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2  
3 **VIRGINIA RACING COMMISSION**

4 STATE CORPORATION COMMISSION  
5 TYLER BUILDING  
6 COURTROOM B  
7 1300 EAST MAIN STREET  
8 RICHMOND, VA 23219

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11  
12 wednesday, July 10, 2019 at 10:00 a.m.  
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16 **COMMISSION MEMBERS:**

17 D.G. Van Clief, Jr., Chairman  
18 Stuart Siegel, Vice Chairman  
19 J. Sargeant Reynolds, Jr.  
20 I. Clinton Miller  
21 Stephanie B. Nixon

22 **COMMISSION STAFF:**

23 David S. Lermond, Jr., Executive Secretary  
24 Kimberly C. Mackey, Business Manager  
25 Rhonda Davis, Pari-Mutuel Wagering and Licensing  
Coordinator

26 **ATTORNEY GENERAL'S OFFICE:**

27 Robert N. Drewry, Esquire  
28  
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30  
31  
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33  
34  
35

36 **CAPITOL REPORTING, INC.**  
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1	1. Call to Order	3
2	2. Approval of the May 22 <sup>nd</sup> meeting minutes	3
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4	4. New Business	
5	a. Request for Approval of Final Amendments to Chapter 120 (Claiming Procedures)	21
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1 THE COURT: Good morning, Ladies and  
2 Gentlemen. It is ten o'clock, and therefore, I  
3 would like to call to order this meeting of the  
4 Virginia Racing Commission. We do have all  
5 commissioners present and we'll begin with the  
6 first order of business, that being to consider  
7 approval of our May 22<sup>nd</sup> meeting minutes.

8 I did review those and I didn't see anything.  
9 I show it to my fellow commissioners. Anybody  
10 have any modifications they care to suggest or  
11 modification of the minutes?

12 COMMISSIONER SIEGEL: Move to approve.

13 CHAIRMAN VAN CLIEF: We have a motion to  
14 approve. Any second?

15 COMMISSIONER REYNOLDS: I'll second.

16 CHAIRMAN VAN CLIEF: Thank you very much. Any  
17 opposed? The minutes of the May 22<sup>nd</sup> VRC meeting  
18 are approved.

19 We'll now go to the public comment period.  
20 Does anybody have any comments they'd like to make  
21 on the agenda this morning or any other topic  
22 related to that matter? If so, when you do speak,  
23 if you would preface your remarks by stating your  
24 name for the record. I ask that you keep it to  
25 five minutes, although I think we do have one

1 request already for a couple of minutes grace  
2 period which we are happy to grant. Mr. Berman.

3 MR. BERMAN: Good morning. Thank you. For  
4 the record, my name is Tad Berman. Today, I'd  
5 like to address two of the items on the agenda;  
6 the benevolence fund and also the 2020 race days  
7 and beyond.

8 I'll just take a second about this benevolence  
9 fund. You might say I was a catalyst for that  
10 bill 20 years ago. Mr. Jacobs was failing to keep  
11 up the OTB on Broad Street. We were over there.  
12 The place was becoming delapidated. We were  
13 walking through urine in the bathrooms and I kept  
14 coming to these Commission meetings and hammering  
15 away until finally the Racing Commission came up  
16 with this breakage bill. It wasn't exactly what I  
17 wanted, but there was 30 percent of that money  
18 that was dedicated to benevolence and I was happy  
19 with that. I was pleased with that.

20 Let's see. That bill was probably in 2001 and  
21 each year, I began to keep up with how that money  
22 was being spent, and from the beginning, I had  
23 some objections, but I'll cut through all that.

24 I'll just tell you I spent probably 20 hours  
25 at the Library of Virginia over at the big

1 warehouse on Laburnum where you have to ask for a  
2 box of information from ten, 15 years ago. I did  
3 this for weeks until I was able to put together  
4 the entirety of this benevolence bill and how it  
5 has been abused. Now I have that.

6 I'm not gonna get too much into detail, but I  
7 am gonna read right here. The benevolence bill  
8 says that 30 percent be deposited in the racing  
9 benevolence fund administered jointly by the  
10 licensee and the recognized majority horseman's  
11 group racing.

12 The licensed race meeting to be disbursed with  
13 the approval of the Commission for gambling  
14 addiction and substance abuse counseling,  
15 recreational, educational or other related  
16 programs.

17 I'm gonna read you 18 things that are  
18 questionable about that benevolence bill. Number  
19 one. Buy fertilizer for the turf track. How does  
20 that fit into the benevolence bill? \$25,000 worth  
21 of landscaping, television sets, mattresses  
22 and air conditioners.

23 You might remember five years ago, I stood up  
24 and said something about that. That was just the  
25 tip of the iceberg, but I noticed that every year

1 the HBPA was coming back and asking for \$4,000 and  
2 \$5,000 for either air conditioners or mattresses.

3 I've got -- I used to have one of those small  
4 window units and I remember one time I dropped it  
5 out of a second story window and it still worked,  
6 so I knew that something hokey was going on with  
7 these air conditioners and these mattresses. Even  
8 Mr. Petramalo said they didn't purchase those  
9 every year, but they were always on the budget.

10 A track-based inspection for \$3,000, contract  
11 labor for \$10,000 to hang mesh and do various odd  
12 jobs, ventilators in the receiving barns.

13 An intern program that would provide manpower  
14 to the VHBPA year round, sunscreen mesh for barns,  
15 eight misting fans, gutters for the barns, seed  
16 for the track, fans in the receiving barns,  
17 pesticide, training wheel starting gate, concrete  
18 pads for the barns and storage pods for the  
19 trainers.

20 I have a problem with all that stuff. You  
21 know, Mr. Petramalo even changed the name from the  
22 Racing Benevolence Fund to the Back Stretch  
23 Improvement Fund and that's not how it was  
24 intended. It was intended to benefit people on  
25 the back stretch, but others also. It was never

1 intended to be a Back Stretch Improvement Fund.

2 They also used to deposit the money into the  
3 back stretch improvement escrow account. Okay.  
4 They renamed it. Dad used to tell me if you tell  
5 a lie enough times people will start believing it.  
6 For me, that's how I see it.

7 Mr. Petramalo also said one time, Maybe we  
8 spend it, maybe we don't. I just want to know now  
9 when the benevolence bill this year, when we  
10 settle, I want some accounting done. I want to  
11 know how much money is spent. I want receipts. I  
12 want to be able to go back and reconcile whatever  
13 you approve them to have against whatever they've  
14 spent and then I want to know where the rest of  
15 that money is going. We've never been able to do  
16 that.

17 Commissioner Miller was on that Commission  
18 back in 2010. When this issue was brought up,  
19 Commissioner Miller made a comment that there was  
20 nobody here to represent those people and probably  
21 never will be, but I'm gonna be here to represent  
22 them and make sure this abuse doesn't happen  
23 again.

24 If we go straight to the budget now, I'll tell  
25 you what I'm looking at. I got a lot of things

1 that I have a problem with here. Hats  
2 and t-shirts. I see that on there every year.  
3 VHBPA hats, VHBPA t-shirts. If they want hats and  
4 t-shirts, they can pay for them themselves.  
5 That's self-promotion. That's not benevolence.  
6 That's just a way to self-promote themselves. I  
7 think you should strike that altogether.

8 A chaplain. You know, a chaplain is a good  
9 thing and I am glad that they are gonna have some  
10 kind of religious or some kind of clergy out there  
11 to help these people, but when I see you're  
12 spending \$8,000 for six weeks for a clergy, I  
13 think that's a little high. That's like \$1400 a  
14 week, something like that. You know, there's a  
15 lot of good churches and synagogues around here  
16 that could provide.

17 I'm sure these people would be happy to  
18 provide a clergy over there at the racetrack. All  
19 you gotta do is make a small donation to their  
20 church. They would be happy to do it. I'm not  
21 convinced that we need to spend \$8,000 for a six  
22 week meet for a chaplain.

23 Transportation. \$5,000 for a van. You know,  
24 that seems like a lot of money to me. I tried to  
25 find out yesterday how much those vans cost. I



1 don't know, but I saw a Mercedes van costs \$200  
2 for a day. That's the only one that would add up  
3 to \$5,000, if you ask me. I know that -- and we  
4 don't need anything that fancy.

5 I know that the HBPA says they use their van  
6 to transport their VIPs back and forth to the  
7 racetrack on big race days, so maybe they should  
8 split that cost. Maybe the VHBPA should pay some  
9 of that money for the transportation for the van.

10 The mental and dental care. If somebody gets  
11 kicked and gets their tooth knocked out, by all  
12 means take them to the dentist. Years ago, I  
13 remember Mr. Petramalo did a bunch of cosmetic  
14 surgery and improved somebody out of this budget.  
15 That's not what it's for. It's to provide acute  
16 care. I'm not convinced that we need \$7500 for  
17 that.

18 The Groom Elite training program sounds great.  
19 I've looked at the records and I've got some of  
20 them here. I've got a whole stack of stuff at  
21 home that I've copied and looked at and the Groom  
22 Elite training program, \$4,000 this year. It  
23 doesn't happen every year, but they've spent 5,000  
24 some years, 6,000 in another, 4,000 here.

25 I looked it up last night and saw some of the

1 programs they had available. I saw a bunch for  
2 grooms that was \$49. It was a two-day program and  
3 I just want to know where the \$4,000 is going.

4 I know that we've had these discussions about  
5 this program before and I remember one of the  
6 commissioners asked years ago and Mr. Petramalo  
7 responded that some years there was only three or  
8 four or five people that were even interested in  
9 that program. So I would like to know where that  
10 4,000 is going.

11 Last but not least, the track kitchen. You  
12 know, we're gonna be open for -- well, six weeks.  
13 Dave is correcting me now. I said five weeks.  
14 We're going to run for five weeks, but the track  
15 will probably be open six or seven weeks.

16 I have a real problem with us giving the track  
17 kitchen a \$10,000 subsidy just to come out there  
18 and open up. I don't think that's necessary. I  
19 think that under the circumstances, we could very  
20 easily just get a food truck out there, have them  
21 come out in the morning from six till ten, have  
22 them come out in the afternoons.

23 In the meantime, these people are provided  
24 transportation to go get snacks and stuff like  
25 that from the grocery store. That would eliminate

1 the cost of the \$10,000 subsidy.

2 Some people will say, well, what about the  
3 days the horses aren't running. They can just  
4 walk across the street and go to the racetrack and  
5 get something at the track kitchen and the track  
6 can give them a 50 percent off coupon and provide  
7 them with a hot meal any time they want. So we  
8 don't need to spend \$10,000 on that guy and give  
9 it to him to open up that track kitchen.

10 As far as meal tickets are concerned, that's  
11 something that has concerned me for a long time  
12 because it's easy enough to get \$2,000 worth of  
13 meal tickets and just walk around the track and  
14 go, hey, you need a meal ticket? Here you go.  
15 Hey, can I have a couple meal tickets? I think  
16 that's bogus.

17 I think in the future what we need to do is  
18 set up a system where these people come into the  
19 track office, the VHBPA office, and they apply for  
20 meal tickets, they show that they need these meal  
21 tickets and then they're issued tickets from the  
22 office. I don't want somebody randomly going  
23 around passing out meal tickets.

24 So I'm hoping you guys are gonna look and ask  
25 some questions about that, instead of just, you

1 know, blowing through this and passing whatever  
2 they pass.

3 As far as the breakage is concerned, it's only  
4 51,000 this year, but I asked Mr. Lermond is there  
5 gonna be any breakage with the historical horse  
6 racing machines. This was some time ago. He told  
7 me maybe a little. Well, I saw in the main  
8 revenue report, there was over \$5,000 breakage in  
9 just May at the New Kent facility. Is that  
10 correct, Mr. Lermond?

11 MR. LERMOND: That's true.

12 MR. BERMAN: That means that that's gonna be  
13 \$60,000 in breakage produced in that one facility  
14 this year. That's only 600 machines. If you  
15 multiply that by five to give you your 3,000  
16 machines and you're looking at an additional  
17 \$300,000 that's gonna go into that breakage. This  
18 breakage is gonna become a big thing, and like I  
19 say, I wanna make sure this money is spent the way  
20 it's supposed to be spent.

21 The last thing I was just gonna say is to the  
22 harness guys. I see their benevolence request  
23 also. They're requesting \$1750 for meal tickets  
24 and that's it. That's it. They don't need a  
25 \$10,000 subsidy. They don't need any of this

1 other baloney, but they're only asking for \$1700  
2 in meal tickets. So I would say to the harness  
3 guys good job. That's the way to keep the lid on  
4 that.

5 I'll move on to the 2020 race days. I've  
6 already been in here and told you guys how I feel  
7 about the purses being as high as they are and how  
8 I feel like we're just doing the same thing we did  
9 20 years ago. It's already a failed strategy.  
10 It's proven to be a failed strategy. I wanna go  
11 past that.

12 I'm just gonna remind the Commission we had 25  
13 to 30 days of racing every year with just the ADW  
14 and the OTB money. Now we've got slots and  
15 they're acting like they're doing us a favor  
16 giving us 30 days of racing, which I understand.

17 I'll tell ya about that. I've had a chance to  
18 speak to Mr. Lucas face-to-face about that  
19 repeatedly and I've asked him how are you gonna do  
20 30 days of racing with \$500,000 or \$600,000 next  
21 year because there's no money.

22 The horsemen get no money for the first 12  
23 months after the opening of every single betting  
24 parlor. With the money that they get from the ADW  
25 and the OTBs and the little bit of money they're

1 gonna get from selling the licenses to the  
2 offtrack thing, that's still only \$5 million.  
3 You're gonna need 15 million or 18 million if they  
4 run 600,000.

5 I think that's just a political thing. I  
6 think they just wanna talk about 30 days, act like  
7 they're doing something great and they're gonna  
8 accomplish so much.

9 You know, the report they commissioned back in  
10 July of 2018 that was used in the General Assembly  
11 to provide them with the information they needed  
12 to provide I guess to the legislators to convince  
13 them to do this, in the report, it says they are  
14 gonna start with 15 days and ramp up to 25 days by  
15 2022.

16 what's the big hurry all of a sudden? well, I  
17 think the big hurry is probably because they want  
18 more machines and it's the same strategy that  
19 Mr. Jacobs had years ago. You're gonna go, you're  
20 gonna apply for 30 days of racing. You say, well,  
21 we just don't have enough money. We need more  
22 machines. That's the only way we're gonna get  
23 anything accomplished.

24 I think that's a bogus argument also and I  
25 think these guys should be held their feet to the

1 fire and first I want to see them produce the  
2 amount of racing they promised us even before we  
3 even consider giving them anything else.

4 The last thing I'm gonna say is, you  
5 know, I've been out to the track twice; actually  
6 three times, and I've had a chance to look around.  
7 I went out there one day with a date and we spent  
8 some time on Preakness day playing the horses, and  
9 to tell you the truth, I'm really disappointed.

10 Sure, you walk in the front door and the slots  
11 look great, the place looks great, but that whole  
12 first floor has been taken over by slots now.  
13 That's where the horse players will congregate,  
14 socialize. where we will go to escape the heat,  
15 where we will go to use the bathroom; stuff like  
16 that.

17 I've been involved in -- I've been around  
18 racing since I was that tall at the track and I  
19 remember running around the track and having a  
20 good time. I asked Dave, I said, where are the  
21 kids gonna use the bathroom? And he didn't really  
22 know.

23 Come to find out, I think what's gonna happen  
24 is from what I understand, they're gonna have a  
25 trailer out there that the kids go in to take a

1 leak because they're not allowed inside on the  
2 first floor.

3 You know, this is in Richmond in August and  
4 September. I've been out there plenty of times  
5 when we've had thunderstorms, lightening, high  
6 winds in the middle of the second or third race.  
7 That's at five or six o'clock in the afternoon.  
8 Where are the kids gonna retreat to? They're not  
9 allowed to be on the inside anywhere on the first  
10 floor.

11 So the kids don't have a place to go to the  
12 bathroom. Now they have to retreat to a big tent  
13 down at the end of the concourse to get away from  
14 whatever kind of storm or to try to get away from  
15 the heat.

16 You know, like I say, you go up -- they told  
17 me that when you come in, if you wanna go upstairs  
18 to the third floor, the kids are gonna be allowed  
19 to go to half of the third floor.

20 I'm just really upset about this because, you  
21 know, this is all about the slots and the racing  
22 out there. It just appears to me to be an  
23 afterthought and I tell ya I'm not looking forward  
24 to going out there and being stuck out on that  
25 (inaudible). If you wanna go inside where the



1 slot machines are, that's the whole first floor.  
2 I'm not happy about that, either, but it is what  
3 it is.

4 Like I say, I hope that you take in  
5 consideration -- you asked some questions about  
6 that breakage bill to get some clarity on that,  
7 and you know, I'm gonna write a report about this,  
8 an in-depth report and post it on my site so  
9 everybody can know the truth about what has been  
10 happening with this breakage bill for the last 15  
11 years.

12 And with that, I'm done. So thank you.

13 CHAIRMAN VAN CLIEF: Thank you, Mr. Berman.  
14 Just as a comment to yours, I do know that the  
15 track ownership and track management team is doing  
16 their utmost to deliver a positive experience  
17 that's possible for every customer there and I'm  
18 confident that they will take any remarks in a  
19 constructive manner and I know they'll do the best  
20 job they can.

21 Furthermore, if you have anything in writing  
22 you'd like to submit to the Commission for our  
23 consideration, please give it to Mr. Lermond.  
24 We'd be happy to take a look at it.

25 MR. BERMAN: Thank you.

1           CHAIRMAN VAN CLIEF: Any other public  
2 comments? Yes, sir.

3           MR. TROTTER: Commissioners, my name's Ray  
4 Trotter. I'm the vice president of the Virginia  
5 Harness Horsemen Association. I'll keep this as  
6 short as possible. Very short.

7           I just wanted to note, as you see, Dr. Woogen,  
8 our president, is on the agenda for later on. I  
9 just want you to know for the Virginia horsemen  
10 standpoint, we're 100 percent behind whatever  
11 Scott has to say today. We've talked about it at  
12 great length at our board meetings and want you to  
13 know our Virginia horsemen are very much behind  
14 Scott and these remarks he's going to make today.  
15 That's all.

16          CHAIRMAN VAN CLIEF: Thank you. Any other  
17 comments? All right. Thank you very much.

18          COMMISSIONER MILLER: Mr. Chairman?

19          CHAIRMAN VAN CLIEF: Yes, sir.

20          COMMISSIONER MILLER: When you say the  
21 Virginia horsemen, all the Virginia horsemen or  
22 the harness horsemen?

23          MR. TROTTER: Virginia harness horsemen.  
24 Sorry.

25          COMMISSIONER MILLER: Thank you.

1 CHAIRMAN VAN CLIEF: Thank you.

2 MS. NOFFSINGER: Can I read you something?

3 CHAIRMAN VAN CLIEF: Yes, ma'am. Certainly.

4 MS. NOFFSINGER: It won't take but a minute or  
5 so, if you give me just a second to find it. My  
6 name is Jan Noffsinger. I'm from near Warsaw,  
7 Virginia, third generation harness horse person.

8 The decisions you make here deeply affect me  
9 and my family. I have an adult special needs son  
10 that lives with me. I chose this career 22 years  
11 ago -- he's now 35 -- in order that I could teach  
12 him hard work, a good day's, you know, work. He's  
13 coming around with the horses. He's more about  
14 the chickens.

15 This is a little Facebook excerpt that someone  
16 posted a few months ago, if I can find it, about  
17 the small stable that I've tried to continue on,  
18 but when tracks close -- Rose Croft is normally  
19 our home track because we can race it basically  
20 all year.

21 I'm going tomorrow to Ocean to see my horse  
22 race. I'm going to be spending my money in  
23 Maryland and Delaware and I would really like to  
24 be spending my money in Virginia, but the days  
25 that you all seem to want to keep us from having

1 really affect our lifestyles.

2 what it costs for me to ship to go up there up  
3 the road, I have to basically spend the night. If  
4 I'm going to paddock the horse tomorrow night, I  
5 can't get back down the road. I have to pay  
6 somebody to take care of my normal turn-outs.  
7 I've got stallions. I've bred horses. I've  
8 foaled horses. I've done it all. Now, I  
9 basically make hay and let someone else get the  
10 training bill because I'm not close enough to a  
11 track to race enough to support my family.

12 I can't seem to pull this up right now. I  
13 guess you can hear the quiver in my voice. I'm a  
14 little nervous, not used to talking this way. But  
15 anything you can do to help us in the harness  
16 horse field.

17 And again, I do support what Scott has to say.  
18 He's much more informed on everything, but we need  
19 to race. It's a long tradition, history. We used  
20 to have a fair, our family, and it involved five  
21 counties and we had fans. We're a grass roots  
22 bunch of people. We'll beat you in a horse race,  
23 but we'll help you any way we can.

24 I've been in the Thoroughbred world, spent  
25 four years in Middleburg, worked for a lot of good

1 people. I don't know if anybody remembers old  
2 (inaudible), Peggy Mills, some of those people.

3 I just had to come home and get back to some  
4 real people who knew how to get their hands dirty  
5 and work hard. That's all I want to do is keep  
6 doing what I love doing and I hope you help us do  
7 it. Thank you.

8 CHAIRMAN VAN CLIEF: Thank you very much. It  
9 would probably be good for me to point out this  
10 morning that I think I speak for all of my fellow  
11 commissioners that our mission is to do whatever  
12 we can to grow, sustain and make healthy the  
13 entire business. That means all breeds and all  
14 facets of the business. Thank you for your  
15 comments.

16 Anyone else? Okay. Thank you very much.

17 That takes us on to new business, the first  
18 item of which is a request from staff for approval  
19 of final amendments to Chapter 120, claiming  
20 procedures. I will ask Mr. Lermond if he could  
21 take us through these next couple items starting  
22 with this one.

23 MR. LERMOND: Thank you, Mr. Chairman. Behind  
24 Tab Two of your books are some proposed amendments  
25 to the claiming procedures. Both of these rule

1 changes that we're proposing today were born out  
2 of a very productive meeting that we held about  
3 three weeks ago at Colonial Downs. I'm sure  
4 you'll probably hear more about that later in the  
5 meeting.

6 One of the focuses of the meeting was the  
7 safety of the horses and riders that are going to  
8 participate this year and things that we can do to  
9 try to improve that.

10 The change to the claiming procedure is  
11 actually one that ARCI has in their model rules.  
12 It basically says that if a horse is claimed, the  
13 old trainer has to provide the new trainer with  
14 records of injections to that horse in the last 30  
15 days. That's so that the new trainer knows what  
16 has occurred and will not inject that horse again  
17 too close together, which would be detrimental to  
18 the welfare of the horse.

19 Dr. Caruthers supports this. I think everyone  
20 at the meeting thought this was a good idea. It's  
21 a simple rule change for us. It will be not too  
22 hard to enforce and I'll be happy to answer any  
23 questions. If not, I'd like a motion to approve  
24 this as a final amendment.

25 CHAIRMAN VAN CLIEF: I'd simply add these

1 amendments to the rules that you're going to see  
2 this morning. There are not very many of them,  
3 but they were carefully thought through and talked  
4 through and each and every one of them speaks to  
5 an ongoing effort to enhance the safety and  
6 integrity of our sport, both for our equine and  
7 our human athletes. We think there is nothing  
8 more important that we can be doing right now in  
9 anticipation of the upcoming race meeting. I  
10 would also support this change.

11 COMMISSIONER SIEGEL: Is there a motion?

12 CHAIRMAN VAN CLIEF: Yes. I am.

13 COMMISSIONER SIEGEL: I move approval.

14 CHAIRMAN VAN CLIEF: The vice chairman moves  
15 approval. Is there a second?

16 COMMISSIONER NIXON: I second.

17 CHAIRMAN VAN CLIEF: Thank you very much. Any  
18 questions or further discussion? If not, please  
19 signify your approval by voting aye.

20 NOTE: The Commission votes aye.

21 CHAIRMAN VAN CLIEF: Any opposed? Thank you.  
22 The motion carries unanimously.

23 The next item is a similar request. This one,  
24 approval for amendments to Chapter 180, which  
25 deals with permitted race day substances.

1 Mr. Lermond, will you walk us through this one  
2 again as well?

3 MR. LERMOND: Yes, sir. One of the topics  
4 that came up during the meeting that I think was  
5 brought up by Dr. Daniels was the fact that our  
6 rules allow for a maximum dosage of Lasix of ten  
7 milliliters. That's just not practical. That's  
8 not what is done in real life.

9 when you talk about the heat and humidity at  
10 Colonial Downs in August and you're going to give  
11 a horse ten milliliters of something that's going  
12 to drain the fluids out of his or her body, we  
13 just didn't think that made a whole lot of sense.

14 I think there have been other states that have  
15 moved to lower the amount of Lasix. This is not a  
16 statement by the Commission saying that we either  
17 approve or disapprove of Lasix. We just feel that  
18 ten milliliters is just an outrageous amount to  
19 give a horse, especially considering the heat at  
20 Colonial Downs, and simply, we just want to lower  
21 the maximum from ten milliliters down to six  
22 milliliters.

23 Dr. Caruthers has informed me that most  
24 trainers normally give anywhere between five and  
25 six milliliters, so it's not that we're causing a



1 major change here to the trainers that race, but I  
2 think it's a very good precaution. Again, as you  
3 said, DG, it speaks to the welfare of the horse  
4 and I would recommend approval of this change and  
5 seek a motion to approve it as a final amendment.

6 CHAIRMAN VAN CLIEF: Any questions for  
7 Mr. Lermond on the issue?

8 COMMISSIONER SIEGEL: If ten milliliters is  
9 an outrageous amount, why wasn't this addressed in  
10 years past?

11 MR. LERMOND: That's a great question and I  
12 don't have an answer, sir.

13 COMMISSIONER SIEGEL: I move approval.

14 CHAIRMAN VAN CLIEF: We have a motion to  
15 approve. We need a second.

16 COMMISSIONER REYNOLDS: Second.

17 CHAIRMAN VAN CLIEF: Thank you. Any further  
18 questions? Any discussion? If not, please  
19 signify your approval by voting aye.

20 NOTE: The Commission votes aye.

21 CHAIRMAN VAN CLIEF: Any opposed? The motion  
22 carries unanimously. Thank you.

23 Under Tab Four, you will find a list of  
24 officials for the upcoming Colonial Downs meeting.  
25 We need approval of this list. Mr. Lermond, any

1 comments or explanation you'd like to make?

2 MR. LERMOND: Yes, sir. I think it was  
3 Commissioner Nixon that observed the other day  
4 that there are a few familiar names on here;  
5 Shane Burke, who has always done a great job at  
6 Colonial with the stakes program, and just the  
7 list of people here are very well seasoned,  
8 experienced people.

9 The majority of them came up with Mrs. DeLuca  
10 from Tampa Bay. She has worked with these people  
11 at Tampa. Again, I'm just impressed with the  
12 people on this list and I don't have an issue with  
13 any of them.

14 I would also like to point out that the  
15 Commission stewards are also on this list. Jack  
16 Houghton would be our presiding steward, Jim  
17 Lodges and Tad Zimmerman. So I don't know,  
18 Robert, if we need two separate motions, but the  
19 Commission has to approve the racing officials  
20 and also the stewards. If they can do it as one  
21 motion, I would seek that motion.

22 COMMISSIONER SIEGEL: So moved.

23 COMMISSIONER NIXON: Second.

24 CHAIRMAN VAN CLIEF: We have a motion.

25 COMMISSIONER REYNOLDS: I have a question,

1 Mr. Chairman.

2 CHAIRMAN VAN CLIEF: Yes.

3 COMMISSIONER REYNOLDS: On this list, there's  
4 a to be determined one more person. Do we just  
5 give Mr. Lermond our permission to name that  
6 person later since that person hasn't necessarily  
7 been approved yet here?

8 CHAIRMAN VAN CLIEF: I think it would probably  
9 be appropriate to include that in the motion.  
10 Mr. Vice Chairman, would you be willing to amend  
11 the motion accordingly?

12 COMMISSIONER SIEGEL: Sure.

13 CHAIRMAN VAN CLIEF: Okay. That's included.  
14 We have a motion. And a second?

15 COMMISSIONER NIXON: Second.

16 CHAIRMAN VAN CLIEF: We have motion and a  
17 second. Any further questions, comments or  
18 discussion? If not, please signify your approval  
19 by voting aye.

20 NOTE: The Commission votes aye.

21 CHAIRMAN VAN CLIEF: Any opposed? Thank you.  
22 Motion carries unanimously.

23 Mr. Lermond, under Tab Five, we have a list of  
24 outlets for the signal. Any comments or  
25 explanation required here?

1           MR. LERMOND: We haven't had to do this in  
2 about five or six years, but one of the things the  
3 Commission has to approve is the list of outlets  
4 that signal will be sent to and wagers will be  
5 taken from.

6           Colonial Downs has employed the New York  
7 Racing Association to handle their simulcast  
8 contracts. Delaware Park uses NYRA the same way.  
9 I think they do an excellent job and you can see  
10 behind Tab Five this is quite an impressive list  
11 of sites.

12           I've reviewed them. I've also asked my  
13 counterpart at Delaware Park to let me know if  
14 there are any on here that would give them any  
15 pause or any problems. He absolutely said no,  
16 these are all legitimate and good sites.

17           I wanted to ask Jill, when this list was given  
18 we were certain about the New York OTBs and I  
19 think Wyoming; they're on the list.

20           MS. BYRNE: I have not received the update on  
21 that, but I'm expecting that.

22           MR. LERMOND: So I told Jill it would make  
23 sense to put them on the list. If they do decide  
24 to jump in, then they've got the approval. Staff  
25 has reviewed this list of outlets and I recommend

1 the Commission's approval.

2 COMMISSIONER REYNOLDS: Mr. Chairman?

3 CHAIRMAN VAN CLIEF: Yes.

4 COMMISSIONER REYNOLDS: Mr. Lermond, on here,  
5 I see that on this list -- I guess that this would  
6 be a pre-approval because Rosie's at Hampton and  
7 Rosie's at Chesapeake aren't open yet. So are we  
8 preapproving those?

9 MR. LERMOND: I think it's just wishful  
10 thinking. I know that Hampton probably won't be  
11 open by that time.

12 COMMISSIONER REYNOLDS: I wanted to point out  
13 a technicality, if there is one.

14 MR. LERMOND: I think that came from when NYRA  
15 put this list together. Those are the outlets  
16 that Colonial Downs lists as their outlets when  
17 they take other racetracks. It's a good point,  
18 but I think I still would recommend approving the  
19 list as it is.

20 COMMISSIONER REYNOLDS: Okay. Great.

21 CHAIRMAN VAN CLIEF: Any other questions for  
22 Mr. Lermond? Okay. In that case, we need a  
23 motion to approve.

24 COMMISSIONER REYNOLDS: I'll so move.

25 COMMISSIONER SIEGEL: Second.

1           CHAIRMAN VAN CLIEF: Thank you. Any further  
2 questions or discussion? In that case, please  
3 signify your approval by voting aye.

4           NOTE: The Commission votes aye.

5           CHAIRMAN VAN CLIEF: Any opposed? Thank you.  
6 The outlets for receiving Colonial Downs' signal  
7 are approved as set forth.

8           Okay. Next up is a request for approval of  
9 the VHBPA benevolence budget for 2019.  
10 Commissioners will find that in their books under  
11 Tab Six and Mr. Petramalo is going to present this  
12 item.

13          MR. PETRAMALO: Yes. Thank you, Mr. Chairman.  
14 You have before you our request for approval to  
15 spend approximately \$51,000 in breakage money.  
16 The breakage money results from the track keeping  
17 the odd cents from wagers. Wagers are always paid  
18 out in \$2.10, \$5.40. The odd pennies are kept.  
19 That's the breakage amount.

20          By statute, the racetrack keeps 70 percent of  
21 that for capital improvement. The other 30  
22 percent is for benevolent purposes. We run the  
23 benevolence program on the back stretch, so I  
24 would note that to the extent that Tad Berman was  
25 throwing around numbers about the breakage, the

1 huge amount of breakage coming from the Rosie's  
2 operations, that doesn't come to us. Thirty  
3 percent of that comes to us.

4 But that aside, there are a number of other  
5 inaccuracies in Tad's criticism and I think  
6 probably the best way to address them is for me to  
7 go through the budget that you have in front of  
8 you.

9 Now remember what the stable area is like.  
10 There are 15 barns back there with stalls for  
11 1,000 horses. When full, you're looking at maybe  
12 400 or 500 people that are working almost  
13 full-time on the back side. We have 120 dormitory  
14 rooms with 240 beds and 120 air conditioners.

15 What we do as an HBPA is provide social  
16 welfare programs, counseling programs, educational  
17 programs, et cetera, for those folks who are  
18 residing on the back side. For the most part, the  
19 folks residing on the back side are grooms, hot  
20 walkers, exercise riders, et cetera. They are  
21 low-paid employees, to put it mildly.

22 So we do things like pass out meal tickets to  
23 those who need it for redemption in the racetrack  
24 kitchen. Each ticket is worth a \$6 meal and we  
25 gladly give them out. When somebody needs it,

1 they come to us.

2 Alternatively or in addition, when grooms  
3 arrive on a trailer with trucks and they are there  
4 for a day or two, we go around, and as a matter of  
5 courtesy and good faith, we give them meal tickets  
6 so they can go to the racetrack kitchen and get a  
7 meal.

8 we also subsidize the operation of the kitchen  
9 by giving the proprietor \$5,000 in return for his  
10 willingness to keep the prices down in the  
11 kitchen. So the food is good and the prices are  
12 reasonable. We fund that.

13 what you see on the first entry, \$12,500,  
14 basically pays for what I have just described.  
15 That's based on our past experience.

16 Admittedly, in other years we spent more, but  
17 that's because we've had more than six week meets.

18 with regard to transportation. Trust me, we  
19 do not have a Mercedes van. The van for this meet  
20 this year I've contracted will cost us \$2199. The  
21 rest of the money goes to pay a driver, usually  
22 Spanish-speaking driver who drives the van for us.

23 We don't use the van, for the most part, to go  
24 pick up rich clients at the airport. It's a 12  
25 person van that we use to transport grooms to



1 Latino grocery stores, and on off days to  
2 recreational areas to go swimming, et cetera.  
3 That's what the van is used for and we've been  
4 doing that for probably at least 12 years that  
5 I've been involved.

6 The chaplain, I think the \$8,000 for the  
7 chaplain will probably be less than that because  
8 we have a chaplain who lives, I believe his  
9 congregation is in Providence Forge.

10 In order to retain a chaplain, we went through  
11 the Racetrack Chaplaincy of America, which is  
12 headquartered in Lexington, Kentucky and they  
13 represent and provide chaplains throughout the  
14 country.

15 They were able to find a chaplain for us  
16 nearby so we won't have to pay for living  
17 expenses, but we do pay the chaplain \$20 an hour  
18 for his or her time, so we probably won't spend  
19 8,000; we'll spend less than that. The chaplain  
20 is available at all times.

21 He or she conducts services. The chaplain  
22 counsels other types of problems, including  
23 alcohol and substance abuse, et cetera. The  
24 chaplain is always around.

25 we also have groom cash awards. what we have

1 done for years and years and years is to award \$20  
2 in each race for the best turned out horse. The  
3 paddock judge determines the best turned out and  
4 that person gets \$20 cash in an envelope from us.  
5 Again, we've been doing that forever.

6 The hats and the t-shirts. We certainly don't  
7 do that to promote the HBPA or anybody else. We  
8 do that as kind of a fun thing to give the grooms  
9 and the hot walkers and the folks back there a hat  
10 and a t-shirt.

11 Medical and dental care is something that  
12 we've often provided. We have people on the back  
13 side who get injured and they're not covered by  
14 workers' comp. It might be an off-hour injury or  
15 once we had someone come with stomach pains and it  
16 turned out the exercise rider was pregnant. We  
17 provide a doctor and we use an operation in  
18 Williamsburg.

19 Also, we spent a lot of money on a dentist in  
20 Providence Forge. We have people with very bad  
21 teeth and they need help and we send them down  
22 there and we pay for it.

23 The Groom Elite training program is not  
24 something to dismiss as something you get for \$45;  
25 it's two days online. That's not the program that

1 we've run.

2 We have run -- the normal Groom Elite program  
3 runs for six weeks. It's two days a week on the  
4 dark days. It's a combination of classroom  
5 training and hands-on instruction in the barns.  
6 It's probably the best program of that sort in the  
7 country. It wasn't put together by us. It was  
8 put together initially by Texas A&M and then taken  
9 over by our national HBPA.

10 This year, we were not planning on running  
11 that type of program because the meet is too short  
12 and given the nature of the horse population, that  
13 is, we expect there will be a lot of ship-ins,  
14 there may not be as many people residing on the  
15 back side.

16 what we had planned was a two-day course for  
17 hot walkers. That is to teach somebody how to  
18 walk around with a horse safely. Again, it's not  
19 likely that we're going to run that program again  
20 because of the shortage of the meets, so that's  
21 money we'll save.

22 Finally, there's a disabled jockey benefit  
23 golf tournament. We've run that for I don't know  
24 how many, eight or ten years. Again, that's money  
25 that we pay the golf course to rent the course for

1 the day.

2 we sell tickets and the ticket revenue goes to  
3 the permanently disabled jockey fund and we had a  
4 particular Virginia disabled jockey, Shannon  
5 Campbell, who shared in that. That's what we do  
6 and that's what we're proposing to do with the  
7 \$51,000.

8 Now, let me again clarify for Tad Berman's  
9 understanding. All of our benevolence fund money  
10 does not come from the breakage. We contributed  
11 each year from our VHBPA funds to the back stretch  
12 benevolence account.

13 For example, now we probably have close to  
14 \$150,000 in that account. Only 50,000 comes from  
15 the breakage that's subject to your approval.

16 The other 100,000, we're using portions of it  
17 to do things that we've done in the past; that is,  
18 buy mattresses. We need 240 mattresses. You can  
19 imagine what the existing 240 mattresses are like  
20 after being used for many years and then sitting  
21 for five years. We threw them all away and  
22 started all over again.

23 With regard to air conditioners, we've checked  
24 them. Most of them are working now, but if you  
25 run a 5000 BTU air conditioner 24 hours a day,

1 it's not going to last even if you drop it out the  
2 window as Mr. Berman suggested. It won't work.  
3 So we buy extra air conditioners. At any given  
4 time, we probably have ten in stock that we go out  
5 and replace. When I say we, that's me.

6 Likewise, we have over the years put up  
7 sunscreen mesh for the benefit of those who work  
8 inside the barn, shed, including the hot walkers,  
9 the grooms and guess what, the horses. It keeps  
10 the sun out from shining into the stables.

11 So that's what we do. I don't feel any need  
12 to apologize for it, but I just think it's  
13 important to note that a good bit of what Tad said  
14 is not accurate.

15 Now with regard to accounting, as long as I  
16 have been doing it since probably 2005, believe  
17 me, I have every receipt for every dollar that has  
18 ever been spent. If anybody would like to see  
19 them, please give me a call and I'll let them see  
20 it. If you have any questions, please feel free.

21 Our back stretch benevolence involves much  
22 more and has over the years than what I've  
23 described, but I'm happy to respond to any  
24 questions.

25 COMMISSIONER SIEGEL: You mentioned several of

1 these items that you're likely to not spend much  
2 money on those items. What happens to that  
3 surplus?

4 MR. PETRAMALO: Stays in the account.

5 COMMISSIONER SIEGEL: For next year?

6 MR. PETRAMALO: Sure.

7 COMMISSIONER SIEGEL: So then the \$51,000  
8 perhaps will be a lower number next year because  
9 you already have a surplus?

10 MR. PETRAMALO: The \$51,000 next year will be  
11 higher because next year --

12 COMMISSIONER SIEGEL: Because you have more  
13 days?

14 MR. PETRAMALO: Correct.

15 COMMISSIONER SIEGEL: I realize that, but the  
16 surplus will be applied to this before you make  
17 the request?

18 MR. PETRAMALO: Yes. That's correct. Well,  
19 no, it won't in the following sense. Let's say we  
20 have \$8,000 left over and next year we want to  
21 spend \$75,000. Within that 75,000 will be the  
22 8,000.

23 COMMISSIONER SIEGEL: Yes.

24 MR. PETRAMALO: What I've come to you with is  
25 a budget for \$75,000 and saying this is how we're

1 going to spend, including the 67,000 new and the  
2 \$8,000 old. So that's how I would do it.

3 COMMISSIONER SIEGEL: Right. I get that.

4 CHAIRMAN VAN CLIEF: Any other questions for  
5 Mr. Petramalo?

6 COMMISSIONER NIXON: I just have a comment.  
7 If anyone spent time or worked on the back side, I  
8 think these requests are well thought out and  
9 appreciated.

10 CHAIRMAN VAN CLIEF: One question about the  
11 chaplaincy, Mr. Petramalo. Isn't it true that in  
12 addition to guidance, spiritual guidance and  
13 counsel, that the chaplain is in many cases an  
14 important pipeline for benevolence from other  
15 sources? I know they act as a contact point for  
16 funding from other charitable sources that provide  
17 back stretch support.

18 MR. PETRAMALO: That hasn't been our  
19 experience so far. For many, many years, we had  
20 the good fortune to have Marjorie Bevins, Reverend  
21 Marjorie Bevins, as our chaplain. She was nearby  
22 and grew up at the racetrack and was actually a  
23 former jockey. She provided a just huge amount of  
24 services. But we've never reached out beyond for  
25 further sources of funding.

1           we've generally been able to do what we want  
2 with the money that was available. But in prior  
3 days, the breakage used to generate for us, just  
4 the breakage, \$120,000 a year, but that was  
5 probably in 2008, 2009. Then with the wagering  
6 dropping, it dropped down, so I think in 2013, we  
7 probably had \$100,000 or less. So we've been  
8 fortunate in that we haven't had to look to  
9 outside sources.

10           I also might add that as part of the sales  
11 transaction where Colonial Downs was sold, without  
12 getting into too much detail, we have a commitment  
13 from Colonial Downs for at least the next four  
14 years to contribute \$109,000 for back stretch  
15 benevolence.

16           CHAIRMAN VAN CLIEF: Thank you.

17           COMMISSIONER MILLER: Mr. Chairman?

18           CHAIRMAN VAN CLIEF: Yes.

19           COMMISSIONER MILLER: I have a question. Mr.  
20 Petramalo, you have receipts for everything spent  
21 and you have an accounting with all funds received  
22 into your fund, correct?

23           MR. PETRAMALO: That's correct.

24           COMMISSIONER MILLER: Now, is that reported  
25 then to the Association and to the officers of the



1 Association and they review that and do you do  
2 that on an annual basis?

3 MR. PETRAMALO: You mean our HBPA Board of  
4 Directors?

5 COMMISSIONER MILLER: Yes.

6 MR. PETRAMALO: Yes. Yes.

7 COMMISSIONER MILLER: So they do that?

8 MR. PETRAMALO: Yes. They get monthly  
9 financial reports and one of the reports is on the  
10 back stretch account.

11 COMMISSIONER MILLER: So you're constantly  
12 under review?

13 MR. PETRAMALO: Yes, and happily so. One of  
14 the few things I remember from law school is one  
15 of the professors said, just remember, somebody  
16 has to go to jail. Make sure it's the client and  
17 not you, and I've always kept that.

18 COMMISSIONER MILLER: I have another question.

19 MR. PETRAMALO: Yes, sir.

20 COMMISSIONER MILLER: This is just in general,  
21 not necessarily just for you, but for Dave or  
22 anyone who knows. Is there any regulatory or  
23 statutory limitation or guidance provided for the  
24 receipts of these funds and disbursement of these  
25 funds?

1 MR. PETRAMALO: No, other than the statute,  
2 which says 30 percent of breakage is for  
3 benevolence and they define it and then subject to  
4 the approval by the Racing Commission. That's it.

5 COMMISSIONER MILLER: No particularization  
6 about how things should be spent?

7 MR. PETRAMALO: No. I can read the language.  
8 It says, substance abuse counseling, recreational,  
9 educational and other related programs.

10 COMMISSIONER MILLER: Thank you.

11 MR. LERMOND: Mr. Chairman?

12 CHAIRMAN VAN CLIEF: Yes.

13 MR. LERMOND: I just wanted to clarify with  
14 Frank that the 51,000 is in a separate account  
15 from money that you say you put in to that?

16 MR. PETRAMALO: No. It's in one back stretch  
17 account with Atlantic Union Bank, but we segregate  
18 the accounts, so with regard to the \$51,000, I can  
19 tell you how it's being spent.

20 It's just impractical to try and set up two  
21 accounts; one with back stretch benevolence money  
22 from the Association and the other from the  
23 breakage fund.

24 MR. LERMOND: The last bank statement you sent  
25 me after you received money, the balance was just

1 at \$51,000?

2 MR. PETRAMALO: That's correct, but since that  
3 time, there has been a deposit of \$75,000 which is  
4 not breakage money.

5 MR. LERMOND: I thought I advised you that  
6 would have been better off in a separate account.

7 MR. PETRAMALO: You did advise me of that and  
8 I disagree with you.

9 COMMISSIONER SIEGEL: These numbers are  
10 subject to the Commission, in this case,  
11 secretary's scrutiny as well?

12 MR. PETRAMALO: We'll make our records  
13 available certainly to the secretary or the entire  
14 Racing Commission.

15 CHAIRMAN VAN CLIEF: Further on Commissioner  
16 Miller's question, is the review that your  
17 accounts undergo in this case, or specifically  
18 this account, is that review conducted by  
19 an independent auditor?

20 MR. PETRAMALO: Yes.

21 CHAIRMAN VAN CLIEF: So it's part of your  
22 annual --

23 MR. PETRAMALO: We filed with you an annual  
24 audited financial report from our outside  
25 accounting firm of Yount, Hyde and Barbour. As a

1 matter of fact, I think we filed the 2018 report  
2 sometime in April or May.

3 CHAIRMAN VAN CLIEF: So presumably, those  
4 numbers and that date is already in our records?

5 MR. PETRAMALO: Well, it won't be for the back  
6 stretch account because we have no back stretch  
7 benevolence because we're not racing, for the most  
8 part.

9 CHAIRMAN VAN CLIEF: Will that be  
10 automatically or if they want it do we need to ask  
11 for it?

12 MR. PETRAMALO: No. It will be automatically  
13 in the audit. It will be audited.

14 CHAIRMAN VAN CLIEF: Okay. Thank you.

15 MR. PETRAMALO: There is one other matter that  
16 I wanted to raise with you prompted by a number of  
17 things.

18 I got a copy from Dave Lermond of the approved  
19 wagering format for the upcoming meet; that is,  
20 Colonial will offer win, place, show wagering,  
21 exactas, trifectas, Pick 3s, et cetera.

22 That got me to thinking about a number of  
23 things, one of which is that under our statute,  
24 the takeout, the wagering takeout, is subject to  
25 Racing Commission approval based on a joint

1 request from the racetrack and the HBPA. Let me  
2 read for you from the statute.

3 CHAIRMAN VAN CLIEF: Mr. Petramalo, before we  
4 sort of shift topics, why don't we -- or if this  
5 is not related.

6 MR. PETRAMALO: Oh, I'm sorry. Sure.

7 CHAIRMAN VAN CLIEF: Why don't we go ahead  
8 and deal with your benevolence budget. Are there  
9 any further questions on the budget or budget  
10 process for Mr. Petramalo? If not, we need a  
11 motion to approve this budget as submitted.

12 COMMISSIONER REYNOLDS: So moved.

13 CHAIRMAN VAN CLIEF: Do we have a second?

14 COMMISSIONER SIEGEL: Second.

15 CHAIRMAN VAN CLIEF: Thank you. Any further  
16 discussion? If not, please signify your approval  
17 by saying aye.

18 NOTE: The Commission votes aye.

19 CHAIRMAN VAN CLIEF: Any opposed? The budget  
20 is approved. Motion carries unanimously. Okay.

21 MR. PETRAMALO: Let me beg your indulgence and  
22 ramble a bit. As you know, pari-mutuel wagering,  
23 all the betters, the betters are betting against  
24 each other and the money goes in to a pool. With  
25 regard to that pool, there's a takeout or a

1 commission, which in the past in the statute was  
2 set at 18 percent for win, place and show wagering  
3 and 22 percent for exotics, Pick 3s, trifectas, et  
4 cetera.

5 The statute was changed somewhere in 2010 or  
6 thereabouts and it was changed at the request of  
7 Colonial Downs and the horsemen.

8 Colonial was experiencing a loss in handle.  
9 In 2008 -- during the 2008, 2009, during the live  
10 meet, the handle -- and by that, I mean on-track  
11 and simulcast, was about \$1 million a day, which  
12 is pretty good.

13 But then it dropped so that it got down to  
14 700,000 or 800,000 and Ian Stewart, the  
15 then-president, came to me and said let's see if  
16 we can increase our handle by lowering the  
17 takeout. The 18 percent takeout meant that that  
18 came to the racetrack, which then by statute  
19 distributed to the taxing authority, the  
20 horsemen's purse account, the Breeders Fund, et  
21 cetera.

22 So Jim Weinberg and I, you may remember Jim  
23 represented the Colonial Downs ownership at that  
24 time, drafted legislation and then the General  
25 Assembly saw fit to enact it so that the statute

1 now has no takeout stated in it; rather, it says  
2 the following.

3 The licensee, meaning the racetrack, shall  
4 retain a percentage amount approved by the  
5 Commission as jointly requested by a recognized  
6 majority horsemen's group, the HBPA, and a  
7 licensee, Colonial Downs, and the legitimate  
8 breakouts of which.

9 And then it goes to say and here's how the  
10 track retains that breakage, excuse me, that  
11 takeout is distributed. It goes through the  
12 taxing authority, et cetera.

13 So we now are probably, well, less than four  
14 weeks, about four weeks before the beginning of a  
15 meet and there's no stated takeout for the  
16 wagering that's going to be conducted. It's  
17 probably my fault. I should have flagged this  
18 earlier on for Colonial Downs, but I didn't.

19 So now we are in the position of having to  
20 request that the Commission approve a breakage  
21 amount, but what we would like to do in a joint  
22 request, and for this purpose, Colonial has  
23 authorized me to speak on their behalf, is to  
24 change the historic eighteen twenty-two to  
25 16 percent for win, place, and show, lowering it;

1 20 percent for exotics and then for the exotic of  
2 the exotics, the Pick 5, we want to reduce that to  
3 12 percent, the thought being if you reduce the  
4 price, you're going to sell more product.

5 It's kind of the trend that we're seeing  
6 throughout the country. So that's what we would  
7 like to do.

8 I recognize that this has not been formally  
9 raised before the Commission, but because of the  
10 passage of time and nearness of the meet, we're  
11 going to have to move somehow or other quickly on  
12 this so we have a takeout that is set, and what  
13 we're suggesting is the takeout that we, the  
14 racetrack and the horsemen, would like is 16  
15 percent and 20 percent.

16 COMMISSIONER SIEGEL: This has all been agreed  
17 to among you?

18 MR. PETRAMALO: Yes.

19 DR. WOOGEN: If I might ask, what happens to  
20 the breakage in the offtrack betting parlors,  
21 particularly money bet on harness racing under  
22 this agreement?

23 MR. PETRAMALO: Its got nothing to do with  
24 harness racing.

25 MR. LERMOND: It has nothing to do with this



1 conversation.

2 DR. WOOGEN: So the harness racing percentages  
3 remain the same?

4 MR. LERMOND: The harness receives 25 percent  
5 of the breakage.

6 DR. WOOGEN: Twenty-five percent of the  
7 breakage.

8 MR. LERMOND: Because 25 percent of the money  
9 at the OTB is bet on harness.

10 DR. WOOGEN: But the money that would be --  
11 the money that would be taken -- the win by the  
12 owner of the OTB, which is now Colonial Downs,  
13 will go down on the bets if the same dollars are  
14 bet if we reduce the takeout.

15 MR. PETRAMALO: This is just for Thoroughbred  
16 handle, not Standardbred.

17 DR. WOOGEN: I'm asking you to clarify if  
18 that's the case in the offtrack betting parlors.

19 MR. PETRAMALO: That's clearly the case. It's  
20 set forth in the statute.

21 DR. WOOGEN: Thank you for clarifying.

22 CHAIRMAN VAN CLIEF: So what we have here then  
23 is, to be clear, a request of the Virginia HBPA  
24 for the reduction in takeout as you've just  
25 specified, and I take it that that request also is

1 agreed to by Colonial Downs Group; is that  
2 correct?

3 MR. MARSHALL: It is correct.

4 CHAIRMAN VAN CLIEF: Okay. Thank you.

5 MR. LERMOND: Frank, did you mention we will  
6 carve out something other than 20 percent for Pick  
7 5?

8 MR. PETRAMALO: I thought I mentioned that. I  
9 said Pick 5 was 12 percent.

10 MR. LERMOND: Exotics are all in the same  
11 bucket, so you definitely can't do that. There's  
12 no paragraph that says Pick 5. It says wagers  
13 other than win, place, show. They all fall into  
14 that same bucket.

15 MR. PETRAMALO: I'm not sure --

16 MR. LERMOND: That's the least of the problem  
17 right now.

18 CHAIRMAN VAN CLIEF: Let's -- I think a couple  
19 of points, then, just to keep it simple, at least  
20 for the time being. Number one, we have a joint  
21 request in front of us which was not on the  
22 agenda, so an eleventh hour, if you will, request,  
23 to reduce takeouts as Mr. Petramalo has just  
24 specified.

25 From where I sit, I think I hear you. Looking

1 at the rest of the market, I know you want to be  
2 competitive, so this move would be to deliver a  
3 competitive product, waging product, to the  
4 marketplace when you open on August 8<sup>th</sup>; I'm  
5 sympathetic to that.

6 Before we get into any deeper the substance of  
7 that request, let's talk a little bit about  
8 procedure. So my question for counsel,  
9 Mr. Drewry, if you would, is number one, can we  
10 take action today if we wish to do so without  
11 having distributed this publically on our agenda  
12 in advance of the meeting; and then number two,  
13 can I ask you to comment on the law, vis-a-vis,  
14 Mr. Petramalo's proposal?

15 MR. DREWRY: Yes, sir. To the first one, it  
16 goes into FOYA. It's always about providing  
17 notice in an attempt to be heard for everything.  
18 There's super technical ways to get around that,  
19 but rules I think which require something probably  
20 more technical than I am familiar with.

21 So in terms of that, it's always easier to  
22 provide notice at least in advance so it's on the  
23 agenda for public comment.

24 I don't think it particularly matters for the  
25 answer to number two. I would agree with Mr.

1 Petramalo that there is nothing completely stated  
2 for takeout. It's the historic amount of 18  
3 percent, and then anything outside of 18 percent  
4 is reduced in that manner.

5 The issue with some of the language that I  
6 have seen is that when you follow the statute for  
7 any number other than 18, the historic amount,  
8 that's a surplus of money, and surplus may not be  
9 the correct word, that results in money being owed  
10 or too much money being owed and not enough money  
11 coming into the pari-mutuel accounts.

12 So I think I use 15 percent, reducing the  
13 takeout from 18 to 15, and when you follow that  
14 linear progression of reducing it to 15, D1, 2 and  
15 3 would result in a reduction to 6.67 percent,  
16 6.25 percent and .83 percent.

17 The state's always going to get one and a  
18 quarter and then the three, Virginia Tech, the  
19 Horse Center, the industry board, are all going to  
20 get .25 percent always, regardless of what the  
21 takeout is going to be.

22 So you have a 1.5 and then you add that to  
23 other ones and you get 15.25 percent so that  
24 percentage, regardless of the takeout as long as  
25 it's not 18 is going to result in more money being

1           statutorily owed to these groups than is  
2           available.

3           MR. PETRAMALO: The response is quite simple.  
4           The racetrack has all the money. They retain it.  
5           They pay the taxes, they pay the reduced amount to  
6           the Breeders Fund, they pay the reduced amount to  
7           my horsemen's purse account, leaving them with the  
8           remainder, and if they're less than -- if they  
9           have less than what they might ordinarily get,  
10          well, that's their problem. The racetrack is,  
11          quote, taking a haircut.

12          So instead of getting seven percent, they  
13          might get 6.9 percent, but the racetrack is the  
14          one that's here with us requesting that this  
15          action be taken. So if there's going to be a  
16          shortfall, they're fully aware of it and they're  
17          willing to suffer it.

18          Because if you read the statute the way that  
19          you have been and the way that Dave has been  
20          reading it, the statute would be meaningless  
21          because there is always going to be a shortfall if  
22          you have anything less than 18. If that's the  
23          case, why would the statute read you have the  
24          discretion to have less than 18?

25          CHAIRMAN VAN CLIEF: Another question, too,

1 given your comments. So the burden would be born  
2 by the racetrack, the horsemen and the Breeders  
3 Fund?

4 MR. PETRAMALO: That's correct.

5 CHAIRMAN VAN CLIEF: Proportionally. We heard  
6 from horsemen, we heard from racetrack management.  
7 We haven't heard from the Breeder Fund yet as to  
8 whether they would approve and support the  
9 request.

10 MS. EASTER: We do. We support that. I've  
11 always been intrigued with moving that number.  
12 Not only because of current market, but you read  
13 all the time about our most important people, the  
14 customers.

15 The people that wager, that talk about how we  
16 can't compete with other forms of gaming and I  
17 always wanted to see if that was something we  
18 could do if the VEA continued with racing.

19 It may not work in a short meet, but it's  
20 worth a try and we're able to do as we've always  
21 said in these meetings before a little creative  
22 stuff and do something that sees if it works for  
23 the industry.

24 For the Breeders Fund, worst case scenario,  
25 it's 100 or 200 bucks a day, but if it increases

1 handle, it might be a positive so.

2 CHAIRMAN VAN CLIEF: Thank you.

3 MR. LERMOND: My observation is that Paragraph  
4 D, Items One through Seven, if you add those  
5 percentages up, it comes out to 18 percent. So I  
6 would argue that the 18 percent is in there.

7 MR. DREWERY: So the 18 percent is in there,  
8 but the request isn't completely stated as Frank  
9 had said earlier. The amounts equal 18 percent as  
10 written. The request has to come from the two  
11 groups, which they have and it is at the 16 and  
12 the 20.

13 The request -- I mean, yes, there's a request,  
14 but each of these seven groups are entitled to  
15 that money and at 18 percent, it's easily  
16 identifiable that's the money they're definitely  
17 entitled to.

18 When you reduce it to 16 and 20, there is  
19 money that is born -- that somebody has to take a  
20 haircut from. For me, they could say that they  
21 would take a haircut, but they're statutorily  
22 still obligated to that money and the money is not  
23 there.

24 MR. PETRAMALO: Carry it forward what you're  
25 saying. We could -- Colonial could pay us the

1 reduced amount consistent with the statute, pay  
2 the Breeders Fund the reduced amount, pay  
3 everybody else 100 percent because that's the  
4 taxing amount including the other alphabet groups  
5 is not changing -- they're all getting 100 cents  
6 on the dollar. The only one not getting 100 cents  
7 on the dollar is Colonial Downs. They're taking  
8 the haircut.

9 MR. LERMOND: The Breeders Fund takes a  
10 haircut and reduced takeout is supposed to  
11 increase out-of-state handle, but the Breeders  
12 Fund doesn't receive anything from the  
13 out-of-state handling.

14 MR. PETRAMALO: Well, if you have a problem  
15 with that, you have to address the legislature.  
16 I'm just repeating what the law says.

17 CHAIRMAN VAN CLIEF: Assuming that the  
18 objective exercise is to deliver an approval to  
19 Colonial Downs allowing them to go to market with  
20 a competitive wagering product, which I think we  
21 want to do, how do we skin this cat?

22 Can we take it up today in the absence of a  
23 prior advisory to the public and a lack of the  
24 issue on our formal agenda? Barring that, if  
25 that's not good politics, then I think we need to



1 have a little more conversation on all of this.

2 But if the Commission consensus is to approve  
3 this measure, then can we consent, defer action,  
4 give approval to our executive secretary, allow  
5 time for some further consideration on how to  
6 button this up so that it works and we're not  
7 vulnerable in some unexpected way and move on with  
8 it?

9 MR. DREWERY: I struggle with the ability to  
10 approve something without the public notice and  
11 it's not on the agenda without the technical  
12 things or amendments to the agenda. It's not that  
13 you necessarily can't do it.

14 In terms of skinning the cat, we can certainly  
15 give it to Dave, the authority to enter it. There  
16 has to be some action taken on the takeout based  
17 on almost the way that Mr. Petramalo has  
18 recognized the -- because there is no set  
19 standard. It has to be requested, but approved by  
20 the Commission.

21 So the Commission can always say no to 17  
22 percent, 16 percent or if they can't even say 18  
23 percent, if the Commission said no, I think the  
24 Commission can still say no to 18 and get the 16  
25 if that was the policy decision.

1           Again, I mean it's tough with the late notice  
2 for all of the above, particularly with the amount  
3 of money. I get Mr. Petramalo's point on  
4 following the linear progression, but if  
5 colonial -- for me, absent some agreement other  
6 than -- right now just the word of mouth. I mean  
7 I trust colonial, but they can still come and say  
8 we're owed the six-and-a-quarter percent and it's  
9 just money that's just not there. I haven't been  
10 able to look further given the late notice.

11           COMMISSIONER REYNOLDS: Two questions.

12           CHAIRMAN VAN CLIEF: Yes, sir.

13           COMMISSIONER REYNOLDS: If we don't take any  
14 action today and August 8<sup>th</sup> comes around and  
15 nobody has taken any action, what happens? Is  
16 there no takeout?

17           MR. PETRAMALO: There's no provision for  
18 takeout.

19           COMMISSIONER REYNOLDS: Okay.

20           CHAIRMAN VAN CLIEF: From a practical  
21 standpoint, if we don't take action today, we're  
22 going to take it sometime. As time moves on and  
23 over the next four weeks, say that we have a  
24 one-item meeting requiring three commissioners at  
25 least, which I think we can do.

1           Dave, I know you're busy, but I think we can  
2 probably put that together and have a pretty rapid  
3 meeting once the facts are in front of us  
4 and we've got a game plan that's a little more  
5 thoroughly thought out than what we have in front  
6 of us this morning, I think we maybe can move  
7 ahead in that matter.

8           Counselor, does that sound --

9           MR. DREWERY: I think that sounds reasonable,  
10 and with the notice provisions for emergency  
11 meetings, you can skirt it a little bit and we can  
12 work on dealing with that.

13           CHAIRMAN VAN CLIEF: I'll ask Mr. Marshall  
14 from your standpoint where do you get -- I'm  
15 assuming you want as much time as you can get to  
16 put these rates out and let the market know what  
17 your product will cost. What's sort of the  
18 ultimate deadline for you?

19           MR. MARSHALL: Ideally, we would like to have  
20 a minimum of two weeks prior to August 8<sup>th</sup>.

21           CHAIRMAN VAN CLIEF: All right. Okay. Thank  
22 you. Mr. Lermond, how does that sound to you?  
23 Can we put together a one-agenda item meeting? I  
24 know that we've got commissioners who will make  
25 themselves available and can we deal with this

1 over the next two weeks and set a meeting and get  
2 this done?

3 MR. LERMOND: What happened to the thought  
4 about that I could approve it without the  
5 Commission? If you're comfortable with the  
6 language.

7 MR. DREWRY: It's almost still taking that  
8 action. You could do that.

9 MR. LERMOND: If they give me the approval  
10 today to do that.

11 CHAIRMAN VAN CLIEF: Does that take care of  
12 your concerns with regard to public notice?

13 MR. DREWRY: Not particularly. Yes and no.  
14 You're delegating authority. You can always  
15 delegate the authority. It depends on how you all  
16 want to view, but the public didn't get a chance  
17 to talk about it.

18 COMMISSIONER MILLER: Mr. Chairman.

19 CHAIRMAN VAN CLIEF: Yes, sir.

20 COMMISSIONER MILLER: We can talk about this  
21 forever. My experience has always been do the  
22 most open, the most transparent thing, the best  
23 thing for the public in general.

24 Now, if it's no great difficulty to get three  
25 commissioners together, let's forget about trying

1 to do it today. Put the public notice out  
2 there --

3 COMMISSIONER REYNOLDS: I agree.

4 COMMISSIONER MILLER: -- and go ahead with a  
5 meeting of three commissioners that can get  
6 together even next week or whenever you do it, as  
7 long as Mr. Marshall says all he needs is two  
8 weeks. So when you have the choice of doing one  
9 thing or the other, do the safest.

10 COMMISSIONER REYNOLDS: Always.

11 COMMISSIONER MILLER: That's always been my  
12 experience at least.

13 CHAIRMAN VAN CLIEF: Sounds like good advice  
14 to me. All right. Why don't we do that. Let me  
15 ask my fellow commissioners if that meets with  
16 their approval.

17 COMMISSIONER REYNOLDS: I couldn't agree more.

18 CHAIRMAN VAN CLIEF: Okay. Then Mr. Lermond,  
19 if we could set that in motion. Let's find a time  
20 and at least three of us to get together, and  
21 meanwhile --

22 MR. LERMOND: Can we try to do that right now?  
23 The stable area opens on the 25<sup>th</sup>. The 22<sup>nd</sup> or  
24 23<sup>rd</sup>. Would that work for three of you? July  
25 22<sup>nd</sup> or 23<sup>rd</sup>.

1           COMMISSIONER SIEGEL: I take it in person; no  
2 telephone?

3           MR. DREWERY: Correct.

4           COMMISSIONER SIEGEL: The 22<sup>nd</sup> is possible.

5           CHAIRMAN VAN CLIEF: The 22<sup>nd</sup> of this month.

6           COMMISSIONER NIXON: I'm fine with either of  
7 those days.

8           CHAIRMAN VAN CLIEF: I'm good those days, too.  
9 The 22<sup>nd</sup>.

10          MR. DREWERY: I can do it early in the  
11 morning.

12          COMMISSIONER SIEGEL: So early morning means  
13 what time?

14          CHAIRMAN VAN CLIEF: Five o'clock.

15          MR. DREWERY: At 8:30 or nine.

16          CHAIRMAN VAN CLIEF: Suits me.

17          COMMISSIONER MILLER: Mr. Chairman, can I make  
18 one other suggestion?

19          CHAIRMAN VAN CLIEF: Of course. Thank you.

20          COMMISSIONER MILLER: I don't think -- I hate  
21 to refer to people as an ordinary person. Let me  
22 say I'm an ordinary person when it comes to stuff  
23 like this. It's just complicated.

24                 I would hope that someone could put down on  
25 paper explaining exactly what it is that the

1 Commission is being asked to do with the figures,  
2 you know, where the money comes from and where the  
3 money goes, what we're obligated to do and who  
4 might be left holding the bag.

5 It has been -- I'm sure that Frank understands  
6 it. Mr. Marshall understands it. From your  
7 background, I know you understand it. I don't  
8 completely understand it. I'll admit it.

9 So I think when you say give public notice,  
10 give the public an opportunity, a lot of entities  
11 do that and they put out a public notice and the  
12 public gets this notice and they don't know what  
13 it is. So if you could make it as understandable  
14 as possible through your public notice about what  
15 the Commission is being asked to do, I just would  
16 request that.

17 CHAIRMAN VAN CLIEF: I wonder if it would be a  
18 good idea to be as specific as to indicate that  
19 the request is on the table for consideration to  
20 reduce the Thoroughbred racing takeout for the  
21 upcoming meeting from the previous norms to the  
22 following levels. That's really what we're doing.  
23 That will mean what it needs to mean to all of the  
24 stakeholders and most of our customers.

25 COMMISSIONER MILLER: And make it clear to

1 these entities they are covered in the statute.  
2 They are going to get their money no matter what,  
3 but make it clear that that is understood by the  
4 public and by those entities.

5 MR. LERMOND: I think we should have a written  
6 request from the horsemen and the track and all of  
7 those details would be included in that request.

8 MR. PETRAMALO: I agree. I agree with that.

9 CHAIRMAN VAN CLIEF: So I would formally ask  
10 then that Colonial Downs and the HBPA jointly  
11 submit such request to Mr. Lermond ASAP.

12 MR. PETRAMALO: Yes. We can do that.

13 CHAIRMAN VAN CLIEF: Okay.

14 COMMISSIONER SIEGEL: At nine a.m. we're going  
15 to meet on the 22<sup>nd</sup>? Is that what you're  
16 requesting?

17 CHAIRMAN VAN CLIEF: Nine a.m. on the 22<sup>nd</sup>.

18 COMMISSIONER SIEGEL: We meet here?

19 MR. DREWERY: That can be part of the notice.

20 CHAIRMAN VAN CLIEF: Robert, does 8:30 work  
21 better for you?

22 MR. DREWERY: We can do nine. Nine is  
23 probably more convenient for everybody else. The  
24 notice -- we can pick out a location and date with  
25 a notice to the public.



1           COMMISSIONER MILLER: What amount of public  
2 notice needs to be given?

3           MR. DREWRY: At least a week.

4           MR. LERMOND: Is that working days?

5           MR. DREWRY: Yes. No. Seven calendar days.

6           CHAIRMAN VAN CLIEF: So we get that out.

7           MR. DREWRY: Next week.

8           COMMISSIONER SIEGEL: You have plenty of time.  
9 Are we going to meet here or is there some other  
10 place?

11          MR. LERMOND: Kimberly will have to check and  
12 see if it's available.

13          COMMISSIONER SIEGEL: If it's a public  
14 meeting, you have to have a place the public can  
15 be.

16          CHAIRMAN VAN CLIEF: We'll wait to hear from  
17 Mr. Lermond on that.

18          COMMISSIONER SIEGEL: Will you tell us where  
19 it is?

20          MR. LERMOND: Yes. Maybe the third floor of  
21 Colonial Downs.

22          COMMISSIONER SIEGEL: That's a long drive for  
23 a five minute meeting.

24          MR. LERMOND: We'll try to have it here.

25          COMMISSIONER MILLER: It could be more time.

1 You never know.

2 CHAIRMAN VAN CLIEF: Okay. We look forward to  
3 the details and the proposal and look forward to  
4 being there. Mr. Petramalo, do you have any other  
5 curve balls?

6 COMMISSIONER SIEGEL: Or fast balls.

7 MR. PETRAMALO: No, Mr. Chairman. That's it.

8 CHAIRMAN VAN CLIEF: Thank you very much.

9 MR. PETRAMALO: Thank you for your attention.

10 CHAIRMAN VAN CLIEF: All right. Next up is a  
11 request to consider approval of the 2019 limited  
12 license application which has been submitted by  
13 the Shenandoah County Agricultural Foundation on  
14 behalf of Shenandoah Downs.

15 Mr. Lermond, are you going to handle the  
16 duties on that one as well? There is a staff  
17 report for each of the commissioners under Tab  
18 Seven in your books.

19 MR. LERMOND: Mr. Chairman, I'll be brief. As  
20 in the past, the application submitted by the VEA  
21 was accurate and complete and well organized.  
22 Staff had no issues with any of its contents.

23 The one thing I wanted to give a little bit of  
24 a thank you to was Tom Eshelman in conjunction  
25 with Jeb.

1           Last year, we decided that our test barn was  
2 not in the best area; it needed to be more  
3 isolated. We had a spot picked out, but we needed  
4 a little building for them to spin the blood and  
5 separate the samples and all the things that those  
6 ladies do down there in the test barn.

7           Thanks to some wheeling and dealing on  
8 Mr. Eshelman's part with one of the vendors of the  
9 fair, they provided us with a little outbuilding.  
10 I think the ladies refer to it as the Sugar Shack.  
11 I'm not exactly sure where that came, but I just  
12 want to say that we very much appreciate the Sugar  
13 Shack and it worked out very well down there.

14           We were much more isolated. If we are ever to  
15 have a positive test and somebody were to appeal  
16 it, it's good to show that that area is separated,  
17 segregated and secure and I think we accomplished  
18 that and I just wanted to thank Tom and the VEA  
19 for that.

20           As always, at the end of the staff report, I  
21 do have the same two conditions that we always put  
22 on any license that we award, so I would recommend  
23 approval of this application with the two  
24 recommendations on Page Five of the staff report.

25           CHAIRMAN VAN CLIEF: Okay. Thank you,

1 Mr. Lermond. As usual, I'm going to read for the  
2 record the recommendations. The conditions that  
3 you have requested are at the end of your report.

4 Number one, the horse racing with pari-mutuel  
5 wagering shall be operated in accordance with all  
6 representation, plans and specifications as  
7 submitted in the application and as described at  
8 the Virginia Racing Commission's July 10<sup>th</sup>  
9 meeting, and the license shall not deviate  
10 materially from these representations, plans  
11 and specifications without prior consent of the  
12 Commission or its executive secretary.

13 Condition number two. For any motion made  
14 this morning will be that the horse racing with  
15 pari-mutuel wagering shall be operated in  
16 accordance with all applicable state and federal  
17 statutes and regulations, the regulations of the  
18 Commission and all local ordinances.

19 So we'll include those in any motions made.

20 Are there any questions about this application  
21 any commissioner would like to pose or comments  
22 you'd like to make? If not, then we need a motion  
23 to approve, including those two conditions as  
24 recommended in the staff report.

25 COMMISSIONER NIXON: I have a motion.

1           CHAIRMAN VAN CLIEF: Thank you. We have a  
2 motion.

3           COMMISSIONER SIEGEL: Second.

4           CHAIRMAN VAN CLIEF: Second. Thank you very  
5 much. Any further discussion? If not, please  
6 signify your approval by saying aye.

7           NOTE: The Commission votes aye.

8           CHAIRMAN VAN CLIEF: Any opposed? Motion  
9 passes unanimously. The application is approved.

10          That takes us to the list of racing officials  
11 which is under Tab Eight. We need a motion to  
12 approve.

13          Mr. Lermond, before that, any comments on this  
14 list?

15          MR. LERMOND: Just very briefly. Most of the  
16 names on this list are all returning individuals  
17 from prior years. The Commission has no issues  
18 with any of the people listed, and again, I would  
19 mention that the Commission's three judges are  
20 also on this list.

21          Jack Remy, presiding; Rick Bonne-kemp [ph] for  
22 associate and James Mitchell, associate. All  
23 three of those judges have worked for us in the  
24 past and are excellent racing officials. I  
25 recommend approval of this list.

1           CHAIRMAN VAN CLIEF: Thank you very much.  
2 I'll move approval of the list as submitted.

3           COMMISSIONER REYNOLDS: Second.

4           CHAIRMAN VAN CLIEF: Thank you. Any questions  
5 about it? If not, please signify your approval by  
6 saying aye.

7           NOTE: The Commission votes aye.

8           CHAIRMAN VAN CLIEF: Any opposed? Thank you  
9 very much. The list of officials is approved as  
10 submitted.

11           Next under Tab Nine, we have the request for  
12 approval of the VHHA benevolence budget for the  
13 current year and I believe Ms. Warnick is going to  
14 make that report.

15           MS. WARNICK: Good afternoon. We are  
16 requesting 1750 for meal tickets and meals for  
17 people at the race meet, which is what we've done  
18 in previous years.

19           CHAIRMAN VAN CLIEF: Pretty straight forward.  
20 Any questions for Ms. Warnick on their request?

21           COMMISSIONER NIXON: I have a quick question.  
22 I've never been before, which I'm definitely  
23 planning on doing this year. Do you have a track  
24 kitchen or how does that work?

25           MS. WARNICK: No. It's an outside vendor that

1 sets up. He has a booth. He sells to the public  
2 also and he accepts our meal tickets and we  
3 reimburse him for meal tickets.

4 COMMISSIONER NIXON: Okay. Thank you.

5 CHAIRMAN VAN CLIEF: Thanks. Any other  
6 questions? Okay. We need a motion to approve.

7 COMMISSIONER SIEGEL: So move.

8 CHAIRMAN VAN CLIEF: I'll second it. Please,  
9 any other questions or any further discussion? If  
10 not, please signify your approval by voting aye.

11 NOTE: The Commission votes aye.

12 CHAIRMAN VAN CLIEF: Any opposed? Thank you  
13 very much. The request is approved unanimously.

14 Next, we have Dr. Woogen, who has offered to  
15 update us on the status of the Virginia harness  
16 racing. So Dr. Woogen, welcome.

17 DR. WOOGEN: Thank you for having me, and I'd  
18 like to just start by introducing myself to the  
19 newest members on the panel here. I'm a  
20 gastroenterologist locally. I've been a director  
21 for over 25 years of the Virginia Harness Horse  
22 Association; that's consecutive, and the last four  
23 years, I've been president of the organization.

24 I'm a horse owner, a horse breeder and a  
25 driver, an amateur driver. I don't have any

1 pretense of being a professional. I did win the  
2 last race ever at Colonial Downs. I was the  
3 driver and owner of that horse. Horse named  
4 (inaudible).

5 I have been asked for the last year -- I  
6 haven't been to many meetings. I've been asked  
7 through the VEA to do certain tasks and keep quiet  
8 and I have respected that, but we reached a point  
9 now where I have to give this Commission an update  
10 of where we stand in harness racing in the state,  
11 so thank you for the time to come.

12 I will discuss four issues. The first is our  
13 relationship and issues with the VEA; the second,  
14 our relationship and issues with Colonial Downs;  
15 the third, a request that you have on the agenda  
16 to discuss race dates and the discussion of our  
17 home, both present and potentially future.

18 So to begin -- and I'm a physician, so I can't  
19 read my writing so you'll have to forgive me if I  
20 fumble a little bit.

21 The VEA created by statute was tasked with  
22 rebuilding all aspects of horse racing and  
23 breeding in the state and I suspect that included  
24 the harness horsemen.

25 They were allowed to keep the share of the



1 advanced deposit wagering to have funds, they were  
2 allowed to open and operate OTBs which they did  
3 successfully and the funds were used in certain  
4 manner to take us off life support, if you will.

5 They were used to pay the cost of running the  
6 Gold Cup races, which was an excellent endeavor.  
7 They were used to finance our new track and  
8 improvements to the tune over the last four to  
9 five years of about \$1 million. They were used to  
10 administer our meets and to pay our rent to the  
11 Shenandoah County fairgrounds.

12 The Thoroughbreds spent three years looking  
13 for a new track, unfortunately unsuccessfully, and  
14 there was some money spent there as well; hundreds  
15 of thousands of dollars.

16 We identified the facility, the Chesterfield  
17 County fairgrounds fairly early. It's a  
18 100-year-old track. It was a fair track. It was  
19 badly in need of renovation and through hard work  
20 of our board, particularly Tom Eshelman of the  
21 Shenandoah County fair board, in identifying a  
22 great team of builders, the Coon brothers, who are  
23 the preeminent builders of harness tracks and I  
24 believe of some of the Thoroughbred tracks in the  
25 country, were able to accomplish it in eight

1 months and we haven't missed a beat.

2 Colonial Downs closed it's doors completely in  
3 2014. We continue to race year after year,  
4 unfortunately from an abbreviated schedule due to  
5 a lack of funds.

6 We supported each other's efforts. In the  
7 beginning, it was a great experience. The VEA,  
8 they supported harness racing endeavors, we  
9 supported Thoroughbred and we all supported the  
10 Gold Cup steeplechase. Funds were available, as I  
11 said, and our facility got up and running.

12 What we found out later on, this is a little  
13 disturbing, is the VEA Thoroughbred members had  
14 negotiations or at least meetings they described  
15 with Colonial Downs many months before I was  
16 informed as a VEA board member of the existence of  
17 two potential buyers of the Colonial Downs  
18 facility.

19 What was extremely disturbing was that we were  
20 also told confidentially that those discussions  
21 included an agreement between the Thoroughbreds  
22 and Colonial Downs not to have harness racing  
23 again at that facility.

24 Let me give you some background. Mr. Lermond  
25 provided me with the information going forward

1 from 2011 which he could identify to the closing  
2 of Colonial Downs to give you an idea how we  
3 stacked up with Thoroughbreds at Colonial Downs.

4 We raced 102 race days over those last few  
5 years and the Thoroughbreds raced 86. We raced a  
6 total of 1,087 races and the Thoroughbreds a total  
7 of 815, and we provided about 23.4 percent of the  
8 total purse money in the state distributed over  
9 that period of time.

10 We're now currently about 25 percent of the  
11 money bet by Virginians at the offtrack betting  
12 parlor, to kind of give you an idea of how we are  
13 thought of in the state. I think we're a  
14 minority. We understand that, but we don't think  
15 we are inconsequential.

16 So Colonial Downs comes in, we understand  
17 there's going to be historic racing machines at  
18 the new revenue stream. We're all excited.

19 We sign a contract. I was a little reluctant  
20 to sign a contract with the new Colonial Downs  
21 Group because I didn't have a guarantee of a  
22 percentage of that new revenue stream, the HHR  
23 revenue which would be substantial.

24 I was told by the Thoroughbred members of the  
25 VEA that we would negotiate over the ensuing

1 months and come up with an agreement.

2 The reason I'm here today is those  
3 negotiations have gone nowhere. The first premiss  
4 of the negotiation for us, the most important  
5 premiss, is that we're entitled to a percentage of  
6 any funds generated by this new revenue stream.

7 As every other state operates, whatever money  
8 comes in is distributed and you live within your  
9 means and you operate the number of race days of  
10 your purse structure based on that money.

11 The percentages are absolutely open to  
12 interpretation and negotiation. We were more than  
13 willing to do that. Unfortunately, we haven't  
14 even been able to get the VEA membership to agree  
15 that we're entitled to a percentage, and here are  
16 some of the answers we've been getting.

17 We were told that the money is Thoroughbred  
18 money; that it's based on bets, not historic  
19 Thoroughbred races and the Thoroughbreds are  
20 entitled to it and whatever we need we will get by  
21 the benevolence of the Thoroughbred parts of the  
22 organization.

23 Secondly, we've been told that we can't  
24 negotiate a percentage until we have an idea of  
25 the amount of money coming in. This can only mean

1 that the Thoroughbreds feel the need to understand  
2 they can meet their needs before they'll grant us  
3 anything. The reason for that is twofold.

4 The Virginia Thoroughbred Association has set  
5 up a certified program, which while the basis of  
6 which is sound and wonderful and very important,  
7 the liability is open ended.

8 Any horse that's raised in this state, if it's  
9 brought in is ineligible for bonus money  
10 throughout it's entire racing career through races  
11 run in the Mid-Atlantic region. There is no cap  
12 on that current plan for any awards other than a  
13 cap per race.

14 So that has been an estimated liability of \$3  
15 million. That was the Virginia Thoroughbred  
16 Association's liability. But under recent  
17 negotiation with the VEA, the VEA has been asked  
18 to take over this responsibility, including the  
19 liability which is open ended.

20 But the problem with the Thoroughbred group --  
21 and we're one quarter of the voting membership --  
22 they feel it is not reasonable. I think as  
23 Mr. Miller states, you try to be open, but you try  
24 to do the things that make the most sense. And  
25 based on that, we didn't think we should take on

1 that liability.

2 The other issue is that the Thoroughbred group  
3 in their contract has agreed next year to 30 days  
4 of racing, and under the state law, if 3,000  
5 machines are operating, they're liable. Colonial  
6 Downs is liable to race the 30 days.

7 Based on that and based on horse population,  
8 we've been told at the VEA that the Thoroughbred  
9 group needs \$500,000 a day or \$15 million in order  
10 to fulfill their obligation next year.

11 Based on that, that's potentially \$18 million  
12 of obligations, not to mention the Gold Cup  
13 obligations and the obligations to field our meet,  
14 which is \$300,000 or \$400,000 of obligations to  
15 us, a tremendous minority sense of obligation by  
16 the VEA. So that's where we are.

17 It became difficult for me to not feel  
18 personally offended in these negotiations. I tend  
19 to be a passionate person, so I brought in a  
20 professional and I have sitting next to me, Joe  
21 Feraldo, who has negotiated almost all deals with  
22 horsemen and racinos in New York State for over 30  
23 years.

24 He negotiated a deal at Yonkers Raceway. They  
25 have 5300 slot machines. He's negotiated a deal

1 where the horsemen get \$15 million in purse money  
2 based on those 5300 machines. He's an expert  
3 negotiator, knows the industry inside and out and  
4 between myself and himself, we've been involved in  
5 the industry for 30 to 40 years. We thought we  
6 had a pretty good handle on what was reasonable  
7 and what was needed.

8 well, I stepped back and let Mr. Feraldo  
9 negotiate for months and we still can't get a  
10 commitment that regardless of the funds that come  
11 in to your organization, we're entitled to a  
12 percentage of it.

13 what does that mean for us trying to grow?  
14 How can I tell the horsemen coming in to the state  
15 to race year after year that I'll have money in  
16 2021 or 2022 or 2023? Under the current system, I  
17 have to apply for a grant every year. I have no  
18 guarantee of money. No guarantee of a percentage  
19 of that HHR revenue. I think that's untenable.

20 Also, besides the HHR money in that fashion,  
21 how do I grow an industry without a guarantee?  
22 How am I supposed to say my industry is  
23 unrestrained by any other part of the industry?

24 So my complaint is this restrains my trade.  
25 It restrains my ability to grow the industry and

1 is patently unfair.

2 Now, every other source of revenue that's  
3 distributed to horsemen's groups, the VTA, the  
4 Thoroughbred groups and my group is regulated by  
5 statute.

6 Mr. Lermond was right on key when he stated  
7 that we should get percentages worked out in the  
8 statute that was developed when the VEA was  
9 created.

10 That didn't occur, and as such, there are  
11 three Thoroughbred groups and one harness group  
12 and we feel we're at a disadvantage having to rely  
13 on the goodness of the heart and the treatment of  
14 the harness group by the Thoroughbred group.  
15 Again, we can't even agree that we're entitled to  
16 any percentage of revenue. So that's where we  
17 stand with the VEA.

18 With Colonial Downs, we heard months ago, many  
19 months before Colonial Downs bought the track,  
20 that they had no plans to race harness racing. I  
21 was told after talking to Colonial Downs  
22 representatives that we would negotiate for future  
23 race meets. Once these HHR facilities were open,  
24 we could sit down in June of this year and we did  
25 negotiate.



1 well, that became an impossibility according  
2 to Colonial Downs. They finally admitted they had  
3 no plans to race harness horses, either now or in  
4 the future and they gave the reason, the primary  
5 reason, as it would cost \$1 million to convert the  
6 track from Thoroughbred to harness, the dirt  
7 track.

8 we've been doing that for 20 years for \$80,000  
9 a year. Now we were told there's a difference in  
10 the composite of the surface and that makes a  
11 difference in price. I've offered to bring in the  
12 Coon brothers, again, preeminent track builders,  
13 to give an opinion and there was no interest.

14 So at this point, there's absolutely no  
15 interest to race us. There has been no discussion  
16 of giving us one cent from Colonial Downs'  
17 coffers, and mind you that they now own the  
18 offtrack betting parlors and for every dollar bet  
19 on harness racing, they get five cents. That five  
20 cents used to be used by the old Colonial Downs to  
21 help put on our meet. That money is now going to  
22 Colonial Downs' pocket.

23 So the other issue I have with Colonial Downs,  
24 when we negotiated as the VEA with Colonial Downs,  
25 they presented a business plan. The business plan

1 stated that they would have these HHR machines  
2 only at Colonial Downs, and as such, the business  
3 model didn't look very attractive. They stated  
4 they needed tremendous resources, tremendous  
5 marketing effort to get people to the slots, or  
6 excuse me, the HHR machines.

7 when the law was then proposed and voted on,  
8 the model was completely different. The model has  
9 offtrack betting parlors allowed to host these  
10 machines all over the state, up to ten facilities  
11 and up to 3000 machines.

12 As I mentioned, 5300 machines garners \$50  
13 million in New York to the horsemen there. My  
14 estimate, and again it's only my estimate, is that  
15 we're looking at \$10 million to \$12 million the  
16 first year we get full revenue from their  
17 facilities. A far cry from what's going on as the  
18 industry standard.

19 So I ask the VEA if it would be reasonable to  
20 renegotiate with Colonial Downs because the entire  
21 premiss of negotiation is based on a business  
22 model that doesn't exist.

23 It was a single or a double before. Now it's  
24 a grand slam home run for Colonial Downs. And for  
25 curious reasons that I can't understand, the

1 Thoroughbred owners or Thoroughbred interest in  
2 the VEA declined after renegotiation.

3 So we have about a \$12 million projection on  
4 my part, and I could be wrong, of income. We have  
5 about 18, 19, \$20 million of obligation or  
6 hoped-for obligation by the Thoroughbred members  
7 of the group before they can even consider giving  
8 us any money. I can't see where any significant  
9 funds are going to come from to grow my industry.

10 We would love to grow the breeding industry in  
11 the state. We would love to have a similar --  
12 and we've created it, but we don't have enough  
13 funding for it yet -- a similar certified program  
14 so we can bring horses into the state and race  
15 them here and give people incentive for doing  
16 that.

17 The agricultural benefit to the state from  
18 that program is the same if it's a Standardbred  
19 horse or a Thoroughbred horse and I think the  
20 state is owed that in their support of Colonial  
21 Downs' efforts and HHR machines. They're both our  
22 ability to rebuild a breeding industry and a  
23 residency program industry in the state. As  
24 things stand now, that's not happening. So that's  
25 where we stand with Colonial Downs.

1           The third issue is race dates. So you want to  
2 talk about piling on a little bit, we've been  
3 asked to move our race dates by this Commission to  
4 the spring. We go year-to-year. We gather funds  
5 for money, bet, buy people in Virginia on harness  
6 races and by the fall we have enough money to run  
7 a ten day meet. If we race these ten days of  
8 pari-mutuel betting, we have zero money in our  
9 coffers at the end. It is absolutely impossible  
10 for us to race in the spring just based on that.

11           More importantly, we've spent the last four  
12 years racing in the fall, building relationships  
13 with outside trainers who bring their horses from  
14 outside racetracks. We have some circuits. We're  
15 a nomad of people in harness racing.

16           One circuit is Cal Expo in California. In the  
17 winter, they go to Running Aces in the summer in  
18 Minnesota and they bring their horses to  
19 Shenandoah Downs to race in the fall and then they  
20 go back to California.

21           Another circuit is Florida. Pompano Park  
22 brings their horses to Tioga Downs in upstate New  
23 York for the summer. Then they race with us in  
24 the fall, then they go back to Florida.

25           We have the Pennsylvania fair circuit, a

1 tremendous number of fair tracks and fair races.  
2 They end when we begin and we have access to young  
3 horses that want to continue to race.

4 So without any of that -- and the final piece  
5 is our two-year-olds. We race our two-year-old  
6 stakes races and try to create a breeding program  
7 for two-year-olds. We can't race them in the  
8 spring. We've been told maybe you can race them  
9 during the fair at a non-pari-mutuel setting. We  
10 don't think that's reasonable.

11 So having said that, I see absolutely no way  
12 that we can continue as an industry to have any  
13 kind of successful meet by changing our race dates  
14 at this point from the fall to the spring.

15 Now we're not unreasonable people. The fall  
16 is more than five weeks and we could work with  
17 Colonial Downs and the Thoroughbred people not to  
18 overlap if they're willing to negotiate, but the  
19 premiss has to be that we are entitled to those  
20 fall days and we will negotiate flexibility based  
21 on that.

22 Final topic. Our home is now the Shenandoah  
23 County fair. They have been extraordinarily  
24 helpful. They have been extraordinarily positive  
25 and the town of Woodstock has been great, but

1 there are some issues. We don't own the facility.  
2 We have a five year lease. We're on lease year  
3 four. We have renewal clauses, but basically, we  
4 have a five year lease.

5 We had a board member who was on our board who  
6 passed away suddenly that was on the board of the  
7 Shenandoah County fair and we negotiate with other  
8 members of the Shenandoah County fair board. They  
9 have a large board. They have a lot of members.

10 We have been told over and over again there's  
11 a lot of people who do not favor harness racing  
12 who are part of that fair board. We've also been  
13 told when asked for improvements that no funds are  
14 really available for improvements because of  
15 financial constraints of the fair.

16 Bottom line, they've managed somehow to stay  
17 open, but they're in some financial difficulty, to  
18 my understanding.

19 They have a very valuable piece of property on  
20 Interstate 81. It's not inconceivable that in the  
21 years to come they'll sell that facility and we'll  
22 have nowhere to race. We don't have any ownership  
23 or any way to prevent that.

24 So based on that and based on our needs and  
25 the hope we're going to grow, we identify or

1 actually Spotsylvania County has come to us and  
2 they said they'd love to build a harness track off  
3 of Interstate 95.

4 I don't know if you've seen where they built a  
5 NASCAR-type track right on the interstate. They  
6 have other tracks and land. They'd love for us to  
7 build a harness track.

8 I initially went to Colonial Downs because if  
9 the referendum could be approved in that county,  
10 they can build a track for us and they can race us  
11 there and they can have one of their OTB, HHR  
12 machine followers and the population of 131,000  
13 people in that county, they could have the maximum  
14 700 machines.

15 I've been waiting for a formal response. I  
16 don't think I'll get one. I told them this  
17 meeting was coming, I was going to talk and I was  
18 going to mention these things.

19 So I think the one thing I heard at our  
20 initial meeting with them is they would love to  
21 spend some money and build us a facility if the  
22 referendum passed, but there was no commitment to  
23 fund a referendum. Our organization can't fund a  
24 half a million dollar referendum in order to  
25 ensure that this happens.

1           So again, it just piles on, the lack of  
2           commitment to harness racing by every segment of  
3           the state and the industry.

4           So what is the solution? We would hope the  
5           Racing Commission would support the need for a  
6           percentage of these funds, HHR funds, potentially  
7           casino funds in the future and sports betting  
8           funds in the future. That we're entitled as a  
9           smaller group.

10          But as I've showed you, a very important part  
11          of the race population of the state. I would hope  
12          you would support that, in some way help us attain  
13          that. The best way to do it would be to put it in  
14          the statute. Now, we certainly will be talking to  
15          the legislature in the fall and asking for that.

16          The other thing the Racing Commission can do  
17          is encourage the VEA to work with us towards a  
18          percentage split. Really, I think the only  
19          leverage you might have is next year's budget.  
20          You have to approve it. If there is no  
21          consideration to harness racing, which you also  
22          have a commitment to ensure the liability and  
23          growth, I would suggest you consider not approving  
24          the budget. I'm willing to answer any questions.

25          Also, I brought our negotiator and our



1 consultant, Mr. Feraldo. If he has any comments,  
2 I'd like him to be able to speak.

3 MR. FERALDO: If I may, if it please the  
4 Commission. I was once told that one's remarks  
5 should be like a woman's skirt; short enough to  
6 hold your interest, yet long enough to cover the  
7 subject. So I hope I can talk to that directive.

8 After Colonial closed, the VEA was created and  
9 stood in place instead of the track operator as  
10 the recipient of the track's revenue shares from  
11 SWFs and ADWs. Accordingly, the VEA was the  
12 beneficiary of that share of state-mandated  
13 revenue from those sources since there was no  
14 longer a racetrack.

15 Some of the revenue was used to conduct a  
16 harness meet at Shenandoah, establish a  
17 Thoroughbred certified residency program which is  
18 excellent, provide for a very successful  
19 steeplechase meet and seek out over the course of  
20 the last three years a new operator for Colonial  
21 Downs, all in the interest of agriculture, horse  
22 racing and breeding for all breeds.

23 All those more traditional revenue streams,  
24 the SWFs and the ADWs, were as they should be,  
25 statutorily mandated. That is until HHR gained

1 legislative approval in the Commonwealth. Without  
2 a legislative mandate, a separate agreement  
3 between Revolutionary Racing and the VEA was  
4 entered in to, providing for a revenue stream to  
5 flow to the VEA from the new HHR machines and from  
6 the sale of the VEA's SWFs.

7 However, unlike the other statutorily mandated  
8 distribution streams to racing, breeding and  
9 agriculture, no, I repeat no provision exists in  
10 statute, regulation or by our efforts to reach  
11 an agreement directing a percentage distribution  
12 of that money as currently exists in the statute  
13 for the other traditional revenue streams in  
14 place.

15 Again, a percentage of the HHR revenue or from  
16 the sale of the SWFs falling to the VEA has not  
17 been legislatively mandated and breed specific as  
18 are all other racing revenue streams from SWFs,  
19 ADWs or ontrack sources.

20 Negotiations to address this internally within  
21 VEA I am sad to report have reached an impasse and  
22 the situation cries out for a legislative solution  
23 by way of mandated percentages between the breeds.  
24 That is important to the Commonwealth of Virginia  
25 and its agricultural industry.

1           The VHHA being a 25 percent partner in the  
2 negotiated deal with Revolutionary Racing should  
3 have at least that percentage mandated to its  
4 breed as reflected in its participation in the VEA  
5 as a stakeholder, a 25 percent stakeholder in that  
6 entity.

7           The VHHA saw the rationale to address the  
8 Thoroughbred needs to effectuate a Thoroughbred  
9 renaissance in Virginia, allowing for a rebate off  
10 the fixed percentage to the Thoroughbreds'  
11 interest from the harness 25 percent to be given  
12 in the early years of the anticipated Thoroughbred  
13 rebirth.

14           That concession allows for the start-up of the  
15 Thoroughbred industry so it can get on its feet  
16 and provides for everyone to live within those  
17 percentages regardless of the actual dollars that  
18 are generated.

19           The VHHA has made those concessions within the  
20 negotiations as well as recommendations to  
21 accommodate its Thoroughbred counterparts in order  
22 to stimulate the heretofore dormant Thoroughbred  
23 industry.

24           In short, the VHHA is acting like a good, not  
25 a greedy partner. With the impasse that currently

1 exists, the situation requires intervention by the  
2 Commonwealth's legislature to mandate a percentage  
3 distribution of this new revenue stream to avoid  
4 acrimony within the VEA.

5 Short of that happening, the Racing Commission  
6 should not approve a VEA budget that does not  
7 provide for a negotiated percentage distribution  
8 of those revenue streams between the VEA partners.

9 One last quote I would like to give you or  
10 observation is as Scott said, Dr. Woogen said,  
11 it's very difficult to move harness meets. Just  
12 about every racetrack in the country is open  
13 during the spring. It opens in the spring whether  
14 it's Pocono, Chester, Tioga, Vernon. All these  
15 racetracks are in competition for horses.

16 As Dr. Woogen said, we give out \$50 million  
17 exclusive of our sire stakes money, which is  
18 approximately another \$9 million just at Yonkers  
19 raceway. His number of \$50 million is not  
20 statewide in New York. That's \$120 million in  
21 purse money available for all of the harness  
22 tracks. I'm not talking about the Thoroughbred  
23 track.

24 With that kind of revenue, we are short of  
25 horses during this period of time and I don't care

1           how much money you put on the table, the race  
2           office will call me and say, Joe, we're going to  
3           raise the purses 20 percent across the board and I  
4           say it will not bring us one more horse because  
5           the horses just do not exist.

6           In the fall, as Dr. Woogen said, there is a  
7           migration of horses from various racetracks that  
8           we can fill fields with at Shenandoah. That's  
9           extremely important. And with the revenue that  
10          you have, there is a finite number of horses in  
11          terms of quality that will come in that migration  
12          and so it's very difficult for anybody to suggest  
13          that we have a meet head-to-head or that we move  
14          our meet to the spring.

15          Now with the additional HHR revenue that's  
16          going to come into the Commonwealth, I suggest  
17          that Mr. Lermond get a raise and that he get a  
18          sufficient number of additional staff people and  
19          equipment to accommodate whatever needs or  
20          concerns he has voiced in the letter that I saw  
21          written a short while ago.

22          Those are my only comments. The alternative  
23          would be if you're considering moving dates, that  
24          Colonial Downs be required to have a harness meet.  
25          That does not require the movement of any

1 machinery or personnel that is valuable to this  
2 Commission. Thank you.

3 CHAIRMAN VAN CLIEF: Thank you. Thank you  
4 both. I would ask my fellow commissioners if they  
5 have got questions for either presenter.

6 I'll wager a couple here just to make sure I'm  
7 as clear as I can be. That's a lot of data.

8 First of all, as a purely personal  
9 observation, I'm a bit concerned to hear about a  
10 split within the VEA. I've made no secret about  
11 -- and I think this Commission feels the same,  
12 about how important we believe the VEA has been  
13 these last few years to the ability of our  
14 industry, the horse racing industry, to enjoy the  
15 renaissance it is now beginning to enjoy.

16 I question the industry's political capability  
17 if this fractures. I'm not sure how advisable,  
18 and somebody else can comment on this, it would be  
19 to go to the legislature with a split front  
20 instead of a unified one. I would hope that  
21 wouldn't happen.

22 If we could waive a magic wand and solve all  
23 of the problems. I have often said I don't  
24 necessarily favor a centralized government until I  
25 became a commissioner. Now I want dictatorial

1 powers. I'd solve it for you in a day if I could.  
2 You'd probably all be unhappy.

3 I would urge you to continue to negotiate in  
4 good faith. If you think there's something we can  
5 do -- and I believe there's a solution. I don't  
6 know what it is sitting here. This is my first  
7 exposure to the issue, but I am sure there is a  
8 creative solution. If this Commission can help  
9 you find that solution, then we're all ears as to  
10 how to do that.

11 Maybe one suggestion, since we're just talking  
12 here this morning, is I think this group worked  
13 very well together when it came to the development  
14 of strategic planning and I think a lot of that  
15 success was due to the fact that we went out, we  
16 hired a professional facilitator who walked the  
17 group through what could have been some fairly  
18 thorny issues. Maybe that is something that would  
19 be helpful to you.

20 I would also like to get clear on a couple of  
21 the points, Dr. Woogen, that you made. One thing  
22 that really does concern me, and it speaks to the  
23 potential split within the organization, is you  
24 say that there has been no commitment from the VEA  
25 that you would get any money or a percentage of

1 funds in any way.

2 I don't want this to turn into a debate. It  
3 will not be a tit for tat. I appreciate the input  
4 that you have put on the table; a lot of food for  
5 thought here.

6 I do want to ask this direct question and it  
7 can be answered either by Debbie Easter or Jeb  
8 Hannum. Is there an issue with finding a solution  
9 wherein the VHHA would get a percentage of  
10 revenues as Dr. Woogen has discussed?

11 MR. HANNUM: Well, an awful lot was discussed  
12 there at the end of the table. I was unaware of  
13 the issues that Scott and Joe were going to speak  
14 about. I'm a little bit unprepared. I had  
15 reached out to Scott when I saw he was on the  
16 agenda and asked what he was going to discuss and  
17 he did not get back to me.

18 So I think that there's an awful lot you all  
19 have heard and I took notes and I could go through  
20 and point out things I disagree with and I think  
21 are inaccurate, but I don't think that's a good  
22 use of everybody's time.

23 Let me just say, Mr. Chairman, that of the  
24 four groups since the formation of the VEA, the  
25 Harness Association has benefited overwhelmingly



1 from the creation of the VEA. I say that sort of  
2 on a personal note that at least 50 percent of my  
3 time has been spent on the harness program and  
4 I --

5 CHAIRMAN VAN CLIEF: I'm sorry to interrupt,  
6 but my question was a little more specific than  
7 that, and again, I don't want to get into a debate  
8 format here.

9 MR. HANNUM: Yes.

10 CHAIRMAN VAN CLIEF: I think we can do that  
11 later, another place and another time and I am  
12 happy to help any way that I can. Is there  
13 resistance on the VEA board to ultimately  
14 providing a fair percentage of revenue to the  
15 VHHA?

16 MR. HANNUM: So I just feel that the context  
17 is important.

18 CHAIRMAN VAN CLIEF: Okay.

19 MR. HANNUM: Let me just say that Dr. Woogen  
20 made a request for there to be a percentage  
21 allocation and the VEA was always of the view that  
22 we were happy to discuss that, that we had not, we  
23 did not know what the HHR revenue was going to  
24 look like in Virginia. This was going back, you  
25 know, six months and before. We didn't know, you

1 know, what the rollout of the machines would look  
2 like. We were going through the regulatory  
3 process.

4 So to establish a set percentage before the  
5 regs were even finalized struck us as premature.  
6 Why not understand what the regulatory environment  
7 was going to look like, then look at what the  
8 market reaction was going to be? Then as  
9 Dr. Woogen noted, there's a year delay before any  
10 money comes in to the VEA.

11 So our point was let's look at how this all  
12 plays out. What are the regs going to be. Where  
13 are the OTBs going to be. What will be the  
14 reaction at the Richmond site and at the track,  
15 and then let's see what we all need.

16 Let's base this on what the need is and what  
17 the reality is. So to determine a percentage  
18 before we saw even the first nickel struck us as  
19 premature.

20 So the Board position has always been, yes,  
21 we're happy to discuss this. We spent an enormous  
22 amount of time and great expense over the last two  
23 months talking to Scott and Joe, and Joe is, as  
24 Dr. Woogen said, he is a very professional person  
25 to deal with and we've had a number of good

1 discussions.

2 The VHHA came with a percentage, the 25  
3 percent. We spent I think three meetings in  
4 Richmond, which the VEA paid for Mr. Feraldo's  
5 time, so I think that's a fair reflection of our  
6 commitment to the process and we came back with a  
7 counter-proposal.

8 So I don't think we should talk about the  
9 specific percentages right here in this format.

10 CHAIRMAN VAN CLIEF: I agree.

11 MR. HANNUM: But the Harness Association gave  
12 us a number and we came back with a second number  
13 and they walked away and the numbers weren't that  
14 far apart. So I think that's a frustrating path  
15 to go down.

16 So the other point is, and I'm surprised to  
17 hear there's a split, because that has never been  
18 articulated to the Board. We have a Board meeting  
19 tonight where we were actually going to consider  
20 those percentages and we were going to have  
21 an opportunity to vote on them and we never even  
22 had an opportunity to vote on them.

23 So for us to hear this for the first time in a  
24 public format before the Board has even considered  
25 it I think is disappointing.

1           So I think that the VHHA has benefited  
2 enormously from the VEA. There's a Board process  
3 that we should be working through. If we get to  
4 the point where the Board is not able to come up  
5 with an agreement that is good for all parties, I  
6 would welcome the Commission's input.

7           We certainly had a very good process with the  
8 gentleman that helped us with the strategic  
9 report. Maybe we have a third party coming.  
10 That's not for me to say. That's for the Board.  
11 But we put in a lot of time and effort to come to  
12 a percentage allocation agreement and we weren't  
13 that far apart and we haven't even considered it  
14 as a Board.

15           CHAIRMAN VAN CLIEF: Okay. Well, then I'd  
16 like to bring this to a close at this point. I  
17 understand that you have a Board meeting this  
18 evening and simply ask and I hope I represent my  
19 fellow commissioners; if not, please let me know,  
20 and remand this conversation to your Board meeting  
21 this evening with a very strong request from the  
22 Commission that you make every effort to continue  
23 negotiating in good faith and work out something  
24 that will serve both parties.

25           I think we're all interested in making sure

1 that whatever revenues are going to be at our  
2 disposal in the future sustain and feed all  
3 aspects of this industry.

4 We want to see harness racing get its fair  
5 share and we want to see it have its opportunity  
6 for growth right along with Thoroughbreds and the  
7 horse industry as a whole.

8 I wish there was something we could do in this  
9 meeting to take action. I don't think we've got  
10 letters at our disposal right now, but we're  
11 certainly interested in making sure that you do  
12 succeed in your convictions, and again, I'll offer  
13 our services in any appropriate way that we might  
14 render them to make sure that that does happen.

15 I'll ask my fellow commissioners for further  
16 comments.

17 COMMISSIONER SIEGEL: I will comment in  
18 concert with the Chairman to say we have  
19 an obligation to all aspects of the horse industry  
20 in this Commonwealth and it's nice to hear the  
21 other side of the story in terms of your  
22 willingness to negotiate, but it didn't sound as  
23 if from Dr. Woogen's standpoint that the  
24 negotiations were ongoing.

25 I think not only should you have a mandate to

1 do so, but there should be a timetable because  
2 this has gone on a long time and if they're going  
3 to do planning in any form, I think time would be  
4 an important factor.

5 So I don't know what time period you'd expect  
6 you could complete these negotiations and I think  
7 that ought to be set forth.

8 DR. WOOGEN: We appreciate that and I think it  
9 is important. Just real quick. Mr. Hannum  
10 started his discussion of whether or not he  
11 thought we should be given a percentage by talking  
12 again about how much money will be available.  
13 That should be irrelevant.

14 To premiss that, whatever money comes in, our  
15 organization is entitled to a percentage. That's  
16 all we're asking for. It doesn't matter if \$1 or  
17 \$100 million comes in. We all take the fall or we  
18 all benefit, but we have to decide what percentage  
19 of the industry the horse industry the state  
20 harness is entitled to.

21 I'm very disappointed that he would start the  
22 explanation by again saying we need to know what  
23 the budget is, we need to know what's available.  
24 Because what that is saying is we need to know the  
25 Thoroughbreds' needs before we consider the

1 harness racing needs. So we're open to anything  
2 that you can help.

3 If you want to bring a facilitator, mediation  
4 by this Commission, I would say we had several  
5 meetings in the last few months. We have gone  
6 around in circles as you have heard today. The  
7 same issue.

8 We're not going to be able to negotiate  
9 tonight at the Board meeting. We've identified  
10 days and I have brought Mr. Feraldo in to spend  
11 days negotiating. An hour or two at the Board is  
12 not going to solve our problems.

13 We would love to solve it, but that's not  
14 going to happen. So we would appreciate anything  
15 you can do as a Commission to help facilitate a  
16 fair agreement. We're all ears.

17 COMMISSIONER SIEGEL: We haven't set our next  
18 meeting at this point, other than the one issue  
19 meeting coming up, but I think by the time we meet  
20 again, this should be an agreed-upon proposal  
21 presented to this Commission. Would you agree to  
22 that?

23 CHAIRMAN VAN CLIEF: I would.

24 COMMISSIONER SIEGEL: That will be probably in  
25 the next sixty to ninety days, and in the

1 meantime, you guys need to figure it out.

2 COMMISSIONER MILLER: Mr. Chairman.

3 CHAIRMAN VAN CLIEF: Yes, sir.

4 COMMISSIONER MILLER: I agree with your  
5 comments. I certainly support them. I would urge  
6 the parties to work it out among yourselves. It  
7 was mentioned it could go back to legislature.  
8 That would probably be the worst thing you could  
9 do in the environment we're in now.

10 Politically, a lot of folks connected with the  
11 legislature are having second thoughts about what  
12 they did with historic horse racing, and add to  
13 that the pressures they're getting from their  
14 constituents regarding other entities that are  
15 coming forward with proposals for extended casino  
16 gambling in Virginia.

17 Add to that the general antipathy between the  
18 parties in this state, which is not unlike any  
19 other state in the Union where it's very difficult  
20 for parties to work together.

21 Add to that the very closeness of the  
22 political structure in Virginia where one party by  
23 one member may be dominant for the next ten years  
24 because of redistricting.

25 The fight is intense in the legislature. Try



1 to stay out of the legislative process and show  
2 that you meant what you've said when we were going  
3 to the legislature for the past several years to  
4 try to get racing back on its feet in Virginia.

5 Show them that you mean what you said when you  
6 were -- there was all unity, good spirit, we're  
7 all going to work together, we're all going to  
8 work towards supporting the agricultural industry  
9 in Virginia. Just keep those thoughts in mind  
10 when you get together.

11 Just on the face of it as one commissioner,  
12 just looking on the face of it, the harness racing  
13 segment of the horse racing industry is not  
14 insignificant, as Dr. Woogen said.

15 I think if you go back and look at the history  
16 of the wagers on harness racing in Virginia,  
17 vis-a-vis Thoroughbred racing since the inception  
18 of pari-mutuel wagering in Virginia and see  
19 historically what the contribution has been.

20 Someone did an analysis before when I was on  
21 the Commission in one of my earlier iterations, I  
22 think. Maybe I'm wrong about that, but it seems  
23 to me that someone did an analysis of harness  
24 racing's impact overall on the broad spectrum of  
25 pari-mutuel wagering in Virginia. Maybe they

1 didn't do it. Maybe they just proposed it.

2 Do you remember, Dave?

3 MR. LERMOND: I think the study you're talking  
4 about was overall of the horse industry. Milton  
5 Cooper.

6 COMMISSIONER MILLER: All right. Well,  
7 anyway, my memory isn't what it used to be, but  
8 all I'm urging is that you work together, pull  
9 together, try to keep it out of the legislative  
10 forum and show that we are all grown-ups and we  
11 all know what the stated goal is and what we have  
12 to do to maximize everyone's interest to the  
13 greatest degree. Thank you.

14 CHAIRMAN VAN CLIEF: Thank you. I will ask  
15 Mr. Lermond a question. Dave, if this Commission  
16 wanted to be involved to the extent of helping  
17 provide mediator services or an arbiter that could  
18 provide a professional third party look and  
19 facilitate the conversation, can we do that?

20 MR. LERMOND: I would first before we talk  
21 about whether we could pay for it -- Robert, is  
22 that something that would be appropriate?

23 MR. DREWERY: I mean I'm sure you could. Your  
24 state tax is to further the purposes of the horse  
25 industry and it's probably a little bit premature

1 here since it's -- I mean these are two private  
2 parties determining -- you approve their budgets  
3 and everything, but how individual private parties  
4 work out contracts may not be where the Commission  
5 steps in as a licensing and regulatory body.

6 MR. PETRAMALO: Let me add some history that  
7 goes counter to what Robert just said. Maybe you  
8 can help me on this, Dave.

9 The VHBPA got into a dispute with Twinpires  
10 over ADW revenue, et cetera, and we went to  
11 mediation and there were representatives there  
12 from the Attorney General's office and we had I  
13 think a day or two days of mediation and the  
14 mediator was Mark Rock, I believe is his name.

15 COMMISSIONER MILLER: Ruben.

16 MR. PETRAMALO: Rubin. Sorry. I don't  
17 remember how that came about, but I kind of think  
18 that the Racing Commission had something to do  
19 with it. I don't think we paid for it, but I'm  
20 not positive. But again, Robert, to your point,  
21 that was a dispute involving a contract between  
22 parties.

23 MR. DREWERY: Two private parties.

24 MR. PETRAMALO: Yeah.

25 COMMISSIONER MILLER: I was on the Commission

1 at that time and we did participate, but I don't  
2 remember what the degree of participation was, but  
3 we were instrumental in getting Mark Ruben to be  
4 the mediator.

5 MR. PETRAMALO: He's excellent.

6 MR. LERMOND: We were asked to participate as  
7 the Commission, but I don't believe we paid for  
8 that.

9 COMMISSIONER SIEGEL: The parties could pay  
10 for it. I think issue is -- I know Mark Rubin.  
11 He does a great job and he has worked at VCU for a  
12 long time. He is doing it independently. He  
13 still exists. I don't think his fees are that  
14 extraordinary to begin with.

15 MR. FERALDO: If I might, in New York, we've  
16 often had the Commission provide someone to  
17 mediate a dispute. It doesn't mean that you lack  
18 the jurisdiction. You may very well have the  
19 jurisdiction.

20 There's also the American Arbitration  
21 Association that provides mediators who are versed  
22 in the industry, but whatever a particular  
23 industry is, you get three mediators and they come  
24 up with a recommendation and the parties can pay  
25 for that. That's cost efficient, even if the

1 parties had to agree to pay.

2 MR. DREWRY: Yeah, and I don't disagree with  
3 that. It's more of the -- of course the  
4 Commission would be invited to participate in  
5 mediation to further the industry of horse racing,  
6 but it is premature if based on what we heard now  
7 that the VEA hasn't taken a vote on anything when  
8 it's this -- at what point does the racing  
9 Commission step in?

10 DR. WOOGEN: Let me make it just clear. The  
11 seminal issue is clear. Are we entitled to a  
12 percentage year after year after year of these  
13 revenue streams and we have not gotten a yes from  
14 the participants in the VEA. There's nothing to  
15 negotiate if you can't agree on the basic premiss.  
16 We've spent eight months going around in circles.  
17 We do need your help.

18 COMMISSIONER SIEGEL: I think Mr. Hannum  
19 answered the question that you are entitled. Did  
20 I not hear that?

21 MS. EASTER: I'll tidy that up, if you don't  
22 mind, Jeb. I, like Dr. Woogen, am very  
23 passionate. You all have probably figured that  
24 out after the last year or two about doing what's  
25 right for the industry here in Virginia.

1           I think if you all look back at the budget you  
2 approved for 2019, you will see that there was a  
3 large percentage for harness that you approved in  
4 that budget.

5           I don't think that any of our board members  
6 intend not to include a percentage for harness in  
7 any future budgets. It's just a matter of how  
8 it's splayed. So we have to come to an agreement.

9           But I want to make that very clear because  
10 obviously, you all are hearing one side of the  
11 story and there are a bunch of people here, but I  
12 don't think there's anybody that intends not to  
13 further -- we're all here to try to do the best  
14 that we can for the industry and I think our  
15 history has shown that in the past.

16           DR. WOOGEN: What you're hearing from the  
17 Thoroughbred people over and over again is yes, we  
18 will give you money year after year, but it's  
19 going to be based on revenues and means and that's  
20 not fair and it's not doable for us.

21           Even then with her comments we've been fair,  
22 we've given you money, there's no commitment. It  
23 is a simple question. Do you feel that the VHHA  
24 is entitled to a set percentage going forward from  
25 2020 on.

1           We were willing to rebate back for the first  
2           few years a substantial amount of a percentage to  
3           get the Thoroughbreds going, but they -- ask them  
4           again.

5           They're not going to stand up and say that  
6           they're willing to give us a percentage of the  
7           revenue year after year. It's not subject to  
8           year-to-year grants or negotiations.

9           CHAIRMAN VAN CLIEF: Well, this is just an  
10          observation. I don't think it's our job nor our  
11          desire today to try to solve it, but I imagine  
12          that everybody sitting up here at this table  
13          expects, and the thought that that might not be  
14          the case is a little surprising, that the harness  
15          industry will be receiving a fair percentage of  
16          revenues generated in the state every year.

17          Now whether that is a flat percentage, whether  
18          it's a formulated approach, I don't think any of  
19          us know, but I think fair is the operative word  
20          however you define it. We challenge you to go  
21          back to the table and figure out what that means.

22          Doctor, I'll make one other comment, too, I  
23          think shifting away from the splits and let's talk  
24          about dates for a minute. That was on the agenda.  
25          We were requested to have a conversation. I think

1 it's probably way too premature and given the  
2 environment that is being created around the  
3 impasse you've reached at this point with your  
4 conversation about revenue splits, it probably is  
5 baggage we don't need to try to worry about right  
6 now.

7 I will share with you the topic has come up.  
8 As you already know from Dave Lermond, there's  
9 concern should we have to do it in no short order  
10 about the Commission's ability to properly  
11 regulate. I happen to agree that given enough  
12 notice with the money in the bank, I don't see any  
13 reason why we can't develop capacity to regulate  
14 whatever we have to regulate. The more the  
15 better, as far as I'm concerned. So if we can  
16 grow, we'll grow to regulate it. Not really  
17 worried about that.

18 I do harbor concern about running two short  
19 race meets on top of each other. We're just  
20 getting started. It doesn't seem to me to make a  
21 lot of sense to have conflicting meets. We're  
22 trying to build audiences for both. Why would you  
23 do it on top of the each other?

24 You make a point I hadn't heard before about  
25 how your racing circuits work and what that means



1 to you at Shenandoah in terms of the availability  
2 of horses in the fall and lack of availability of  
3 horses in the spring, which I grant you is  
4 obviously an important point.

5 But I think for now, we're not in possession  
6 of an application for dates so we don't have  
7 anything to act on.

8 As we've offered in terms of your splits,  
9 we're interested in this issue. We think it's  
10 absolutely key. How racing is marketed here has a  
11 lot to do with dates applications and ultimately  
12 date assignments, so we want to make sure we get  
13 it right and we think we should be talking about  
14 it well in advance rather than having it land on  
15 the desk and having to deal with it at the last  
16 minute.

17 So we're all ears, we want all of the facts  
18 and we will try to make the best decision we can  
19 for all parties.

20 DR. WOOGEN: Thank you.

21 CHAIRMAN VAN CLIEF: Thank you.

22 Okay. I'm sorry we're going on a little long,  
23 but I hope we'll end on a high note. Jill Byrne  
24 from Colonial Downs Group will brief us on some of  
25 the developments at Colonial Downs and some of the

1 work they've been putting in to make sure we get a  
2 first class show beginning August 8<sup>th</sup>.

3 MS. BYRNE: Thank you so much for having me  
4 here and I think I will follow Mr. Feraldo's lead  
5 with Shakespeare instead. Since brevity is the  
6 soul of wit, I shall be brief as much as possible  
7 as we try to get technology up here.

8 One thing I have heard nonstop as we try and  
9 get technology up here today, is a commitment by  
10 everybody in here to the entire industry, and I  
11 think that's something that everybody in here  
12 shares, is a passion that starts first with the  
13 horse, whether you're in harness, whether you're  
14 with the VHBPA and the back stretch workers, the  
15 VEA, Colonial Downs Group.

16 Everybody in here shares the same passion and  
17 commitment to success of the entire horse industry  
18 in the state of Virginia and that is what brought  
19 me home after being away for 29 years in the other  
20 Commonwealth of Kentucky.

21 I was given a great opportunity to come back  
22 to my home state and help bring this industry back  
23 that all of us clearly are passionate about and  
24 love. We may have some difference on it, but if  
25 we work together, I think the success in Virginia

1 -- we are a good news story this year in  
2 an industry that absolutely could use some good  
3 news.

4 with that, there are a lot of challenging  
5 times in the industry as a whole right now with  
6 recent things that have taken place that involve  
7 questions about safety and what we are all doing  
8 to commit to the safety of our horses, our  
9 jockeys, our horsemen, and ultimately, that is  
10 what is going to help this entire industry survive  
11 not only nationally, but obviously in the state of  
12 Virginia. So I will try to go through very  
13 quickly a slide here.

14 with the commitment of Colonial Downs -- and I  
15 look to myself as well. I grew up in Virginia and  
16 I have been in every side of this industry. I  
17 grew up a racetrack rat in the barn. Mr. Feraldo,  
18 I think you know my background; Belmont in the  
19 barns. I always said I went to boarding school in  
20 New York so I could be close to the racetrack so I  
21 could spend my weekends there.

22 It is an industry that a lot of people, and we  
23 look at the people on this list, that Colonial  
24 Downs has committed to hire the best to be able to  
25 support bringing back Thoroughbred racing to the

1 state and ultimately helping the entire industry  
2 by bringing in what are considered to be people at  
3 the highest level within this industry. So right  
4 there, your commitment just shows the dedication  
5 by involving high level people.

6 As I mentioned before, we're in a very  
7 challenging time in racing right now and horse  
8 racing in general with its perception in the  
9 industry to safety, how we take care of our  
10 horses, how we take care of our riders, what are  
11 we doing to ensure that.

12 Colonial Downs has invested a great deal into  
13 safety initiatives starting with bringing the  
14 track surfaces back to condition. Obviously,  
15 everybody knows that the track has been dormant  
16 for a while. Beautiful turf course, fantastic  
17 dirt course that doesn't get the credit that it  
18 should, overshadowed by the Secretariat turf  
19 course.

20 A lot of investment has gone in to bringing  
21 these surfaces back to life to make sure that they  
22 are absolutely the safest they can be when our  
23 horses return to training here July 25<sup>th</sup> and when  
24 racing starts on August 8<sup>th</sup>.

25 So this was the first of March. I arrived

1 February 27<sup>th</sup> and this is what things looked like  
2 on the 1st of March. Then we have the all famous  
3 controlled burn. I never realized how famous this  
4 was until I got calls from all over the country  
5 seeing me out there. They say the first thing you  
6 do when you go to Colonial Downs, you burn the  
7 track down.

8 This is to help the turf course come back to  
9 life. We invested a great deal of money into an  
10 irrigation upgrade. Now you see some of that  
11 beautiful green popping in there to make this  
12 course as safe as it can be.

13 We plan to run probably 80 percent of our  
14 races on the turf course. Turf racing has not  
15 only proven to be very popular for the wagerers,  
16 but also popular for the horsemen and also a very  
17 safe surface.

18 We've lost the internet. We'll see if we can  
19 get that back up. But in our commitment to that,  
20 we also brought in experts to regrade the track  
21 surface, the dirt track surface to get it back to  
22 where it would need to be for Thoroughbreds, and  
23 that was a great deal of investment to do that.

24 We had to regrade it, bring in new track  
25 material and also brought in Nick Peterson. I

1 think many of you who have been following the news  
2 know that Nick Peterson is the expert consult for  
3 all track surfaces. We brought him in to do soil  
4 samples to study our surface.

5 He was just here recently with his machinery  
6 to test the cushion of the track and we are  
7 expecting all of those complete analysis  
8 and results by the end of this week, so we'll have  
9 that report for you as well.

10 Additionally to that, we did major upgrades  
11 back to the barns because safety starts back there  
12 as well with the horses. Barns one through eight  
13 we have completely refurbished.

14 We are also, because of in light of if any of  
15 you are following the Delaware situation with the  
16 recent outbreak of strangles and a lot of issues  
17 with equine infectious diseases, we have  
18 designated Barn 14 at the recommendation of Dr.  
19 Ada Caruthers to be our barn for isolation.

20 So should anything occur on the track, we have  
21 a separate isolated barn far away from all the  
22 other horses where we would then keep those horses  
23 until they cleared by veterinarians until they're  
24 okay to be back with the population.

25 Additionally to that, we are having very

1 stringent regulations in horses that come into our  
2 stable area. We have gone to a 72 hour health  
3 certificate as opposed to a seven day. We're  
4 doing extreme logging with our security of all  
5 horses that come in, even to the point of where  
6 they are in the van next to each other so we can  
7 further isolate if anything should happen there.

8 Dr. Caruthers has been a huge help to Colonial  
9 Downs in offering up many thoughts on bio  
10 security and we're going to be power washing and  
11 disinfecting everything since again it has been  
12 quiet there for a while.

13 She has instituted a great deal of  
14 regulations. We have completely -- you mentioned  
15 earlier about a test barn at Shenandoah Downs. We  
16 have completely refurbished the test barn at  
17 Colonial Downs as well to make sure that we are  
18 providing a great deal of integrity for the  
19 perception and the actuality of the racing product  
20 that we expect to put out this year.

21 So much has happened since Colonial Downs and  
22 Virginia Thoroughbred racing has been dormant and  
23 it's very proactive on our part to make sure that  
24 we are ahead instead of reactive to any possible  
25 situations that could happen.

1           That's in communications as well. We've hired  
2 Jim Luckson, a PR communications expert in the  
3 horse racing industry, to help be that  
4 facilitator. I think we've all seen lately a  
5 great deal of miss-communication to issues that  
6 happen. We want to make sure that -- we hope  
7 nothing does happen, but when it does, you want to  
8 communicate honestly, quickly and correctly to the  
9 public.

10           So a lot of things that we've done. We've  
11 also done a complete refurbishing of the dorms and  
12 the new mattresses as Frank said back there. We  
13 have to take care of the people that take care of  
14 the horses.

15           We have also done a refurbishing to the  
16 paddock, which used to have a terrible flooding  
17 problem thanks to our Virginia rains. All of this  
18 for the safety of the horse and of the jockeys.

19           We're employing the EMS from New Kent to be  
20 our medical services provider. We actually had  
21 them do a test run of their medevac helicopter, so  
22 if there should be any incident with a jockey on  
23 the racetrack, we have an absolute quick and  
24 dedicated way to get that jockey the best  
25 attention that they can get.



1           We work directly with the Jockeys Guild on all  
2 of their protocols and requests that we have in  
3 place and we've also hired the MCV physicians to  
4 be our in-house first aid, first responders for  
5 our jockeys.

6           Equipment-wise, we invested a great deal in a  
7 brand new horse ambulance, state-of-the-art  
8 ambulance to Dr. Caruthers' specs, as well as  
9 back-up ambulances. We have chase vehicles.

10           Everything that we're doing with the idea of  
11 pushing out that Colonial Downs is providing a  
12 safe environment for horses, jockeys, horsemen and  
13 patrons as well, and also integrity of the product  
14 that we're putting out.

15           Our stall applications are being gone through  
16 at the moment. We have probably over 50 stall  
17 applications over 420 horses wanting to race here  
18 as well as ship-ins coming from all over the  
19 country.

20           But we will not just be letting any horse in  
21 or any horse in to race. They will have to be  
22 qualified. They will go through a very stringent  
23 examination not only by the vets, but even ahead  
24 of that with the entry process.

25           We're not going to fill a race with 14 horses

1 just to put 14 horses in the gate. The horses  
2 that will go in the gate will be horses that we  
3 feel will live up to the expectations of the  
4 racing product that we plan to put out, and that  
5 will be by a committee that before entries even go  
6 out, we will look through every horse's past  
7 performance and make sure that again, it's all  
8 about the integrity of the product as we come back  
9 to racing here.

10 So a lot we have involved ourselves in.  
11 Bringing in the right people, communicating with  
12 the VRC, with the veterinary committee that has  
13 been a help to everything we're doing. The VHBPA  
14 as well as the VEA. Everybody that is a part of  
15 this industry and Colonial Downs' commitment to  
16 being extremely strong. I know you spoke earlier,  
17 David, on some of the changes to our rules.

18 Also in light with today's environment and  
19 challenging environment in horse racing, we are  
20 going to enact a new whip, or crops as we like to  
21 prefer calling them now, where we will be  
22 mandating the padded crops, which was not in our  
23 house rules previously.

24 But in light of that, too, still following  
25 with the existing crop rules of usage by the

1 jockeys which will be very strongly examined by  
2 the state vet who examines every horse that comes  
3 back for how a jockey performs.

4 We are also going to have the stewards on  
5 recommendation that they meet prior to any of our  
6 racing with the jockeys. We have expectations of  
7 how those jockeys act when they're out on the  
8 track, on the horses and how they treat their  
9 horses and they will be asked to follow those  
10 regulations very closely. Those who do not will  
11 be suspended, will have actions taken against  
12 them.

13 So I think just to close out since we lost all  
14 my pretty pictures on there, but a lot of you have  
15 seen them before.

16 Another thing we have committed to is the  
17 aftercare of the horses is a big also hot button  
18 issue. So we have commitment to the TAA where we  
19 are -- a percentage of each start \$15 and then  
20 another matched \$15 by Colonial Downs will go to  
21 the TAA, Thoroughbred Aftercare Alliance, to help  
22 take care of horses that can no longer race.

23 We also have a commitment to the NTRA and they  
24 will be following up with us with their safety  
25 accreditation after we race, but we have been

1 following all of their protocols as well.

2 So in closing, I think when you look at the  
3 commitment that the Colonial Downs Group has made  
4 to the entire horse industry, it is with a great  
5 deal of investment, but with a great deal of  
6 passion for the success of the industry in  
7 Virginia and that's the entire industry.

8 It's the harness industry. If you have show  
9 horses, if you have pets at your farm horses, it's  
10 all about the horse and the commitment to that as  
11 Virginia has a very strong history in the  
12 Thoroughbred industry, in the harness industry, in  
13 all of the horse industry and we like to think  
14 that we are a big part of helping this entire  
15 group and those that are not even involved in here  
16 today bring it back to not only where it has been,  
17 where it should be, but set a standard for the  
18 entire industry of what the expectation should be  
19 in all of horse racing.

20 So I look forward to it. I left Kentucky  
21 after 29 years and I am a proud Virginian and  
22 proud to be back. And 2019 so far as been a great  
23 year and we're really looking forward to  
24 August 8<sup>th</sup> and a great deal of support. Thank you  
25 to the Commission.

1 CHAIRMAN VAN CLIEF: Thank you. welcome.

2 MS. BYRNE: Sorry we lost technology here.

3 CHAIRMAN VAN CLIEF: Thank you very much.

4 Does anybody have any questions for Ms. Byrne  
5 about the arrangements?

6 COMMISSIONER MILLER: Mr. Chairman, just a  
7 point that Mr. Berman raised earlier. I was  
8 concerned about one of the points he made about  
9 when a person comes to wager at the races  
10 and brings their family with minor children.

11 I assume there's a law that says people of a  
12 certain age can't be on the floor of a casino.  
13 Have you given any thought to providing at least a  
14 lounge area and restroom facilities on the ground  
15 level first floor for the comfort of those minor  
16 children or other members of the family who may  
17 prefer not to go on a casino floor, for a place  
18 where they can have a restroom and perhaps a place  
19 to get out of the weather and circumstances  
20 Mr. Berman raised?

21 MS. BYRNE: Yes, and Mr. Berman definitely  
22 made some good points and he talked about some of  
23 the things that we have done, but in light there,  
24 yes.

25 So under 18, you're not allowed on the gaming

1 floor, which is the majority. Yes, the first  
2 floor. But we are building a -- when he says  
3 hospitality tent, it's a hospitality tent that is  
4 air conditioned. It will have concessions in it.  
5 There will be tables. There will be chairs and it  
6 will have full amenities for families.

7 we're not bringing in porta potties. We're  
8 bringing in very high level, executive, air  
9 conditioned bathrooms that will be strategically  
10 placed around the track.

11 Right next to the paddock, they are  
12 traditionally underneath kind of the overhang  
13 there that is open to the public. That will have  
14 concessions as well.

15 There will be another foldout. I call it a  
16 bar, but it is a concession sit down area.  
17 Adjacent to that, the grandstand seats will be  
18 covered with a canopy out in front, as they always  
19 have to be able to get out of the weather.

20 Then you can go to the second floor boxes.  
21 You can go into the second and the third floor and  
22 there is ample room and beautiful facilities up  
23 there and that will be accommodating to all  
24 families as well.

25 what we are also doing with the assistance of

1 the VHBPA, so a lot of horsemen tend to come with  
2 their families as well. We are putting a tent --  
3 again, when I say tent, air conditioned nice  
4 hospitality tent adjacent to the paddock that will  
5 be open to all horsemen and their families,  
6 connections, where they can go in out of the  
7 weather, get cool, get concessions, water,  
8 programs, and that will be right off of the  
9 paddock as well.

10 So we are clearly respectful of our patrons  
11 that come out and want to be able to enjoy a great  
12 day at the races.

13 COMMISSIONER MILLER: Thank you. I appreciate  
14 that.

15 CHAIRMAN VAN CLIEF: Any questions about any  
16 aspect of the opening? All right. Ms. Byrne,  
17 thank you very much.

18 MS. BYRNE: Thank you.

19 CHAIRMAN VAN CLIEF: I'd like to make one  
20 comment and that is that Commissioner Reynolds  
21 and I had the pleasure of joining the Colonial  
22 Downs management along with the VEA and HBPA  
23 representatives and some of the veterinary  
24 community a couple of weeks ago to discuss safety  
25 protocols and some of the things that Jill has

1           been talking about this morning, or this afternoon  
2           now at this point. Sorry.

3           The comment I want to make is that it was a  
4           pleasure to be with the group, and Jill spoke to  
5           the efforts that have been made to put together a  
6           high quality team and my preliminary opinion is  
7           they've really succeeded.

8           It's a group that has a lot of experience, a  
9           high level of skills and maybe best of all, the  
10          desire to succeed. So congratulations to Colonial  
11          Downs Group for a great job thus far and I have a  
12          lot of optimism how the opening is going to go.  
13          So we're looking forward to August 8<sup>th</sup>. Thank you  
14          all very much.

15          At this point, we usually take Commissioners'  
16          comments, of which there have already been a few,  
17          but would anybody like to address any topic either  
18          on or off this agenda? I'll begin to my left.

19          COMMISSIONER NIXON: I just wanted to concur  
20          with you that I'm just really impressed with what  
21          Colonial has come up with and all of the steps  
22          they're taking for the safety and welfare of  
23          horsemen and horses and I'm really looking forward  
24          to opening. Thank you.

25          COMMISSIONER REYNOLDS: I'll just say I hope



1 next time you all come back we're going to approve  
2 an agreement that you all came up with and I look  
3 forward to that. Certainly, there were a lot of  
4 other issues. You've certainly given me a lot to  
5 think about today, so I leave it at that.

6 CHAIRMAN VAN CLIEF: Mr. Vice Chairman.

7 COMMISSIONER SIEGEL: I'm okay.

8 CHAIRMAN VAN CLIEF: We do not have a need for  
9 a closed session today, and other than that, I  
10 need a motion to adjourn.

11 COMMISSIONER NIXON: Motion.

12 CHAIRMAN VAN CLIEF: Anybody opposed? Thank  
13 you all very much. We stand adjourned.

14  
15 NOTE: This meeting of the Virginia  
16 Racing Commission is adjourned at 12:45 p.m.  
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## 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 16<sup>th</sup> day of September, 2019.

*Sandra G. Spinner*

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Sandra G. Spinner  
Court Reporter