Section 1313.70 of the Illinois Racing Board Rules.

16 Harness Rule 1313.70 currently requires  
17 that horses be in their assigned stalls in the  
18 paddock four hours before scheduled post time of the  
19 race in which the horse is entered.

20 This is commonly referred to as detention  
21 time. The rule further requires horses racing in  
22 stake rations with a purse of \$20,000 or greater,  
23 and elimination races for stake races with a purse  
24 of \$40,000 or greater, shall be in their assigned

1 stalls in the paddock at 12:00 noon on race day.

2 Suburban Downs and Hawthorne Race Course  
3 proposes to eliminate the extended detention time  
4 for horses racing in stake races. This extra  
5 requirement brings about hardship to horsemen, race  
6 track staff and the horses.

7 The 12:00 noon detention requires them to  
8 be in the paddock an additional five to eight hours  
9 on race day. Illinois' requisite four-hour  
10 detention for non-Lasix horses is longer than most  
11 other racing jurisdictions. For example, Pompano  
12 Park in Florida is one hour and 15 minutes prior to  
13 post time.

14 Hoosier Park is three hours. The  
15 Meadowlands and Yonkers Raceway are one hour and 30  
16 minutes. Scioto Downs and Running Aces are one hour  
17 before post time.

18 Our stewards support this request. Staff  
19 recommends the initiation of rulemaking to amend  
20 Section 1313.70 by eliminating the 12:00 noon  
21 detention for horses in stake races. Chairman Tim  
22 Carey from Hawthorne will testify on behalf of  
23 Suburban Downs.

24 CHAIRMAN BRINCAT: Great. Thank you. Ma'am,

1 can we swear him in and get his name in the record,  
2 please?

3 (Tim Carey and John Walsh were  
4 was duly sworn.)

5 MR. CAREY: Tim Carey, C-a-r-e-y.

6 MR. WALSH: John Walsh, W-a-l-s-h.

7 CHAIRMAN BRINCAT: Good morning, sir.

8 MR. CAREY: What we did was, in talking to the  
9 horsemen after the harness meet last summer.  
10 Remember, we took a look at the rules, and this is  
11 one of the ones that, you know, had hardship on the  
12 horseman, itself.

13 We just thought we would make this change  
14 based upon what's going on nationally in harness  
15 racing, and we thought it would be a good thing for  
16 the horsemen. That is why we came before you with  
17 this.

18 COMMISSIONER SRONCE: Is there going to be any  
19 level of recommended detention time? Right now I  
20 think it's asking us --

21 MR. CAREY: It would be within the four hours  
22 like it normally is. Yes, absolutely. So nothing  
23 would change other than on a \$20,000 or greater  
24 purse, that type of situation.

1           And again, it was just done in conjunction  
2 with the horsemen. The horsemen came to us and  
3 said, "Hey, can't we change this?" So we started  
4 looking into it. So that's what we did.

5           MR. PIECZONKA: Tell them what the rules are  
6 and what it may be afterwards.

7           MR. CAREY: What the rule is that you have to  
8 be there five -- no, at a noon time check-in. The  
9 problem with that is, one, you got everyone that is  
10 in those races moving in at the same time.

11           So it kind of gets chaotic as opposed to  
12 when people are moving in at different times for  
13 different races on the backside that can handle the  
14 people better type of thing.

15           So it's just with the staff and the  
16 preparation and everything, and then you got the  
17 horse standing there until racing that night. It  
18 just doesn't make sense. So veterinarians can still  
19 check, in terms of anything that is going on with  
20 the horse. It's just something we thought would  
21 help them.

22           COMMISSIONER SRONCE: So this is eliminating  
23 detention time?

24           MR. CAREY: That's correct.

1           COMMISSIONER MURIEL: It seems to make sense.  
2 Why was that rule first put in place?

3           DIRECTOR DICERA: May I help you with that, or  
4 even Mickey? The staff did a little bit of  
5 research, Commissioner. If we look at the landscape  
6 of racing several years ago, when this rule was  
7 proposed, it included many stake races, many  
8 elimination races, when the industry was healthier.

9                   It hasn't been the case in a while. So  
10 this was a rule proposed by the racetracks then,  
11 from what we understand. Mickey can produce more  
12 details if needed.

13                   The intent back then, as we were told by  
14 the people we interviewed, was to level the playing  
15 field between the quality of horses that participate  
16 in those stake races by having them at noon  
17 detention time, requiring them all to be in at the  
18 same time, but it has caused -- over the years, it  
19 has caused significant logistics problems for the  
20 horsemen and the racetrack staff and including  
21 regulatory staff.

22           MR. PIECZONKA: It's also a cost savings for  
23 the horsemen and the tracks. You don't have to have  
24 someone sitting there from 12:00 noon until race



1 time.

2 The vans, I assume by shipping people up,  
3 the horses up there, you are not paying somebody to  
4 ship it from, you know, 4:00 a.m. to get there by  
5 noon or arbitrary times. They could show up now at  
6 an hour before a race. So roughly when, 2:00,  
7 3:00 p.m.?

8 MR. CAREY: Yes, 3:00 o'clock.

9 MR. PIECZONKA: And from 3:00 o'clock until the  
10 end of the meet, and not from noon until the end of  
11 the meet. It a savings across board for horsemen,  
12 and actually equine health not having them to stand  
13 there for hours, extra hours.

14 COMMISSIONER McCAULEY: I just have a question  
15 about the background on the rule. It just seemed to  
16 me it would be counter-intuitive that was operated  
17 under the assumption if there were going to be  
18 illegal activity, it would be more likely to occur  
19 with the cheaper horses.

20 I was just curious why the better races  
21 are in detention longer? Does it make sense to you?  
22 I support the change, but I was just curious.

23 DIRECTOR DICERA: The paddocks are staffed with  
24 security personnel, and they would be, with the noon

1 detention time. I think illegal activity may  
2 happen -- it's happening now with the four-hour  
3 detention time. We still have positive drug  
4 reports.

5           The paddock is to be a safeguard in place  
6 for the horses participating that evening. The noon  
7 detention time across the board, and I think there  
8 is a horsemen's representative here. Perhaps they  
9 can give a perspective of their view on the noon  
10 paddock versus the standard detention time.

11           As it was presented in the blurb, the  
12 four-hour detention is consistent with the  
13 scientific information that event staff has  
14 collected with regard to Lasix and the  
15 administration of Lasix.

16           It's a fact. Our event staff and stewards  
17 are very concerned when post times get delayed or  
18 for some reason or another, with respect to the  
19 administration of Lasix. So that's also a  
20 consideration as well.

21           It's difficult to speak on illegal  
22 activity. We try to do our best to minimize and  
23 contain it as best we can, in conjunction with  
24 security staff at the racetrack.

1 COMMISSIONER McCAULEY: Thanks.

2 COMMISSIONER SCHIEWE: Dominic, why would the  
3 administration of Lasix potentially delay start time  
4 or horse time?

5 DIRECTOR DICERA: It's not the administration  
6 of Lasix. There is a weather delay, and Lasix has  
7 already been administered. Vets are concerned about  
8 the horse health, if the delay goes beyond.

9 COMMISSIONER SCHIEWE: Thank you.

10 COMMISSIONER SRONCE: I would make a motion to  
11 approve.

12 CHAIRMAN BRINCAT: Thank you. We have a  
13 motion. Is there a second?

14 COMMISSIONER McCAULEY: Second.

15 CHAIRMAN BRINCAT: Second by Mr. McCauley.  
16 Mr. Ezzo?

17 MR. EZZO: Commissioner Scates.

18 COMMISSIONER SCATES: Yes.

19 MR. EZZO: Commissioner Muriel?

20 COMMISSIONER MURIEL: Yes.

21 MR. EZZO: Commissioner Sronce?

22 COMMISSIONER SRONCE: Yes.

23 MR. EZZO: Chairman Brincat?

24 CHAIRMAN BRINCAT: Yes.

1 MR. EZZO: Commissioner McCauley?

2 COMMISSIONER McCAULEY: Yes.

3 MR. EZZO: Commissioner Schiewe?

4 COMMISSIONER SCHIEWE: Yes.

5 MR. EZZO: Commissioner Mulder?

6 COMMISSIONER MULDER: Yes.

7 MR. EZZO: Commissioner Lunt?

8 COMMISSIONER LUNT: Yes.

9 MR. EZZO: Commissioner Swoope?

10 COMMISSIONER SWOOPE: Yes.

11 MR. EZZO: The motion passes unanimously.

12 CHAIRMAN BRINCAT: Thank you.

13 DIRECTOR DICERA: Agenda item No. 4, a request  
14 submitted by staff for approval to initiate  
15 rulemaking to amend Part 2250 and repeal Parts 310,  
16 313, 316, 317, 323 and 2251 of the Illinois Racing  
17 Board Rules.

18 As far as the Board's ongoing effort to  
19 restructure the Illinois Racing Board Rules,  
20 pursuant to it's statewide initiative under  
21 Executive Order 2016-13, the Board staff proposes  
22 the following rule changes: Repeal the following  
23 pari-mutual wages because they are obsolete and have  
24 not been utilized by the racetracks for a long

1 period time.

2 Part 310, super trifecta exchange adopted  
3 in 1995. Part 313 high/low adopted in 1996. Part  
4 316, show quinella adopted in 1997. Part 317,  
5 countdown adopted in 1997.

6 Part 323, win, place, show pick adopted in  
7 2006. Repeal the Board's freedom of information  
8 rule, FOIA Part 2251, because some of the current  
9 provisions are outdated and the Board must comply  
10 with Chapter 5 Illinois Compiled Statutes 140, the  
11 Illinois Freedom of Information Act.

12 Compliance with the Illinois Freedom of  
13 Information Act will be included in Part 2250.  
14 Amend the Board's rulemaking rule, Part 2250, by  
15 renaming it "Public Request and Rulemaking."

16 Section 2250.10 will require the Board to  
17 follow the procedures in the Illinois Freedom of  
18 Information Act. Section 2250.20 states that "The  
19 Board shall comply with the rulemaking procedures  
20 contained within the Illinois Administrative  
21 Procedure Act 5 ILCS 100. Section 2250.30 and  
22 2250.40 will be repealed.

23 Staff recommends the initiation of  
24 rulemaking to repeal parts 310, 313, 316, 317, 323

1 and 2251, and amend Part 2250 of the Illinois Racing  
2 Board Rules.

3 CHAIRMAN BRINCAT: Do we have any testimony?

4 DIRECTOR DICERA: No testimony was requested  
5 for this agenda item.

6 CHAIRMAN BRINCAT: Great. Thank you.

7 COMMISSIONER SRONCE: So moved.

8 CHAIRMAN BRINCAT: There is a motion. Is there  
9 a second?

10 COMMISSIONER MULDER: I'll second.

11 CHAIRMAN BRINCAT: There will be no discussion.  
12 If there is a motion -- we would have to initiate a  
13 second motion after discussion, wouldn't we? We  
14 would have to come up with another motion?

15 COMMISSIONER MULDER: No, just discussion.

16 CHAIRMAN BRINCAT: I'm saying could we do a  
17 motion to table it real quick?

18 COMMISSIONER SRONCE: I can withdraw my motion.

19 MR. PIECZONKA: We have to vote on the motion.

20 MR. EZZO: There was a motion and seconded.

21 CHAIRMAN BRINCAT: We can open it up for  
22 discussion?

23 MR. EZZO: Yes.

24 CHAIRMAN BRINCAT: We can do that.

1           COMMISSIONER MURIEL: I just had a question  
2 about 2250.40. It's talking about emergency  
3 rulemaking. What was the thought process on that  
4 one?

5           MR. PIECZONKA: Give us a moment.

6           MR. EZZO: Commissioner, emergency rulemaking  
7 is contained in 5 ILCS 140, just as we put it in our  
8 rules. We're just reverting back to the Illinois  
9 Freedom of Information Act. It's the same rule.

10          COMMISSIONER MURIEL: Got it. It's redundant?

11          MR. EZZO: It's redundant. All of it is  
12 redundant.

13          MR. PIECZONKA: Our rule book is over 400 pages  
14 long. In this, we're repealing over 20 pages worth  
15 of redundancy. We're required to follow FOIA.  
16 We're required to follow the rulemaking process.

17                 For instance, in the FOIA Rule, there is  
18 actually cites to part of the act that are no longer  
19 even there. So instead of having to update that  
20 time and again, and then confuse individuals making  
21 information request, we are saying, "Go look at  
22 FOIA."

23                 Mickey did some research, looked at other  
24 agencies, and also saw this across the board to

1 essentially see the streamlining. This is part of a  
2 bigger concept. As we went before the Board I  
3 believe in October, it may have been before that,  
4 where the Board approved our overall rule project  
5 reduction, reducing our rule book. It's Executive  
6 Order 2016-13 by the Governor. It's assets become  
7 more competitive with the state.

8           There is actually a competitiveness  
9 committee that is in charge of this and asks all  
10 agencies to come through and cut out rules that are  
11 not required, just basic within our rule book.

12           JCAR actually wanted to say we probably  
13 have more parts than any other agency in the State  
14 of Illinois, and has asked, and we're going to start  
15 looking at them and probably modifying significant  
16 reducing a lot of parts in our rules.

17           MR. EZZO: As Mike was saying, I talked to the  
18 Director of the Joint Committee on Administrative  
19 Rules yesterday, and she was amazed we had 103  
20 active parts.

21           That's more than any agency in the state,  
22 and she's willing to work with us to reduce that  
23 number. So we have our work cut out for us.

24           CHAIRMAN BRINCAT: Folks, anything else?



1           COMMISSIONER SRONCE: Routinely, with these  
2 requests, we can anticipate more in the future?

3           DIRECTOR DICERA: Correct.

4           MR. PIECZONKA: We already have five more rules  
5 in the pipeline, but we don't want to inundate you  
6 guys with too many at a time.

7           COMMISSIONER SRONCE: Thank you.

8           COMMISSIONER MULDER: Thank you.

9           COMMISSIONER SRONCE: Do I need to make a  
10 motion?

11          MR. EZZO: No, we have a motion on the floor.

12          CHAIRMAN BRINCAT: We have motion on the floor.  
13 Do we have a second?

14          COMMISSIONER SRONCE: Second.

15          CHAIRMAN BRINCAT: Please proceed to a vote.

16          MR. EZZO: Commissioner Scates?

17          COMMISSIONER SCATES: Yes.

18          MR. EZZO: Commissioner Muriel?

19          COMMISSIONER MURIEL: Yes.

20          MR. EZZO: Commissioner Sronce?

21          COMMISSIONER SRONCE: Yes.

22          MR. EZZO: Chairman Brincat?

23          CHAIRMAN BRINCAT: Yes.

24          MR. EZZO: Commissioner McCauley?

1 COMMISSIONER McCAULEY: Yes.

2 MR. EZZO: Commissioner Schiewe?

3 COMMISSIONER SCHIEWE: Yes.

4 MR. EZZO: Commissioner Mulder?

5 COMMISSIONER MULDER: Yes.

6 MR. EZZO: Commissioner Lunt?

7 COMMISSIONER LUNT: Yes.

8 MR. EZZO: Commissioner Swoope?

9 COMMISSIONER SWOOPE: Yes.

10 MR. EZZO: The motion passes unanimously.

11 DIRECTOR DICERA: Agenda item Number 5 is a  
12 request submitted by staff to certify purse  
13 recapture authorized under Section 26(g)(13) of the  
14 act.

15 Section 26(g)(13) of the act provides that  
16 the Board certifies in writing their wagering  
17 facility, the amount to which the wagering facility  
18 is entitled and is scheduled for payment, other  
19 purse recapture amount in a wagering facility.

20 The act further states that the Board  
21 certification shall be provided no later than  
22 January 31st of the succeeding year. The purse  
23 recapture provision was authorized as part of the  
24 full cart simulcasting legislation enacted in 1995.

1           The statute provides that if the total  
2 Illinois handle on Illinois races in any calendar  
3 year falls below 75 percent of the total Illinois  
4 handle on Illinois races in the calendar year 1994,  
5 then any individual Illinois wagering facility,  
6 racetrack or OTB that handles less than 75 percent  
7 of its 1994 base year, it is entitled to deduct from  
8 purses two percent of the difference between it's  
9 1994 total Illinois handle on Illinois races and its  
10 total Illinois handle on the Illinois races in the  
11 subject year.

12           Each wagering facility's board certified  
13 first recapture amount is deducted from the  
14 racetrack purse account from which the wagering  
15 facility derives its license.

16           In the event a wagering facility entitled  
17 to a purse recapture is affiliated with a racetrack  
18 that maintains purse accounts for both standard and  
19 thoroughbred racing, the amounts deducted from each  
20 purse account is prorated based on the wagering  
21 facility's handle on each breed of racing.

22           As for Fairmount Park under Section  
23 26(g)7.1 of the statute, money derived from  
24 simulcast and inter-track wagering by Fairmount

1 Park, and was otherwise stable to a standard  
2 thoroughbred purse account, is divided with  
3 80 percent paid to the thoroughbred purse account at  
4 Fairmount, and 20 percent deposited into the  
5 Illinois Code stakes purse distribution fund.

6 Therefore, the recapture certification for  
7 Fairmount Park applies 20 percent of the recapture  
8 that would otherwise be paid from standard  
9 thoroughbred purse accounts to the Illinois Code  
10 stakes fund.

11 The following recapture amounts are  
12 certified by the Board to be deducted from the purse  
13 accounts in 2017. Arlington Park, \$4,433,309.  
14 Hawthorne Racecourse thoroughbred, \$2,608,878.  
15 Hawthorne Racecourse Harness \$2,105,636. Fairmount  
16 Park thoroughbred, \$1,828,667. Fairmount Park code  
17 fund for \$43,757 for a total of \$11,020,247. Staff  
18 recommends approval of the purse recapture  
19 certification.

20 CHAIRMAN BRINCAT: Have we had any requests to  
21 attend?

22 DIRECTOR DICERA: Sorry, Chairman, no one has  
23 requested to testify on this issue.

24 CHAIRMAN BRINCAT: Any documents submitted?

1           DIRECTOR DICERA: Nothing.

2           COMMISSIONER SCHIEWE: Except what you gave us  
3 before the meeting started.

4           CHAIRMAN BRINCAT: I'll read that in. So  
5 that's it. We have no requests for testimony?

6           MR. DICERA: No, we do not.

7           CHAIRMAN BRINCAT: Folks, it would be  
8 appropriate at this time for me to advise my fellow  
9 Commissioners and get on the record about a  
10 conversation I had Friday rather, than just generate  
11 a memo and have it submitted in.

12                   There is an ex-parte communication I had  
13 voluntarily on Friday with representatives of the  
14 ITHA, the IHHA and the IHBPA. It was requested and  
15 funneled through the Governor's Office where these  
16 bodies asked to have a telephonic conversation with  
17 members of the Governor's staff, specifically the  
18 Deputy Chief of Staff for Legislative Affairs.

19                   That request was funneled to me, and we  
20 had a conference call at 11:30. I'm sorry, maybe it  
21 began 11:00 o'clock on Friday. It terminated after  
22 about 82 minutes. Generally discussing recapture,  
23 the ramifications of recapture, some of the history  
24 of recapture, and also communication about

1 considering recapture. Also about considerations  
2 about, you know, potentially how it would go away  
3 under alternative wagering solution.

4           There was no specifics, but it was, more  
5 or less, a discussion to allow them to express some  
6 of their concerns about the trends in recapture and  
7 potentially having a scenario where some of the  
8 effects of recapture could be mitigated.

9           There was nothing ventured in terms of  
10 specifics about potential events, and certainly I'll  
11 be happy to put this in writing, if anybody would so  
12 request. But again, it was a very 10,000-foot level  
13 conversation, but I wanted to go ahead and get it in  
14 the record as it occurred and terminated in the  
15 afternoon on Friday.

16           So if we document that, are we ready to  
17 move to discussion and other requirements?

18           DIRECTOR DICERA: Yes. Thank you.

19           CHAIRMAN BRINCAT: We're ready to go to  
20 discussions. Maybe I'll just call for a motion  
21 after the discussion, if there is any.

22           COMMISSIONER SRONCE: I will make the motion to  
23 approve. Is that after discussion?

24           CHAIRMAN BRINCAT: Yes.

1           COMMISSIONER SRONCE: I don't want to jump to  
2 the motion. I'll make a motion to approve.

3           COMMISSIONER McCAULEY: Second.

4           COMMISSIONER MURIEL: I'll make a motion as  
5 well. So we were handed this E-mail memorializing  
6 part of the conversation. On page 1, there is a  
7 part that is bolded. It looks like it's referring  
8 to Section 26(g)(13) of the Horseracing Act.

9                       I'm just going to read this quickly right  
10 now, but someone explain to me the wagering facility  
11 that's bolded as part of the act, how this  
12 implicates before us?

13           CHAIRMAN BRINCAT: Mr. Pieczonka, would you  
14 mind taking that, and Director DiCera, Mr. Laino, if  
15 you guys want to chime in after, please.

16           MR. PIECZONKA: Yes. Chairman, essentially  
17 there is three -- so there's requirements the Board  
18 certify recapture, and that is not a discretionary  
19 event by that.

20                       That is supported by the prior last two  
21 hearings, and actually 20 plus years of dates,  
22 sorry, generated meetings where we certified this.  
23 What it does there was prior discussion regarding  
24 that goes to the payment schedule potentially.

1           It goes to -- in the three items that you  
2 are referring to are based on the racing dates order  
3 to the racetrack affiliate with the wagering  
4 facility during the succeeding year. The sums  
5 available or anticipated to be available in the  
6 purse account of the racetrack affiliate with a  
7 wagering facility for purses during the succeeding  
8 year, and the need to ensure reasonable purse levels  
9 during the payment period.

10           So from prior testimony, prior  
11 transcripts, and from prior Board action, although  
12 there is also aspects of that, the Board is not  
13 required to follow those prior obligations and  
14 decisions to the Board based off of prior testimony  
15 and agreement by some of the sitting Commissioners  
16 here today. That it merely goes into how the tracks  
17 can withdraw recapture out of the purse accounts  
18 affiliated with their racetracks.

19           With that being said, though, is at the  
20 end of the day, it really doesn't matter, but the  
21 process, if you look at it from day one to the end  
22 of the year, if purses arbitrary number of \$100,000  
23 a day and recaptures 20 grand a day, you would have  
24 a leftover purse of \$80,000, right?



1           Now if in theory a track could not pull  
2 recapture out at the beginning of the year, it would  
3 not be \$100,000 of purse per day. Why? Because to  
4 ensure that the track has sufficient funds available  
5 in the purse account to withdraw the recapture at  
6 the end of the year, you wouldn't have to only offer  
7 it \$2,000 a day to make sure you can build up that  
8 amount of recapture at the end of the year.

9           So whether it's recaptured front loaded,  
10 back loaded or taking out on a daily base, it's  
11 essentially going to result in the same amount of  
12 purses per day, if that makes sense.

13           Although you have the right to do that, it  
14 really has no impact on how purses are pulled out of  
15 the account. You would assume that racetrack, if  
16 they're going to take full recapture, is going to  
17 account for that throughout the year. You say,  
18 "Fine, I can't take it until the end of the year.  
19 To ensure I can take it, I'm going to build up this  
20 pot of money here."

21           CHAIRMAN BRINCAT: Thank you. Director?

22           DIRECTOR DICERA: I have nothing add, sir.

23           CHAIRMAN BRINCAT: Mr. Laino?

24           MR. LAINO: I would just echo Counsel

1 Pieczonka's statements on that, that it was clearly  
2 intended any discretion that the Board has regarding  
3 recapture was solely for purposes of scheduling and  
4 recapture of reduction of recapturing to ensure  
5 reasonable purse levels.

6 Again based on the ebb and flow of the  
7 purses, that contribute to the account, timing on  
8 how monies are withdrawn are critical to maintaining  
9 reasonable purse levels.

10 And that was the intent is to ensure that,  
11 for instance, it wasn't all front loaded and then  
12 purses were reduced for the beginning of the season  
13 to 30 percent of what their normal levels are.

14 So, again, this issue has been, you know,  
15 this recapture, this is the 23rd certification of  
16 recapture annually. The issue of whether the Board  
17 has discretion on this is heard by numerous previous  
18 Boards.

19 I think we had three full formal hearings  
20 on this matter, and the conclusion has been the  
21 same, that this is a ministerial function for the  
22 Board to certify recapture and the only discretion  
23 the Board has, as far as scheduling the payment.

24 CHAIRMAN BRINCAT: Thank you, sir. Folks, we

1 can entertain other questions or discussion.

2 COMMISSIONER SCHIEWE: Marc, I've always had a  
3 problem with that. I don't see anywhere in this law  
4 or this section of the law that Pieczonka gave us  
5 before the meeting today, I don't see where it says  
6 "scheduling."

7 MR. PIECZONKA: Sorry to interrupt. This is  
8 page 36 of the January 27, 2015, transcript, and a  
9 quote from Chairman Gary Starkman pointed out in  
10 1996, the basis statute makes it clear that those  
11 three criteria apply at the time of the payment, not  
12 the amount of the payment that the horsemen contend.

13 It would be incongruent to the General  
14 Assembly to provide a specific statutory formula to  
15 compute the amount of entitlement. Then the next  
16 breadth authorized us to determine based on the  
17 criteria what the amount should be.

18 He goes on to say the Board has determined  
19 that three criteria only apply to the scheduling of  
20 payment of recapturing and rejected prior arguments,  
21 that the criteria applied to the calculation of the  
22 amount of recapture.

23 It further goes into this one of those  
24 three instances where it was a full hearing. It

1 went on for over 150 pages of testimony.

2           There was even citations to Appellate  
3 Court cases and everything. So, pardon me, you  
4 know, if you guys want to, you know --

5           COMMISSIONER SRONCE: It does say "schedule"?

6           COMMISSIONER SCHIEWE: It does. What it  
7 doesn't -- what we're not addressing here is in  
8 three factors in the staff comment, we quoted the  
9 act that the Board certification shall be provided  
10 no later than January 31st of the succeeding year.

11           The sentence immediately prior to that in  
12 the act, or in this section of the act, is No. 3,  
13 which is the need to ensure reasonable purse levels  
14 during the payment period.

15           And that is what I think the schedule is  
16 in reference to, what you just said. Rather than  
17 take all of the recapture at one time, it's spread  
18 out.

19           The example you used was if the purse  
20 account earned \$100,000, and lost 20,000 because of  
21 recapture, then we would pay an average daily for  
22 purse of 80,000.

23           That is what I think schedule refers to.  
24 I don't think -- I think separate from that, the

1 Board is required to address the reasonableness of  
2 purses, and by certifying these amounts were  
3 evidently certifying that also at the same time the  
4 purses are reasonable.

5 I don't think there is anyone in this room  
6 that would agree that they are.

7 MR. PIECZONKA: Commissioner Schiewe, I guess,  
8 respectfully, what is unreasonable? What is  
9 reasonable in this and may not be next year. What  
10 is, you know, what is reasonable then?

11 CHAIRMAN BRINCAT: Let me say this for a  
12 second. Let me just ask everybody that we keep our  
13 comments and commentary, with respect to the item on  
14 the agenda, rather than an analysis of the spirit  
15 and intent of this guideline.

16 We've heard -- well, I recall we heard  
17 commentary on the background of this. I think, you  
18 know, if we try to get into the connotative analysis  
19 of what the intentions were, we could probably turn  
20 this into an all-day meeting.

21 Not to minimize the amount of time, but  
22 the purpose of this agenda item is to certify.  
23 There's a limited amount of analysis that is  
24 applicable to analyzing what the responsibilities of

1 the Board are, but to dissect the wording here is  
2 probably not that productive because we have pattern  
3 and practice.

4 We have certainly any number of people  
5 here who are not attorneys who would venture an  
6 opinion on it, then we also have a number of  
7 attorneys here who could venture an opinion on it.

8 Let me just ask all parties that we just  
9 please keep this pursuant to how they see their  
10 responsibilities under this as opposed to maybe, you  
11 know, some of the other directions we could go.

12 COMMISSIONER SCHIEWE: If it's okay, I have  
13 another question or, Rob, go ahead.

14 COMMISSIONER MURIEL: The reason I asked the  
15 question is, you know, as I read this handout, it  
16 seems to say pretty clearly, you know, certified  
17 blah, blah, blah, provided that and just three  
18 points.

19 So, to me, it seems to me from just  
20 reading the plain language, that these three points  
21 have to be satisfied, but, you know, they weren't  
22 mentioned in the staff summary. And your  
23 explanation, you know, just gives a very different  
24 explanation from what I'm reading on the face of the

1 page.

2           So that is why I was asking for some  
3 commentary. I'm confused up here how we can  
4 reconcile the wording on the statute with what's  
5 been explained. I guess one question I have you  
6 mentioned prior Board decisions and rulings and  
7 discussions.

8           Is that considered an Illinois law when a  
9 prior Board, say, years ago makes a decision, is  
10 that Illinois law that we as a Board are bound by?

11           MR. PIECZONKA: No. Actually, Commissioner  
12 Muriel, earlier I stated that we're not bound by  
13 prior decisions.

14           Even in this transcript from January 27,  
15 2015, that is the last time it was a full hearing on  
16 this matter. After reading the 150 pages of  
17 testimony yesterday, we're going through the same  
18 arguments that that Board brought up, and the Board  
19 unanimously, and they've been holding this.

20           So, yes, we are not bound by prior Boards;  
21 however, for 23 years, as prior Executive Director  
22 Laino has pointed out, the Board has taken the same  
23 position. So to say for 23 years they've all been  
24 wrong, you know, again, we're not bound by what they

1 say, but it's kind of 23 years of being wrong and  
2 now all of a sudden, you know, we're right.

3 COMMISSIONER SRONCE: Maybe I can respond to  
4 Commissioner Muriel's question is that the three  
5 criteria are based upon the preceding where it  
6 references schedule for payment.

7 So if you look above the little odd, so if  
8 you read going backwards there, is a title and a  
9 schedule for payment of that amount based on those  
10 three things. So what you have to weigh in on those  
11 three factors how that applies to the payment  
12 schedule.

13 You got this formula that the legislature  
14 gives you. Whether you agree with it or disagree  
15 with it, I don't know that that is -- certainly  
16 there's folks that agree and disagree with that law,  
17 obviously, but that is not really up, in my opinion,  
18 for our -- within our discretion to manipulate that  
19 formula.

20 So the one thing we have power to do with  
21 these three criteria is manipulate the payment  
22 schedule as referenced right before they get to I,  
23 double I and triple I, and those three factors.

24 So that is how I see it. You know, taking



1 it to the extreme, if we were to say that reasonable  
2 purses aren't reasonable, therefore, we can't  
3 certify the recapture, that would essentially put us  
4 in a spot where.

5           You know, we're here to determine what is  
6 reasonable, what's not reasonable. So I don't think  
7 that is the intent of what the law tells us to do.

8           They certainly write out the very specific  
9 formula based on numbers and revenues tied to the  
10 1994 statistic, and then they say, "Here is the  
11 number that you promulgate based on that."

12           Now manipulate it with these three  
13 factors, according to the fee schedule, they  
14 reference right before that. That is how I see it,  
15 if that makes sense.

16           CHAIRMAN BRINCAT: Obviously, when you have  
17 unabashed ambiguity in acts or statutes, sometimes  
18 courts will engage in instruction or, you know,  
19 further, you know, further taking the language in  
20 the act or statute.

21           I don't really see this as ambiguous.  
22 That is what I mean. It seems to me, again, if it  
23 says "In title and a schedule for payment of the  
24 amount based on."

1           So the way I read it is a schedule of the  
2 amendment based on, which again, you know, we're not  
3 trying to gauge infrastructure here. Since it's  
4 before the Commission or before the Board, that's  
5 the way I read it referencing the schedule of  
6 payments.

7           MR. PIECZONKA: It's likely in there because  
8 the legislature didn't want the racing tracks to  
9 step in there and pull all the recapture out on day  
10 one. Okay? Generate a huge cash flow issue.

11           For instance, the pari-mutual tax credit  
12 regarding paid real estate taxes, that's a credit  
13 they receive up front, the racetracks, and the  
14 pari-mutual tax is not paid until that is fully  
15 utilized.

16           If you did something here, how could  
17 purses ever be offered for racing? So to ensure  
18 stuff like that doesn't happen, it makes sense that  
19 the legislature said, "Racing Board, you have the  
20 authority to determine how purses -- how recapture  
21 can be pulled out, recaptured and ensure an adequate  
22 purses are provided."

23           Now, those adequate purses, and what's  
24 reasonable, is a moving target. Year to year it's

1 different. You know, you can't compare, yes, what  
2 was reasonable what was in 1995 was not reasonable  
3 today. Why? Because we don't have the horses. We  
4 don't have the purses. We don't have anything.

5           There is gaming legislation. There is  
6 casinos. There's slot machines in all kinds of  
7 bars, restaurants, all this stuff. The entire  
8 industry has changed since then.

9           What's reasonable this year is different  
10 from next year, and then the year after that, and  
11 the year after that.

12           CHAIRMAN BRINCAT: Thank you.

13           COMMISSIONER McCAULEY: I agree with the  
14 staff's interpretation. I think it's unambiguous  
15 and just a clear meaning of that phrase and the  
16 schedule for payment of the amount to the wagering  
17 facility based on Roman Numeral 1 through 3.

18           Just, in my mind, it clearly applies to  
19 that phrase and a schedule for payment of the  
20 amount. I really don't see any alternative  
21 interpretation.

22           Again, as it was said, whether you like  
23 the law or not, obviously we're duty bound to follow  
24 it. I disagree with the way that you read it.

1           COMMISSIONER SCHIEWE: I generally agree with  
2 Tom and everybody here, and Greg and Chairman, that  
3 there really isn't that much gray area because we  
4 shall certify it before the end of the month of  
5 January; but I'm curious when you talk about  
6 enforcing this section of the law, who is  
7 responsible for enforcing this?

8           MR. PIECZONKA: Us, or the Racing Board.

9           COMMISSIONER SCHIEWE: Are we responsible for  
10 the entirety of the law or just the first half of  
11 this page?

12          MR. PIECZONKA: If you are regarding the former  
13 agriculture part, we don't have the ability nor the  
14 authority to regulate another agency in the State of  
15 Illinois.

16          COMMISSIONER SCHIEWE: I don't think so.

17          MR. PIECZONKA: Nor do we have the authority to  
18 tell the General Assembly what to do either. I  
19 believe what you're referring to is a portion where  
20 the firm of agriculture is to request an amount  
21 equal to the amount of the recapture certified by  
22 the Racing Board to be reimbursed into the purse  
23 accounts. We cannot ask them.

24                   Now, Commission Schiewe, Rob Lang every

1 year, pursuant to a rule we have here, sends out --  
2 please, Bob, correct if I'm wrong. Mr. Lang sends  
3 out notice of estimated recapture amounts to four  
4 majority leaders, or majority and minority leaders  
5 of the House and Senate, including Governor's  
6 Office, and is it the horsemen organizations and/or  
7 all stakeholders?

8 MR.LANG: Not the horsemen.

9 MR. PIECZONKA: Sorry. And the Department of  
10 Agriculture, what they anticipate the recapture to  
11 be so they can include those amounts into their  
12 budget appropriation request to the General  
13 Assembly.

14 Now, whether the General Assembly  
15 issues -- or, sorry, grants or approves of  
16 appropriation request is beyond the control nor the  
17 jurisdiction of this Racing Board.

18 COMMISSIONER SRONCE: Has this issue ever been  
19 litigated in a court? Have we ever received any  
20 opinion from the Attorney General or any of that, or  
21 not?

22 I'm just curious. I'm not saying it  
23 should be. Certainly we don't have any authority or  
24 opinions, other than prior Boards doing it.

1           Marc, do you recall?

2           MR. LAINO: The only instance where this  
3 recapture matter was litigated was a result of a  
4 defunct racetrack, National Jockey Club, as to their  
5 entitlement to recapture based on prior year  
6 activity, wagering activity, certification in the  
7 succeeding year, but not on the merits or language  
8 regarding any discretion on the Board.

9           COMMISSIONER SRONCE: Okay.

10          MR. PIECZONKA: Just as in all matters in  
11 Circuit Court, the Racing Board is required to be  
12 represented by the Attorney General's Office.

13                 So the Racing Board could not walk into  
14 court tomorrow and file a lawsuit without the  
15 Attorney General of the State of Illinois accepting  
16 the case and filing that lawsuit.

17                 So it's the Attorney General that would  
18 actually have to enforce this provision and not us.  
19 We couldn't even do it.

20          COMMISSIONER SRONCE: I'm not inviting  
21 anything.

22          MR. PIECZONKA: I just want to make sure you  
23 guys understand. Even if you guys told us to file  
24 something tomorrow, I can't do that.

1           COMMISSIONER SRONCE: I was just curious  
2 whether anybody has ever.

3           MR. LAINO: There may have been one other court  
4 action, and that was regarding the specific  
5 provision.

6           I believe there was a legal petition at  
7 one time to attempt to compel the General Assembly  
8 to appropriate funds for the reimbursement of  
9 recapture, but the ruling was that you cannot compel  
10 a General Assembly or a future General Assembly to  
11 appropriate funds within the provision of the law.  
12 Those are separate.

13          COMMISSIONER McCAULEY: It's consistent with  
14 the separate powers document. It's the National  
15 Jockey Club case, was the ruling bankruptcy?

16          MR. LAINO: Yes.

17          COMMISSIONER McCAULEY: Which, obviously, as  
18 far as starting with license goes, doesn't mean much  
19 here.

20          MR. LAINO: I would agree.

21          CHAIRMAN BRINCAT: Folks, do we have anything  
22 else?

23          COMMISSIONER SCHIEWE: I do have a question, if  
24 Marc and/or Mike could help me understand this.

1 During the course of my preparation for today's  
2 meeting, I did read the Illinois Appellate Court's  
3 decision on the subject of recapture, and it says,  
4 if I may read it from this, it says, "The Court  
5 said" and I quote, "To remain competitive with  
6 racing in other states, Illinois racetracks must  
7 award horsemen purses sufficient to motivate them to  
8 race their best horses in Illinois.

9 "The legislature denied the provisions of  
10 Section 26," which is what Mike gave us this  
11 morning, "to allocate funds in a manner that best  
12 preserves the welfare of both the horsemen and the  
13 licensees who run races in Illinois.

14 "The legislature created an explicit  
15 formula for determining the amount of recapture to  
16 deduct from purses awarded to horsemen. We see no  
17 reason to second guess the legislature's formula.

18 "Money not awarded as recapture remains in  
19 the purses awarded to horsemen and thereby supports  
20 the growth and development of the racing industry in  
21 Illinois."

22 And the way I read that is there is some  
23 discretion by this Board to not award some money in  
24 recapture, so that it remains in purses.



1 MR. PIECZONKA: Commissioner Schiewe, I  
2 respectfully disagree with you. Right in there it  
3 says the legislature came up with -- pardon me, I  
4 don't it in front of me. I don't have a copy of  
5 that case.

6 So I'm going off of what I recall you  
7 stated is, correct me if I'm wrong, you made a  
8 comment that the legislature has set a formula?

9 COMMISSIONER SCHIEWE: I was just reading from  
10 the court decision.

11 MR. PIECZONKA: Correct. Could you read that  
12 phrase again?

13 COMMISSIONER SCHIEWE: "The legislature created  
14 an explicit formula for determining the amount of  
15 recapture to deduct from purses awarded to horsemen.  
16 We see no reason to second guess the legislature's  
17 formula."

18 I think this is the part I was trying to  
19 understand what this means.

20 MR. PIECZONKA: To me, it's very clear the  
21 court is saying the legislatures told us exactly how  
22 to calculate recapture.

23 You need to recertify that by the 31st,  
24 and as a court, we're not going to step into the

1 shoes of the legislature and tell the legislature  
2 what they were thinking.

3 COMMISSIONER SCHIEWE: Wasn't money not awarded  
4 and the recapture remains in the purses awarded for  
5 development the racing in Illinois?

6 What does that mean?

7 MR. PIECZONKA: That means, I assume, the same  
8 thing what actually occurred right now. Anything  
9 left over in the purse account is available for  
10 purses.

11 CHAIRMAN BRINCAT: So everything in the purse  
12 account is standard purses.

13 MR. EZZO: Correct.

14 CHAIRMAN BRINCAT: That's the way I read.  
15 There's a part in there -- again, I haven't seen the  
16 court's opinion. It says, "Horsemen and licensees."

17 MR. PIECZONKA: Correct.

18 CHAIRMAN BRINCAT: This is obviously a  
19 balancing act.

20 MR. PIECZONKA: Right.

21 CHAIRMAN BRINCAT: Again, I haven't seen the  
22 opinion. Specifically, it's horsemen and licensees  
23 is what I heard.

24 MR. PIECZONKA: Yes. It also goes to in our

1 act, too, it states specifically that it's the purse  
2 of account of the organization license.

3 So the purse account is that of the  
4 organization licensee. And of that, the act in, for  
5 instance, 29(d) says that, you know, "A portion can  
6 be pulled out for the horsemen's organization  
7 represents most owners, trainers and so on." Right?

8 We know that it comes out for stakes  
9 races, and we know that it also comes out for  
10 recapture.

11 Now, if you go back to the dates from this  
12 hearing and look at the transcript, I believe it was  
13 either Mr. McCaffrey or Mr. Blonk made a statement  
14 that actually the most money that comes out of the  
15 purse account is from the horsemen's organizations.

16 Second is from stakes races, and third is  
17 from recapture. So if you guys really want --

18 COMMISSIONER SCHIEWE: Can you repeat that?

19 MR. PIECZONKA: I would be happy to read the  
20 transcript for you, if you would like.

21 CHAIRMAN BRINCAT: Let's do this: You know,  
22 Commissioner Schiewe introduced an opinion, and we  
23 had discussion on it. I think unless there's any  
24 further questions on that, we kind have to move on.

1           COMMISSIONER SCHIEWE: I don't know, that  
2 sounded incorrect.

3           MR. PIECZONKA: I would be happy to read the  
4 transcript.

5           COMMISSIONER SCHIEWE: Marc, are you familiar  
6 with this, or was this before your time?

7           MR. LAINO: No, I'm sure I was involved here on  
8 the Board at that time.

9           COMMISSIONER SCHIEWE: Does it ring a bell at  
10 all?

11          MR. LAINO: What year was that?

12          COMMISSIONER SCHIEWE: 2006. I guess the  
13 bottom line is this recapture law is a benefit to  
14 the racetracks and that's good. That's very good.

15                 But the entire benefit is paid for, and is  
16 the burden of the purses, of the owners who race  
17 here. There is a reason why we're losing horses,  
18 and we have small fields and small handle because we  
19 don't have good purses.

20                 We used to have good purses, but we don't  
21 anymore. We know what the problems are. But there  
22 is nothing in the law that says that the recapture  
23 can't be used for purses.

24                 There is nothing in the law that says you

1 can't have a purse increase. We've had lot of purse  
2 cuts, but we don't have that many purse increases.  
3 We do in neighboring states, obviously, with better  
4 systems.

5 CHAIRMAN BRINCAT: Listen, it think we're  
6 finding ourselves now -- we are all pontificating  
7 off certain opinions of different courts, and now  
8 we're getting into maybe a little more generic area  
9 than we are on the certification of recapture.

10 If anybody would like to talk about  
11 certification of recapture, or what they feel our  
12 responsibility is, rather than, you know, whether  
13 we're going to depart from the interpretations that  
14 have already been voiced on today, I think we're  
15 probably going a non-productive direction.

16 So, Commissioner Schiewe, I want to give  
17 you all the time you like, but, you know, certainly  
18 the deals of the Illinois -- you know, the season  
19 that we're looking at coming out in the effective  
20 purses, I think we've all had ample testimony over  
21 former meetings and everything like that.

22 I think the matter before the Board right  
23 now is certification of recapture, and we've no  
24 requests to testify here. We've had no documents

1 submitted, except pursuant to a conversation that I  
2 had Friday afternoon at the request of the  
3 Governor's Office.

4 Certainly, I don't want to cut this off  
5 because it is a big topic. We all understand how  
6 this fits into Illinois' racing picture today and  
7 going forward. But I think if we did engage in a  
8 discussion about what the law might mean, we're  
9 going to be here longer than today.

10 And your points are very well taken. I  
11 thank you for vocalizing it. So but I throw it out  
12 to anybody. We have new ground to cover, let's  
13 cover it.

14 COMMISSIONER MURIEL: The way it stands, I'm  
15 not really clear what the law is, but you're right,  
16 Chairman, no one is here to testify. No papers have  
17 been submitted. So I'm just left to vote kind of  
18 the way it is.

19 This E-mail was given to us right before  
20 the meeting, so there was very little time to digest  
21 it. You know, it is what it is.

22 CHAIRMAN BRINCAT: Do we have a motion?

23 MR. EZZO: We have a motion by Commissioner  
24 Mr. Sronce.

1 COMMISSIONER McCAULEY: Second.

2 CHAIRMAN BRINCAT: Folks, is there anybody else  
3 who would like to cover any ground here? Staff's  
4 recommendation is approval.

5 DIRECTOR DICERA: Certification of recapturing  
6 the amounts stated in the staff summary.

7 CHAIRMAN BRINCAT: Could we have a motion?

8 MR. EZZO: Who made the second?

9 MR. PIECZONKA: That was, I believe,  
10 Commissioner McCauley.

11 CHAIRMAN BRINCAT: We have a motion and  
12 second. Call the roll.

13 MR. EZZO: Commissioner Scates?

14 COMMISSIONER SCHIEWE: Yes.

15 MR. EZZO: Commissioner Muriel?

16 COMMISSIONER MURIEL: Yes.

17 MR. EZZO: Commissioner Sronce?

18 CHAIRMAN SRONCE: Yes.

19 MR. EZZO: Chairman Brincat?

20 CHAIRMAN BRINCAT: Yes.

21 MR. EZZO: Commissioner McCauley?

22 COMMISSIONER McCAULEY: Yes.

23 MR. EZZO: Commissioner Schiewe?

24 COMMISSIONER SCHIEWE: Yes.

1 MR. EZZO: Commissioner Mulder?

2 COMMISSIONER MULDER: Here.

3 MR. EZZO: Commissioner Lunt?

4 COMMISSIONER LUNT: Yes.

5 MR. EZZO: Commissioner Swoope?

6 COMMISSIONER SWOOPE: Yes.

7 MR. EZZO: The motion passes.

8 CHAIRMAN BRINCAT: Thank you.

9 DIRECTOR DICERA: Chairman, the next agenda  
10 item is the discussion regarding supplemental  
11 funding of purses.

12 CHAIRMAN BRINCAT: This is going to be a  
13 discussion item. There is no voting.

14 DIRECTOR DICERA: Right.

15 CHAIRMAN BRINCAT: Do we have any requests to  
16 testify?

17 DIRECTOR DICERA: No one requested to testify  
18 on this issue. In all fairness, in my call on  
19 Friday, I did receive a question from Tony Samone of  
20 the IHHA, that he would like to step up and discuss,  
21 beside him when it came up, again there is no vote  
22 on it today, but it is a matter of discussion.

23 Mr. Samone text me this morning he was  
24 going to be down in Springfield today, but there is



1 another gentleman from the IHHA here. That if he  
2 wished to step up, and of course we welcome that.  
3 At the same time Mr. Campbell and Mr. McCaffrey  
4 voiced to me on the call Friday that they would like  
5 to discuss this item, too.

6 We have them, if they still desire to do  
7 that. How would you like to proceed on this? It's  
8 the Chairman's desire.

9 CHAIRMAN BRINCAT: Okay. Listen, it's  
10 absolutely unexciting as it's going to sound.  
11 Director DiCera approached me some months back with  
12 the start and welcome fact of the Illinois Racing  
13 Board was going to run in excess in its budget for  
14 the fiscal year, and we had taken -- tried to take,  
15 along with a lot of help from our CFO and our  
16 general counsel, who tried to take an approach to  
17 minimize expenses at every possible level, even to  
18 include canceling, you know, the monthly meeting  
19 where get away with doing business either previous  
20 or exactly in the month following.

21 We foresaw we would see a budget surplus  
22 right around \$500,000, potentially more. Being that  
23 it was kind of new ground, we tried to look and see  
24 what's the most positive thing we could do with this

1 money, and the consensus was quickly reached,  
2 speaking for myself, and certainly welcome comments  
3 from members of the staff, is that providing relief  
4 to the Illinois horsemen, in a form of putting this  
5 money into purse accounts, whether it was \$20 or  
6 \$20,000,000, was probably best in keeping with our  
7 mission as regulators.

8           There's nothing that has been done.  
9 There's no monies that has been transferred.  
10 There's been, you know, no steps really beyond  
11 determining where this money could best be used,  
12 since we're not going to spend it, and there's no  
13 plans to spend it.

14           The format we pursued at that time was to  
15 look at the alternative vectors by which this money  
16 could be transferred. With the help of Senator  
17 Trotter, we introduced two words "and promote" to  
18 our appropriation language.

19           It would allow us to use money not only to  
20 regulate, but to help promote Illinois racing, and  
21 we go at this kind of with a servant's heart. We  
22 hope we would realize \$500,000 is not \$5,000,000,  
23 and \$500,000 is not 12,000,000, but it's what we  
24 have.

1           And given the language that we're  
2 pursuing, it would allow us to not only do it this  
3 year, but it would hopefully set a precedence for in  
4 every year. When we have money that we haven't  
5 spent, that we could put it into a pool, if you  
6 will, where it's going to have the best possible  
7 affect on Illinois racing, which is really the  
8 underlying current behind all of our mission  
9 objectives here at the Racing Board.

10           Certainly there are alternatives, but when  
11 we look at replacing, you know, or maintaining head  
12 count or look at replacing a person, or other  
13 potential sources of where this money could go, we  
14 think we have an ethical obligation to spend this  
15 money in a way that's going to gain support of  
16 underlying mission of supporting Illinois racing.

17           Now, as unexciting as that is, that's  
18 really all it is. Our efforts boil down to a  
19 two-word addition to what exists right now. Now,  
20 personally, and speaking for myself only, I think  
21 the authority exists within the Racing Board to do  
22 this right now.

23           If you look at the stated missions of the  
24 Illinois Racing Act, if you look at our

1 responsibilities, I think we have the authority.  
2 Maybe not all the individual steps in place to do  
3 this, but I think we have the authority to do this  
4 right now.

5           The purpose of seeking the addition of the  
6 words "and promote," was to do this in the most  
7 transparent visible manner possible, and to do it  
8 where it could be interpreted as any kind of  
9 surreptitious intent to slate money towards one  
10 licensee purse account or another, or one breed's  
11 purse account over another, and to not prejudice any  
12 party.

13           That's why it is also on here today as a  
14 discussion item, not a voting item. So given the  
15 newness, and maybe I'll impose on former Director  
16 Laino here in a minute, but given the newness of  
17 this type of objective, there was a chance for  
18 everybody to come out in one meeting, ruminate over  
19 it, and have a chance to vote on it at a subsequent  
20 meeting.

21           So that's it. And I also want to publicly  
22 thank Director DiCera, our general counsel, our CFO  
23 Vito Okeye, for the work they did leading up to  
24 this. And I also want to thank the Commissioners

1 who were part of the efforts to reach out to  
2 horsemen's groups and our organizational licensees  
3 in the effort of getting their buy-in and their  
4 participation.

5           In the case of some of them, there's  
6 financial support for such a project. We all  
7 completely understaff the purse issues here in  
8 Illinois, relative to where it was last year.

9           It's not important. We are going to do  
10 everything we can. That is, again, back to the  
11 promote language. If we have funds that we haven't  
12 spent as a Racing Board, from a Racing Board point  
13 of view, we see the best home for those funds is  
14 going to be in purses big enough that are going to  
15 help Illinois racing.

16           That's it. Director Laino, is this as new  
17 as we seem to think it is? Former Director Laino,  
18 excuse me.

19           MR. LAINO: Actually, it's somewhat new, but  
20 there's a clear history in the state and statute.  
21 The legislature, the General Assembly, have  
22 provisions of the act that encourage the racetrack  
23 operators to not only supplement purses, but also  
24 pari-mutual pools in order to guarantee certain

1 minimum distribution of some of those pools.

2           Again, we have a clear intent in the  
3 statute for the promotion and the good of racing  
4 that they encourage the industry, at least  
5 specifically, and limit it to the organization  
6 licensees to supplement purses and to supplement  
7 pari-mutual pools.

8           Unfortunately, the act is not specific as  
9 to the Racing Board's contribution to promoting  
10 racing in that effort at that time. And other forms  
11 of that is the tracks in the past have, when  
12 economic conditions provide it, would defer or even  
13 forgive recapture at times.

14           So we have a certain number of mechanisms  
15 within the statute and framework of the regulatory  
16 structure to enhance purses, handle in the industry,  
17 for the betterment of the horse racing industry.

18           CHAIRMAN BRINCAT: Thank you. Direct DiCera?

19           DIRECTOR DICERA: Thank you, Chairman. The  
20 initiative, as you know, we put a certain amount of  
21 time working with the different areas of government  
22 to ensure we're heading in the right direction when  
23 it came to the distribution of these funds.

24           So I just wanted to make that clear, too.

1 It wasn't just internalized here with our staff. We  
2 worked with other agencies, with the Budget Office,  
3 their general counsel, and collectively we came to  
4 that position and the recommendation that was made  
5 to pursue this action.

6 CHAIRMAN BRINCAT: Thank you. Mr. Pieczonka,  
7 anymore?

8 MR. PIECZONKA: Nothing more, unless you have  
9 some specific questions.

10 CHAIRMAN BRINCAT: No, sir. Thank you.  
11 Mr. McCaffrey, I assume you still want to step up,  
12 sir? Whenever you are ready. Is there anyone here  
13 for the IHHA?

14 MR. WILLIAMS: Yes.

15 CHAIRMAN BRINCAT: Sir, would you like to step  
16 up also? If we could swear the folks in, please,  
17 and get their name for the record.

18 COMMISSIONER MURIEL: Can I ask one question?  
19 This is a legal question for Mr. Pieczonka.

20 Whether there has been any legal analysis  
21 to see whether the Chairman's comments about  
22 possibly using that \$500,000 is legal within the  
23 Illinois Horse Racing Act?

24 MR. PIECZONKA: Yes, there has been significant

1 conversation with GOMB, their legal counsel there.  
2 We spoke with senate staff, legislative staff  
3 regarding bills, different things like that. There  
4 are multiple drafts and versions of the bill.

5 One of them was decided to be pursued, and  
6 that is the one Chairman Brincat discussed "and  
7 promotion." You know, it was kind of referenced in  
8 multiple sections in our act, including 1.2 and  
9 Section 9 of our act that gives us great broad  
10 powers.

11 There isn't an argument that we don't have  
12 the power under the act to do it. It's more that do  
13 we have the appropriated amount from the legislature  
14 to spend it for the purposes that were set out in  
15 our act?

16 So it really has nothing to do with the  
17 Racing Act whatsoever. It actually has to solely do  
18 with the appropriation that the General Assembly  
19 provided us, and to be 100 percent clear, and to  
20 ensure that there is transparency, it was  
21 recommended that we include the words "and  
22 promotion."

23 Arguably, you can state we may have the  
24 authority under the current appropriation, but to



1 ensure that we have it and have the authority to  
2 spend, it was recommended to include those words  
3 "and promotion."

4 So it's not an amendment to the Racing  
5 Act. It is not an issue with the Racing Act. It  
6 merely has to do with authority to spend money and  
7 appropriations by the General Assembly.

8 COMMISSIONER MURIEL: And who recommended it?

9 MR. PIECZONKA: The Office of the Governor,  
10 GOMB budget, Office of Management and Budget,  
11 Governors Office of Management and Budget.

12 CHAIRMAN BRINCAT: Thank you. Ma'am, could we  
13 swear these gentlemen in?

14 (Josea Williams and David  
15 McCaffrey were was duly sworn.)

16 MR. WILLIAMS: Josea Williams, J-o-s-e-a  
17 W-i-l-l-i-a-m-s.

18 MR. McCAFFREY: David McCaffrey,  
19 M-c-C-a-f-f-r-e-y.

20 CHAIRMAN BRINCAT: Thank, you, gentlemen.  
21 Thank you for coming in. However you want to start.

22 MR. McCAFFREY: Thank you, Mr. Chairman.  
23 Commissioner McCauley, welcome back.

24 COMMISSIONER McCAULEY: Thank you, David.

1           MR. McCAFFREY: And thanks for letting us have  
2 the opportunity to just read a short statement. I  
3 have it printed up, and if you would like, I can  
4 turn it into whoever I should turn it into.

5           I do want to tell everyone that we're  
6 short here on troops because Tony Samone of the  
7 IHHA, Mike Campbell of the ITHA, and Pete Scalcioni  
8 of the HEPA are down in Springfield as we speak, to  
9 testify at a committee hearing on Senate Bill No. 7,  
10 which is the gaming bill.

11           So we kind of had to divide. It's kind of  
12 like a split squad in Springfield in training here.  
13 So I want to echo -- first of all, in regards to  
14 this issue, I want to echo Jeffrey Katz's  
15 gratefulness to all of the names that he mentioned,  
16 in terms of working with this and working on this  
17 project, and the letter I'm about to read is very  
18 short.

19           It will explain, I think clearly, our  
20 position on it. Basically what it is, is that we  
21 are dying as an industry on the horseman's side.  
22 Any extra money we can get, almost provided that  
23 it's legal, almost no matter how it happens, we're  
24 in favor of, as long as there are no unintended

1 consequences or strings attached to it.

2           And Greg Sronce was the person who  
3 contacted me about this on some late Tuesday or  
4 Wednesday night, as I recall, a month or so ago.  
5 And he pitched it to me as a way to add money to the  
6 purse account, and I was thrilled to death to hear  
7 it.

8           And I said to Commissioner Sronce, I said,  
9 "You know, gee, this sounds great. I just want to  
10 make sure, you know, that there is no -- basically  
11 there's no strings attached. We just want to run  
12 our analysis of it and go from there," but we're  
13 absolutely, I want to be very clear, we're dying.

14           And any amount of money, whether it be a  
15 dollar or 500,000, or 4.5 whatever million, we would  
16 love to -- we are in dire need of it. So with no  
17 further ado, let me read this into the record; and  
18 then if any of you have any questions, I'm happy to  
19 answer them.

20           So the Illinois Racing Board -- there is  
21 no question that Illinois racing -- horse racing is  
22 in crisis with unreasonably low purse levels. All  
23 three horsemen's associations, the Illinois  
24 Thoroughbred Horsemen's Association, the Illinois

1 Harness Horsemen's Association, and the Illinois  
2 Horsemen's Benevolent and Protective Association  
3 support meaningful efforts to augment purses and  
4 advance the interests of Illinois racing.

5           While we're unaware of its legality, our  
6 association would support the content of IRB,  
7 redirecting surplus agency funds for the exclusive  
8 purpose of supplementing purses at all Illinois  
9 tracks for the benefit of all Illinois horsemen, so  
10 long as no portion of such agency money is spent  
11 directly or indirectly to our associations.

12           These monies should be used exclusively  
13 for purses and nothing else. This will help address  
14 the unreasonably low level of current purses. We  
15 respectfully urge the IRB in advance of its next  
16 meeting, and with ample time for comment by  
17 stakeholders, to provide a written plan and draft  
18 regulations for how this money would be sent by the  
19 IRB to the racetracks, how the racetracks would  
20 direct these funds to the purses, and how these  
21 redirected agency funds would be divided among the  
22 three racetracks and the different breeds.

23           And, for the record, this is signed by all  
24 three presidents of the association. So I was asked

1 to read this on behalf of all of them because a few  
2 of them can't be here for those reasons that I  
3 mentioned.

4 CHAIRMAN BRINCAT: Thank you.

5 MR. WILLIAMS: Hello. I don't want to take up  
6 much of your time of. I think Dave McCaffrey about  
7 said it all. I have the same letter he have. So  
8 we're in dire need.

9 I mean, we need you guys, or somebody to  
10 do something. Horses are leaving every day, going  
11 to neighboring states. I mean, I've been in this  
12 since 1968, and I think I have seen, I don't know,  
13 thousands, thousands of horsemen leave. So any help  
14 you guys can give us, we appreciate it. Thank you.

15 CHAIRMAN BRINCAT: Thank you, sir. Folks, we  
16 have these gentlemen here. Any queries for them?  
17 You know, I think I would like to ask Director  
18 DiCera, would you mind commenting very quickly on  
19 how we see moving this industry in the next --  
20 basically, organizational licensees have a purse?

21 DIRECTOR DICERA: Correct.

22 CHAIRMAN BRINCAT: We've contemplated  
23 allocating this money along some of the guidelines  
24 that currently exist, pursuant to some other reasons

1 former Director Laino outlined in the act along  
2 roughly the same types of lines. How do you foresee  
3 this proceeding?

4 DIRECTOR DICERA: One of the items we discussed  
5 internally was looking at Section 27 of the act that  
6 has a fixed formula of distribution. Whether --  
7 legal will have to comment whether we're bound by  
8 that or can pursue an agreement type.

9 We haven't formulated the total plan. We  
10 just wanted to move it forward, the initiative  
11 forward.

12 CHAIRMAN BRINCAT: Sure.

13 DIRECTOR DICERA: So we would ensure there  
14 would be funds available to spend.

15 CHAIRMAN BRINCAT: When this moves forward to a  
16 votable item, this will be read in like a regular  
17 agenda item? We'll vote on it, and there will be a  
18 staff recommendation, right?

19 DIRECTOR DICERA: That is what we anticipate.

20 CHAIRMAN BRINCAT: I mean, to address  
21 Mr. McCaffrey's concerns about opening up.

22 DIRECTOR DICERA: Distribution, to be clear, it  
23 will demonstrate our intention or how we arrived and  
24 what's support we can offer as well.

1 MR. PIECZONKA: Just maybe to provide a little  
2 clarity, Mr. Chairman, this solely provides the  
3 Board with the ability to spend the money.

4 It does not even require the Board  
5 actually put the money in the purses. So we're kind  
6 of putting the cart before the horse here.

7 A. We're asking questions about distribution,  
8 all these different things. That's all issues we  
9 can talk about. Yes, are there provisions in the  
10 act where the legislature already thought about when  
11 there is a surplus of funds? Of course they have.

12 It's a mandatory requirement. Once they  
13 exceed 1994 amounts and first of the \$11,000,000  
14 over those amounts shall be paid to purses and then  
15 it kicks back in again. That's an option.

16 Other options is based off of  
17 computations, formulas, where can it make the most  
18 impact? There are all sorts of difference ways to  
19 do that. But again, all that is separate and  
20 distinct. Again, and after the fact.

21 If the Board doesn't have the discretion  
22 to utilize appropriated funds, where in this case  
23 it's unappropriated, and that is what we are asking  
24 them to appropriate it for this purpose to promote

1 racing. The rest of it is all irrelevant.

2 So the first step is let's get the bill  
3 passed. Then we could get into all the how we will  
4 be distributing. It's that simple.

5 CHAIRMAN BRINCAT: But, Mr. McCaffrey, it will  
6 be in a visible voting item when this proceeds to  
7 that point. It will be clearly -- it's going to be  
8 clearly more than transparent.

9 MR. McCAFFREY: But if I understood was  
10 Mr. Pieczonka said just now, it's still needs to be  
11 approved by the legislature first.

12 MR. PIECZONKA: Yes.

13 MR. McCAFFREY: Okay.

14 MR. PIECZONKA: It's got to be an amending of  
15 our appropriation to spend it that way. There are  
16 other ways is to achieve this, but that's the  
17 cleanest, clearest, most more transparent way that  
18 provides the Board with discretion to utilize funds.

19 And as the Chairman stated, this is  
20 literally giving \$500,000 of purses to utilize for  
21 purse payments that, you know, there's more money  
22 for owners to receive, trickle down to economics.

23 MR. McCAFFREY: We like the concept, and  
24 several of you have been on all sorts of different



1 calls, et cetera, and I think that some of you know  
2 our concerns.

3 We have very easy and quick fixes for our  
4 concerns. I know, Mr. Chairman, you've been saying  
5 all along consistently that there is no desire or  
6 interest or intent to do anything other than just  
7 add it to purses.

8 So we appreciate that, and hopefully we  
9 can work together because I think there is a very  
10 common -- I think there is easily common ground to  
11 be locked on here and come together with this. So  
12 we're very grateful for this.

13 COMMISSIONER LUNT: You had made the comment  
14 that you welcome any additions to purses provided  
15 there are no strings attached?

16 MR. McCAFFREY: Right.

17 COMMISSIONER LUNT: Could you elaborate on your  
18 concerns there?

19 MR. McCAFFREY: And I don't know want to speak  
20 for the IHHA or the Fairmount guys. In some of our  
21 internal discussions, we just wanted to make sure  
22 that none of this money would be -- let's see, none  
23 of this would be similar to a Trojan horse-type  
24 thing where it would lead to other things that

1 aren't available now that the Racing Board is not  
2 doing.

3           So, I'm sorry, I actually butchered that  
4 sentence. I'll start over.

5           COMMISSIONER MULDER: Confusing.

6           MR. McCAFFREY: Yes. And I apologize. We want  
7 to make sure that this doesn't lead to restrictions  
8 placed on how our associations work, to put it in  
9 the clearest way I could possibly put it.

10           And there is a thought process among us in  
11 our associations that the belief is that that might  
12 be a conduit to that, and I know that you -- I know  
13 that this came up in one of the calls that you were  
14 on, and I think that you understood what we were  
15 saying, and I think that -- and then, you know, the  
16 Chairman repeatedly said, "There is no intent for  
17 that. There is no desire to do that," and all we  
18 said was, "Great. Let's get that in writing," and  
19 that's all we're asking for, basically.

20           COMMISSIONER LUNT: So possibly a question to  
21 staff. They still haven't been as specific as I  
22 would like for him to be. If we wanted to impose  
23 further regulation on the horsemen's group, do we  
24 have to use it a Trojan horse or something; or can

1 we, as a Board, pass a rule and say, "We want to do  
2 this" or "We want you to do this." Where is our --

3 DIRECTOR DICERA: Commissioner, I, too, am  
4 slightly concerned from the position they are coming  
5 from. This would be treated no different than the  
6 monies that are currently being used for purses, and  
7 there are no Trojan horses there.

8 The organizations are not receiving the  
9 money directly. It's enhancing the purse account  
10 that we are using for racing. There are no  
11 restrictions or limitations that Mr. McCaffrey is  
12 speaking of now, and we didn't plan on adding it.

13 MR. McCAFFREY: I guess the difference would be  
14 that this is state money, and there's a thought  
15 process. Again, listen, no one is saying that there  
16 is your intent. In fact, it's been stated very,  
17 very clearly by Chairman Brincat many times over  
18 that it's not. So all we want is that in writing.

19 MR. LAINO: If I could add to that, just to  
20 ally some fears. Commission Lunt and Members of the  
21 Board, my understanding of the path of this function  
22 it would be a supplement to the purse account to the  
23 organization licensee.

24 The organization licensee is the custodian

1 of the purse account, and any conditions that would  
2 be placed on these funds would be a condition on the  
3 organization licensees and not the horsemen's  
4 associations.

5 If the monies were a direct grant to the  
6 horsemen's association, then I could see the  
7 possibility of some conditions and standards that  
8 have to be met on that association, but correct me  
9 if I'm wrong, I believe the correct path would be to  
10 the organization licensee's purse account.

11 CHAIRMAN BRINCAT: You are a 100 percent  
12 correct. You cracked the code.

13 MR. McCAFFERY: ,However let me just say --

14 CHAIRMAN BRINCAT: Just give me a second.  
15 That's it, and that's why the language is "and  
16 promote" two words. So people see we need help with  
17 the language, we got it "and promote." We got it.

18 It's to the organizational licensee. It's  
19 very clearly, in accordance with the act,  
20 organization licensee's purse account.

21 That's it. That's all it is, organization  
22 licensee's purse account. And I'm happy to say that  
23 Senator Trotter saw the value in this right away. I  
24 think we got a great friend in Senator Donne

1 Trotter, and he was gracious enough to help us with  
2 this.

3 And that's all it is, it's about helping.  
4 I mean, not to sound dramatic, the only people that  
5 are getting helped by this are Illinois horsemen.  
6 God knows, I wish it was \$12,000,000, but it ain't,  
7 but it's what we got.

8 MR. LAINO: It's a start.

9 CHAIRMAN BRINCAT: It's what we got. And,  
10 also, we received universally receptive response  
11 from our organization licensees, including financial  
12 support for this, and that's why -- I didn't intend  
13 to embarrass him, but I thank Commissioner Sronce, I  
14 thank Commissioner Lunt, and Commissioner Swoope who  
15 so graciously reached out to the horsemen's  
16 organizations as part of our organizational approach  
17 to this.

18 These guys are points of contact for these  
19 guys to reach out for this. So I think we all got  
20 our story straight. It's to help purses. I think  
21 that is the message clearly all of us communicated.  
22 That's exactly right. That's exactly right.

23 COMMISSIONER SRONCE: It may just be a one-time  
24 event. None of us know if the surplus is expected

1 going forward.

2 DIRECTOR DICERA: That's correct.

3 COMMISSIONER SRONCE: That would be nice.  
4 Whatever money is left over, that would be a nice  
5 tool to have in our arsenal, to be able to use year  
6 to year, in the event there is some more when it's  
7 5,000, 10,000, 25,000.

8 CHAIRMAN BRINCAT: This language will set a  
9 precedent for successive years.

10 MR. PIECZONKA: Also, on the part of -- this is  
11 no different -- this would be the same treatment  
12 that the legislature put in our act where it's a  
13 mandatory requirement that once purse levels hit a  
14 certain level, I'm sorry to say that, we will  
15 probably never hit that level that the pari-mutual  
16 tax amount paid to the Racing Board shall be paid to  
17 the purse account.

18 So how is there now all of a sudden a  
19 concern, but when that provision of the act was  
20 passed by the legislature, that none of these issues  
21 existed because? It's no different than what  
22 happens right now.

23 The money goes to the organization  
24 licensee to be utilized pursuant to the act in our

1 regulation oversight. The money would go into the  
2 purse account. The organization licensees utilize  
3 it for purses.

4 The Board can put the conditions on the  
5 utilization of that as they see fit. There is no  
6 need for new rules. There is no need for any of  
7 that stuff, just like way issue Board orders and  
8 stuff like that.

9 The Board would have the ability to issue  
10 that, if they so choose, and they may say, "Forget  
11 it. We don't want to do it whatsoever." It's  
12 completely up to the Board of how that should be  
13 distributed and no new rules or anything are  
14 required.

15 MR. LAINO: One more comment is that I think  
16 this approach to forwarding this idea, as opposed to  
17 amending the Horse Racing Act that would guarantee  
18 this function in perpetuity by having it as part of  
19 appropriation process, would make it subject to  
20 General Assembly review annually.

21 So that if there were concerns or  
22 grievances within the industry, it would be subject  
23 to review and lobbying efforts and input from  
24 industry stakeholders to the General Assembly. So

1 this is going to be an annual basis on this, subject  
2 to the appropriation.

3 CHAIRMAN BRINCAT: Mr. McCaffrey?

4 MR. McCAFFREY: Thank you. Very briefly, the  
5 only thing I would say is that the purse money that  
6 we get now, as I understand it, is not coming from  
7 any general revenue fund of money of the state.

8 So that would be the difference, A; and B,  
9 this is, and I'm holding up a copy of a purse  
10 report, an internally-generated purse report, but  
11 what happens on this purse report is it shows where  
12 money is bet, the handles, and what those  
13 percentages are that trickle down to purses. Okay?

14 You come up with a number at the end of  
15 the year. One of the things that comes out of that  
16 number is money that gets taken out by horsemen's  
17 associations.

18 So to connect the dots, Commissioner Lunt,  
19 is an argument may be able to made that general  
20 revenue, general tax money, is being used to go to  
21 horsemen's associations from the purse account, and  
22 that might be the way to open the door to  
23 restricting how horsemen's associations operate.

24 That's all we're saying. If everybody



1 says it's not, so great. If it's not, then let's  
2 just make sure everybody is in writing saying that.  
3 That's all.

4 MR. PIECZONKA: Commissioner Brincat, to answer  
5 Commissioner Lunt's question, we don't need any new  
6 rules. We don't need any statutory changes. The  
7 Racing Board already has the authority to regulate  
8 the horsemen.

9 The concern Mr. McCaffrey is raising that  
10 this new concept would be to lead in to regulate  
11 them, we already have the ability to do that.

12 CHAIRMAN BRINCAT: Could you address the GRF  
13 concern?

14 DIRECTOR DICERA: Yes. Just to clarify, we do  
15 not draw funding from the general revenue fund. We  
16 are a self-funded agency, and our funding is not  
17 swept, unlike other agencies that participate and  
18 drop from the general revenue fund.

19 CHAIRMAN BRINCAT: Could you address the  
20 quarter hoarse purse fund allocation that deal with  
21 the correlations between that and what we're talking  
22 about and the fact money is appropriated?

23 MR. PIECZONKA: So for quarter horses, the  
24 statutory provision says it shall be allocated in X

1 and Y.

2 CHAIRMAN BRINCAT: Money is coming from the  
3 Racing Board to the quarter horse purse fund?

4 MR. PIECZONKA: It's a from a pari-mutual tax,  
5 correct, and then there is appropriation for that  
6 amount.

7 CHAIRMAN BRINCAT: But, I mean, the conduit,  
8 the vector, is essentially the same?

9 MR. PIECZONKA: Right. And the quarter horse  
10 funds do go to horsemen, and it goes into the same  
11 purse account that this goes into, correct.

12 CHAIRMAN BRINCAT: That's my point. I mean, if  
13 there's a Trojan horse, I would expect it to be in  
14 the quarter horse purse fund. Which is why I say if  
15 they are concerned about regulation, we already have  
16 the authority to do that.

17 MR. PIECZONKA: So it's nothing new. There is  
18 nothing here to be concerned to what we regulate.  
19 We can already do what he's afraid that we are going  
20 to try to do.

21 COMMISSIONER LUNT: Could we address the  
22 elephant in the room? I think the word we all keep  
23 avoiding is an audit of the ITHA or horsemen's  
24 association.

1           With that in mind, I mean, I'm putting  
2 words in your mouth, that is I assume one of the  
3 reservations you have of that. So the question to  
4 staff, does the Board have the authority now to ask  
5 for an audit of Horsemen's Associations?

6           MR. PIECZONKA: The short answer is I believe  
7 so.

8           COMMISSIONER LUNT: Rubbles.

9           MR. PIECZONKA: Correct.

10          COMMISSIONER McCAULEY: The problem is, though,  
11 the Horse Racing Act requires a lot of its various  
12 entities that are regulated, but it doesn't require  
13 -- doesn't require audit of the horsemen's  
14 association.

15          MR. McCAFFREY: It does not, and that is  
16 exactly the point I was trying to make.

17          COMMISSIONER McCAULEY: It seems to me our  
18 rules and regulations need to derive from the  
19 statute.

20          MR. PIECZONKA: Correct.

21          COMMISSIONER McCAULEY: So as it stands now, I  
22 don't think we have the ability to pass a rule that  
23 would require an audit.

24          MR. PIECZONKA: Commissioner McCauley,

1 respectfully, I disagree, and I would be happy to  
2 sit down at greater length and discuss this issue  
3 with you; however, I have done a significant of our  
4 act, our rules.

5           There are references in our actual act  
6 regarding requirement of audited financials related  
7 to an affiliated part. I don't have it in front of  
8 me this second. Please don't quote me on the term,  
9 but affiliated horsemen's groups or organizations  
10 with organization licensees.

11           COMMISSIONER McCAULEY: That's the essence of  
12 the problem is definitionally what is an affiliate  
13 and how it relates to the organization licensee? If  
14 you were to borrow, say, from a corporate model, the  
15 horsemen's associations wouldn't be affiliated with  
16 the organizational licensee. That's the problem,  
17 right?

18           MR. PIECZONKA: That's part of it.

19           CHAIRMAN BRINCAT: Listen, I would be surprised  
20 if the discussion did not take this turn with four  
21 lawyers here. But, I mean, it's a valid concern;  
22 and, Mr. McCaffrey, your concern is valid. But I  
23 will repeat, just for the record, this is as simple  
24 as we've laid it out here.

1           There is certainly potential for  
2 interpretation of intention, but the intent got well  
3 laid out. So do we have any other discussion,  
4 folks?

5           COMMISSIONER SRONCE: Is that the concern? Is  
6 that the main concern?

7           MR. McCAFFREY: Yes, sir. And the only  
8 exception I would take with Commissioner Lunt  
9 putting words into my mouth was that we're not so  
10 much worried about an audit. We're worried about a  
11 mandate on how we operate.

12           Maybe those are the two -- maybe those are  
13 the same things, but that is what we're talking  
14 about. That is absolutely the concern. That's  
15 absolutely the concern. Everybody is saying it's  
16 not, and I guess my point if it's not, then what the  
17 heck is wrong with putting in some sort language  
18 that says it's not.

19           COMMISSIONER McCAULEY: Would your organization  
20 be interested in voluntarily submitting audits?

21           MR. McCAFFREY: Ask the question again.

22           COMMISSIONER McCAULEY: Would your organization  
23 be interested in voluntarily submitting audits.

24

1 MR. McCAFFREY: Audited financial statements?

2 COMMISSIONER McCAULEY: Right.

3 MR. McCAFFREY: It's -- I'm relatively new at  
4 this job. It's my understanding that we have or  
5 not. I don't know. Haven't we, Marc?

6 MR. PIECZONKA: To answer questions, at times  
7 you have provided them the ITHA. At other times,  
8 ITHA and other horsemen's organizations have refused  
9 to provide them, despite testimony that says any  
10 time you want to see them, we would be happy to show  
11 them to you. There is transcripts and everything.

12 MR. McCAFFREY: I have no probable, personally,  
13 with providing financial statements. That is why we  
14 audit it.

15 We want to make sure that we're doing  
16 everything by the book, but what we don't want to do  
17 is have somebody say, "You know something, you have  
18 a lobbyist, or you have two lobbyists, and we want  
19 to restrict the amount you can spend on those  
20 lobbyists."

21 That's what we are -- we want to be able  
22 to operate. We don't mind telling you how we  
23 operate financially, but we want to be able to do  
24 what we want to do.

1           COMMISSIONER McCAULEY: Again, I don't think we  
2 have the power, I don't even know if there is an  
3 inclination to tell you how to operate; but as far  
4 as expenditures go, for example, you are required to  
5 report your lobbying expenditures.

6           MR. McCAFFREY: Yes.

7           COMMISSIONER McCAULEY: So we could go to the  
8 Attorney General site and determine what you spent  
9 from year to year.

10          MR. McCAFFREY: That is one example.

11          COMMISSIONER McCAULEY: Why should we have to  
12 do it in a piecemeal fashion, instead of having you  
13 folks voluntarily being transparent and supply those  
14 audits?

15          MR. McCAFFREY: I have no problem. In fact, we  
16 have a contract with Arlington and we have a  
17 contract with Hawthorne to supply them quarterly  
18 financials, and we've done that.

19          COMMISSIONER McCAULEY: Those are audited  
20 financials?

21          MR. McCAFFREY: Yes, sir.

22          COMMISSIONER McCAULEY: That's great.

23          CHAIRMAN BRINCAT: The audit, it's not a  
24 quarterly audit, it's an annual audit.

1

2 MR. McCAFFREY: Well, the contract calls for  
3 quarterly audited to budget statements and then we  
4 give them a year end.

5 CHAIRMAN BRINCAT: When you say "audit," I want  
6 to be clear. Only just for purposes of the record I  
7 didn't ask the question, but typically I would  
8 imagine your financial statements are audited on an  
9 annual basis.

10 MR. McCAFFREY: Yes.

11 CHAIRMAN BRINCAT: They may be reviewed  
12 certified or are verified on a quoter materiality  
13 basis.

14 MR. McCAFFREY: Correct.

15 CHAIRMAN BRINCAT: But they are probably annual  
16 audits.

17 MR. McCAFFREY: That is correct, and we  
18 supplied both of these.

19 CHAIRMAN BRINCAT: I didn't want you to state  
20 in the record they were audited quarterly, because  
21 some organizations do get audited quarterly.

22 MR. McCAFFREY: Right.

23 CHAIRMAN BRINCAT: Okay. But we notate that  
24 you do supply them to the organizational licensees



1 per the contract, I assume?

2 MR. McCAFFREY: Yes, per the contract. We  
3 worked -- Tony, Phil and I as well in keeping those  
4 things up to date. We haven't gotten the fourth  
5 quarter YET.

6 CHAIRMAN BRINCAT: I'm just saying we wouldn't  
7 want to put on the record they are audited quarterly  
8 when, in fact, it's annually.

9 MR. McCAFFREY: Perfect.

10 CHAIRMAN BRINCAT: Folks --

11 COMMISSIONER LUNT: Let's take Williams. We've  
12 somewhat ignored you. Do you have anything you  
13 would like to add to our discussion or any  
14 questions?

15 MR. WILLIAMS: No, I think Dave McCaffrey said  
16 it all. Thanks.

17 COMMISSIONER SCHIEWE: I have a couple quick  
18 comments. You stated that we are waiting for  
19 approval in the form of an appropriation that's  
20 Senator Trotter helped us with; and once we get the  
21 appropriation, we can move forward with this?

22 Do I understand the timing, or is that the  
23 process?

24 MR. PIECZONKA: This is the next step.

1 However, there is a new General Assembly. There was  
2 opposition placed against the bill we introduced by  
3 some of the horsemen's organizations sitting here.

4 It did not move, along with the linked-up  
5 session when nothing else moved. A new bill would  
6 have to be reintroduced. Sorry, it was Friday,  
7 pardon me.

8 I guess a new bill, the same exact one,  
9 was refiled last Friday. So I apologize for the  
10 misinformation. Yes, the next step would be the  
11 bill would have to be approved by both the House and  
12 Senate, signed by the Governor, and then we can  
13 start spending our money.

14 COMMISSIONER SCHIEWE: Does it go to the Board  
15 Friday; is that's right?

16 MR. PIECZONKA: Of course, yes.

17 COMMISSIONER SCHIEWE: That is when you said  
18 there would be specific rules. Marc had conditions.  
19 It would just be for purses. It's really pretty  
20 simple, right?

21 MR. PIECZONKA: Well, purses are one thing for  
22 the promotion of racing. So if the Board decided to  
23 utilize it for purses, which is the intent here,  
24 yes.

1           Now, additional rules do not need to be  
2 generated. We do not need to go to the JCAR  
3 process. That issued Board Orders. You are able  
4 to, just like you say, you know, a license is  
5 contingent upon passing a background check.

6           Same thing here. We are approving these  
7 funds to the purse account conditioned on the  
8 following thing, you accept them.

9           If you don't, you don't get the money. If  
10 you don't use it for those conditions, we could pull  
11 the money back. Maybe we put in a grant agreement,  
12 you know, if you guys truly want to go that way.

13           COMMISSIONER SCHIEWE: But this money would be  
14 -- this money would go to the racetracks who would  
15 then pay it out in purses?

16           MR. PIECZONKA: The concept would go to the  
17 purse account, which is affiliated with the  
18 organization licensee, and that is language per the  
19 act. The act states the purse account is that of  
20 the organizational licensee and no one else.

21           So go into the purse account. As you  
22 know, the only thing that could come out of purses  
23 is pursuant to 29D, the amount the horsemen works,  
24 recapture, stakes races, which is really not coming

1 up, but it's segregated for purpose of stakes, and  
2 then actual purses to the owners for winning the  
3 race.

4 Those are the only four areas, or really  
5 three areas, purses can go in.

6 COMMISSIONER SCHIEWE: Maybe, Chairman, you  
7 know better than me. One of the articles that we  
8 have had posted on our website in December in the  
9 Daily Herald article one of those state -- I'm just  
10 reading from a newspaper article that was published  
11 on December the 6th, and it's posted on our website.

12 And it says, "The quarterly reports that  
13 Arlington Park, Hawthorne Race Course and the  
14 Illinois Racing Board, if all agree to pony up  
15 \$500,000 each to put toward increasing purses for  
16 winning races next year."

17 What does that mean exactly?

18 CHAIRMAN BRINCAT: I think you're going to have  
19 to call Carey Lester.

20 COMMISSIONER SCHIEWE: Is that possible an  
21 alternative fact?

22 CHAIRMAN BRINCAT: No. Carey Lester contacted  
23 us, and we talked to her. I don't know who she  
24 talked to. We were pretty clear as stated with our

1 read on the discussion item, we were pretty clear on  
2 what the Illinois Racing Board was going to do.

3 COMMISSIONER SCHIEWE: What we are going to do?

4 CHAIRMAN BRINCAT: What the Illinois Racing  
5 Board was going to do. I encouraged her to talk to  
6 other licensees. I made it very clear I don't speak  
7 for licensees.

8 COMMISSIONER SCHIEWE: So we're not really sure  
9 what that means?

10 CHAIRMAN BRINCAT: There was discussion. I  
11 really don't know specifically what the licensees  
12 told her.

13 COMMISSIONER SCHIEWE: On a related subject,  
14 would staff be able to get us, or me, or probably  
15 all of us, a detailed summary of what makes up the  
16 surplus, what line items in our budget is the source  
17 of the surplus?

18 DIRECTOR DICERA: Commissioner, it's not any  
19 particular line item. It is a savings from various  
20 areas to include group insurance, a payment we have  
21 been making to shared services to monitor and manage  
22 our finance and HR area.

23 That is \$187,000. That payment no longer  
24 needs to be made. The division of that agency has

1 been abolished. We've taken in those  
2 responsibilities, and those responsibilities have  
3 been distributed with the existing personnel.

4 We lost two employees at the office last  
5 year. One perished and the other retired. We have  
6 not replaced those individuals. There's an excess  
7 there, and also there are people in the field that  
8 have not -- have also retired.

9 CHAIRMAN BRINCAT: Canceled meetings?

10 DIRECTOR DICERA: Meetings have been canceled.  
11 We pushed out an upgrade to our database system.  
12 The cost is heavy and extensive, and also a  
13 significant area of cost savings is the result of  
14 not testing as many samples as we did in the  
15 appropriate year, which was an amount we requested  
16 an appropriation for and hadn't spent.

17 The combination of all that results in the  
18 overage. It's not one particular item.

19 COMMISSIONER SCHIEWE: The information I was  
20 looking for, that's what it is. So you can get me  
21 that?

22 MR. DICERA: To the exact dollar, is that what  
23 you're looking for?

24 COMMISSIONER SCHIEWE: Sure.

1           DIRECTOR DICERA: I don't know if we can get  
2 you the exact dollar. The bulk of savings I'm  
3 identifying may even go beyond that.

4           You know, per exact dollar figure, we can  
5 provide you the figures, things we spent in those  
6 areas. We could help summarize that.

7           COMMISSIONER SCHIEWE: At some point we have to  
8 know what the exact dollar is, right, or else how  
9 can we --

10          MR. PIECZONKA: Commissioner Schiewe, we're not  
11 going to spend every single dollar we have. So it's  
12 not like, you know, it's going to be, "Here is what  
13 we appropriated. Here is all of our expenses.  
14 We're taking that amount."

15          There are unforeseen expense that come up  
16 all the time. It's not like we're going to take --  
17 it's not like, "Oh, we have \$496,000 of leftover  
18 surplus money, and we are spending that." That  
19 would be foolish on our part.

20          COMMISSIONER SCHIEWE: This is a one-time event  
21 you think? This year only?

22          DIRECTOR DICERA: At this moment, based --  
23 without any racing being conducted in 2017, we  
24 expect the results to say the same as we did last

1 year. Our forecast is to have a slightly less  
2 surplus than we had this year.

3 COMMISSIONER SCHIEWE: Marc, or Dominic, it  
4 seems to me, I think it was in September of 2013,  
5 when Tom was with us, I believe, we certified the  
6 Board Order with four very different schedules for  
7 2014.

8 Am I in the right calendar, Marc?

9 DIRECTOR DICERA: Year '13.

10 COMMISSIONER SCHIEWE: I think there was a  
11 question as to whether or not the Racing Board  
12 operation was funded adequately.

13 DIRECTOR DICERA: Right.

14 COMMISSIONER SCHIEWE: So we had these four  
15 very different scenarios, and I am curious, in  
16 addition, or maybe it's because of what you just  
17 said, we've gone from being in a position where we  
18 didn't have enough money to operate to we're running  
19 a surplus.

20 DIRECTOR DICERA: Well, the conditions you're  
21 speaking of was an appropriation we requested to  
22 have a fee transfer in the amount of \$400,000 or  
23 close to \$400,000. That was one area we were  
24 seeking.



1           The other was the extension of ADW, which  
2 was sunseting. Without the extension of ADW, we  
3 wouldn't have been able to carry the expense of  
4 regulating the races that were being requested for  
5 the next year.

6           We developed four racing scenarios based  
7 on whether we had one or both of those conditions,  
8 or whether one or both were eliminated. That is  
9 what resulted in the four scheduling traditions.

10          COMMISSIONER SCHIEWE: We do the best case  
11 scenario.

12          EXECUTIVE DIRECTOR DICERA: It was best-benefit  
13 case scenario. The ADW was extended. We have  
14 received the appropriation of spending authority for  
15 the fund transfer for the fingerprint fees that had  
16 been accumulating into our horse racing fund.

17          Those were the very updates. Talk about  
18 dark days, those were dark day.

19          CHAIRMAN BRINCAT: Folks, do we have anything  
20 else for these gentlemen?

21          MR. McCAFFREY: Thank you very much.

22          CHAIRMAN BRINCAT: Great. Thank you very much.  
23 Director DiCera?

24          MR. PIECZONKA: Commissioner, the only other

1 thing -- sorry, Chairman Brincat, I didn't open the  
2 back door, or Commissioner McCauley he asked  
3 questions about ITHA about voluntarily providing  
4 their audited financials. The IHHA was here, too.  
5 Would you want them to voluntarily do that, too?

6 Mr. Williams, by any chance, do you have  
7 any authority to speak on that, or advise if the  
8 IHHA would be willing to do that?

9 MR. WILLIAMS: I didn't get the question.

10 MR. PIECZONKA: The question is would the IHHA  
11 be voluntarily willing to supply audited financial  
12 statements to the Racing Board?

13 MR. WILLIAMS: I can't answer that at this  
14 time.

15 MR. PIECZONKA: All right, thank you.

16 CHAIRMAN BRINCAT: We can -- okay. Any  
17 additional comments?

18 DIRECTOR DICERA: Thank you, Chairman. Agenda  
19 No. 7 is Commissioner comments.

20 CHAIRMAN BRINCAT: A couple quick things. You  
21 know, we had a practice, we asked for some time for  
22 audited financials, didn't we?

23 DIRECTOR DICERA: We did.

24 CHAIRMAN BRINCAT: For some months, didn't we?

1 MR. PIECZONKA: Several.

2 CHAIRMAN BRINCAT: Did we receive a letter from  
3 the ITHA we would be sued if we kept asking for  
4 them?

5 DIRECTOR DICERA: Correct.

6 CHAIRMAN BRINCAT: I mean, I'm not trying to  
7 throw water on this whole argument. I mean, this  
8 has been out for some time. I'm sorry?

9 Listen, I think it's great we're getting  
10 in the spirit of, you know, Director DiCera took him  
11 for Christmas dinner. We saved a few bucks, and can  
12 throw it into purses. I think  
13 that's wonderful.

14 It's kind of coy to say, "Well, would you  
15 provide these?" We went through this. I know how  
16 this ends.

17 COMMISSIONER McCAULEY: We got a different  
18 resolution today.

19 CHAIRMAN BRINCAT: Well, maybe we did, because  
20 we heard from the national president, as I recall.  
21 Mr. Carey, you've already been sworn in. Weren't  
22 you that in that meeting.

23 MR. CAREY: They promised it.

24 CHAIRMAN BRINCAT: Where their national

1 president promised us audited financials.

2 MR. CAREY: Yes, yes.

3 CHAIRMAN BRINCAT: The next letter we got from  
4 counsel was, "You're going to be sued if you keep  
5 asking for them." That wasn't directed to you,  
6 right?

7 MR. PIECZONKA: Correct, Chairman.

8 COMMISSIONER McCAULEY: Was that the former  
9 counsel?

10 CHAIRMAN BRINCAT: No.

11 COMMISSIONER McCAULEY: Present counsel?

12 CHAIRMAN BRINCAT: Yes, and also the national  
13 president.

14 MR. PIECZONKA: Allen Foreman?

15 CHAIRMAN BRINCAT: Listen, I'm all for harmony,  
16 and I'm all for a collaborate approach. I'm not for  
17 intellectual dishonesty.

18 I don't see a point -- you know, if we  
19 have counsel from organizations telling us we are  
20 going to get sued if we ask for financials, and then  
21 that same organization says, "Well, prove that  
22 you're not trying to regulate us."

23 I mean, listen, we all work together.

24 This is an absolute collaborative approach, but, I

1 mean, it just seems kind of disingenuous to walk  
2 down that same path again.

3 I mean, if we could them, great. If we  
4 don't get them, great. I don't think it's in our  
5 mission, or keeping with our mission, to waste your  
6 gentlemen's asking for the same thing we asked for,  
7 I don't know, it's got to be six months.

8 MR. PIECZONKA: It started in Augusts 2015 when  
9 I came on board.

10 CHAIRMAN BRINCAT: And when did we get the  
11 letter from counsel?

12 MR. PIECZONKA: That would have been maybe  
13 April-ish of last year.

14 CHAIRMAN BRINCAT: So eight months?

15 MR. PIECZONKA: Yes.

16 CHAIRMAN BRINCAT: When was our meeting,  
17 Mr. Carey? I don't mean to put you on the spot. Do  
18 you remember when that meeting was? Was that  
19 February or March?

20 MR. CAREY: I think it was February.

21 CHAIRMAN BRINCAT: I mean, nobody wants to have  
22 a punching bag. You want to give them, fine. You  
23 don't want to give the, fine. We've been down this  
24 road.

1           So if we can get them, I think that's  
2 great. I certainly can't imagine why somebody  
3 wouldn't want to give them, that's great.

4           But, I mean, I certainly didn't plan on  
5 addressing this because I don't think any of us saw  
6 the discussion going this way. If it's going to  
7 come out, I think that is a very pertinent fact.

8           So if we get them, that's great.  
9 Secondly, I've got to tell you I absolutely am  
10 willing to state a million times we want to give  
11 this money that we haven't spent to the organization  
12 licensees' purse accounts. That's it.

13           And I can't think of a better way to  
14 demonstrate our support for Illinois racing then by  
15 taking money we received and trying to put it  
16 directly into purse accounts, where it's going to  
17 really help move this engine forward to whatever  
18 limited extent \$500,000 will.

19           So that is the extent of my Commission  
20 comments. Thank you.

21           COMMISSIONER LUNT: Does Dave have a comment?

22           CHAIRMAN BRINCAT: Well, in Commissioner  
23 comments. Commissioner, I'm sorry, we can't allow  
24 any further testimony, I don't think.

1           So let's finish with Commissioner  
2 comments, and then if you want to make a request to  
3 say something, we can maybe move on. Do we have any  
4 more Commissioner comments?

5           COMMISSIONER LUNT: My comment would be that I  
6 would like to hear what Mr. McCaffrey has to say.

7           CHAIRMAN BRINCAT: Anything, Mr. McCaffrey?

8           COMMISSIONER McCAULEY: I would like to hear  
9 David as well.

10          COMMISSIONER SCHIEWE: Thank you, Chairman, and  
11 welcome back, Tom. Happy new year to everybody  
12 here. It's nice to see everyone. Quick question  
13 for you, Mr. Chairman.

14          CHAIRMAN BRINCAT: Sure.

15          COMMISSIONER SCHIEWE: I am a little in the  
16 dark about what just happened here in the last few  
17 minutes. What would be great, and what interest of  
18 ours in having -- I have no idea.

19                 What would be great? It would be great if  
20 you said if we had these financials from the three  
21 horsemen's associations? What is great about that?

22          CHAIRMAN BRINCAT: I wouldn't even know how to  
23 begin to answer that, because we've asked for them  
24 in the past, but we couldn't get them.

1           I haven't really pondered the subject. I  
2 don't think these gentlemen have either. This has  
3 not been -- it's not been --

4           COMMISSIONER SCHIEWE: I'm just confused. I  
5 don't know what we would do with them.

6           CHAIRMAN BRINCAT: I didn't ask for then.

7           MR. PIECZONKA: Transparency, Commissioner.  
8 Really, again, we didn't come here today with all  
9 this information. I would be happy to sit down with  
10 you. I've got an entire file on all the requests  
11 and responses.

12           I would be happy to sit down with you and  
13 discuss this at further lenth.

14           CHAIRMAN BRINCAT: If this is helpful. The  
15 original motivation was we had several questions  
16 about trends of purse accounts and where use of  
17 purse account money.

18           Again, just thinking about our role as  
19 regulators, looking at purse account saying, "Where  
20 is this purse account money going, other than to  
21 horsemen winning purses?" That was it.

22           That was solely -- and because it was  
23 about just trying to determine where all money. As  
24 a matter of fact, a lot of it was a concern over



1 galloping out, racer pacers, how were these  
2 organizations are being supported for the welfare of  
3 the equine athletes; and just trying to see, you  
4 know, where everything was going to support a number  
5 of causes that work within.

6 COMMISSIONER SCHIEWE: I think since our last  
7 meeting, Galvin just got his accreditation, I  
8 believe.

9 CHAIRMAN BRINCAT: I really don't know.

10 COMMISSIONER SCHIEWE: I think so. It's  
11 actually kind of a big deal.

12 CHAIRMAN BRINCAT: That's great.

13 COMMISSIONER SCHIEWE: Congratulations for  
14 them.

15 CHAIRMAN BRINCAT: That's great.

16 COMMISSIONER SCHIEWE: That is what we wanted.

17 COMMISSIONER McCAULEY: I had other reasons.

18 COMMISSIONER SCHIEWE: You did, Tom.

19 COMMISSIONER McCAULEY: I'll just answer this  
20 briefly and give you an example, Bob. There are  
21 several other items that occurred to me.

22 As an example, the last year that I saw,  
23 again, on the Attorney General's website for  
24 reported lobbying expenses, there were hundreds and

1 hundreds of thousands of dollars that were paid by  
2 the organizations to lobbyists, apparently to no  
3 effect.

4 And it just occurred to me what if that  
5 money went to social programs for the backstretch  
6 workers? What if that money was contributed to  
7 purses?

8 It just seemed to me there were,  
9 particularly given the state of the industry, that  
10 there were infinite more beneficial uses than to pay  
11 lobbyists, as far as I can see, that haven't been  
12 effective.

13 And I think it's something for us to  
14 consider, even if we don't immediately regulate it.  
15 I think it's something for us to consider.

16 COMMISSIONER MURIEL: I just want to add a  
17 comment.

18 CHAIRMAN BRINCAT: See, we do have comments.

19 COMMISSIONER MURIEL: This is kind of the  
20 interactions.

21 CHAIRMAN BRINCAT: Okay, great.

22 COMMISSIONER MULDER: I know, as a Board, we  
23 are regulated by the Open Meetings Act. We can only  
24 communicate with each other once a month. Certainly

1 there's not a lot of expertise that I bring to the  
2 Board.

3 I'm not like Dr. Lunt where I have  
4 veterinarian medicine under my belt. I am a  
5 litigator. I've been in the courts for over 20  
6 years.

7 Certainly if the Racing Board is ever  
8 being threatened with a lawsuit, certainly one thing  
9 I would like to know I want to be able to help the  
10 Racing Board to the state lending my expertise.

11 MR. PIECZONKA: Thank you, Commissioner Muriel.

12 CHAIRMAN BRINCAT: Commissioner Mulder? Excuse  
13 me, John, anything?

14 COMMISSIONER MULDER: No, nothing.

15 CHAIRMAN BRINCAT: Dr. Lunt? Thank you, sir.

16 COMMISSIONER LUNT: You' welcome.

17 CHAIRMAN BRINCAT: Please.

18 MR. McCAFFREY: I just wanted to draw attention  
19 to our website. It's itharacing.com. If you're  
20 writing this down, it's itharacing.com. If you go  
21 to itharacing.com, and then under "about us," there  
22 is a tab at the top "about us."

23 Underneath "about us" is a treasurer's  
24 report. On the treasurer's report for 2015, it

1 lists all of our revenue, and all of our expenses,  
2 and the net income or loss, as it was, for that  
3 particular year.

4 And I just wanted to say I don't  
5 understand the acrimony in some of this testimony.

6 CHAIRMAN BRINCAT: Mr. McCaffrey, I'm going to  
7 let you talk because I was responding to Dr. Lunt.  
8 Okay?

9 MR. McCAFFREY: That's all right.

10 CHAIRMAN BRINCAT: This isn't for a  
11 impeachment.

12 MR. McCAFFREY: Cool, no problem.

13 CHAIRMAN BRINCAT: Unless there are any further  
14 comments, folks, we can move to approving the  
15 minutes.

16 DIRECTOR DICERA: Approving the minutes is  
17 next, Chairman. Thank you.

18 CHAIRMAN BRINCAT: Thank you. Can we get a  
19 motion to approve our last Month's meeting?

20 COMMISSIONER SRONCE: As long as I was at the  
21 meeting, I will move to approve those. I approve.

22 COMMISSIONER MULDER: Second.

23 CHAIRMAN BRINCAT: Mr. Ezzo, do we do a voice  
24 vote?

1 MR. EZZO: We can do a voice vote.

2 CHAIRMAN BRINCAT: We can do a voice vote on  
3 the minutes. All in favor, say aye.

4 (A chorus of ayes.)

5 CHAIRMAN BRINCAT: Folks, thank you very much  
6 for the first meeting in 2017. We're going to  
7 entertain a motion to adjourn.

8 COMMISSIONER SRONCE: So moved.

9 CHAIRMAN BRINCAT: Is there A second?

10 COMMISSIONER MULDER: Second.

11 CHAIRMAN BRINCAT: Okay. All in favor, say  
12 aye.

13 (A chorus of ayes.)

14 CHAIRMAN BRINCAT: Thank you, folks.

15 (WHICH WERE ALL THE PROCEEDINGS HAD.)  
16  
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24

1 STATE OF ILLINOIS )  
 ) SS:  
2 COUNTY OF C O O K )  
3

4 PAMELA A. MARZULLO, C.S.R., being first duly sworn,  
5 says that she is a court reporter doing business in the city  
6 of Chicago; that she reported in shorthand the proceedings  
7 had at the Proceedings of said cause; that the foregoing is  
8 a true and correct transcript of her shorthand notes, so  
9 taken as aforesaid, and contains all the proceedings of said  
10 hearing.

11  
12 PAMELA A. MARZULLO  
License No. 084-001624  
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	<b>28:20</b>	<b>2250.30 (1)</b>	<b>9:18</b>	<b>accepting (1)</b>
<b>\$</b>	<b>12,000,000 (1)</b>	20:21		45:15
	57:23	<b>2250.40 (2)</b>	<b>5</b>	<b>accordance (1)</b>
<b>\$1,828,667 (1)</b>	<b>12:00 (4)</b>	20:22;22: 2		75:19
27:16	12: 1, 7,20;15:24	<b>2251 (3)</b>	<b>5 (4)</b>	<b>according (1)</b>
<b>\$100,000 (3)</b>	<b>13 (1)</b>	19:16;20: 8;21: 1	20:10,21;22: 7;	40:13
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<b>\$11,000,000 (1)</b>	<b>1313.70 (3)</b>	7:12	<b>5,000 (1)</b>	26:14,20;27: 2, 3;
70:13	11:15,16;12:20	<b>23 (3)</b>	77: 7	31: 6;32: 5,15,17;
<b>\$11,020,247 (1)</b>	<b>140 (2)</b>	38:21,23;39: 1	<b>500,000 (1)</b>	33: 7;35:20;49: 9,12;
27:17	20:10;22: 7	<b>23rd (1)</b>	66:15	50: 2, 3,15;59:10,11;
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<b>\$187,000 (1)</b>	<b>150 (2)</b>	77: 7	<b>6th (1)</b>	78: 2;79:21;81:11;
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<b>\$2,000 (1)</b>	<b>1968 (1)</b>	47:10	<b>7</b>	103:17,19,20
32: 7	68:12	<b>26g13 (3)</b>		<b>accounts (9)</b>
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27:15	26: 4, 7, 9;40:10;	<b>26g7.1 (1)</b>	65: 9;97:19	31:17;43:23;57: 5;
<b>\$2,608,878 (1)</b>	70:13	26:23	<b>75 (2)</b>	101:12,16;103:16
27:14	<b>1995 (3)</b>	<b>27 (3)</b>	26: 3, 6	<b>accreditation (1)</b>
<b>\$20 (1)</b>	20: 3;25:24;42: 2	34: 8;38:14;69: 5	<b>8</b>	104: 7
57: 5	<b>1996 (2)</b>	<b>29d (2)</b>		<b>accumulating (1)</b>
<b>\$20,000 (2)</b>	20: 3;34:10	50: 5;90:23	<b>80 (1)</b>	96:16
11:22;13:23	<b>1997 (2)</b>		27: 3	<b>Aces (1)</b>
<b>\$20,000,000 (1)</b>	20: 4, 5	<b>3</b>	<b>80,000 (1)</b>	12:16
57: 6	<b>2</b>	<b>3 (3)</b>	35:22	<b>achieve (1)</b>
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1 STATE OF ILLINOIS )  
 ) SS:  
2 COUNTY OF C O O K )  
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4 PAMELA A. MARZULLO, C.S.R., being first duly sworn,  
5 says that she is a court reporter doing business in the city  
6 of Chicago; that she reported in shorthand the proceedings  
7 had at the Proceedings of said cause; that the foregoing is  
8 a true and correct transcript of her shorthand notes, so  
9 taken as aforesaid, and contains all the proceedings of said  
10 hearing.

11   
12 \_\_\_\_\_  
PAMELA A. MARZULLO  
License No. 084-001624  
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