VIRGINIA RACING COMMISSION

June 21, 2016

STATE CORPORATION COMMISSION
TYLER BUILDING
COURTROOM A
1300 EAST MAIN STREET
RICHMOND, VA 23219

Commencing at 10:00 a.m.

COMMISSION MEMBERS:
D.G. Van Clief, Jr., Chairman
Carol G. Dawson, Vice Chairman
I. Clinton Miller
J. Sargeant Reynolds, Jr.
Dr. Charles Steger

COMMISSION STAFF:
David S. Lermond, Jr., Interim Executive Secretary
Kimberly C. Mackey, Office Administrator

ATTORNEY GENERAL'S OFFICE:
J. Duncan Pitchford, Esquire

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CHAIRMAN VAN CLIEF: It is now ten o'clock, so we will call the June 21st, 2016 Virginia Racing Commission meeting to order. We do have a full agenda today. I don't want to stifle conversation, so please be complete in any remarks you have to make, but also please stay focused, as we'll try to get through all of this.

We have within the context of our commission meeting today two things; an appellate process, which we will begin with here in just a moment.

We also have a licensure hearing with regards to the VEA's request for a satellite wagering facility here in Richmond. In both cases, we will conduct those as hearings. Any testimony will be sworn in as we go.

I would also make note that all commissioners are present at our meeting here this morning.

Okay. Let's move right on to the appellate hearing. We have a hearing in the matter of Ms. Lilith Boucher in regards to a disqualification which occurred in the seventh race in the Virginia Gold Cup this spring.

Counselor, shall we swear in the first witness? What we will do today is ask the stewards to make their presentation. We will swear in whoever is
representing our stewards this morning and the commissioners will ask any questions after the steward's testimony, at which point then we will open it up for testimony and cross-examination by counsel.

MR. LERMOND: Sorry, Mr. Chairman. I think it's good for the record to show that Commissioner Dawson will not be participating here.

CHAIRMAN VAN CLIEF: Thank you for that reminder. Because of her relationship with the Boucher family, Vice Chairman Commissioner Dawson has asked to recuse herself. Please have the record show she is recused from this proceeding.

Mr. Petramalo.

MR. PETRAMALO: A procedural point. Well, I'm here -- first of all, I'll introduce Ms. Lilith Boucher. She is the owner and trainer of Jump Street -- excuse me -- Jump Ship, the horse in question that was disqualified, and next to me is Richard Boucher, her husband, who is the jockey of the horse. We're the appellants here. I thought I got to go first.

CHAIRMAN VAN CLIEF: Correct. Yes. I'm sorry.

MR. LAWS: Before you get started, if I could --

MR. PETRAMALO: And I'm going to limit it to
three-and-a-half hours. Commissioner Miller, I'm kidding.

MR. LAWS: Just so the record is clear, the hearing will be conducted under 11 Virginia administrative Code 10-90-50, and because it's a riding or ride infraction, the hearing will be on the record, so there won't be any new evidence or witnesses unless the appellant moves and the Commission will have to consider that. It's argument and comment only, and I understand, Frank, you have two exhibits you've previously marked and would like to introduce into the record.

MR. PETRAMALO: That's correct.

MR. LAWS: Could you describe Exhibit One for me?

MR. PETRAMALO: Yes. Exhibit One is the front page, notice of hearing from the Commission, and then pages two through four are the stewards' report after the Gold Cup, and then five is the past performance charts for the seventh race, and page seven is the Equibase report of the results of the race, and then page eight are various portions that I extracted from the VRC regs that I think are applicable here.

With regard to Exhibit Two, we basically have
five frames that I've copied from the DVD supplied
to me by the Racing Commission. This is the videos
reviewed by the stewards after the race.

MR. LAWS: Do all the commissioners have copies
of Exhibit One?

NOTE: There is an affirmative response
from all commissioners.

MR. LAWS: Do all commissioners have copies of
Exhibit Two?

NOTE: There is an affirmative response
from all commissioners.

MR. LAWS: I'm probably the only one who doesn't
have a copy of either exhibit. Do you happen to
have an extra one?

MR. PETRAMALO: Yes, sir. Yes. I do.

COMMISSIONER MILLER: Here you go. If Carol
isn't participating.

MR. LAWS: Thank you. I appreciate it. At this
point, if one of the commissioners would like to
make a motion to accept Exhibits One and Two as part
of the record.

COMMISSIONER REYNOLDS: So moved.

CHAIRMAN VAN CLIEF: Do we have a second?

COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: All in favor?
NOTE: The Commission votes in favor unanimously.

CHAIRMAN VAN CLIEF: Opposed?

NOTE: There was no response.

MR. LAWS: Frank, whenever you're ready.

MR. PETRAMALO: Yes. I'd like to make a short opening statement and then go to the review of the video.

The race in question was at the Gold Cup this past spring. It was the seventh race, which was a VHBP-sponsored flat race for maidens going a mile. The horse owned by Lilith was Jump Ship. The horse finished second and thereby earned a purse of $5400, which because it was a Virginia-bred and there was a bonus program in effect, doubled the place. So Lilith's horse earned $10,800.

After the race, the stewards posted an inquiry and they looked at the start and concluded that Jump Ship had interfered with another horse and thereby it disqualified Jump Ship, placed him last, eleventh in the race, and of course in effect fined the owner, Lilith, $10,800. No purse.

We appealed that, and I think a review of the record before the stewards will show three independent grounds for reversing the stewards'
disqualification.

Number one, and I will refer to the actual ruling in question. It's on page eight of Exhibit One, and it's VRC rule 10-140-210. Basically, what it says, and this is important. It says during a race, no jockey shall, et cetera, et cetera, jostle another horse to interfere with another jockey or another horse. The key is during the race.

So our first point here, our first independent ground is that the interference, the jostling between three horses including Jump Ship occurred before the race, not during the race.

So let me explain. As I'm sure you all know, at steeple chase races, the start is not from the gate, but it's from the drop of a flag. The starter goes out on the track and has the horses line up in post position order, one through eleven, and then drops the flag and the horses race.

Now, saying that is much easier than doing it. The starter has a difficult job trying to get eleven horses out there, all high-strung Thoroughbreds ready to race to line up in their proper order.

Now, what occurred in this case was that there was jostling between three horses; number one, number two and number three; number three being Jump
Ship.

But nonetheless, that jostling kind of resolved itself, because at some point when the starter was ready to drop the flag, the horses were all lined up one through eleven the way they should have been, except the number two horse, Mr. Bossy, the aggrieved horse, was turned in the wrong direction, looking the other way. Nonetheless, the starter dropped the flag, off they went. Mr. Bossy whirled around and then joined the crowd.

So my first point is whatever jostling occurred, it was before the race and it was resolved by the time the race was to start.

The second point, another independent ground for overturning the stewards' decision is found in the next regulation, again on page eight, and it talks about third party interference. What it says is, if a horse or jockey interferes or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault.

I think a review of the videotape will demonstrate that the jockey and the horse that were the aggrieved parties were partially at fault, thereby depriving the stewards of the right to
disqualify Jump Ship.

Finally, the third independent point is the punishment here, in effect a fine of $10,800, was far too excessive. Stated a simple way, the crime does not justify the penalty.

Particularly if you look at page three of Exhibit One at the top, I'm reading now from the stewards' report dealing with the seventh race in probably in the top paragraph. Four lines up, it says in talking about this jostling, the stewards determine that the interference was accidental and that Mr. Boucher, the jockey, had made every attempt to avoid contact. So we've got a specific finding that whatever happened here was accidental, but nonetheless, we get the death penalty.

I suggest that the proper penalty, if any, would have been something less. For example, the rules do provide that a horse could be put on the stewards' list, which would mean in this case that Jump Ship wouldn't be allowed to start in another race until he demonstrated his ability to start properly. So those are the three points.

Let me go to Exhibit Two, because I think this will help guide us through a review of the DVD. If you look at Tab One, this goes to the issue of
jostling or interference. If you look in the left-hand corner of the picture where the three horses are circled in red, those are -- on the left is Trust Liam, in the middle is Mr. Bossy, the aggrieved horse, and then three is Jump Ship.

Now again, please note that within the red circle to the right is the starter. I know it's difficult to see with the color here, but the starter clearly -- that his flag up in the air. The race has not started. The jostling occurs there.

If you go to Tab Two, you'll see a blow-up of the three horses. Then going to Tab Three, you'll see that the starter has got his flag up. He's ready to drop it in the far left-hand corner, and you'll see that all of the horses are lined up across the course in the proper order one through eleven, with the problem being that number two, Mr. Bossy, is turned the wrong way, but this is before the start. Everything is fine except Mr. Bossy is looking the wrong way.

If you then turn over to four, you'll see again in the left-hand corner the starter has dropped the flag. He's started the race. Again, they're all lined up. Mr. Bossy is going the wrong way. Simply put, the starter probably shouldn't have started
that race with one horse going the wrong way.

Now, with regard to point two, that is assuming that there was interference during the race, the jockey on number two, the aggrieved horse, Mr. Bossy, was at least partially at fault.

What we have here is an inexperienced horse and an inexperienced jockey. Unlike Mr. Boucher here, who has ridden over 2200 races, the jockey on Mr. Bossy had only ridden eight races before this, and the horse was a three-year-old, had only one other race in its life. So you have a green horse and a green jockey.

You take a look at Tab Five and it's difficult to see because this is not the best picture, but these are the horses as they're approaching the line to start.

What happened is the horse in the middle, Mr. Bossy, is in the wrong position. He should be in position one, but what you have is the three horses in question are lined up three, two, one. They should have been lined up one, two, three.

The two horse is in the wrong position, and what the video will show is that the three horse, Jump Street -- Jump Ship -- I'm going to get this right. Jump Ship darted in front of Mr. Bossy in order to
get alongside the four horse where he belonged. So it should have been four, three, two, Mr. Bossy, and then one, the horse in the back, Trust Liam. Well, it didn't happen that way, partially because of the conduct of the horse -- excuse me, the jockey on Mr. Bossy.

So with that, the stewards under the regulation lose the authority to disqualify Jump Ship.

Now, I think those are the only photos, but as we go through the DVD, I'll try and stop them to illustrate what I'm talking about. But as I said, I think at the conclusion in reviewing the record before the stewards, you should reach the conclusion that at least on one of the three grounds there is sufficient reason to overturn the stewards' disqualification of Jump Ship, and I would urge you to do so, which would then entitle Lilith to receive the purse money that her horse earned.

Now we can go to the video now or you might want to hear an opening statement from the stewards.

MR. LAWS: Mr. Commissioner, with your permission, could I ask a couple of questions of Frank that might be helpful?

CHAIRMAN VAN CLIEF: Yes.

MR. LAWS: Frank, I think I have two questions
for you.

MR. PETRAMALO: Yes.

MR. LAWS: Regarding argument number two, you referred to 11 Virginia administrative code 10-140-220, third party interference.

MR. PETRAMALO: Yes.

MR. LAWS: I noticed in that part of the code, it does not contain the qualifier "during a race" as opposed to the code that you cited for argument number one, which begins "during a race". Do you see that?

MR. PETRAMALO: Well, sure, but I think you've got to take it in context, Josh, because the rule immediately before that, 210, is interference. It talks about during a race, and then the next one is interference. I think you have to read them together.

MR. LAWS: Okay. So it is your argument then that the third party interference section of the Virginia administrative code only applies during a race or is it also pre-race?

MR. PETRAMALO: No. I think it applies anytime, but it's difficult to think of a situation where there's interference before a race that results in a disqualification.
Over 25 years, I've probably seen hundreds of flag starts. Never before have I ever seen a disqualification because horses were bumping into each other trying to get in the proper position. First time I've ever seen it.

MR. LAWS: Understood. Those are the only questions I have.

MR. PETRAMALO: I might say it's -- turning to the flat track, it's not unusual to see horses bumping around or even horses in a gate where a horse jumps up in the gate and kind of disturbs the other horse in the next door gate. There's no thought of any disqualification as long as they are in the gate and they're all standing there proper when the bell rings and gates open. No harm, no foul.

Second question?

MR. LAWS: Those are the only two. Thank you.

MR. PETRAMALO: Okay.

CHAIRMAN VAN CLIEF: Would you like to continue with your presentation?

MR. PETRAMALO: Sure.

CHAIRMAN VAN CLIEF: We'll see the video and then we'll ask the stewards to make their comments.
MR. PETRAMALO: Yes. I may have to call on Dave to give me a hand here with this machine.

NOTE: Video is played in open session.

MR. PETRAMALO: Okay. Now, you can see the body of the race is moving toward the start. You can see the red flag up there, and now right in the left-hand corner of the screen, you see the jostling. The horse on the left is the one horse, Trust Liam. The horse in the middle is Mr. Bossy and the horse on the outside is Jump Ship. Jump Ship is attempting to get up alongside number four, who is in the middle of the screen. Not the jockey with the coral, but the one immediately in front. That's the four horse, so he's attempting to get over there.

MR. LAWS: Just for clarity of the record, Trust Liam is literally the horse marked number one, Mr. Bossy is literally the horse marked number two, and Jump Ship is literally the horse marked number three.

MR. PETRAMALO: That's correct. Now see, here is what corresponds to Tab Four. You have the horses all lined up one through eleven, except Mr. Bossy is in the proper position, but he's turned the wrong way. The point is everything was set before...
the start of the race. Whatever occurred between
those three horses has been resolved and the starter
is there.

My opinion, the starter shouldn't have dropped
the flag until Mr. Bossy turned around, but starters
have a very difficult job and things happen very
quickly. But in this case, I think it was a
mistake. See, Mr. Bossy turns around and joins the
race.

COMMISSIONER MILLER: Mr. Chairman, could you
stop it? Is there any need to see the race?
MR. PETRAMALO: No. These are just --
COMMISSIONER MILLER: Can you go back?
MR. PETRAMALO: Yes.
COMMISSIONER MILLER: Can you reverse that tape
back --
MR. PETRAMALO: Yes.
COMMISSIONER MILLER: -- to the instance we're
supposed to be making a determination on?
COMMISSIONER REYNOLDS: I'd like to see it from
the beginning.
CHAIRMAN VAN CLIEF: I'd ask we go right back to
the beginning and watch it develop.
COMMISSIONER MILLER: It's only a second or two.
It's hard.
MR. LAWS: Would it be helpful to see it in slow motion, if possible?

CHAIRMAN VAN CLIEF: It would be.

COMMISSIONER REYNOLDS: Real time and slow motion.

MR. PETRAMALO: I believe so. Okay. This is the start and let's see if I can get it to --

COMMISSIONER MILLER: Right before that.

MR. PETRAMALO: I think I pushed the wrong button.

COMMISSIONER MILLER: Go back to the point where you said the crowd was assembling for the race. The crowding of the horses.

MR. PETRAMALO: We want to go back to angle one. We want to be able to play this in slow motion. Okay. See, they're all lining up. There's six, five, and four is in the middle, the dark green with the red arm band.

Now come the three horses. Here's the two horse. Jump Ship is coming across to get over to the four horse, spooks that horse. Mr. Bossy comes around and number one looks like he hits Bossy with his butt.

COMMISSIONER MILLER: Mr. Chairman, would you go back again and play it? I mean this happened so
quickly. I'm trying to see what the problem is here.

CHAIRMAN VAN CLIEF: Frank, would you mind narrating again like you just did?

MR. PETRAMALO: Yes.

CHAIRMAN VAN CLIEF: Thank you.

MR. PETRAMALO: Okay. See, the flag is up. Okay. Now, you see the horse in the middle of the screen is the five horse. Right to his left is the four horse and to his right is the six horse. So Mr. Bossy, excuse me, Jump Ship being the three horse is trying to get on the left side of number four as we're going one through eleven, left to right. Now let's see if I can do this in slow motion without screwing it up. Okay. Now here they come. Now, here's --

COMMISSIONER MILLER: Stop right there a minute. Number two is?

MR. PETRAMALO: Mr. Bossy. That's the green one.

COMMISSIONER MILLER: Let's follow Mr. Bossy along there. Now stop. I should ask your permission.

CHAIRMAN VAN CLIEF: Please go right ahead.

COMMISSIONER MILLER: I'm trying to determine
the position of these horses, the jostler and the jostlee.

MR. PETRAMALO: Yes. Well, first --

COMMISSIONER MILLER: The green --

MR. PETRAMALO: The green is the aggrieved party, Mr. Bossy.

COMMISSIONER MILLER: Closer to us now coming toward the aggrieved party, who is that?

MR. PETRAMALO: That's the one horse. That's Trust Liam.

COMMISSIONER MILLER: Okay, and our culprit.

MR. PETRAMALO: Alleged culprit. Alleged culprit.

COMMISSIONER MILLER: Alleged culprit.

MR. PETRAMALO: Is on the left.

COMMISSIONER MILLER: Is on the left but in the middle as we come to the left.

CHAIRMAN VAN CLIEF: In the rose-colored silk.

MR. PETRAMALO: No. No. No. I'm sorry. It's red.

COMMISSIONER MILLER: I don't know what it is.

MR. PETRAMALO: You've got the three horses, and if you look at it, it's three, two, one as they're approaching the start.

COMMISSIONER MILLER: I know, but I'm looking
three-dimensionally. The horse that is closest to us as I look at the screen, can we agree that is number one?

MR. PETRAMALO: That's correct.

COMMISSIONER MILLER: Can we agree that the next horse closest to us is number two?

MR. PETRAMALO: Correct.

COMMISSIONER MILLER: And then the alleged -- the appellate --

MR. PETRAMALO: Jump Ship.

COMMISSIONER MILLER: -- is beyond number two.

MR. PETRAMALO: Right. He's number three.

COMMISSIONER MILLER: I'm trying to determine what the jostle was and how it took place.

MR. PETRAMALO: Well, you'll see it in the next frame.

COMMISSIONER MILLER: Okay. Go very slow. Stop right there. Have they run in to each other?

MR. PETRAMALO: Not at that --

COMMISSIONER MILLER: Okay. Keep going.

MR. PETRAMALO: And to be quite honest, it's not clear that they actually hit.

COMMISSIONER MILLER: Well, that's what I'm trying --

MR. PETRAMALO: There's no doubt in my mind that
the two horse was spooked or shied away when the
three horse came running alongside.

COMMISSIONER REYNOLDS: Can I ask a quick
question? You have two guys holding flags there.
Is one guy the official guy or do they drop at the
same time?

MR. PETRAMALO: Yeah. The jockeys are watching
the furthermost guy. They have the -- the actual
starter is on the left, the shorter fellow behind
the five horse, and when he drops the flag the lead
guy drops the flag. So the jockeys are lined up
here, the starter is looking to make sure the horses
are where they belong, he drops the flag, the guy in
front drops the flag and off we go.

COMMISSIONER REYNOLDS: So we should be looking
at the first guy's flag? He's the official?

MR. PETRAMALO: Yes. He's the official starter.

CHAIRMAN VAN CLIEF: Mr. Miller.

COMMISSIONER MILLER: Mr. Petramalo, the horses
line up numerically.

MR. PETRAMALO: Yes.

COMMISSIONER MILLER: Supposed to.

MR. PETRAMALO: Yes.

COMMISSIONER MILLER: At this point, what I see
is number one is pulling up to make sure number one
gets in the number one position.

MR. PETRAMALO: Right. As you look at it.

COMMISSIONER MILLER: Number two has to be next to number one eventually.

MR. PETRAMALO: Has to be on the side of number one.

COMMISSIONER MILLER: And number three has to go across an amount of ground to get over to number four.

MR. PETRAMALO: Yes.

COMMISSIONER MILLER: Correct?

MR. PETRAMALO: Correct.

COMMISSIONER MILLER: So number three is proceeding to go where number three needs to go; is that right?

MR. PETRAMALO: Yes.

COMMISSIONER MILLER: Okay. Let me ask you a question about right of way. I mean you may scoff at that.

MR. PETRAMALO: No.

COMMISSIONER MILLER: I mean it appears to me -- I mean correct me if I'm wrong, somebody. It appears to me that number three has the right of way to come across whatever amount of ground that is to get over to the appropriate starting position.
MR. PETRAMALO: Well, it's clear that that's what he's attempting to do.

COMMISSIONER MILLER: Okay. Now --

MR. PETRAMALO: What we say --

COMMISSIONER MILLER: Okay.

MR. PETRAMALO: -- is two shouldn't have been there. He's in the wrong position.

COMMISSIONER MILLER: I'm not going to say that.

MR. PETRAMALO: No. He shouldn't have been there.

COMMISSIONER MILLER: But somebody has to tell us about number two's responsibility here, and I'm sure the stewards will have to tell us that.

MR. LERMOND: You'll see a different view of this from the stewards.

COMMISSIONER MILLER: From a helicopter?

MR. LERMOND: No. It's a different camera.

MR. PETRAMALO: I'll show you another angle, too. I think the other angle is even more instructive than this is.

CHAIRMAN VAN CLIEF: Before we go on to that, can I ask a question as well, Frank? Are there any rules of the road in this situation that riders would normally observe in terms of having to move from point A to B to be properly positioned for a
start amongst themselves with crossing and moving?

MR. PETRAMALO: Chairman Van Clief, I honestly don't know the answer to that. The point is its always struck me as organized chaos when the starter is trying to get all of these horses in line relatively evenly so they can start. I don't know whether there are rules of the road that govern. You might ask Richard Boucher, but I don't know the answer to that.

So now you see Jump Ship is going over toward the four horse, and admittedly, he's cutting off the number two horse. The two horse shies away. Now, whether they actually hit or not, it's difficult to see. It would seem to me that if they did hit and it was a substantial hit, there would be more of a reaction by two. But that's just my view.

Now watch what happens here. So two spins around, and one, who should have been on the other side of two, swings his hindquarters around and looks as though he may be bumping two.

Because you'll see that -- watch there. You'll see that number two now swings perpendicular to the start. See? At that point when that's occurring, the flag drops, and poor Mr. Bossy is pointed in the wrong direction.
Now if we can figure out how to -- well, Commissioner Reynolds asked about the two flagmen. You'll see on the left-hand side of the screen the starter has dropped the flag and the fellow up front is in the process of also dropping the flag. So the jocks know bingo it's okay to go.

COMMISSIONER REYNOLDS: They're all clear by then.

COMMISSIONER MILLER: Mr. Chairman, can I ask a question?

CHAIRMAN VAN CLIEF: Of course.

COMMISSIONER MILLER: What's this other view? You said you would go ahead and show us the other view.

MR. PETRAMALO: Yes. It gives you a better shot of the one, two and three horse as they are approaching.

COMMISSIONER MILLER: It's the same video, isn't it?

MR. PETRAMALO: Same video but a different camera.

MR. LERMOND: Angle.

COMMISSIONER MILLER: Okay.

MR. PETRAMALO: Dave, I'm getting a warning. It says low battery warning.
MR. LERMOND: Do you want to show the other angle?

MR. PETRAMALO: Yeah. Let's show the other angle. Okay. Now this is a different camera angle. You'll see the body of the race is going over across the starting area, and now keep your eye on the left-hand side.

You'll see the three horses in question come into the picture. Okay. That horse you see sidestepping over, that's number one, and the horse coming into your picture with the green silks, that's number two, and far left is Jump Ship, number three.

So you've got all three of those horses approaching the main body. Now this is where I contend that Mr. Bossy and his jockey were partially at fault, because he's going over into the one position.

The actual one horse is to his right. He should be on the other side of the one horse as they're going up to the line. And of course number three is to the left and he's going to cross in front of number one, trying to get to the four horse. There you see the two horse shying away as three goes in front.
COMMISSIONER MILLER: There's no way to brighten up that area?

MR. PETRAMALO: No. Now the flag has dropped and that's about it. I think the video certainly on slow motion I think re-enforces the point, the two points that I was making. That is, the first point being that this jostling was before the race, and therefore not within the ambit of the rule that says during the race you get disqualified for interference.

Secondly, the second point, this segment that you just saw I think supports the point that I made. That is, the two horse at least was partially at fault because he was in the wrong place, impeding Jump Ship from going across to get next to the four horse.

Is there anything else that you want to see? The only view that we have is of the start. There's nothing else in the race.

But to make a long story short, all three horses started behind the main body. Jump Ship makes some very nice progress under a skillful ride by Mr. Boucher and made one heck of a stretch run and came up for second. The other horses finished back in the pack and the stewards took down Jump Ship and
placed him last. That's all I have on the video.

CHAIRMAN VAN CLIEF: Any commissioners have additional questions for Mr. Petramalo? I'd like to ask, Frank. You contend that this didn't occur during the race. Can you give me a quick definition of what the rule applies to? Do you consider the race to be after the flag drops and the horses are off?

MR. PETRAMALO: Sure.

CHAIRMAN VAN CLIEF: Not while they are positioning? In the process of starting, so to speak.

MR. PETRAMALO: Mr. Chairman, let me analogize it this way. In the flat track, here is the gate and you have all kinds of things going on behind the gate. None of that is during the race. The race only starts when everybody is in the gate, the starter rings the bell and the gates pop open. That begins the race.

What I'm saying here is what happened here before the starter dropped the flag was the same thing. This is all pre-race. Normally, it gets sorted out one way or the other between the horses and the starters so that there's a reasonable start. Sometimes they look ragged, but at least they're all
pointed in the right direction. Once that flag goes
down and a horse takes two or three strides, the
race begins.

CHAIRMAN VAN CLIEF: Thank you. Any other
questions? Thank you very much. Sorry that we
almost didn't let you go in proper order. Now we'll
go to the stewards. Who will be presenting the
stewards' case today?

MR. BROWN: I will. Gus Brown.

CHAIRMAN VAN CLIEF: Thank you very much. We
need to swear you in.

NOTE: Gus Brown is sworn under oath.

MR. LAWS: Can you state your name for the
record, please?

MR. BROWN: Gus Brown.

MR. LAWS: Could you also state what your
position is?

MR. BROWN: Steward.

MR. LAWS: For the Virginia Racing Commission?

MR. BROWN: Yes. For the Virginia Racing
Commission.

MR. LAWS: Go ahead.

MR. BROWN: Thank you very much for having us
today. So the issue that we have, we had a
situation at the start of this race where we had
contact that we contend happened during the running of the race. We had a horse that was having issues in the starting box.

The starting box, as you will see when we watch the video, and if you notice during the video with a steeple chase start, we use what's called the box and we use a set of cones, four cones, to lay out the box.

The horses are typically set up in numerical order. They are brought into the box, and once they're in the box, they're given direction from the starter to come across, turn and face up the race course, and they're being given verbal orders as well as using the flag. At that point, the starter will tell them they're okay to go.

In this particular case, Jump Ship actually asks for permission to come in last because they were having issues with the horse. As you saw in the video, Jump Ship started off coming in last and then accelerated through the field into the box, made contact with Mr. Bossy, spun Mr. Bossy around backwards at the same time that the starter was releasing the field.

As Mr. Petramalo did acknowledge, it is a bit of controlled chaos, but there is a procure and there
is an order, and the starting box as we have it, I would consider very much like a starting gate, where once the gate opens, that is the start of the race.

They're in the box and the starter has the ability to let them go at any point in the box. It could be in the back of the box, it could be in the front of the box. He has to determine when is the best chance.

And the start while the flag is up and the flag is dropped, that is an indication as much for the timer and the announcer of when the race starts as it is for the rider. The voice commands are actually more important for the riders than the flag because many of the riders can't see the starter based on where he is on the racecourse to them.

So in this particular case, this horse was coming in -- had been given permission to come in late because of his difficulties.

If you look at the stewards' report, Mr. Petramalo actually referred to it where he talked about the accidental interference. That in fact, we were very specific in writing that report that way. Mr. Boucher came up and gave testimony. We spoke with each rider and the starter. We posted an inquiry at the very beginning of the race as soon as
the event happened and called the starter up
immediately after the race, so he didn't even have
time to report to us.

In Mr. Boucher's testimony, he did in fact
acknowledge that he had made contact with that horse
at the start of the race and spun the horse around.

In writing the report, the accidental
interference was based on three different criteria
for riders; was it accidental, was it careless or
was it reckless.

It was clearly accidental because Mr. Boucher
was doing everything within his power to stop it
from happening, but it still happened nonetheless,
so it was not something he caused carelessly. It
was not something that he caused recklessly. It was
something, however, that happened during the running
of the race. I would like to show you a video here
a little bit.

So as you see here in this gap that's forming,
just to the right of the three horses in question,
there is that orange spot. That is one of the cones
that create the box. There's another just further
down the racecourse behind the starter, Graham
Alcott. That's what creates this box and I want --
sorry. We're getting a low battery signal here.
That's what creates this box that we're referring to, and that's very important for this part of the conversation because that box is -- they are under starter's orders when they are circling prior to the race, which we will see in the next video, but it's very important to realize once they're in the box, they are on the racecourse and it is a part and function of the race.

So there from that angle, Jump Ship came in from behind the field where he had originally been and rushed across and made contact with the horse and then tried to get into what would have been his typical starting position. So all of those events happened very quickly right at the start of the race. They all happened sequentially as they turned and as Mr. Alcott released them.

COMMISSIONER REYNOLDS: Mr. Chairman, may I ask a question or do you want me to wait until he's finished?

CHAIRMAN VAN CLIEF: Please go ahead and ask your question.

COMMISSIONER REYNOLDS: I wanted to ask you. In that last one, it looked like obviously three did perhaps trying to get their spot, jostled a bit, but it also looked like that he was clear and it looked
like the number one horse, Trust Liam, may have also contributed to turning the number two horse around.

Did the number one horse have any contribution to having the number two turn totally around? I saw what the three did. It looked to me like the one may have also contributed to turning the two horse.

MR. BROWN: The number one may have turned the two horse around, but that may have been a secondary result by the fact that the three had already stopped the two and started to progress. Had the two been allowed to continue on, that secondary contact would never have happened, in our opinion.

COMMISSIONER REYNOLDS: Thank you.

COMMISSIONER MILLER: Mr. Chairman.

CHAIRMAN VAN CLIEF: Commissioner Miller.

COMMISSIONER MILLER: Mr. Brown.

MR. BROWN: Yes.

COMMISSIONER MILLER: Can you be certain that those horses were in the box when this contact took place? Because as I look at the screen, I can't be certain. Are you certain?

MR. BROWN: When we go to the second video, it gives us a much better definition.

COMMISSIONER MILLER: Okay.

MR. BROWN: And based on the testimony from the
starter as well.

  COMMISSIONER MILLER: Is the starter here today?
  MR. BROWN: No, sir. Now here, if you take note here, so here's the one horse. He's all the way to the left of the screen now. You'll notice as they start. So right here at this point, to the far left is Jump Ship, the appellant, who is in the process of being released from the lead pony. To his right is Mr. Bossy, the horse that was interfered with.

  MR. PETRAMALO: That's the one horse.
  MS. BOUCHER: That's the one horse.
  MR. PETRAMALO: That's Trust Liam.
  MR. BROWN: Sorry. You're correct. Now that is Jump Ship. That is Mr. Bossy.

  COMMISSIONER MILLER: That which one?
  MR. BROWN: Sorry. To the far left is Jump Ship in your picture. The second horse to the left is Mr. Bossy.

  CHAIRMAN VAN CLIEF: Mr. Bossy is in the green silks.
  MR. BROWN: Correct. Now they're going to enter the starting box. So they're in the box there.

  COMMISSIONER MILLER: Wait just one moment.
  Delineate the box. Back up about one second or two seconds.
MR. BROWN: Okay.

MR. PETRAMALO: We suggest you stay right there because you can see the box.

MR. BROWN: You can see the box.

MR. PETRAMALO: You can see the two white cones.

MR. BROWN: You see the orange cone --

COMMISSIONER MILLER: If I could, I'm trying to reach the definition of in or out of the box.

MR. BROWN: Okay. Let me --

COMMISSIONER MILLER: If those two white cones are the box, are they across from each other or are they --

MR. BROWN: You have two cones to the left of your screen approximately -- I'm trying to figure out the best way to describe it. Maybe three inches to the left of your screen as you're looking at it.

COMMISSIONER MILLER: Right.

MR. BROWN: That is the farthest cone. That would be the very end of the box. Continue along the grass line to just right of center --

COMMISSIONER MILLER: Okay.

MR. BROWN: -- to just right where the horses are now.

COMMISSIONER MILLER: Yeah.

MR. BROWN: That other orange spot, that is the
back marker for the box. That is where all the
horses have just turned. I'll back it up for you.

COMMISSIONER MILLER: Mr. Brown, is the box like
the tee box at a golf course? Do you determine it
just by two markers or four?

MR. BROWN: There's four.

COMMISSIONER MILLER: If this one is the front,
the one three inches to the left of the screen --

MR. BROWN: Correct.

COMMISSIONER MILLER: -- that's the front --

MR. BROWN: Correct.

COMMISSIONER MILLER: -- on one side?

MR. BROWN: Correct.

COMMISSIONER MILLER: Where's the back one for
that one -- on that side?

MR. BROWN: So the horses walk into the back
marker. That's the back side. I'll back it up
again. Right there.

COMMISSIONER MILLER: Right where?

MR. BROWN: Between -- if you look down the
speaker tower --

COMMISSIONER MILLER: Right.

MR. BROWN: -- it's in the very center. If you
look just below it to the base of it, there's the
orange marker.
COMMISSIONER MILLER: I see that.

MR. BROWN: That is the back marker for the back side of the box.

COMMISSIONER MILLER: Back side?

MR. BROWN: If you imagine four cones, two at the bottom and two at the top, the horses would walk in the bottom and they would turn and walk up the racecourse.

COMMISSIONER MILLER: So this is the bottom of the box.

MR. BROWN: This is the bottom of the box. They're walking --

COMMISSIONER MILLER: Okay.

MR. BROWN: -- correct. They're walking in to that.

COMMISSIONER MILLER: Now to get in the box, the horses would have to go around there and go between that box and the box to the left of the screen; is that right?

MR. BROWN: Well, they walk in to that cone and then they turn and they walk towards the one to the left-hand side of the screen.

COMMISSIONER MILLER: Right. To be in the box.

MR. BROWN: To be in the box.

COMMISSIONER MILLER: As I look at the screen,
they have to get to the left of the marker that I see at the bottom of the speaker box.

MR. BROWN: Correct.

COMMISSIONER MILLER: Okay.

MR. BROWN: So they are all walking in there. So the horses, the outside horses, the high-number horses, they are already in.

COMMISSIONER MILLER: Yeah.

MR. BROWN: It's the last few horses that are trying to get there now at this point.

COMMISSIONER MILLER: Right.

MR. BROWN: So I'll play it one time at regular speed. Actually, let me back it up just a little bit. So right now, the high-number horses are walking across the back of the box. The low-number horses are coming in and contact.

COMMISSIONER MILLER: Stop right there. Stop right there. I hate to be so energetic. This is exciting. Right now, I see a bunch of horses to the right of the box.

MR. BROWN: Correct. They're in the back of the box at that point.

COMMISSIONER MILLER: Wait a minute. You keep saying in the back of a box. I want to find out where they're in the box. There's a difference
between being in the box and back of the box.

MR. BROWN: Right.

COMMISSIONER MILLER: If they're at the back of the box, they're not in the box.

MR. BROWN: Sorry. I'm using I guess a jockey's term or a horseman's term in reference to the bottom of the box, the back of the box, the end of the box. If you imagine sort of a rectangle --

CHAIRMAN VAN CLIEF: Mr. Brown, would you mind walking over here and trace the box on our screen?

MR. BROWN: Sorry.

COMMISSIONER MILLER: I understand where the back of the box is; it's right there. The front of the box is right there; am I not correct? That's the front of the box and this is the back of the box, right?

MR. BROWN: Yeah. If you imagine your screen, your whole screen --

COMMISSIONER MILLER: I'm not imagining it. It's right there. I see it.

MR. BROWN: This is the box. Imagine your screen is the whole box.

COMMISSIONER MILLER: No, look there. There's the box.

MR. BROWN: This is the front. There's another
cone on the outside rail.

COMMISSIONER MILLER: This is the box.

MR. BROWN: This is the front.

COMMISSIONER MILLER: Here to here.

MR. BROWN: This is the front. This is the back.

COMMISSIONER MILLER: Right. That's what I'm getting at.

MR. PETRAMALO: That's one side of the rectangle.

MR. BROWN: Right.

COMMISSIONER MILLER: Right. So the other side of the rectangle, I assume, is directly across the track from this one and the other side of the front is directly across the track from this one.

MR. BROWN: Right. This runs to the outside rail and this runs to the outside rail.

COMMISSIONER MILLER: Okay. Does it go like this?

MR. BROWN: Yes. So the horses are walking that way to the outside rail.

COMMISSIONER MILLER: So it doesn't go straight across?

MR. BROWN: No.

COMMISSIONER MILLER: So the box is an obtuse
rectangle. Look here.

MR. BROWN: If the racetrack runs this way, the box would be like this. You'd have a cone here, a cone here, a cone here, a cone here, and the horses would walk in this way and then they'd turn and go this way. That's what they're doing.

COMMISSIONER MILLER: To get in the box.

MR. BROWN: To get in the box. This would be the back of the box --

COMMISSIONER MILLER: So they're coming in here --

MR. BROWN: And this would be the front of the box.

COMMISSIONER MILLER: Mr. Brown, these horses right here --

MR. BROWN: Correct.

COMMISSIONER MILLER: -- they have to turn around this way and then go forward to get in the box.

MR. BROWN: Correct.

COMMISSIONER MILLER: Here's the box from here to here, and right now they're in the back of the box.

MR. BROWN: Those two cones are these two cones.

COMMISSIONER MILLER: Correct.
MR. BROWN: Yep.

COMMISSIONER MILLER: So right now, they're not in the box. They're headed toward the box.

MR. BROWN: Everybody's in the box. Everybody's in this area except for the horse that just wheeled out.

COMMISSIONER MILLER: It would be nice if I could see where the other side -- I mean you're saying it's back here somewhere.

MR. BROWN: He had it all the way against the outside fence, the outside rail.

COMMISSIONER MILLER: So we're not looking square at the track.

MR. BROWN: No. You're looking at it from an angle. You're looking at it from over here.

CHAIRMAN VAN CLIEF: You're looking at the box obliquely from behind.

COMMISSIONER MILLER: Here's the box as it's on the screen and here we are. Is that what you're saying?

MR. BROWN: If the horses are running this way --

COMMISSIONER MILLER: No. The horses are going to go back that way.

COMMISSIONER MILLER: You're saying -- so I must be right here --

MR. BROWN: Correct.

COMMISSIONER MILLER: -- because I'm seeing a bunch of horses that look to me like they're right here.

MR. BROWN: Correct.

COMMISSIONER MILLER: You're saying they're up here.

MR. BROWN: Correct.

CHAIRMAN VAN CLIEF: Maybe this would help. Do either party, the appellate or the stewards, contest the horses were in the box at the time Mr. Brown says they are?

MR. PETRAMALO: Yes. I don't agree with that at all.

COMMISSIONER MILLER: I understood the presentation by the appellant was that they were jostled as they were headed toward the box and were trying to reach the box to line up appropriately in the box --

MR. LAWS: Can the crowd keep it down for the court reporter?

MR. PETRAMALO: I don't think that's where the disagreement is at, that the jostling of the three
horses occurred as they were going to the box. They weren't in the box.

MR. BROWN: We disagree. We say they were -- the contact happened when they went into the box.

COMMISSIONER MILLER: Okay.

CHAIRMAN VAN CLIEF: Okay. Let's go back to Mr. Brown's presentation.

MR. LAWS: The commissioners will have an opportunity to question both sides about that before the hearing is over.

COMMISSIONER MILLER: Mr. Commissioner, will we have an opportunity to question the starter and the other jockey?

MR. LAWS: Unfortunately, Commissioner, the answer is no and the reason the answer is no is under the Virginia administrative code 11 VAC 10-90-50, reviews of stewards' decisions involving the outcome of a race or a riding slash driving infraction shall be conducted on the record of the stewards' proceedings. And the code goes on to say that no witnesses will be called, only argument and comment from the parties.

So Commissioner Miller --

COMMISSIONER MILLER: Okay. That's all right. I'm comfortable with that.
MR. LAWS: The factual record, if you will, it's found in Exhibit Number One on page three dash four. That's what Mr. Petramalo referred to in his argument where he referred to the accidental interference.

That is something that the Commission has found in their record and that's why that's something Frank can argue or comment about, because that's part of the stewards' record.

I'll take this opportunity to point out Exhibit Number One is actually nine pages. There is a small chronological error, so the beginning of the stewards' factual record is the bottom of page three and continues onto page four.

CHAIRMAN VAN CLIEF: Thank you. Mr. Brown, do you want to go ahead? Thanks for your explanation over here.

MR. BROWN: We're finished.

COMMISSIONER MILLER: Finished.

CHAIRMAN VAN CLIEF: Okay.

MR. LAWS: At this point, Mr. Chairman, before you ask any questions, the drawing that Mr. Brown made I'd like to mark as Exhibit Three and put that into the record so the parties can all argue about the same graphic.
COMMISSIONER MILLER: Mr. Chairman, can I ask a question of Mr. Brown before he retires? I know he's --

As a steward, I'm trying to find something analogous to this. In a situation Mr. Petramalo talks about in the normal races where you have a gate, the horses get in the gate and the race starts once that gate opens. So naturally, anything that occurs after that would be subject some interpretation by the judges of the race to determine whether or not something interfered with a race or not.

But in a case where you have a race using a gate, is there anything a steward would look at regarding the horses lining up to go in the gate that might interfere that might have some subsequent effect on the race that might call for disqualification? I just -- I don't know. I'm just asking.

In other words, these Thoroughbreds are trying to get them in the gate. Maybe a horse bumps another horse before it goes in the gate and maybe gets a horse disoriented or something or upset. Would a steward look at something like that also?

MR. BROWN: Prior to the race?
COMMISSIONER MILLER: Yeah. Is there any instance of that? Because I was looking at this regulation that counsel pointed out about interference. It said that the one regulation does not say anything about during a race; third party interference. Can you have third party interference before the race starts that may affect the race and call for you to readjust the finish?

MR. BROWN: Well, for us because we don't have a starting gate --

COMMISSIONER MILLER: No. I'm trying to determine -- I'm trying to find a comparison.

MR. BROWN: A comparison. So our similarity would be they are in the hands of the starter and they are under the control of the starter. So they are put in, as Mr. Petramalo stated, they are put in a numerical order. In this particular case, he was given permission to go in a different position because of the difficulty he was having.

COMMISSIONER MILLER: Okay. Despite, if I may, despite the fact that you all have a disagreement about when the race -- when the -- when they were participating in the race, is it fair to say that if this -- if the interpretation would be that this occurred, this bumping and all this messing around
occurred before the race began, not during the race, there's nothing you would do about it as a steward? There might be things -- owners and jockeys and trainers might sue because of things that happened before the race.

What I'm getting at is if something happened, if it truly happened before the race and it wasn't during the race, you would not have anything to do with it? There would be nothing you could do about it, correct?

MR. BROWN: Well, I don't know that you could use that comparison because with a gate, you could have --

COMMISSIONER MILLER: No. No. No. No. No. I'm wasting time. I'm trying to -- your only authority is during the race.

MR. BROWN: Right.

COMMISSIONER MILLER: Nothing that occurred before the race --

MR. BROWN: Right.

COMMISSIONER MILLER: -- as to the outcome of the race; is that correct? That's what I'm getting at.

MR. BROWN: Right. We consider -- we consider --
COMMISSIONER MILLER: I know what you consider.
MR. BROWN: Right.
COMMISSIONER MILLER: But if it didn't occur during the race --
MR. BROWN: Right.
COMMISSIONER MILLER: -- there's nothing that you could do about it; is that correct, as far as the outcome of the race is concerned?
MR. BROWN: We don't think so, because if that was the case, then anybody could do anything at any time at the start and you could knock a rider off. You could do anything and it would be considered fair game and then --
COMMISSIONER MILLER: If it occurred during the race. But if it occurred before the race.
MR. BROWN: I think that's what you're asking me.
COMMISSIONER MILLER: Yeah. If it occurred before the race. If something occurred -- if something awful occurred before the race started --
MR. BROWN: Right.
COMMISSIONER MILLER: -- something terrible, doesn't matter what it is, is there anything you can do about it?
MR. BROWN: Yes.
COMMISSIONER MILLER: What?
MR. BROWN: Exactly what we just did. There was interference. We contend that it happened during the starting process.
COMMISSIONER MILLER: I know that you contend that this is during the race. That's what you're contending, correct?
MR. BROWN: Yes.
COMMISSIONER MILLER: But if it occurred before the race, you could -- there might be something you could do. I don't know, but there's nothing you can do regarding the outcome of the race, moving number one to number two or disqualifying someone if it occurred before the race. That's the only point I'm trying to get to.
MR. BROWN: Right.
COMMISSIONER MILLER: Concede for a moment this did not occur during the race. If this did not -- if we were to determine that this did not occur during the race, then the stewards could not adjust the finish or change the finish, change the outcome or penalize anybody for what occurred in the race; is that correct? That's all I'm trying to get to.
MR. LAWS: Mr. Miller, I understand the point you're making. Can I try?
COMMISSIONER MILLER: Yeah.

MR. LAWS: Thank you. Mr. Brown, without accepting Mr. Petramalo's definition of when a race begins, if an infraction happens before the race begins, does the Commission have jurisdiction to change the outcome of that race or is it without power to change the outcome of that race, if the infraction happened prior to the race beginning?

COMMISSIONER MILLER: That's what I thought I asked, but didn't ask it very artfully. I wasn't a good lawyer.

MR. LAWS: If you don't know the answer, that's fine, but if you do know the answer, we'd like you to answer.

MR. BROWN: I believe we have jurisdiction.

Yes.

MR. LAWS: Do you know where in the Virginia administrative code or the code of Virginia it allows the stewards to issue a ruling on a pre-race infraction?

MR. BROWN: I would have to --

MR. LAWS: I'm sorry. What's that?

MR. BROWN: I would have to get back to you on that.

COMMISSIONER MILLER: Well, can I ask counsel?
MR. LAWS: Sure.

COMMISSIONER MILLER: I'm trying to reach -- because obviously something occurred. I'm just trying to determine what is in our power to do.

MR. LAWS: Sure.

COMMISSIONER MILLER: So something did occur. If we were to determine that it occurred before the race began, is there anything -- that's what I want to get to. Is there something we can do about it?

MR. LAWS: From my perspective after reviewing the code and the Virginia administrative code, the answer is yes. I think this is where Frank and I disagree.

My understanding of third party interference, 11 Virginia administrative code 10-140-220, if a horse or jockey interferes with or goes on, it does not say during a race or during a race meeting, as opposed to the Virginia administrative code section right before, where that code section begins during a race, comma, no jockey shall.

So it is my opinion and my legal opinion for the Commission that third party interference, Virginia administrative code section, does not have the qualifier during a race, so therefore, that gives you jurisdiction and the stewards jurisdiction to
rule.

COMMISSIONER MILLER: Next question. I hate to take all this time because I know we've got a full day, but this is an important case for them. It's an important case for the stewards. It's a very important case.

If something -- if this interference does occur prior to the race, as you say, and not during the race, what is the remedy? What is it appropriate for the Commission through the action of the stewards to penalize them -- the outcome, to change the outcome of a race for something that occurred before the race?

MR. LAWS: Yes. The Commission has that authority, as does the stewards if that occurs, that chain of events occurs as you describe, then the stewards and the Commission have the authority under the Virginia administrative code and the code of Virginia to alter the outcome of the race.

COMMISSIONER MILLER: Okay.

MR. LAWS: That's my conclusion. Frank has argued and would say that because in his opinion, different from mine, that it didn't happen during the race, the stewards and the Commission do not have the authority to change the outcome.
COMMISSIONER MILLER: All right.

MR. PETRAMALO: I certainly disagreed with Josh. Just carry that to its logical conclusion.

Commissioner Miller's question was does the Commission have jurisdiction or the right to alter the outcome of a race that's been run based on something that happened before the race.

COMMISSIONER MILLER: That's right.

MR. PETRAMALO: The answer to that is absolutely not. For example, let me give you an example. You read on here in the stewards' report. I forget what race it was in. The eighth race, the ninth race. There was some shenanigans before the race in the paddock where the stewards took action and scratched a horse and severely disciplined a jockey. You can do that, but you can't do anything that affects the outcome of the race based on something that happened down the street.

Now Mr. Brown has argued, well, something is sacred about the box. The box is the same as the starting gate; no two ways about it. He said that at the outset and then he kind of backed off that.

But it's the starting gate, and what happens in the starting gate is under the control of the starter. He can tell them what to do, et cetera,
whether it's the gate or whether it's the box. But the race doesn't start until the horses are released by the electric gate or the starter drops the flag.

I mean Mr. Brown was kind of insinuating that really maybe the starter can start the race with an oral command. Respectfully, that's balderdash. The race doesn't start until the flag drops. Everybody knows that. It has nothing to do with the convenience of the timer for the video people. That's the start of the race.

MR. LAWS: Commission, if Mr. Brown is done with his presentation, we'll give Frank the opportunity to give his response. I try to keep it procedurally correct.

I think the Commission would agree and Frank would agree as well regarding something that happens before the race and then changing the outcome of the race.

If blood is drawn from a horse and they test positive for a drug that was in the system of the horse, a foreign substance prior to the race and that test does not come back until after the race, the Commission and stewards have the authority to alter the outcome of that race. So there are instances in the code and in the Virginia
MR. PETRAMALO: I'll agree to that because the code specifically provides that if there's a positive drug test, then the stewards have got the right to disqualify that horse. No doubt about that. That's in the code. But there's nothing in the code about this thing that we're talking about now.

MR. LAWS: Before we move on to Frank's continued response, I want to make sure that we introduce Exhibit Three into the record properly. So Exhibit Three has been marked and it's the drawing that Mr. Brown made and Frank observed and was used by the Commission in trying to understand the dimensions of the box, and if a commissioner would like to make a motion to introduce that into the record.

CHAIRMAN VAN CLIEF: I'll so move it.

COMMISSIONER MILLER: Second.

CHAIRMAN VAN CLIEF: Any opposed?

NOTE: There was no response.

CHAIRMAN VAN CLIEF: Thank you.
MR. LAWS: That's Exhibit Three.

CHAIRMAN VAN CLIEF: Do any commissioners have additional questions for Mr. Brown?

NOTE: There was no response.

CHAIRMAN VAN CLIEF: Thank you very much. At this point then, Mr. Petramalo has the privilege of responding.

MR. PETRAMALO: Just a quick summary. At the outset, I said there were three independent grounds for overturning the stewards' decision. We focused a lot on number one, whether or not this was during the race.

For the reasons that I've stated before, it wasn't during the race, but let's set that aside. Let's focus on number two, and that is whether there was partial fault on behalf of number two, Mr. Bossy and his jockey.

I don't think there's any doubt about that. The stewards haven't addressed that. As a matter of fact, they just kind of blindly ignore it, but that's an important point. The rule specifically says if somebody else is partially at fault, the stewards can't disqualify the horse that has finished second.

Finally, what I call the equity argument. That
is the penalty here was far in excess of what was justified by the conduct here. The stewards agree or admit that this was accidental, and for that reason, there are other remedies available to them.

I suggested the horse might have been put on the stewards' list, a letter of caution or warning to the owner, et cetera. There are other remedies that the stewards have besides the death penalty. In this case, it was certainly not appropriate.

COMMISSIONER REYNOLDS: Mr. Chairman, may I ask Mr. Petramalo a question?

CHAIRMAN VAN CLIEF: Yes, sir.

COMMISSIONER REYNOLDS: Mr. Petramalo, typically when a horse gets disqualified and typically from what I understand, the horse is usually placed behind the aggrieved horse and that's what happened here. Are there other remedies? Is the only opportunity to put them, I guess it was tenth behind the two horse who finished ninth or can the stewards place him wherever they want?

MR. PETRAMALO: I think, Commissioner Reynolds, it depends on the nature of the interference of the violation. If it was somewhere in the actual running of the race as opposed to before the race, the horse may have finished third and placed fifth.
Doesn't necessarily mean because of interference that he goes to the back of the pack.

COMMISSIONER REYNOLDS: But I think what they probably did was put him in the back behind the horse that was allegedly aggrieved.

MR. PETRAMALO: Yes. That's correct.

COMMISSIONER REYNOLDS: Okay. Thank you, Mr. Chairman.

MR. PETRAMALO: Yeah. I think there's something also worth noting. The stewards after the race declared Mr. Bossy a nonstarter and ordered a refund of all the wagering that was on him. But nonetheless under the rules, if Mr. Bossy had finished third, even though he was a nonstarter, he would have collected third place winner.

CHAIRMAN VAN CLIEF: Any other questions?

NOTE: There was no response.

CHAIRMAN VAN CLIEF: In that case, it would be appropriate at this point for me to ask my fellow commissioners if anybody would like to make a motion to either uphold or reverse the stewards' ruling, after which we can take some more time for discussion if you like. Your other option, of course, would be to modify the ruling.

COMMISSIONER STEGER: Mr. Chairman, I have been
operating under the understanding of what I believe; that the race doesn't start until the horses are released by the starter, and given I have seen a few of these races, it's always a bit chaotic.

There was some interference which occurred and leads me to conclude that the penalty exceeds the crime. There was no intent, in my opinion, to cause a problem, but --

CHAIRMAN VAN CLIEF: Any other comments?

COMMISSIONER REYNOLDS: I agree with Commissioner Steger.

CHAIRMAN VAN CLIEF: Commissioner Miller, anything further?

COMMISSIONER MILLER: Well, what would be the penalty if the punishment exceeds the infraction? What would be, if any, an appropriate reprimand? I would ask counsel.

CHAIRMAN VAN CLIEF: I would ask counsel as well. What are the guidelines if we care to amend the ruling? I think the sentiment is that given that by all accounts the infraction was accidental and during a chaotic part of the either the race or pre-race, depending on how you look at it, we might give some consideration to amending that ruling, particularly the penalty.
MR. LAWS: I apologize, Commissioner. I don't know the answer off the top of my head. Let me look up the proper Virginia administrative code, unless Mr. Lermond knows that cite, or Frank, if you know that cite off the top of your head; the authority of the stewards and therefore the authority of the Commission for what the penalty should be.

COMMISSIONER MILLER: May I?

CHAIRMAN VAN CLIEF: Commissioner Miller.

COMMISSIONER MILLER: May I make a suggestion that we take this case under advisement, and at the end of our docket we sometime today before we leave the building, we can return and readdress it after we've secured some more information regarding the legal basis for anything that we might want to do?

CHAIRMAN VAN CLIEF: Let me look to counsel again. The sequence of events as we intend them today will take us through the main body of the agenda, at which point we are either going to recess or adjourn and then reconvene in closed session for the purpose of hopefully moving forward with our executive search. At some point in that process, may we also in the closed session address these issues?

MR. LAWS: Not in the closed session.
COMMISSIONER MILLER: Mr. Chairman, I believe it would be appropriate to have a closed session to get legal advice from our counselors to what possible remedies might apply.

MR. LAWS: That's correct.

COMMISSIONER MILLER: That's what I want to get to. We can't do it out here.

MR. LAWS: No discussion of the case in the closed session.

MR. PETRAMALO: I'd like to be able to find you a citation here in about a minute.

COMMISSIONER MILLER: Mr. Chairman, I have to feed the meter. I don't want to get into trouble. I'll be right back.

CHAIRMAN VAN CLIEF: I'm about to ask for a motion. I think the consensus is to amend, but not to complete that action until we have an opportunity to hear from counsel on the law. Does that suit you?

COMMISSIONER MILLER: Yes. Thank you.

CHAIRMAN VAN CLIEF: I think where we are about to land here is, given that my personal opinion is that the stewards have every authority and that we do as a Commission have jurisdiction, whether you call it part of the race or preliminary to the race,
that the stewards have to have jurisdiction to
police what goes on in and around that box at the
time of the start, whether it's a gate or whether
it's a flag start.

But I think the consensus here seems to be that
given the fact that Mr. Boucher made every effort to
avoid the contact and not to interfere with the
other horse, that the stewards also acknowledge that
it was accidental, we don't question that there was
an infraction, but we do question the severity of
the penalty.

So I think we're going -- and I'll ask my fellow
commissioners if somebody would like to make a
motion along those lines that we acknowledge the
infraction but amend the stewards' sanction, if
that's where you want to go, if that's what I think
I'm hearing as a consensus.

COMMISSIONER REYNOLDS: I'll so move.

CHAIRMAN VAN CLIEF: So the motion then would be
that we amend the stewards' penalty.

COMMISSIONER REYNOLDS: Yes.

CHAIRMAN VAN CLIEF: And what we would like to
do is take some time to receive advice from counsel
on what our options are legally within that context,
and at that point, we will take the action.
MR. LAWS: So what I would recommend is the motion that is on the table, pass it by temporarily so you can bring the motion back at the end of this meeting.

CHAIRMAN VAN CLIEF: Okay. So we've got the motion. Then if it meets with everybody's approval, we will table the motion for action at the appropriate time once we receive legal advice. Correct?

MR. LAWS: And we'll have three commissioners vote and Ms. Dawson is not present.

CHAIRMAN VAN CLIEF: Vice Chairman Dawson is recused and will not take part in any of the voting.

COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: We have a second from Commissioner Steger. Okay. Commissioner Reynolds.

COMMISSIONER REYNOLDS: Yes. Aye.

CHAIRMAN VAN CLIEF: Aye. I vote aye. So the motion passes. We'll take it back up and complete the action once we receive the appropriate advice.

All right. Thank you all very much for being complete and for your forbearance during the course of this.

All right. That hearing is now concluded, and we will proceed to agenda item number three, which
is approval of our April 27 meeting minutes. Those were distributed to all of you in advance electronically. They are also here from the book. Does anybody have any questions or modifications about the minutes from our last commission meeting? If not, I need a motion to approve.

COMMISSIONER REYNOLDS: So moved.

CHAIRMAN VAN CLIEF: Second, please.

COMMISSIONER DAWSON: Second.

CHAIRMAN VAN CLIEF: Thank you. Any opposed?

The minutes are approved. On to new business. As you may recall, we spent a little time talking about committee assignments and committee actions. We have a couple of committee reports coming up to start with, and the first of which has been a very busy subject these last few weeks.

Commissioner Steger very kindly agreed to chair our executive search committee and he's got a report for us and we have a process to continue and hopefully complete this afternoon.

COMMISSIONER STEGER: Thank you, Mr. Chairman, Let me first comment on some of the procedural activities that we engaged in. We coordinated the activities of the search with the Department of Human Resources to be sure we complied with all the
state regulations. We also worked closely with the office of the Attorney General and the Secretary of Agriculture's office, and I want to publically express our appreciation to those three groups who are helping us to ensure that the search follows all of the procedures that are appropriate for this type of position.

We received briefings on the appropriate information for Freedom of Information Acts, as well as the state regulation that was supposed to have been supplied to the members of the Commission. The Commission members received copies of the vitas of all the applicants and the results of all the advertisements being placed in the major journals around the country. We've received well over sixty applications at this point in time and some are still coming in.

I want to comment that we received many well-qualified applications that came from across the United States. These applications have been screened by all members of the Commission and the interviews are going to begin very shortly and we hope to complete the process as soon as possible to ensure that we select the best candidate for the position.
So the process is under way. We have a rich pool of candidates and I hope that we can move forward with dispatch and name the new executive secretary. Thank you, sir.

CHAIRMAN VAN CLIEF: Thank you, Commissioner Steger. I would like to just wrap that up by acknowledging the tremendous amount of work that Commissioner Steger has done, and also his staff at Virginia Tech, which he very kindly put into action on our behalf, particularly one of his management team, Christine Hayman.

I'd like to recognize her publically. She's done a fantastic job of organizing what I think has become a far more voluminous body of information with over sixty candidates that we ever expected it would be. So thank you very much. It's a very intense process.

The second committee we're going to hear from today is chaired by our Vice Chairman, Commissioner Dawson, who is our Racing Safety and Medication Committee.

Before I call on Commissioner Dawson for a report, we advised you at the last meeting that we were going to take a look at this committee and that we were going to update it from the standpoint of
its membership, so we are prepared to do that today.

The Safety and Medication Committee is an ad hoc committee, so as chairman, I have the authority to make those appointments and I will go down the list and we will either appoint or reappoint as so noted here today.

Commissioner Carol Dawson will serve as the committee chair. The other commissioner to be appointed is Commissioner Sarge Reynolds. Our acting executive secretary, David Lermond, will serve as a committee member, and the following are on the committee.

Dr. Rich Harden, our Commission veterinarian, Mr. Joe Rooney, our enforcement administrator for the Commission. Dr. Reynolds Cowles. It says president-elect. Is he president-elect or is he currently serving, Dr. Cowles? I think he is currently serving. At any rate, Dr. Reynolds Cowles is a prominent veterinarian here in Virginia and known to many of you in the room.

Dr. Rick Sams, LGC Science Laboratories, who handles our testing process. Mr. Frank Petramalo in his capacity as the executive director of the VHBPA. Stephanie Nixon, his vice president. Mr. Brooke Royster, as president of the VTA. Dr. Scott Woogen
in his capacity as the VHHA president, and Mr. Greg Trotto, who is a member of the VHHA board. Mr. Jeb Hannum in his capacity of executive director for the VEA, and Dr. Al Griffin in his capacity for the Virginia Gold Cup as its director of racing.

That group will meet under the direction of Chairman Dawson, and that will occur fairly soon. We've got some interesting issues that have begun to bubble up and I will call on Commissioner Dawson for a brief discussion and report.

COMMISSIONER DAWSON: Thank you so much, Mr. Chairman. First of all, I want to say thank you to you for moving on this matter. I know the Racing Commission members consider enforcing its medication rules and policy a very important part of their duty.

I'm happy to say that this newly constituted committee has some illustrious members, and although it has never met yet, I'm sure that you're correct there will be some issues that are likely to arise.

One of the issues that is likely to arise is the issue of race day use of Lasix. It's a matter that has been under discussion in the racing community for some time now. I expect the committee will study that issue as well.
The other thing that has risen is that an individual has approached the Commission about the possibility of having designated Lasix-free races conducted in Virginia. The committee will of course consider that.

Anything else that we need to examine will include of course our current status of our medication rules and how they stack up compared to other states, and of course our medication rules and data. If you will clarify this, I believe we are currently under the RCI model rules and penalties and they are updated periodically by reference.

MR. LERMOND: That's correct.

COMMISSIONER DAWSON: Okay. And we are also part of the Mid-Atlantic Racing Association.

MR. LERMOND: It is now referred to as the National Uniform Medication Program, which has started with Mid-Atlantic tracks, but there since have been other states that have joined and have met the requirements that are required to join.

COMMISSIONER DAWSON: And finally, also want to take note of the fact that there is possible federal legislation in the same area. Legislation that was introduced by representatives Barr of Kentucky and Tonko of New York to propose federal medication
rules and enforcement.

I have to note that, you know, we've never really taken a look at that. I also have to note for the record that it is clear that both the National Horsemens Benevolent and Protective Association have gone on record publically opposing those, as well as has the Association of Racing Commissioners International.

So it is something that's relevant and I think that the committee members will want to look at all sides of that. That is my report. Thank you, Mr. Chairman.

CHAIRMAN VAN CLIEF: Thank you, Commissioner Dawson, and we much appreciate you taking on these somewhat controversial issues that are hot buttons to say the least across the industry, and we will look forward to your further reports.

At this point, we're going to shift to the VHBPA and the VTA. I'm not sure if Mr. Petramalo or Ms. Easter is going to give the -- Debbie, if you're going to give the report, we need to consider some approvals or requests from you with regards to the owners bonus program.

MS. EASTER: Thank you very much, Mr. Chairman. For those of you that don't know, Debbie Easter.
I've got on my executive director of the Virginia Thoroughbred Association hat right now.

Before you, we have a request from the HBPA and the VTA to start a new owner's program, owner's bonus program for owners that own Virginia-breds and win races in the Mid-Atlantic area. Let me just give a little history of why this request is there.

Obviously, you know that I represent the breeders, Frank represents the owners and trainers. Without racing in this state, our constituents are at a terrible disadvantage. They have no opportunities at this point.

Also with alternative wagering in other states all around us. We're the only state that doesn't have that, economic incentives at a minimum for our constituents.

The economic incentives shown around states like New York and Pennsylvania are much greater for people who breed horses and race horses. Our boards are very concerned with the opportunities their constituents have and they want to try and help them in these times while we're trying to rebuild the economic model and the racing model here in Virginia.

So they came up with the idea that obviously,
it's not politically correct to -- hasn't been real politically correct to send money out of state to here in front of the Commission, but we need to come up with something we can help folks with.

So we thought that a program that would award people that own Virginia-breds that win any race in the Mid-Atlantic area, and that would be New York, New Jersey, West Virginia, Pennsylvania, Maryland and Delaware, if those folks owned a Virginia-bred and they won an overnight race, a non-stakes race in those jurisdictions, that we would add a 25 percent bonus on top of their purse.

The thought being is that not only are we helping hopefully people that own Virginia-breds in this area, but that we could help incentivize, make Virginia-breds more attractive to, you know, help the breeders that breed Virginia-breds and have them more attractive in the sales ring.

That program would run from July 1st of this year to December 31st. We have been promoting the program ahead of time, only because we were originally supposed to have this meeting at the beginning of June; it got put off until the 21st.

So the thought from our boards is that we need to promote this program prior to the Racing
Commission meeting and everything that we had to promote it should say pending Virginia Racing Commission approval.

There were two thoughts for that. One is that our board members wanted to help people that have Virginia-breds that were for sale at the Timonium sale, that hopefully this new program would be something exciting that people would be talking about in the Mid-Atlantic area and that it might create more buyers for those horses.

Number two is that a person that owns a race horse doesn't make up their mind today that they're going to race tomorrow. That's usually about a month-long or so process, because horses generally run about once every four weeks, four to eight weeks.

So we wanted people to have quite a bit of time to see this new program, say this is something I might want to move my horse to this area because I'm going to get a 25 percent boost on my purse if I win a race.

Our boards are totally behind it and the money actually -- normally, you all have been familiar that we pay owners bonuses here in Virginia. Normally, that money would come from the Breeders
Fund. This bonus, actually the HBPA is going to step up and set aside the money to do this, only because the Breeders Fund because of our situation here in Virginia is maybe going to be 650 to $750,000 versus the one million to 1.2 million that it normally is. So we are a little under-funded right now.

I think it not only potentially helps breeders, but it also helps owners of folks that own Virginia-breds, and hopefully we're doing something to try and help people that have Virginia-breds in the time period that we don't have racing here in Virginia. We hope that we would have your approval.

CHAIRMAN VAN CLIEF: Debbie, can you talk a little bit about the amount of money that you plan to allocate and where that comes from, how the cash is going to flow to fund this program?

MS. EASTER: Sure. The HBPA has a fund of money, obviously, as you all know, that we collect revenue right now from the ADW companies that are currently licensed to do business in Virginia and the horsemen get a certain percentage of that money for purse money.

They've decided, their board decided that they would like to set $500,000 aside for this program to
run the last six months of the year, and that what
will happen is that money will go in an account and
every day daily we get a report that -- actually, it
will be -- the VTA will actually administer the fund
just because we're used to doing that for the
Breeders Fund.

But that every day, we will watch which horses
win in those jurisdictions, we'll keep track of
that. We will try and be in touch with those
owners, although we're going to advertise that it's
the owner's responsibility to get in touch with us
because there is some administrative -- you have to
chase W-9s before we can release the money and then
we'll get those checks out.

We'll probably cut those checks once a month
just for administrative ease rather than every day.
But every day on our website it's reported where
Virginia-breds win and what jurisdiction, so it's
very easy for us to track.

CHAIRMAN VAN CLIEF: How has the response been
from your constituency here in Virginia? Are you
getting feedback that this is in fact something that
is going to be effective in sustaining and promoting
the kind of participation you're hoping to build?

MS. EASTER: I think the largest frustration
from our constituency is that we can't do anything here in Virginia, and part of them argue we ought to be able to do it somewhere else, but I have nothing but positive feedback from the constituency here.

Obviously, we know the political pressure to try and make sure that purse money goes to Virginians. While not all owners of Virginia-breds are Virginians, we feel it's the closest thing that we can do to help Virginians.

You know, if it's not a Virginia owner, you're certainly hopefully going to be helping a Virginia breeder whose mares' values increase.

But nothing but positive from not only our guys, but as we talk around to the different jurisdictions, obviously, they like it because we're putting extra purse money into their races, which hopefully drives entries into their races.

I do want to make you aware. I think I did try to do this, but I realize that we're not all professional marketing people here. We're wearing a lot of hats and trying to do the best thing we can.

We did in error on our website in one section of our website not use the phrase "pending Virginia Racing Commission approval".

As far as I can see, everything else that was
mailed out, sent out had it, but it wasn't there. It was brought to my attention Sunday night. We changed in as soon as we saw it, but we did have that out there mistakenly for probably since the middle of May.

CHAIRMAN VAN CLIEF: At this point are there any questions from the commissioners?

COMMISSIONER REYNOLDS: I've got a question, Ms. Easter.

MS. EASTER: Sure.

COMMISSIONER REYNOLDS: I know we're doing this because Virginia is one of the few racing industries in the Mid-Atlantic that does not have alternative gambling and things like that, but is there any precedent in other states for these owners-added bonus programs?

MS. EASTER: Sure, but probably not out-of-state and, you know, I think we have a precedent in this state because our Breeders Fund already pays for any win anywhere in the continental United States, and I think the thought when that was originally set up was that we don't have year-round racing here, so let's try and make this as much a year-round program as we can.

You know, the thought process here is our guys
don't have the opportunities. We've been giving them opportunities as much as we can at the Gold Cup parimutuel, but other than that right now, we don't have a place for them to race.

What I hear, Frank's board was a large driver of this program, and what I heard from his board members were I've got customers that have Virginia-breds. You know, they're not able to participate very well in the program.

We had the 100 percent bonus at Colonial that was very popular, and while it may not have driven the market, we hope to drive maybe a little bit more with this for Virginia-breds. What it did do very well was drive horses to Colonial Downs for entries.

But I think that the large -- from Frank's constituents was I got clients. We have people that have these Virginia-breds. They don't have the opportunities now. We need to give them more opportunities. That was the thought process behind this program.

COMMISSIONER REYNOLDS: So we've done this at Colonial Downs, not a breeders award, but an owners supplemental award.

MS. EASTER: Yes, and we paid owners awards at the Gold Cup.
COMMISSIONER REYNOLDS: We've done it before, but not out of state.

MS. EASTER: We've done it as breeders awards out of state, but we haven't done it -- I think I'm correct about that. Frank?

MR. PETRAMALO: Yes. That's correct.

COMMISSIONER REYNOLDS: Is this a temporary thing just from July to December or is this something you would like to see year in and year out?

MS. EASTER: Right now, the program is July through December 31st. If you want me to be honest, if it's a successful program and we all think it goes, let's face it. We've been up here and we know that the opportunities are still going to be minimal.

If it was successful and everybody liked it, I could see it getting extended until we had racing again, you know, but I don't think anybody's ready to say that right now. But I would leave that opportunity out there.

COMMISSIONER REYNOLDS: One more question. Maybe you or Frank can speak to the pockets of money that you have. You all want to take this out of the restricted fund, from what I understand. Can you
tell us why you would want to take it out of the restricted fund and not out of another fund or funds that you all have? Why the restricted fund?

MR. PETRAMALO: Yes. The HBPA has two accounts. One is what we call the restricted account, which came about because of the change in the law. Starting July 1st last year, the law was changed to read that all ADW revenue that we receive had to be used for purses in Virginia, unless the Commission gave us permission otherwise.

There's currently about $2.1 million in that account. We also have what we call a discretionary account. This is the money that we accumulated in the past which was not restricted by statute, and which accumulated because we had no racing at Colonial Downs after 2013. There's approximately $4.1 million in that account.

Now, we seek to use current money, restricted money for this bonus program. The reason is we want to keep a reserve in the discretionary account, that 4.1 million. We've been supporting the efforts of VEA to get racing going in Virginia. We've loaned them $250,000 from that account. We've earmarked another 1.2 million that we will be loaning to them. Again, that's principally for the construction at
Woodstock and Morven Park.

Also, it's kind of like a rainy day fund. We are -- the VEA is discussing plans to start up its own ADW company similar to the EZHorseplay business model that Colonial used. Well, Colonial spent almost $2 million buying equipment, the kiosks and the touch screens that were put in over 100 social clubs, bars, restaurants throughout the Commonwealth. Very successful, but required them to spend $2 million. So we were thinking, well, maybe we might want to do something like that.

Also, I'll be candid. I think somewhere down the road we may well have an opportunity to race at Colonial Downs, whether that means leasing the facility or perhaps putting together a group to buy it. No surprise you need money, so we'd like to keep as much money as possible in our reserve while at the same time we of course want to support the efforts of our breeders and to help our owners.

COMMISSIONER REYNOLDS: I appreciate that. Thank you.

MS. EASTER: I think that all of us would like to be using it as purse money, but everybody has to face the reality that without increased revenues here, we're not going to be able to grow this very
well. We could, after investigating borrowing money, it seems, you know, obviously, the horsemen, it's in their best interest to grow the revenue streams and what might happen in the future with the tracks, and we're lucky enough that they potentially are willing to help the industry out with that.

COMMISSIONER REYNOLDS: My last question, Mr. Chairman. How much money do you project making this year off of the ADW revenue? Where are you in line through I guess now?

MR. PETRAMALO: I think on a net basis, we'll probably accumulate about two-and-a-half million dollars. When I say net now, that means of course we have these rebate programs with TwinSpires and Xpressbet. We rebate to them, they sell their content to the VEA at reasonable prices.

COMMISSIONER REYNOLDS: Do you think after the rebate you would wind up about --

MR. PETRAMALO: Two-and-a-half.

MS. EASTER: Remember that the VEA, just our portion, the VEA's portion is about $1.8 million, but everybody has to remember that money besides the daily operating is going to trying to open OTBs. We're using those operating funds to make the upgrades to Woodstock and to Morven Park as much as
we can without having to dip into those reserves. So that's where, you know, those funds are going.

COMMISSIONER REYNOLDS: What I'm trying to get a handle on is you're at 2.2 million and we're talking about, you know, graded stakes up in Maryland. We're talking about Virginia-breds in Maryland and this new program. All of a sudden, I see all that money is draining out of that fund. So that's why I asked the question what's coming behind it to replenish the coffers.

MR. PETRAMALO: Not to denigrate the amount, but if you look at it, we're contemplating and the Commission has already approved spending 250,000 in the fall for the Virginia-bred stakes at Laurel, and if we were to go forward with the graded stakes plan, that would be another 200,000, and of course we've got the Virginia-bred races this Saturday at Pimlico.

So it's -- I'm just trying to do it in my head. We are looking at spending maybe half a million. So if we've got 2.1, we spend half a million, we still have 1.7.

MS. EASTER: We spend about $200,000 a day with the Gold Cup to help increase their purses, too.

MR. PETRAMALO: Yes. I'm sorry. I didn't mean
to slight Dr. Allison. I'm sorry.

MS. EASTER: I think that, you know, that's a normal sequence of events. When they ran at Colonial, you all have to understand the purse fund would draw up for the race meet and it would drain again.

Those moneys ought to be used as much as we can to give back to the horsemen, but unfortunately, we're in a position where we have to build the system a little bit again and that's why we hold the reserve.

COMMISSIONER REYNOLDS: I don't disagree with you. Thank you, Mr. Chairman.

CHAIRMAN VAN CLIEF: Thank you, Commissioner. Any other questions for Ms. Easter? Debbie, I ask you then if you could help me be a little bit more precise than my agenda shows --

MS. EASTER: Sure.

CHAIRMAN VAN CLIEF: -- in terms of the approval you're seeking. Obviously, you're seeking approval of an owner bonus program. Would you add exactly what amount you want approved and exactly from whence that will be coming and I think we can put a motion together.

MS. EASTER: Sure. We'd like to direct $500,000
to this program. We'd like it to run from July 1st to December 31st of 2016. We would like it -- for any horse that wins a race, an overnight race excluding stakes in the states of New York, New Jersey, Delaware, Pennsylvania, West Virginia and Maryland, that we would provide a 25 percent bonus on top of the winning purse.

CHAIRMAN VAN CLIEF: One last question before I ask for a motion. That would be the $500,000, and obviously a projection that you anticipate will cover payment of those bonuses. If you receive that amount, where does the guarantee come from that you will be able to make the payments?

MS. EASTER: We have a pretty good track history of the winners, because obviously, we track all the winners, Virginia-bred winners for the Breeders Fund. So over the last couple of the years, if we had put in this program we would have spent less than $450,000 so we built ourselves a little cushion.

I do anticipate you'll probably see some horses come from other places to run in the Mid-Atlantic just because of this 25 percent bonus, but I think that the HBPA board is prepared to fill the gap, should we go over 500,000. I'll let Frank answer.
MR. PETRAMALO: Yes. That's correct. If it exceeds 500,000 we'd use money from our discretionary fund to make up any shortfall. I'm not sure, Debbie. Did you mention that there was a $10,000 cap per win?

MS. EASTER: I forgot to do that. I'm sorry. For any one win, there's a $10,000 cap on that. Thank you, Frank.

CHAIRMAN VAN CLIEF: Okay. Thank you. All right. Before I ask for a motion, I'm going to break away from script for a moment here.

Generally, we have a public comment period, but last time we had a public comment, it occurred after the action, so there were some I think justifiable complaints about that, and given the fact that I don't think we have too many comments, I'm going to make an exception today and ask the public if anybody wants to say anything about this.

If you do, I would ask that you state your name for the record and keep it to -- I will also break away from the script. We normally give five minutes. I don't think we need that much here. At least I don't think so. Try to keep it to three minutes max since we're on a timeline. Is that a hand I see up back there?
MR. BERMAN: It is. My name is Tad Berman. I'm a member of the general public. Yes. I do object to these owner bonuses. In the last three years, we have spent almost $2 million in purses out of state to run in Maryland. We also have had the breeders bonus program for years that awards breeders when they race out of state, and now we're going to award up to $500,000 of Virginia public money to reward owners of Virginia-breds out of state.

It's just a continuing process of syphoning money out of the state of Virginia. You know, as a member of the general public, I just don't know what to say about that. I mean when we voted to have racing, we voted to have it here in Virginia. We didn't vote to have it in other states and money generated to be spent out of state.

You know, talking about the money before and after. Mr. Petramalo has $4.1 million in an account that is completely unaccountable. We have no way of knowing exactly how much is in there.

If you even -- as much as I don't want you to pass this, if you're going to do this, I want you to take that money out of the account from before July 1st and not after July 1st, and I want to use that money from before July 1st and then if they
need money after the July 1st money from 2015, they can come to the Commission and ask. That way, the public will know where that money is going. Otherwise, we have no idea.

So I would say if you're going to consider this, at least take it out of the money from the pre July 1 account. There's plenty of money in there. After that, I've got nothing more to say about this issue. I will tell you, Mr. Van Clief, that I am going to have some comments about other issues on the agenda and I'll appreciate if you will recognize me for those.

CHAIRMAN VAN CLIEF: Thank you. I appreciate your thoughts and sincerity. Any of the horsemens organization reps like to make a quick comment in response to Mr. Berman's comment?

MS. EASTER: I do, and Frank may have something. Two things when we talk about taking money out of state. You don't think about having a horse and then tomorrow you have it. Breeders and owners, it's a long-term process and it wasn't their fault that this thing blew up.

So for lack of a better way, you don't want to penalize the folks that have horses in this area when we're not running it at top level. I mean we
have to try and give these people some
opportunities, and we're not giving them -- they're
not going to have the opportunities they had for the
last 17 years, but we are trying to do a little
something while we rebuild things, and I think
that's something that you all ought to consider.

Secondly, I can't speak about what happened
before, but certainly as the industry has come
together and taken this over, I think we have tried
to be as transparent as we possibly can be.

Now we are going to make mistakes as far as I
tell you all we come here and we talk about how we
spend money. Quite frankly, if Frank wanted to take
money from his discretionary fund and do this, we
would not even have to come to the Commission and
ask to do it under the law, but that's not the right
thing to do.

So while yes, we'll make a mistake, we'll forget
to ask this, do that sometimes, I think as you can
see from these last meetings since the Alliance has
been formed, I think we all want to have this
transparency that sometimes we all got frustrated
that didn't happen between Colonial and the
Commission.

So I think it is great that Mr. Berman wants to
ask questions and do those things, but I think that he speaks from a person that hasn't -- doesn't own a horse and doesn't understand how long and how few opportunities you get.

I welcome his questions about where we're putting money and doing those as we do yours. I think that's what you should take into consideration when you all are talking about this.

MR. BERMAN: I would just say I've owned five race horses in partnership, so I'm not completely foreign to the ownership.

MS. EASTER: My apologies to you.

CHAIRMAN VAN CLIEF: We appreciate your comments. At this point, Ms. Easter has asked the Commission to consider approving up to a $500,000 expenditure to support owners bonuses. The program would run from July 1st to December 31st of this year. Those bonuses would be awarded to successful Virginia-breds competing in overnights in a multi-state area which she has defined. Those bonuses would be 25 percent of purse with a $10,000 cap. Did I capture most of it?

MS. EASTER: And only for wins.

CHAIRMAN VAN CLIEF: To be awarded in the case of a win only.
MS. EASTER: We'd like to do it for more, but we
don't have that much money.

CHAIRMAN VAN CLIEF: So we need a motion if
anyone is so inclined.

COMMISSIONER MILLER: Could I ask a question of
just anyone? Anyone from the public or anyone,
practice, stakeholder want to respond. How does it benefit
the horse industry and the agricultural industry,
horse ownership breeding industry in Virginia to
leave money in an account, since the only racing we
have is the Gold Cup twice a year and the flat races
that occur there?

That's the only racing we have in Virginia now.
Well, we've had harness racing -- we hope we are
going to have harness racing in Virginia, but how
does it benefit the industry to leave money lying in
an account as an alternative to what is being
proposed?

CHAIRMAN VAN CLIEF: Mr. Hannum.

MR. HANNUM: I will comment. I'll give my
colleagues a moment to rest. They've done a lot of
talking today. It's a very good question.

The owner bonus program, which I'll address, is
a great idea and I encourage the Commission to
approve it. It will make owning a Virginia-bred
more valuable, which will have a direct impact on the breeding industry, and the more horses that are bred in Virginia, that is good for agriculture and all the different related industries associated with raising a horse and keeping a farm operating.

All these things take time and a program like this, and I hope it would be continued into next year and going forward, sends a signal that a Virginia-bred has added value and comparable value to horses in New York or Pennsylvania where you have these very strong breeding and owner bonus programs. So I think it's a very good idea and the direction that we should all be going.

The fact that the bonus will be offered in the region makes it more attractive than New York and Pennsylvania and West Virginia programs which are just in those states.

So a horse that competes at a high level will race in multiple jurisdictions and this encourages that type of horse and those owners and the breeding of that high quality horse.

The discretionary fund is critical to the future, and I'll talk later today about some activities that we have at the racetracks and OTBs.

But the fact of the matter is, and this is where
the gentleman that spoke earlier is perhaps being short-sighted. We can't race horses in Virginia unless we have a place to race them, and so the Virginia Gold Cup is one of the premier steeple chase events in the United States and we are very fortunate to have that and we are very fortunate that Dr. Allison and his team run it so well and we can look forward to a lot of great days of the Virginia Gold Cup going forward, but it's limited in terms of the opportunities it can provide to fine horses, and obviously, it doesn't produce opportunities to any standardbred horses.

So we have a project going on right now at Woodstock which is going to cost about $700,000 to build what will be a state-of-the-art harness track which will be one of the best in the region. That's something the state can be very excited about and our friends in the harness industry are going to be in a very strong position at the end of the year to have that facility. But we couldn't do it unless those discretionary funds are there because that's going to pay for this track.

Morven Park, to jump ahead, is going to be another project that's going to cost, you know, six or $700,000, and again, we can't do that with the
funds the VEA has.

So I think we really need to look over the long-term here. As I said many times with Colonial Downs' closing and all the effects that it has had, Humpty Dumpty fell off the wall and has broken and now we're putting the pieces back together, and wish it could happen in a year, but it's going to take two or three years and longer.

So it's absolutely critical that discretionary funds are left alone. Those moneys will be used to rebuild racing so we can have racing back in the state.

CHAIRMAN VAN CLIEF: Thank you, Mr. Hannum.

MR. BERMAN: I'd just like to respond to that. These owners bonuses, these breeders bonuses, they only benefit a small group of people. You know, it's just a limited amount of people. I did a study a couple years ago. We had those out-of-state races and I think just about ninety percent of the money was won by the top ten percent of the people that received breeders bonuses.

But talking about the money we're spending at Woodstock and Morven, those improvements that we're making, those were gifts to those people and we're not going to see any kind of benefit from that,
except for them to have a place to race. Those
places can't even have simulcasts.

If we are going to invest that kind of money,
you know, I want it all to come out of that
discretionary fund. I want the $500,000 for this to
come out of that discretionary fund, because if you
want to give them $700,000 for Morven after the
July 1st money, you can approve it and do that.
There's no problem with that.

But the money that's in that fund, I want that
money to be used now because there is no
transparency and the public does not have any idea.

What I would like to ask Mr. Petramalo today is
to open those books from July 1, 2014 to present so
the public can see those books and clear the air,
and if there's no problems, then that will be the
end of that. But until we see that, I'm going to
continue to question that fund.

MR. HANNUM: I think --

MR. PETRAMALO: Let me just comment.

CHAIRMAN VAN CLIEF: Gentlemen. What I don't
want this to do is to turn into a debate, so we are
going to stop it right here. Everybody is entitled
to their point of view. I know you were honest with
your points of view.
I have one as well, and it has to do with the issue on the table, which is a request from the VEA, the HBPA and the VTA that we approve a bonus program today.

I happen to go ahead and air my own opinion, a subscriber to the theory that if you don't have incentives for a business, it will wither or move out of state.

The folks who are here in Virginia breeding horses, racing horses and continue to breed, race and operate their businesses in this Commonwealth, I think they do so because they love being here, but they've got to have some incentive.

I think that the VTA and the HBPA are wise in creating this program this year. It provides some incentive in the face of massive competition from the racing jurisdictions all around us, which has already sucked a lot of the horses and dollars out of this state.

If we are going to maintain a breeding industry of any scope whatsoever and all of the collateral industries that supports from legal services to accounting services, tax sales, feed sales, construction trades and so forth, then we've got to provide some incentive, and I for one think that
this is a step in the right direction.

So I will ask my fellow commissioners again if they have any questions or if anybody would like to make a motion at this point.

COMMISSIONER MILLER: I move that we approve the request.

CHAIRMAN VAN CLIEF: Commissioner Miller moves that we approve. Do we have a second?

COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: Commissioner Steger seconds. Is there any additional conversation or any further discussion?

COMMISSIONER DAWSON: Mr. Chairman, I'd just like to add my opinion as well. During this period when we're clearly not at top operating speed in this state for horse racing, I see this as a method to not only encourage but sustain the breeding operations that we have and give them some incentive to improve, keep their breeding improving, and I just don't see the opposite argument as -- although I respect it, I don't see it as being quite as persuasive as the argument that was presented to us by Ms. Easter and Mr. Hannum.

CHAIRMAN VAN CLIEF: Thank you, Commissioner. I think Mr. Hannum makes one great point, too, and
that is you can't build much of a racing industry if you don't have the facilities of which to race.

Colonial Downs is obviously off line for the foreseeable future. I hope Mr. Petramalo is right and there will be a merging strategy and we will see Colonial Downs back in action one day, but meanwhile, we have to spend the money to create these facilities so our horsemen will have a place to run at home here, hopefully in Woodstock this year and eventually at Morven Park in the future.

Anything further before I call the question? We have a motion and a second to approve the request as set forth by Ms. Easter. All in favor, signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Any opposed?

NOTE: There is no response.

CHAIRMAN VAN CLIEF: The motion passes. The owner bonus program is approved for 2016.

Next up is a request from the VHBPA to approve the graded stakes race and an additional maiden race funding. Is that Mr. Petramalo?

MR. PETRAMALO: Yes. I'd like to take the last one first, the additional maiden race. The Commission a meeting or two ago, perhaps longer,
approved three Virginia-bred stakes and one maiden
Virginia-bred race for this Saturday at Pimlico. I
would like to request permission to use from our
restricted fund another $30,000 to add a maiden race
for mares and fillies.

After the Commission approved the open maiden
race for Virginia-breds, there was discussion at
both the VTA board and the HBPA board about having a
race also limited to fillies and mares. That's kind
of a recurring theme that we always see at our
boards; you're not riding enough races for the
girls. So we'd like to spend another $30,000 for a
maiden race for fillies and mares, Virginia-bred.

CHAIRMAN VAN CLIEF: You're asking that as a
separate --

MR. PETRAMALO: Yes. Separate.

CHAIRMAN VAN CLIEF: Any questions for Mr.
Petramalo? In that case, we have a motion to
confirm or deny.

MR. BERMAN: I have a comment. I'd like to
comment, please.

CHAIRMAN VAN CLIEF: Mr. Berman, are your
comments of a different nature than your past
issues?

MR. BERMAN: Absolutely.
CHAIRMAN VAN CLIEF: Please keep it to sixty seconds.

MR. BERMAN: Okay. Well, I'll try. Three years ago in 2014, we approved $36,000 to state-bred racing. I objected. Last year, we approved, I don't know, I think it was $400,000-some for state-bred races. That's a tough pill to swallow for me, but I accepted it because I know that breeders are in a bind.

Last year, we spent $800,000 on the stakes races out of state open to horses anywhere. We received no economic benefit for that.

You know, that $800,000 with the condition that Virginia racing is in now would be better spent here at home rebuilding our OTB system or developing other places for our horsemen to race.

You know, last year, Mr. Petramalo, I think he told us at the last meeting -- am I correct, Mr. Petramalo, that you said that Maryland was going to pay for half of this? They're going to pick up 200,000, we're going to put up 200,000?

MR. PETRAMALO: That's correct.

CHAIRMAN VAN CLIEF: Mr. Berman, if you'd just address your remarks to the Commission and make them declarative.
MR. BERMAN: You told us the same thing last year on July 1st when he asked for $450,000 and said Maryland was going to pay half. Then he came back at the next meeting and Maryland had backed out and requested another $350,000. So what is going to stop that from happening again this year?

Once he gets one foot in the door, then he's going to come back at the next meeting, perhaps, and ask for another $200,000. So that's on the record and that happened and I'm just saying, you know, absolutely not for these out-of-state open stakes races. There's just no way.

CHAIRMAN VAN CLIEF: Thanks for your opinion.

MR. BERMAN: Thank you.

CHAIRMAN VAN CLIEF: So the request then is for a $30,000 allocation to fund a maiden filly race?

MR. PETRAMALO: Yes.

CHAIRMAN VAN CLIEF: Okay. That will be run again when, where?

MR. PETRAMALO: This coming Saturday at Pimlico.

CHAIRMAN VAN CLIEF: Okay.

MR. PETRAMALO: It's a maiden Virginia-bred.

CHAIRMAN VAN CLIEF: Questions? If not, can we entertain a motion?

COMMISSIONER REYNOLDS: Mr. Chairman, I move
that we approve the $30,000 additional maiden race for fillies and mares to be run this Saturday at Pimlico.

CHAIRMAN VAN CLIEF: Thank you. Is there a second?

COMMISSIONER DAWSON: I second it.

CHAIRMAN VAN CLIEF: Thank you. Any further discussion? If not, all in favor, signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Any opposed?

NOTE: There was no response.

CHAIRMAN VAN CLIEF: Thank you very much.

Mr. Petramalo, the graded stakes races.

MR. PETRAMALO: Yes. We deferred consideration of this issue three or four meetings ago. The issue being our request -- the HBPA's request to run in Maryland our Virginia Derby, and what used to be called Virginia Derby now the Commonwealth Derby, and the Virginia Oaks, now the Commonwealth Oaks.

The purse for the Derby would be 250,000, the purse for the Oaks would be 150,000 for a total of $400,000. What we'd like to do, what we seek is your approval to allow us to do that this year on September 24th at Laurel as part of Virginia Day.
You've already approved our five Virginia-bred stakes races on Virginia Day on the 24th. What we seek to do is add these two graded stakes races to it.

With regard to the 400,000 purse money, the Maryland Jockey Club and the Maryland horsemen have agreed to put up 200,000. Moreover, they have agreed that if racing doesn't return to Virginia next year and give us the ability to bring these stakes races back to us, that they on the same terms and conditions will allow us to run those in Maryland.

Now the reason this is important is if the races aren't continuously run, they lose their graded stakes status. The Virginia Derby carries a grade two. Excuse me. The Commonwealth Derby carries a grade two. The Commonwealth Oaks carries a grade three. We've spent millions of dollars from the horsemen's purse account over the years beginning 15 years ago to upgrade the purses, upgrade the quality of horses and achieve graded status.

If we don't run them this year, we will lose that statuses because the graded stakes committee has a rule which says if you don't run them in two out of the last three years, you lose the graded stakes
status.

Now before I get to talking about why that's important, let me also add that there's a third element to this proposal that I'm putting before you. That is that you authorize us to cede or give to the Maryland Jockey Club and the Maryland horsemen whatever rights we have to the Commonwealth Turf Cup, used to be the Virginia Turf Cup. That's pretty much the quid pro quo.

Maryland wants to run that race. They'll pay for the purse and everything. They want to run that purse this fall also to maintain its graded status. Because my view, their plan is in 2017, they will start receiving a half million dollars from the Maryland legislature to reinstitute what used to be called the D.C. International, which was a very famous turf race that drew international competition. It will now be called the Maryland International.

What they will do is simply take the Commonwealth Turf Cup, which already is a grade two, and then rename it so it now becomes the Maryland International, thereby giving it a certain prestige and marquee factor that it wouldn't normally. That's their interest in doing that.
That takes me around to why I think it's important for us to maintain these graded stakes races for Virginia.

That is, they have a great deal of branding effect on the quality of horse racing in Virginia. If we're able to run Virginia in Virginia graded stakes races, horsemen across the country take a look and say well, gee, that must be something.

You can look at our neighbors in West Virginia. For years and years and years, they have year-round racing, no graded stakes. Everybody thought West Virginia racing was lower tier, let's put it that way. Now they started spending money. They've got graded stakes and all of a sudden people are coming from Kentucky, Florida, et cetera to race at Charles Town. This gives you branding. It gives you standing in the industry.

Now Mr. Berman is absolutely right that these graded stakes don't often directly result in money going into the pockets of Virginians.

I think if you look back since the first Virginia derby was run in 1997, there hasn't been one winner that was owned by a Virginian. Got a lot of publicity, got it on TV, et cetera, but these were marquee races that put Virginia racing on the
map. We want to do that again.

The irony, of course, is last year, I think it was the Virginia -- the old Virginia Derby, the Commonwealth Derby that we ran at Laurel for the very first time I believe was at -- the Derby was won by a Virginia-bred horse. First time. But the point is we want to spend $200,000 to keep this brand, to keep the marquee events for when we reconstruct and reconstitute our racing here in Virginia and we'd like to take it back up to where it used to be and even surpass it. That's the reason.

So in a word, I'm looking for approval to spend $200,000 from our restricted purse account on these Maryland-run Virginia races. Let me quickly add that our agreement with the Maryland Jockey Club is that we will receive the horsemen's share of wagering on the races.

CHAIRMAN VAN CLIEF: Approximately how much do you think you would project that those receipts would total?

MR. PETRAMALO: If you throw in, excuse me. If you include the five Virginia-bred stakes and two graded stakes, I would say probably close to $75,000. Last year, it was about I think 60,000 or
something like that.

CHAIRMAN VAN CLIEF: Is that fair to say that our net expenditure would be one and a quarter?

MR. PETRAMALO: To be fair, you'd have to include both the 250 that we're spending for the Virginia-bred stakes and the 200, so it's 450.

CHAIRMAN VAN CLIEF: Okay. Just a moment, Mr. Berman. A couple of other questions. Just to be clear, if you go forward with the deal you're proposing now, is there an obligation to run those stakes in Maryland again next year if we do not have a venue for running them here?

MR. PETRAMALO: No. It's not an obligation. It's our option.

CHAIRMAN VAN CLIEF: Okay.

MS. EASTER: But I do want to be frank with you all, and I think this is all going to come up in the discussions. You know, we were all projecting we hoped we would have racing in 2017 at Morven. Still hope that that will happen, but as you'll hear in this discussion later on, you know, I don't know that we'll start -- the ground will actually start to be cut until probably late summer, fall, which means we miss the fall growing season, which potentially means racing gets pushed off until 2018.
So would we be back in front of this Commission potentially asking for money again in future years? I think yes. If that is the case and potentially even for the first year that we run at Morven Park, only because you just want to make sure that our track is what we hope it would be. We don't want to cause any unsafe situations so it's -- for that type of horse that would be -- while we want to use these races, this is a brand and publicity, we certainly don't want to do anything that would cause us a high level of negative branding.

So none of us can answer exactly how it's going to work in the next two years because we don't know the answers yet, but I'd say that's a possibility that's out there.

CHAIRMAN VAN CLIEF: As far as the maintenance of your grades, more obviously, you invested a lot of money in maintaining these graded stakes, you're making a point that you feel they're important to the rebuilding of the industry about which you've been consistent at least over the last couple of years, and in terms of maintenance of the grade, if you don't run next year, you're not in jeopardy, correct?

MS. EASTER: Don't know that. The rule said you
have to run because you couldn't go two years
without running them, and then the rule also says
you have to run two out of three. I'd have to
double check. The way you read it, I think you're
correct.

CHAIRMAN VAN CLIEF: Two out of three by running
this year, you could take the money this year and
use the money elsewhere?

MS. EASTER: Potentially.

MR. PETRAMALO: I think that's probably right.

MS. EASTER: But I can't promise you that
without making a couple phone calls, but that's the
way I would read that rule.

CHAIRMAN VAN CLIEF: That's my understanding
from looking at the rules.

MS. EASTER: Me, too.

CHAIRMAN VAN CLIEF: Lastly, when you change
venue again with your race and eventually hopefully
soon bringing it home to Morven Park, what risks do
you run that you can't maintain the grade at Morven
Park? Is there a significant risk there? Is that
something to worry about?

MR. PETRAMALO: I don't know whether it's a
significant risk, but it is certainly a risk.

CHAIRMAN VAN CLIEF: The graded stakes committee
reevaluates after a change of venue; is that correct?

MS. EASTER: They do, and part of the determination is, is it the same money, is it the same distance, is the race similar. We have already made that Maryland to Virginia, Virginia back to Maryland, hoping we can make the argument, but there's quite a bit of subjective decision-making on that graded stakes committee that I can't quantify a risk for you, but I think we have a good argument that, you know, as long as we can show that our track is a safe, a good track, you know, I think we can make that argument that we're trying to build a good brand. I think we might have some --

CHAIRMAN VAN CLIEF: I just want to make sure that -- I mean we understand there's risk involved here, that despite all best efforts it's possible to lose these grades --

MS. EASTER: Yes.

CHAIRMAN VAN CLIEF: -- at which point it'll look like good money after bad.

MS. EASTER: Yes.

CHAIRMAN VAN CLIEF: So I guess what I'm asking is, is your management team and are your directors satisfied that the potential return on this
investment is a wise one, or that the investment is wise and there is a potential return?

MR. PETRAMALO: Yes. I believe it is.

MS. EASTER: I think the boards are. Our boards have very much been, you know, let's get it done. I think we're getting it done as cheaply as we possibly can by splitting the cost with Maryland. I don't know how else we'd save. I think Frank has come up with a good deal.

CHAIRMAN VAN CLIEF: It's worth the $200,000 plus the risk in terms of a marketing expenditure; is that fair to say?

MR. PETRAMALO: Yes.

MS. EASTER: I think Dr. Allison can talk about the importance of what his big races do for his deal. It think it helps his whole brand of quality.

CHAIRMAN VAN CLIEF: I don't disagree. I understand the value of the marquee races and just want to make sure that the thought process has been complete and that your boards are evaluating risk and everybody is still enthusiastically on board, especially since we're probably at least potentially looking at a similar request again for next year.

MS. EASTER: Yes, sir.

MR. BERMAN: One minute. That's all I need.
CHAIRMAN VAN CLIEF: Mr. Berman, we want to hear from the public.

MR. Berman: Okay. Last year when Ms. Easter first made this proposal, it was that we would put up half the money and she announced that we would get half the handle. Then they came back in a later meeting and asked for additional money and said we were going to get all the handle.

Then at a later date, Ms. Easter addressed the Commission and said that the money was going to be taken out of the purse money that we send to Maryland. It was going to be taken out of that and that's how it was going to work.

And at the July 1st meeting, I asked Ms. Easter -- several people calmed me down because we were getting into a debate and you didn't want us doing that -- but I asked her if we were going to have that in a written contract and she said yes. And I have Mr. Petramalo in the transcript saying that money would be deposited into the post-July 1st purse account.

I made a Freedom of Information request just a month ago from Mr. Lermond. I already knew the answer to it. I asked him if there was a written contract or if he had seen any evidence of a
deposit, and the answer was no.

Back last year before these races, this was so questionable for me, I called the Maryland Thoroughbred Horsemens Association, talked to their president. He told me he had no idea about this arrangement. Then I called the head of your counterpart of the Maryland Racing Commission and he said he had no idea about this arrangement. I called Sal Sinatra. He didn't call me back. I left a message with his secretary.

I want some proof that we got that. Last time when you asked Mr. Petramalo, he arbitrarily said, oh, we got $59,000. I want to see the proof. I want to see a written contract and I want to see that check. That's all I have to say about that.

CHAIRMAN VAN CLIEF: Thank you. Again, I think my personal observation on these things is that as the reconstruction of our industry evolves, we are going to be dealing with these issues one at a time, every one singular, and I can assure everyone in the room that the Commission itself will take whatever steps it feels necessary to evaluate any financial data and make sure that we are satisfied with the way the cash is flowing.

MR. PETRAMALO: Let me just comment with regard
to that --

CHAIRMAN VAN CLIEF: Mr. Petramalo. Sure.

MR. PETRAMALO: -- for Mr. Berman's benefit. We provide the Racing Commission our monthly bank statements. We've provided our 2015 federal tax return, and most recently, we've provided the Commission our 2015 audited financial reports. There's transparency. We're not hiding anything or doing anything underhanded. What we do, you know.

CHAIRMAN VAN CLIEF: Right. And I've spoken with Mr. Lermond in his capacity as fiscal officer about that very point, and if we have any questions you'll be the first to hear them. We will keep an open mind and dialogue in that regard.

MS. EASTER: Just a quick brief. I'm not saying that we don't get up here and are nervous and you say something, but I think sometimes what happens is these Commission meetings might be 30 days apart, might be 60 days apart.

Our world right now in 30 days changes quite a lot. A deal you might have thought was happening 30 days ago might have changed quite a bit in there, and so maybe the timing, maybe we don't represent it, you know, maybe we didn't represent it publically, but I think that's more the chain of
what happens versus somebody trying to hide something. It just is a matter of timing and how things are talked out.

CHAIRMAN VAN CLIEF: The whole thing is evolutionary in nature and we're looking for best effort and good faith, and again, if we had any doubts about that, you'd know about it.

Okay. At this point, we're back to the request from Mr. Petramalo, which is for an allocation of $200,000 from the restricted purse fund to support our two remaining graded stakes, and takes into consideration that part of the deal is to grant Maryland -- is it the Maryland Jockey Club?

MR. PETRAMALO: Yes.

CHAIRMAN VAN CLIEF: -- the Maryland Jockey Club the rights to the old Turf Cup.

MR. PETRAMALO: Correct.

CHAIRMAN VAN CLIEF: Which will presumably become the new International.

MR. PETRAMALO: Correct.

CHAIRMAN VAN CLIEF: Any questions for Mr. Petramalo from any members of the Commission with regards to his request?

NOTE: There is no response.

CHAIRMAN VAN CLIEF: In that case, do we have a
motion to approve or deny?

COMMISSIONER DAWSON: So moved.

CHAIRMAN VAN CLIEF: Is that to approve?

COMMISSIONER DAWSON: Yes.

CHAIRMAN VAN CLIEF: Motion to approve the $200,000 allocation. Is there a second?

COMMISSIONER REYNOLDS: I will second it.

CHAIRMAN VAN CLIEF: Commissioner Reynolds seconds it. Any further discussion at this point?

NOTE: There is no response.

CHAIRMAN VAN CLIEF: If none, those in favor, signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Are there any opposed?

NOTE: There is no response.

CHAIRMAN VAN CLIEF: All right. Thank you much. Before we get into the VEA report, Mr. Hannum, I suggest that since we've been here for two hours and 37 minutes that we take a ten-minute break and let's come back at less than ten minutes. If we could be back at 12:45, Jeb, we'll start with your report.

MR. HANNUM: Okay.

NOTE: There is a recess at 12:41 p.m.

CHAIRMAN VAN CLIEF: I will recall us from recess. I'm sure Commissioner Miller will be here
in a minute or two. Mr. Hannum, your VEA report is
next up on the agenda.

MR. HANNUM: Thank you, Mr. Chairman. I'll
start. There are three items here under Letter E.
I'll just do it in reverse order, if I can. I'll
start with number three, Morven Park.

Morven Park is moving along. As I explained
before, and I'll just explain again, the complexity
out at Morven is that in that approximately 100 acre
piece of land where the racetrack will be, Morven
Park is also building what they are calling their
equestrian horse park.

So in the infield, there will be two rings for
versage and show jumping and various sort of
equestrian events, and so our racecourse, our track,
has to fit in with their plans and their plans have
to fit in with ours.

So it has been a very complicated sort of
engineering feat to get this to mesh and we've had,
you know, literally two dozen versions of how the
course would look and how their rings would look and
going back and forth, taking into account rocks that
are out there that have barriers around them where
building can't take place, streams, et cetera, so it
has been a complicated and time consuming process,
but we finally as of Friday signed off on a concept which is now going to be formally developed.

The engineering firm is developing what they call the civil engineering package. That will take about four weeks to develop. Then at the same time, there's a geotech process that goes on which takes up to six weeks where they go out and they literally look at the land affected and drill holes for rocks and those can take six to seven weeks.

Once those two are finished, then those two reports go into the county for review and comment and that can take up to four to six weeks. So there's all these sort of processes that are in place but are very time consuming and we know our friends in Louden can be very thorough when they're faced with these sort of projects.

So we're moving forward. All of that sort of preamble is just a way to say it looks unlikely that we'd be racing in Morven Park in 2017, which is a disappointment to us, but based on all the work and permitting process that's involved, it's just simply -- there's no way to accelerate the process because much of it is in the hands of the county for the approval process.

So we're pushing forward as quickly as we can
and hopefully 2018 will be the year that we're racing at Morven Park.

One of the things that I want to mention is that John Visaro [ph], who some of you may know or know of, John is one of the top track experts on the east coast, really in the country.

He's spent a number of years in New York and then in Maryland as the person responsible for the maintenance and the upkeep of the racetracks and spent time in Canada at Woodbine.

John has retired from those responsibilities and now is a consultant and he will be advising us on the Morven Park project, and we had him out at the course last week for the first time and he's very excited about the project and is, you know, understands and is enthusiastic about the concept that we're trying to do here, which is obviously different than a traditional racetrack. So I just wanted to mention that.

Dr. Steger has been very helpful. One of the things that we are looking at with Morven is where the crossing will be on the racecourse, because obviously, the Morven Park people have to access their infield, so we have to factor in the crossing, how it will look, if there's a secondary
crossing, the distance, the material. All these sort of things we're looking at for making the track as safe as possible and so we can attract the top-tier horses in the region.

So Morven is moving along but delayed from what we originally were hoping to be the start of racing for a year. If there are any questions on Morven, I can handle those or I can move on to Shenandoah Downs.

CHAIRMAN VAN CLIEF: No questions.

MR. HANNUM: Okay. Shenandoah Downs is going very well. There are bulldozers literally moving dirt as we speak. We are on target, I hope, for racing this fall pending Commission approval of our license, which we will be submitting shortly to the Racing Commission. Tom Eshelman, who is general manager at Shenandoah Downs is here and I'll let Tom sort of speak to the project a little bit.

We had brought a number of photographs of the course, the track to show you, and unfortunately, the disk that we used wasn't the right type based on the computer that we had, and inevitably those things despite best intentions tend to fall apart. You have to take my word for it. Commissioner Miller was out there the other day and can speak to
the fact that construction is well under way.

So, Tom, do you want to comment a little bit on what's happening out there?

MR. ESHELMAN: Be happy to. It's a very exciting time. Approximately I would say 14 to 15 pieces of equipment on the grounds. Four rock quarry dump trucks, if you can envision those moving dirt. We have approximately 4,000 cubic feet of dirt being moved in order to widen and increase the banking on all four turns. We lost, obviously, quite a few days in May due to the rain so they are behind, but they are diligently working feverishly to get it back on track. It's very much taking place. What you will see in changes was we had a track that was about 45 feet wide on the average, and now this track will be between 65 and 70 feet wide.

We used to run four, sometimes five wide. Now we will be able to run seven to eight wide. So there's a lot that's happening.

As Jeb described with what's going on with Morven Park, we have a crossing in order to use our infield other days of the year as well. That has already been designed. Geotech will take place with that. Just for concerns of the public is how moneys
are being spent and everything as well.

The improvements to the fairgrounds are having a huge trickling effect not only in our county, but in surrounding counties as well. The construction company comes out of Frederick County. They have approximately, like I said, 15 pieces of equipment on the grounds.

You have diesel fuel for this equipment. You have employees running this equipment. We located in Rockingham County, we're working with an audio company, utilizing Shenandoah County electric company. We're using Shenandoah County plumbing company.

At any given time from the scope of this project, you'll see anywhere from 70 to 80 different people impacted just from a labor standpoint hiring these business to help us out and assist in what's going on.

Shenandoah County is very excited about it. I've been on a speaking engagement tour. It is being met overwhelmingly at the Rotary Club with lots of questions and we're just very excited about it. We're glad to be a part of it and invite all of you all to come out. Mr. Miller did drop by approximately a week ago. It's just a lot of dirt
out there right now, but it's taking shape.

Okay. I will add we are -- the scope of the idea of bringing racing and expanding racing and introducing it to new folks through tours and everything, we are having events pretty much scheduled for each weekend that we're racing.

It's difficult to make them happen over two days. Most festivals don't take place over a two-day period of time, but for instance, the first opening weekend, which I believe will be the Virginia stakes races as well, we are going to feature a food truck festival both days, and it's free to the public to come to the racing.

So we don't want to have a situation where they're having to pay to come to see what this is all about. So they'll be able to come, view the racing, obviously participate with some various foods that will be there.

The second weekend is an annual festival that we didn't want to really compete against. It's called the Edinburg Ole Time Festival. So we didn't want to penalize our localities by having events that would compete with them.

So again, we'll run free admission. That festival is well attended. It's only four miles
from our track, so we're hoping to tie in and encourage folks that, hey, after you attend that festival, come on by and catch racing.

The third weekend of racing, we will feature a craft beer and chili festival. We've got a chili team coming in. We have 24 craft beers coming through. Again, just reaching out to the general public that might not have had themselves exposed to racing, so maybe converting some of those folks over.

We'll be featuring the first weekend of October the Wine and Trotter Festival, and that's our fourth year doing that, and that's becoming a very successful festival. It has definitely introduced people to harness racing that would have never seen it before. And how do we know that? Because they come back to our fair to catch it.

We still continue to do our four days of harness racing during the Shenandoah County fair, which will not feature pari-mutuel betting. It will be what we refer to as country racing.

The last weekend we'll have this year, still working on that, but we're looking to bring some sort of a food or seafood festival to the valley, and again feature that with racing, and obviously,
there's cost involved with some of these events, but you'll be able to still come and see the racing.

We're just excited about introducing new public to the sport and bringing them in. We've had some actual outreach from Charles Town racetrack as well. We're within a 45 minute, you know, proximity to them and we're hearing people just out on my speaking engagements, I heard people say I go to Charles Town. I'm looking forward to coming to you guys. So that's encouraging when you're out in the public.

CHAIRMAN VAN CLIEF: Thank you.

MR. HANNUM: Thank you, Tom. So the last thing on that list was OTB development and we'll speak more formally to that in a moment.

The VEA with the support of the Commission, Dave, has been very helpful to look at sites with us as we've gone through this process. We have looked at a number of sites that we've mentioned at previous meetings. We looked at a site this morning at 8:30 south of Richmond before today's meeting.

We have two sites that we had done some work for an application with. One of them we are submitting today for your review and approval. The second site, the ownership and management were not quite
ready to make the commitment, so we are putting that on hold.

So we have one application for you today for the satellite wagering facility at Breaker's Sports Bar and Grill, and it's our hope to continue to look at sites throughout the state where there has been a referendum and where we can have additional ones.

So I don't have a timeline right now. And you will see the second one, but it will sort of hopefully be if not at our next Commission meeting, the one after that. So we are moving as quickly as we can on this process.

So if you'd like to then transition into the application, we can, Mr. Chairman, or we can pause and introduce that more formally, but that's my update on those three items.

CHAIRMAN VAN CLIEF: Thank you, Mr. Hannum. Before we do transition into the licensure hearing, are there any questions on the report from Mr. Hannum and Mr. Eshelman?

If not, then Mr. Lermond, I want to make sure we did send out a hearing notice; did we not? So we will style this as a hearing within the Commission meeting, and I guess we need to swear in those who are going to give testimony. Who is going to do the
honors, Mr. Hannum?

MR. HANNUM: I'll start, and I think others may speak as well.

CHAIRMAN VAN CLIEF: Okay. We are in open hearing at this point.

NOTE: John Hannum is sworn under oath.

MR. LAWS: Can you tell me your name for the record?

MR. HANNUM: John Hannum.

MR. LAWS: What's your position?

MR. HANNUM: Executive director of the VEA.

MR. LAWS: How long have you held that position?

MR. HANNUM: About a year-and-a-half.

MR. LAWS: What are your duties in that position?

MR. HANNUM: To oversee the staff and to promote, sustain and grow the Thoroughbred and harness industry and breeding industry in Virginia.

MR. LAWS: Thank you. Continue whenever you're ready.

MR. HANNUM: So you'd like me to begin?

CHAIRMAN VAN CLIEF: Please.

MR. HANNUM: Okay. So you all were sent a formal application for the satellite wagering facility at Breakers Sports Bar and Grill. This
facility is on West Broad Street in Richmond. I will just sort of give an overview of the details of the submission.

Breakers is a bar/restaurant that has about a 120 person capacity. The facility is about 3500 square feet; it has two rooms. There's a nonsmoking room which includes a separate entrance. This nonsmoking room will be where the teller space is located; the money room, the safe, et cetera, and will also have three self-service machines and approximately ten televisions.

The smoking room, which is sort of the main area of the building and includes the tables for the restaurant and the main bar will include four self-service machines and approximately 12 televisions.

Initially, we'll have a contract for eight racetracks, which will be a mix of Thoroughbred and harness racing. Traditionally, the Thoroughbred meets are more sort of in the daytime, with the harness racing more at night.

It's important to point out that Breakers had the betting kiosks when EZHorseplay was operational. So there's a track record there amongst the customers for supporting wagering and there's been
excitement that this is going to be coming back.

Of the over 100 sites that had the kiosks throughout the state in 2014, Breakers was sixth in the amount of handle that they generated, so in the top tier of all the different sites throughout the state. This is one of the reasons why we've selected this establishment.

In terms of the financials, we will be paying a rent of the greater of $500 or .25 percent of handle. I mention that because we wanted to have an incentive for the bar owner to work with us as we promote and market the facility.

The EZHorseplay, when they were operational didn't pay any percentage of handle. There was no incentive for the owners to get people in the door, so we hope that this is helpful as we promote the site.

We have a signed two-year lease right now with an option for two five-year renewals. We anticipate based on the handle at Hurley's and at Colonial Downs' larger SWF on Broad Street that we could be at $5 million of handle by 2018.

The arrangement we have with the horsemen's group is that 50 percent of the net cash flow will be split with the horsemen's groups and the VEA.
I point this out because this will help provide additional funds for the VEA for putting on racing as well as to generate money for purses.

So one of the things in our steps going forward is we have to consider ways that the VEA can have funds to put on additional races as we generate funds for purses.

In terms of security at the facility, we'll have closed circuit televisions. We'll have an alert system wired to police and the fire department, should there be any problems. Our staff will be uniformed and will have protocols for cash management, and I mentioned we will have a safe on site which will be bolted to the floor in the teller room.

Breakers has a loyal customer base. We have been there a number of times. It's a sports and pool facility with a clientele that's excited about this activity. The ownership has been very cooperative and supportive of this.

The parking is very good and the food is very good, as we've had a few meals there, so we're excited about this site. We look forward to moving forward as quickly as possible and I open this up for additional questions and thank you for the
consideration of this application.

CHAIRMAN VAN CLIEF: Thank you. I've got a question or two just on your pro forma. I think you're projecting about a 30 to 40 percent increase of gross handle every year for the next four years, and could you talk a little bit more about what gives you the confidence to think that you will hit those kind of percentage increases?

MR. HANNUM: Yeah. So we are basing this on the fact that Breakers is going to be the only OTB in Virginia, certainly for a few months, and also looking at what Hurley's did when they were fully operational, as well as the fact that there was the larger OTB down the road when Colonial was operational.

So based on the numbers that Hurley's handled, we feel this is a reasonable estimation for this facility and for the size of the facility, and we hope that for the balance of this year, if we can get the facility up and running quickly, we would do one million five, and then looking into the first full year of operation, we hope to be at three million.

CHAIRMAN VAN CLIEF: At the same time, you are projecting a $25,000 a year expenditure, and that's
flat 25 a year throughout your projections from a marketing standpoint. What are you going to do to support -- what will that consist of, what is your marketing mix and do you think that's sufficient to support the kind of increases you're driving?

MR. HANNUM: Sure. That budget, that line item can certainly be increased or decreased as necessary. One of the things that we'll be doing most visibly is on the outside of the building, we'll be putting up signs to notify people this is a site for wagering. We're going to be doing a lot of advertising in the local print media. We're looking at radio spots. We have our own database of horsemen and supporters that we've developed over the years that we'll be communicating to.

So we feel in the Richmond area, there's a lot of different vehicles for how we can get the word out, and so we are going to be utilizing all of them. Again, this is going to be unique as the only OTB operational in the state for some time.

CHAIRMAN VAN CLIEF: My last question is you touched on this earlier in your presentation. Can you be a little more specific about the product that you are going to be importing? What will we see in the way of import races and who are you going to be
featuring at the facility?

MR. HANNUM: Good question. So the initial contract enables us to have eight different tracks, so I'm not sure exactly who we're going to have right now, but we certainly hope to have New York, Florida, California, Pennsylvania races on Monday and Tuesday, and then harness, as I mentioned, is in the evening.

So I don't want to put anyone on the spot, but Mary Calabrese is our consultant. Mary, I don't know if you want to speak to sort of the contract with the Roberts. And again, you know, that's a contract that we'll be negotiating. But Mary, can you tell them about that?

MR. LAWS: Need to swear you in real quick.

NOTE: Mary Calabrese is sworn under oath.

MR. LAWS: What's your name, please?

MS. CALABRESE: Mary Calabrese.

MR. LAWS: What's your position?

MS. CALABRESE: I'm the pari-mutual consultant.

MR. LAWS: How long have you held that position?

MS. CALABRESE: Six weeks.

MR. LAWS: You're the consultant for which group?

MS. CALABRESE: The Virginia Equine Alliance.
MR. LAWS: Prior to you having this position for six weeks, what was your background in pari-mutuel?

MS. CALABRESE: I have worked ten years at Colonial Downs; two years as assistant general manager and eight years as the executive director for ADW, and I was the one that helped initiate the kiosk networks throughout the state of Virginia.

Prior to that, I had worked for (inaudible) Park up in Portland, Oregon as a director of operations for their racing channel ADW. I worked 15 years at Moorefield Park as their assistant general manager, and prior to that, I worked at The Meadows racetrack in Pennsylvania.

MR. LAWS: Thank you. You can continue.

MS. CALABRESE: Okay. So what we're going to do is get together and we're going to -- we have a schedule of all of the racetracks and what dates they race throughout the year.

We are going to put together what we feel as though is going to be a good mix of racing programs, and then what we will start doing is going out and start requesting contracts for these simulcast signals, and some of them we'll get, some we won't, and some will depend on the amount we have to pay.

Of course what we want to do is obviously get
the big ones from (inaudible) group and Churchill Downs, and we have a working relationship with them with the ADWs here in Virginia. We feel as though we'll get those signals. So it's just a matter of a lot of work ahead of time to get them set up and get the contracts in place.

So when Jeb says we have eight signals, we have eight in the afternoon and eight in the evening, and we can extend that if we want to. We can increase the number of signals and we feel we are doing better and want more racetracks.

We have to be careful, too, because we have so many in the morning and so many in the afternoon, and then we have what we call bridge racetracks, so we have to be careful how we schedule everything to make sure we get the most out of each signal that is coming in.

CHAIRMAN VAN CLIEF: Thank you very much, Mary.

MS. CALABRESE: You're welcome.

CHAIRMAN VAN CLIEF: Questions from anyone else for Mr. Hannum on this? I have a question for Mr. Lermond. From a staff standpoint, have you had ample opportunity to review the application, and if so, does it meet with all regulatory and statutory requirements that we are required to meet?
MR. LAWS: Can you state your name for the record, please?

MR. LERMOND: David Lermond.

MR. LAWS: What's your position?

MR. LERMOND: Acting executive secretary.

MR. LAWS: How long have you worked for the Virginia Racing Commission?

MR. LERMOND: Almost 13 years.

MR. LAWS: Thank you. Go ahead.

MR. LERMOND: Yes, Mr. Chairman. I thoroughly reviewed the application and it contains almost all of the required information. I would draw your attention to the staff report that I prepared. There are six conditions at the end, so if you wish to approve this application, I wish you would reference those six conditions in your motion for approval.

I'm very excited about the site. I think it's in a great location. I think the owner is very engaged. He's going to do everything he can to make it a success, which is an important aspect at one of these smaller OTBs. If the owner isn't engaged and doesn't care, it doesn't stand as good of a chance at being successful as when you have an owner like
Chris.

So I also would say that I think maybe their projections are a little bit conservative and I tend to be a little conservative when I project, frankly, but it wouldn't surprise me in the first full year if we do five million based on what Hurley's had done and what the Broad Street OTB had been doing when they were both open at the same time.

CHAIRMAN VAN CLIEF: Thank you. That's very encouraging. Any further questions?

MR. LAWS: I did want to draw the Commission's attention to the code of Virginia section that authorizes and regulates these licenses. That's code of Virginia § 59.1-383.

It defines what this license must say, and it says the license has to be for 20 years from the date of issuance. It shall designate on its face the type or types of horse racing or pari-mutuel wagering for which it is issued, the location of the track or satellite facility where the wagers are to be conducted, period during which such license is in effect, 20 years, and any such other information as the Commission deems proper.

So the license should on its face contain that information and that should be determined by the
COMMISSIONER MILLER: What is that code section again?

MR. LAWS: 59.1-383.

COMMISSIONER MILLER: I have a motion to make.

CHAIRMAN VAN CLIEF: Commissioner Miller.

COMMISSIONER MILLER: I move that we grant the license in accordance with the license application for a satellite wagering facility at Breakers Sports Grill and Bar in Henrico, Virginia by the Virginia Equine Alliance, Incorporated, subject to all the provisions of § 59.1-383 of the code of Virginia, and subject to the recommendation set forth in the Virginia Racing Commission's staff report on pages four and five of that report under the title recommendations; that is, the conditions one through six. Got it?

CHAIRMAN VAN CLIEF: Thank you, Commissioner. Is there a second?

COMMISSIONER DAWSON: I second.

CHAIRMAN VAN CLIEF: Second. Any further discussion, questions? All in favor, please signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Are there any opposed?
None opposed. Motion carries. Thank you very much.

MR. HANNUM: Thank you, Commissioners. Just one final point. Tab R references the group that put this report together, and I just wanted to thank Easter Associates, Debbie Easter, Frank Petramalo, Mary Calabrese, Darryl Wood, and really the whole VEA group for putting this application together. So I just wanted to acknowledge them for the record. Thank you.

CHAIRMAN VAN CLIEF: Thank you very much and thank you all for getting this up and running and we're looking forward to it with great excitement.

Okay. We may have already done this in bits and pieces this morning. We are open for additional public comment, if there is any. If none, then it's an opportunity for additional comments from commissioners. Start with our vice chairman.

COMMISSIONER DAWSON: Thank you, Mr. Chairman, and congratulations to you for running a very efficient meeting. I'm excited about the prospect of a lot of the things that we discussed today and I'm looking forward to continuing to work with stakeholders to make improvements and finally get to the point where we have our premium racing here in the Commonwealth of Virginia.
CHAIRMAN VAN CLIEF: Thank you. Commissioner Miller, comments? Commissioner Steger?

COMMISSIONER REYNOLDS: In the interest of time, we will keep moving.

CHAIRMAN VAN CLIEF: Again, yes it is. Now, before we go into closed session, I'd like to go back to Mr. Hannum's comment on a meeting date. As we did for this meeting, I'd like to set this up so that you're prepared, and I'm happy to go ahead and schedule a meeting.

I'm sure all the commissioners would come back next month if you are ready with another license request. We do have some committee meetings to operate.

Commissioner Dawson's definitely planned to have her Medication and Safety Committee get together during the month of July so we can tend to those details and have those conversations while we're waiting or we can go a month now.

If you don't think you will be ready, I'm happy to defer and we can pick a date in August, understanding that I think some of us will be out of town during a part of August. I know there are a lot of meetings. At least I've got a whole week full of them at Saratoga during that month.
MR. HANNUM: I would like to let you know what our intention is at the next meeting or the meeting after that, would be to have the license application for racing at Shenandoah Downs. That will be a four- or five-week process to put that together, so I would be sort of leaning more towards an August meeting date, and then we may have another OTB license application ready. But so that would be my suggestion that we perhaps skip July and look to August.

CHAIRMAN VAN CLIEF: Okay. Do you think you'd be ready early on or sometime after the 15th? If you don't mind, just cross out the 8th through 15th.

MR. HANNUM: Why don't we do -- so you want to do something maybe Tuesday the 16th?

CHAIRMAN VAN CLIEF: Let's go a little -- I know that we are going to have some folks in Saratoga for the round table conference.

MR. PETRAMALO: When is the round table?

CHAIRMAN VAN CLIEF: The round table, Frank, is --

MR. PETRAMALO: The 21st?

CHAIRMAN VAN CLIEF: The round table is Sunday the 14th of August. So Monday is probably a travel day. You know, maybe Wednesday the 17th, Thursday
the 18th.

MR. HANNUM: That would be fine. Yeah. The end of that week or early the next week. Whatever is best for you all.

CHAIRMAN VAN CLIEF: All right. Why don't we shoot for Thursday the 18th? I don't know if we may lose some folks, too. There's a secondary -- the 13th and 14th. Let's try to go toward the end of that week of the 15th, if you can wait that long. I don't want to defer any longer than we have to. We want to act on these license requests ASAP.

MR. HANNUM: Yes.

CHAIRMAN VAN CLIEF: So tell me what you think would work best for you if you could be ready. Also giving Dave Lermond ample time to go through and due diligence that we require from staff.

MR. HANNUM: Right. Well, we could certainly look at the 18th.

CHAIRMAN VAN CLIEF: Okay. I will ask my fellow commissioners if the 18th looks like a doable day.

COMMISSIONER DAWSON: Yes.

CHAIRMAN VAN CLIEF: Let's set it for ten o'clock on the 18th. If something comes up that we aren't anticipating or recognizing today, then we'll make changes.
MR. HANNUM: Thank you.

CHAIRMAN VAN CLIEF: Thank you. Okay.

Mr. Laws, at this point, I would like to take us into closed session. Before we do that, I want to make sure that we're all on the same page with why we're going into closed session.

We are at the final point, I hope, today in our executive search process. We're seeking some advice from the Attorney General's office in that regard in terms of the steps we take to make sure we're in compliance with state rules, regs and statutes.

Given the evolution this morning, I'd also like to see if we can't wrap up the open business with regards to the Boucher hearing. So I would -- counsel, I'd seek advice in that regard, too.

Is there any -- I'll ask my fellow commissioners do we have any other issues that we might wish to discuss in a closed session that we should recognize when we make the motion at this point?

In terms of process and before we do that, what I'd like to do is go into closed session, then we will recess and remaining in closed session, we're going to vacate these premises because this room turns over shortly and we won't have enough time.

We're going then to vacate to -- Sarge Reynolds
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has very kindly made his facilities at Reynolds Development available to the Commission.

We are authorized in closed session between now and 15 days hence to conduct interviews for the executive secretary position. We do have some of those lined up, and if we are fortunate, we will wrap that process and be in a position to make an offer to a candidate by the end of today.

So that's the process ahead of us. So we have two issues, executive search and legal advice in that regards, as well as to take advice on what our options are in terms of the amending the stewards' decision, particularly with the punishment that was handed down and bringing that issue to closure as well today.

COMMISSIONER MILLER: Mr. Chairman.

CHAIRMAN VAN CLIEF: Yes.

COMMISSIONER MILLER: In order to close the appeal that we heard today, we would have to come back into open session.

CHAIRMAN VAN CLIEF: We will have to come back into open session.

MR. LAWS: And have a public vote.

CHAIRMAN VAN CLIEF: Is there any reason we can't do that this afternoon at the venue when we
vacate this room where we're going?

MR. LAWS: Yes, because the notice says that it was going to take place here.

COMMISSIONER MILLER: Okay. So after our closed session.

CHAIRMAN VAN CLIEF: From a timeline standpoint, hopefully, we can go into closed session here, come back and wrap the hearing.

COMMISSIONER MILLER: And then go back into closed session.

CHAIRMAN VAN CLIEF: Then go back into closed session.

COMMISSIONER MILLER: And vacate.

COMMISSIONER STEGER: We have people traveling from various parts of the country here. I'm trying to get in touch with them as we speak regarding I've already asked for a delay, but I think if we go very long in closed session, the whole schedule is going to be disturbed.

They have airplanes to catch and things like that. I had adjusted our first candidate to begin the interview at two. I'm happy to come back here or whatever is necessary. I don't want to -- these people have gone to a lot of trouble to be here today. I don't want to disrupt the interviews.
CHAIRMAN VAN CLIEF: What are our options from a practical standpoint and still remain within our legal parameter?

MR. LAWS: If Mr. Petramalo and his clients are willing, you can continue the hearing until the next public meeting of the Commission in August. Yeah. I think that's the most recent one we settled on today.

I know that's two months and people are waiting to determine what the purse is, and I know funds have been held up. So my legal advice would be very quick. I can tell you that. I'm just going to tell you what your options are, and I don't necessarily think it needs to be in a closed meeting, so I can do it right now if you'd like to.

CHAIRMAN VAN CLIEF: Let's do it.

MR. LAWS: The legal options for this hearing are found in three sections of the Virginia administrative code. The first section is 11 VAC 10-70-10, and that provides disciplinary actions that stewards and the Commission can take are revocation of a permit, suspension of a permit, assessment of a fine, reprimand, probation, or any combination of the above.

It also says disqualification. That's a ruling
by -- that revises the order of a finish of the race. Reprimand is defined as a form of disciplinary action where the holder of a permit is reproved severely in writing by the stewards or the Commission.

So you have those options: revocation, suspension, assessment of a fine, reprimand, probation, disqualification or placement on the stewards' list, which basically says that a horse was somewhat unruly and until the Commission receives sufficient evidence to show that a horse is no longer unruly that the horse can't run in any races.

COMMISSIONER MILLER: Is that part of the probationary --

MR. LAWS: That's separate and apart from probation.

COMMISSIONER MILLER: What do you call it?

MR. LAWS: The stewards' list.

COMMISSIONER MILLER: The horse be put on the stewards' list. I think I've found it. That's in 11 VAC 10-70-40, Subsection 12. And then we have the final option, 11 VAC 10-70-60, Subsection 19, which allows the stewards of the Commission to issue reprimand, assess a fine, require forfeiture or
redistribution of purse or award, probation, suspension, revocation of a permit or exclude from the grounds under the jurisdiction of the Commission. So those are all of your options.

CHAIRMAN VAN CLIEF: Listening to the conversation this morning, it seemed to be the consensus of the Commission was that an infraction did occur. We support or stewards' authority in the box, out of the box, in the race, out of the race, on that racetrack and on the grounds to take action, but that there was a consensus feeling that the punishment didn't match the infraction and that there was a desire to do something slightly less severe.

If we wanted to place that horse on the stewards' list until the trainer could demonstrate the horse is ready to run again and assess a fine but a lesser amount than the purse that was withheld, do we have that course of action and can we do that, and if so, what steps do we have to take now?

MR. LAWS: Yes. You can do that, and Dave or Frank, please correct me if I'm wrong. If the horse is placed on the stewards' list, the horse is not disqualified from the race, and so the horse would
then be put back in the position in which it finished the race and every other horse would be affected in its finish in the race were to change. Is that correct, Dave?

MR. LERMOND: Except for the first place horse, which would remain in first.

MR. LAWS: Frank, do you agree?

MR. PETRAMALO: Yes. The original finish of the race would stand.

MR. LAWS: Much more concise. Thank you.

MR. PETRAMALO: Let me say something about the stewards' list if you're not familiar with it. It's quite a common thing, certainly in the steeplechasing world.

If you have a horse that refuses to start or is unruly for some reason or other, it's quite common for that horse to be put on the stewards' list, and as D.G. suggested, you don't get off the stewards' list unless the trainer can demonstrate that the horse is no longer unruly, that the horse will start when asked, et cetera. So that's quite common.

MR. LAWS: So then the --

MR. PETRAMALO: I've had a horse on the stewards' list.

COMMISSIONER MILLER: If anybody will support my
motion, I will make a motion, and if anybody wants to modify, then they may do so, but I move that the penalty involved in this case be reduced to that this horse be put on the stewards' list, no fine because there were extenuating circumstances involved in this, in my opinion.

Number one, it wasn't clear that the horses were in the box. Number two, I think it occurred outside the parameters of the actual race itself. Number three, it's obvious from the video that the number one horse, I think it was the number one horse, bumped and completed the turn-around of the victimized horse. So there was some culpability there. It wasn't all on this accused horse.

COMMISSIONER REYNOLDS: I totally agree.

COMMISSIONER MILLER: That's my motion.

COMMISSIONER REYNOLDS: I'd like to second that, unless there are some other commissioners that want to modify it. That's exactly the way I felt.

CHAIRMAN VAN CLIEF: I'll be the devil's advocate just for the sake of argument. I candidly feel, as always is the case in these things, a bit between a rock and a hard place.

I think the appellant makes a good argument. We watched the video. There is still question in my
mind as to what really happened out there. The video is a high enough quality to be definitive.

On the other hand, I'm always looking for a way to be supportive of our stewards who are professionals, do a good job, and I don't think call infractions unless they believe they see one. So I've got to give some benefit of the doubt there as well.

COMMISSIONER MILLER: I'm not saying there wasn't an infraction. They saw what they saw and we saw it. So my point is the extent of the infraction. No doubt there was an infraction and the horse was unruly. That horse caused a brush up against another horse that it shared with another horse.

CHAIRMAN VAN CLIEF: I think we agree with that. I think that's well put. I would say then I'm going to put this out for conversation. That given that scenario that that horse did cause an infraction, there is no responsibility on the part of the trainer and the jockey and the owner of that horse.

I will suggest that we do include a fine in our findings, but something less than the purse and the Virginia-bred award that was at stake initially.

COMMISSIONER STEGER: I would consider and I
would suggest maybe $2,000 or $3,000. It's significant enough.

MR. LERMOND: Are you fining the rider? Are you fining the rider of the horse? Is that where you're going?

CHAIRMAN VAN CLIEF: No. I think we're going, fining the owner. I think we're talking about a deduction from the purse payment. All right. Well, I think what we have is a point of view that looks like it might yield a motion that we would acknowledge the infraction, put the horse on the stewards' list and assess a fine of $2,000 to $3,000. Why don't we split the difference and say 2500?

COMMISSIONER STEGER: I think something ought to be done, but it should not be excessive.

COMMISSIONER MILLER: I hate to be an outrider on this, but I swear a $3,000 fine or a $2,000 for what I saw, it reminds me of that golf tournament Sunday where the officials did probably, you know, what was within their power what they thought was the right thing to do, but it was absolutely out of line.

I don't -- the stewards did their job. They saw something and they did something about it, but to
fine this man, the rider or the owner which is his wife?

MR. PETRAMALO: Yes.

COMMISSIONER MILLER: -- 2,000 or 3,000 for what I saw, I have to vote no.

COMMISSIONER REYNOLDS: I agree with Commissioner Miller. I saw the same thing. I think the starter probably had -- I don't know what he saw, but he had every opportunity to get them to circle one more time, get straight before he dropped that flag. I think he was quick to drop the flag.

I think that one definition about during the race, I don't think they were inside the box. Certainly those horses acting up weren't inside the box, and you know, I concur.

I don't know that I would vote no, but agree with Commissioner Miller that I don't know that there should be a huge fine, if any. I don't think there should be any, except to go on the stewards' list.

CHAIRMAN VAN CLIEF: The vice chairman recusing herself, that creates a deadlock. Commissioner Steger?

COMMISSIONER STEGER: I will defer to my distinguished colleagues to just having them on the
stewards' list.

CHAIRMAN VAN CLIEF: I do want to be supportive of our stewards as well, but it looks like we are three to one at this point. In that case, Commissioner Miller's motion, I take it -- well, let's go ahead and vote again. All in favor, signify by saying --

COMMISSIONER REYNOLDS: To Commissioner Miller.

CHAIRMAN VAN CLIEF: Commissioner Miller's motion is that we put the horse on the stewards' list, that we do not assess a fine. We need a second.

COMMISSIONER STEGER: Second.

MR. LERMOND: Mr. Chairman.

CHAIRMAN VAN CLIEF: Yes.

MR. LERMOND: What would be the conditions of the horse being on the stewards' list? Would it be for a set amount of time or until the horse can demonstrate that it can start properly in a race? There's just normally some condition when a horse is on the stewards' list.

CHAIRMAN VAN CLIEF: Help us out a little bit, Dave. If we leave that up to the stewards, what would the trainer normally have to demonstrate to be satisfied that the horses are a good actor again and
can we not leave it to their judgment?

MR. LERMOND: In this case, I think it should be your requirement.

COMMISSIONER MILLER: Mr. Chairman, my motion was made on the basis of my understanding of what the stewards' list was. What Mr. Petramalo described the stewards' list is, you're put on the list until that trainer or owner of that horse can come forward and show to the satisfaction of whoever is running the race that that horse will behave.

MR. PETRAMALO: That's correct.

COMMISSIONER MILLER: That's the basis of my motion.

MR. PETRAMALO: Yes.

MR. LERMOND: That horse can demonstrate that in the next race or the race where there isn't wagering involved.

COMMISSIONER MILLER: Yes. If they show up next year and they can show that horse is a nice horse, fine, and no problem, fine. If they can't, they can't run.

MR. LERMOND: Thank you, sir. I just wanted to clarify.

CHAIRMAN VAN CLIEF: Does that clarify it for you?
MR. LERMOND: Yes.

CHAIRMAN VAN CLIEF: Okay. We have a motion, we have a second. All in favor, signify by saying aye.

NOTE: All Commissioners except Chairman Van Clief vote aye.

CHAIRMAN VAN CLIEF: Any opposed? Me. Okay. Motion passes.

COMMISSIONER MILLER: I want to say one other thing. Talk too much, I realize that. I'm not showing non-support for the stewards. I know it's important to show support for the stewards. The stewards have an important job to do, but you know what, we cannot go forward as a quasi judicial body in the future if we have cases like this again where there's any kind of more emphasis put on supporting our stewards. That's not what we're here to do.

When we hear an appeal from a steward's ruling, we're not here to determine whether or not we're supporting the stewards. We're here to consider facts put before us and consider the citizen out there who is aggrieved. That's all I have to say.

CHAIRMAN VAN CLIEF: I would agree with that, and I do think that some of the not necessarily nuances, but the arguments made about where the stewards' authority begins and ends and where the
law begins and ends, I think that when the horse steps on the track, the owner, jockey and trainer have a responsibility to the rest of the field and the stewards have a responsibility to the horses. I don't disagree with anything you say about that.

At this point then, we're ready to go into closed session, and I think that at this point, we only need to go to closed session to receive advice on the balance of our executive search process.

MR. LAWS: Dave, did you have a motion you were going to read to go into closed session or did you want me to read it?

MR. LERMOND: I was not provided law.

MR. LAWS: All right. At this point then, the Commission will have a recorded voice vote to go into closed session under § 2.2-3711(A)(1) of the code of Virginia, for the discussion, consideration and interviews of respective candidates for employment for the position of executive secretary of the Virginia Racing Commission, and the Virginia Racing Commission will not consider or discuss any other issues besides the issue that was specifically mentioned in this prospective motion. Is that motion made by any commission member?

COMMISSIONER REYNOLDS: So moved.
COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: All in favor?

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Any opposed?

NOTE: There is no response.

CHAIRMAN VAN CLIEF: Thank you. In closed session.

NOTE: The closed session begins at 1:46 p.m., and Chairman Van Clief notes for the record that the meeting is adjourned at the State Corporation Commission location at 1:49 p.m.
CERTIFICATE OF COURT REPORTER

I, Sandra G. Spinner, hereby certify that having first been duly sworn, I was the Court Reporter at the meeting of the Virginia Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the foregoing transcript is a true and accurate record of the proceedings herein.

Given under my hand this 5th day of July, 2016.

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SANDRA G. SPINNER
COURT REPORTER