

## **In the Matter Of:**

### *INDIANA HORSE RACING COMMISSION MEETING*

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#### **IHRC Meeting**

*March 15, 2016*

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1  
2 INDIANA HORSE RACING COMMISSION  
3 MEETING  
4

5 HELD ON:

6 MARCH 15, 2016

7 AT 9:00 A.M.  
8

9 INDIANA STATE FAIRGROUNDS

10 4-H EXHIBIT HALL & AUDITORIUM

11 INDIANAPOLIS, INDIANA  
12  
13

14 TAKEN BY:

15 ROBIN P. MARTZ, RPR

16 NOTARY PUBLIC  
17  
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19  
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22  
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24  
25

1 APPEARANCES

2 Thomas Weatherwax, Chairman  
 3 Greg Schenkel  
 4 George Pillow  
 5 Susie Lightle  
 6 William McCarty

7 Mike Smith, Executive Director

8 Lea Ellingwood, Esq.  
 9 Holly Newell, Esq.  
 10 INDIANA HORSE RACING COMMISSION  
 11 1302 North Meridian Street, Suite 175  
 12 Indianapolis, IN 46202

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1 CHAIRMAN WEATHERWAX: First of all, a good  
2 morning and thank you for coming to this spot.  
3 Some of you would have been here sooner, but you  
4 had to find the building and the meeting place.  
5 Yours truly is included in that.

6 To get started, can I swear in our court  
7 reporter, Robin.

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

10 CHAIRMAN WEATHERWAX: We have sent to you and,  
11 of course, you have the minutes from the previous  
12 meeting. Have the Commissioners all reviewed those  
13 minutes?

14 COMMISSIONER SCHENKEL: Yes. Move approval.

15 COMMISSIONER MCCARTY: Second.

16 CHAIRMAN WEATHERWAX: We have a motion to  
17 approve and second.

18 All those in favor say "aye."

19 THE COMMISSION: "Aye."

20 CHAIRMAN WEATHERWAX: Next, we have an  
21 important part of our day today, and, of course,  
22 for you too, is the introduction of our new  
23 Executive Director Mike Smith. Mike, welcome.

24 I asked Mike to please share with us and you  
25 some of his initial observations, his first

1 impressions, if you will. He's been working very  
2 closely with Deena.

3 And by the way, we should have in our prayers  
4 Deena Pitman's husband, who is recovering from a  
5 heart attack. So we don't want to forget the fact  
6 that he needs our special prayers to make sure he  
7 recovers completely. He's in the hospital and she  
8 can't be here.

9 Mike, why don't you give us an update, a  
10 little bit of what you're doing, what you have done  
11 since you've been hired, and what you see as far as  
12 your Executive Director's views.

13 MIKE SMITH: Thank you. First of all, I would  
14 like to thank the members of the Commission for  
15 giving me this opportunity. So far, I've had an  
16 absolute blast. It's really refreshing to have a  
17 staff who, obviously, don't want to sit by me, left  
18 me at the office today.

19 Anyway, this is all being recorded. Actually,  
20 we have a great staff. Everyone is excited about  
21 what we're doing. We're doing a little bit more  
22 marketing. In a little bit, we'll have Jessica  
23 give you kind of a little snippet of what we're  
24 doing as far as promotions go.

25 One of the things I would like to bring up,

1 and I don't know if this is the proper time, but  
2 there is a change to be made in the agenda.

3 CHAIRMAN WEATHERWAX: Well, Lea has marked off  
4 that one item on there, the 7-1-28, qualifying  
5 races. So that's going to be scratched.

6 MIKE SMITH: Yes, scratched. The rest of the  
7 rules are okay, but there is not total agreement on  
8 that rule.

9 Anyway, we really do have an outstanding team  
10 of people. As most of you already know, they work  
11 hard. We've got people that have hundreds and  
12 hundreds of hours of comp time because of the  
13 amount of time and dedication that they apply to  
14 their careers.

15 One other thing I did notice that's kind of  
16 funny. You'll find boxes of oatmeal in the office,  
17 which I thought was kind of interesting that we  
18 have employees that eat the same thing they feed  
19 their horses. You see people walking around with  
20 bowls of oatmeal in the morning.

21 So, anyway, we are having a good time. We're  
22 trying to make some changes, making it a friendly  
23 place for people to come and race, to own horses,  
24 to train, not jumping through some hoops. We're  
25 going to treat everybody the same, whether you're

1 shipping in or whether you have partial stalls on  
2 the grounds. So we have some pretty exciting  
3 things going on there.

4 We met -- I've met so far with, I believe, if  
5 not all of the stakeholders, most everyone. I've  
6 spent hours listening to everyone's concerns,  
7 suggestions, and I really do appreciate that.

8 I had a meeting with the judges, and the  
9 judges have actually come up -- and I just wanted  
10 to share this with everybody. They've come up with  
11 a sheet about driving horses for the Standardbred  
12 meet and the penalties that are involved for  
13 improper whipping, those kind of things, not  
14 keeping a hole closed. All the drivers are going  
15 to get a copy of this so they know what happens in  
16 the event they violate a rule.

17 CHAIRMAN WEATHERWAX: How many changes? Is  
18 that a lot of different things or not? In your  
19 opinion, is that a lot of different things than  
20 what we're now doing or what?

21 MIKE SMITH: I think this is probably what  
22 we've been doing, but at this time everyone's going  
23 to be sure to get a copy of it because every  
24 driver's name is going to appear understanding what  
25 the rules are and what the penalties are going to



1 be should something happen.

2 One of the observations that I have made so  
3 far is that our agency is probably more like a  
4 round peg in a square hole of government. A lot of  
5 things we have to do don't really fit in the model.

6 Welcome, George. Since I'm talking, I wanted  
7 to welcome you.

8 CHAIRMAN WEATHERWAX: We all had trouble  
9 finding this place.

10 COMMISSIONER PILLOW: I didn't even know it  
11 existed.

12 MIKE SMITH: So, anyway, one of the things  
13 that I have got on the board to kind of take a look  
14 at is the possibility of moving toward more of a  
15 quasi-governmental agency more so with the lottery.  
16 One of the things that is different is we have  
17 revenue sources. And we aren't like most units of  
18 government that only spend.

19 Some of the things, like the testing we have  
20 to go through the DOA to get approval, some of  
21 those things would be better if you could do this  
22 outside of those kind of restrictions. So that's  
23 one thing we are kind of looking and talking  
24 through and Wendi, our controller, is helping me  
25 with as we put our budget and some of our plans for

1 the next legislative session together on what we  
2 could do to make it so that we can be more  
3 responsive. So we can have discussions about  
4 marketing and those kind of things without  
5 violating open door law.

6 I just think that is one of the things we have  
7 to look into. Haven't totally made a determination  
8 if that's our best avenue, but it sure looks good  
9 right now.

10 Another observation I had, I had a lot of  
11 questions about people that have been suspended  
12 that aren't what you would call serving their time  
13 right now. I just want to remind everybody that we  
14 do have a due process, and maybe Lea would like to  
15 chime in on. But sometimes these can take a long  
16 period of time. From the time someone appeals and  
17 we go through the process, people have the ability  
18 to continue doing what they've been doing,  
19 hopefully, only better.

20 So that is just one of the things I want to  
21 point out. There are people that you may see out  
22 there that there is something going on besides the  
23 fact they are still participating as they go  
24 through the process.

25 In the area of integrity, we're going to be

1 doing a little more fingerprinting. We  
2 currently -- there are a lot of people we probably  
3 don't have prints on. I think minimum five years  
4 maybe, and we've taken fingerprints from other  
5 jurisdictions.

6 So we will be picking a group this year to try  
7 because we don't want to jam up the licensing  
8 office with a lot of people by doing everybody at  
9 once. We will probably start out with a section of  
10 the grooms and do them this year. We may do  
11 trainers next year. We'll start a rolling  
12 fingerprint process. And, hopefully, we'll be able  
13 to get new equipment that we can do the  
14 fingerprints without rolling ink.

15 We are probably going to retain samples longer  
16 than just the meet. We had -- actually, we're in  
17 the process of getting rid of some of the samples  
18 to make room. But from an integrity standpoint, I  
19 think it's a pretty good deterrent if we were to  
20 keep some of the samples. We'll get another  
21 refrigerator and freezer and keep the blood and  
22 urine samples. I'm not sure I want to say how  
23 long. But there is no statute of limitations on  
24 prosecution on drug violations, right?

25 MS. ELLINGWOOD: Right.

1           MIKE SMITH: That's just another deterrent in  
2 the event that you have something that ends up  
3 being widespread across the country. If nothing  
4 else, if we want to go back and test those for  
5 informational purposes, we wouldn't necessarily  
6 have to prosecute every case, but it would provide  
7 us with a lot of information.

8           We are going to continue to do the out of  
9 competition testing. We may have a few more  
10 specials where the judges or the stewards will tell  
11 someone to go to the detention barn for a blood  
12 sample, urine sample. There were quite a few of  
13 those done last year. You may see that again this  
14 year as we change some of the requirements when  
15 people show up at the track and making everyone  
16 treated the same. We may do some of these things  
17 just to make sure our integrity stays intact. And  
18 we'll be treating everyone the same.

19           Real quickly just going forward, I'm going to  
20 be going next week to the RCI meeting where I have  
21 a lot of questions about withdrawal times and the  
22 whole drug issue I've been trying to do my homework  
23 on. One of the things that I did bring up, we have  
24 all the whipping rule and this page of fines and  
25 penalties for whipping below the shaft and between

1 the horse's legs. I just brought up the question  
2 of why don't we look at changing the whip. You can  
3 potentially change a lot of things just by  
4 shortening the whip. You don't have people laying  
5 back in the sulky. That's something we will  
6 probably be discussing with the horsemen and  
7 getting their input.

8 And the other thing we want to discuss just  
9 briefly is if Jessica could give you kind of  
10 insight or if you want to wait until the end of the  
11 program. It's kind of new business.

12 CHAIRMAN WEATHERWAX: It could be the new  
13 business part, Mike. But if you want to go ahead  
14 and do it now, I think it's pretty exciting.

15 Jessica, why don't you share what you and Mike  
16 are working on for pretty exciting promotional  
17 ideas.

18 MIKE SMITH: Jessica is going to be our front  
19 people. Since she deals with all the breeds and  
20 breed development programs, she's going to be the  
21 front person and the face of our promotional.

22 JESSICA BARNES: Okay. I have a list here. I  
23 will kind of touch briefly on each of the breeds  
24 individually. And then there are some things that  
25 we're doing that kind of encompass all three breeds

1 together.

2 With the Thoroughbred breed development  
3 program, when the program was approved in December,  
4 we did a press release pushout. We also recently  
5 did a direct mailing to anybody that had  
6 participated in the program since 2010, kind of  
7 just reminding people how great this program is and  
8 what a great opportunity it is to invest. I know  
9 that we've gotten several calls since that letter,  
10 and it's created some excitement, which has made me  
11 excited about the program.

12 We followed up that letter with a press  
13 release out to the media, again, touting all the  
14 great benefits of the breed development program.  
15 We're working to participate with ITOBA with their  
16 year-end awards banquet to recognize our  
17 outstanding Thoroughbred breed development program  
18 participants.

19 Quarter Horse, so far we have participated  
20 with the QHRAI banquet recognizing the outstanding  
21 Indiana bred horses at that banquet. We are  
22 starting to partner with QHRAI to advertise the  
23 program, to get the word out even more in horse  
24 publications.

25 Standardbred, our nomination booklet, which

1 has all of our staking information, it was out to  
2 horsemen mid February. They got it out in their  
3 hands. Today is the first deadline for the stake  
4 payments. So if there's any Standardbred horsemen  
5 in the crowd that hasn't mailed those payments, you  
6 can give them to me today, and I will take them  
7 back to the office so you can meet the deadline.

8 We are also scheduled to do some press on the  
9 Standardbred meet at the beginning of the meet.

10 And we, again, participated in the banquet  
11 recognizing our champions. We've also been doing  
12 some advertising in the horsemen's magazines just  
13 to advertise our program to encourage people to  
14 buy, race, breed in Indiana. That's kind of the  
15 motto with the advertisements we've taken along  
16 with the three breeds. It's a good time to buy,  
17 race, and breed in Indiana.

18 For all the breeds, we were working on getting  
19 social media implemented for all three programs.  
20 We're also working with the -- the State has a  
21 system called gov delivery through our website that  
22 actually ties the website with social media. It  
23 gives us the capability to upload e-mail addresses,  
24 to do direct e-mail mailings to mail newsletters.  
25 We can actually build a template to give the agency

1 and all of our mailings a centralized look.

2 But in order to do that and to not have the --  
3 to have the Commission have their unique look, we  
4 have to do, actually, an upgrade. So I'm working  
5 on getting the upgrade done so we will have those  
6 capabilities. So once those capabilities are done,  
7 we can take all of our licensees, and I can upload  
8 all the Quarter Horse participants to that e-mail  
9 list, all the Thoroughbred participants to that  
10 e-mail list, all the Standardbred participants to  
11 that e-mail list.

12 And then we will have the capability to either  
13 send out a newsletter to all participants. And we  
14 can actually tag who we want to send to. We can  
15 code them when we put them in. So we can target  
16 all three breeds at once. We can target breeds  
17 individually. We can target trainers, owners. We  
18 can target breeders.

19 So once we have that done, we'll have a lot  
20 more things we can do. That's on track to be done.  
21 They said it would take from the start to finish,  
22 and we started on it last week, about a month to  
23 get it implemented and in.

24 We are working on newsletters for the start of  
25 the race meet. Standardbred will go out right



1 before the race meet in April. And Thoroughbred  
2 and Quarter Horse right before their race meet to  
3 let horsemen know of any upcoming changes. If  
4 there's any rules that are passed, we will  
5 highlight those. We're going to plug the website  
6 to sign up to get your e-mail addresses in so we  
7 can do that kind of targeting. That website thing  
8 will also when we send out a newsletter, it will  
9 automatically post to the social media that we have  
10 set up.

11 We've also been working on our website. We  
12 now have the capability for all three of our breed  
13 development programs for horsemen to register their  
14 mares, foals, or stallions online. They no longer  
15 have to print out a piece of paper and send that  
16 into us. They can actually enter that information  
17 into the computer, send it to us and will get an  
18 e-mail back, an automatically generated e-mail  
19 telling them it's been completed. From what I can  
20 find from looking at other states, I think we are  
21 the only breed development program that has ever  
22 done that in Indiana.

23 One of the most exiting things I'm working on  
24 is working with Centaur and Hoosier Park and  
25 Indiana Grand's marketing team. And I had talked

1 with them back in September. Tony and I had  
2 talked. One of the things that we wanted to  
3 accomplish was to have some type of 30-second  
4 commercial that could be played at the racetracks,  
5 on the simulcast signal and possibly utilized on  
6 the WISH TV when they have the live broadcast. We  
7 are working on creating three, 30-second  
8 commercials, one for each of the breed development  
9 programs, that will focus on now is a great time to  
10 come to Indiana and race.

11 So it will be focused on people that are not  
12 yet participating in the program to advertise the  
13 highlights of the program that there's this much  
14 money available. You can get involved as an owner,  
15 trainer, breeder. So I'm very excited about that.

16 Those commercials, the Standardbred commercial  
17 is scheduled to debut opening week at Hoosier Park.  
18 We are still on track for that. And then the  
19 Thoroughbred commercial, we hope to have it done a  
20 week before the meet starts to be able to play it  
21 at the ITOBA banquet. And the Quarter Horse, we're  
22 lacking a little bit of footage. So it will have  
23 to wait until right after the meet starts so we can  
24 get that extra footage that we need.

25 We're still working with Centaur and WISH TV

1 of the partnership. That contract goes through  
2 June. Then we'll be looking at a new contract.  
3 Tony and I met last week to talk about the  
4 upcoming, the new contract and what to be involved  
5 in it and what we can focus on for the year.

6 CHAIRMAN WEATHERWAX: When I saw your release  
7 on that, that's serious money that you're putting  
8 in there on the table for Thoroughbred.

9 JESSICA BARNES: Yes.

10 CHAIRMAN WEATHERWAX: Why don't you tell us  
11 the money that's involved with each of these  
12 programs.

13 JESSICA BARNES: There was actually -- the  
14 Thoroughbred program, if you look at what the  
15 Thoroughbred dollars come from Thoroughbred breed  
16 development program, what the track puts in  
17 themselves into those races, this past year there  
18 was 15.6 million available to the Thoroughbred  
19 breed development program in 2015. So that was  
20 paid out to connections of Indiana bred or sired  
21 horses. So it was either paid out through purses,  
22 breeder's awards, stallion owner's awards, purse  
23 supplements for those horses winning in open  
24 company. Those are the areas that encompassed.

25 For this coming year with the program, there's

1 actually an increase in the number of races.

2 There's about a \$1.4 million increase to that.

3 So you're going to see an increase in the  
4 program through additional overnight races. The  
5 number of overnight races goes to approximately a  
6 total of 322 for the year the race secretary has  
7 the option to write. You'll see, of course, when  
8 you increase races, you'll have breeders have  
9 opportunities to get more breeder's awards on that.  
10 The percentage doesn't change there, but they'll  
11 have more opportunities for those horses to race  
12 and to pay back.

13 The Quarter Horse breed development program,  
14 the money from breed development is about  
15 \$2 million, and the track puts in about another  
16 million. So you have about \$3 million that is paid  
17 out in the Quarter Horse breed development program  
18 for the year.

19 And Standardbred, it is there is about \$12  
20 million, and then you have the track putting in  
21 about 2.5 million, I believe, for the sire stakes.  
22 So you have about 14 and a half to 15 million for  
23 the Standardbred program. And that doesn't include  
24 the opportunities Standardbreds have to race in  
25 open races that are not Indiana sired races.

1           So all three of the programs are really great  
2 programs to get involved with. I think we've got a  
3 great thing here in Indiana.

4           CHAIRMAN WEATHERWAX: I think you're doing an  
5 excellent job. I think that speaks to a lot of  
6 what our Commission was trying to accomplish as far  
7 as promoting ourselves, especially to reach the  
8 other states, which I think we have a great  
9 opportunity to do that. How are you marketing  
10 these big changes to Illinois and other states?

11           JESSICA BARNES: Once we have that setup done  
12 for the website, I will actually -- I can go in and  
13 target Illinois. I can target Ohio. I can  
14 actually go in and target different states. So I  
15 can put criteria in to target those things so we  
16 can get those things out to them.

17           We can also -- another thing I didn't say  
18 about that system, when I send out a newsletter, I  
19 can actually see how many people it was  
20 successfully delivered to, how many people actually  
21 opened it, and then how many people clicked on  
22 specific links in that e-mail. So we will be able  
23 to track and see what people are interested in,  
24 what maybe we're not getting the message across  
25 very well and that we need to change our format and

1 send out.

2       There's also the capability to do some AB  
3 testing so we can actually send out the e-mails in  
4 a couple different formats to see if we send out a  
5 newsletter this way, it reaches -- you know, more  
6 people are inclined to click on it. If we send out  
7 another format, they are. So we can actually study  
8 and see who we're reaching and what they are  
9 wanting to learn about.

10       CHAIRMAN WEATHERWAX: So are you using some of  
11 that money the General Assembly gave us to promote  
12 with these programs, the Internet, the e-mail, and  
13 all that advertising?

14       JESSICA BARNES: Yes.

15       CHAIRMAN WEATHERWAX: Is that part of what  
16 you're using?

17       JESSICA BARNES: Yes. The biggest cost is the  
18 WISH TV contract. That's the biggest cost of that.  
19 The gov delivery, that section is out is very  
20 inexpensive. In fact, it's a thousand dollars a  
21 year. So you divide that between all three breeds,  
22 it gives us a tremendous bang for our buck.

23       There is going to be some dollars left that we  
24 are going to be looking and trying to look for  
25 opportunities to how can we further get the message

1 out about Indiana's program. So, basically, we  
2 have to target our existing participants and keep  
3 them. We need to target and try to attract new  
4 participants that are maybe racing in other  
5 programs. Then I also think we have to try to  
6 build new ownership and get people who are not  
7 currently involved in horse racing anywhere into  
8 our program. And then also I think there's a big  
9 awareness campaign that needs to go on just so that  
10 people understand that horse racing in Indiana  
11 matters.

12 CHAIRMAN WEATHERWAX: Mike, you have to make  
13 sure we keep good records of this because we have a  
14 show and tell back for our friends in the General  
15 Assembly about how wisely we are using this money  
16 to promote what we're trying to do. They gave it  
17 to us because we're doing what you're doing.

18 I think there will have to be accountability  
19 because I think if we show true accountability, and  
20 we run this as a business, like I think it is, they  
21 maybe give us a little more support. That's our  
22 goal.

23 MIKE SMITH: That's one of the great things  
24 about this program, I mean, it's built right in.  
25 We can see the effectiveness. We can text message,

1 and we can adjust. One of the other things that  
2 this will do, and she just kind of briefly touched  
3 on, was the whole issue of the social media part of  
4 it. We will be able to send out blast texts and  
5 really have information kind of instantly instead  
6 of snail mail.

7 JESSICA BARNES: Yeah, and I think that once  
8 we have those things set up and implemented, I  
9 would really like to focus on building stories  
10 around our participants so we can draw people in.  
11 Every horse that's racing out there, there's a  
12 story with it. I think it's interesting to people,  
13 the behind-the-scenes stuff that goes along with  
14 it. You know, for instance, the story of Freaky  
15 Feet Pete and how he got the name, that's a story  
16 that if posted on social media could garner a lot  
17 of interest in sharing it. These 30-second spots,  
18 if we get those up, you know, you share it.  
19 Somebody else shares it. The next thing you know  
20 you've got 5,000 views. Somebody may be looking at  
21 our program that wasn't looking at it before.

22 MIKE SMITH: One of the other things, just  
23 real quickly, on the accountability for the General  
24 Assembly. As we approach this, we will have a  
25 multi-prong approach to educate the general public,



1 make sure our stakeholders are all informed, as  
2 well as the legislature and providing them with  
3 information as we go. They'll have the same  
4 information we're getting out, plus the other  
5 800-some media outlets in Indiana. So it's,  
6 hopefully, a pretty broad based program.

7 CHAIRMAN WEATHERWAX: I think you guys have  
8 been working really hard. Appreciate all you're  
9 doing, Jessica and Mike. Keep us posted. I want  
10 to also make sure you talk to the stakeholders and  
11 know how they receive these changes because they're  
12 the ones we are really trying to impress the most.

13 JESSICA BARNES: Exactly. We'll include them  
14 every step of the way.

15 CHAIRMAN WEATHERWAX: Very good. Thank you.  
16 Does that conclude, Mike, what you wanted to cover?

17 MIKE SMITH: Yes.

18 CHAIRMAN WEATHERWAX: Okay. First thing we  
19 have here, Lea, you have the settlement agreement  
20 between us and Kelly Goodwin.

21 MS. ELLINGWOOD: I do. Mr. Goodwin had two  
22 positives for a drug called -- forgive me if I  
23 butcher this -- methylprednisolone. And we began,  
24 we issued an administrative complaint against  
25 Mr. Goodwin, began the disciplinary process.

1 Thankfully, during the course of that, both parties  
2 were able to reach settlement terms that were  
3 mutually agreeable. And the terms of that are  
4 outlined in the settlement agreement before you.

5 At this point, I respectfully request that you  
6 ratify the settlement agreement. And we'll write a  
7 ruling, and Mr. Goodwin can pay his fine.

8 CHAIRMAN WEATHERWAX: Do I have a motion to  
9 accept that recommendation by our staff?

10 COMMISSIONER MCCARTY: I move to accept the  
11 recommendation --

12 COMMISSIONER SCHENKEL: Second.

13 COMMISSIONER MCCARTY: -- and approve the  
14 settlement agreement.

15 CHAIRMAN WEATHERWAX: Approved and second.  
16 All those in favor say "aye."

17 THE COMMISSION: "Aye."

18 CHAIRMAN WEATHERWAX: Holly, you have the  
19 settlement agreement for Randy Haffner.

20 MS. NEWELL: Yes. Randy Haffner had two drug  
21 positives in 2015, a positive for Dexamethasone and  
22 a positive for cobalt. This settlement agreement  
23 encompasses both of those. And it will result in  
24 Mr. Haffner serving a 45-day suspension during this  
25 upcoming race meet with an additional 30 days

1 suspended, which will be served in the event of him  
2 having any additional medication issues.

3 His horses will all be unplaced, and the  
4 purses will be redistributed pursuant to the  
5 settlement agreement. I would also respectfully  
6 request that you ratify this. If you have any  
7 questions, I'm happy to take them.

8 CHAIRMAN WEATHERWAX: Any questions from the  
9 Commissioners? Have you had a chance to review it?  
10 I will entertain a motion to accept this agreement.

11 COMMISSIONER SCHENKEL: So moved.

12 COMMISSIONER LIGHTLE: Second.

13 CHAIRMAN WEATHERWAX: Moved and second. All  
14 those in favor say "aye."

15 THE COMMISSION: "Aye."

16 CHAIRMAN WEATHERWAX: Emergency rules  
17 regarding, Lea.

18 MS. ELLINGWOOD: Yes, thank you. At the end  
19 of each race meet, we ask the judges and the  
20 stewards to take a look at the rules and make some  
21 suggested changes for the following race meet. And  
22 the vast majority of the ones you have before you  
23 are rules that we've received from the judges. And  
24 there's one from the stewards.

25 As Mike noted, and as you noted, Chairman,

1 Indiana Code IAC 7-1-28, the proposed rule  
2 regarding qualifying races, has been scratched. We  
3 are still waiting to work out some of the specifics  
4 with the stakeholders.

5 But in addition to that, there are two changes  
6 to the in-today program which removes the  
7 requirement that the horses be in at a specific  
8 time. That's a result of an initiative that the  
9 Executive Director mentioned where we are having  
10 the horses all show up at the same time. So that's  
11 really more of a housekeeping matter.

12 I would note that the rule regarding timing  
13 and the driver must be seated, those are rules that  
14 the judges said are not emergency rules. So  
15 although they are listed as emergency rules here,  
16 we would ask that the Commission treat those as  
17 regular rules, and they go through the lengthier  
18 rule adoption process.

19 Finally, there are two rules that apply to all  
20 breeds regarding the pentafecta wagering. I  
21 believe Rick Moore has a handout for the  
22 Commissioners regarding that rule. If you have any  
23 questions about that specific rule, Rick would be  
24 the appropriate person to ask that. If you want to  
25 bring those up, Rick, that would be great.

1           With the exception of the two rules  
2 appropriate for the regular rule adoption process,  
3 all these rules qualify for treatment as emergency  
4 rules under our emergency rule adoption process.  
5 And if approved by you would go into effect as soon  
6 as they are filed with the Legislative Service  
7 Agency.

8           CHAIRMAN WEATHERWAX: You really do want these  
9 to come into effect before the racing season.

10          MS. ELLINGWOOD: Yes, all of them except the  
11 ones I mentioned, are appropriate to go into effect  
12 immediately. A lot of them are housekeeping but  
13 some have direct impact on the racing season which  
14 begins in just a couple weeks here.

15          I would respectfully request that you approve  
16 the adoption of all of these rules as emergency  
17 rules and approve staff or give staff the authority  
18 to move forward with those two regular rules under  
19 the regular rule writing process.

20          CHAIRMAN WEATHERWAX: What Rick just handed  
21 out, that's down below here?

22          MS. ELLINGWOOD: Yeah, that's what's listed  
23 under All Breeds, pools dependent on betting wagers  
24 and pentafecta wagering. Rick Moore can explain a  
25 little more what the pentafecta wager encompasses.

1           CHAIRMAN WEATHERWAX: Do you want to do  
2 emergency rules first before we get to this All  
3 Breeds?

4           MS. ELLINGWOOD: They are all emergency rules.

5           CHAIRMAN WEATHERWAX: These are emergency  
6 rules just like the ones above this?

7           MS. ELLINGWOOD: Exactly.

8           CHAIRMAN WEATHERWAX: Commissioner Schenkel.

9           COMMISSIONER SCHENKEL: Could I ask you a  
10 question, Lea? By delaying any action or not  
11 taking any action on the proposed rule change that  
12 you had originally on qualifying races, and we  
13 won't meet again before racing season begins, does  
14 that -- one of the concerns we've had historically  
15 is we're making changes during competition, and  
16 that's not always fair. Is that?

17          MS. ELLINGWOOD: We shouldn't have an issue  
18 with this particular rule with that concern. What  
19 the rule change, proposed rule change did was  
20 actually remove a provision that we have been  
21 advised by industry stakeholders they want left in.  
22 So I don't anticipate that being a concern.

23          COMMISSIONER SCHENKEL: I didn't want us to  
24 all get yelled at two months from now by  
25 participants.

1           MIKE SMITH: I thought it was a bad rule  
2 change anyway.

3           MS. ELLINGWOOD: He didn't tell us.

4           COMMISSIONER SCHENKEL: Great answer. Rick,  
5 the stage is yours. Sorry.

6           RICK MOORE: Rick Moore, vice-president,  
7 general manager of racing with Hoosier Park. I'm  
8 actually in a joint presentation with my  
9 counterpart and friend, Jon Schuster.

10           We just want to give you a little background  
11 on the pentafecta wager. It's a wager that has  
12 really been embraced by horse racing in the last  
13 few years. Most tracks now offer pentafecta  
14 wagering. To a great extent, you'll see it on the  
15 last race on a race card. It actually involves  
16 picking the first five finishers in a particular  
17 race. We've got the superfecta where you pick the  
18 top four, where the pentafecta is adding one horse  
19 to it.

20           It can be a difficult wager to hit at times,  
21 and it can result in carryovers, which result in  
22 larger pools. And the fact that we're going to  
23 have it on our or plan to have it on our last race,  
24 if we get your approval, we think people will stay  
25 around at the racetrack longer because it is on the

1 last race. And also it will appeal to the  
2 simulcast crowd at tracks and OTBs around the  
3 county because it's a wager they like to bet on  
4 because it typically has great payout. It keeps  
5 them looking at Hoosier Park and Indiana Grand for  
6 a longer period of time. Jon.

7 JON SCHUSTER: I would only add that at  
8 Indiana Grand, we feel our pools and our wagering  
9 is large enough that we're going to have two in our  
10 card. We're going to try one in the middle and one  
11 at the end. If there's a carryover in the middle,  
12 it moves to the end of the card. We think that  
13 could heighten the excitement just a little bit.

14 COMMISSIONER SCHENKEL: I guess Rick and Jon,  
15 you're saying that the betting public -- since we  
16 can't bet as Commissioners, we wouldn't know  
17 this -- the betting public is familiar with this.

18 RICK MOORE: It's become --

19 COMMISSIONER SCHENKEL: It's become popular in  
20 other parts of the country?

21 RICK MOORE: I guess I will use the term  
22 commonplace around the country. The simulcast  
23 crowd, particularly, is very aware of the  
24 pentafecta wager. It's that jackpot mentality, the  
25 big payout that people are looking for.



1           CHAIRMAN WEATHERWAX: How big -- this may be a  
2 dumb question. How big does this pot get or is it  
3 based upon betting pool of that given night?

4           RICK MOORE: On that given night but if you  
5 can get a couple of carryovers, you could be  
6 looking at -- help me, Jon -- a 40, \$50,000 pool.

7           JON SCHUSTER: It certainly can be.

8           CHAIRMAN WEATHERWAX: Has that always been  
9 1640?

10          RICK MOORE: No, that's just a random example.

11          CHAIRMAN WEATHERWAX: What you bet, that's the  
12 odds you get on the win?

13          RICK MOORE: It's a ten cent minimum. And,  
14 obviously, depending on the odds of horses to  
15 finish one through five, if you get favorites, it's  
16 going to be a lower payout. If you get a lot of  
17 long shots, you may not even have a winner that  
18 day, and it carries over, that pool carries over to  
19 the next day.

20          CHAIRMAN WEATHERWAX: It can really get big.

21          RICK MOORE: That's our hope, right, Jon.

22          JON SCHUSTER: Yes.

23          CHAIRMAN WEATHERWAX: That sounds like a  
24 positive thing to motivate people to not only stay  
25 there but to be more excited about betting.

1 RICK MOORE: Exactly.

2 CHAIRMAN WEATHERWAX: Like Commissioner  
3 Schenkel said, we can't touch this, but people that  
4 go to these tracks, and I see this, they seem to  
5 have a knowledge that's way beyond me as far as how  
6 they pick the horses.

7 RICK MOORE: We have some pretty savvy players  
8 out there.

9 CHAIRMAN WEATHERWAX: That's good guys. Thank  
10 you so much. That looks like a positive  
11 encouraging thing to promote.

12 RICK MOORE: Thank you.

13 CHAIRMAN WEATHERWAX: This is part of what we  
14 are supposed to talk about.

15 MS. ELLINGWOOD: Yes. What Rick and Jon  
16 discussed are two of the emergency rules that staff  
17 would like for you to approve so that we can move  
18 forward with the process of getting them filed with  
19 LSA and becoming effective.

20 CHAIRMAN WEATHERWAX: Also, do you want this  
21 Thoroughbred/Quarter Horse to be a part of that?

22 MS. ELLINGWOOD: All of those are emergency  
23 rules so the In-today --

24 CHAIRMAN WEATHERWAX: So everything from  
25 Standardbred, Thoroughbred, Quarter Horse, all

1 breeds is what we're voting on.

2 MS. ELLINGWOOD: Correct.

3 CHAIRMAN WEATHERWAX: All right,  
4 Commissioners. You hear the motion.

5 COMMISSIONER PILLOW: Quick question. Rick,  
6 this goes into effect this season, right?

7 RICK MOORE: It would start opening night at  
8 Hoosier Park and opening at Indiana Grand.

9 COMMISSIONER PILLOW: Okay. Thank you.

10 CHAIRMAN WEATHERWAX: All right.

11 Commissioners, any other questions about these  
12 rules? If not, I would entertain a motion to  
13 accept this group as described and as explained.

14 COMMISSIONER SCHENKEL: I would move approval.

15 COMMISSIONER PILLOW: Second.

16 COMMISSIONER MCCARTY: Mr. Chairman?

17 CHAIRMAN WEATHERWAX: Yes, Commissioner  
18 McCarty.

19 COMMISSIONER MCCARTY: With the exception of  
20 the timing races and the driver must be seated  
21 rules, which will not be included in this motion.

22 MS. ELLINGWOOD: Correct.

23 CHAIRMAN WEATHERWAX: That's a good point.  
24 Thank you.

25 COMMISSIONER MCCARTY: Is there a third one?

1 MS. ELLINGWOOD: The qualifying races has been  
2 stricken.

3 COMMISSIONER MCCARTY: So the motion is to  
4 approve the remaining ones as emergency rules.

5 CHAIRMAN WEATHERWAX: That's a good point.  
6 Those are rules being promoted to accept minus  
7 those three that Commissioner McCarty just  
8 clarified. Do I have a motion?

9 COMMISSIONER MCCARTY: Mr. Schenkel moved.

10 COMMISSIONER PILLOW: And I seconded.

11 CHAIRMAN WEATHERWAX: All those in favor say  
12 "aye."

13 THE COMMISSION: "Aye."

14 CHAIRMAN WEATHERWAX: It's approved.

15 Now, Holly, I think we have something called  
16 the Commission rulings.

17 MS. NEWELL: Yes, if you will look at tab  
18 five, that is the list of our rulings from January  
19 and February. And, again, we just have a couple  
20 mostly cleaning up from the end of last race meet.  
21 I'm happy to take any questions about them, but I  
22 don't think there's anything on there that's.

23 CHAIRMAN WEATHERWAX: This is the cleanup of  
24 last year's racing calendar?

25 MS. NEWELL: Right. So you'll see some drug

1 positives that we were able to work out or reach  
2 settlement agreements on or have an ALJ rule on.  
3 Those will now appear here.

4 CHAIRMAN WEATHERWAX: Does this clean the  
5 calendar from last year?

6 MS. NEWELL: Not quite but to the extent that  
7 there is anything still hanging out, it is because  
8 the trainers have availed themselves to their right  
9 to seek a hearing.

10 CHAIRMAN WEATHERWAX: Go ahead, Commissioner  
11 Schenkel.

12 COMMISSIONER SCHENKEL: Just a question. When  
13 we adopted the cobalt threshold of .25 parts per  
14 billion, was it?

15 MS. NEWELL: Twenty-five parts per billion to  
16 50 parts per billion would be a warning.

17 COMMISSIONER SCHENKEL: One of the questions  
18 we had was is that the right -- you know, we were  
19 kind of in new territory -- was that the right  
20 level. I only see one more violation. I don't  
21 remember a lot last year. Is that turning out to  
22 be about the right level? Are we finding from  
23 experience that -- because we said we might need to  
24 revisit that at some point.

25 MS. NEWELL: Right. I think it's fair to say

1 that it has been a good level, and we have been  
2 able to work well within it.

3 COMMISSIONER SCHENKEL: I assumed that, but I  
4 don't think we had ever asked that question.

5 MS. NEWELL: I think one of the nice things is  
6 that the numbers that we're seeing, luckily aren't  
7 falling at 48, 49, 50, 51, 52 where you're a little  
8 uncomfortable. You're seeing them solidly on one  
9 side or the other.

10 CHAIRMAN WEATHERWAX: Good question. Lea, do  
11 we have to vote on that or is that just a report?

12 MS. ELLINGWOOD: No, that's just a report to  
13 give you an opportunity to ask questions, if you do  
14 have any.

15 COMMISSIONER MCCARTY: I do have a question,  
16 Mr. Chairman. One on here is grander in its  
17 punishment, Ross Russell. Was that an  
18 extraordinary case?

19 MS. NEWELL: It was an extraordinary case.  
20 And this actually relates to the settlement  
21 agreement that was approved by the Commission at  
22 its last meeting. After the Commission approves  
23 any settlement agreement, we have to go ahead and  
24 issue a ruling, the details of what occurred so  
25 that the RCI can get that on their database, and

1 other jurisdictions know what we did.

2 CHAIRMAN WEATHERWAX: No further questions,  
3 we'll go onto, Lea, I think you want to give us the  
4 approval of the Hoosier Park Standardbred official  
5 listing.

6 MS. ELLINGWOOD: Yes, if you don't mind,  
7 Chairman, I would like to handle items six and  
8 seven together. Six is the approval of Hoosier  
9 Park's Standardbred racing official list. Seven is  
10 the approval of the Thoroughbred and Quarter Horse  
11 racing official list.

12 As you can see, the administrative rules  
13 require that you approve these lists. I would note  
14 that the Hoosier Park list only has three small  
15 changes from last year, the addition of two racing  
16 office assistants and a change in the horsemen's  
17 bookkeeper.

18 And Indiana Grand has exactly the same list as  
19 they did last year. So nothing controversial  
20 there. I recommend the Commission approve the  
21 lists as they've been submitted.

22 RICK MOORE: Excuse me.

23 CHAIRMAN WEATHERWAX: Yeah, Rick.

24 MS. ELLINGWOOD: Are you going to make a liar  
25 out of me, Rick?

1           RICK MOORE: This is on me. We've had a late  
2 defection. Our horsemen's bookkeeper, Karen  
3 Gilson, who's been with us for close to 20 years,  
4 has taken another position. I should have gotten  
5 that to you, and I apologize. We will be filling  
6 that position, but I can tell you to get us off the  
7 ground that Jon has graciously volunteered Indiana  
8 Grand's horsemen's bookkeeper to help us out for  
9 the first couple weeks. And we will be coming back  
10 to seek approval for the person we hire.

11           MS. ELLINGWOOD: So what's the name? Will it  
12 be Angela Fryman that's going to be covering?

13           RICK MOORE: Yes. I apologize, Lea.

14           MS. ELLINGWOOD: No, that's all right.  
15 Subject to the change we've just become aware of, I  
16 would recommend that the Commission approve the  
17 racing official list. And at such time when  
18 Ms. Gilson's replacement has been named, the  
19 Commission will have the opportunity to approve him  
20 or her.

21           CHAIRMAN WEATHERWAX: Very good. This is  
22 something we do as a Commission every year at this  
23 time before you get into the new season to give a  
24 complete approval of all those people that are  
25 going to be touching the racing program. Okay.



1           COMMISSIONER PILLOW: Mike, do you think this  
2 is necessary that we continue to do this?

3           MIKE SMITH: I really hadn't given it a lot of  
4 thought. I don't know. I guess it's statutorily  
5 required.

6           MS. ELLINGWOOD: It's not a statutory  
7 requirement. It's a requirement in our  
8 administrative rules. It gives us the opportunity  
9 to make sure the people that are touching purse  
10 funds and state money meet what we feel are minimum  
11 qualifications for being able to do so.

12          COMMISSIONER PILLOW: So do we do background  
13 checks on each one of these people?

14          MS. ELLINGWOOD: No, they're licensed. We  
15 have the authority to regulate from that capacity,  
16 which we do have background checks as a result of  
17 the licensing process, not a special background  
18 check as a result of being a horsemen's bookkeeper.  
19 But we get the job descriptions, things like that.

20          COMMISSIONER PILLOW: Rick, do you guys have  
21 background checks?

22          RICK MOORE: Yes, we've done background checks  
23 on all these folks.

24          COMMISSIONER PILLOW: To be licensed, I guess  
25 they would have to do that, correct?

1           CHAIRMAN WEATHERWAX: Yes. It's like the  
2 general public doesn't understand how thorough this  
3 whole process is. I mean, this to me is kind of a  
4 story about the integrity as far as the  
5 thoroughness that you guys go through, that we have  
6 to go through.

7           All right. Lea, so these are the two things  
8 that you want us to vote on?

9           MS. ELLINGWOOD: Yes.

10          CHAIRMAN WEATHERWAX: Any other questions from  
11 Commissioners to these two, plus that one change on  
12 that one lady? I would like to entertain a motion  
13 to accept these two approvals.

14          COMMISSIONER LIGHTLE: Make a motion to accept  
15 the approvals.

16          COMMISSIONER MCCARTY: Second.

17          CHAIRMAN WEATHERWAX: Have a motion and a  
18 second.

19          All those in favor say "aye."

20          THE COMMISSION: "Aye."

21          CHAIRMAN WEATHERWAX: It passes. Lea, you  
22 have eight, nine, ten, and eleven as one?

23          MS. ELLINGWOOD: Actually, I would like to  
24 handle eight, nine, ten as one and then 11  
25 separately. Eight, nine, and ten are the

1 Commission's consideration of agreements between  
2 the three horsemen's associations and Centaur.

3         Agenda item eight is the contract between  
4 Hoosier Park and the Standardbred association.  
5 Agenda item number nine is the agreement between  
6 Centaur and Indiana Grand and the HBPA. And then  
7 ten, of course, is the agreement between the  
8 Quarter Horse association.

9         This is a standard thing that we do every  
10 year. The contracts cover a variety of things,  
11 including payment to trainers and owners and the  
12 simulcast agreement.

13         And so there aren't any controversial changes,  
14 no major changes from last year to this year. So I  
15 would recommend that you approve the contract  
16 between Centaur and the Standardbred association  
17 and Centaur and Indiana Grand and the HBPA.

18         With respect to number ten, as you can see the  
19 contract has not yet been submitted, but the  
20 contract will need to be approved by the  
21 Commission. Because they haven't agreed to terms  
22 yet, I would recommend, if you feel comfortable  
23 with it, delegating to the Executive Director the  
24 authority to approve the contract once the terms  
25 have been finalized and submitted to the

1 Commission.

2 CHAIRMAN WEATHERWAX: You don't anticipate any  
3 big changes on the Quarter Horse?

4 MS. ELLINGWOOD: I don't anticipate any, but  
5 they're still working the terms out. I don't know  
6 what to expect. And I don't know if they know what  
7 to expect with respect to a final product. But  
8 what I'm hoping is that you would feel comfortable  
9 having Mike take a look at it. Of course, he's got  
10 the benefit of having the staff and you guys as a  
11 resource in determining whether approval is  
12 appropriate. But this will allow Centaur and the  
13 Quarter Horse association to move forward with that  
14 contract without having to wait until we come back  
15 to convene in June.

16 CHAIRMAN WEATHERWAX: I understand. Final  
17 details are to be worked out in number ten. The  
18 authority will be given to Executive Director Mike  
19 Smith to finalize. But once we vote on this, it's  
20 the same as saying we approve it.

21 MS. ELLINGWOOD: For numbers eight and nine,  
22 yes, your vote will be to approve the contract.  
23 For number ten, it will be to approve the contract  
24 once it's been approved by the Executive Director.

25 CHAIRMAN WEATHERWAX: At least we'll get

1 everything done before the season starts.

2 MS. ELLINGWOOD: Yes.

3 COMMISSIONER MCCARTY: Mr. Chairman, I would  
4 move to approve the agreement between Hoosier Park  
5 and the Indiana Standardbred, and to approve the  
6 agreement between Centaur and the protective  
7 association, items eight and nine. I move for  
8 their approval.

9 COMMISSIONER SCHENKEL: Second.

10 CHAIRMAN WEATHERWAX: All those in favor say  
11 "aye."

12 THE COMMISSION: "Aye."

13 CHAIRMAN WEATHERWAX: Commissioner McCarty.

14 COMMISSIONER MCCARTY: I guess I'll move to  
15 then authorize the Executive Director to conclude  
16 an agreement and approve the agreement between  
17 Centaur and the Quarter Horse Racing Association;  
18 that we authorize him to make final approval of  
19 that agreement once it is accomplished.

20 CHAIRMAN WEATHERWAX: Very good. Do you  
21 understand? Do I have a second?

22 COMMISSIONER LIGHTLE: Second.

23 CHAIRMAN WEATHERWAX: All those in favor of  
24 doing number ten as Commissioner McCarty has said,  
25 please vote "aye."

1 THE COMMISSION: "Aye."

2 CHAIRMAN WEATHERWAX: It's passed. Good idea.  
3 Now split samples, laboratories. Is this  
4 something new, Lea?

5 MS. ELLINGWOOD: No, it's not really new. We  
6 do this every year right around this time. Our  
7 administrative rules require the Commission to  
8 approve the split lab.

9 As I'm sure you know, when we collect a  
10 sample, there's enough of a sample for the original  
11 test and a split sample test. Trainers have the  
12 opportunity to have that split tested to confirm  
13 the presence of a drug. And the Commission is  
14 responsible for approving that list of split labs.

15 So this lab, it's the same list of split  
16 sample testing labs that we had last year. All  
17 four of these split labs are ISO accredited as  
18 required by our rules. The second half of that  
19 list are the labs that we would like to use for  
20 split confirmation with respect to cobalt  
21 specifically. There is a different testing  
22 protocol for cobalt than for other drugs. That's  
23 what necessitates a different lab.

24 Again, these are the same ones that we used  
25 last year.

1 CHAIRMAN WEATHERWAX: Was that three?

2 MS. ELLINGWOOD: Yeah, the three for cobalt  
3 specifically and four for all the other drugs.

4 So I request that you approve the list of  
5 split labs, which will then distribute to trainers  
6 if and when they get a positive so they can make a  
7 selection.

8 COMMISSIONER PILLOW: I think we covered this,  
9 but we had some -- that was last year our lab was  
10 just totally backed up.

11 MS. ELLINGWOOD: Two years ago.

12 COMMISSIONER PILLOW: So last year --

13 COMMISSIONER SCHENKEL: We replaced them.

14 COMMISSIONER PILLOW: Okay. We replaced them,  
15 and it went pretty smooth?

16 MS. ELLINGWOOD: Yes. We were very, very  
17 happy with the quality of testing by LGC.  
18 Unfortunately, they just didn't have the capacity  
19 to keep up with the demand, not just from our  
20 Commission but from other jurisdictions.

21 You'll see LGC is actually one of the labs  
22 we're approving as a split lab. All four of the  
23 split labs have told us they are up, ready to take  
24 samples. So we shouldn't have any problem with a  
25 backlog pending some kind of cataclysmic problem at

1 all four labs. So, yeah, that issue has been  
2 resolved.

3 COMMISSIONER PILLOW: I apologize for my  
4 tardiness, but when I came in, Mike was talking  
5 about holding onto some samples longer than we  
6 normally do. Does this tie into any of this at  
7 all?

8 MS. ELLINGWOOD: No, not really.

9 CHAIRMAN WEATHERWAX: You might want to  
10 explain to Commissioner Pillow what you're doing on  
11 that, Mike. He didn't catch that.

12 MIKE SMITH: In the whole integrity realm, one  
13 of the things that we are looking at doing is  
14 keeping samples longer. There is no statute of  
15 limitations on prosecution of drug violations. And  
16 more using it as a deterrent because you could keep  
17 that sample. And if something shows up someplace  
18 else, in other jurisdictions, you can go back and  
19 test your remaining sample. So we're going to  
20 probably keep them a longer period of time.

21 COMMISSIONER PILLOW: You will keep them under  
22 our umbrella in the refrigerator wherever we have  
23 it.

24 MIKE SMITH: The chain of custody will remain  
25 intact. One of the things that I did want to make



1 sure that we didn't have just two split labs last  
2 year instead of four?

3 MS. ELLINGWOOD: We started out with two. And  
4 those labs got overwhelmed. So the Commission in  
5 the middle of the year ended up approving two more.  
6 So there were a total of four, and they are the  
7 same four that are on the list today.

8 MIKE SMITH: Someone had brought up the fact  
9 of just two. I just wanted to make sure.

10 MS. ELLINGWOOD: It looks different because at  
11 the time, as you said, there were two, but we had  
12 since added two more.

13 CHAIRMAN WEATHERWAX: So that's what he was  
14 trying to explain.

15 COMMISSIONER PILLOW: Okay. Thank you, Mike.  
16 Thank you, Mr. Chairman.

17 CHAIRMAN WEATHERWAX: Do we need to vote on  
18 this?

19 MS. ELLINGWOOD: Yes, you'll need to approve  
20 the list.

21 CHAIRMAN WEATHERWAX: Approve the list for  
22 accepted laboratories for split sample testing. Do  
23 I have a motion?

24 COMMISSIONER PILLOW: So moved.

25 COMMISSIONER LIGHTLE: Second.

1 CHAIRMAN WEATHERWAX: All those in favor say  
2 "aye."

3 THE COMMISSION: "Aye."

4 CHAIRMAN WEATHERWAX: Lea, old business, I  
5 don't have anything that I know of. Mike and  
6 Jessica covered a lot of what I think is new  
7 business.

8 COMMISSIONER MCCARTY: Mr. Chairman, I would  
9 like to raise something, whether it qualifies for  
10 old business or not. And I deferred this question  
11 under the settlement agreement, but it's something  
12 I have wanted to talk about briefly for a while.

13 The first settlement agreement had two  
14 offenses. They were about 35 days apart. The  
15 second settlement agreement had two offenses. They  
16 were more than three months apart.

17 My question is when are these people put on  
18 notice about the first offense? And particularly  
19 in the second case, how in the world if somebody  
20 has -- if we're putting somebody on notice, why  
21 then is there a second offense three months later?

22 MS. ELLINGWOOD: Well, when somebody has been  
23 put on notice, and they have a subsequent offense,  
24 I can't speak to why they would use the drug in the  
25 same way that results in a penalty, but with

1 respect to a situation where we've got an initial  
2 positive, the trainer avails him or herself to the  
3 right of a split sample. Let's say before the  
4 split sample comes back, they get another positive,  
5 we consider that just one violation. So that's why  
6 in the rulings you will sometimes see or the  
7 settlement agreements you'll see a penalty for two  
8 violations that's less than you would see for a  
9 different settlement agreement where the trainer  
10 has had notification of the positive and has either  
11 chosen not to change the regimen or something else.

12 So that's how we try to address the fact that  
13 there are situations where the trainer doesn't get  
14 notice in time to change his or her regimen. But I  
15 can't speak to why somebody would keep using the  
16 drug after.

17 COMMISSIONER MCCARTY: And my question was:  
18 Do we take into consideration whether they have  
19 gotten notice before a second offense or not?

20 MS. ELLINGWOOD: Absolutely.

21 COMMISSIONER MCCARTY: Roughly, how much time  
22 does it take? I know we had a difficult period two  
23 years ago. But now, is it taking 30 days? There's  
24 the split sample issue and everything. How long  
25 does it take before you say, look, we have a

1 problem with you?

2 MS. ELLINGWOOD: And, you know, I defer to  
3 Holly with respect to the number of days that it  
4 takes to get the split sample back, but it's a very  
5 short time period.

6 MS. NEWELL: Pursuant to the contract with our  
7 primary lab, they have seven days to notify of us  
8 of any suspicious samples. This would be the  
9 primary testing. After that, they have an  
10 additional seven days to confirm that. That's  
11 where we have what would result in any positive.

12 The stewards then or the judges give that  
13 information to the trainer. And the trainer has 72  
14 hours to make a decision about whether he or she  
15 wants to get a split sample. Once they make that  
16 decision, there will be a couple of days while  
17 that's being packaged and ships.

18 Usually the labs turn around a split in about  
19 two weeks. We don't have as tight of control on  
20 the split labs because many of them have primary  
21 contracts that they are going to deal with first.  
22 But it hasn't generally been a very long turnaround  
23 time on the split sample.

24 On the Haffner matter, which was the second  
25 settlement agreement you referred to, he had his

1 first positive in June, end of June. He did get a  
2 split sample. He was notified, got a split, had a  
3 hearing, and appealed that hearing. Once he had  
4 appealed that hearing, we were preparing it to go  
5 in front of an ALJ. And it was during that period  
6 that he got the cobalt positive. It was a separate  
7 drug, but it was about three months later.

8 He had an odd procedural issue in that he had  
9 one drug under appeal and one new drug that would  
10 have gone through an administrative complaint. But  
11 we were able to consolidate those for purposes of  
12 settlement agreement.

13 COMMISSIONER MCCARTY: Thank you.

14 CHAIRMAN WEATHERWAX: But your point is well  
15 taken, Commissioner, because two years ago we heard  
16 constantly problems because of the labs because  
17 people didn't even know they had a problem. And  
18 then they got hammered again, and they never knew  
19 they had the first problem. I don't think those  
20 situations are going on.

21 MS. ELLINGWOOD: No, we didn't hear that as an  
22 issue in 2015. And I can't imagine that we would  
23 have that issue this year. Again, as soon as we --  
24 we know when they're notified. We know when the  
25 split comes back. We know when they've got

1 notification. If we had a situation like that  
2 again, instead of treating it as two positives, we  
3 would treat it as one for purposes of penalty.

4 MIKE SMITH: Could I make one more comment?

5 CHAIRMAN WEATHERWAX: Sure.

6 MIKE SMITH: It kind of dovetails with this on  
7 the withdrawal times, the recommend withdrawal  
8 times that the RMTTC puts out for different drugs  
9 and different medications. Before we had posted  
10 those on our website. We are not going to do that  
11 any longer. We will have a link to the website  
12 where people can go.

13 I met with the vets, and that whole issue of  
14 how long it's going to take a horse to metabolize  
15 the drug should be between the trainer and the vet.  
16 People would sometimes look at the recommended  
17 withdrawal times and think they were coming from  
18 the Commission. When, in fact, they are just a set  
19 of guidelines that the testing consortium has put  
20 out.

21 We think from a standpoint of fairness and not  
22 to give any false representations that these are  
23 our withdrawal times, we are not going to publish  
24 those any longer. They will have a link to our  
25 website where people can access the information.

1           CHAIRMAN WEATHERWAX: That also takes away the  
2 argument that we've heard that that's a legal issue  
3 as far as how they encounter us.

4           MS. ELLINGWOOD: I hope it will take away the  
5 argument, but I suspect it will still be used.  
6 But, yes, the website was pretty clear about the  
7 fact that the withdrawal times are not regulated by  
8 the Commission, but we still got that argument. To  
9 the extent this change is being made, I would hope  
10 you would not hear that as often.

11          CHAIRMAN WEATHERWAX: I understand. Okay.  
12 That was just your report to us on what you're  
13 recommending or what you're going to do.

14          MIKE SMITH: It's what we are planning on  
15 doing.

16          CHAIRMAN WEATHERWAX: Any other new business  
17 to come before the Commission? If not, we are  
18 adjourned.

19          COMMISSIONER MCCARTY: The date of the next  
20 meeting?

21          CHAIRMAN WEATHERWAX: The next meeting is  
22 June 8th. I think it's -- is it back to the  
23 library?

24          COMMISSIONER MCCARTY: No, it's over in the  
25 cradle of civilization.

1           CHAIRMAN WEATHERWAX:  June 8th, the next  
2 meeting is in the cradle of civilization.

3           (The Indiana Horse Racing Commission meeting  
4 adjourned at 10:14 a.m.)

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1 STATE OF INDIANA  
2 COUNTY OF JOHNSON  
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4 I, Robin P. Martz, a Notary Public in and for  
5 said county and state, do hereby certify that the  
6 foregoing matter was taken down in stenograph notes  
7 and afterwards reduced to typewriting under my  
8 direction; and that the typewritten transcript is a  
9 true record of the Indiana Horse Racing Commission  
10 meeting;

11 I do further certify that I am a disinterested  
12 person in this; that I am not a relative of the  
13 attorneys for any of the parties.

14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand and affixed my notarial seal this 28th day of  
16 March 2016.

17 *Robin P. Martz*  
18



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21  
22 My Commission expires:  
23 March 3, 2024

24 Job No. 104366  
25

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