

In the Matter Of:

INDIANA HORSE RACING COMMISSION MEETING

Transcript of Proceedings

June 22, 2023

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3 INDIANA HORSE RACING COMMISSION MEETING

4 HELD ON

5 JUNE 22, 2023

6 10:36 A.M.

7
8 AT

9 HORSESHOE INDIANAPOLIS

10 4300 N. MICHIGAN ROAD

11 SHELBYVILLE, INDIANA

12
13
14 TAKEN BY:

15 ROBIN P. MARTZ, RPR

16 NOTARY PUBLIC

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24 STEWART RICHARDSON & ASSOCIATES
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AGENDA

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1 CHAIRMAN BORST: I'm going to call the meeting
2 to order of the Indiana Horse Racing Commission.
3 June 22nd, hard to believe, second day of summer.

4 At this point I think I will swear in our
5 reporter.

6 (At this time the oath was administered to the
7 court reporter by Chairman Borst.)

8 CHAIRMAN BORST: First item is the approval of
9 the memorandum from the March 21, 2023 public
10 meeting. Do I have a motion and a second?

11 COMMISSIONER PILLOW: So moved.

12 COMMISSIONER MCCARTY: Second.

13 CHAIRMAN BORST: All those in favor?

14 THE COMMISSION: Aye.

15 CHAIRMAN BORST: Opposed?

16 (No response.)

17 CHAIRMAN BORST: Moving on to the agenda, the
18 first thing on the agenda is a presentation by VICI
19 regarding the calling of an option, which has been
20 sitting around for a few years. I think we have
21 until the end of 2024 for it to be instituted, if
22 it's going to be done. So we've got a 15-minute
23 presentation here. I don't know if you want to
24 introduce yourselves. I guess the front row is
25 VICI, which is good. You got here early.

1 MR. ROTHENBERG: Quickly, Chairman, over here.
2 We've got Sebastian Smelko, who's the attorney from
3 Ice Miller. He'll be introducing VICI. We've also
4 got Joe Morris and Jeff Hendricks from Caesars to
5 answer any questions. They're not going to make a
6 presentation. Of course, we may have a horseman or
7 two that want to make a comment. So that can all
8 be at the very end. So I'll introduce Sebastian
9 and let him take it away.

10 CHAIRMAN BORST: Take it away. Welcome to
11 Indiana.

12 MR. SMELKO: I'm a Hoosier, Mr. Chairman.

13 CHAIRMAN BORST: Then you know it's like this
14 every day. We'll tell them that anyway.

15 MR. SMELKO: Good morning, everyone. My name
16 is Sebastian Smelko. I'm a partner at Ice Miller.
17 I would like to introduce the members of the team
18 from VICI today. They are going to be presenting.
19 We're very grateful for the time allocated to us
20 and this matter on your agenda this morning.

21 We look forward of providing the Commission an
22 overview of VICI specifically and then real estate
23 investment trusts generally. To be clear, we are
24 not specifically requesting any particular final
25 action today whatsoever. We appreciate this

1 opportunity to discuss VICI and REITs generally.
2 Following our presentation, we will be requesting
3 that the Commission and staff commence any
4 necessary procedures and processes to review VICI
5 and its relevant subsidiaries so that we may
6 initiate the exercise of our rights under the
7 put-call agreement between VICI and Caesars, which
8 will be to purchase the real property associated
9 with Harrah's up north and with this property,
10 Horseshoe Indianapolis.

11 I want to highlight an important point that I
12 believe will come through during our presentation
13 today is that there's no change anticipated or
14 requested with respect to the gaming or racing
15 licenses and no change to the operations of either
16 racetrack would result from this transaction as
17 contemplated under the put-call agreement, which my
18 clients will be discussing with you shortly.

19 As we have consistently done and endeavor to
20 do in the future, we want to work with the
21 Commissioners, as well as their wonderful executive
22 staff on any questions or provide documentation
23 required related to this transaction insofar as the
24 diligence that the IHRC will be conducting for this
25 process.

1 It's very much my pleasure to introduce John
2 Payne, the president and COO of VICI; David Kieske,
3 the executive vice-president and CFO; Samantha Saks
4 Gallagher, the secretary and general counsel of
5 VICI; and then finally Elena Keil, the
6 vice-president and associate general counsel. It
7 is also, as Mr. Rothenberg has stated already,
8 there are members from Caesars here today in case
9 there are questions arising related to their end.

10 Finally, I want to turn it over to John Payne
11 so that he can commence our process. Appreciate
12 your time again.

13 JOHN PAYNE: Good morning. Appreciate the
14 time that you have allotted to VICI. I have the
15 section -- I'm going to skip over our pictures.
16 You've seen those. Right there. I'm going to walk
17 you through just a little bit of the history of our
18 company. I've been blessed to start VICI back in
19 October of 2017. So our company is only a little
20 over five and a half years old. Little bit about
21 the history of the company, we've grown
22 substantially since we started VICI. We started
23 out with one tenant, 19 properties; as you can see
24 in enterprise value about \$12 billion.

25 Over the five years we have grown

1 substantially. We saw an opportunity to acquire a
2 fair amount of casinos throughout the United
3 States. Today we sit with 11 tenants. We have 54
4 properties around the United States and in Canada.
5 We have an enterprise value of about \$51 billion.

6 To be clear, we're a triple net lease REIT,
7 which David will go into a little bit more about
8 our business and what we do. We're a passive
9 landlord to these world-class operators. You
10 obviously know Caesars very well. They are our
11 largest tenant, but we also do business or we own
12 real estate that we lease back to MGM Resorts, the
13 Venetian, Penn, JACK, almost every operator in the
14 United States, we are blessed to be partners with.
15 You can see our business.

16 We only have 26 employees. Our company is
17 based in New York. So you're seeing four of us
18 today of the 26. That's because we don't operate
19 anything. We own real estate. We lease them back
20 to great operators, like my fellow operators behind
21 me at Caesars.

22 If you look at the diversification of where
23 our assets are, you can see that in almost every
24 market, the gaming market in the United States, we
25 own real estate and lease it back to operators. We

1 do own property already in the state of Indiana;
2 Horseshoe Hammond up north, which is run by
3 Caesars, and down south we own Caesars Indiana,
4 which today is run by the Eastern band of Cherokee
5 Indians. So we're already involved in the state of
6 Indiana.

7 Little bit about our business and how we've
8 grown so much just to show we have access to the
9 capital markets. We have done about \$33 billion
10 deals in our first five years. We've been very
11 active in raising equity almost \$14 billion, and
12 raising almost \$9 billion of debt. We've been very
13 active and very blessed by the support that we've
14 had from our public shareholders along the way.

15 We have entered the S&P 500. We're proud of
16 that fact. And we're proud that we did it quicker
17 than any other REIT in the history of the United
18 States. We are able to grow quickly. We were able
19 to enter the S&P 500 in a little over four years,
20 which has helped our company continue its growth.

21 Last year someone stopped me back here and
22 said they were a shareholder of ours, and they
23 appreciated the growth of our shares. I thanked
24 them. But as you can see from what we're showing,
25 we have been successful particularly over the last

1 year where we're the only S&P 500 REIT that showed
2 growth appreciation of our stock price. So we have
3 support of our shareholders and our owners of our
4 stock. We think that's important for you all to
5 realize.

6 At this time I'm going to turn it over to
7 David Kieske. David is our CFO. He's just going
8 to take you a little bit through the net lease and
9 how this structure has also been a part of our
10 racinos. Thank you.

11 DAVID KIESKE: Great. Thank you, John. Thank
12 you all for your time today. We greatly appreciate
13 the opportunity to present on behalf of VICI. As
14 John mentioned, I'll quickly go through a few pages
15 on triple nets. John covered what we've done and
16 how we've gotten here. I'll cover a little bit
17 about our real estate structure and more
18 importantly what we don't do. I'll just turn to
19 page 11. Sorry about that.

20 John mentioned we're a triple net lease REIT.
21 What does that mean? That means we own the real
22 estate. We lease it back to great operators like
23 Caesars, as John mentioned. You can see on this
24 page, our weighted average lease term is 43.4
25 years. That means we own this real estate for

1 decades, the real estate that we've partnered with
2 the great partners that John mentioned.

3 So the tenant, as it says on the page, the
4 tenant owns all the operations, benefits from all
5 the upside. They put in the capital. They get a
6 return on that capital, and they get all the
7 economic upside. Our leases are fixed for roughly
8 43 years. We collect rent on the asset.

9 As it says on the page, we have no operating
10 expenses, no property insurance, no property taxes.
11 That is borne by Caesars, but they also are the
12 beneficiary of the phenomenal assets that they run
13 and operate on a daily basis.

14 Just turning to REITs overall, there are
15 roughly 200 REITs across the United States, owns
16 close to 550,000 assets across the United States.
17 Drilling into Indiana, there are four REITs that
18 are headquartered in Indiana, a couple here in
19 Indianapolis, being Kite and Simon. A myriad of
20 REITs own assets across the state, 13,000
21 properties are owned by REITs across the state of
22 Indiana, about \$40 billion in value, in real estate
23 value. This spans again the triple net peers that
24 we operate with; Agree, EPR, National Retail
25 Properties, as you can see on the page, mall REITs,

1 retail REITs, manufactured housing, and the list
2 goes on and on, single family housing, storage,
3 data centers, towers, lots of REITs across the US
4 and across Indianapolis.

5 Thirteen just goes into a little bit of some
6 of the assets owned around us in the greater
7 Indianapolis area. Won't spend a lot of time. I'm
8 sure some of you frequent some of these retail
9 centers and driven by some of these industrial
10 centers, but a lot of real estate is owned by REITs
11 in the greater vicinity in the area we are
12 currently in today.

13 Page 14 highlights some of the tracks that are
14 owned by REITs. It is part of VICI's experience of
15 portfolio today that John touched on. We have five
16 racetracks with four different operating partners.
17 You can see that's MGM, JACKs, Caesars, and
18 Century. At the bottom of the page, you can see
19 there are 15 racetracks owned by REITs across
20 America with two different REITs themselves, GOPI
21 and smattered across seven different operators,
22 including Bally, Penn, and Boyd in addition to the
23 few that we are partnered, fortunate to be
24 partnered with today.

25 Just to drill into our existing racetrack

1 ownership today, we have a track in New York,
2 Empire City, MGM Northfield Park over in Ohio,
3 Harrah's Philadelphia in Pennsylvania, JACK Thistle
4 Down also in Ohio, and then Mountaineer Casino and
5 Racetrack in West Virginia.

6 Just to reiterate, we are a passive landlord.
7 We're restricted from operating these assets. We
8 benefit on a daily basis from the great operators
9 that we're fortunate to be partnered with that run
10 these and maintain these facilities on a daily
11 basis.

12 Just to touch on maintaining the facilities,
13 you can see the continuous and ongoing capital
14 investment that goes into the assets that we own
15 today. Across the five assets, if you total up the
16 numbers on the page, over 90 million in capital has
17 been spent recently on these assets. Why is that?
18 Because the operators benefit from all the
19 operating upside to reinvesting the capital to
20 continue to improve the asset; JACK Thistle Downs,
21 \$36 million in capital; MGM Northfield Park almost
22 33 million; Empire City, 23 million; Harrah's
23 Philadelphia, about 650,000; Mountaineer, almost
24 500,000 improving that facility on a daily basis.

25 On that, I will turn it over to Samantha.

1 SAMANTHA GALLAGHER: Thank you, David, and
2 thank you, Commissioners.

3 I would now like to turn your attention to a
4 history and high level summary of the terms of the
5 put-call agreement pursuant to when VICI hopes to
6 acquire the properties subject, of course, to the
7 approval of the Indiana Horse Racing Commission and
8 the Indiana Gaming Commission.

9 As you may know in connection with the
10 acquisition of Caesars by Eldorado, VICI paid
11 Caesars approximately \$3.2 billion, and among other
12 things the parties entered into a put-call
13 agreement with respect to these two properties.
14 The put-call agreement was specifically negotiated
15 between VICI and Caesars as a way of compensating
16 VICI for one of the many items of value that VICI
17 provided to Caesars in order to facilitate that
18 transaction. Pursuant to the put-call agreement,
19 VICI is entitled to buy, and Caesars is entitled to
20 sell the land and real estate assets associated
21 with these properties. Consummation on the
22 acquisition is subject to certain conditions,
23 including the requirement to obtain the approval of
24 the Indiana Horse Racing Commission and the Indiana
25 Gaming Commission.

1 As you will note on slide 18, some of the key
2 economic terms of the agreement are summarized. I
3 would just like to call your attention to the
4 structure. If we are able to acquire the
5 properties, they would be leased pursuant to our
6 existing regional lease between VICI, as passive
7 landlord, and Caesars, as the operating tenant.

8 The existing regional lease is a triple net
9 lease. As mentioned by my colleagues, VICI has no
10 operational control over any of the properties
11 subject to the lease. With respect to the term of
12 the lease, the put-call agreement began on
13 January 1, 2022, and it ends on December 31, 2024.
14 And it would be our intention to call the
15 properties within that period.

16 I'll now turn it over to my colleague Elena
17 Keil.

18 ELENA KEIL: Thank you, Samantha. Thank you,
19 Commissioners. As Samantha mentioned, it is our
20 hope and anticipation to exercise our right under
21 the call option to purchase the real property
22 associated with this fine establishment, as well as
23 Harrah's to the north before the end of the term.

24 As you know, we are subject to the authority
25 of the Commission here, as well as the Gaming

1 Commission. We acknowledge there are steps that
2 need to be taken in order to receive the approval
3 to move forward. As Sebastian mentioned at the top
4 of our presentation, we don't have any formal
5 motion for you today. We don't have a formal
6 request, except to suggest that we are prepared
7 pursuant to any open requests that you have with
8 respect to diligence on VICI, as well as its
9 subsidiaries, Caesars, and the transaction. As you
10 know we are currently licensed by the Indiana
11 Gaming Commission so we are well prepared to
12 respond to your requests.

13 A little bit about transaction should approval
14 be granted, VICI would move to purchase the real
15 property and related assets here. Simultaneously
16 with the closing of the acquisition, VICI will
17 lease back those assets to the subsidiaries of
18 Caesars that currently operate the property. At
19 the risk of reiterating what my colleagues have
20 already said, VICI does not operate the properties.
21 We do not intend to operate these properties for
22 numerous reasons that we will be happy to get into.
23 There will be no change to the licensing either
24 racing or gaming. There will be no changes to the
25 operations should the transactions be approved.

1 At this point, we're happy to answer any
2 questions the Commission may have, and we look
3 forward to working with you and Commission Staff to
4 achieve approval here. Thank you.

5 CHAIRMAN BORST: Thank you, very concise and
6 succinct. Do you want a dumb question? What does
7 VICI stand for? It's got to mean something.

8 ELENA KEIL: It's a reference to Veni, vidi,
9 vici, I came, I saw, I conquered, the Latin phrase
10 uttered by Julius Caesar as he proceeded with his
11 various wars, I'm told.

12 CHAIRMAN BORST: I knew it had to be
13 something.

14 ELENA KEIL: We're pleased we selected that
15 one.

16 CHAIRMAN BORST: Any questions, Commission
17 members, at this point? There will be chances
18 later for more interaction if needed. Bill.

19 COMMISSIONER MCCARTY: I want to say that I
20 anticipate there will be a considerable number of
21 questions that need to be answered. Don't want to
22 step into territory that's confidential or yet to
23 be determined, but please anticipate there will be
24 a number of questions.

25 ELENA KEIL: Thank you. We absolutely

1 anticipate the questions, including documentary
2 discovery and responses to applications, etc. As
3 John mentioned, we are a small company so you are
4 speaking to the person that will be responsive to
5 you. I look forward to it. We are well
6 experienced in these questions, and we look forward
7 to satisfying your requests.

8 COMMISSIONER LEVENGOOD: Under the
9 confidentiality, will we actually get a chance to
10 look at the lease?

11 ELENA KEIL: Yes.

12 CHAIRMAN BORST: Mine's the easiest of all the
13 questions. Although I did have one that I marked
14 in here. How long have you had the tracks that
15 you're involved in, the five tracks? How long?

16 ELENA KEIL: It's been various years. The
17 ones that are currently operated by Caesars, as
18 John mentioned, the Eastern band of Cherokee
19 Indians, we've had since 2017. We also acquired
20 the track operated by MGM recently in 2022.

21 CHAIRMAN BORST: What's the one you've had
22 longest?

23 ELENA KEIL: The one that's operated by
24 Caesars. We acquired all of them at the same time.

25 CHAIRMAN BORST: I think there's a couple

1 people in the audience who probably wanted to say
2 something. Dwayne, did you want to say something?

3 ELENA KEIL: I was very pleased to see the
4 podium. Thank you, Commissioners.

5 CHAIRMAN BORST: Anybody from the public? No.

6 MR. YOUNG: May I?

7 CHAIRMAN BORST: Yes. Sure.

8 MR. YOUNG: Good morning, Commission members,
9 staff. My name is Roger Young. I am the attorney
10 for the Indiana Standardbred Association. And in
11 as much as we're just starting out this process,
12 it's really not appropriate or possible to comment
13 on the merits. It's not possible to comment on the
14 merits of the proposal because those merits have
15 not been disclosed, but there are some preliminary
16 matters I want the Commission to keep in mind as
17 they begin the process.

18 First, I heard a number of times in VICI's
19 presentation about they're exercising their rights.
20 I think it needs to be made clear there is no right
21 currently in existence for them to do what they're
22 asking to do. That right is conditional. And it's
23 conditioned on the Commission's approval of a
24 request to amend and modify the July 2020 order
25 approving transfer of the permits. That's

1 basically the table I want to set for the
2 Commission at this point in time.

3 If we look at the Final Order that was issued
4 July 20, 2022, we would go to the findings, which
5 are on page 30. And I'm not going to discuss the
6 findings because the order sets those out.

7 And I want to direct the Commission's
8 attention and staff and counsel to page 45,
9 paragraph 19 of the order. I will read a bit of
10 it. "ERI acknowledges and understands that the
11 Commission takes no position in this proceeding as
12 to whether a REIT operation would be appropriate
13 and/or permitted at one of the Indiana racetracks
14 or OTB facilities. To date, neither VICI nor any
15 other REIT has been licensed or permitted by this
16 Commission, and there is no expectation or
17 guarantee that this will be done in the future, if
18 an appropriate request was made to the Commission.
19 This Commission is not aware of any other domestic
20 racetrack that has successfully operated for a
21 significant period of time under a REIT structure
22 and has serious concerns about whether such a
23 structure would be in the best interests of Indiana
24 horse racing or would promote Indiana's objective
25 to operate with the highest standards and greatest

1 level of integrity, and to continue to increase
2 industry improvement and growth."

3 That was the Final Order issued three years
4 ago. It would seem to me that that sets the bar
5 very high for the Commission to approve the request
6 that's going to be submitted.

7 It's not as if VICI were starting out level.
8 They're starting out in a hole. They, in my
9 opinion, must submit to you substantial evidence to
10 overcome the presumption and the finding that you
11 made three years ago. That's a hole. Now, I'm not
12 saying it can't happen because we don't know what
13 their evidence is. I'm going to reserve any
14 specific comment on my opinion as further evidence
15 that may be submitted is sufficient until we have
16 an opportunity to look at the evidence. You can't
17 make a decision until you see what VICI is going to
18 bring to you.

19 The point I want to make is that the current
20 landscape of this matter sets the bar very, very
21 high for you to make a finding that it would now be
22 in the best interest of Indiana horse racing to
23 approve transfer of this property, these properties
24 into a REIT. Thank you for your time and
25 consideration.

1 CHAIRMAN BORST: Thank you. And, obviously,
2 we will do our due diligence. Don't worry.
3 Anybody else? Brian, you want to come to the
4 microphone here.

5 BRIAN ELMORE: I want to make sure everybody
6 can hear what I got to say.

7 CHAIRMAN BORST: You might identify yourself
8 for the reporter, although I think she knows who
9 you are.

10 BRIAN ELMORE: Brian Elmore, executive
11 director of the Indiana HBPA. Here with me today
12 is president of the HBPA Joe Davis; first
13 vice-president of the HBPA, Katy Duran, our
14 attorney of Taft Stettinius, Jeffrey Stemerick.
15 I'm here on behalf of a unanimous decision of our
16 HBPA board and representing our 1740 members.

17 And, Mr. Chairman, I would like to know what
18 your pleasure is because I wasn't really sure of
19 the proceedings today. And I'm not sure that my
20 presentation might not be longer than VICI's, but
21 I'm here to let you know that the Indiana HBPA is
22 opposed to any REIT coming in here and operating
23 these racetracks. So I can give you my full spiel,
24 or I can save it all, and I'll have my homework
25 done for another day.

1 CHAIRMAN BORST: I think have your homework
2 done for another day, please.

3 BRIAN ELMORE: I just want you to know we're
4 opposed.

5 CHAIRMAN BORST: You'll have your day. There
6 will be hearings. Nothing is going to happen
7 without everybody's input.

8 BRIAN ELMORE: Thank you for allowing me to
9 speak.

10 CHAIRMAN BORST: We were saved by that one.
11 That could have been all day.

12 TONY RENZ: Good morning, Chairman and
13 Commissioners. Tony Renz, executive director for
14 the Indiana Standardbred Association. I, like
15 Brian, probably had about half of what Brian had,
16 but I will retain mine until another day. But I
17 did want to come up and represent the Indiana
18 Standardbred Association that unanimously all of
19 our members are opposed to any REIT coming into
20 Indiana equine whatsoever. We will continue to do
21 our due diligence in reaching out to other states,
22 which I have already, and talking with those
23 horsemen and finding out what their experiences
24 are. But, again, like I said, to save time, we'll
25 retain that until another day. Thank you.

1 CHAIRMAN BORST: Thank you. Okay. Anybody
2 else quickly? Dwayne.

3 DWAYNE RHULE: Dwayne Rhule, chairman of the
4 Standardbred Advisory Board. I talked to my
5 members about what I'd cover today, but I'm going
6 to beg off until the appropriate time. I just want
7 to say that there are a lot of matters that deal
8 with this that I hope will be covered properly
9 because I go back a long way in the business.
10 Okay. So I've been there since day one when we
11 tried to get slots. Okay. So I will reserve my
12 time at the proper time.

13 CHAIRMAN BORST: Okay. Appreciate that.
14 Thank you all for coming out here and giving the
15 presentation. It was very well done. And we'll,
16 obviously, be in touch sometime. Don't know when,
17 but it's not high on the radar right now.

18 Moving on on the agenda, number two is
19 consideration of settlement agreement between
20 Indiana Horse Racing Commission Staff and Thomas
21 "Tom" Amoss. Dale, are you going to take that one?

22 MR. PENNYCUFF: Yes. Commissioners, you have
23 in your packet the settlement agreement that was
24 fully executed April 2023 between Commission staff
25 and Tom Amoss. Mr. Amoss had a racehorse test

1 positive for a prohibited substance in post-race
2 testing. The positive result was confirmed by a
3 split-sample testing. Mr. Amoss has agreed to
4 penalties and conditions listed in paragraph four
5 of the settlement agreement, which include a \$5,000
6 fine, 15-day suspension with another 45 days
7 deferred per the terms of the agreement.

8 At this time, Commission Staff respectfully
9 requests approval of the settlement agreement
10 between Commission Staff and Mr. Amoss.

11 CHAIRMAN BORST: Any questions? Motion,
12 second.

13 COMMISSIONER MCCARTY: I move for approval of
14 the settlement agreement between the racing
15 commission and Mr. Amoss.

16 COMMISSIONER ESTES: Second.

17 CHAIRMAN BORST: Been moved and seconded. All
18 those in favor say "aye."

19 THE COMMISSION: Aye.

20 CHAIRMAN BORST: Opposed?

21 (No response.)

22 CHAIRMAN BORST: The "ayes" have it. He's on
23 me on roll call, and we're all here.

24 Next on the agenda is consideration of the
25 Administrative Law Judge's Recommended Order in the

1 matter of Dr. Cynthia Loomis versus IHRC Staff.

2 Matt, you going to take that?

3 MR. EGGIMAN: I'll take that one, yes.

4 CHAIRMAN BORST: And if you want to kind of
5 comment on three and four together, you're more
6 than welcome to. They're semi related.

7 MR. EGGIMAN: So this is in reference to
8 Administrative Cause No. HRC2211-002419 Recommended
9 Order from Administrative Law Judge Michael Buker,
10 who I believe is here, by the way, so he would be
11 able to answer any questions if you had any.

12 Commission Staff will be represented by me and
13 has been. Mr. Rothenberg here will act as your
14 counsel in this one. In my scan of the room, I see
15 neither Dr. Loomis nor her counsel here today.

16 ALJ Buker's Recommended Order suspended
17 Dr.Loomis for a period of 60 days. She has been
18 credited for time previously served. She was also
19 fined \$5,000. She was, pursuant to statute, given
20 15 calendar days from receiving the Recommended
21 Order to file written exceptions with the
22 Commission. She did not file written exceptions.

23 So pursuant to statute, since Dr. Loomis did
24 not file any exceptions, the Commission shall
25 affirm ALJ Buker's Proposed Findings of Fact and

1 Conclusions of Law and Non-Final Order. So at this
2 time relating to this particular matter, Commission
3 Staff is respectfully requesting that the
4 Commission affirm ALJ Buker's Recommended Order
5 from Administrative Cause No. HRC2211-002419.

6 CHAIRMAN BORST: Any Commission questions at
7 all? Seeing none, we will accept a motion and a
8 second.

9 COMMISSIONER PILLOW: So moved.

10 COMMISSIONER ESTES: Seconded.

11 CHAIRMAN BORST: Moved and seconded. All
12 those in favor say "aye."

13 THE COMMISSION: Aye.

14 CHAIRMAN BORST: Opposed?

15 (No response.)

16 CHAIRMAN BORST: The "ayes" have it. Now, the
17 next one is the consideration of the Administrative
18 Law Judge's Order dismissing the matter of Dr.
19 Cynthia Loomis versus IHRC staff, Administrative
20 Cause No. 000115 at the end of it.

21 MR. EGGIMAN: Again, this one was heard in
22 front of Judge Buker as well so he can answer any
23 questions. Again, Mr. Rothenberg will serve as
24 your counsel. I was representing Commission Staff.
25 Again, Dr. Loomis nor her counsel are present

1 today. This will be approving the dismissal of the
2 Cause No. 2301-000115. Again, no written
3 exceptions were filed so Commission Staff
4 respectfully requests that the Commission affirm
5 ALJ Buker's Recommended Order in this matter.

6 CHAIRMAN BORST: Any Commission members,
7 questions? Seeing none, how about a motion?

8 COMMISSIONER ESTES: Move approval.

9 COMMISSIONER PILLOW: I will second.

10 CHAIRMAN BORST: Been moved and seconded to
11 approve the Administrative Law Judge's Order. All
12 those in favor say "aye."

13 THE COMMISSION: Aye.

14 CHAIRMAN BORST: Opposed?

15 (No response.)

16 CHAIRMAN BORST: The "ayes" have it.

17 COMMISSIONER LEVENGOOD: Judge Buker, put your
18 hand up again.

19 CHAIRMAN BORST: Thank you for being here.

20 Next on our agenda is ratification of
21 Executive Director's interim approval of
22 PointsBet's ADW Racing Application and Website.

23 MR. PENNYCUFF: Commissioners, as you are
24 aware, Premier Turf Club was acquired by PointsBet
25 in April 2021. At the end of March 2023, PointsBet

1 sent an email stating their intent to move racing
2 operations under a PointsBet Racing brand. On
3 May 1, 2023, PointsBet submitted a request to the
4 Oregon Racing Commission to update PointsBet's
5 Operating Plan to include PointsBet.com, which was
6 developed in conjunction with Xpressbet and is
7 based on Xpressbet's 1st Bet product. The new site
8 will be both available on the internet and through
9 an IOS app. The Oregon Racing Commission is the
10 organization that licenses all the ADW hubs and has
11 a yearly audit schedule for all hub licensees and
12 keeps track of the performance and status. The
13 Oregon Racing Commission approved the request by
14 PointsBet.

15 Although not a white label, PointsBet's
16 request is similar to Churchill Downs Technology
17 Initiatives Company TwinSpires to add DK Horse or
18 to NYRA Bets request to Caesars RaceBook or TVG's
19 request to add FanDuel to their SPMO license, all
20 of which the Commission has approved.

21 Because the additions represent a material
22 change to PointsBet's SPMO license application, it
23 required Commission approval. Based on the
24 delegation of authority to approve race matters
25 prior to the next Commission meeting, with review

1 by the Commission at the meeting, given to the
2 Executive Director or March 21, 2023, Commission
3 meeting, Executive Director Deena Pitman gave
4 PointsBet interim approval on June 8, 2023, due to
5 their planned launch date occurring before this
6 meeting. Commission Staff respectfully requests
7 the Commission affirm the interim approval of
8 PointsBet's request.

9 CHAIRMAN BORST: Any Commission questions on
10 the ADW application? Seeing none, how about a
11 motion?

12 COMMISSIONER ESTES: So moved.

13 COMMISSIONER MCCARTY: Second.

14 CHAIRMAN BORST: It's like pulling teeth here.
15 The faster we make a motion, the faster we're done.
16 It's been moved and seconded that we approve it.
17 All those in favor say "aye."

18 THE COMMISSION: Aye.

19 CHAIRMAN BORST: Opposed?

20 (No response.)

21 CHAIRMAN BORST: The "ayes" have it.

22 Next is ratification of Executive Director's
23 approval of Horseshoe Indianapolis Additional
24 Capital Substitution Request. It's one of my
25 favorite subjects, drones and gators. The drone

1 part is. I don't know about the gators.

2 COMMISSIONER LEVENGOOD: I like the gators.

3 CHAIRMAN BORST: You like the gators. I like
4 the drones. You have our attention here.

5 ERIC HALSTROM: I like the drones too.

6 Chairman Borst, Members of the Commission, this was
7 just in March we had the full substitution list.
8 And we're still, we're not confident in the top end
9 drone that we had listed there. The camera didn't
10 come back quite the way we were hoping. The zoom
11 wasn't exactly as good as what we've got in some of
12 the current stuff. Subsequent to that, we did come
13 up with the need for a gator for Michelle Delasse
14 and the investigators to get around the facility.
15 A lot is time related and safety related as well.
16 So this is our request to use -- we'll keep looking
17 for that top end drone we would like to get. We
18 will probably see you next March with that, but for
19 now we would appreciate the chance to replace that
20 with a gator.

21 CHAIRMAN BORST: Okay. Any questions?

22 COMMISSIONER LEVENGOOD: So moved.

23 COMMISSIONER ESTES: Second.

24 CHAIRMAN BORST: Now we're talking. See
25 drones and gators, you get fast response. Since no

1 questions, all those in favor say "aye."

2 THE COMMISSION: Aye.

3 CHAIRMAN BORST: Opposed?

4 (No response.)

5 CHAIRMAN BORST: The "ayes" have it.

6 Next --

7 COMMISSIONER LEVENGOOD: Can I jump in. At
8 the river races in Madison, they have an
9 outstanding drone. So I would just tell you to
10 pick up the phone and give them a call. It's doing
11 what you're doing in that they pre-program it. It
12 may or may not do you any good. Worth a call.
13 Fair?

14 ERIC HALSTROM: Great. Thanks.

15 CHAIRMAN BORST: Moving on to the next item on
16 the agenda, we're getting a little more money to
17 spend here. This is a ratification of the
18 Executive Director's approval of Hoosier Park
19 additional funding request for apron upgrade.
20 Who's going to give that? Rick, are you going to
21 give that?

22 MR. ROTHENBERG: Mr. Chairman, I believe Rick
23 will talk to both seven and eight.

24 RICK MOORE: Mr. Chairman, Members of the
25 Commission, Staff, Rick Moore, vice president,

1 general manager of racing at Harrah's Hoosier Park.
2 Thank you for allowing me to appear here today. I
3 have asked Tony Renz to join me. While this is
4 Hoosier Park additional funding, this is actually a
5 joint venture and a joint request from Harrah's
6 Hoosier Park and the Indiana Standardbred
7 Association. I will make a couple comments, if you
8 will allow Tony to follow up with a couple comments
9 of his own.

10 The Commission was kind enough back in
11 December to approve a hundred thousand dollars for
12 our apron upgrade. When we submitted that, we
13 weren't exactly sure what that would entail. We
14 were going to do some brainstorming. We did. Tony
15 and I were just kind of sitting around one evening,
16 kind of, you know, what can we do to the apron,
17 what can we do to give it some pop. Tony suggested
18 why don't we just for starters reach out to right
19 Vive Landscaping, who actually did our Winner's
20 Circle many years ago now to see if they could give
21 us an idea. We did that. We met with Ryan Coyle
22 from Vive Landscaping and kind of gave them our
23 thoughts. Ryan came back with a spectacular
24 package that Tony presented to John DeLong, ISA
25 president, and their board and myself to our folks

1 at Harrah's Hoosier Park. Everyone was really
2 excited about what was proposed. We did value
3 engineer down a little bit, but the proposal we got
4 you can imagine, it was all encompassing.

5 We're excited. We're going to transform the
6 apron, at least a big part of it, into a park with
7 pergolas and chairs and green space. I'll let Tony
8 give any other comments he has.

9 TONY RENZ: Thank you again for allowing me to
10 speak. Yeah, so this was a real exciting project.
11 As Rick mentioned, we started with a hundred
12 thousand. We presented it to the ISA board. Rick
13 presented it to Hoosier Park. And everyone got
14 excited. Originally it was going to be a two,
15 three phase. One of the ISA directors says, well,
16 why don't we do this all at one time instead of
17 dragging this out over multiple years.

18 That's where Rick and I went back and
19 requested more money from the executive director.
20 That's kind of how we end up here today.

21 I'm very excited about this. I think this is
22 going to bring some energy back to Hoosier Park.
23 When you come out to the races, sometimes lately it
24 just feels like it's a little dead, and we need
25 something to pop that energy back up. I think

1 that's what this is going to do. It's going offer
2 areas for families to come out. Currently if you
3 bring your young kids out, they're running down the
4 asphalt. They're falling.

5 This is going to be a grassy area. The grass
6 is fake. We've been guaranteed. It's got a
7 lifetime warranty. It comes with a no heat
8 resistance. So it's not going to be grass like if
9 you go out to Las Vegas and the pools and that
10 stuff. On that grass it gets real hot.

11 This is going to be a fun atmosphere. And,
12 you know, I think this is almost a living project.
13 Once we get it going, we'll figure out where it
14 goes from there. Maybe we make it bigger. Maybe
15 we section it off. We do want to treat this as a
16 very big deal because it is a very big deal. We
17 want to do a campaign with this. We want to have a
18 ribbon cutting. We want the Commissioners there.
19 We want the executive staff there. This is as big
20 to me as the opening of the renovation of the
21 casino. That's how we want to treat this. Thank
22 you.

23 RICK MOORE: We'll also be giving it a name.
24 We'll have a little contest on that, but we will be
25 giving it a name also.

1 CHAIRMAN BORST: Maybe you could use it for
2 fundraising. Have somebody give a hundred grand.
3 You can have your name on it. Moral of the story
4 don't let you guys together in the evening, I
5 guess. It goes crazy.

6 TONY RENZ: Any questions?

7 COMMISSIONER MCCARTY: Yeah, what's the
8 timetable for this?

9 RICK MOORE: Great question, Commissioner
10 McCarty. We are hopeful to get started soon. We
11 would look to have this completed by August 11th,
12 which is our Dan Patch date. On the fast track so
13 that's our hope. I mean, that's probably best case
14 scenario, but that is our timeline.

15 COMMISSIONER PILLOW: That's my birthday,
16 Rick, so if you want to name it after me, it's
17 okay.

18 COMMISSIONER ESTES: You better get your
19 checkbook out.

20 RICK MOORE: Pillow Park. Great choice.

21 CHAIRMAN BORST: He will send you his check
22 soon I'm sure. Okay. It does sound good.

23 COMMISSIONER LEVENGOOD: Do you need action
24 from us?

25 CHAIRMAN BORST: Yes.

1 COMMISSIONER MCCARTY: If I understand it,
2 total cost is 325.

3 RICK MOORE: Full disclosure, there is some
4 electrical work that's going to be needed to be
5 done to the tune of \$47,000. The total price will
6 be \$372,000.

7 COMMISSIONER LEVENGOOD: Design and everything
8 in?

9 RICK MOORE: Yes, everything, taxes and
10 everything.

11 CHAIRMAN BORST: Any further questions? It
12 sounds great. Sounds like it should be a fun place
13 to be. No other questions, how about a motion?

14 COMMISSIONER LEVENGOOD: So moved.

15 COMMISSIONER PILLOW: Second.

16 CHAIRMAN BORST: Moved and seconded. All
17 those in favor say "aye".

18 THE COMMISSION: Aye.

19 CHAIRMAN BORST: Opposed?

20 (No response.)

21 CHAIRMAN BORST: The "ayes" have it.

22 Next on the agenda is consideration and
23 approval for purchase from the RCFAC funds to
24 update Harrah's Hoosier Park AV broadcast product
25 switcher for on-air simulcast shows and

1 productions. I read through it. I got a lot of
2 technical stuff, but it's another thousand more
3 than the last one so we keep going up here.

4 RICK MOORE: The first question I always get
5 is what is a switcher? Well, today I've brought
6 our AV director, Ryan Clendenen, and the principals
7 behind Force Technology. When I start stumbling on
8 thin ice, I'm going to ask him to come to my
9 rescue. But I can tell you that a switcher, if you
10 look at behind the scenes of an NFL game or local
11 news production, and you see the person at the
12 control board, and that switcher goes up and down
13 and the buttons they're pushing. It controls
14 everything, every part of our simulcast show, every
15 facet of it. If that fails, if that switcher
16 fails, we are dead in the water.

17 Our current switcher is about, I don't know,
18 10, 12 years old in terms of technology. I mean,
19 it's ancient. There's no software or hardware
20 support behind it.

21 We met with the horsemen. And they agreed
22 that this is another pretty much joint ask because
23 we're all in this together. We all benefit from
24 the switcher, what the switcher does and our great
25 AV crew headed by Ryan Clendenen. That goes out to

1 over 500 outlets, down to Australia. This is an
2 important piece of equipment. Like I said, we got
3 the principals from Force Technology. If you've
4 got any questions, I'm sure that those gentlemen
5 can do a lot better job than me of answering those.

6 CHAIRMAN BORST: Are there any questions?

7 COMMISSIONER LEVENGOOD: I know way too much
8 about this, but the biggest question is, is all of
9 your older cameras and all the ancillary equipment
10 that you're not updating compatible with that new
11 switcher?

12 RICK MOORE: I'll ask Ryan to come up and talk
13 about the cameras or the Force Technology. We have
14 state-of-the-art cameras. We purchased new cameras
15 just a couple of years ago.

16 COMMISSIONER LEVENGOOD: So the answer is the
17 old stuff works with the new stuff, and you won't
18 be back two weeks from now asking for costs for
19 that.

20 RYAN CLENDENEN: Absolutely correct.

21 COMMISSIONER LEVENGOOD: Did you hear that?
22 Absolutely correct.

23 RICK MOORE: He said absolutely correct. I'm
24 glad he said it.

25 CHAIRMAN BORST: We rode the elevator with

1 those guys, and now we know what they're doing.
2 They looked pretty smart in the elevator so I guess
3 they are very smart.

4 RICK MOORE: These are very smart guys.
5 They've rescued us a couple times when we were in
6 deep water.

7 CHAIRMAN BORST: Any other questions for Rick?
8 How about a motion?

9 COMMISSIONER MCCARTY: Move to approve.

10 COMMISSIONER ESTES: Second.

11 CHAIRMAN BORST: Been moved and seconded to
12 approve. All those in favor say "aye."

13 THE COMMISSION: Aye.

14 CHAIRMAN BORST: Opposed?

15 (No response.)

16 CHAIRMAN BORST: The "ayes" have it.

17 RICK MOORE: Thank you very much. Much
18 appreciated.

19 CHAIRMAN BORST: Next on the agenda is the
20 review of the Commission rulings. There's no need
21 for any votes or anything. If anybody has any
22 questions, we have a few more rulings this time
23 than we did last time because we're in the season.

24 EXECUTIVE DIRECTOR PITMAN: Actually, the
25 number of rulings we have this time are almost

1 identical to this time last year.

2 CHAIRMAN BORST: I was thinking of the last
3 meeting because we weren't in the season.

4 EXECUTIVE DIRECTOR PITMAN: Just so you know,
5 we're kind of on track here.

6 CHAIRMAN BORST: No questions on that. Next
7 on the agenda is HISA/HIWU Voluntary Agreement
8 status update with a report from the Commission
9 Equine Medical Director, Dr. Kerry Peterson,
10 regarding the implementation of the anti-doping
11 program. HISA, if you remember, is the Horse
12 Integrity Safety Act, and the HIWU is the -- I
13 forget what that stands for. But anyway, Matt, do
14 you want to say a few words?

15 MR. EGGIMAN: I do want to set the stage and
16 then Dr. Peterson can come in. A couple things
17 about the Voluntary Agreement. This current
18 agreement that you have in your booklets involves,
19 in addition to the racetrack safety agreement from
20 last year, which is identical for this year, it
21 involves the new medication and anti-doping program
22 that HISA has implemented through an entity called
23 the HIWU, the Horseracing Integrity Welfare Unit.

24 That is who myself and Dale were negotiating
25 with for the medication and anti-doping portion of

1 the agreement. It involves collection of samples.
2 It involves investigations of potential violations.
3 It was, again, months of negotiations with HIWU.

4 When we were finished with the negotiations, I
5 do want to mention that HIWU did say how their
6 executive director, their attorney, how great our
7 Commission staff and the staff here at the track
8 were in working with them to get everything up and
9 going over the last couple many months. So I did
10 want to mention that. If you have any questions on
11 it, and if there are none, Dr. Peterson.

12 CHAIRMAN BORST: Any legal questions before we
13 go to the good stuff, the veterinary stuff after
14 that? Well, we've tried to go along with these
15 people best we can. We figure the best way to go
16 is to comply with them, but, yet, they've done a
17 good job negotiating some things in so we're not
18 caught later on if things change with HISA. It's
19 been a tough tightrope. The legal staff has done
20 great. Now we'll go to the great veterinary stuff.

21 DR. PETERSON: Thank you, Mr. Chairman and
22 Commissioners. So a little bit what Matt was
23 talking about was the Voluntary Agreement for the
24 anti-doping medication control portion under HISA
25 that went into effect May 22nd of 2023. The

1 branch of ADMC that enforces the rules under ADMC
2 is HIWU, the Horse Integrity Welfare Unit It's a
3 lot of acronyms so bear with me. All testing under
4 the ADMC program must be conducted by HIWU trained
5 and certified sample collected personnel. We were
6 fortunate. We had two representatives from HIWU
7 come to the track here at the end of April and May
8 to train all of our personnel from IHRC and
9 Horseshoe Indianapolis personnel.

10 To date, we have eight veterinarians that are
11 certified by HIWU as blood collection officers, or
12 BCOs is what they call them. Three of those are
13 Horseshoe regulatory veterinarians so they're able
14 to collect samples from post works, fatalities, or
15 any other type of blood collection. Then we have
16 five IHRC veterinarians that are certified as well,
17 including myself. So they were able to run the
18 test barn and draw samples in the test barn.

19 IHRC also trained four RVTs, registered
20 veterinary technicians, as blood collection
21 officers. They have the same ability to sample
22 horses as well under HIWU. I wanted to point out,
23 Stephanie Adams, she is our test barn supervisor
24 here at Horseshoe Indianapolis, and she's doing a
25 fantastic job. She is also listed in the Voluntary

1 Agreement as a HIWU testing liaison. Any testing
2 missions that come through from HIWU, she helps
3 facilitate that and make sure the staff is in
4 place, and those samples are collected. She's
5 doing a fantastic job.

6 IHRC also had ten sample collection personnel
7 trained. These are pee catchers in the test barn.
8 We have ten this year. We have a large number of
9 folks that are working our test barn, which is
10 great for the test barn to run smoothly.

11 Horseshoe also had one HIWU-trained tagger or
12 notifier. He's the individual that stands down by
13 the rail at the end of the race and will tag
14 winners and specials. This was important that he
15 was certified because some things have changed in
16 our notification process leading to the test barn.
17 I'll go over some of the changes that have been
18 implemented, and then we'll get into some metrics
19 to date.

20 So that tagger notifier's responsibility is to
21 notify the representative of all selected horses on
22 the track that go to the test barn, so any winners,
23 any specials, or any claims. The difference in
24 what he did before is that he has to give each hot
25 walker or the individual that will be taking the

1 horse to the test barn this card. It is called
2 Notice of Selection. It's in Spanish and English.

3 We noticed the first week they all read it on
4 the way to the test barn. It basically tells them
5 what their responsibilities are in being the
6 responsible party of that horse in the test barn.
7 They have to sign the iPad that they're the one
8 that will be witnessing the sample collection and
9 will be in the care and custody of that horse the
10 entire time in the test barn.

11 The notifier, the minute he hands this card to
12 the individual, he radios down to our security
13 personnel in the test barn and gives a time that
14 the horse was notified. That's different. We
15 didn't do that before. It's an added step. The
16 security guard in the test barn will mark that time
17 that that person was notified. And they keep a log
18 in the test barn. Any person that comes into the
19 test barn, the IDs have to be verified and the time
20 they come in and the time they leave. We keep that
21 roster. Again, that's something new this year
22 under HIWU.

23 In general, all test barn operations have
24 remained the same. And incidentally when HIWU came
25 here, they did say -- and I'm going to brag on

1 us -- they said that we had the nicest test barn in
2 North America. They took pictures. They were
3 really proud of what we had to offer here as far as
4 infrastructure and how clean our test barn was.

5 Our protocols and procedures are the same as
6 far as checking the urine, collecting the blood. A
7 few things are done. The sealing of the tubes are
8 different. They provided us these sticky sheets.
9 It looks like TGI Fridays, I know. These go on the
10 blood tubes, and then the white ones go on the
11 urine containers. So that's new.

12 Also, the biggest change is this has gone to a
13 paperless system. Before we did all of our chain
14 of custody paperwork on long forms. We did sample
15 shipment forms when we ship the samples. Now, all
16 the relevant information on race day as far as
17 selection of horses all comes in electronically the
18 day of the race. Then we get this. So this is
19 what we get every morning.

20 Stephanie is the testing liaison. She makes
21 sure that the stewards are aware of the selections.
22 So today there are 81 horses on the race card
23 today. HIWU wants us to test the winners of ten
24 races, eight winners and seven specials. So 15
25 horses will be coming to the test barn. Per our

1 Voluntary Agreement here in Indiana, all claimed
2 horses will continue to be sampled blood only. And
3 that's included on our mission statement. Also on
4 these mission statements if they want us to do any
5 blood gas or TCO2 testing, that will come in
6 through this portal, as well as out-of-competition
7 testing.

8 So some days we do all. We do the test barn.
9 We do blood gas and out-of-competition testing. It
10 just depends on what the computer tells us and what
11 the horse selections are.

12 A little bit about our first week of testing,
13 we did have a HIWU representative here to make sure
14 the transition was smooth. She was here for two
15 days. Her name was Lorena Martinez. She was
16 fabulous. We did have some hiccups with this
17 software. Technology is great until it doesn't
18 work. So that was a little bit of a struggle just
19 getting used to all the steps. Individuals with
20 the horses, they sign on the tablet. Everything is
21 documented, time stamped. Everything is
22 electronic. So you can imagine if there's a hiccup
23 in the software.

24 COMMISSIONER LEVENGOOD: How's your WiFi?

25 DR. PETERSON: Interestingly enough, this can

1 run off WiFi, and then you click it to WiFi to
2 upload and to sync all the tablets. You can
3 actually run it off WiFi for a period of time, but
4 you need to sync it to make sure everything gets
5 uploaded to HIWU.

6 We're getting there. Things have improved in
7 the last couple weeks. We have kind of implemented
8 some of our own shortcuts and things that make
9 using this technology easier.

10 I have to give a huge compliment to the
11 horsemen. They've been very patient,
12 accommodating, and flexible. We're all kind of in
13 this together. Likewise, the test barn staff,
14 Stephanie, the other RVTs, they have all been
15 incredible. This is a big undertaking, especially
16 for those of us that were used to the old system.
17 Things are going as well as they can be right now.
18 As things progress, I'm sure there will be some
19 shortcuts and easier things we can learn on this to
20 make it a little bit better.

21 One other thing that's changed, our shipping
22 schedules. I don't know if you guys are aware that
23 HIWU is requiring all Thoroughbred samples be
24 shipped separate of Quarter Horse samples. We have
25 to store them separately. So Thoroughbred samples

1 in our test barn lab have to be stored in a
2 separate refrigerator prior to shipment. They have
3 to be shipped in different coolers. It doesn't
4 seem like a big deal, but it is when we've got
5 particular race days where we're supposed to ship
6 every 48 hours, but depending on race days,
7 Stephanie is oftentimes shipping every day. It has
8 added a little bit of some challenges in timing and
9 shipping.

10 One other change from our program before is
11 that any horse that's vanned off the track for any
12 reason, be that during training, overheating, heat
13 exhaustion, bleeding, or an injury, anything that's
14 vanned off the track has to be sampled. So that's
15 different. Those are sampled for blood only.
16 Fatalities, we are still sampling the blood. They
17 are still going to Purdue, but we are also required
18 by HIWU to collect hair samples on those horses as
19 well.

20 So now I'm going to get into the testing
21 metrics and then have you guys ask questions if you
22 have any.

23 COMMISSIONER LEVENGOOD: Excuse me, before you
24 go there, they came in and trained everybody. It
25 was great.

1 DR. PETERSON: Yes.

2 COMMISSIONER LEVENGOOD: What's the process of
3 for keeping that up to date? Is it annually, and
4 do they come in and train or when there's a
5 personnel change? It's easy to do it one time.
6 It's the perpetual piece. How do you envision
7 that?

8 DR. PETERSON: That's a great question. Right
9 now they are offering online training for
10 personnel. Any new personnel we hire in, there's a
11 procedure they have to go through, do online
12 training and then pass a test or a quiz at the end
13 to become certified.

14 COMMISSIONER LEVENGOOD: Do they have a card
15 or a certificate? How do you know somebody is
16 stamped good to go?

17 DR. PETERSON: Yes, there is a virtual
18 certificate, if you will. And then they give us a
19 lanyard with a badge so that the tagger/notifier on
20 the track, he's got one. All the veterinarians,
21 all the test barn personnel, we're all official.

22 COMMISSIONER LEVENGOOD: Thank you.

23 DR. PETERSON: So I use these dates. From
24 May 22nd, which was the date of implementation,
25 to June 17, which equates to 16 race days, HIWU

1 instructed us to sample 133 winners, 74 specials,
2 and we had 21 claims. Of those 21 claims, one was
3 voided. So that was the total for those 16 days.
4 We did approximately 50 blood gas tests in that
5 time frame and nine out-of-competition tests.

6 Prior to ADMC coming into effect, from
7 April 18th to May 18th, which equally was 16 race
8 days, IHRC testing had 137 winners, 36 specials,
9 and 14 claims, and no blood gas in that 16-day
10 period. Important to note that there's almost
11 double the number of specials that we had
12 previously under HIWU. They like to send specials
13 down to the test barn.

14 One other thing I wanted to touch on was
15 results management. Previously when we would
16 submit our samples, turnaround for results was
17 within 10 to 14 days, on average about 11 to 12
18 days. We were told we would get samples pretty
19 quickly the results back. There's been some
20 hiccups there. We are now over three weeks from
21 the last recorded results.

22 I think it's an issue. In talking with my
23 counterparts in other states, they're having the
24 same problems. I don't know if it's a technology
25 thing in getting us the results. I don't know

1 where that's at, but that's been a little bit of a
2 frustration, especially with work samples. These
3 horses need to get off the vet's list and need to
4 be able to be entered. There's kind of a delay
5 there. I'm hoping to get some clarity and feedback
6 from HIWU here shortly to see where the holdup is.

7 That's kind of the quick and dirty on HIWU
8 right now. If you guys have any questions, I would
9 be happy to try to answer them.

10 CHAIRMAN BORST: For the Commission members,
11 you might explain the special and how they pick the
12 specials.

13 DR. PETERSON: Eric Smith is here, our senior
14 state steward. He would probably be a better
15 person on how he does his selections. But under
16 HIWU, they give the stewards latitude to select
17 whichever horse. They're not telling us
18 specifically which horse to select.

19 Eric, do you want to tell them how you select?

20 ERIC SMITH: Generally, when we select --

21 CHAIRMAN BORST: You might want to come up
22 front here so everybody can hear you. I know you
23 don't want to.

24 ERIC SMITH: Thank you, Mr. Chairman.
25 Generally when we select a special, we're looking

1 for things out of the ordinary or a breaking
2 pattern. It may be we may identify a horse before
3 a race that we want a special because it's running
4 its first start with a new trainer or coming off a
5 long layoff. We may identify one after a race
6 because it's significantly outran its odds or just
7 a form reversal one way or the other. There's a
8 multitude of things we look for for different
9 variables.

10 But, generally, we get the information from
11 HIWU saying they want eight winners and seven
12 specials today. We'll try to find the seven
13 specials we think are most deserving of a trip to
14 the test barn.

15 CHAIRMAN BORST: That's what I want to make
16 sure because how would HIWU know who to test.

17 ERIC SMITH: They don't do that.

18 CHAIRMAN BORST: They just tell you they want
19 a least seven, eight, whatever the number is.

20 ERIC SMITH: Yes. They have the ability to
21 instruct a special be a specific horse, but as of
22 yet, they haven't done that.

23 CHAIRMAN BORST: How would they know all the
24 tracks and the horses?

25 COMMISSIONER LEVENGOOD: That's a minimum

1 they're asking. You can special more if you want
2 to.

3 ERIC SMITH: If we want to go above the number
4 they give us, we need permission. We have to call
5 them and ask them.

6 COMMISSIONER LEVENGOOD: Really? It's a fixed
7 number, no more, no less.

8 ERIC SMITH: Correct.

9 CHAIRMAN BORST: Thanks. Any other questions
10 for Dr. Peterson?

11 COMMISSIONER MCCARTY: I have some questions,
12 and I don't know to whom it should be directed.
13 Mine are about finances and the money of this whole
14 agreement.

15 CHAIRMAN BORST: Now Kerry's going to leave.

16 COMMISSIONER MCCARTY: I think I'm reading
17 that a lot of these costs are borne by the state of
18 Indiana. And then they can be submitted for
19 credit.

20 EXECUTIVE DIRECTOR PITMAN: Yes.

21 COMMISSIONER MCCARTY: A lot of the upfront
22 expenditure here is us.

23 EXECUTIVE DIRECTOR PITMAN: Yes.

24 COMMISSIONER MCCARTY: Then it's credited on
25 the next year's assessment.

1 EXECUTIVE DIRECTOR PITMAN: Correct.

2 COMMISSIONER MCCARTY: Which means we, once
3 again, are upfront financing HISA.

4 EXECUTIVE DIRECTOR PITMAN: Right.

5 COMMISSIONER MCCARTY: We're paying ahead of
6 time and hoping we get credit for that.

7 EXECUTIVE DIRECTOR PITMAN: Right.

8 CHAIRMAN BORST: That credit is known ahead of
9 time, like, by December, is it, or November
10 something?

11 EXECUTIVE DIRECTOR PITMAN: Yes.

12 CHAIRMAN BORST: We know what our credit will
13 be if we implement all that.

14 EXECUTIVE DIRECTOR PITMAN: Yes. If we
15 implement what we agreed to in the agreement, then
16 a part of their agreement is to let us know what
17 that credit will be, and that will be credited back
18 to us. Quite frankly, Matt, you can tell me if I'm
19 right or wrong, but it's either credited towards
20 what we've already paid, or it's credited towards
21 next year's.

22 MR. EGGIMAN: Yeah, it will be a credit of
23 next year's.

24 COMMISSIONER MCCARTY: Will it be a credit on
25 this year's, or is it for next year?

1 MR. EGGIMAN: It will be credited next year's.
2 We also have reimbursements built in as well for
3 using our investigators. When HIWU uses our
4 investigators, we are essentially billing them back
5 for their time, as well as any time an
6 out-of-competition test is conducted by our staff,
7 we are billing HIWU back for that being reimbursed.
8 It's quarterly on that. So there is some money
9 coming back.

10 COMMISSIONER MCCARTY: Coming back yet this
11 year, but a lot of it is we try to get back for our
12 assessment next year.

13 EXECUTIVE DIRECTOR PITMAN: Correct.

14 COMMISSIONER MCCARTY: Which raises the
15 question: What did our assessment this year buy?

16 EXECUTIVE DIRECTOR PITMAN: Well, the same
17 thing it bought last year.

18 COMMISSIONER MCCARTY: The other is --

19 EXECUTIVE DIRECTOR PITMAN: They're startup
20 basically.

21 COMMISSIONER MCCARTY: We're up front
22 financing their startup. How many other states,
23 not all of them?

24 EXECUTIVE DIRECTOR PITMAN: Yes.

25 COMMISSIONER MCCARTY: All of them are now

1 paying for startup cost. Okay.

2 EXECUTIVE DIRECTOR PITMAN: Those that have
3 deemed the state still be a part of the process.
4 There are a few states out there that have said
5 it's all yours. Then the horsemen have to front
6 it. So it's a collaborative effort here. It's
7 horsemen. It's the racetrack. Some of it's going
8 to be the Commission. Other states it's not quite
9 that collaborative.

10 COMMISSIONER MCCARTY: Thank you on that.
11 Finally, I see on the agreement here that the --
12 has this been approved by the Department of
13 Administration and State Budget Agency and the
14 attorney general?

15 MR. EGGIMAN: They had approved it in form.
16 It's been sent to them for signature.

17 EXECUTIVE DIRECTOR PITMAN: It's going through
18 the signatory process.

19 COMMISSIONER MCCARTY: You anticipate it will
20 be signed.

21 MR. EGGIMAN: Yes.

22 EXECUTIVE DIRECTOR PITMAN: Because you have
23 had conversations with all three.

24 MR. EGGIMAN: Yeah.

25 CHAIRMAN BORST: One other question on the

1 out-of-competition testing, who decides that now?
2 Do you guys still retain control of that, or does
3 HIWU say we want you to go out and get ten of them?

4 DR. PETERSON: So typically like what Eric was
5 saying, we cannot select a horse to test without
6 prior authorization from HIWU. If in our
7 investigative process, if we suspect a group of
8 horses that we would like to test, we would have to
9 contact HIWU. They would have to approve it. And
10 then it would show up on the iPad as a mission
11 code.

12 COMMISSIONER LEVENGOOD: Do you have a hotline
13 like if you see something you want to test?

14 DR. PETERSON: They do. The investigative
15 unit with HIWU has been fantastic. We've met with
16 them. They've talked with our investigators. So
17 there's communication in play as far as if they see
18 something immediately, what to do next, but they
19 have to be notified on basically everything. But,
20 you know, if we do have suspicions or we would like
21 to select a group of horses for out-of-competition,
22 we just have to ask. And then they will load it
23 into the mission, and then we will be able to do
24 so.

25 EXECUTIVE DIRECTOR PITMAN: But, Kerry, that's

1 that a may be approved and may not be.

2 DR. PETERSON: Yeah, same with work samples.
3 So horses that need to work, stay off the vet's
4 list, that has been requested within 48 hours.
5 That has to get approval and get put into the
6 mission as well. Sometimes there may be a delay in
7 getting that approval.

8 I think they've ironed that out here recently.
9 There was a delay early on with getting those
10 horse's approved to be worked off the vet's list.
11 But, yes, there is a hotline. We've called it
12 several times. So far they've answered. They have
13 been very easy to communicate with.

14 COMMISSIONER LEVENGOOD: And they respond in
15 some type of written format even if it's a text or
16 email, you keep that you got the authority to do
17 that.

18 DR. PETERSON: Yes. So the way we know we
19 have gotten the authority is they are the only ones
20 that have access to that HIWU app. Those horses
21 that they approve us for testing, they are
22 preloaded into that app. We can't do anything with
23 that testing until they're in the app. That's our
24 green light to go ahead and test.

25 CHAIRMAN BORST: Any further questions? It

1 sounds like generally it's going -- this first
2 month has gone fairly well.

3 DR. PETERSON: Yes, it has. I just can't
4 thank everyone enough at Horseshoe and our test
5 barn staff and the attorney. Everybody has been
6 great in making this a smooth transition. And I
7 know it's been kind of a contentious issue with
8 HISA and HIWU. I think ultimately we have the same
9 goal. We want to protect horseracing and the
10 integrity of the sport and just kind of ironing out
11 these little nuances and making things easier for
12 everybody.

13 CHAIRMAN BORST: Thank you for all your part.
14 I know it's a headache.

15 DR. PETERSON: It's been all right.

16 CHAIRMAN BORST: Well done.

17 EXECUTIVE DIRECTOR PITMAN: Dr. Peterson has
18 been our mainstay for this portion of the
19 implementation of HISA. She has done a wonderful
20 job of being the point person in working with our
21 stewards to keep this thing rolling. I appreciate
22 all she's done.

23 CHAIRMAN BORST: That's what we Purdue people
24 do. That's the way we roll. I had to put that in
25 there. We don't need an action on this, do we,

1 since it's already been signed?

2 MR. ROTHENBERG: No.

3 CHAIRMAN BORST: Next on the agenda is the
4 delegation of authority to approve readoptions.
5 David, I guess.

6 MR. ROTHENBERG: We'll have Dale take this.

7 MR. PENNYCUFF: I've been nominated for this
8 one.

9 CHAIRMAN BORST: Good luck.

10 MR. PENNYCUFF: There are a number of rules to
11 be readopted, each of which is listed in the Notice
12 of Intent to Readopt LSA Document 23-371 and 23-428
13 in your books.

14 Commission Staff posted the rules on the
15 Legislative Service Agency website as required by
16 statute. This gives an opportunity for members of
17 the public to ask us to consider making changes to
18 rules or readopt them separately. So far we have
19 not had any requests to do so. We also shared the
20 list of readoptions with the horsemen's
21 associations and Caesars. And we haven't received
22 any requests from them either.

23 The last day to receive public comment will be
24 Wednesday, June 28, 2023. And, therefore, pursuant
25 to 71 IAC 2-2-1, the Commission may delegate

1 authority to the Executive Director to implement
2 and execute the duty of regulating each race
3 meeting and persons participating in each meeting.

4 At this time, the Commission Staff
5 respectfully requests delegation of authority to
6 Director Pitman to approve LSA Document 23-371 and
7 LSA Document 23-428 after the public comment period
8 has expired and to make any changes necessary to
9 comply with a public request to change a rule or
10 readopt a rule separately.

11 CHAIRMAN BORST: So basically what that means,
12 the legislature wanted everybody to have these
13 rules to do them transparent, which we always have,
14 but we have to readopt all the rules. How many are
15 there, 800, 600?

16 MR. PENNYCUFF: Yes.

17 CHAIRMAN BORST: There's hundreds. So we're
18 going to readopt them now. And then we have five
19 years to go through them all. So we'll take, from
20 my understanding, 20 percent each year for five
21 years and get everything readopted. So everything
22 is going to be looked at. There will be public
23 notices and all that. For now, they can make this
24 legal before July 1st. This is why we're doing
25 this.

1 Do we have any questions by any Commission
2 members or even members of the public on this one?
3 They're your rules. Seeing none, how about a
4 motion?

5 COMMISSIONER LEVENGOOD: So moved.

6 COMMISSIONER MCCARTY: Second.

7 CHAIRMAN BORST: Been moved and seconded to
8 approve the delegation of authority. All those in
9 favor say "aye".

10 THE COMMISSION: Aye.

11 CHAIRMAN BORST: Opposed?

12 (No response.)

13 CHAIRMAN BORST: The "ayes" have it. Next is
14 delegation of authority to do business.

15 MR. PENNYCUFF: Commissioners, each year there
16 are matters that arise from the race meeting that
17 require quick turnaround and quick decision making.
18 Because the Commission may not meet often enough
19 for these immediate matters to be handled,
20 Commission Staff routinely requests that the
21 Commission delegate authority to Executive Director
22 Pitman to handle matters that arise during
23 Commission meetings.

24 Pursuant to 71 IAC 2-2-1, the Commission may
25 delegate authority to the Executive Director to

1 implement and execute the duty of regulating each
2 race meeting and persons participating in each race
3 meeting.

4 At this time, Commission Staff respectfully
5 requests delegation of authority to Director Pitman
6 to make race decisions as required, including but
7 not limited to equipment, race calendars, rule
8 readoption, SPMOs that cannot be delayed until the
9 next Commission meeting.

10 CHAIRMAN BORST: So with that, any questions?
11 This is something we do every meeting. We just
12 ratified two of them up there or three of them.
13 How about a motion and a second?

14 COMMISSIONER ESTES: So moved.

15 COMMISSIONER MCCARTY: Second.

16 CHAIRMAN BORST: Been moved and seconded to
17 authorize the delegation. All those in favor say
18 "aye."

19 THE COMMISSION: Aye.

20 CHAIRMAN BORST: Opposed?

21 (No response.)

22 CHAIRMAN BORST: It's all unanimous. So
23 that's the business part of our meeting. We
24 thought we might have a little update from both the
25 tracks. I don't know who wants to go first. I

1 guess, Rick, since you're the visitor, you want to
2 go first, and let Eric pull up the rear.

3 RICK MOORE: So I guess I'm kicking off the
4 top half of the first inning, right?

5 CHAIRMAN BORST: You're up to bat.

6 RICK MOORE: I'm really pleased to report we
7 are off to a good start at Harrah's Hoosier Park,
8 down slightly on-track handle, \$34,000, kind of
9 miniscule compared to last year. But on our export
10 side of things, you know, the signal that goes out
11 to all over the world actually, we're up
12 \$3.4 million. Our average starters are up 8.23 to
13 8.42. Everything is going really well.

14 We've had \$4 million nights. Last year we had
15 one at this time. I want to thank John DeLong and
16 Tony Renz and the members of the Indiana
17 Standardbred Association and Jessica Barnes from
18 Standardbred Breed Development. Together, working
19 together we've been able to really get off to a
20 great start. We're all, we're kind of all growing
21 in the same direction. That makes it for a fun
22 meet. So good start.

23 CHAIRMAN BORST: Any questions? I guess
24 that's it. Thank you. Eric, again, thank you for
25 hosting us again today. Great setup.

1 ERIC HALSTROM: Thanks. Glad to do so. I
2 will be brief here. Much like Rick, we're really
3 rolling here. Things are going along very well.
4 We've got 35 days into the meet, which is not quite
5 a third of the way through. But right now our
6 handle is up 42 percent over last year, which was
7 our record setting year, if you recall. So, for
8 instance, just to throw out some numbers, last year
9 at this time the average handle per day was 1.8
10 million. This year it's 2.6. That's only the
11 handle that we're seeing commingled coming through
12 the tote board.

13 Last year, we kind of scratched the surface
14 with some of the international simulcast wagering,
15 which is slow to report, but eventually it does
16 come around. They don't bet into our pools. They
17 bet in their own pools, but we've seen a huge
18 increase there too. That's up somewhere between
19 350,000, 400,000 a day.

20 When you put it all together, the handle,
21 we're proud to say we're approaching 3 million a
22 day in handle. That's a pretty darn good number.
23 When you look back to 2019, for just some frame of
24 reference, the average was 1.2 million.

25 We've captured some attention. We've had

1 several just fantastic days. Some that we made
2 ourselves. Some that we got some luck with some
3 forest fires that caused the East Coast to take the
4 day off and all that. We'll take whatever break we
5 can get and not give it back.

6 We've had five days over 3 million so far, a
7 couple of them over, two days over 5 million, which
8 is a pretty outstanding number. Yesterday for no
9 reason, we had a great day over 3 million. I
10 wasn't sure why. It was a good card, but it wasn't
11 our best. And we were the highest handling track
12 in the country yesterday.

13 So things are going pretty well. As Rick
14 said, we're really indebted to our horsemen, and I
15 would like to single out Eric Smith, the board of
16 stewards. They understand handle and how important
17 it is. Very good at helping us with what we need
18 to do. Our Thoroughbred starters per race is up to
19 7.9 over last year. Quarter Horses are at 9.4,
20 which is really amazing.

21 The Thoroughbreds are a part of our business,
22 not a lot of tracks are growing starters per race.
23 We feel pretty good about that. A lot of hard work
24 has gone into that, no doubt. I think the
25 wintertime training has been a legitimate advantage

1 getting the meet off to a good start. Sometimes
2 you fall into things that you weren't sure was
3 going to help, and it sure has helped.

4 But the one thing I will close with and remind
5 everybody, we're two weeks away from the Indiana
6 Derby, July 8th. One of the things we try to do
7 is make this more of a Derby week type of
8 celebration. We're going to run on July 3rd
9 instead of the holiday. We have a drone show,
10 which is, we've seen -- they've given us an example
11 of what they're going to do. I would love to show
12 you, but I don't want to give away the secrets.

13 It's really going to be an exceptional thing.
14 Getting a lot of interest from people that are
15 going to come out that day. It should be about
16 10 o'clock. Racing will end about eight. We've
17 got some bands and different things that will take
18 us until it gets dark enough for that.

19 We're going to have -- we had Friday racing
20 this year. We've got Fox Sports that will be here
21 both days, Friday and Saturday, which is really
22 fantastic. TVG is coming on their own. They'll be
23 here Friday and Saturday.

24 We've got people coming from around the
25 country. We added some high level handicapping

1 contests where they're going to bet directly into
2 our pools on our races. That keeps helping purses
3 and helps everything as we go. If you get a
4 chance, we're sure to hold spots for anybody that
5 would like to be here, and looking forward to
6 putting on a pretty good week.

7 COMMISSIONER LEVENGOOD: Do you keep track of
8 the number of bodies, the people that are here?
9 How do you do that? Is there any way to know that
10 one day you have 2,000 people and the next day you
11 have five versus the handle?

12 ERIC HALSTROM: Good question. The answer to
13 that is we do not through the racing part. We have
14 a sensor that takes us through the bridge. That
15 only gets a certain faction of our customers. It
16 gets them both coming and going in and out.

17 That being said, like Saturday night, the
18 total going through the bridge was up quite a bit
19 from what we had on the Saturday day. There's a
20 little bit of way to analyze it, but coming in from
21 the parking garage and apron, we don't have a count
22 for that.

23 COMMISSIONER LEVENGOOD: In my world, it was
24 seats, butts in seats. So in your world it's
25 handle versus number of bodies or parking, food and

1 beverage, all of those other numbers. Because to
2 some extent -- I'm just being blunt -- the
3 community does better with gas and hotels and other
4 revenues when there's bodies. So you do not track
5 that.

6 ERIC HALSTROM: We don't track the number.
7 What we do that is similar year over year, we can
8 take that over time, we know how much is wagered on
9 track, which is always going to be a similar
10 number. Our on-track handle is up about 5 percent
11 this year. Then we've got other ancillary stuff in
12 terms of food sold and different concession items
13 and that.

14 COMMISSIONER LEVENGOOD: Thank you.

15 CHAIRMAN BORST: Any further questions for
16 Eric? Thank you. Again, thanks for hosting.

17 Okay. Do we have any old business? How about
18 any new business? How about a motion to adjourn?

19 COMMISSIONER MCCARTY: So moved.

20 COMMISSIONER PILLOW: Second.

21 CHAIRMAN BORST: Been moved and seconded. We
22 are adjourned. Thank you all for coming out.

23 (At this time, the Indiana Horse Racing
24 Commission meeting was adjourned.)

25

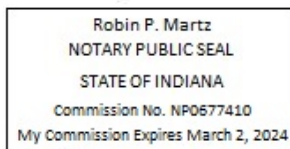
1 STATE OF INDIANA
2 COUNTY OF JOHNSON
3

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 6th day of
16 July, 2023.

17 *Robin P. Martz*
18



19
20 My Commission expires:
21 March 3, 2024

22 Job No. 182554
23
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