

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VIRGINIA RACING COMMISSION

August 5, 2011

10700 Horsemen's Road

New Kent, VA 23124

Commencing at 9:35 a.m.

COMMISSION MEMBERS:

Clinton Miller, Chairman
Stuart Siegel
David C. Reynolds
J. Sargeant Reynolds, Jr.

COMMISSION STAFF:

Bernard J. Hettel, Executive Secretary
David S. Lermond, Jr., Deputy Executive Secretary
Kimberly M. Carter, Office Administrator
C. Richard Harden, DVM, Equine Medical Director
Joseph M. Roney, Director of Security & Enforcement

ATTORNEY GENERAL'S OFFICE

Amy K. Dilworth, Esquire

**CAPITOL REPORTING, INC.
REGISTERED PROFESSIONAL REPORTERS
(804) 788-4917**

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	Page
1. Call to Order	3
2. Colonial Downs - Racing Plans for 2012	3
3. Closed Meeting	
4. Adjournment	

1 MR. MILLER: Good morning. Call the meeting to
2 order. Let the record show that we have four
3 commissioners in attendance; myself as chairman,
4 Commissioner Siegel and both Commissioners Reynolds.
5 Commissioner Mark Brown is not present, but we do
6 have a quorum.

7 I suppose the first order of business would be
8 to -- This is a specially called meeting of the
9 Commission, so the minutes from the previous meeting
10 will be considered for approval at our next regular
11 session of the Commission, which is on August 23rd
12 of 2011. At that time, we'll consider the minutes
13 of the previous.

14 MR. HETTEL: We can combine these also.

15 MR. MILLER: And we'll combine that at
16 Mr. Hettel's suggestion. We'll combine the minutes
17 of this special meeting with those minutes for
18 consideration at our August 23rd meeting.

19 Really, the principal purpose of this meeting
20 today is to receive some information from the as of
21 now sole licensee of the -- in Virginia, Colonial
22 Downs, regarding some plans they have in works for
23 future racing in Virginia.

24 So without further adieu, I'll call on Mr. Ian
25 Stewart to present -- to make a presentation to the

1 Commission at this time.

2 MR. STEWART: Okay. Thank you. Mr. Weinberg
3 should be joining us shortly.

4 Really have kind of three things to talk about
5 this morning. One is to briefly review how the
6 Thoroughbred meet went. I want to talk about a new
7 promotional idea that we have, and we also want to
8 talk about harness racing a little bit.

9 So I guess I'll start with the Thoroughbred
10 meet. As you all know, we wrapped that up last
11 week. We ran 32 days this year. We were planning
12 on running 33, but canceled one day because of the
13 heat, so we ended up running 32, as opposed to 40
14 days last year.

15 Over all, I think we did pretty well. Total
16 attendance was actually ahead of last year, even
17 though we ran eight fewer days. We averaged almost
18 1,900 people a night, as opposed to 1,500 last year.

19 Our on-track handle was almost the same as it
20 was a year ago. It was only 100 and -- I guess
21 \$200,000-some less, which really isn't much.

22 The on-track simulcast handle was up on an
23 average basis. The average on-track handle total
24 was up about \$25,000. The live handle per race,
25 which is kind of a number that I look at, was up

1 about \$2,000 a race. A little over \$10,000 a race
2 this year. It was \$8,600 last year.

3 Our signal sales per race average about \$75,000
4 a race, versus \$53,000 a year ago.

5 I think the strategy of increasing the purses
6 to try to attract more horses is -- our average
7 number of horses per race was up a full horse, so
8 that's pretty good.

9 I guess the only number that kind of ticked
10 down a little bit which continues a trend that has
11 been going on for some time is the per capita wager
12 at the race track was down \$67 from \$71.

13 I think a little bit of that was due to what we
14 did on Virginia Derby Day. We had a lot of people
15 in the Hoot on the Hill area. The honest truth is
16 we didn't have enough tellers over there, so we left
17 some money on the table over there. That's a
18 problem we can fix. Anyway, I thought it went
19 pretty well.

20 Tyler, do you have anything you'd like to add?

21 MR. PICKLESIMER: Again, there was a pretty
22 good mix of, you know, quality versus quantity, I
23 think. Forty-one percent of racing were claiming
24 16,000 or above and 59 percent were below 16. So
25 all in all, it was a good meet from our perspective

1 in the racing office.

2 MR. STEWART: I'd be curious. Bernie, it was
3 the first time you saw it.

4 MR. HETTEL: I was pleased, for the most part.
5 I think probably one of those things we need to
6 continue to strive for is improve the bottom. There
7 were several horses that ran six or seven times
8 during the race meet, and certainly, some of that
9 was based on the good 100 percent Virginia rebate.

10 However, I do believe every meet that we take
11 that we can increase the bottom number as in
12 claimant price. Specifically, we can improve and
13 get to be somewhat of a national designated place.

14 Early on, we talked about becoming a
15 boutique-type meet. We've already got the
16 boutique-type meet number in terms of race dates.
17 Now, we just need to improve the quality of the
18 people who would actually consider coming from let's
19 say Gulf Stream Park up to here or shipping from
20 Kentucky for the race.

21 But over all, I was very pleased with it.

22 I was particularly please the other night. We
23 had a spill where two jockeys were injured. The
24 response from the emergency people was amazing. The
25 helicopter was here literally in minutes to pick one

1 fellow up and take him to VCU hospital. You don't
2 see that everywhere. Whoever does all that needs to
3 be congratulated. It was a very great response. I
4 was very pleased to see that.

5 MR. MILLER: Very good.

6 Did you have -- I know that I was notified that
7 you had one day you had to cancel the races because
8 of heat. That was the only day you had to cancel?

9 MR. STEWART: Yeah. That was the only day we
10 ended up doing that.

11 MR. MILLER: And you made that up some way?

12 MR. HETTEL: We made five races of the nine.

13 MR. STEWART: They just added some races to the
14 rest of the week.

15 MR. MILLER: That didn't cause any great
16 consternation among your clientele?

17 MR. SIEGEL: I would hope that was part of the
18 decision. I'm sorry. The decision to close that
19 day was a mutual one made by the horsemen as well as
20 the track itself?

21 MR. STEWART: Yeah. We consulted with the
22 horsemen. We didn't do it unilaterally.

23 MR. SIEGEL: Right.

24 MR. STEWART: Obviously, at the end of the day,
25 it is our decision.

1 MR. SIEGEL: They felt good about it?

2 MR. PICKLESIMER: Yeah. They were very open to
3 it.

4 MR. HETTEL: Most of the east coast was
5 canceled that day.

6 MS. NIXON: They had several trainers that came
7 in and met with, you know, the track and they were
8 happy with that decision.

9 MR. SIEGEL: Your question, I guess, was
10 customers that may have come out and were
11 disappointed that the doors were locked. I was
12 going a different direction.

13 MR. STEWART: Well, fortunately, it was a
14 Thursday, which isn't a huge day. There were a few.

15 MS. BOUZEK: The doors weren't locked. We were
16 open for simulcast. We called all the groups and
17 let them know.

18 MR. MILLER: Did you all offer them some free
19 ice cream and make them happy?

20 MR. STEWART: Maybe next time.

21 MR. MILLER: All right. You may proceed.

22 MR. STEWART: Obviously, you know, we certainly
23 don't want to cancel. It's a huge hassle, but
24 sometimes it just makes sense.

25 MR. SIEGEL: The risk on the other side is very

1 bad, had we had a problem.

2 MR. STEWART: Yeah, it would. I mean
3 obviously, there's bad things that could happen.

4 (NOTE: Mr. Weinberg enters the room.)

5 MR. MILLER: Good morning, Mr. Weinberg.

6 MR. WEINBERG: Sorry I'm late. Good morning.

7 MR. MILLER: That's all right. We got right
8 into having your clients present their plans and so
9 Stewart was giving us a review from the meet.

10 MR. WEINBERG: Terrific. Thank you.

11 MR. MILLER: So that's where we are at this
12 point.

13 MR. STEWART: Well, at this point, I think we'd
14 like to talk about a promotional idea that we have,
15 and basically, I provided Bernie some information I
16 think he may have distributed to you all.

17 MR. HETTEL: The commissioners have it.

18 MR. STEWART: It's an idea that we have been
19 working on for some time that would allow us to
20 promote pari-mutuel wagering using an electronic
21 promotion using some screens and some games that are
22 basically pretty similar to or very similar to what
23 we've talked about in the past about sweepstakes
24 games that have gone on here in the state.

25 Now, there's a significant difference between

1 what we propose to do and what's been deemed illegal
2 in Virginia and maybe, Jim, you could take a couple
3 minutes and take us through that.

4 MR. WEINBERG: Thank you, sir.

5 You know, the basic law in Virginia is deciding
6 what constitutes gambling. You need three elements:
7 consideration, chance and prize.

8 That has been the focus of a number of Attorney
9 General opinions and has been the focus of what
10 constitutes consideration.

11 And so in the context of the Internet
12 sweepstakes cafés and sometimes phone cards and
13 sometimes video rentals has been the issue of
14 consideration, and so let's focus on the Internet
15 cafés as the example, which is what attracted a
16 great deal of attention in a couple of Attorney
17 General opinions recently.

18 In that business model, the Internet cafés were
19 selling Internet time so that you walked into a
20 business, you bought \$10 worth of Internet time, you
21 were given a swipe card and that swipe card entitled
22 you to play a game on the Internet, at which you
23 could win dollars, real money, and the argument was
24 that the sweepstake was being used to promote the
25 purchase of the Internet time, and so it was no

1 different than the Monopoly game that McDonald's
2 uses to help sell more french fries and hamburgers.

3 The Attorney General first ruled that in that
4 context, that as long as it's just a promotional
5 idea to help sell a product, that it was not
6 consideration and therefore not withstanding the
7 presence of a game of chance and prizes as a result
8 of that game, there's no consideration for -- did
9 not constitute illegal gambling.

10 Upon deeper due diligence or thought --

11 MR. MILLER: Reflexion.

12 MR. WEINBERG: -- reflexion, the Attorney
13 General issued a second opinion that said maybe not
14 so fast.

15 If the true purpose is to play the game and not
16 buy Internet time, then there is consideration
17 present; and hence, there is gambling present, so
18 the focus became what is the true purpose of the
19 sweepstakes game? Is it to promote a real product
20 that consumers use or is it really selling the
21 sweepstakes?

22 So in instances where people were buying an
23 hour of Internet for \$10, playing the game in 15
24 minutes and coming back and buying another hour of
25 Internet time so that by the end of their stay, they

1 had five hours of Internet time but had used 45
2 minutes of it, it became clear that people were
3 buying the sweepstakes, not the Internet.

4 That model was replicated in the sale of long
5 distance phone cards. Same thing; buy an hour of
6 long distance time, you get to play the game. The
7 problem is at the end of the day, the floor was
8 littered by long distance phone cards that had been
9 unused because people were clearly there just to
10 play the game.

11 It was used in a video rental model as well.
12 Come in, rent a video, you get to play the
13 sweepstakes. Well, people were leaving their videos
14 at the shop. They weren't even taking them with
15 them.

16 So here, this is a different formulation.
17 Here, the sweepstakes is being used to promote a
18 type of wager. The wager is a series of trifecta
19 wagers at Pennsylvania tracks and Ian can describe
20 in more depth.

21 But that when you buy a true \$10 wager, that
22 \$10 goes into the pari-mutuel pool. It is no
23 different from the wager that you would place today.

24 You also get a card that entitles you to play
25 an Internet game and in that game, you are awarded

1 points. And after you've played the game, you'll
2 either have points left or you won't have points
3 left and then you can cash in your points for
4 dollars. That's what I believe the demonstration
5 will be.

6 So that in that instance, there really is a
7 product. The product is the \$10 trifecta wager that
8 Colonial Downs is trying to promote. Ian can
9 describe the economics of it, but the take-out on
10 these wagers is higher than typical wagers, which
11 allows both a reason to promote them and the ability
12 to use some of the take-out to support the
13 sweepstakes.

14 MR. STEWART: So basically, what are we gonna
15 do? What we are gonna do, or proposing, is we'd
16 like to promote the purchase, if you will, of \$10
17 trifecta bets on Pennsylvania race tracks.

18 The reason we're interested in trifecta bets on
19 Pennsylvania race tracks is that take-out on these
20 bets is between 30 and 34 percent. Put that in
21 comparison, the take-out on our trifecta bet is
22 22 percent and the take-out is basically the money
23 that comes back to the track that's redistributed to
24 -- some of it goes to horsemen. Some of it goes to
25 the Breeders Fund. Some of it goes to taxes.

1 Obviously, there's a lot more money left if you're
2 starting with 34 percent of the wager, as opposed to
3 starting with 22 percent of the wager.

4 So what we're able to do, essentially, is take
5 a portion of that 34 percent and put it into a prize
6 pool. We have, in effect, an electronic drawing and
7 we'll split up that pot of money and we think that
8 this will be a very effective way to promote the
9 purchase of what for Colonial Downs is a very high
10 profit margin product.

11 So what we intend to do is to start with
12 roughly 40 or 50 screens here at the race track and
13 promote the sale of these trifecta wagers and that
14 trifecta wager will be no different than any other
15 trifecta wager that you can buy on a Pennsylvania
16 race track today.

17 We're gonna make a minimum \$10 trifecta
18 purchase, but you know, there's nothing inherently
19 different about that, either.

20 Now, we've got a guest with us, Don Fiechter,
21 from World Touch gaming. Looks like he may be
22 having some technical difficulties on the phone, but
23 are you ready, Don, or do you need a few minutes?

24 MR. FIECHTER: Yeah.

25 MR. MILLER: I may be a little bit slow. Well,

1 there's no question I am a little bit slow. But
2 anyway, this sets up a possibility to win a prize in
3 addition to the trifecta?

4 MR. STEWART: That's correct.

5 MR. MILLER: So it's that part of it that's
6 different from -- In other words, I can bet on those
7 trifectas in any event with my cell phone or my
8 computer at home, so on and so forth, but by going
9 this route, I not only am betting on the trifecta
10 prize in Pennsylvania, I'm also possibly going to
11 win a prize from this electronic pool you're
12 creating with these funds?

13 MR. STEWART: Exactly. I mean, one way you
14 could look at it -- I guess the way I look at it is
15 you purchase the trifecta wager and you've got a
16 trifecta wager.

17 We are also gonna put your name in a hat for a
18 drawing over here. Now, it's kind of a
19 sophisticated drawing, if you will, but it's no more
20 than a drawing, because what Don will explain is
21 that this game, these games, the outcomes are all
22 predetermined.

23 Basically, you'll have an option to whether you
24 can press a button and have sort of an instant
25 winner or you can sort of play through the game, but

1 either way, whether you play through the game or you
2 choose sort of the instant winner approach, the
3 outcome is gonna be the same.

4 Once you start, if it's predetermined that
5 you're gonna win a dollar, you'll win a dollar;
6 whether you push a button and win a dollar
7 immediately or entertain yourself for a few minutes,
8 but in the end, you'll still win a dollar.

9 MR. MILLER: Just by making a trifecta wager,
10 you have the ability to win something, perhaps?

11 MR. STEWART: Right.

12 MR. SIEGEL: It's predetermined racing though?
13 These aren't live races?

14 MS. BOUZEK: They're live races.

15 MR. STEWART: No, they are.

16 MR. SIEGEL: Oh, they are. So you're gonna
17 wait for the next race. I was under the impression
18 --

19 MR. WEINBERG: You're waging on a live race in
20 your trifecta. In your trifecta wager, it's a live
21 race that's gonna occur at some point in the future.

22 MR. SIEGEL: Oh, so you don't win instantly?

23 MR. MILLER: You win your trifecta.

24 MR. WEINBERG: You hold onto your trifecta
25 ticket.

1 MR. SIEGEL: Right. Of course.

2 MR. WEINBERG: When you buy your trifecta
3 ticket, you're also getting a scratch-off game and
4 you --

5 MR. MILLER: That's what it amounts to.

6 MR. WEINBERG: Right.

7 MR. SIEGEL: But the pay-off is determined
8 later though?

9 MR. WEINBERG: Pardon?

10 MR. SIEGEL: The pay-off is determined later.

11 MR. STEWART: Well, the trifecta pay-off is
12 determined when the race is run.

13 MR. SIEGEL: Yeah, I realize that. When the
14 race is run.

15 MR. STEWART: So I could walk into Colonial
16 Downs at noon. I could buy a trifecta ticket on a
17 race at Penn National that might run at five
18 o'clock --

19 MR. SIEGEL: That day.

20 MR. STEWART: -- that day. So when I buy that
21 ticket, I'll also get some entries in to this game.
22 So at noon, I play the game; maybe I win a dollar,
23 maybe I don't. Then at five o'clock, the race runs
24 and I either --

25 MR. SIEGEL: But you could be home having

1 dinner when that race runs --

2 MR. STEWART: Absolutely.

3 MR. SIEGEL: -- and you come back to Colonial
4 Downs or wherever you played and see if you have a
5 winner at a later time?

6 MR. STEWART: Sure.

7 MS. BOUZEK: Sure.

8 MR. MILLER: Of the scratch-off.

9 MR. SIEGEL: Right, but you have to come back
10 to find out whether you won or not. There's
11 nothing --

12 MR. WEINBERG: No, no, no. The scratch-off
13 game is instant.

14 MR. SIEGEL: No, I'm talking about the
15 trifecta. It's gonna be run at five o'clock. You
16 bet at one o'clock on your lunch hour and you have
17 to come back to determine whether you won or not
18 because there's nothing that informs you.

19 MR. WEINBERG: You could look up the results at
20 the track.

21 MR. MILLER: Get on the race channel.

22 MR. SIEGEL: Right. I realize you have to come
23 to the track to look it up or get online somehow.
24 Right.

25 MR. WEINBERG: Right. Right.

1 MR. WOOLNOUGH: What happens if you have a
2 cancellation?

3 MR. WEINBERG: We're gonna get in to that.

4 MR. STEWART: But the trifecta ticket that
5 you're buying is the same mutuel ticket that we sell
6 every day.

7 MR. SIEGEL: Right. So it's a live race, but
8 its not run live. To my earlier point, I guess --
9 I'm not sitting there, unless I wait until five
10 o'clock in your example, I'm not gonna sit there and
11 see it happen and be able to cash my ticket. I need
12 to do that at a later time.

13 MR. STEWART: Well, it's a simulcast bet.

14 MR. SIEGEL: Of course. I just wanted to be
15 sure I was clear.

16 MR. STEWART: Right. It's just what it enables
17 us to do, is we could open the track at noon, even
18 though maybe some of these Pennsylvania tracks
19 aren't running until later on, because you can bet
20 the same day. You can bet a few hours early.

21 MR. S. REYNOLDS: Do you post the probable odds
22 of this sweepstakes thing and stuff like that? I'm
23 sure you'll get in to all that.

24 MR. STEWART: Yeah. We would have to follow
25 the rules just like any other sweepstakes that you

1 see all the time. We have to have the ability to
2 play the game for free if you want to. We have to
3 post all the odds, the rules of the game, all that
4 kind of stuff.

5 MR. S. REYNOLDS: So if you did a \$2 trifecta
6 box and it costs you 12 bucks, pick three horses, 12
7 bucks each, it's a minimum of 10 bucks, you get a
8 ticket that cost more money or just a flat \$10
9 ticket, you have to figure out how to allocate the
10 \$10?

11 MR. STEWART: Well, obviously, we're taking
12 baby steps right here, so initially what we're gonna
13 do, is it's gonna be a \$10 straight trifecta bet.
14 That's the only thing that will enable you to enter
15 this contest. There's other things maybe we can
16 work in later on.

17 MR. S. REYNOLDS: You pick three horses and you
18 don't box them in, you just pick three, it's ten
19 bucks.

20 MR. STEWART: Right.

21 MS. BOUZEK: That's what gets you the chance to
22 play that. It's like the simulcast. You can bet
23 anything you want, just the \$10 straight price gets
24 you that.

25 MR. MILLER: If you want to bet more on the

1 trifecta, you can buy five \$10 tickets, too.

2 MR. STEWART: Exactly.

3 MS. BOUZEK: You got it.

4 MR. MILLER: Well, I suppose some of these
5 questions we have in the back of our mind might be
6 answered by this demonstration, once it begins.

7 MR. STEWART: I hope so.

8 MR. MILLER: Okay. All right.

9 MR. FIECHTER: I'm sorry for the delay.

10 MR. MILLER: That's all right.

11 NOTE: Mr. Fiechter demonstrates on a
12 computer set-up.

13 MR. FIECHTER: Basically, this is a point of
14 sales system, so a customer who makes a wager on
15 this particular bet that they want the consumers
16 driven to and they want to promote, they would make
17 that wager come to a system where they would be able
18 to come up, select that particular wager. It would
19 then generate a receipt. That consumer would have a
20 very large number here that they then would come
21 over to the system, input that number.

22 They're gonna be presented with the rules, so
23 the first thing they'll do, they scroll through. It
24 will present them with the current rules, as well as
25 an entire breakdown of all the prizes that make up

1 this game promotion.

2 Not only does it show the actual prize value,
3 it tells them the quantity of those particular
4 prizes that make up this 20 million game pieces or
5 100 million pieces; whatever the structure of the
6 actual game promotion is. And then it posts the
7 odds of them winning any one of those particular
8 prizes.

9 Once they've scrolled through and made
10 themselves aware of the rules and the prizes, they
11 have to agree or disagree with these rules. Not
12 only will these rules be posted on the wall, but
13 every single time they engage with the system,
14 they're gonna be presented with that.

15 Also, there's these little messages that you'll
16 see pop up. These are alerting the consumer that
17 these are just simulated game themes representing
18 the results that were given to them for the purchase
19 that they made.

20 The other scenario is if they were to walk into
21 the facility and say I'm not interested in buying or
22 making a wager on that race, you have to afford them
23 that opportunity for a free alternative means of
24 entry.

25 So there would be the ability to issue them one

1 of these tickets without ever making a wager. That
2 is the biggest distinguishing factor between what
3 would be considered a lottery and what a sweepstakes
4 is.

5 MR. MILLER: Let me understand. So they pay
6 the \$10 and they get their \$10 credit, but they may
7 decide not even to bet on the trifecta? Is that
8 what you're saying?

9 MR. FIECHTER: No. No. They're gonna have to
10 purchase the trifecta first before they would
11 actually be issued free sweepstakes for that
12 purchase.

13 But if they walked in and said I'm not
14 interested in making a wager, we have to afford them
15 a free alternative means of entry into the
16 sweepstakes without making the purchase.

17 MR. WEINBERG: It's the corollary when you hear
18 no purchase required to play. That's how we're
19 meaning that.

20 MR. MILLER: Yeah.

21 MR. FIECHTER: That's the one distinguishing
22 factor that either makes you a lottery or keeps you
23 from being a lottery.

24 If I can come in and never pay you anything and
25 give you the opportunity to receive a free entry,

1 you don't see that in the lottery. You don't see
2 that in a casino environment. You cannot
3 participate in typical gambling games without making
4 a purchase or a wager.

5 MR. SIEGEL: It keeps it legal.

6 MR. MILLER: But I have purchased the trifecta.

7 MR. SIEGEL: You don't have to.

8 MR. WEINBERG: There's an alternative. The
9 Attorney General opinion lore has said, look, if
10 there's a way to play for free as well as part of
11 the promotion, clearly no consideration.

12 So this is a mechanism to sort of check that
13 box in the Attorney General opinions to say yes,
14 there is a way to play for free. A patron can come
15 in and say I know you're offering the sweepstakes.
16 I want the opportunity to play for free.

17 MR. S. REYNOLDS: Ian, in your opinion -- I'm
18 sorry.

19 MR. WEINBERG: So we just need to provide a
20 mechanism.

21 MR. MILLER: If I knew I could play for
22 nothing, why would I ever purchase a ticket?

23 MR. WEINBERG: Because you're gonna have a
24 lesser -- If you buy, for example, make a \$10 wager,
25 you're gonna get 1,000 points, which allows you to

1 do I think ten spins on the game, whatever game you
2 pick. If you get a "Free", you get one spin.

3 MR. STEWART: There's limitations.

4 MR. WEINBERG: You can only do it once a day.

5 MR. MILLER: Okay. It's to meet the Attorney
6 General's concerns and have a provision for free
7 play, but it's a very de minimus activity.

8 MR. SIEGEL: Right. It meets the test for
9 gambling.

10 MR. FIECHTER: I mean typically, a McDonald's
11 Monopoly sweepstakes or a Subway Scrabble
12 sweepstakes, you're gonna walk in, you're gonna see
13 the rules and the rules are gonna say you're not
14 gonna get anything free on site. You're gonna send
15 in a self-addressed stamped envelope and they're
16 gonna mail you back a game piece. You're not gonna
17 get any type of instant gratification.

18 MR. MILLER: Okay.

19 MR. FIECHTER: Here, if you walk up to the
20 counter, the counter is gonna say, fine, you don't
21 wanna make a purchase of the trifecta today. Here
22 is your free entry. They take one entry, they go
23 over there.

24 If these games are something that is gonna make
25 them feel engaged and entertained, then obviously,

1 the incentive is go buy the trifecta and bring your
2 sweepstakes entries back over.

3 MR. MILLER: Okay. All right.

4 MR. FIECHTER: So what we've done is the term
5 points are used, but in our scenario, we literally
6 have entries. Just like that McDonald's game piece
7 that was stuck to the Coke cup or fry box that is
8 serialized. It may or may not contain a prize.

9 The same exact thing happens here. Twenty
10 million entries are loaded into a server. They're
11 all uniquely serialized. They may or may not have a
12 prize attached to it.

13 All the consumer is gonna do, instead of
14 playing the game of Monopoly or Scrabble, they're
15 gonna be engaged with games that appear to be slots,
16 kenos, pokers, even some casual game-type things,
17 and they're gonna select how many entries they want
18 to reveal.

19 It's gonna open up those entries and it's gonna
20 say, okay, first entry was \$5, twentieth entry was
21 \$1, so they got a total of \$6 in prizes. So the
22 wheels are gonna spin and they're gonna try to line
23 up a combination that pays them \$6.

24 So same thing with a poker hand. If I came up
25 and I was engaged in a game theme that felt like

1 poker -- so here, I'm presented with something that
2 looks like Jacks or better. Over here, I see I can
3 play five entries or I can open up 100 entries. I
4 hit "Reveal". It presents me with five cards. If I
5 wanna hold them, I touch them. If I don't, I can
6 throw them away. All right. Pair of fours. Throw
7 that away.

8 Here was a scenario where I didn't hold
9 anything on those first five cards. I do not have a
10 winning hand here at all. It flipped this little
11 coin up here and it awarded me three. Three would
12 have been for three of a kind. I know that in those
13 first five cards, I was presented with two sevens.
14 I decided not to hold them.

15 Even though I have no winning hand, those game
16 pieces said, hey, you won \$3. So the game is just
17 trying to reveal those \$3 to you. So up here, it
18 said "Bonus Award Three". So I was still given what
19 was on those three game pieces, even though in poker
20 I didn't win the hand.

21 MR. MILLER: For advertising purposes to get
22 people to steer towards this, do you have a maximum
23 win? I mean can you announce that you can win up to
24 \$1 million, whatever it is?

25 MR. FIECHTER: It's a guaranteed. So in those

1 20 million pieces, just like we saw in those rules,
2 it says in this case, \$3,000. There's one game
3 piece out of those 20 million game pieces that has a
4 3,000 or maybe a 10,000, whatever we establish that
5 top prize as, and they can absolutely advertise
6 that.

7 Just like McDonald's says we're gonna give away
8 \$1 million or Coke's gonna give away \$1 million,
9 same exact scenario, except that we're not using
10 Monopoly, Scrabble, lick'em-and-stick'em stamp
11 games. We know we're using games that are
12 attractive and engaging to an adult consumer and
13 we've just found a unique way to do it.

14 MR. MILLER: An educated adult consumer,
15 apparently.

16 MR. FIECHTER: There you go.

17 MR. MILLER: Okay.

18 MR. FIECHTER: So again, like I said, we've got
19 slots, kenos, pokers as ways of representing those
20 results, but we also have games like Fireflies.

21 A lot of women that are 40 and older, they get
22 on the computer and they engage in these games like
23 Bejeweled or Collapsed. All this is, is a very
24 simple game that says, here, match the colors. So
25 anything that's the same color is going to

1 disappear. And I just found a penny winner, so as
2 I'm actually touching these, I'm actually revealing
3 these entries.

4 So it doesn't look -- doesn't have the
5 look-feel of a slot, keno or poker, but it is one of
6 those games that women 40-plus are engaged with.

7 So soon as I clear that, stage complete, I can
8 decide to open up 100 entries at a time. In this
9 case, I just found another penny winner.

10 MR. MILLER: And all these winnings will be
11 tied to your entry number, whatever it was?

12 MR. FIECHTER: Yeah. All you're doing is every
13 time you hit "Reveal", you're saying I want to
14 reveal 20 entries at a time. It is gonna take that
15 result on those 20 entries. In this case, it is
16 showing these silver bars, gold bars, diamonds,
17 emeralds.

18 MR. MILLER: My question then is: How does the
19 money get in their hands?

20 MR. FIECHTER: This receipt that they used to
21 log into the terminal.

22 MR. MILLER: Right.

23 MR. FIECHTER: Once they finish revealing their
24 entries and they actually have their prizes, they
25 take this back up to the point of sale, input that

1 same number, go to that account and say, oh, you've
2 won \$25.

3 MR. MILLER: So here at Colonial Downs, no
4 problem, you take it up to the window?

5 MR. STEWART: Right.

6 MR. MILLER: But you're contemplating putting
7 these elsewhere, aren't you?

8 MR. STEWART: Well, the thought has occurred to
9 us.

10 MR. MILLER: But you're going to do this as an
11 experiment first just at Colonial Downs, right --

12 MR. STEWART: Right.

13 MR. MILLER: -- for a period of time to see how
14 it works and see what kind of reaction you get and
15 so on and so forth, and then if you want to expand,
16 then you'd be back asking for it?

17 MR. SIEGEL: Well, he may be asking for it now.

18 MR. MILLER: You would put them wherever you
19 felt you could put them?

20 MR. STEWART: Clearly, there's legal issues, as
21 Jim described. In your package, there's also a
22 letter there from Linwood Gregory, New Kent
23 Commonwealth attorney.

24 MR. MILLER: So you're good in New Kent?

25 MR. STEWART: We're good in New Kent. Right.

1 MR. MILLER: You would probably follow the same
2 process if you want to go beyond New Kent?

3 MR. STEWART: Yeah. I mean -- Yes. We're
4 very cognizant that we have a regulated industry.
5 We're very careful to dot the I's and cross the T's.

6 MR. D. REYNOLDS: Where is the system now? In
7 a number of different places?

8 MR. FIECHTER: I have this in all types of
9 businesses, from beauty parlors to convenience
10 stores to bars, restaurants.

11 As I explained to Jeanna and Ian, is that the
12 biggest issue around the country has been does
13 somebody just go into a local strip mall, say I'm a
14 cyber café, open up with 50 computers and the local
15 law enforcement walks in and says, geez, all we ever
16 see people do is they're engaged in this game
17 content. Are they really interested in buying the
18 product of this Internet time? That's the issue
19 that this Attorney General had.

20 What makes this a solid argument is this is a
21 preexisting business. This is no different than
22 that bar, restaurant, beauty parlor, store. It has
23 products that it sells and the whole spirit of the
24 sweepstakes is I want to use this as a marketing
25 tool to drive traffic and purchase a particular

1 product.

2 These guys that just show up with these 50
3 computers, what is their real intent? And that's
4 what the Attorney General was struggling with.

5 In this case, this is really, truly ancillary
6 to the existing business here. This business is in
7 the business of selling wagers on horse races.

8 Well, we wanna promote a particular race, this
9 trifecta. So that was what was really intended when
10 sweepstakes legislation was approved in this country
11 or in accepted practices.

12 Hey, we understand you were gonna buy a burger,
13 you were gonna buy fries. In this case, they're
14 gonna buy a wager. And maybe eventually, it may be
15 something they buy in a restaurant, too.

16 MR. MILLER: I think the question is -- I'm not
17 opposed to the basis of your question. I think my
18 question is: Is this an operation as Colonial Downs
19 has requested it in any other state tied to racing?

20 MR. FIECHTER: There's a track, actually, a
21 highlight fronton in Florida in Jasper, northern,
22 before you get to the pan handle.

23 MR. MILLER: Right.

24 MR. FIECHTER: They just set up a facility
25 where they've installed something like almost 100

1 computer terminals.

2 MR. MILLER: Tied to the racing activity?

3 MR. FIECHTER: Yes.

4 MR. D. REYNOLDS: That's the only one?

5 MR. FIECHTER: That's the only one I'm aware
6 of.

7 Typically, what I see around the country is all
8 the tracks are trying to get video lottery terminals
9 or whatever it may be, so that they can give that
10 flavor to the customer.

11 This is in Florida. They don't have BLTs,
12 unless you're in Dade or Broward County in south
13 Florida. So the other tracks that have basically
14 been blocked out of ever getting slots because of
15 the compact with the Seminole tribe, they have no
16 other option to have this type of feel, but to do it
17 through a sweepstakes to promote their products.

18 MR. STEWART: So we would be out there on the
19 cutting edge, but we've been there before.

20 MR. MILLER: You'd be a pioneer.

21 MS. BOUZEK: Been there before.

22 MR. FIECHTER: As they pointed out, you've got
23 an Attorney General that obviously has a lot of this
24 brought to their attention by law enforcement.

25 And yes, as a pioneer, I can say literally,

1 I've had some arrows shot in my back.

2 MR. S. REYNOLDS: Ian, most people probably
3 wouldn't buy a \$10 straight ticket on a trifecta, so
4 whatever they're buying, it's worth \$10 to them to I
5 guess play in the sweepstakes and they still have a
6 shot at winning huge. If they hit that trifecta,
7 that's the real win.

8 MR. STEWART: Well, it would be a huge win, but
9 if you just sort of stand back from it and look at
10 it from a macro standpoint, the \$10 trifecta wager
11 on a Pennsylvania race track is a very profitable
12 product for Colonial Downs, so if we can sell more
13 of those, that's in our best interest. So we're no
14 different than McDonald's trying to sell you more
15 french fries.

16 I could sell you a -- I may be wrong on this,
17 but I think I could sell you a straight bet in Nyra
18 [ph] and my profit margin would be virtually
19 nothing.

20 MR. S. REYNOLDS: Right. I understand why
21 you're doing it. I'm trying to understand why a
22 better would buy a \$10 trifecta ticket.

23 MR. STEWART: Hopefully, they get entertainment
24 value on top of purchasing a ticket.

25 MR. SIEGEL: So what's your risk?

1 MR. STEWART: The financial risk in this is
2 very, very small. The political risk is a political
3 risk.

4 MR. SIEGEL: Right. That's the real question.
5 So if approved, you would install these in your
6 OTBs, at least initially, or no?

7 MR. STEWART: No.

8 MR. WEINBERG: No, because -- Just so we're
9 clear on this.

10 On the political risk, we have tried to address
11 that by going to the guys who would enforce the law;
12 the Commonwealth Attorney and New Kent.

13 MR. SIEGEL: Right. You've got an answer in
14 New Kent, but you don't have an answer in Henrico.

15 MR. WEINBERG: Right.

16 MR. SIEGEL: For example, so how do you test
17 that? You would go to Kizer or the Commonwealth's
18 Attorney in Henrico and say --

19 MR. WEINBERG: Here is what we plan to do.
20 Kick me if I'm wrong, but do the same thing we do in
21 New Kent. All we're describing today is what we're
22 gonna do in New Kent.

23 MR. SIEGEL: Right. The difference is you
24 would go and say we have the approval of the
25 Virginia Racing Commission, subject to your approval

1 to go forward with this, and then ultimately, you
2 would install it in the case of Henrico in your OTBs
3 there?

4 MR. WEINBERG: Assuming the Commonwealth's
5 Attorney and sheriff --

6 MR. SIEGEL: Yes, assuming you got --

7 MR. MILLER: You used the terminology the
8 approval of the Racing Commission. You don't need
9 the approval of the Racing Commission. This is just
10 an informational meeting only. You're not asking
11 for our approval.

12 MR. SIEGEL: Are you asking for an endorsement
13 from us?

14 MR. STEWART: No. I think the situation is a
15 little bit analogous to kiosks. We're explaining to
16 you what we believe is legal and what we intend to
17 do.

18 MR. MILLER: And you're taking the risk to do
19 it and you're telling us this is what you want to do
20 and you're gonna do it as a trial experiment here at
21 Colonial Downs to see if it works out economically
22 and you're telling us that if it does work out, you
23 will most likely try to expand the operation.

24 MR. STEWART: Yes.

25 MR. MILLER: But also what you're telling us

1 and what Mr. Gregory is telling us, this is
2 completely legal and it's gonna be legal in New
3 Kent, at least, and you're gonna go forward with it
4 and see how it does and you're taking the risk, both
5 economic risk and political risk, social risk,
6 religious risk.

7 MS. BOUZEK: Let me see if I can give an
8 example. A year ago, you know, Darryl and a bunch
9 of us had to sit in a room and go through take-out
10 rates and see where we could make the most money.

11 We put out a promotion that said, hey, with the
12 player award cards, anybody that bets at least
13 \$2,000 in X amount of time on the Philadelphia track
14 is gonna get a cooler.

15 We ran that in the OTB. It's the same exact
16 thing. We're just trying to drive people to where
17 we can make the most money. It's not anything we
18 haven't done in the past. This is a lot better than
19 a Colonial Downs Virginia Derby 2003 cooler that we
20 would send in the mail.

21 MR. MILLER: Jim, one question. This might be
22 far-fetched.

23 What about the Pennsylvania tracks? You're
24 using their trifecta as a marketing tool. Is there
25 any possibility that they'd come along and say, wait

1 a minute, Colonial Downs. You guys are raking in --
2 You pioneered this.

3 MR. STEWART: Well, I guess --

4 MR. MILLER: Let me finish my question.

5 We pioneered this. You pioneered this and you
6 all got a great thing going, but you're using us as
7 a basis for your operation. What's in it for us,
8 other than we're getting the \$10 trifecta bet?

9 MR. WEINBERG: I think they get the same
10 benefit we get, in that we've driven handle to their
11 product. It's a good take-out for them as well.

12 MR. MILLER: I can see that, but do you
13 anticipate they might ask for anything more?

14 MR. STEWART: I don't know that they would ask
15 for anything more. They would get more handle on
16 the simulcast product. They would get a three
17 percent royalty, just like anybody else.

18 MR. STAPLES: What percent royalty do they get?

19 MR. SIEGEL: Three percent.

20 MR. STAPLES: Three.

21 MR. STEWART: I think my argument back to them
22 would be since we're driving so much business
23 through your place, you ought to give us a break on
24 that three percent.

25 MR. MILLER: But you don't need to clear

1 anything with them to use this as a base of your
2 operation that you're aware of?

3 MR. WEINBERG: I don't think it has any
4 intellectual property ownership right attached to
5 it.

6 You know, we purchased the right to wager into
7 that pool through our simulcast agreement, so that
8 document really defines our rights and obligations
9 vis-a-vie the Pennsylvania tracks. Pretty standard
10 document that's negotiated.

11 MR. MILLER: As long as you're comfortable with
12 it, it's not our problem. But I just wondered.

13 MR. FIECHTER: I just wanted to make a
14 clarification. You said were they gonna be upset
15 that you're using their marketing. Actually, they
16 are the product. This is the marketing. We're
17 marketing their product, so this needs to be
18 considered the marketing tool.

19 MR. STEWART: The real risk we run is that the
20 Pennsylvania tracks change their take-out. All of a
21 sudden, they decide they want a 22 percent take-out,
22 you got a problem. We're prepared to run that risk.

23 MR. S. REYNOLDS: Can I ask a question?

24 MR. MILLER: Yes.

25 MR. STAPLES: It's hard to hear back here.

1 Is he talking about take-out? What about the
2 take-out in Pennsylvania? Talking about the
3 take-out?

4 MR. MILLER: Just a minute. Mr. Reynolds had a
5 question, then we'll get to you.

6 MR. STAPLES: I'm sorry.

7 MR. D. REYNOLDS: Get back to the \$10 one
8 trifecta. How difficult would it be to let the
9 better pay their \$10 and have five, you know, five
10 bets, you know, five \$2 trifectas so they have some
11 different combinations? Does that mess up the whole
12 thing? Just makes it more complicated?

13 MR. STEWART: It probably doesn't. I guess
14 this is, as I said, this is new territory, so I want
15 to approach it as simplistically as I can.

16 MR. S. REYNOLDS: So you'll figure all that out
17 as you go along. Okay.

18 MR. STEWART: Yes.

19 MR. WEINBERG: Did we address the cancellation?

20 MR. S. REYNOLDS: Yes.

21 MR. MILLER: Okay. This gentleman back here
22 has a question.

23 MR. STAPLES: I'm sorry. I apologize. I
24 realize it is their forum.

25 Is it mandatory that the betting public knows

1 what the take-out is on every product, be it exotic,
2 straight bets or what? Is that mandatory? That's a
3 good question.

4 MR. MILLER: That's a good question. Does
5 anybody have a good answer?

6 MS. BOUZEK: It's public knowledge. You can
7 get it on the Internet.

8 MR. STAPLES: Excuse me?

9 MS. BOUZEK: It's public knowledge. You can
10 get it on the Internet.

11 MR. STAPLES: But is it in the programs and is
12 it, you know?

13 MS. BOUZEK: Doesn't have to be.

14 MR. STAPLES: It's a big issue on the Internet.
15 Huge issue about the take-out.

16 MR. MILLER: Dave, can you?

17 MR. LERMOND: It's in the racing form at the
18 track.

19 MR. STAPLES: There you go. That's good.
20 Okay. Thank you, Dave.

21 MR. D. REYNOLDS: Question. So you make money
22 on 30-some percent from Pennsylvania in the bet like
23 this sweepstakes. Is that gonna make money also or
24 break even?

25 MR. STEWART: No. The best way to understand

1 the sweepstakes is to look at it as kind of two
2 separate transactions. We're selling trifecta
3 wagers.

4 We're taking some of our profits in that
5 trifecta wager and putting it in sweepstakes that
6 people are gonna win. We're not gonna make any
7 money on the sweepstakes. The sweepstakes is just a
8 giveaway. It's no different if you buy a trifecta
9 wager, put your name in a hat and we'll draw for
10 \$1,000.

11 MR. FIECHTER: At the end of the day, you're
12 hoping you're gonna sell a lot more of those races
13 to make up for the prizes that you're using to
14 promote it.

15 MR. D. REYNOLDS: Have you sat down and worked
16 through this process?

17 MR. STEWART: You mean played the game?

18 MR. FIECHTER: Mathematically, we went through
19 it.

20 MR. STEWART: I have not played the game.

21 MR. D. REYNOLDS: It looks more complicated
22 than I felt it was before I heard the presentation.

23 MR. STEWART: The importance of Don
24 demonstrating this is the outcome is the same, but
25 what the game provides is just sort of an

1 entertainment process while you figure out whether
2 or not you won.

3 So you can scratch off a ticket and you know
4 whether you've won in five seconds or you can sort
5 of go through this series of events that sort of
6 seems like you're playing something, but you're kind
7 of really not, and you get the same answer five
8 minutes later.

9 MS. BOUZEK: Or you get the instant reveal.

10 Don, are you gonna show the instant reveal
11 button?

12 MR. FIECHTER: Yes. So basically right here on
13 this particular one, I logged in a different ticket.
14 So if I just, without even selecting any of these
15 games, if I don't care to be entertained, I can hit
16 "Entries", select the number of entries to reveal.
17 I'm gonna hit "All Entries". I have \$12.80. I
18 didn't play a game. I just said open up those
19 thousand entries for me. Tell me what I won.

20 MR. MILLER: And you would have won the same
21 \$12.80 had you used your poker adventure?

22 MR. FIECHTER: If I had taken poker, if I
23 played the slot or keno, I would have come to that
24 same \$12.80.

25 MR. MILLER: Yeah.

1 MR. D. REYNOLDS: You said you played around?

2 MS. BOUZEK: Yes, sir. I had the terrible task
3 of going around the state and playing these games.

4 MR. D. REYNOLDS: And it's not too complicated?

5 MS. BOUZEK: Oh, no. It's not complicated at
6 all, but you know, we have staff. It's gonna be a
7 little, you know, OTB in there. We're gonna have
8 staff. It's not difficult at all, but if anybody
9 has trouble, we'll have staff to help them.

10 MR. FIECHTER: I think the Attorney General got
11 involved because it looked like it was too engaging.
12 They had too many people around the state walking in
13 the facilities.

14 MR. SIEGEL: Where's the closest you went to do
15 this?

16 MS. BOUZEK: To my house?

17 MR. SIEGEL: You said you went around the
18 state.

19 MS. BOUZEK: Oh, there are 12 of them in
20 Richmond. There's one right next door to our OTB in
21 Indian River. There are five of them in
22 Martinsville.

23 MR. SIEGEL: Where in Richmond would you find
24 them?

25 MS. BOUZEK: There's one at 4500 block West

1 Broad Street, two blocks down from our OTB. They're
2 all over Hull Street.

3 MR. WEINBERG: These places, they're operating
4 illegally.

5 MS. BOUZEK: Illegally. They're operating
6 illegally.

7 MR. SIEGEL: In the 4500 block of West Broad in
8 what kind of establishment?

9 MS. BOUZEK: It was an Internet café.

10 MR. SIEGEL: Oh, okay.

11 MS. BOUZEK: I mean there's no legal ones
12 running. They're all illegal, but they use the
13 premise. They found a loophole. Oh, we'll sell
14 Internet time.

15 MR. MILLER: They're slowly being shut down?

16 MS. BOUZEK: Slowly but surely.

17 MR. SIEGEL: But they're all Internet-type
18 cafés that are doing this? No bars and restaurants
19 are doing this that you know?

20 MS. BOUZEK: No.

21 MR. MILLER: Any other questions from the
22 Commission? Mr. Hettel, you have one?

23 MR. HETTEL: Mr. Chairman, let me suggest that
24 if you all are gonna go ahead and proceed with this
25 this afternoon, we'll go ahead and put it on your

1 website, obviously, so everybody can kind of get a
2 feel for it. And also, if you could send us
3 something, we could put it on the Virginia Racing
4 Commission website.

5 The other part that maybe we're overlooking is,
6 it sounds to me now like the race track would be
7 open every day over there, right?

8 MR. STEWART: Well --

9 MR. HETTEL: Which it hasn't been previously,
10 and I think that's gonna be a plus for our bottom
11 line meeting the purse structure, eventually, with
12 how much traffic we drive and how many more
13 pari-mutuel tickets we sell and how many people buy
14 soft drinks and concessions over there.

15 MR. STEWART: Our goal is to commence
16 operations with the start of the harness meet when
17 we have the county fair out here and we'll have a
18 few thousand people.

19 As Bernie points out, assuming that it's
20 popular, we intend to offer simulcasting on a daily
21 basis.

22 So not only you will have the ability to
23 participate in the promotion, but you'll also have
24 sort of your standard simulcasting operation as
25 well.

1 MR. MILLER: Do you have prepared or are you
2 gonna prepare a Charles Town type of presentation
3 such as Bernie suggested can go on a website? You
4 know, a little three-minute blurb or some
5 informational data or something that says a new,
6 exciting game has come to Virginia or whatever?

7 MR. STEWART: I think we're -- My thought is to
8 have a little more softer opening than that.

9 MR. MILLER: Okay. Well, okay, and then
10 eventually you would go?

11 MR. STEWART: Right.

12 MS. NIXON: I would think the public, once they
13 understand they can do it, they'd probably be pretty
14 eager to engage in it.

15 Generally, for lack of a better definition,
16 this is a BLT slot machine game of chance. Most of
17 the United States likes that. Most places I've
18 been, it has been very well received.

19 MR. STEWART: Well, I would say it simulates
20 them.

21 MR. HETTEL: Okay.

22 MR. MILLER: Any questions from the front row?
23 Any questions from the public at large today or
24 Mr. Stewart or Mr. Weinberg?

25 MR. STEWART: There is one little --

1 MR. WEINBERG: We'd like to talk about a few
2 more details when you have a moment.

3 MR. MILLER: Oh, you haven't finished your
4 presentation? Okay.

5 MR. WEINBERG: So as we begin to think about
6 the operations of this promotion, we need to think a
7 little more deviously as well as to how could
8 someone game the system, place the wager, play the
9 game and then cancel the wager, but we also need to
10 think about what happens if someone does buy that
11 trifecta wager at 12:00 o'clock for a five o'clock
12 race and a horse scratches; what ability does that
13 person have to get a refund.

14 Ideally, we'd like to make this type of wager
15 non-refundable so that if there is a scratch, you
16 can place another wager, but you don't get your \$10
17 back; you get another opportunity to place a
18 trifecta wager.

19 In looking at the regulations, they're a little
20 ambiguous as to whether you can make a wager
21 non-refundable.

22 So we'd like to work with staff to the extent
23 that we need an exception from the regulations or a
24 clarification of the regulations to figure out how
25 to make these wagers non-refundable so that we don't

1 have people placing the wager, playing the game and
2 then taking their \$10 back.

3 MR. MILLER: So you're suggesting instead of
4 getting your \$10, you get like a baseball rain
5 check? In other words, you can attend another game?

6 MR. WEINBERG: Right. You get a store credit.
7 All sales final, store credit accepted.

8 MR. MILLER: Well, I would suggest you work on
9 this with Mr. Hettel and Ms. Dilworth to get her --

10 MR. HETTEL: I think we can do that.

11 MR. MILLER: -- to get her input on this also
12 regarding the legality of having a non-refundable
13 wager.

14 MR. STEWART: To be clear, it would just be
15 these particular wagers; am I right?

16 MR. SIEGEL: Yes, yes.

17 MR. D. REYNOLDS: It would seem there's another
18 side of that. If I knew that I couldn't get a
19 refund on a scratch, I think I'd be -- that would
20 bother me if I was told I couldn't get anything
21 back.

22 MR. SIEGEL: But you're no worse off though,
23 because you do get a chance to play again, so you
24 haven't given up anything. You're not in that five
25 o'clock race. You're maybe in a later race.

1 MS. BOUZEK: You're not in a \$10 trifecta race.
2 You just don't get to play again.

3 MR. SIEGEL: You don't have to pay again, but
4 you get to play again.

5 MR. WEINBERG: It's like going into a store
6 whose policy is we won't refund your money, but
7 we'll give you store credit if the shirt doesn't fit
8 or you take it home and decide you don't like it.
9 But you're right, it is a detraction.

10 MR. D. REYNOLDS: I wouldn't buy the shirt.

11 MR. WEINBERG: Pardon?

12 MR. D. REYNOLDS: I wouldn't buy the shirt.

13 MR. WEINBERG: Right. Colonial Downs is making
14 the business decision that it will attract more
15 wagers than it will repel by making the ticket
16 non-refundable.

17 MS. BOUZEK: If somebody wants a \$10 trifecta
18 that doesn't like the fact that it's non-refundable,
19 they can do two \$5 trifectas or five \$2 trifectas or
20 \$8 and \$2 trifectas so they can still place their
21 bet.

22 MR. STEWART: They just can't play the game.

23 MS. BOUZEK: They just can't play the game.

24 MR. MILLER: And you're betting, pardon the
25 pun, that this is gonna be so attractive that it's

1 not gonna bother them that they're gonna have a
2 possible wager that's non-refundable, but
3 replaceable by some other wager.

4 MR. STEWART: Yes.

5 MR. MILLER: Any other questions or
6 observations? Do you have more?

7 MR. WEINBERG: We were talking among ourselves.

8 Just so we're perfectly clear, the regulation
9 in question speaks to ticket cancellation, and what
10 we would like to discuss with staff is we're not
11 really canceling the ticket. We're making it
12 non-refundable and exchangeable, but the
13 regulations -- and Dave, if you're looking, it's
14 Page 55 of the regulations, Paragraph C at the top
15 of that page.

16 And the regulation says: All tickets with a
17 value of \$250 or less on live or simulcast races may
18 be canceled at any window at any time prior to the
19 post time for that race.

20 All tickets exceeding \$250 may also be canceled
21 at any time prior to the post time for the race for
22 which the wager was made; however, this cancellation
23 requires the approval of a mutuel manager or a
24 designee.

25 Then it goes on to speak the mutuel manager has

1 to make a decision whether it will influence the
2 odds or not in the pari-mutual pool by making that
3 cancellation.

4 We were just concerned that this would be
5 interpreted that we are canceling wagers or putting
6 a limitation on the ability to cancel wagers. The
7 regulation doesn't say that this is obligatory, that
8 it must be subject to cancellation. It says they
9 may be subject to cancellation.

10 MR. MILLER: That's always a big difference,
11 must or may.

12 MR. WEINBERG: Clearly, we're giving people the
13 opportunity to still cancel their wager, as long as
14 they place yet another wager.

15 MR. MILLER: Right. All right.

16 MR. STAPLES: There's a ticket at the regular
17 track; regular track, if they scratch, you get your
18 money back at every track in the country, right?

19 MR. MILLER: Correct.

20 MR. STAPLES: Here, you have to use it later
21 like at TJ Maxx or something.

22 MR. WEINBERG: Just for this one type of bet.
23 Everything else stays the same.

24 MR. STAPLES: Got you. Thank you.

25 MR. MILLER: Anyone else have any observations

1 or questions?

2 NOTE: There was no response.

3 MR. MILLER: All right. That'll wrap up that
4 and you'll just work through Mr. Hettel and Amy
5 Dilworth to try to clarify your observation relating
6 to the race -- scratch. Not race, but scratch.

7 Okay. Now, you said you wanna go on to your
8 second proposal now?

9 MR. STEWART: We'd like to spend a couple
10 minutes talking about harness racing, and I was
11 hoping we could have more of an informal dialogue
12 and hopefully, you know, share some opinions from
13 everybody.

14 As you know, the harness contract between the
15 track and the Virginia Harness Horsemen's
16 Association expires at the end of this year.

17 We've said for several times I think over the
18 last few months that we need to make some
19 significant changes. We'd like to make some
20 significant changes.

21 I was hoping to maybe be able to do that
22 through the committee with Mark Brown; hasn't quite
23 worked out yet.

24 Sat down with Dr. Dunavant, had lunch with him
25 six weeks or so ago, went through some ideas, had a

1 brief conversation with him subsequent to that, but
2 I think that, you know, there's some serious issues
3 related to this that need to be aired, you know,
4 amongst the Commission in some sort of a forum and I
5 guess this is the only forum that I've got.

6 So that being said, we've been running live
7 harness racing in Virginia since 1998. In my
8 opinion, over the last 13 or 14 years, we haven't
9 really made a whole lot of progress toward the
10 stated goal of sustaining and promoting and growing
11 the native harness race Standardbred industry and I
12 think that it's time for a new direction.

13 I don't think continuing along the same vain
14 will lead to a different result. I think that after
15 13 meets, that we've reached a point -- in what I've
16 distributed there -- is we've reached the point
17 where basically, we're putting on a very expensive
18 live harness meet. We're investing significant
19 resources in it every year, and A, I don't think
20 it's growing the native industry, and B, it's
21 basically serving to benefit out-of-state horsemen.

22 If you look at the charts that I've distributed
23 here, what you find is that the Virginia horsemen
24 are getting roughly 15 percent of the money,
25 15 percent of the purse money.

1 I've said this before, but the meet costs
2 roughly \$700,000 and we're doing that in order to
3 distribute a couple hundred thousand dollars to the
4 Virginia harness horsemen.

5 I don't think that's a most efficient way to do
6 that. I think there has to be a better way.

7 My suggestion that I made to Dr. Dunavant is
8 that we configure the meet such that it becomes a
9 Virginia-centric meet; the meet and the purse
10 structure and the way it's configured, and I do not
11 claim to be an expert in how to do that, such that,
12 you know, 80 percent of that purse money goes to
13 Virginia horsemen, and that way, I think you can
14 build a base.

15 I think the problem is there's always been this
16 artificial focus on success is measured in the
17 number of days that we race. I've said this for
18 years. I think that's the wrong metric. I don't
19 think that really measures progress.

20 I think for the Standardbred industry to grow
21 in Virginia, it has to have a solid base. There has
22 to be a base. There has to be an inherent desire
23 for people to want to own Standardbred horses and
24 want to race Standardbred horses and that will in
25 some fashion, theoretically perhaps, grow popularity

1 amongst, you know, in the public, and that way, it
2 can sustain a larger meet. But if we don't start
3 with a strong base, then I just don't think we get
4 anywhere.

5 So my suggestion has been somewhere along the
6 lines of let's run a 12-day meet. We can see -- One
7 other thing that we didn't mention about the
8 Thoroughbred meet this year but I think is evident,
9 is that the 100 percent bonus program for Virginia
10 horsemen was very successful and I think that
11 created a lot of interest in Virginia breeding and
12 Virginia horses.

13 My suggestion would be let's have a 300 or
14 400 percent bonus program for the Standardbred
15 industry and let's take the money that's available
16 and let's distribute it in such a fashion that the
17 Virginia horsemen get 80 or 90 percent of it and it
18 creates a demand for Virginia-bred horses and as
19 that demand grows, perhaps there's an opportunity to
20 grow the live racing profit.

21 I'm open to other ideas. I guess, you know, I
22 try not to be a draw the line in the sand person,
23 but it just seems crazy to keep doing what we're
24 doing.

25 MR. MILLER: Any questions, gentlemen, from the

1 commissioners? Any commissioner have a question
2 regarding the harness racing observation?

3 MR. LERMOND: Mr. Chairman, I was just curious.
4 What is the percentage on the Thoroughbred meet as
5 far as Virginia horsemen? You say 15 for harness.

6 MR. STEWART: I honestly don't know. I think
7 the distinction there is that when you look at the
8 live Thoroughbred meet and you for instance look at
9 Virginia Derby Day, as a businessman, there is a
10 path to profitability here and that path is if we
11 can put 40,000 people out here for the Virginia
12 Derby, that pays for the whole meet and that model
13 is really no different than what's sustained racing
14 in Maryland for all these years; The Preakness.
15 They make all their money in one day. Until
16 Churchill Downs discovered slot machines, they used
17 to make all their money on one day.

18 The idea that we can create a small, boutique
19 meet that is built around some major events that we
20 can promote and grow attendance, we can make money
21 at that. We can make money at that. There is a
22 path to success. I don't see the path to success in
23 what we're doing in harness racing.

24 MR. MILLER: Ian, do you have any?

25 MR. WOOLNOUGH: That Dr. Dunavant is talking to

1 Ian and I think relayed to you there is something
2 that we have in the works right now, which is
3 similar to going along the same lines of what Ian
4 Stewart is saying. Until the board looks at this
5 and discusses the financial end of it, it's just too
6 soon to bring it to the Commission.

7 MR. MILLER: When do you think you would have
8 any information for the Commission?

9 MR. WOOLNOUGH: Prior to our meet starting.

10 MR. MILLER: So maybe on the meeting on the
11 23rd?

12 MR. WOOLNOUGH: That may be pushing it a little
13 bit. I'm not sure. You've got 14 members on the
14 board. It's kind of hard.

15 MR. MILLER: Maybe our regular September
16 meeting?

17 MR. WOOLNOUGH: I should think so.

18 MR. MILLER: What date is our September
19 meeting?

20 MR. D. REYNOLDS: August the 23rd.

21 MR. SIEGEL: No, September meeting.

22 MR. MILLER: I've got 27th of September.

23 MR. HETTEL: That'd be right. That's the last
24 Tuesday of the month.

25 MR. MILLER: So that'd be perhaps by then you

1 could have some kind of --

2 MR. WOOLNOUGH: Proposal layed out. To
3 suddenly change direction right now, you know, you
4 don't suddenly go out and say we're suddenly gonna
5 make them Virginia-bred. You've got to get the
6 mares. You have to breed. You get the foals. It
7 has a process to go through. That's the issue that
8 you're looking at.

9 MR. MILLER: Right.

10 MR. SIEGEL: Can you fill the fields with
11 Virginia horses there? It's a small industry in the
12 Commonwealth. How many days can you run with
13 fields?

14 MR. WOOLNOUGH: If you just limit it to
15 Virginia-breds? If you limit it just to
16 Virginia-breds the same as you would if you limit it
17 to Virginia-breds and Thoroughbreds, you would have
18 an extremely short meet.

19 MR. SIEGEL: What's being suggested here? You
20 put the money in the Virginia horses so the
21 out-of-state horses will likely not come?

22 MR. STEWART: Well, to kind of track back
23 through history, we actually ran a 15-day harness
24 meet in 2001, and you know, we had enough horses
25 then.

1 MR. SIEGEL: But they were not --

2 MR. WOOLNOUGH: They weren't Virginia-breds.
3 They were many more that came.

4 MR. STEWART: I take it back to my original
5 point. What's the goal? I mean if all we're gonna
6 do to measure progress by how many days we race out
7 there, then sure.

8 MR. MILLER: There's always some concern among
9 horsemen, I gather, relating to the length of a meet
10 regarding the expense of bringing in their horses
11 for a short period of time.

12 Is 12 days -- Is the big difference between --
13 Is it significant that you would suggest 12 days as
14 opposed to 15, for instance? Would 15 be -- I mean
15 they have done that before.

16 MR. STEWART: Sure. Fifteen or 12.

17 MR. HETTEL: The amount of total persons would
18 be the same whether it was 12, 15 or 20, correct?

19 MR. STEWART: Correct.

20 MR. HETTEL: So in terms of being attractive, I
21 think it would cause more horsemen to want to come
22 for a more attractive purse. Virginia separates
23 much like a Thoroughbred. We designate Virginia's
24 and they get 200 or 300 percent on what the purse
25 is, but the other horsemen would be running for good

1 purses in 12 days, as opposed to 20 days. The purse
2 structure would be more conducive for them to come
3 because it's a higher number.

4 MR. PICKLESIMER: You can open it up to
5 Virginia owners. There's a lot of stuff you could
6 do.

7 MR. HETTEL: You can designate a lot of
8 Virginians; Virginia licensers, people born here,
9 bred here, vote here. I don't know.

10 MR. MILLER: If you shorten the meet -- This is
11 just for instance. If the horsemen agreed and you
12 determine that you have a 12-day harness meet, would
13 there be a better time to do it than in the
14 September-October time frame? They used to race
15 harness racing in the spring here, didn't they?

16 MR. WOOLNOUGH: The individual sire states
17 program, the two-year-olds can't run that early.
18 They're not like a Thoroughbred. You can't run
19 those that early and we have a lot of two-year-olds.

20 MR. MILLER: What about the -- That's all
21 right.

22 Go ahead.

23 MR. STEWART: That being said, we are gonna
24 suggest exactly that. That we run in late April or
25 early May, right around the Kentucky Derby. That's

1 when the interest in horse racing in general is at
2 its peak. There's no perfect answer to any of them.

3 MR. MILLER: But you say that's too early?

4 MR. WOOLNOUGH: May, yes, for the
5 two-year-olds.

6 MR. SIEGEL: Combine that with making it
7 Virginia-centric, it exhibits problems, it seems.

8 MR. WOOLNOUGH: Quite a bigger problem.

9 MR. SIEGEL: Even if you run 12 days, if you
10 can't fill fields, then you only have a few races a
11 day.

12 MR. WEINBERG: I think one way to look at this
13 is you're taking the purse funds. Right now, the
14 metric is take your purse funds, decide what the
15 average purse per day is, divide that and have a
16 meet.

17 You were saying let's take a portion of the
18 purse funds and allocate them to bonuses to Virginia
19 horsemen. So again, you're having a shorter meet,
20 but you're not changing the purse structure,
21 necessarily, for the folks who already are coming to
22 your meet and so --

23 MR. SIEGEL: But the out-of-state horsemen,
24 their end of it reduces, does it not?

25 MR. WEINBERG: No. I'm saying it stays the

1 same for the out-of-state horsemen, but rather than
2 running 30 days, we're taking --

3 And say our meet was 15 days. We're taking the
4 purse funds from those 15 days we're not running and
5 putting them in a bonus pool for just Virginians.
6 So 15 days is almost identical to the meet they've
7 always run -- they always come to Virginia to run.

8 MR. WOOLNOUGH: Well, it wouldn't be, because
9 the difference between the Thoroughbreds and
10 Standardbreds, there is a much larger degree of
11 sponsorship for Thoroughbreds. All of the money
12 that's in the Breeders Fund goes to Virginia-breds,
13 outside of the administrative cost, which is very
14 minimal. It's all into those state programs and
15 it's into owner's bonuses and it's into breeders
16 bonuses. Every penny.

17 In fact, last year, the VHHA put another
18 \$150,000 in to it. The purse account is strictly
19 there. If you're taking it out of the purse
20 account, you're not gonna know what that number is
21 going to be.

22 It's the same as the Thoroughbreds. They
23 didn't know until the last day whether there was
24 enough money in there. All of it was coming out of
25 the Breeders Fund, not out of the purse account and

1 owners' fund. There's a difference.

2 MR. WEINBERG: Ian, I understand there's gonna
3 be problems and challenges. We're throwing out
4 concepts.

5 MR. WOOLNOUGH: No, we're working now. I may
6 be being speaking early, but by September, our plan
7 would be layed out, which I'm sure Dr. Dunavant has
8 talked about with Ian.

9 MR. MILLER: I think every suggestion and every
10 observation relating to maintaining racing in
11 Virginia, both Thoroughbred and Standardbred,
12 especially Standardbred harness racing at this
13 point, will be subject to controversy and questions
14 about the logistics of how you do it and how you
15 implement it and how you spread the reward. I think
16 what Colonial Downs is doing here today, you're
17 throwing out a suggestion.

18 Now let me ask a question. Delaware Park; When
19 do they run their harness races?

20 MR. WOOLNOUGH: Delaware doesn't run harness.

21 MR. MILLER: They don't?

22 MR. WOOLNOUGH: No.

23 MR. MILLER: What is the Delaware -- Isn't
24 there --

25 MR. STAPLES: Dover.

1 MR. MILLER: Dover. Dover.

2 MR. WOOLNOUGH: Dover and Harrington are two
3 and they are on and off, but they are
4 casino-supported.

5 MR. MILLER: They are?

6 MR. WOOLNOUGH: Yeah.

7 MR. MILLER: Okay.

8 MR. STAPLES: Ocean City runs them, too.

9 MR. HETTEL: Rosecroft is anticipating opening
10 back up.

11 MR. STAPLES: They're opening up again.

12 MR. MILLER: So it's Dover and what's the other
13 one?

14 MR. WOOLNOUGH: Harrington.

15 MR. MILLER: I said Dellway Park. I have a
16 friend who I went to school with who is a driver in
17 the harness business. I knew he raced in Delaware.
18 I just assumed.

19 MR. WOOLNOUGH: Either Dover or Harrington.

20 MR. MILLER: Go ahead.

21 MR. D. REYNOLDS: You said Colonial Downs is
22 making a presentation and recommendations and
23 everything is discussed. The first thing they are
24 saying is we really need to do something and
25 something big because that's what's here.

1 MR. MILLER: Absolutely.

2 MR. D. REYNOLDS: And I think everybody has to
3 come to the table with acceptance of that. I'm not
4 sure we're going to have it.

5 MR. MILLER: Well, I think we need to attempt
6 it. I was going to suggest --

7 You've made this suggestion today. There's
8 also been a suggestion about of a combined meet.
9 We've had the suggestion of having some satellite
10 bases in Virginia at a couple of tracks that exist.
11 I think those are suggestions that need to be put
12 into -- need to be further explored. Whatever Ian's
13 group comes up with, you know.

14 MR. WOOLNOUGH: Even at the combined meet, we
15 have always been supportive. We're willing to do
16 anything.

17 MR. MILLER: I'm just saying, whatever your
18 people come up with, get it all together and
19 Colonial Downs will have this suggestion today and
20 the suggestion they previously made about having a
21 combined meet, having the satellite races.

22 Let's explore all this, because I agree on the
23 face of it, it's just fairly apparent we can't keep
24 going this way, I don't think.

25 From my point of view, its futile to keep going

1 the way you're going, I think for all racing,
2 really, but particularly for harness racing.

3 There are going to be -- there have got to be
4 changes. There have got to be significant changes
5 in approach, because you're not going to get a
6 different outcome using the same input we've had in
7 the past in Virginia, and so I would like to see us
8 -- I would like to see more ideas.

9 And I have to commend Colonial Downs and
10 commend anyone else that has ideas about how to
11 improve the racing product and to make some changes,
12 not only in the races, the physical races
13 themselves, but changes in how to enhance the, as
14 they say in congress, enhance the revenue.

15 There's got to be more money. There's got to
16 be more interest. The sport has to grow. It can't
17 stay the way it is.

18 I hope that's gonna be the outcome of
19 eventually the -- Mr. Commissioner Sargeant Reynolds
20 looking at the Thoroughbred operation, Commissioner
21 Brown looking at the harness racing, Commissioner
22 Dave Reynolds looking at some ways to try to get
23 more funds in by hopefully expanding the satellite,
24 the OTB operation and doing even more with the
25 advanced deposit wagering and expanding the kiosks

1 and so forth, ad infinitum.

2 All these things have to be looked at and I'm
3 hoping that after all these things are looked at,
4 that we can put together something that might be
5 unheard of, and that would be a report from a state
6 agency to the legislature that's meaningful.

7 I would hope that our report that we're gonna
8 make, the next mandated report that we make from the
9 Virginia Racing Commission to the legislature and to
10 the governor will contain in it not just that we
11 operated this year and took this much money in and
12 we paid this much money out and had this many race
13 days. We addressed medication of horses. We
14 addressed this, we addressed that and a good time
15 was had by all.

16 I'm hoping that our report -- and it's going to
17 be a job to put it together, but I'm confident our
18 staff and this commission, that we can do it, and
19 with the help of Colonial Downs, I hope that our
20 report to the legislature and to the governor will
21 have a perspective from our --

22 Since we only have one licensee, I see no
23 problem in including a provision in our report from
24 the licensee what they feel the status of the
25 industry is in Virginia, what they feel about the

1 regulations and rules we have in place. You know,
2 get a perspective from the licensee. Put it in our
3 report, together with the report of our perspective
4 of what's going on.

5 But I particularly want a perspective from this
6 Commission. If it has to be just me, that's fine,
7 but I want to lay it on the line to the legislature
8 and the governor that things have to change.

9 We've got to expand into Northern Virginia with
10 the OTBs. We've got to work to get more money in
11 the gaming portion through the kiosks. We've got to
12 look at innovative things that are suggested here
13 today. We've got to look at more innovative
14 wagering in Virginia.

15 Otherwise, I mean why would we even go on? Why
16 would we waste the time and energy of the citizens
17 of Virginia and the people on this commission and
18 the people on this staff and the legislature
19 considering different proposals every year, the
20 governor appointing people and not appointing people
21 and considering whether people should serve on this
22 body? Why? Just do the same thing we've always
23 done? If that's gonna be the case, I say forget it.

24 That's what I hope the bottom line of at least
25 what my part of the report is gonna be. The other

1 commissioners might not join in, but I'll see that
2 we get at least that perspective made on the status
3 report of racing in Virginia this time as I go out
4 the door.

5 So I commend you on this and I look forward to
6 and I hope that the harness people can come up with
7 some good suggestions and good ideas also.

8 Anyone else? Any observations or comments or
9 so forth to add to this discussion?

10 Mr. Siegel?

11 MR. SIEGEL: Nope.

12 MR. D. REYNOLDS: No. I think it's time to
13 address a big, major change.

14 MR. MILLER: Absolutely. That's where I get my
15 inspiration; from riding around with Dave Reynolds.

16 Sargeant?

17 MR. S. REYNOLDS: I agree with your comments.
18 I'll be with you there all the way, but we're not
19 letting you out the door. We're gonna keep you
20 around.

21 MR. MILLER: Mr. Hettel?

22 MR. HETTEL: Well, I think from my brief time
23 here, the necessity to get from mediocre to great
24 has been everybody's idea. It really has been.

25 My first initial conversation was the

1 consideration in taking this job that the impetus is
2 here. We've got a stakeholder who wants to make
3 things better here, obviously.

4 We need the cooperation of both Thoroughbred
5 and Standardbred and let's take it to the next
6 level.

7 I think Ian's correct. The number of race days
8 is not analogous to anything other than let's just
9 support a mediocre way of doing things. Your
10 comment is correct.

11 To kick it up, we can better Standardbred
12 racing, much improve Thoroughbred racing and we're
13 looking toward that destination.

14 Most of the race tracks in the United States
15 are encapsulating the days to be smaller. New
16 York's probably going to be smaller. Florida, I
17 know is. Kentucky is decreasing their days.
18 Smaller, better, more lucrative for the horsemen.
19 You don't have to run as many days to make a greater
20 amount of money.

21 So that's my comment.

22 MR. MILLER: I want to add one other thing. I
23 sent an e-mail around. I must admit that I was on
24 the Commission almost five years before I learned
25 that we were mandated to have a strategic plan in

1 place with the State of Virginia. All state
2 agencies apparently have to post a strategic plan
3 with the Commonwealth.

4 So it was drawn to my attention that we had a
5 strategic plan and so I looked at our strategic plan
6 that's presently in place and it is so out of date,
7 it's pitiful.

8 MR. S. REYNOLDS: I agree.

9 MR. MILLER: It still has this -- I guess it
10 was 1998 mind set; 100 days of racing, and you know,
11 all this stuff.

12 But anyway, it needs to be readdressed, so I've
13 asked certain people to serve hopefully on another
14 committee. And I know you're going to get tired of
15 having all these committees, but it's the only way I
16 see of getting things done, is to give some
17 responsibility to certain people, so I suggested a
18 committee.

19 I suggest that of course anyone that wants to
20 serve on it could serve on it, but I particularly
21 wanted Frank Petramalo to serve and he said he
22 would. I particularly wanted Jim Weinberg to serve;
23 he said he would. I wanted Peter Burnett to serve;
24 he said he would. Bernie Hettel will of course
25 serve on it.

1 We can't have more than two commissioners on
2 it, because if you have more than two, then every
3 time you decide you want to have a committee
4 meeting, you run into the problem of having the
5 public notice of a formal commission meeting.

6 So any two commissioners -- If I wanted Dave to
7 serve on it as one for senior members, you'd be
8 willing to serve on it?

9 MR. SIEGEL: Are you gonna serve on it?

10 MR. MILLER: No. I want you to serve on it.

11 MR. SIEGEL: Sure.

12 MR. MILLER: I'll just listen to what you have
13 to say.

14 MR. SIEGEL: Okay.

15 MR. MILLER: Okay. I was gonna put the two
16 senior members of the commission on it. You know,
17 you're the next senior member after Mr. Brown and so
18 --

19 MR. SIEGEL: Mr. Reynolds.

20 MR. MILLER: -- so thank you. And Mr. Reynolds
21 would be appropriate. I think you and Mr. Reynolds
22 would be appropriate to be on it.

23 This would be a strategic plan compatible with
24 what the racing business is today, what the gaming
25 business is today, the expectations of what we are

1 doing for the state, you know, what we contemplate
2 would be the bottom line as far as enhancing the
3 agricultural industry and so on and so forth.

4 But anyway, you'll have to review the present
5 strategic plan and you'll see when you read it,
6 you'll see that it just, it needs to be modified.

7 And I don't know how often these strategic
8 plans need to be filed with the state agency. Maybe
9 it's semi-annually. Maybe it's bi-annually. I
10 don't know. But it's time to have another strategic
11 plan in place for the public to view as far as what
12 the state agency is up to.

13 So anyway, I'll have Mr. Hettel work on this
14 committee and he'll put it all together and formally
15 advise everyone. I'd asked Glenn Petty and I didn't
16 hear back from him, so I don't know that he wants to
17 serve or not, but I suspect that a seven- or
18 eight-member committee would be good to get
19 perspective from the harness industry and licensee
20 and Thoroughbred industry.

21 MR. HETTEL: Everybody's availability would be
22 better after summer is completed and vacation is
23 finished and travel plans.

24 MR. MILLER: I'll put that in your hands to
25 make sure that that's pulled together.

1 MR. HETTEL: All right.

2 MR. MILLER: Now, is there anything further
3 from the stakeholders?

4 MR. STEWART: No.

5 MR. MILLER: Anything further from any
6 commission member?

7 NOTE: There is no response.

8 MR. MILLER: We need to have a very brief
9 closed session, if we could.

10 MR. SIEGEL: The items in the closed session
11 are unrelated to what's been discussed today.
12 Everyone who wants to stay can do so, but there will
13 be nothing to report out.

14 MR. MILLER: In accordance with the provisions
15 of Sections 2.2-3711(A)(1) and 2.2-3711(A)(7), I
16 move that the Commission go into closed meeting for
17 the purpose of discussion or consideration of the
18 assignment, appointment, performance or salary of a
19 specific public officer or appointee or employee of
20 the Commission and for the purpose of consultation
21 with legal counsel or employee retained by the
22 Commission regarding specific legal matters
23 requiring the provision of legal advice by such
24 counsel.

25 I move. Did I hear a second?

1 MR. SIEGEL: Second.

2 MR. MILLER: All in favor. Mr. Reynolds?

3 MR. S. REYNOLDS: Aye.

4 MR. MILLER: Mr. Reynolds?

5 MR. D. REYNOLDS: Aye.

6 MR. MILLER: Mr. Siegel?

7 MR. SIEGEL: Aye.

8 MR. MILLER: And I vote aye.

9 It will be very brief.

10 NOTE: There is a recess from 11:10 a.m.
11 until 11:30 a.m.; thereafter, the hearing
12 continues as follows:

13 MR. MILLER: WHEREAS, the Virginia Racing
14 Commission has convened a closed meeting on this
15 date, pursuant to an affirmative recorded vote and
16 in accordance with the provisions of The Virginia
17 Freedom of Information Act;

18 WHEREBY, Section 2.2-3712 of the Code of
19 Virginia requires a certification by this Commission
20 that such closed meeting was conducted in conformity
21 with Virginia law;

22 BE IT HEREBY RESOLVED, that the Virginia Racing
23 Commission certifies that, to the best of each
24 member's knowledge, (i) only public business matters
25 lawfully exempted from open meeting requirements

1 under the Virginia Freedom of Information Act and
2 (ii) only such public business matters as were
3 identified in the motion convening the closed
4 meeting were heard, discussed or considered by the
5 Commission in the closed meeting.

6 I hereby call for a roll call vote to so do.
7 Commissioner Siegel.

8 MR. SIEGEL: Aye.

9 MR. MILLER: Dave Reynolds.

10 MR. D. REYNOLDS: Aye.

11 MR. MILLER: Sarge Reynolds.

12 MR. S. REYNOLDS: Aye.

13 MR. MILLER: Commissioner Miller votes aye
14 also.

15 Okay. Move we adjourn.

16 MR. SIEGEL: I move we adjourn.

17 MR. S. REYNOLDS: Second.

18 MR. MILLER: We are adjourned.

19
20 NOTE: The hearing is then adjourned at
21 11:31 a.m.

1 CERTIFICATE OF COURT REPORTER

2
3 I, Sandra G. Spinner, hereby certify that having
4 first been duly sworn, I was the Court Reporter at the
5 meeting of the Virginia Racing Commission at the time of
6 the hearing herein.

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

10 Given under my hand this 17th day of August, 2011.
11
12

13 _____
14 **SANDRA G. SPINNER**

15 **COURT REPORTER**
16
17
18
19
20
21
22
23
24
25