

**Selected Presentations From  
The Sixth Annual Joint Meeting  
Of HTA and TRA  
March 2008**



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## **PREFACE**

**The sixth annual joint meeting of Harness Tracks of America and Thoroughbred Racing Associations at the Renaissance Vinoy Resort and Golf Center in St. Petersburg, Florida, from February 17-20, 2008. This report provides a transcript of selected presentations from the general session panels on February 19<sup>th</sup> and 20<sup>th</sup>, for the benefit of those who are unable to attend the meeting and for reference for those who were there. PowerPoint Presentations from individual presenters can be found on our website at <http://www.harnesstracks.com/annualmeeting.htm>.**

**As always, bound copies of this report are available upon request.**

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**February 19, 2008**

**8:10 a.m. – 9:00 a.m.**

**Swimming with Whales: Will the Beach Offshore or Can They be  
Returned to the Racetrack?**

- Nick Eaves, Woodbine Entertainment Group
- Maury Wolff, racing economist & long-time major bettor
- Dave Johnson, Sirius Satellite Radio, moderator

**Dave Johnson:** Thank you Brock Milstein and Bob Bork. Just to reiterate, it is nice to see old friends and make new friends. This is really a family; one of the recurring threads through this convention is that it's the family of racing and tonight, right after dinner, the first thing that we're going to do is talk with Brian and John Cashman, talk about a family in racing and in sports. Back to this morning. When I was calling races the first thing you had to do was give your scratches and changes, and one of our panels was cross-entered so to speak. Mike Maloney, listed on this panel, opted for tomorrow's panel on Trust in the Pari-Mutuel System. So with me is Nick Eaves, who is the president of Woodbine Entertainment, and Maury Wolff, well-known racing economist and major player. The format is this: we're going to have each of them introduce themselves to you by telling their points about the best and the worst of their subject, which is big bettors. Actually the title of this is Swimming with the Whales, Will they Beach Offshore or Can They be Returned to the Racetrack, "Whales" of course being big bettors. Nick Eaves, what's the best and the worst of this situation?

**Nick Eaves:** There is no best; the reality is the industry has gotten itself in a very difficult predicament in terms of the way in which we've relinquished control of the pari-mutuel system. The best of racing is our big events, obviously all that we work hard to do is build fantastic race events, that's the best of what we do and that's what most of us in racetrack management would love to be focusing our time and effort doing. The reality has become that, given decisions made within the industry over the last several years, we're now focused and struggling ultimately to ensure that there's going to be survival because we've totally lost control of the pools, we've lost control of the distribution system, and ultimately we've got to put a significant priority on getting back into an environment where we're able to manage that. I think as a business we've put ourselves in a pretty unique position. It's impossible to think of many other businesses that have abdicated the overall responsibility for those elements. Each track honestly focuses on developing new customers, keeping existing customers, particularly the "Whales," as we call them. We have to do everything we possibly can to ensure that they don't beach offshore, that we can move them back to the racetrack. My particular view, and I don't expect it to be shared by everybody, is that the fundamental challenge that we have to embrace is regaining control over the way our product is distributed, the way it's priced, to whom it's sold and on what basis it is that the customers are able to participate.

**Dave Johnson:** That's where you focus on yourselves rather than the customer. Maury—best

and the worst.

**Maury Wolff:** First, for the best of this business, one of the best things period is seeing Stan when I come to these meetings. I enjoy doing that and I want to thank him for the opportunity. In some sense Nick and I are in agreement because I think the best and the worst are actually quite interrelated. The best thing from the standpoint of customers, at this point, is that you have basically, in some sense, finally had a deregulation of the pricing of horse racing. You now have a more competitive pricing in the marketplace. The worst about horse racing, and the reason, as Nick said, that this situation evolved is because horse racing has historically been an extremely heavily regulated business with no pricing flexibility, with very little product flexibility and the process that evolved from that situation is that unlike most businesses where pricing is sort of a central tenet of how they look at their relationship with customers and in the business world; in horse racing that was taken off the table, so it's taken an impetus from the outside to make it happen. Obviously if you're betting today, especially if you're betting a lot of money, you have quite a few more options than you had 10 or 20 years ago when the only option you had was dealing with the local racetrack and whatever pricing structure they didn't even set, but their state legislature set for them.

**Dave Johnson:** Nick, do you have a comment about what he said?

**Nick Eaves:** No, I mean pricing is obviously going to be an underlying issue of all that we're going to discuss this morning and in future panels and certainly, fundamentally, we need to be structuring a pricing model that recognizes and rewards the biggest players, that's just a tenet of any retail model. Obviously there needs to be sort of volume-based pricing and our operating model is exactly that. But it needs to be within the overall pari-mutuel environment as opposed to extraneous.

**Dave Johnson:** How do you solve the problem though, from Woodbine's point of view? Put yourself in the position of the fan who has some choices, how do you solve it there?

**Nick Eaves:** The management and racetracks and the industry have made it a customer problem, and that's something that none of us are terribly proud of but it's a reality. I don't have the solution. The reality is we've been talking about this issue at every conference that I can think of over the past several years and I hope more than anything that we're not talking about it for many more conferences to come. The only way to solve it is some sort of overarching, North America wide, industry owned & managed, broadcast account wagering rewards program that

ultimately keeps the distribution and participation of racing within the overall pari-mutuel family. Ultimately it's an encumbrance on the industry to make sure that the compelling pricing that bigger customers deserve is available and we're not all feasting and fighting over a dwindling share of the same pari-mutuel pie.

**Dave Johnson:** Maury, do you see that happening?

**Maury Wolff:** It's much easier to make that happen in Canada because Woodbine is the dominant player in a business where basically the rest of the industry isn't very large. It's very difficult to see it happening in the United States where you have enormously large and powerful groups each with their own set of economic interests which they are very unlikely to see served as well as they can serve them by themselves. As a customer when I hear that kind of talk I get a little nervous, because very rarely in life has consolidation of economic interests been good for the pricing that players end up with.

**Dave Johnson:** A question from the audience.

**Bob Seefeld:** I think we heard this discussion at the Congress in Las Vegas, I think your boss was there, David Willmot, who is a huge defender of the current pari-mutuel system. It seems to me that that system which was invented in the 20s and 30s is really out of place in 2008. It's just completely out of place, and my view is that we need a whole restructuring of wagering in the United States and North America, it's completely out of place, it's really a dead system, that's my view.

**Nick Eaves:** I agree with much of that. The reality is that the status quo is impossible. There's too much broad-range distribution, there's too much leakage in terms of any sort of management and control of the signal overall and the end result is that we're doing battle over some customer facing a dwindling market in an effort to stay in the business. We need to find new ways of growing the business.

**Dave Johnson:** Maury, do you wager on the Canadian product at all?

**Maury Wolff:** No.

**Dave Johnson:** We're basically talking about rebates here too, aren't we? What kind of alternatives do you have to wager right now? Percentages and places.

**Maury Wolff:** The places change from time to time but there are probably five or six major operations and again there's a muddying of waters here that needs to be clarified. We're not talking about the offshore, offshore is a word that gets thrown around a little bit carelessly.



There's offshore bookmaking that is illegal, it does not contribute to horse racing is not contractual and so forth, and then there are the other places, RGS, meta-racing elite, which have contracts and all the money goes into the pool and I don't think Nick and I have the slightest disagreement about the offshores, although we probably don't have much disagreement either about how difficult it is to do anything about them. In terms of the rebate shops, pricing has been changing dramatically, Tracknet is basically succeeding in getting considerably higher prices for the industry and the result, as pricing goes up rebates go down, so you're now dealing with probably four to five percent less than was true in the industry six or seven years ago when three percent was the standard pricing model and only the very highest level racetracks were getting more than that. It is almost impossible to understand how that pricing model developed, but for smaller tracks that may still be the case. For large tracks no one is in that pricing model and rebate.

**Dave Johnson:** Maury, is there any plan that would work that would satisfy people who bet a lot of money and want some rebate back because they are the best customers, and what Nick was talking about, that would bring them back to the track.

**Maury Wolff:** It's sort of a question whether you're talking about in theory or whether you're talking about in life, because in theory anything is possible. In life, what existed before the rebate shops developed was pricing that almost always went in one direction and that was up. Part of the problem with this business is that it priced itself too high and in a skilled gambling game, when you're taking 25 or 26% out of trifecta pools, when you're taking 20% out of 2 horse wagers, and so forth, it's just very hard. You have to be unbelievably good to overcome an advantage like that, and you couldn't bet much money because you would have to be extremely selective about what you took. As I said, it's well and good to say that if these rebate shops would disappear that racetracks would introduce a pricing that was wonderful and competitive, but again I seldom encounter situations where less competition is good for customers.

**Dave Johnson:** Nick, do you have any idea of what percentage, right now, of the handles at Woodbine—is there a rewards program of any kind?

**Nick Eaves:** Well we have our own rewards program that we undertake and approximately 40% of total Woodbine home market area handle goes to that rewards program. Whether we call it a rebate, a reward, a takeout, an adjustment, whatever we call it there's no question that within the industry it's a critical requirement of any type of growth plan if we want to see pari-mutuel

wagering increase any. The challenge is we shouldn't have third parties taking the lead on the rollout of that rebate structure because ultimately what it creates—it creates competition and there's no question about that—is a competition which by no means is a level playing field. I know this issue has been discussed a great deal, but obviously the reason that the level of rebates are what they are at those rebate companies is that they simply do not have a cost-structure that resembles the cost-structure of a racetrack. We all know of that fundamental reality, but it means that those operators that do believe in rebates and rewarding customers for the volume that they put through are in a position where they have to compete against a competitor that we let into the business on a basis that's fundamentally unfair. So a rebate structure has to exist, it has to reward all customers, particularly the ones who spend the most, who earn it the most, but it needs to be an internal one and we can't continue as an industry to export that function to a third party, it is creating the demise of the business.

**Dave Johnson:** How can you get rid of the third party?

**Nick Eaves:** Who knows? The industry has to come together in some way and find a basis upon which the third parties can be dealt with fairly and commercially and the industry can ultimately deliver a product and charge a fee which is representative of the cost of creating that product.

**Maury Wolff:** This isn't exactly germane but I'm kind of interested in Nick's view on it because the problem with third party pricing is that there is an entire array of third parties out there. In addition to the rebate shops, you've also got greyhound tracks and jai alai frontons and so forth, and you've got Las Vegas and you've got New York City OTB, so we've got this extraordinary distribution network. How in this "let's regain control of our destiny," do you deal with this problem? Again, this is not a big problem in Canada, but it is certainly the situation in the United States. How do you deal with the fact that you've got an entire array of distribution, or distributors of this product now, that are not directly tied to racing operations? If I had the answer to that I wouldn't be sitting here. It's the 64 thousand dollar question and at the moment there's a scattered, disparate strategy of how it is that each of those non-racetrack partners is contracted with. We've all heard the views of the National HBPA in terms of some thoughts they have as it relates to the pricing of thoroughbred product and in some way or another there needs to be an industry strategy that determines a business plan that involves each of those participants because for the most part they're not going anywhere. Some of them are more

legitimate members of the community than others but each of them, in my view, needs to be contracted in a way that's reflective of the market that they deliver, the level of investment that they have in the industry, and things such as that.

**Dave Johnson:** What does that mean? Does the fact that some off-track betting operations have lots of shops that don't make particularly good sense anymore as the market has changed, but they still have that investment, does that count? Who plays God here and decides what—it's tricky Maury.

**Nick Eaves:** Those are all the real questions that the industry ought to be discussing. There's no question that so long as attention isn't being paid to those types of very legitimate questions, and so long as it's every track for themselves or every jurisdiction for itself or every collective vying group for itself or every major aggregator for itself—so long as it's only being addressed or attempting to be addressed on that level—we're exactly where we've been for the last few years. It sounds a bit utopian and I'll acknowledge it for the moment but status quo is not acceptable.

**Maury Wolff:** You brought up New York City Off-Track Betting. I have an account there. Could you explain how they can take bets on the evening harness racing when, at the same time, Woodbine thoroughbreds are running a million-dollar race, why we at New York City OTB can't bet on the thoroughbreds, but we can bet on the harness.

**Nick Eaves:** Woodbine obviously wouldn't choose that, it's simply a reality of what product New York City OTB will buy and what they won't buy, and we would love to sell New York City OTB more product.

**Dan Fick:** Is fixed-odds wagering no longer in the picture in this country or is there a possibility of a future for that?

**Nick Eaves:** We need to look at fixed-odds wagering. Obviously it's a staple in other markets and we've seen alarming trends on the pari-mutuel side and it's obviously not a simple outcome, but I think something other than status quo pari-mutuel offering has to be on all of our minds.

**Maury Wolff:** It goes back to the beginning, of what's the worst. The worst is that the structure that horse racing is saddled with which discourages entrepreneurship in the pricing model in every way shape and form. It's going to be an outside company that profits from the idea of betting exchanges, because there's no particularly good mechanism inside the business for creating something like this. It's what Bob Seefeld was talking about when he said that we've got sort of an obsolete wagering product, and it is overwhelmingly, as Nick sort of thinks, the

structural problems that are insuperable, but I look at it as being the regulatory problems that are insuperable.

**Nick Eaves:** It's clearly both. You've touched on a really important point which is that this industry—we're all guilty of it—has a habit of turning to a third party to deliver the next commercial solution. So long as we keep following that approach—whether you're a customer, a horse person trying to win a purse, or a racetrack operator—we're only going to be looking at a declining margin if we continue to look at a third party solution to the ways in which we can grow the business.

**Maury Wolff:** Nick are you a player?

**Nick Eaves:** A little bit.

**Maury Wolff:** Do you understand the idea that when you get the rebate that it makes you a bigger player? Did that ever happen to you?

**Nick Eaves:** Well, I'm not that big a player. The reality is, for a significant player, obviously, it's all about that margin of return that a rebate is ultimately going to deliver. For someone like me, it's not about the rebate. The reality is, for the 5% of our customer base that makes up 60% of our wagering, it's all about the rebate. That's a key element of our in-market wagering strategy.

**Maury Wolff:** But if you're going to invite the third party to the table, don't you have to serve the third party?

**Nick Eaves:** I'm saying, don't invite the third party to the table.

**Maury Wolff:** So don't you have the right to get rid of them?

**Nick Eaves:** Yes.

**Maury Wolff:** And do you?

**Nick Eaves:** Again, that's where the Canadian model is a little bit different from the U.S. model. We manage our own account wagering system, we have our own broadcast distribution system, and those, in my view, are product distribution mechanisms that anybody in the industry ought to be managing for itself and, as we all know, there are dozens and dozens of alternatives around the world that various tracks will sell through. So as soon as there's one option available on one third party distribution network then it's divided.

**Maury Wolff:** Certainly, if you're in the business of betting, pricing is everything. The amenities are wonderful, you can do lots of small things, but pricing is what is going to drive

your wagering in the end and if you're in the business, just like anybody in this room, it's a rate of return business. Certainly what Nick is saying about what people bring to the table, I know Woodbine strongly disagrees with this, but one of the engines of growth of handle in this business has been the gigantic computer bettors that are almost becoming the stuff of legend. One of them spoke at the Symposium on Racing in Tucson. Those guys are new business that the rebate shops essentially brought to the table; it's not as if the rebate shops are just sucking the lifeblood out of existing institutions. With a different pricing model, people behave very differently in terms of their amount of wagering. In this case you've created some extraordinarily big bettors, the likes of which were not in the business before. As I said, you're not going to beat a 25 percent takeout trifecta very easily when you get that takeout down to a level that is beatable, you get all kinds of interesting people and you get existing customers betting a lot more on one of them.

**Dave Johnson:** I do too. I love to bet the superfecta, but without a rebate it doesn't make any sense. Sometimes for a dime, but not for a dollar.

**Dick Powell:** I did note interest with level of investment as possibly being a criterion. Our level of investment is with the customer, the customer gets back an inordinate amount of the retention left on the bet and that's where the investment is going. You can track it, you can see it and you can see the results of that level of investment by the customers taking their rebate money, having a fighting chance, as Dave just said, in terms of making money, and charting far more money than they would ever do without a rebate or with a lesser level of investment. So in our business model—which has been misinterpreted by many, many people—normally on any given bet when we pay a host fee, and that host fee gets divided equally between the track and the horsemen. Our company is getting less than your share of that host fee, but the customer is getting a big, big share and rightfully so because this game depends on the customer. Maury's point about new handle is absolutely true, that there have been market voids. These third party places popped up because racetracks were not doing certain things and big customers found areas where they could go and market forces took care of that. I think that will continue, but at the same time market forces can go in the wrong direction. I think if you look at the total amount of handle bet in America, which has come down from 15 billion and change down to 14 billion and change, if you take rebate growth out of that equation, I think you're looking at a far more severe drop in business than we're really recognizing as an industry. As I said in Arizona, if you want to get

treated like poker then make the successful players heroes. Build a statue of Ernie Dahlman or any other big customer who risks a lot of money and does well and for every person like that, there will be 49 or 99 other people trying to achieve what poker players try to achieve based on the publicity given to high-end poker players. Unfortunately, in our industry, we don't always treat the high-end horse player the way poker treats the high-end poker players.

**Nick Eaves:** I agree with much of that. What I particularly agree with is that it's the industry that created the void that allowed Racing & Gaming Services and others to go and fill the void. So we're guilty of creating the environment. The customer getting much of that capital is a good thing but, for the most part, those were, at one time, racetrack customers. The industry is responsible for allowing this new environment to take place. That's the reality of where we find ourselves. It's a customer earning a higher return based on the void that was created by the industry that services stepped in to fill, and as difficult as it is to see our way through, my underlying premise is it's not these third party providers that should be filling the void and providing that flow of capital back to the customers, it's the industry that ought to be doing that.

**Maury Wolff:** This almost becomes a circular argument. The evolution of this product is really in the last 20 years. There was no simulcasting in this country until the mid-80s when Garden State and The Meadowlands started doing it. The industry had total control of distribution, everything that Nick would like to have, for a very long time. There was never any pricing competition at that time. I can tell you what the numbers looked like from 1970 to 1985 because I looked at them and takeout was basically a straight line going up and business, at the same time, appropriately looked like a straight line going down. Now there were other things going on as well, but it's not as if the industry didn't have control of its destiny for a long time, it just didn't do a good job of shepherding it when it had it and now putting the genie back in the bottle is going to be very difficult for all kinds of reasons.

**Roy Arnold:** I just had a question; I'd like the "Whale's" perspective of this. We're talking about pricing models which, I think everyone agrees is a central question for us, but somehow we never seem to want to talk about another element of the pricing model which is the inventory of our product, the amount of product that's out there, the finite amount of quality allowance horses and stake horses, and the natural tendency for a trainer and an owner to try to find the best race opportunity for that horse, and usually what that means is that we end up with a lot of races with a very obvious favorite because horses will not go to a race where they see a sure thing. So

in order to affect the pricing model, do we need to affect the inventory process? The next panel is on racinos and that looks to have that unintended consequence of forcing some people out of the industry. But I'd be interested to hear from your perspective as a large wagerer, what that issue of quality of the product has in terms of your behavior as a wagerer.

**Maury Wolff:** I couldn't agree more with the general point. Steve Crist wrote an article in the Racing Form in the last few days in which he took some data from the Jockey Club and looked at things like handle per race and purses per race and those kind of statistics, and the United States is way out in front in number of races—this is thoroughbreds, and I'm not quite sure where Canada would fall on that—and other places the Hong Kong and Japan, have far fewer races and enormous amounts of wagering per race, obviously the quality of the product they can present is going to be reflective of that. It's sort of a sad truth that because horse racing has had trouble competing on its own, that what has happened is that the response to that has been to get a slot license. You can make a list of tracks that would not be in business without a slot license because some of these places were actually already closed: Prairie Meadows was in financial trouble; Delaware Park had closed for a couple of years; Charlestown may have been closed. So basically that was the market's answer to the fact that we have too much horse racing, was that some of the marginal operations were going to close down. Racetracks are good employers, they employ people who are not the most employable elsewhere and that's an argument that sells politically and so the answer that the state legislatures came up with was: slot licenses. So now, instead of having a reduction in the number of horse races and a reduction in the number of racetracks, so that the Arlingtons and the Churchills and the NYRAs and the Del Mars and The Woodbines and Monmouth and on and on, would have much more control of the high-quality product and you would have more good horses running at a smaller number of places. Instead you have the opposite, you have the dispersion, you have slot purses where \$5,000 claimers can run for a lot of money and where a horseman sitting looking at a Churchill condition book might look at a Mountaineer condition book and say "I'd rather run there." Easier competition, better purse. So what that has done is it has terribly diminished the quality of the product. Just ask any horseplayer about what Gulfstream's been putting up for the last several weeks and they will be happy to tell you just how diminished the product is over what—

**Dave Johnson:** You mean, Gulfstream where on the second Saturday in January there was no stakes race?

**Maury Wolff:** Correct.

**Dave Johnson:** Just wanted to make sure we had the right one.

**Maury Wolff:** But there were plenty \$12,500 claimers and two going 6 and a half.

**Nick Eaves:** On the issue of quality product being rewarded, certainly we don't see as much of that in our market as racetrack operators as we would like to. What we see big customers rewarding is good full fields and competitive racing and that's one of the challenges. In terms of answering the question of the good, even though it was unrelated to the topic, I spoke about our big event days because that's really one of the only bases upon which we can interest the new customer in our product. As I said, the 5% that is delivering the 60 to 65% of our wagering are less concerned about the ultimate quality of the horses in the race and far more interested in field size and a competitive field.

**Dave Johnson:** The subject of this panel is getting them back to the track, but do you think that you can actually, physically get the bettors back or do you want them just to play through computers, over the telephone, with you?

**Nick Eaves:** We'll take them any way that we can get them. Obviously if it were up to us, which it clearly isn't, they'd be back on track because that's the real experience. In our case, a Woodbine operator: telephone, Internet, off-track system, doesn't matter; a customer is a customer.

**Dave Johnson:** Maury, 15 or 20 years ago, how many days a year did you go to the track?

**Maury Wolff:** More than I care to count.

**Dave Johnson:** And now, how many days do you go to the track?

**Maury Wolff:** As few as possible.

**Bob Seefeld:** I just wanted to say Maury, I didn't say it was sort of obsolete, it is obsolete, the 1930s pari-mutuel system. I also wanted to say in deference to my colleague Bob Levy here, I believe Atlantic City was the first simulcast, not Garden State. And of course when I was working at NYRA they had the chance to simulcast Saratoga down to Aqueduct or Belmont and they said "No, we want the people to get on the bus and come up."

**Harvey Wilkinson:** I would be interested in hearing the panelists' thoughts on lowering the takeout rate.

**Nick Eaves:** We've elected to really lower takeout selectively by way of takeout reduction or rebating. Certainly, we work hard to do the very best we can to have competitive takeout by bet



type as a fundamental starting point, and then we've focused the available resources and it all gets back to the core question which is a declining margin. But we've chosen to focus our resources on reducing takeout to customers who quite frankly are going to respond to that reduction in takeout more favorably than others.

**Maury Wolff:** Your track is a beautiful example of how complicated the market has become because takeout reductions are no longer just an individual track's game, they pervade throughout the system and of course when Keeneland reduced its takeout a few years ago all hell broke loose. It is what happens when the pricing is ignored for as long as we've ignored it and distribution systems are complex and you get so many different parties with votes on that issue. If you play a trifecta on Churchill Downs here, you pay nothing, is that what you pay at Woodbine?

**Nick Eaves:** We've got an additional levy on top of our track for takeouts, so we're up over 25%.

**Maury Wolff:** And the reason seemed to be that, again, you've got so much money designated through the—I assume this is provincial legislation?

**Nick Eaves:** It's a breeding program.

**Maury Wolff:** Ok. Even Woodbine which has as good a control as anyone in this business probably has of the product is kind of...

**Nick Eaves:** Yeah, and you've identified an example of a product where our takeout is simply too high. The reference is timely because we've been trying to work hard to manage that issue and we've not been able to. So it goes back to the starting point of the various challenges which is, in some ways, of our own doing and in some ways regulatorily imposed, but we need to be able to be responsive to those pricing pressures that are going to keep coming out.

**Bob Seefeld:** Maury, if you had fixed-odds betting the takeout would probably be 10% which would certainly reduce the takeout dramatically and probably bring a lot of people back into the Win, Place & Show betting because it's a lot easier to handle.

**Maury Wolff:** And fixed-odds really is the way to lower your takeout because otherwise you're going to be lowering a lot of other things. When New York did it, it cost them a lot of money; Keeneland did it, and it should be lower, but the fixed-odds is the way to do it.

**Dave Johnson:** Want to talk about fixed-odds and lowering the takeout, combining those two?

**Nick Eaves:** The industry has to be looking at all of those solutions, in my mind. Just keeping

where we are with the same old pari-mutuel, at the same pricing level with the same challenges in terms of the participants as a non-starter, so if there's a fixed-odds solution in the mix I think that's...

**Maury Wolff:** Bobby, let me ask you, talking about fixed-odds, are you talking about being ready to bet against a horse like the Betfair situation?

**Bob Seefeld:** Well the Betfair system's great but I think in this country you're going to have to maybe start with fixed-odds. But the biggest advantage that Betfair has is betting within the race and that's all new money. I've seen it work, it works, and the betting—once the race starts, you get rid of past posting—that's all fresh money that's bet on the Betfair system during the races.

**Nick Eaves:** We haven't offered a new bet type in years. Whether its in-race betting, there are so many good examples out there, many within the fixed-odds world, how much of it is new business is somewhat debatable, but those are clearly issues that the industry needs to be considering.

**Maury Wolff:** No argument here. The more products you have, the more interesting you'll make the game. Betting during a four and a half furlong race or a quarter horse race is problematic, but it would be fine if you're talking about something that might generate interest in distance racing.

**Dave Johnson:** One of the things that Bobby brought up is the past posting or the perception of bettors that things are going on after the gates open, and we're going to cover that in another panel, so in our final minute here I'll ask one more question. If you could snap your fingers and change one thing, either from the player or the racetrack side, what would it be?

**Nick Eaves:** Expectedly, I would snap my fingers and the industry would have regained control of the pricing and distribution of its system and, my view is, the player would be better off.

**Dave Johnson:** And do you think you can do that?

**Nick Eaves:** I don't know. It's a tall, tall order.

**Dave Johnson:** And you'd need government help to get it back?

**Nick Eaves:** We have to start with industry help, the industry working together to try and affect that outcome.

**Dave Johnson:** The industry has not worked together, has it?

**Nick Eaves:** It has not. So, we can all talk about all the problems and limitations and barriers or we can try and get at it.

**Dave Johnson:** Maury?

**Maury Wolff:** I think if I could do one thing it would be simply to let racetracks experiment with anything they wanted without needing the approval of any agencies to implement them.

**Dave Johnson:** Thank you very much, let's thank our panel. (Applause)

**February 19, 2008**

**9:00 a.m. – 10:00 a.m.**

**Keeping the “Race” in Racinos: Are They Simply Purse Builders, or  
Can They Offer Meaningful Opportunities to Broaden its Patronage?**

- **Chuck Atwood, Harrah’s Entertainment**
- **Charles Hayward, New York Racing Association**
- **Jeff Gural, Tioga Downs & Vernon Downs**
- **Chris McErlean, Penn National Gaming**
- **Representative Bill Oberle, Delaware House of Representatives**
- **Dave Johnson, Sirius Satellite Radio, moderator**

**Dave Johnson:** Thank you very much Stan, great to see these old friends up here and some new ones. So the question again, as all these panels have one, is Keeping the “Race” in Racinos: Are They Simply Purse Builders, or Can They Offer Meaningful Opportunities to Broaden its Patronage? Let’s start down with Chris and see if we can get a quick answer. Chris, can it happen like that? Can you broaden patronage?

**Chris McErlean:** I think the answer to both those questions is yes. Obviously racinos have been a tremendous vehicle for increasing the purses for horsemen and at the tracks that they’ve been implemented in, and from the patron’s point of view, the answer is yes, but with a lot of caveats. And I think defining patronage also is important, it’s not realistic to say it’s going to put tens of thousands of people back into the stands every day, I don’t think that’s realistic, but it does have the ability to give the racetracks tools to work on building its patronage. I do want to define that word, patronage, whether it means better distribution, whether it means better product, whether it means better reshaping of the facilities that are offered, because our business, as the last panel brought out, is a changing business, it’s not just people sitting in the stands at the racetrack anymore, they’re everywhere. So the patronage definition has to be broadened as well in terms of how we improve it.

**Charles Hayward:** I would say limited ability to increase patronage, but an indirect way to increase patrons through purses, and what I mean by that is: if you look at a horseplayer, there is a whole industry of information and tools the players use to make decisions in regard to playing horses, whether it’s pace, past performances, Beyer speed figures, trainer combinations. We’re an information base, and I personally won’t go to the track and bet on horses unless I’ve done about 2 hours worth of work. The slot player, on the other hand, is exactly the opposite. In fact, they apparently—I’m not a slot player myself—like the random, sort of generating nature of it. So the personality, the appeal of gaming, I would say the slot players and horse players are on opposite ends. Having said that, and I’m the neophyte up here so take all this with a grain of salt, we got legislative slots at Aqueduct in 2001, we did the renovation to build the place out in 2003 and we’re still helping the state try to pick a partner. But looking prospectively for it at NYRA in terms of how these will influence purses and how they ultimately influence our patronage, an important element will be the size of the purses and tactically how those monies are paid. Right now we pay about \$117 million a year in purses; we have about a \$350 thousand a day purse at Aqueduct; \$550 thousand a day at Belmont and about \$800 thousand at Saratoga.

We're looking at about \$30 million on those 4,500 machines, assuming a net win of about \$275. That \$30 million is a 25% increase in our purses, so what do you do with it? I think just increasing the overnights and the stakes by 25% would be a huge mistake. We have a very rich purse structure, but at NYRA we don't run a graded stake from Thanksgiving until the third week in March, so there's a huge opportunity there for us to approach this tactically. I think also, importantly—and we've started some conversations with other people in the Mid-Atlantic—the racing calendar is not track-based now, the racing calendar is community-based. So you're looking at the open weekends that are available, you want to get your new program or your new stake off of their stake or their program, so I think that we have to not only figure out how to do, for example, a bigger stakes schedule, get some greater stakes back at Aqueduct in the winter, we want to stay off of a couple good Laurel stakes, they had their General George yesterday. So I think that there's the opportunity to take that money from the VLTs, tactically spend money on your purses and increase patronage accordingly. We all know big days drive new participation in racing and that's how NYRA intends to go about it.

**Dave Johnson:** You use the word opportunity, can you pick up on that—the word opportunity—do we have an opportunity here with the racinos?

**Jeff Gural:** I think it's really even more dramatic than that, I think in harness racing a lot of these racetracks wouldn't be open without the racino component. Clearly Yonkers, Tioga, Vernon, the two that I own, Batavia, I don't know about the Delaware tracks, I think that that's why they're open is because of that and I think there are really two types of racinos and I own both of them. Tioga, which is a brilliant facility, and I oversaw the design and I'm a racing person so I clearly went out of my way to make sure that the racing and the casino were integrated into it, so you'll know you're in a racetrack when you walk into the door of Tioga Downs. Vernon, on the other hand, is your typical older racetrack. The casino was built by someone else, separate from the racetrack, so you could literally go into the casino and almost be unaffected that it's a racetrack. So I think at Tioga it definitely helps, because of the way it was built and the fact that it was built brand-new and built as a racino, and we've seen, unfortunately the exact opposite at Vernon. At Tioga clearly the racing helps the VGM revenue. When the racing ends at Tioga, you have to walk past the casino to get out to your car and we'll see half the people who make a right turn and go into the casino, and we can track it, so you'll see on our computer print out an immediate spike in VGM revenue 2 minutes after racing ends, so it's

clearly helped in that regard. The other thing that it does is it enables you to have a beautiful facility with clean bathrooms, a modern facility as opposed to Vernon where, when you're in the casino that's a modern facility, when you're at the racetrack that's an old facility, and if I had the money I would tear it down and build it over again. Last night I was in Pompano and it was kind of the same thing, they have a gorgeous casino, really spectacular, but when you wander over to the racetrack it's exactly what I have, it's an old dog racetrack. There's two different types of racinos and I think that A racino, the Tioga model, definitely, but B I don't know so much.

**Dave Johnson:** These three gentlemen, I know, their passion is racing and we're talking about racinos, these are two newcomers for me, I just met Bill Oberle last night, but give us your thoughts about the opportunity here, Chuck.

**Chuck Atwood:** I would say there's yet to be evidence that there's a lot of crossover of customers from one activity to the other. I agree with Charlie that the reason that one person chooses one form of entertainment at the racetrack and one person chooses another doesn't mean that they naturally then go together at some point. That being said, I think there are certain advantages that come with the racino that might not be present at a pure racing operation. I characterize those as network benefits, as being part of something that has the ability to have rewards elsewhere and in other ways, and then enhanced amenities. So I guess nothing really new to add to what everyone else has said, but I think the reality of have we been able to demonstrate a large increase in numbers of people at racing terminals or watching the race? I would have to say no. I think there are some other benefits however.

**Dave Johnson:** In effect, this next gentleman saved racing at Delaware Park and the last time I was at Delaware, two older women were in front of me walking out of the parking lot just as the horses were coming in to the stretch and I swear to God, one said to the other "Oh look, they have racing here." True story. Bill, give us a couple of your thoughts about this topic.

**Bill Oberle:** Well you could go on ad infinitum about all the facets of racinos. In Delaware, I'll be very parochial here, we recognize the symbiosis, and there may not be a lot of crossover in terms of those who play slots and those who bet the horses but certainly there's been an infusion of capital. What we tried to do at Delaware was create what I call the agri-business model where you would infuse this capital into the agri-business community. It has created thousands of jobs, it has increased purses dramatically, all that money stays within the community and the quality of racing has gone up. I would take issue with one of the previous speakers who said that

Delaware Park would have closed had it not been for slots, it did close one year during a transfer of ownership but was in operation, I believe, six years before slots. Whether it would have closed or not is questionable, certainly slots have helped both tracks considerably. I will also say that how the funds are distributed is critical because I always get knocked by some of the local media by saying that I have caused the licensees to become millionaires, and in fact they have, they have benefited dramatically through the infusion of capital through slots, but what it also has allowed the three tracks to do—Harrington, Delaware Park & Dover Downs—is to put capital back into the facility. That makes it a quality facility where people want to come to bet horses. I think anyone who had been to Delaware a decade ago and comes there today and looks at the three facilities, it has been a dramatic reformation of those facilities. The lack of the live bettor, or the bettor at the track, does not necessarily bother me. The quality of the product entices betting dollars through wagering from other sites. That benefits the horsemen and again brings capital and an infusion of capital into the agri-business community. Money begets money, and that's the bottom line.

**Dave Johnson:** I want to open it up if anybody wants to ask a question, make a comment, or join in the conversation. Chris, let me go back to you. Do you think this is going to work though, and do you, through the Penn Gaming people, it's not a soft ball question, is it going to happen?

**Chris McErlean:** Again, yes, we do want people to come to the track. We have whole ownership of six racetracks right now, half ownership of Freehold Raceway, the company started as a racing company in 1972 had an off-track betting network in Pennsylvania, internet platforms, so a large part of the company was built upon horse racing. Obviously it's expanded into a gaming company. I think right now we would call ourselves a gaming company that has horse racing, but it's still an important part. We have a very diverse portfolio. Some of the places, if you want to call them racinos, one just opened at Penn National, and racing is still an important part of those businesses. Now, compared to the revenue the casinos bring in, it certainly is dwarfed by that, but overall racing is very important to those tracks. They do have to stand on their own though, I mean it can't be a subsidy just for racing, and that's both from a purse point of view and from an operational point of view. The company still wants to see those tracks run well, run efficiently, do well from a profit-loss point of view. I can tell you honestly it's very difficult for some of those operations to do that. One of the things I wanted to bring



up—it's somewhat germane and it was brought up before—about the product. Obviously the product is what we have to sell, the horse racing, and one of the things that's very difficult and is a result of a lot of legislation, is racing dates. Minimum racing dates that come with, whether it's simulcasting, expanding gaming, things like that, that creates an artificial plateau that you have to meet. I'm not saying that, again, back to your question "Should there be no racing?" No, there needs to be racing, there needs to be some guarantee in there that there will be racing, but I think barriers that are set—we race over 200 days a year at Penn National; 220 at Charlestown by law; some of our other tracks have minimums that are very high and based on dates in the early 80s—don't make sense now in the market forces today. I think that if we want to put out a good product, we need to have the ability to have some minimum benchmark. I'm not saying get rid of it altogether. But I think we really need a way to run the business as well as we can, both from a horseracing product point of view and from an overall business point of view. It's not realistic that somebody's going to come out on a Tuesday night to Penn National, that's not going to happen. But if we had the ability to run the business as well as we can, put on a good product, I think people will respond to that. I know there have been issues around the country with racing dates and things like that, but I see that as a major issue from this standpoint because racinos have been a purse builder for the horsemen. Horsemen are doing very well and tracks that have the racinos are doing very well too, no doubt about it. But the product that we have out there at a lot of the places, my facilities included, I wouldn't say is the best product out there. It's created somewhat of an insular group in some places and it's been very difficult to improve quality even with a racino there generating purses. So that's something I'd be interested in, not only from the other panelists here, but racing people in the audience that might have an opinion.

**Bill Oberle:** One of the things we did in Delaware, as has been done in many states as a condition of licensure, is mandate a minimum number of days that had to be raced in each of the three tracks. Through the collective bargaining agreements that they have with the horsemen, they've actually exceeded the number of days in terms of what's being raced. So I understand what you're saying and there is a fine balance. You want to make sure that the horsemen are financially healthy, yet not to the detriment of the racetrack side. I think we'll all ultimately reach that balance over time, but we wanted to make sure that the tail wasn't wagging the dog. You'd have to ask the question: How many racinos would actually have horse racing if they didn't have to? That's the question I come to, and I come from a biased side. I tend to be, in my

legislative life, a blue-collar sort of guy. I actually own half of a racehorse, so I have an interest from that perspective as well. But there is a balance and I think over time we'll find out where that is.

**Dave Johnson:** Don't we all wish that legislators were in the game and owned a piece of a horse so they could understand our game? I mean, Charlie and Jeff have just been through hell with the politics. Let me ask each of you; are you optimistic now with the road you have?

**Jeff Gural:** You know that's an interesting question. I disagree, Bill, you don't understand the business. The more you race, the less you race for. It's exactly the wrong model that you politicians are using. You listen to the horsemen and they come in with some sad tale of woe, and that's what I had in New York. The horsemen convinced the legislators that they were poor, suffering people; meanwhile, I was losing a fortune and purses in New York went from \$30 million to \$110 million and I had to listen to legislator after legislator say "Jeff, why are you being so mean to the horsemen?" I mean, it's a joke. The more you race, the less you race for, and the more you race the less popular the sport is going to be. The reality is I have a major advantage at Tioga because it's brand new and I wasn't saddled with these archaic laws that Chris referred to, back 20 years ago where they have these minimum race dates. And even in the bill that we just got passed; my arch-enemy Mr. Faraldo demanded minimum race dates which were already legislative. The model doesn't work. Nobody sitting here can tell me that if you're going to race year-round, or you're going to race in a building that holds 40 thousand people, that gets three thousand, that you're going to be successful. Nobody wants to walk into an empty restaurant, and everybody wants to have a season. For Mr. Cashman, my buddy there, it's pitchers and catchers, now it's spring training, everybody's psyched up for baseball, when baseball opens every stadium in the country will be filled, even I go to opening day, it's probably the only game I go to but I go to opening day because it's a big deal. We've got to change the model and I think the legislators, you guys are kidding yourselves. I saw a poll in Maryland which was very interesting, they asked people "are you in favor of casinos?" because, I'm sure most of you know this, but there was a vote in Maryland on casino gambling and I think it was 70-30 said they were in favor of casinos. Then they said "are you in favor of having the money go to support horse racing?" 70-30 said no, they're not in favor of that. So I think the public is out front of the politicians in this. We've been very lucky so far because we've done a very good job of convincing the legislature—and we do create a lot of jobs and the kind of jobs we create

are for the grooms and the hot walkers, they're the poor people who, if they didn't work for us, I don't know what they would do, and we create a lot of open space. But having said that, we have to be able to stand on our own two feet and not just rely on handouts from the government because sooner or later there's going to be a governor who comes along and says "I've got a big shortfall here, and I see I'm giving the horsemen at Yonkers Raceway \$30 million and there's 42 people in the grandstand, and they're laying off teachers in Yonkers, and maybe we should devote some more of that money to not laying off teachers." I think if we don't do something dramatic to change the model, and the model is clearly broken, this year-round racing doesn't work. Tioga's great because when you go to Tioga it looks crowded because I only need 2,000 people to make it look crowded. Vernon on the other hand I need 8,000 people to make it look crowded, so I may get 3,000, I certainly get 2,000 and it looks empty and it's psychological. People who go to Tioga say "Wow, what you've done here Jeff, it's amazing." Go to Vernon and it looks like the same old tired racetrack, half-empty. So I don't know.

**Bill Oberle:** I agree that there's a test of reasonableness that you have to apply here. And Delaware may be unique in a specific sense where, I used the term, there's a symbiosis that exists. You'd be very surprised, the legislature generally has taken a pretty hands-off approach in terms of what's taken place. The increase in race dates was negotiated between the horsemen and the tracks, so there is this equilibrium that's been reached. Those days may depreciate over time, but I think that the horsemen and the tracks have approached this from a business standpoint. I would say one of the things I would advocate, and this is 20-20 because I opposed it at the outset when we originally enacted the legislation, is a sunset provision. Now we did sunset ours and after a few years we went back and took a look and fine-tuned what we had originally set in place, so there was some flexibility to adjust. I don't necessarily disagree with what you're saying, and we do not race a year-round meet in Delaware between the three tracks. The harness does not race a full meet, year-round, nor does the thoroughbred side. It is approached from a business standpoint and that's the way you have to look at this. How do you best help the blue collar side and the management side? How do both benefit the best by the number of race dates?

**Dave Johnson:** Charlie, there are a lot of threads on the table, pick one or two of them.

**Charlie Hayward:** I just want to speak to what's going on in New York because once again the politicians have not done a good job in putting a law through. The fundamental problem in New

York was the tax rate, and the gentleman from Delaware spoke to this because Delaware did it right, Pennsylvania's done it right, New York's not doing it right. What I mean by that is the tax rate which was just changed slightly, is basically 70% to the state, 30% for the capital to build up these places, to pay the purses and to make some money for the people who are putting up the capital to do it. The result of that has been in Steve Wynn who is part of the RFP process and the salon franchise deal. He came to the RFP process and said "nobody's going to come in and do a responsible job and build proper facilities if you can't give them more capital to build this out." And it's been proven. When you look across New York, we don't have one racino that breaks \$300 a day per machine, we have racinos with relatively small numbers. Philadelphia Park, in the first year, with not an ideal situation, just \$350 a day; operations in Pennsylvania were going to be over \$400 a day, and the result is if we had better economics invested in the deal you'd have \$500 a day per machine and you'd have more money going back to the state. So taking the shorthand view in terms of the funding, the legislature has restricted access to capital. The crazy part is that we had a deal with MGM, they were going to loan us the money to build what was first a \$110 million facility, then \$140, now it's up over \$200. It's so expensive now, under the deal, the state is going to have to pay to build out the casino. It's a little arcane, but there is a drive here in terms of inducing capital to be invested to get a better facility like Tioga as opposed to Vernon, like Tioga as opposed to Saratoga Harness—they took away the whole first floor at Saratoga Harness, I liked running out of the first floor and running out on the apron, you can't do that at Saratoga anymore—so I think New York has some serious problems ahead of itself.

**Dave Johnson:** Let's get the Harrah's situation from Chuck.

**Chuck Atwood:** I think Charlie's exactly right. What you heard from everybody is that the amenities that come from having a casino part of the racing operation are the amenities that help bring people in and make it a more fulfilling experience altogether. It provided amenities, not only for the casino patrons, but also for the racing patrons. Those facilities and the amenities that come with it can only be built when there's a sufficient amount of return that's going to come when you spend it and it costs an enormous amount of money. We spent more than \$400 million at Chester, and most of that went into facilities, well a lot of it went into a turn, but mostly it was the facilities. The reality is that the economics have got to balance out somehow and if the tax rates are so high, it just can't support a level of investment that's necessary to build the amenities and clearly the amenities are one of the drivers. It's a very important aspect of the

mix of business.

**Dave Johnson:** Does it balance out at, let's say, Louisiana Downs, which is one of your properties?

**Chuck Atwood:** Sure, and at Louisiana Downs we have a very nice facility that has a host of amenities that are available to both sides of the operation.

**Dave Johnson:** And the biggest city nearby is Shreveport?

**Chuck Atwood:** That's right, it's the biggest city nearby. And also, that operation competes with pure casino operations which, one might argue there are too many in that city, because no one gets a great return on investment. That being said, we all invested based on what we knew to be the case at the time and we're all there and fair is fair. We knew what the games would be, we all invested based on that and we have what we have. But in reality, we have a wonderful facility there that has new facilities for both casino patrons and racing patrons. We don't see a lot of people moving back and forth, but I believe it's improved the racing product through the purse supplements, and it has improved the experience for all patrons all together.

**Dave Johnson:** Did you have something to add to that?

**Bill Oberle:** I did and I didn't want to throw stones at my New York colleagues at the legislature. It's an excellent point because I've looked at the New York law that was enacted and knew that it was stirring the fire. There was not enough money allotted to the licensees to reinvest in the facilities, to make it the sort of place that people would want to come to. In Delaware, I get all the kudos but Charlie Lockhart, the standing executive director of Cloverleaf, which was a horsemen's association, he really was a driving force behind the legislation in Delaware. I believe that the effective tax rate in Delaware right now is about 52%, but that includes the portion set aside for purse enhancement, so the remainder that tracks have taken they have reinvested in the facilities to make them the sort of places that people want to come and whether they play the slots or wager on the horses, they are enticing facilities. You need to have that sort of a model in place to provide for that capital investment.

**Dave Johnson:** Chris are you optimistic?

**Chris McErlean:** I guess I have to be. I'm young, so I have to be optimistic. I know the topic is "can it broaden the patronage of racing," but just like real estate I think racing, a lot of it, comes down to, it's local. We've had good success stories at some of our properties with racinos. Zia Park is a good example. I don't know how many of you have been to Hobbes, New

Mexico, I don't know if you'd call it a privilege or not. Hobbes is in the middle of nowhere, but it's an amazing place from a racino standpoint. It does tremendous business, virgin market for a racetrack, and it's actually helped a boom in racing in New Mexico. Handle there for live racing is actually pretty good on a per day basis and on export, we do a decent export business so I would call that a success story. Other places, it's difficult. Bangor, Maine is definitely a success story from a racing standpoint, they used to race about 24 days up there on the verge of going under, they are racing 54 days now, purse money has almost tripled and it sparked a resurgence in the harness racing industry in Maine. There are more stallions in the state of Maine than in the state of New Jersey, which is an interesting fact. Everything is local, and again just because Bangor has increased purses 300 percent, that's not going to move the needle and change the industry. I think each market's a little bit different, how you apply it in each market. It will be very interesting at NYRA to see how that works. Obviously the Pennsylvania model so far has been very positive, and every market is going to be a little bit different in how they handle the impact of both the purses and the racinos.

**Dave Johnson:** The local versus the national picture, I mean the two of you sitting there, when you were at the Meadowlands it was America's nighttime racetrack, that's what Sonny Werblin set it out to be. And if there's any signal that everybody in the country does, it's NYRA. So Charlie, how do you move the idea that everything's local and yet you run New York racing.

**Charlie Hayward:** I think it will be interesting to see what the VLT does for what's already a good program. The state, right now, and I think you have to focus on it from a political standpoint as an agricultural business, there are 18,000 jobs, \$1.2 billion of economic activity, 400 farms, and in the breeding business we'll have about 3,400 state-bred foals. We paid last year, before VLTs, \$34 million in purses to state-breds only. Some would argue that state-breds are a dilution of the product but I think that when you run 250 days a year, 9 races a day, we really need the state-breds to fill that out, and because of the breeding laws which allow you now to basically take a good mare to Kentucky, bring it back and foal a horse, it's really set up to now incrementally take tremendous advantage of this VLT activity. Again, the win per machines, because the lack of the capital build out is of some concern, but when we went through the RFP process the lowest estimate of win per machine was our bid of \$400 and they went up to, I think Excelsior was almost \$500 per machine and we were mandated in our economics in the recent franchise deal to put the number at \$275 because no one in the state was breaking \$275. Not to

be sort of myopic here and focus on New York, but I think there's a good lesson in Delaware and Pennsylvania about how to structure it economically to, not just drive racing, but provide maximum revenues to the state, and I feel that in New York we're going to have not such a happy outcome, at least not the way it looks at the moment, certainly not going to be \$400 per day.

**Bill Oberle:** To give an example, in Delaware now the second largest revenue generator is gaming. That's hard to believe in a state that is the corporate capital of the world, but it is the second highest generator of revenue when you look at it from the macro perspective. No one ever would have contemplated that, in fact we had—she was fired shortly thereafter—a secretary of finance that estimated that we would generate \$2 million a year from gaming activity, so you can understand why she as fired.

**Dave Johnson:** Chuck, how many states do you have to deal with? And, if you want to tell us, who gets it and who doesn't?

**Chuck Atwood:** We deal with scores of states and countries because we also operate outside of the United States so I think we have almost as many people working in our regulatory compliance department as there are people in this room. So it's a huge operation and rightly so. Every locale, every state is different, and I think the setup has to be appropriate to the environment. It has to be appropriate to what each locale in each state is trying to accomplish because there are different models and states choose different models based on what they are trying to accomplish. Some states have very low taxes, for example, and they're trying to promote economic development; some states have very high taxes and they're trying to promote, I believe, money coming into the state. One could argue which one is the most effective, but it's a decision that elected leadership is making. Electing to get back to patronage because, when you think about how you grow a business you either have to have more patrons or they have to spend more money and I think if you try to attack it on both sides you could have a better chance of trying to win the game. One of the things that we've done, that I think has helped on the racing side, is the implementation of some of our loyalty programs on the racing side that we also operate on the casino side. So we have a system called Total Rewards that's a loyalty based program that rewards customers for the amount of their wagering with us, in effect. We have put some more programs into our racing operations and I would say you don't have to have a casino present to put it in. In fact, Bob Elliston's here, we put a version of our Total Rewards system

into Turfway Park a few years ago and I think it had a very positive effect on the racing operation. So there are many things that can be done to improve patronage and improve the amount that each patron is spending, and they don't necessarily have to come with a racino, but they come with maybe some expertise that we have developed as part of our casino operations. I would be curious if other people have seen that or believe that it's a worthwhile undertaking.

**Jeff Gural:** We've tried it. It's not easy to convert the old horseplayer to use these self-service machines because in order to give the person the benefits, you have to know what he bet and in order for that to happen he's got to put a card in a machine. We put a lot of self-service machines in Tioga hoping that a) we would save labor costs on the tellers and b) we would attract younger people who like playing with computers so they would like that idea. It's been a slow process, even when you tell people you get rebates and you get points, you still get people who won't use the card. They are probably people who get this feeling that someone's going to know how much they bet, maybe their wife will find out, I don't know. It doesn't make any sense that someone would not play with the card knowing that they could get a rebate and points, why wouldn't you play with the card? And yet there are people there who would never play with a card. The other thing that I wonder—at Tioga we're only open roughly four months—is if our customers, out of sheer boredom, go and lose money during the off-season in those VLTs. They don't start fresh like in the old days when horse racing would shut down for a couple of months and then it would reopen so your bettor was reenergized, his bankroll was a little flusher because he hadn't been to the track in four or five months. So I just wonder if that has some negative impact happening.

**Dave Johnson:** You have simulcasting though. They could be doing the simulcasting.

**Jeff Gural:** Yeah, but I see people, when I walk through the casino there will be people who say “When is the racing going to start? I hate these machines,” and they're sitting in front of one.

**Brock Milstein:** I have a quick question. My day job is in the real estate business and we do a lot of commercial development, a lot of shopping centers, and one of the things we've noticed is that this trend away from the specialty retailers, towards the general retailers like the Targets and the Wal-Marts, and so I guess my question to the panel is: We're talking about patronage and increasing the customer-base. Is it more-so focused on the types of things that we offer as far as horse racing or slot machines—in Ohio, we don't have a choice—but in the states where there is a choice, is it more the idea of offering the customers more products or is it really trying to



improve, it's probably both, but what's your perspective on the overall idea that customers are demanding more products in one location and how that's affected the business?

**Chris McErlean:** I use Pennsylvania as a model. Pennsylvania has pretty much gone through the whole life-cycle: live racing, telephone wagering, Internet wagering, off-track betting which has been in almost 18 years now, and now to casinos. It seems like every one of those steps has a life-cycle to it and you're obviously responding to market forces as well in terms of bringing the product to the customer, bringing it through new distribution vehicles. So you answered your own question when you asked it, but having all the product under one roof obviously makes sense. We, at least at Penn National, we're very cognizant of having an integrated racetrack and casino. We didn't go the route of putting the machines in the existing building. They went to the time and great expense of redoing the entire facility from the ground up, integrating the racing, simulcasting and the casino together. So having that all under one roof and possibly there will be even expanded gaming down the road in Pennsylvania that would be under that same roof. Putting all those products—maybe there will be retail or a convention center or something like that as well—having that all in that facility, in that one property, probably makes sense and is probably the trend from that stand point. That said, it may effect things like our OTBs, of which we've eliminated two in the state of Pennsylvania that weren't performing well, and there might be some others down the road that because of that. Bringing it back to the property may cause those distribution channels now to be less patronized going forward. It's one of those full-circle type things that is kind of evolving.

**Charlie Hayward:** I think that the biggest disappointment since I've been at NYRA, which is since November of 2004 has been really directed toward the fan and the customer experience. We're the smart guys that run Saratoga and get 25 thousand people a day, we're sort of the dumb guys that don't have 2,200 people a day come to Aqueduct. Part of that's our own fault. We've launched an Internet site, we've launched a rewards program, but the way to grow this business is in the live track experience. I don't think you can introduce people to racing on simulcast, and we need to do better segmentation of marketing. At NYRA you can be a Saratoga season-ticket holder, a Belmont ticket-holder, you can be an owner and you can be in our rewards program and we're just now integrating the power of all that to understand that you individually are important but collectively your experience and what you're doing, we should encourage that and focus that. I think racetracks, historically, certainly NYRA, have been very deficient in technology. So I

would say, not so much changing offerings that we make, but identifying what people like, what offerings that we make that we can enhance for them.

**Dave Johnson:** Jeff, I'm interested in you personally, did you first come to the track with family members and was that way before you ever went to a casino, and what was your own personal experience with this?

**Jeff Gural:** I started going to Yonkers and Roosevelt in high school. I'm sure we all know you had to sneak in because you had to be 18, so you're trying to duck in behind the crowd, then you had to find someone to bet for you because you had to be 21 or something to bet. I can tell you that I used to drive to Roosevelt to get in free for the ninth race. I'll tell you the problem you have in racing, in the casino business, I can now because we changed the tax rate but more of an Atlantic City model or Las Vegas where the tax rate is so low, we can send a customer \$20 of free play knowing that he is going to come to us that day, we're going to give him that coupon and we know that he's going to spend another \$40 or \$50. So of that \$20 of free play, I keep \$10 of it because, let's say my tax rate is 50%, and then he bets another \$50, I keep half of that so I get back \$25. So I invested \$10, I got back \$25; I'm plus \$15 for the day. Now let's use the same model. If I give a racetrack customer \$20 of free pari-mutuel tickets and I know he's going to bet another \$50. So on the \$20 that he gets for free, I'm getting back \$4 and I'm giving the horsemen \$2. On the \$50 that he bets, out of all the money, I'm getting back \$10 and I'm giving the horsemen \$5. So I gave the guy \$20 and I got back \$7. The casinos have a huge marketing advantage because they can give so much. Customers want freebies, they know they're going to lose but if they think that they're going to go there, have fun, and get free lunch and maybe something in the gift shop they're going to justify getting in the car and going or getting on a bus. Racing, the model we have, you can't promote it that way. You've got to try the lucky \$2 voucher is going to be some one of the 10 thousand vouchers that we sent out that's going to win \$10 thousand, and the odds are that the person who has that voucher isn't going to come. It's so much easier, there's a direct correlation between what you spend on marketing and how much VGM play you have, and there's a direct correlation on what you can afford to spend on marketing with your tax rate. It's just as simple as that, and the change in the tax rate now allows us much more freedom in marketing because before it was so low I couldn't give any free play. People wonder, "Why is Yonkers a failure when it's got a great location?" It's no mystery why it's a failure, people go to Yonkers, they're going to get a free soda. If they get on the bus

and go to Atlantic City, even though it's a long trip, they're going to get free lunch, \$10 or \$15 in free play, so they're going to go in and when they get off the bus they'll spend 2 hours playing the machines, then they'll go have their free lunch, then they'll play the machines for an hour or two, then they'll walk on the boardwalk, they'll go shopping, then they'll play for another hour or two, then they'll get on the bus and go home. So they might have played for 4 or 5 hours whereas the customer coming to Yonkers, he's going to play for 2 hours, have a soda and then he's going to go home because you can't sit there for much more than 2 hours. So the best example of failure, and I think Yonkers now will be able to turn it around because we got them more marketing money and a different tax rate, everybody was shocked, everybody predicted Yonkers was going to do \$400, and then they were shocked because they were doing \$200. As they said when they were getting bids of Aqueduct they were all \$400, \$500 and then all of a sudden somebody said "well, why is Yonkers doing \$200?" and it got everybody back to reality. It's a real simple business, tax rate, marketing, and horse racing doesn't have the ability to give the freebies out so we've got to rely on whether it's a fun experience, and to make it a fun experience you've got to have what Saratoga has, which is, in my opinion, a short season. If I say to someone "I'm going to Saratoga for a couple of days," which he knows I always do, but if I said I was going to Aqueduct they would say "Do I want Jeff managing my building?" That's the problem we have, it's cool to go to Saratoga in the summer, but it's not cool to go to Aqueduct whereas when I started going to Yonkers and Roosevelt, everybody went to Yonkers and Roosevelt. I remember there was a guy, Henry Hecht, he used to have a full page in the Post where he would do his picks and then he would talk the next day about how they lost and how the driver gave a suspicious ride, he was great, you looked forward to it.

**Dave Johnson:** And when was the first time you went to a casino? How old were you?

**Jeff Gural:** I went to a casino when I drove across country at the age of 22 on my way to California. It was the most unpleasant experience of my life, I witnessed these poor people, drunk, sitting at a blackjack table and taking their money. That was my perception, I said "they're just bringing this guy more of the liquor and he can barely stand and they're just taking his money." From that point on, I've never had any interest in casinos.

**Dave Johnson:** So we're actually out of time but let's just get a quick last comment from Chuck and Bill.

**Chuck Atwood:** I'm just pleased that Jeff was of age when he went into a casino.

**Bill Oberle:** I would tend to agree, it's one-stop shopping. We're living in the era of the "now" generation. People want instant gratification, so if you can put it all under one roof, that's the most efficient model you can use. I would say this, I would run for Congress but I'm not willing to get the lobotomy, but my biggest concern looking forward as relates to the race side of the equation is Congress and dealing with the Internet gaming issue. There are a couple of really nasty bills flying around out there and it takes all of us, from the states' perspective to keep a close watch on that one and the impact that it could have on pari-mutuel racing. I worry more about those sorts of things in the short term.

**Dave Johnson:** Let's thank everyone for what they've done here today.

**February 19, 2008**

**10:00 a.m. – 10:30 a.m.**

**Ghost Stories**

- **Charlie Leerhsen, Sports Illustrated, author of Crazy Good**

**Stan Bergstein:** Our next speaker will entertain you for the half hour that he is going to be up on the podium. Here's Charlie Leerhsen.

**Charles Leerhsen:** I thought I'd tell you about my experience with my book which comes out in June from Simon & Schuster. It's called Crazy Good: the True Story of Dan Patch, the Most Famous Horse in America. I'll tell you a little bit about my experiences in putting it together. The first call I made when I was doing my Dan Patch research, this was about 2 and a half or 3 years ago, was to a very nice person who listened to my plea for cooperation and information and my fervent request to be true to historical facts and they sighed and said "You know, don't you think people are sick of Dan Patch? Why don't you write about some other horse?" I've got to tell you, in three years that was the only person I ever met who thought people were sick of Dan Patch. Everyone else I spoke to in that interim had never heard of the horse. Since the fall of 2005 when I started working on Crazy Good, I had run the idea of Dan Patch by friends, acquaintances, colleagues, relatives, cab drivers, yoga teachers—I live in Brooklyn. Outside Oxford, Indiana where the horse was born and Savage, Minnesota where he spent most of his life, all I got were blank stares. People in New York City, where I live, were particularly clueless. A couple came right back to me with that line from *The Music Man*, "Like to see some stuck-up jockey boy sitting on Dan Patch? Make your blood boil, I should say," but they admitted they were speaking phonetically, they had no idea what the words meant, they might as well have been reciting the lyrics to Louie Louie. Of the handful of New Yorkers who claimed they did recognize the name, one person identified Dan as a 1890s baseball player, another had him confused with a certain two-legged, bridge-jumping daredevil named Sam Patch, and still another said "Isn't Dan Patch the devil?" All I could think of is he was thinking of Old Scratch, which was once a common nickname for Satan. I hang out with a classy group of people, I tell you. It can be discouraging to see the reactions of people when you tell them you're going to blow the lid off something that they had never even heard of in the first place. So that was my challenge I think. Who the hell is Dan Patch? Now some people here, at this gathering of horse racing experts may think they know, there's a sort of fortune cookie sized biography of the horse that people, especially in the harness industry, carry around in their brain I learned, and it goes something like this: He was an incredibly fast pacer and owned by a marketing genius from Minnesota. How half-right and how boring that is. The truth is a lot more interesting. Here in a

nutshell, let me give you the 10-cent history right here. Dan Patch was a mahogany based, standardbred stallion, foaled in Oxford, Indiana in 1896. He was born crippled, his left hind leg had been wrapped the wrong way in the womb and he was unable to stand up and nurse without human assistance. After figuring out how to gain his balance, Dan impressed people around town with his good looks, his charming personality and his natural ability to pace, despite that bad leg. For a while he pulled a grocer's cart around Oxford, Indiana. When, at the age of four, he was entered in a race at the county fair he won easily in straight heats. Taken to the next level fair in Lafayette, Indiana, he won easily again. By the next year, now this is 1901, he was on the Grand Circuit and still winning. By 1902 he ran out of opponents and started racing against the clock. Because he had twice been stiffed by his driver, his record was not perfect but it was remarkable nonetheless. Dan was 19 and 0 in terms of races and 54 for 56 in terms of heats. In speed shows, Dan first broke the two-minute barrier then tied Star Pointer's world record of one fifty-nine and a quarter. Then in 1903 he lowered the record to 1:59 at Brighton Beach in Brooklyn. Eventually he would lower it, unofficially but indelibly to 1:55, a record that would stand for 32 years. Often he would come back to the grandstand after his time trial, stop and take a long look at the crowd, then, with no prompting from his driver, he would bow and the fans would go wild often pouring down onto the grandstand and mobbing him on the track. Yes, Dan Patch, now so utterly forgotten or at best, as Roger Clemens would say, misremembered. He was not just the most famous horse in America in the first decade of the 20<sup>th</sup> century, but also the most beloved pop cultural figure. It's really hard to believe this, and when I worked on this book I thought I was dealing with events that had happened on another planet because they seemed so separated from us and so far away and so radical. Children sent Dan Patch 50 thousand fan letters a year. He endorsed, as I'm sure some of you know, hundreds of products: cigars, sleds, washing machines, breakfast cereals, pancake syrups, lox, shaving razors, pocket watches, there was even Dan Patch real estate and the Dan Patch stallion shields to prevent the family carriage horse from masturbating. He inspired hit songs: the Dan Patch two-step and the Dan Patch march. I found in an inventory of items that President Theodore Roosevelt kept in his Oyster Bay, Long Island home a reference to a framed Dan Patch horseshoe, which Roosevelt brags in his autobiography was a gift from the owner from the race in which he broke the two-minute mile. Dan Patch wrote his own autobiography and it sold very well, though after reading it I have to say he wasn't a very good writer. I say Dan Patch was beloved and I mean it. In a copy

of the Harness Horse magazine from the 1930s I found this testimonial from John Hervey, who is probably the preeminent turf rider of the 20<sup>th</sup> century, this is John Hervey on Dan Patch, “A kinder, a wiser, a finer dispositioned spirit in equine form never lived. He was goodness personified and wisdom. That he knew more than most men of the earth was a firm conviction of those who knew him. It was almost unbelievable that a horse with so mighty a heart, so dauntless a courage, such endlessness masculine resolution, strength and power could at the same time be so mild, so docile, so teachable, so controllable, so loveable. Those constantly with him, worshiped him, would have died for him, I believe, had it been necessary.” Dan Patch was a different kind of horse. He was different to a degree, in fact, that experienced horse handlers found amazing and some even hateful, jealousy being a big part of the racing game. For example, those stallions can be skittish, lashing out with teeth and hooves at the slightest provocation, Dan Patch exuded calm, allowing strangers to approach him and small children to run back and forth beneath his belly. As for racing and touring, he seemed to get it. He seemed to understand that his job was to be this new thing in America, a superstar. Whenever he saw a camera, he stopped. One evening in Lexington, Dan Patch was led into the lobby of the Phoenix hotel where happy drunks patted his nose and perfumed women wanted a nuzzle. Whatever he was thinking down deep when people pressed around him, Dan remained charming and affable. Fans sometimes pulled hairs from his tail to twist into key chains and put into locket. In such cases, Dan might spin his handsome head around and cast a sharp glance, but he never kicked. He had an admirable sense of his own might and others’ vulnerability. The only person Dan ever bit was a young Minnesota boy named Fred Sasse who would grow up to write an appallingly bad book about him. You just had to love a horse like this, and people did. They turned out to see him, 80 thousand, 90 thousand, 100 thousand strong, and this was in an era when major league baseball games routinely drew 1,300 people and World Series games drew 6,500 people. 100 thousand people, on more than one occasion, turned out to see Dan Patch race against the clock. Dan made \$1 million a year at the time when the highest paid baseball player, Ty Cobb of the Tigers, was making \$12 thousand. I had three main sources of information for my book Crazy Good. One was the newspapers of the day. I paged through thousands of them and scrolled through thousands more online. The hard part about looking through newspapers from say, 1901 is staying focused. The eyes keep getting seduced, sometimes by shameful stories about lynchings of black men and boys in the South—there are a lot of those stories—and



sometimes by strange headlines. I think my favorite—because it was so 1902—was “Mice Cause Feminine Panic on Trolley.” That was in the Minneapolis Tribune. Then there were the ads for patent medicines like Dr. Kilmer’s Swamp Root and Kickapoo Indian Sagua, products meant to address previously unknown ailments of the liver, heart, lungs and bowels; carefully worded ads for erectile dysfunction remedies proliferated in the sports pages, just as they do today. The newspapers of the day, of course, covered Dan Patch very closely. When he broke Star Pointer’s record at Brighton Beach in 1903 in New York the Times ran an account on page one, above the fold. In those days, before radio, newspapers were the only mass medium and there was a densely woven web of them across the country, but the feature story and the profile hadn’t been invented yet, so stories about athletes, the two and the four-legged kind, they might be numerous but they were also usually short and shallow. So I could track everywhere Dan Patch went in the country, but you couldn’t get too much in terms of color and detail from the daily papers. Still, some papers did convey a sense of what the sport was like in those days. In a 1907 edition of the Fort Wayne Sentinel, I found an account of a strange trotting place, it was in Columbus, Ohio actually, in the first heat there was a wreck and two of the horses dumped their drivers and ran into the infield, eventually they were caught, they weren’t scratched though they were brought back to the paddock to be prepared for the second heat. In that second heat another mare took a bad step and broke her leg, said the paper “she was taken to the infield and shot.” Good times. And then the race continued. The old newspapers gave me a sense of how the horse’s name was becoming part of the language. The Michigan football team was scoring points, I read, at a Dan Patch clip. In another paper I learned that it was a good year for the farmer and corn was coming in like Dan Patch. I also got a sense of how people exaggerated their connection to the horse to make themselves more important. A common boast in the 20s, 30s and 40s, a kind of urban myth comparable to saying you were at Wrigley Field when Babe Ruth hit his famous called-shot homerun, was to say you were at a racetrack someplace watching Dan Patch warm up when his trainer and driver drove the horse over, picked you out of the crowd and asked if you wanted to take old Danny boy for a spin. I came upon that story dozens of times in papers from coast to coast. I also read many obituaries of people who had almost certainly never met Dan Patch but were identified as his trainer, owner, breeder, horseshoer or groom; their impressive fibs had followed them relentlessly to the grave. Another and better source of information to me were the horse magazines of the day, weeklies like the Horse

Review and the American Horse Breeder were devoted strictly to the standardbred, and let's not forget that harness racing was the number 1 sport in America in this sports-crazed time for about 15 years before and after the turn of the 20<sup>th</sup> century it was clearly the number 1 sport. And these weekly horse magazines were devoted strictly to the standardbred and they were vibrant, jam-packed journals that were something of a cross between Sports Illustrated and Time. They covered the harness scene in deep detail and they were brimming with news, opinion and gossip. That's the good news. The bad news for me was that I had these thick, large-format weeklies that are completely unindexed. I had no choice but to sit for many days in the library of the Harness Racing Museum in Goshen, New York and page through the bound volumes, running my eyes up and down the smallish print and looking for mentions of Dan. This would have been an impossible task without Gail Cunard, by the way, the director of the Museum, and without Ellen Harvey and Ken Weingartner from the USTA who sat, spent many long afternoons with me, next to me on the library table. But all that squinting was worth it. From the Horse Review, in particular, I learned what owners and trainers were saying about him and about each other. Reading their lengthy quotes is sometimes reading between the lines, I got a sense of their personalities and the conflicts that shaped and defined their relationships. I picked up some fascinating details too, I learned Dan Patch was stabled for a while in Harlem and worked out in Central Park. I learned that when Dan's barn in Minnesota caught fire one morning in 1904 he fled the scene calmly and on the pace. I learned that Dan was referred to inexplicably by his grooms as Dennis, and that the horse liked to stand around with his little pet rat terrier on his head. I learned what hotels his trainer-drivers stayed in, what jokes they told and when they had a cold. I even knew when one of them got sick and vomited from the sulky in mid-race—there's no such thing as too much information in my business—and I read a whole lot of very bad Dan Patch poetry in those magazines. My other chief source of information was, let's call them the Dan Patch cult, the 300 or so people, I estimate, who are passionately devoted to keeping the horse's name alive and collecting Patchiana: Dan Patch lunch boxes, pedal cars, flower sacks, tobacco tins, that and all the bric-a-brac that I've mentioned already and more. The members of the Dan Patch cult suck it off eBay or out of auction houses and they add it to their household shrines. My living room, more than one of them told me, looks like a museum. I met a man who showed me a mock-bamboo walking stick, worn smooth by the obscure Hoosier farmer who was Dan Patch's first trainer; and another man who owns an authentic left rear shoe, which is the

holy grail of Dan Patch footwear; a retired printer in Burnsville, Minnesota who owns what may be the tail of Dan Patch died red for mysterious reasons and who also has the horse's harness and not-so-miniature scale model of the farm where Dan lived from 1902 until 1916 and photographs of virtually everyone who worked there and their significant others. He has even for some reason when possible acquired the clothing those people were wearing in the photographs. "Sometime over the last 40 years," he told me, rather unnecessarily, "I got carried away." George has moldering brushes that may contain Dan Patch hair and dander and boxes of cancelled checks from the horse's third and final owner, a Minneapolis entrepreneur named M.W. Savage, and George wants more. He wants, for example, M.W. Savage's belt buckle and false teeth, "and I think I can get them too," he said to me. I just hope a shovel isn't involved in that episode. These people were a little crazy, but they were important to me. In a book you may have heard of called Seabiscuit, Laura Hillenbrand says that she found the old newspaper clippings invaluable, but that she couldn't have written her book without talking to the old-timers who remembered the horse first hand. Well Dan Patch stopped doing time trials in 1909 and died in 1916, so even if I found an eyewitness he might not have known I was in the room with him. I did, however, have the Dan Patch cult. In Oxford, Indiana, a retired farmer named Bob Glassby and his wife Thelma who, for the last 30 years, have been working to keep the horse's name alive in that town of 12 thousand people, they gave me the grand tour of Oxford. We visited the spot where the horse was born—then a livery stable, now a private home—and the place where he first raced, which is now a soybean field. Bob introduced me to a man now in his nineties who had worked for Dan Messner, Jr., Dan's breeder and first owner and who drove the strange looking cart that was used to break Dan Patch. Through Bob I also met John Messner, the grandson of Dan, Jr. the first owner, who is the golf pro at the local country club. John Messner owns the Dan Patch barn where Dan lived from shortly after his birth until he was sold to a man from New York in 1902. John had kept the outside of the barn up, doing repairs and repainting the lettering on the roof that spelled out Dan Patch 155, but oddly enough he had never gone inside. Oddly enough John's father, who was born in 1912, died in the 1980s and had lived his whole life in Oxford, Indiana, he had never gone in that barn either. Or maybe it wasn't so odd because both men had mixed feelings about their grandfather having let Dan Patch slip through his hands for the then, not-quite-princely sum of \$20 thousand. When I first met John Messner, he seemed to have no interest in going in the barn—which stood just across from

his house, about 75 feet from his front door—but he did show me how, balancing on a card table placed precariously on some cinder blocks, I could look through a hole in the wall. I did and I saw the past. A shaft of yellow light came in through a crack in the roof and struck the door of the largest, and judging by the latticework, the most luxurious stall. A rusted pitchfork lay in the middle of the floor, its tines curled upward, and near it was a thick, green glass bottle. This was the room where Dan Patch has lived, and where men in celluloid collars and women with hats trimmed with ribbon rosettes had come to stare with awe at the horse that had once delivered their groceries. It looked like everyone had fled the scene in a hurry and no one had disturbed it for nearly 100 years. Eventually John changed his mind about the barn and not only went in but supervised its renovation during the time when I was researching the book. He would lead me on a tour of the structure where his helper had found a tack trunk with the words Dan Patch painted on it in fancy, fading letters. The trunk had been opened and was surrounded by a brush, leg wrap, skirt straps, a bottle of Humphrey’s liniment, and a copy of the Western Horseman Magazine, dated September 24, 1900. To a small number of people, it is an amazing find. I’m proud to say that I have stood in Dan Patch’s stall and seen with my own eyes the urine spot he left in the dirt. In Savage, Minnesota, however, they have something that people in Oxford could never have. They have Dan Patch’s grave. It is not easy to find though, there are no guidebooks, no signs, there’s not even a headstone to show where it is. Still I think I know where Dan Patch is buried, approximately. On a perfect, late summer afternoon I walked, escorted by an entourage of butterflies, past several “no trespassing” signs and over railroad tracks, and I found a spot down by the Credit River, a particular bend in the stream that certain people had described to me. To check my location I took from my pack an 8 x 10 aerial photograph of the area that I had been given by a great-grandson of a man who helped bury the horse on a steamy July day in 1916. “I hope no one’s going to disturb the grave after all these years,” my source had said, his concern was understandable if only because, in the late 80s a Savage man who told someone the exact location of the horse’s remains had died suddenly a few years later. Since then some people in Savage have talked about a Dan Patch curse. It struck me, as I stood there in the 3-foot high grass that I was not sure what I was doing. Why did it seem so necessary to seek out this place? The setting, to be sure, was lovely and it’s always fun to trespass especially in middle age, but what did I expect to find? I knew that the horse’s grave was unmarked and an unmarked grave that is set between two unmarked ones looks, 90 years later, like nothing at all really, so

what was there to see? Even if I was a grave robber, looking for bones to peddle to the Dan Patch cult, it seemed impossible that anything would be left in this muddy earth along this winding stream. For you see, the great horse had been horridly stuck in a shallow, wet hole without even a simple pine box. Wait. How did a horse that was once as famous as any human in America wind up this way? Did I mention I have a book for sale? Thanks.

Does anyone have any questions?

**A Voice:** He was at Lexington to try and break his own record and went off stride in the stretch, but there's very, very spotty fractional times. Do you have any information on that?

**Charlie Leerhsen:** On that particular Lexington appearance?

**A Voice:** Yeah, his last time trial in Lexington.

**Charlie Leerhsen:** It's in the book, I don't want to page through it, I'll talk to you after. You're very up on Dan Patch to even know about the Los Angeles appearance, but that was his last, very sad appearance in Los Angeles in 1909, very thin crowd and Dan going in about 2:16 or something like that, that was all he could muster.

**Dave Johnson:** Charlie, where did the name Dan Patch come from?

**Charlie Leerhsen:** That's a good question Dave. His owner's name was Dan Messner and his sire's name was Joe Patchen. Joe Patchen, in his day, if Dan Patch is forgotten, Joe Patchen was a huge celebrity in his day and is even more forgotten, and the owner first tried to register his name as Dan Patchen and he was called that around town for a while, and then whatever the body was—I forget the exact name of it—that registered names, rejected that name. They said it was against their rules, they didn't explain why, and then he had suggested an alternate name which was Dan P, and then that was rejected when they said two or three other horses had that name. Registration was a little chaotic in those days. Then apparently he had said “well, I'll leave it up to you if those two don't work out,” so the association had said “we're going to register him as Dan Patch,” and they threw it back to him, which is actually a neater, better name. The name lasted in America until the 30s and 40s; people knew who the horse was I think more but it was a brand name like fading from your washing machine or your sled or your wagon. These were all products that he had sold and those were some of the more enduring ones—the breakfast cereal boxes and all tend to get thrown away. There's still a fairly lively market for some of the stuff on eBay, but none of it is all that expensive.

Hope to see you around the circuit this summer and thanks a lot.

**Stan Bergstein:** Thank you Charlie and you'll find the book fascinating and hopefully you'll find the movie that follows it even more fascinating.

**February 20, 2008**

**8:00 a.m. – 8:30 a.m.**

**Trust in the Pari-Mutuel System: Looking at Late Odds Changes**

- **Phil Langley, United States Trotting Association**
- **Curtis Linnell, Thoroughbred Racing Protective Bureau**
- **Mike Maloney, owner, breeder and one of America's biggest horse players**
- **Dave Johnson, Sirius Satellite Radio, moderator**

**Dave Johnson:** Curtis, give us an overview of what your concerns are when the title is Trust in the Pari-Mutuel System: Looking at Late Odds Changes.

**Curtis Linnell:** Well, there are two different sides to that. One is just the perception that when odds change, a lot of times that's just a function of data transmission, and I understand that, but not everyone at the racetrack does understand that. So one thing we need to do is be aware of the perception of how it hurts that playability when those odds change at the bottom of the stretch or at the 8<sup>th</sup> pole or even at the wire. Beyond that, what I'm much more concerned about is that I think there are actual, physical problems within the wagering system that are not just perception but that are reality, things that arrive that if you look at the basic facts of the situation, you would want to change it. But I think that it's a lack of awareness and that's one thing I hope to do today is to go over a lot of the things item by item and state my case.

**Dave Johnson:** Just a show of hands, I hope everybody here makes a bet once in awhile, but have you indeed seen this actually happen? Let's find out from Phil, give us an idea of what your take is when you see the title Trust in the Pari-Mutuel System?

**Phil Langley:** Well obviously I'm pretty much in track management and I'm there, not so much anymore, but every night I might get phone calls and the Internet is a wonderful invention because it allows people to complain to you without actually having to get through the switchboard and call you, and they don't even have to sign their name so you know you're getting the facts. But it's very, very annoying—and if I were a bettor I'd be annoyed when the odds don't change till the race is over. I remember when I was about 10 years old, back in Maywood Park and a corner of the clubhouse was right over where the wire was and there used to be a guy standing out there and he'd have his hand up in the air and they had the mutuel windows there and they had a mutuel clerk cornered and the guy had the money and he was ready to push the button and when the race was about to start the guy would put his hand down. It's nothing new, but it's extremely annoying. I think it's probably exaggerated by the fact that most of the better gamblers, the ones that know what they're doing, the good gamblers—and most of them are honest, I'm not saying it's anything wrong—but they wait until the last minute to bet. And I know that I had a horse I sent out to Chester last summer and it would kill me, I thought he'd be the fair bet every start and, with 3 minutes to go he'd be 10 or 15 to 1 and he always went off at the fair bet and I know my group didn't bet at all. But it's just the better gamblers, the ones that know what they're looking for, bet late. And it's embarrassing when the



new people at the races say “boy, they’re changing the odds after the race, no wonder they’re making money.” I think you’re right that it always seems to go down, but I think that nobody ever calls us or nobody ever e-mails us and says “oh hey, good deal, I was 2 to 1 when the race started and now I’m 3 to 1,” that rarely happens.

**Dave Johnson:** Let’s just get an idea from Curtis. The word trust, how does it come into this panel?

**Curtis Linnell:** Thank you Dave. In preparing for this panel I was coincidentally reading a book and I came across a quotation, I didn’t want to out-age Phil here on the panel, but I did come across a quote, “I just got tired of going to the races and having my day spoiled. I got to thinking what a great thing it would be to have an official system of betting so that you would always know the correct odds on your horse and not be disappointed in the payoffs. I was fast losing faith in the old pari-mutuel system because it was always and continually incorrect and that agitated me greatly.” That was Harry Strause in 1927, and because he was agitated he went and founded AmTote and invented the pari-mutuel system as we now know it. I thought that was a good context for what we have currently in the environment. We have had technology on the device and on the betting level expand at such a rapid rate that the infrastructure for betting, and the distribution system have not kept pace. We had it in 1927, we have it now. The infrastructure needs to keep pace and we need to do a better job in order to maintain or, in some cases, to regain trust in the pari-mutuel system.

**Dave Johnson:** But it is possible to have an official betting system because, for instance, the stock market has an official system for registering their trades up to the nanosecond. One of the things that I hear from my friends who gamble is that they say the tracks don’t care about this because they’re making their commissions whether this is at post, after the bell rings or, as Mike Maloney might tell you, he bet a race at the fairgrounds, a minute into the race! And he told me about a particular race at Golden Gate that we played on our show on Sirius radio in which the announcer said, “and as they come into the wire, it’s so-and-so running at 17 to 1,” and then the price was posted and the horse paid \$22. So here’s in three words: an efficient wagering system, an efficient system of betting. Isn’t it possible that we can have this now?

**Phil Langley:** I think it is possible and I think that the industry collectively needs to work very hard to get to that point. We have had tote systems operating on a track by track and regional distribution basis all through the evolution of racing throughout the country. With the advent of

simulcasting and totes connecting up, we've tried to take a regional system or a local system and make it into a national and, increasingly, an international one. We have to make some radical leaps to get to the efficiencies that we need to see and our customers demand in the tote system. I think we've made some big increases and we can talk about some of those in the past couple of years. But more importantly, because of the wagering velocity, the devices that can wager so quickly, and add so much capacity in wagering, we need to do better.

**Dave Johnson:** Ok, we have a microphone, but we've got a lot of things up here on the dais to talk about, Mike let's start with, what are the important points here?

**Mike Maloney:** I'll start with my belief that the wagering security structure within the industry is dysfunctional, is broken perhaps. I see the way we accept wagers in the industry as a pipeline. At one end of the pipeline, you have all the high-speed technology that Curtis mentioned; we're great at that, at affecting these bets to be able to be made as quickly as possible. There's a tremendous focus from the industry, and all those bets come into one end of the pipeline. As they pass into that pipeline, they eventually are assimilated at the host track where the takeout is extracted and then the money moves toward the winning bettors. At that point, it looks to me like the industry basically loses focus on the money. They turn their focus to bringing more bets into the other end of the pipeline. As that money passes on through the pipeline, there is no one in the industry, that I'm aware of, that has a financial interest in making sure that the money goes into the proper hands in the proper amounts at the end of that pipeline. For instance, if there's some type of a fraud on a credit card, there's an identity theft for instance, and the thief buys a digital camera through someone else's account, at the end of the month, the credit card holder will be billed for that \$500. He'll see that it's a digital camera; he'll say "I didn't buy a digital camera, I was cheated." He'll call the credit card company and they'll investigate the situation and credit his account. A horseplayer doesn't have that option. He doesn't know if he's been cheated. If someone finds a way to scam 5% out of the trifecta pool, and the trifecta should pay \$400 and it pays \$380, the bettor doesn't know he's been cheated. You're not going to get a complaint, it's just done. I know a lot of people in the industry think this doesn't happen, it can't happen, it's impossible, and I hear all that when I talk to people sometimes. Well maybe it doesn't happen, I don't know for sure, but it is something we need to guard against at the very least. It's not reasonable for us to assume that the casino industry spends millions of dollars to control and deter cheating and that people are able to hack into multinational corporations and

they're spending millions of dollars to defend against that, and that we are safe when we are moving \$12 billion a year that's bet away from the host track into cyberspace and basically have very little regard for it once it moves toward the bettors.

**Dave Johnson:** Mike, you mentioned the casino industry, what do you think would happen if, let's say a game like Keno, had a short period of time for a head-start?

**Mike Maloney:** In Keno, let's picture ourselves in Vegas, and pretend that people were able to, in effect, past-post Keno. That some bettors, once in a while, at certain casinos, were able to see the first two balls in a Keno game posted after they'd been drawn, that they were able to include those two balls on their wagers. It doesn't necessarily make them win for sure, but it gives them a significant advantage. If this didn't happen all the time, it just happened sporadically at some casinos, what would happen? The Nevada Gaming Board, in my opinion, would come in, and probably the casino would self-report because they would be so concerned about the loss of their license, but somehow the wagering board would find out about it and they would come in and say "Keno is shut down until we get this straightened out." The operators would say "This is old technology, this was user error, our equipment is old, and we're going to update that." It wouldn't matter, the regulators would say "you spend the money, you upgrade your technology, retrain your people, you bring the thing up to speed. We'll test it and if it tests properly then Keno can come back up. Until then, no Keno." Now you contrast that with what we do in simulcasting. For five years I've been speaking to different people individually and last year I tried to be more public about it because I see wagering occurring after the races have started, I see it over and over and over. I've seen it my entire 30 years at the racetrack, but it has never been addressed. When we say "Why isn't handle growing? Why are the casinos outperforming us?" there's one reason right there. Because there's more integrity in a lot of the casino games than there is in our game. I hate to say it because I love racing and I'm an owner and a breeder and part of this industry, but it needs to be said. We need to go back to square one and examine this entire wagering system and make it better, clean it up and be proactive about it rather than reactive. Rather than waiting for a crisis to blow up in our face and get a bunch of bad press, why not go out and make it right and have a game that can stand some scrutiny? Right now if a lot of this was brought to light I don't think it would stand the scrutiny very well. Let me go to another topic. This goes under the heading of how we need to be proactive rather than reactive. Right now, when races run later today, few, if any, tracks will record when the gates actually

open. That's known as the off-time. We record the stop wagering time, also known as the stop-time. We know when wagering is closed. We don't know when the gates open. There's no way that any of you can go back and see, well has past-posting been going on at my track? Has it been going on in my jurisdiction? You can't tell because when you call a racetrack and ask them, "The third race at Fairgrounds on November 25, what time did the gates open?" They can't tell you because it's not recorded. This is just an example of the level of actual security that we have within our wagering system. This is an example of a dysfunctional system or a broken system. That's inexcusable in today's world, to handle \$15 billion under those circumstances. It concerns me that our industry was given the only exemption to the Internet Wagering Act. Do we deserve that exemption when simulcasting has been going on for 20 years and we haven't figured out that we need to record the time that the gates open in each race? I think that's an indictment of our wagering security system.

**Dave Johnson:** So we should and we want to make it better, will we?

**Phil Langley:** Well that's a good question. I have to admit that I share a little bit of Mike's concern, not exactly, but for 10 years since we've started getting more inter-track wagering and trying to balance when you have six or eight different places running your money. I've always thought that someday I was going to walk into our track and I was going to open a closet and I was going to find a whole room full of money that nobody knew where it came from or what it was. It's amazing to me how we do account for what we do. I think one way in which we could cure it, although every mutuel manager and general manager in the country would probably drop dead of a heart attack, would be to close the windows 30 seconds before the race. I think they do that in other countries, they have a time and they close the windows.

**Dave Johnson:** It used to happen in New York, I was the announcer and the windows closed at post time, and then if you got closed out one time you never got closed out again because you watched the board. That was a long time ago.

**Phil Langley:** Well I'm glad you said that if you got closed out once you wouldn't get closed out the second time because most of our mutuel managers, they believe that if post time is at 10:00, and they can somehow con the starter or the judges or somebody into going off at 10:05 instead of 10:00 they're going to get extra money. And most of us, when you think about it, you know that if they went off at post time they'd probably get more bets than they would going off after post time. My concerns are a little bit about the technology, and at the risk of upsetting half

the people that sponsored these sessions and paid for the food for the breakfasts and stuff, I'm not sure we're getting 100% of the modern technology that we could. I don't know how long it has been since the interface system or one track or one system can bet into a different system, and they charge a fee to do this. I don't think those are all as efficient as they could be. I think they could be a lot more efficient. I do see a little problem, and I don't know the answer, but when you watch cable TV or satellite TV and you've got another TV set in your house where someone is watching just off of the regular signal, why one room has the team scoring a touchdown and in the other room they haven't even snapped the ball yet. So technology is a problem for us because it doesn't quite coordinate. I went to an OTB in our place the other night and the sound system had the finish of the race and the picture didn't, it was like there were still 50 yards to go. So we've got to catch up with technology, and Mike's right, it's something we have to look at.

**Dave Johnson:** Curtis, the question is can we do it though?

**Curtis Linnell:** I think we can do it and I think we will do it. I see some of the directions we're heading now and they're good directions we're going in. I appreciate what Mike is saying because it's important to say what's wrong with the industry before you can correct it, and I appreciate what Phil is saying, but we have made some remarkable strides. First of all, on Phil's point, it reminds me of university where the line is: you can never be too rich, you can never be too good looking and you can never have too much computing power. And that's very true always; we can always become more efficient than where we are now. But we've made some real strides in the last couple of years and I won't go into it right now because we don't have the time. Right now in the production of odds, ten seconds after a race closes, after stop-betting, we have benchmarked over 99% of the money producing the odds right now both in New York and California. We're getting those odds produced; we have to work on the downstream, on the distribution of those odds to the video displays and to the TV productions so we can show that we've come a long way to address late odds changes. Secondly, as an industry we need to time-sync video directly to atomic clocks the same way we now do for totes so that we can get the actual times that things occur. We're working on those as an industry. We had a TRA2020 meeting yesterday and these very topics came up. There's a lot of motivation to solve them because there's a lot of pressure from our customers, and rightly so, for us to solve them. They're big issues and it takes a lot of coordination and a lot of motivation to do that but we need

to take those issues head-on and solve each one of them.

**Dave Johnson:** Well, we started about 8 minutes late so we're just going to go another 8 minutes. Mike, what's next on your list?

**Mike Maloney:** Well I have a whole list of things but I don't want to be completely negative here. It's not good to be all criticism and no solution, but one thing I would like to address is that we're always looking for opportunities for growth, how to grow handle, how to make more money, how to better the game. The good news is that we have the best wagering game on the planet. The core game that we sell, the basis of this entire industry, the handicapping process, the day at the track with your friends trying to pick a winner, going to the window and making your bet and then seeing in 2 minutes whether you're right or you're wrong that day, is a fantastic game. It's a game that can take intelligent people and fascinate them for a lifetime. It can't be mastered, it's never been mastered, but it's a fascinating process. You can really spend a lifetime doing it. My father is an example of that, I'm an example of that, I have a 16 year old son that loves it. So I care about it. I picture my son 20 or 30 years from now and he's probably going to be at the racetrack enjoying the races, hopefully. I think that one thing we can do is to address some of our marketing to people that have analytical skills, people that like to trade stocks, trade futures, trade commodities, play chess, or whatever. Those types of people are potential horseplayers, and they're not just potential fans that come in for a ball cap or an umbrella, they're potential long-term fans that, once they become serious handicappers, once they get into and love the process of trying to pick a winner, they'll be like an annuity for the industry. As long as they're treated decently, they're probably going to be there the rest of their lives. I entertain some at the racetrack and I'll have people come in that are professional people, that are business owners, and some of them I know well, some of them I don't know that well, they're friends of friends, but they hear about me and it's interesting to spend the day at the races. Those people can sit at the next table and be kind of bored between races when there's nothing really going on, but you set that person beside me and let me show them, this race coming up, you know, there's too much speed in it. There's four speed horses in here, there's going to be a tremendous battle early in this race and I think even though this horse is only the third or fourth best horse in the race, he's going to get a favorable trip and a favorable pace scenario and he's going to have a great chance in here at 8 to 1. And then you let that play out on the screen and even if that horse doesn't win, he comes flying and runs a good second, and

the guy makes money—he's never been to the races before or he's been a couple of times casually—a light goes on in their head and you can't spend enough money on newspaper or television advertising to do what was just done with that person.

**Dave Johnson:** And he'll talk to his friends about it.

**Mike Maloney:** Exactly, and that's what we don't market and we don't promote. We have a tremendous game, but people don't know that game and it's hard to get in the loop, it's hard to understand from the outside. We need to find ways to educate, to cultivate, and to support these beginning players as they progress. At some of the tracks you can find a mentor around the track, somebody that can bring you along. We need to make things like that more accessible in some way to where if a person has an interest in the races, if they do like the process of trying to pick winners, that we encourage that, that we bring that person into the fold because they can be a very valuable asset to the industry for the rest of their lives if we take care of them at the beginning.

**Dave Johnson:** Phil, we're sort of running out of time, but did you want to touch on any of these points?

**Phil Langley:** Well one thing maybe we don't do a good enough job of explaining why there is a late flash in odds at present. Sooner or later we want to correct the thing, but basically we don't make an effort to explain to our ordinary fans why the odds change late, and we probably could do a better job of that. Just touching on Mike's last comment, the obvious best thing you can ever do at a racetrack with new people is, if they can win the first race they bet on why, they're fans forever. They haven't quite figured out how to do that.

**Dave Johnson:** Curtis, do you want to pick up any of these threads?

**Curtis Linnell:** Well I'll just pick up the last one. I think, when we bring new people to the racetrack, we want to show them that we're a modern sport, and part of horse racing is betting on the horses, it's intertwined, and we need some of the investments into the wagering infrastructure that we've seen in other areas of the business such as track services. We need to take those issues head-on and we need to solve them and get in front of the speed of technology and use that to our advantage rather than to our disadvantage, perception wise.

**Dave Johnson:** We've got two minutes left. Do you want to pick up one more item?

**Mike Maloney:** One suggestion I would make is a suggestion that was made in 2003 by the Giuliani Report. I reread that report recently and I think the industry paid a few million dollars

to get that. It doesn't seem like we put much of it into actual practice, but one of their suggestions, one of their main suggestions, was to form a national office of wagering security. And I think that's a great idea. I think we're so fragmented and the oversight is so helter-skelter within the industry that we really need a national office of wagering security, some body that is a watchdog for the bettor's interest throughout the industry that has teeth, that has the power. It won't work unless that entity has the power to find or sanction the tracks, to make sure that things happen properly. That if someone is out of line and someone is not protecting the bettor's interests properly, then they need to be brought into line. There needs to be someone at the helm of that and currently, as a bettor, I don't see that. I don't feel like there's anyone, and Curtis, I know, is a good man and is doing everything he can, but I don't think he has been given the tools to actually do the job as it needs to be done.

**Stan Bergstein:** We have a little bit of time if anyone wants to add their thoughts. You guys didn't generate any controversy?

**Dave Johnson:** I don't think anybody wants to lose their license.

**Bruce Benedict:** I'm Bruce Benedict and I'm with the Royal Turf Club but I've been in this business for 35 years. One of the things that we all have to realize is that the technology actually has improved to the point where you're able to allow thousands and thousands, then 50 thousand terminals to be able to place wagers in seconds, if not milliseconds. The problem is that when you try to do this, and you try to update the information, nobody would bet unless they have to bet at the most current time they can bet, so they aren't betting at 10 minutes to post time, they're not betting at 15 minutes to post time, they're betting at the last possible second and the more outlets that you have, whether they be call centers, point and click, OTBs, self-service terminals, table-top terminals, they're all just sitting there and waiting and they will press the button to settle the bet at that time. It's virtually impossible to update that information. Statistically, I think you'll find that the odds cycles don't change all that much. The sales volumes do. Again, that was just a point I wanted to make.

**Dave Johnson:** Thanks Bruce.

**Mike Maloney:** All I know is what I see. I'm not a technology expert. All I know is that my experience on Thanksgiving week this year, on November 22, the race that Dave talked about at Golden Gate occurred, the day before a race at Hollywood that TVG was covering, it was a 7 furlong race and the horses passed the wire and Matt Carruthers called, on the TVG feed, the



winner at 33 to 1, and it was the first race of the Pick 4 and he commented that it was going to juice the Pick 4 up. Then he says as the horses gallop around the turn, well the horse is flashed at 23 to 1, and then they went on for a few seconds about how much of an impact that was going to have on the winning bettors. And that was the day before Mike Wrona called the winner at 17 to 1 and the horse paid 10 to 1. Then three days later, I watched Fairgrounds third race on November 25 and watched wagering be open at least 55 seconds into the race.

**Dave Johnson:** You kept betting into the race, didn't you?

**Mike Maloney:** I did because, after watching it for years, and after trying to work within the system for at least the last 5 years as a member of the player's panel and speaking privately with a lot of people and speaking publicly in other venues, and saying this is a problem and this goes on, I bet during the race at Fairgrounds to prove my point, to show that the industry couldn't run from it anymore, they couldn't deny it, there are the tickets, and they were made several seconds after the race starts I made four different bets. My point is there's a four-day span on Thanksgiving week where, I don't know what the reason was for those odds changing after the race was over, but all I know is that it is unacceptable. All I know is as an industry it does us a disservice for that to happen. In 2008 there has to be a way that we can do that better—bettors that are in their homes or watching on their computer or that are at simulcast sites—because that does irreparable damage to the integrity and the perception of integrity within our sport when these things happen, and they happen continually.

**Bruce Benedict:** And, believe me, I don't think there's anybody in this room that has more interest in wanting to ensure the integrity of the systems and as Curtis pointed out, there have been a lot of strides that have happened over the last few years and I think some of those are able to be seen by the player, but I also want you to be assured that there is auditability reporting that can show you exactly when these transactions occur.

**Mike Maloney:** Yes, but you can't relate that to when the gates open.

**Bruce Benedict:** Sure you can.

**Mike Maloney:** No you can't. You don't record when the gates open.

**Bruce Benedict:** To Curtis's point, we've tried forever to coordinate clock times. Systems issuing tickets tied to systems with clock times. Gate-opening ties to clock times. Video streams tie to clock times. All that information is retrievable and definable. We process over 120 thousand pools a month.

**Mike Maloney:** But video feeds, are not currently, that's not synced to the wagering system.

**Bruce Benedict:** I agree.

**Mike Maloney:** So in effect, all I'm talking about is reality here. In effect, you have no record of when that race starts, no record where you can go back and you can compare. We have good records of when betting is stopped and when wagers are made, I understand that, but you cannot compare when those wagers are made to when that race started and that is the problem. We cannot tell how much of a problem this is within the industry because we don't have the tools to do it. I didn't know this. It shocked me when I found out because I tried to do more research on the past posting situation and as I researched it, I found this out.

**Bruce Benedict:** Obviously there's room for discussions and so forth, and I think communication is very important to not only you but to the technology suppliers and the mutuel managers and the regulators and the owners and the operators too.

**Curtis Linnell:** And just on that point Bruce, we have instituted 10-second forced odds in which 10 seconds after post time, after the stop-betting a racetrack, we can produce the odds that are 99% the final. They don't have to wait for the last possible location to produce a final and enforce cycle. We currently still have racetracks that are not employing the 10-second forced odds.

**Dave Johnson:** What percentage of the tracks don't do that?

**Curtis Linnell:** We think there's somewhere around 50% of the tracks right now that don't have it. We have the largest tracks that are doing it in New York and California, we're benchmarking that, we're producing those odds again, to the point of 98-99% of the win pool, within 10 seconds. That's a critical jump in what we've been able to do in previous years.

**Dave Johnson:** That's great, but if 50% of the tracks aren't doing it, that's terrible.

**Phil Langley:** When you're talking about how you're able to bet after the race starts, how much of that is due to just carelessness, and I apologize for not knowing for sure when the mutuel machines are locked anymore, but it used to be pretty much a manual locking system. If a horse falls down at the start of the race and the stewards are distracted for a minute, you can have that happen. I would guess that a large amount of the time that you are able to bet later into the race is because of some human error.

**Mike Maloney:** Yes, and I want to make that clear and I should have made that clear earlier. I don't think there's some sort of conspiracy where the stewards are being bought off to close

these races late or that there's some kind of a conspiracy to set all this up. That's not my point and that's not my assertion. My assertion is that in an industry that handles \$15 billion a year, that's given an exemption from the Internet Wagering Act, that we should require or demand a higher level of competence from ourselves, that we should secure these wagering pools better, that more thought and more pro-active work should be put in to make sure that these pools are secure. You can't just assume that you don't oversee all this money and that no one is attempting to do something untoward.

**Stan Bergstein:** Unless someone wants a brief final word, we will move on.

**Dave Johnson:** I want to thank my panel for sharing this morning, thank you very much guys.

**February 20,2008**

**8:30 a.m. – 9:00 a.m.**

**The Mitchell Report & Racing**

- **Bennett Liebman, Albany Law School**

**Bennett Liebman:** Headstones are truly the caretakers at a cemetery. They're on top of everyone else, but no one will listen to them. That's especially true for a law professor who's a former racing commissioner. You get invited, but the fact of the matter is, nobody is seriously listening to you. Now I've been invited to speak on the implications of the Mitchell Report on horse racing. Here are a few caveats: Lawyers, and certainly law professors, have no greater ability at determining credibility than real people. I don't know if Roger Clemens or Brian McNemy is telling the truth. My expertise, to the extent that it exists at all, is in the law and not in pharmaceuticals. I can't tell you the effect of steroids or human growth hormone on horses or pitchers. I can't even tell you how to effectuate a national policy on steroids. We do however, at Albany Law School at our government law center where I work; we do run the police review board for the city of Albany where we provide mediation of certain issues between the public and police officers. So if you're looking for a mediation proceeding—between Jeff Gural and Joe Faraldo, Joe Faraldo and everyone, Jeff Gural and everyone, the TRA and ARCI, HTA and THA, the HBPA and the RMTTC, or any other alphabet organization—then you might ask us for help. But back to the Mitchell Report. The Mitchell Report was issued 2 months ago by former United States Senator George Mitchell. Mitchell conducted an investigation for the commissioner of baseball into the illegal use of steroids and other performance enhancing drugs. The findings by Senator Mitchell were as follows: The use of steroids in major league baseball was widespread, the response by major league baseball was initially slow and ineffective, everyone involved in major league baseball should join in a well-planned, sustained effort to bring the era of steroids to an end, it named 86 names from public records, and existing investigations of the names included 7 MVPs and 31 All-Stars, Roger Clemens, and you see the list. The blaze of the future was to make a fresh start. What were his remedies? Well his recommendations on drug testing, you can see them, independent, transparent, well-funded, flexible program that protected the legitimate rights of players but allowed for year-round, unannounced drug testing. The Mitchell Report has been subject to considerable scrutiny, quite a bit of criticism, but I think—the criticism has been all over the place—because of the unfocused nature of the criticism the report has basically stood up and delivered a solid bill of goods. My own criticism, for what it's worth, would be that despite the professionalism of the report, other than the details on the individual players, the report looks like it could have been written before the investigation. Those of us who have been in politics call this “writing the

report before you name the commission,” and it reads that sort of way. Given the realities, the Report is the absolute best scenario for major league baseball: Everyone is to blame, but the players are more guilty than the others. We know from politics that when everyone is deemed responsible, nobody is actually held responsible. When you start saying “mistakes were made, let’s look to the future,” everybody walks. Think of the 9/11 Commission, the Iran Contra Investigation, the early Iraq war efforts—when you start saying that mistakes were made, as in baseball, you end up with a real aurelian effort to avoid responsibility. So where does that leave us, in comparing baseball to horse racing? Narrowly speaking, horse racing isn’t mentioned in the Report. Former All-Star catcher Paul LoDuca who is a thoroughbred horse owner is featured prominently in the Report, not only as a client of drug dealer Kurt Radomsky but as a reference for Radomsky in obtaining future steroid clients. Also there’s a reference in the report to Operation Equine, which was the FBI’s nationwide investigation in the early 1990s into the illegal distribution of steroids. It’s mentioned in the Mitchell Report as part of a missed early warning under which an FBI agent told major league baseball representatives in 1995 about Jose Canseco. Operation Equine was simply a code name, it had no connection to racing. So, really there’s no manifest mention of horse racing in the Mitchell Report but, delve slightly beneath the surface and a different picture emerges, it’s not particularly obscure. Change only a few of the circumstances and horse racing is baseball. Just like baseball, steroid use in horse racing is rampant, there’s no question that it is. We wouldn’t be talking about it if steroid use wasn’t rampant. It’s been rampant for years and racing’s response, much like baseball, has been slow and initially ineffective. Let me go over the public record from about 1975 to 1990. At that time there were three major beat writers covering racing for probably our three most important papers. There was Steven Crist, writing for the New York Times, there he is writing about the Kentucky Derby winner in 1983 who was training on steroids, and the belief that, in 1990, 80% of fillies going to breeding farms were on steroids. Here’s Bill Christine writing in the Los Angeles Times that before the 1985 Breeders’ Cup, the lack of race-day Bute or Lasix in New York would be forcing trainers to be using steroids on their horses. Here is Shug McGaughey in 1988 complaining about the overuse of steroids. Then there’s Andy Beyer writing for the Washington Post as far back as 1978, telling us about the regular use of steroids which, at that time, he judges to be relatively benign. Plus there are just a ton of articles from 1990 and before on the regular presence of steroids in racing. Here’s the Toronto Star from 1989 telling us that without steroids,

geldings would be too wimpish to compete. There's California trainer Roger Stein on the positive effects of steroids. There's Rick Arthur on the use of equivocation. My personal favorite is the bottom one here which is from 1988, basically it's the Maryland state veterinarian saying about steroids, "they use quite a bit. We have not seen any ill effects in horses. It's almost used as a vitamin, as a supplement, to their normal regiment of nutrition. It's not thought of as a stimulant or something extraordinary." It was there. It's always been there. I can tell you that when I was a commissioner I may have been asked, on steroids, on less than a handful of occasions. The first time I was asked was probably in the early 1990s and I went to Dr. George Malin at Cornell who's the source of much of my equine knowledge. While I don't remember exactly what George said, I remember getting a lecture that approximated Jack Nicholson scolding Tom Cruise in *A Few Good Men*, which was basically, "You want the truth about steroids? You can't handle the truth." Simply put, racing needs to put in place a rule requiring licensees to come forward on drug use. We sort of have that on jockeys, they're supposed to report bribes. You may remember that the late jockey Mike Venezia received a six-month suspension in the early 80s for failing to report a bribe. Lawyers are supposed to report unethical conduct. Why shouldn't an obligation be put on licensed professionals in racing to report drug use? We will also need a rationale to establish the therapeutic use of steroids. It's not simply enough to say "the FDA allows it." If we can't establish that steroids are the best vehicle to treat certain equine conditions and that alternative methods of treatment don't work as well, we're simply asking for trouble from everyone: from Congress, animal rights activists, and from racing fans. Racing's rules will look as bad as HGH does in the Mitchell Report. You can just see in the Mitchell Report the writers of the Report simply scoffing at the notion that HGH is simply a therapeutic drug that allows athletes to recover faster from injuries or allows them to train harder. If we're going to argue for a limited use of steroids, that argument faces a truly difficult smell test. And this same analysis also applies to clenbuterol, which is mentioned several times in the Mitchell Report as a veterinary medication that some athletes have used in an effort to become leaner. Kurt Radomsky admitted to clenbuterol distribution along with distributing steroids and human growth hormone. Clenbuterol was discovered on a 2001 flight by the Cleveland Indians into Toronto. Ross Grimsly used clenbuterol, as did Adam Riggs. Radomsky was quoted as saying that the players increasingly requested water-based anabolic steroids such as linstrol and other drugs such as clenbuterol that cleared the body faster and were

less likely to be detected. We know that clenbuterol is in general use for horses and given the effects of the drug, and its reputation as the weight-loss and fat-reduction drug of the moment, we're going to have to demonstrate why it's needed any why other alternatives are not as effective. I became a racing commissioner two decades ago, and when I did I told my friends back then that I didn't know what to expect but at least I'd find out what thoroughbred trainer Oscar Barrera was doing to improve his horses. You may remember Oscar, for a number of years on the NYRA circuit he performed miracles on horses he claimed. For about a month or two these horses were absolute world-beaters, then they stopped winning. It's now 20 years later. We still don't know what Oscar was doing to mow off his horses. This is intolerable. We need to make sure that our testing is transparent and credible. We need to keep faith with our fans and we need to be actively pursuing investigations both on and off the track and not sitting back awaiting the results of drug testing. Lord knows, you don't need another speech from a middle-aged guy bitching about racing. I've been going to these conventions now for nearly 2 decades. I hate the "let's bash racing" speeches that I hear. I hate listening to them and I hate to be in the position of almost delivering one today, but the fact is—Ed Martin of the Association of Racing Commissioners last month said, in different context, that sometimes it's good that racing does not command the front page of USA Today's sports section as often as it should. And that certainly applies to the drug situation described in the Mitchell Report. We can rise above it. We have Scot Waterman. We can put our house in order. It's not all doom and gloom. And I certainly don't want to be seen in the position of complaining about my host in racing while I'm here partaking of their hospitality, but right now we in racing are baseball. Thank you for listening to me this morning.

**Stan Bergstein:** Thank you Bennett. Does anybody have comments or questions for Bennett Liebman?

**Ed Martin:** I was curious what you thought Congress would be discussing with Alex Waldrop, his comments seem to think, he had mentioned the quality of testing in racing and other people think it's not going to be quite as optimistic. Do you have a feeling for what they're going to discuss with him?

**Bennett Liebman:** I'd better not say anything because I'll be far too cynical. Congress—it's not anything different than you'd expect from politicians at any level—if they see an opportunity for good headlines and an easy victim, they'll pursue it more. It depends upon—if they see



racing as an area of almost no interest then it'll be a one day story.

**Stan Bergstein:** Anyone else? If not the logical follow-up to Mr. Liebman is the issue of Medication from people who control it or attempt to control it and the question I guess that the panel should answer is: Is there anything we can do? And if there isn't, what's our future? So to answer that, I'm going to ask the panel, Alan Foreman, Dr. Scot Waterman, Ed Martin, Ben Wallace and Dennis Dowd to come up to the podium and we will go from there.

**February 20, 2008**

**9:00 a.m. – 10:00 a.m.**

**Medication & Regulation: Can Research Succeed Without Stronger,  
Meaningful Support from Regulators; Including Prosecuting the Guilty  
while Protecting the Innocent**

- Alan Foreman, Thoroughbred Horsemen's Association
- Ed Martin, Racing Commissioners International
- Ben Wallace, Past Trainer of the Year, Canada
- Dr. Scot Waterman, Racing Medication & Testing Consortium
- Dennis Dowd, The Meadowlands, moderator

**Stan Bergstein:** I've introduced the panel from the floor because I'm going to ask a man who's uniquely qualified to do this to handle the panel. He's not only a lawyer, he's a former racing commissioner, he's previously been a racetrack general manager, he has approached this question from every aspect. I don't think the panel needs introduction but I will introduce them. Ed Martin, of course, is president of Racing Commissioners International. Dr. Scot Waterman is the driving force behind the Racing Medication & Testing Consortium. Ben Wallace is former trainer of the year in Canada and one of the really intellectual horsemen that I have encountered in the business, he also was a teacher of racing at Seneca College for 5 years in Ontario. And Alan Foreman who is one of the foremost racing lawyers in America and familiar with every aspect of the game. So Dennis I'm going to ask you to monitor the panel, and I'm going to ask you to start by discussing your own problem at the Meadowlands which I realize of course is a quasi-state agency and has limitations and restrictions. But the question goes beyond that. A few years ago, two days before the Hambletonian, a prominent trainer at the track announced that he would do anything he could to get an edge. He's not only still racing there, he is one of the leading trainers at the track, and my question is simply: Has there been an investigation? Has there been any undercover work? Has there been any effort made to find out what he is using and if he uses it? I'm not interested in the specifics of the case; I'm interested in the general implications of that kind of statement and whether it's followed up or not.

**Dennis Dowd:** It's a terrible thing when that type of statement is made public and it's actually a slap in the face of the bettors and all the horsemen who race honestly. Somebody will say "I will do what I have to do to beat any other horse regardless of the rules," and that's essentially what occurred. As you said earlier, the Sports Authority is a quasi-public agency and had I had the authority—actually I think Chris McErlean was there running things at the time, but I was still on board—had we had the power and the authority we would have exercised our right of exclusion if we were an independent racetrack but we were not in that position. That's not to say that that statement was uttered without any recrimination because we did step up our security, we did use security cameras, we did toss the trucks on the way in—as you know the Meadowlands is primarily a ship-in meet, most of the horses are not on the grounds—the racing commission was obviously informed. In New Jersey all of the farms that horses are stabled at are subject to racing commission control and I believe they were diligent. We've done what we can to keep the heat on but essentially haven't found anything and that proves out to a problem that Bennett

Liebman just spoke about briefly: at the end it's the economics of this, in New Jersey the racetracks pay all of the expenses of the racing commission. As you add investigators, as you add levels of security, as you add levels of testing, you put a great economic strain on an industry that is suffering and somewhere you have to find that balance and it's not easy, but we certainly all have an obligation to do that. I'm a firm believer, and we're all in this game together. You alluded to some of the things I've done: I've been a trainer, I grew up on a farm, have my trainer's license; I've been a lawyer, representing horsemen; I've been a regulator with the racing commission and I wanted to be a veterinarian. So I have a rapport with all these people and I will see us at odds on any issue but occasionally there's a different perspective because of the chair one is sitting in at the time and, having sat in a number of chairs, I know that. When I sat in Alan's chair I was very concerned about the due process aspects of my clients. There is a cloud that racing, to some degree, has brought upon itself but as an attorney involved with horsemen's issues you want to make sure that your clients are being treated fairly. That's your obligation and I know there's been some talk on steroids and other issues and I'd love to see these guys go at it. So let's turn it over to Alan.

**Alan Foreman:** I'm not so sure I'm the one you want to start out with because I think that I probably have a different perspective than you all either agree with or want to hear. Notwithstanding what Ben said about middle-aged men coming up here and bashing the industry, I think essentially that's what the industry does, particularly with the medication issue. That is, it bashes itself. If I could just pontificate for one minute because I've kind of been on the soapbox for the last year, at the Jockey Club round table last year, after hearing what I felt was a very positive presentation from Rick Arthur about what the industry is doing in health of the animal and research and Scot, having given a very positive presentation about the work of the RMTC, we were then treated to a very negative video and a presentation that suggested that racing is a raging wildfire of drugging that is going to consume the industry if we don't do something about it. We were treated to a video about a laboratory that does no drug testing in the equine industry as if that was the standard and we're doing our drug testing in people's garages, that we're consumed with Barry Bonds and Michael Vick and the Tour de France, and I thought to myself, this is really unfair to the business. If your view is that the cup is always half full and that—regardless of what everybody says about medication—we are just a business consumed with cheaters, then obviously nothing I say is going to make a hill of beans difference

to you, but there are some of us who believe that there is another side to this argument. There were, I believe, in 2007, over 135 thousand drug samples collected from horses in this country, subjected to the most rigorous screening of any sport, including the Tour de France. There were 60 some positives, I believe, for class 1, 2 and 3 drugs, of which none were class 1 or 2 drugs. In the Mid-Atlantic, from 1997 to 2004—those were the last statistics I had—we had 229 thousand drug tests of horses. 1,872, less than 1%, were positive and 95% of those were not steroidal anti-inflammatory drugs, and drugs that are not to be deemed serious in racing. The number of serious cases that we've had in racing, class 1 or 2 drugs, there have been a handful. I take that, quite frankly, as a positive. I know I'm on the horsemen's side, and we're the inmates in the asylum, but we don't promote the honesty of our business, we don't promote the transparency of our business, you're guilty in this business if you have a positive test. I have certain due process things that I do, but you're guilty in our business. The penalties are swift. Some people don't think they're serious enough. In the Mid-Atlantic, very rarely do you see someone come back with a second positive test. I just believe that, if we're to look forward in this business, if we're going to continue to promote the negative, then I don't see a great future. On the other hand, I thought, for example, last summer with Major League Baseball's problems, with football's problems, with the Tour de France's problems, we had a golden opportunity to separate ourselves from other sports by showing what we do, how rigorous we are in what we do, how we root out cheaters—because we do have cheaters, we're never going to be a perfect business—but if we continue to buy into the notion, and it happens with the steroid issue, but if we continue to reinforce the notion that our business is negative, that it is consumed with cheating, that drugging of horses is rampant, then I would suggest to you that our future is not particularly great.

**Dennis Dowd:** I don't disagree with you Alan, I often engage in conversations with people who are totally unaware of the level of testing that we currently do. But we all, as operators and as industry people, know that there are those, and I quite frankly believe that they are a small group, who, no matter what we test for, are going to try to find something else that works. People parading that in front of the public is not good, but you also don't want to hide it, you want to say "we are being vigilant and we will do what we can do." I'd like to hear from Ben who I know, as a trainer and as trainer of the year, has great experience on your side of the table and has been subject to the testing and other issues. I'd love to hear your comments.

**Ben Wallace:** First of all, thank you for inviting me and I appreciate the opportunity. When I

read the format and Stan's topic for today, I'll be honest with you, I did a lot of rethinking. It's only been 2 weeks since I had the opportunity to think about it and I made some notes and you know what? I'm just going to go on passion because I echo Mr. Foreman's sentiments. We've created a scenario where, when a trainer wins a horse race, he did it illegally. We've got the public thinking that way, we've got our owner's group thinking that way, and I'm not being naïve, those statistics are flabbergasting. To think that we don't advertise that, we tend to advertise the negative and that's where I think we're going wrong. The idea of: Can research succeed without proper help from regulators? One has to work with the other, and to be honest, research can be a dangerous tool in the hands of a regulator. I have been a witness to that and it must be properly handled and I think where we're going wrong, in a lot of cases, is where regulators and commissions in some jurisdictions have become overzealous, they became pressurized, they do have some increased budgets, I know we do up home, and they have jumped the gun on occasion and what came out of that was a total negative publicity for our whole industry. We got more press up home for some of the positive tests—and I sincerely believe that everyone went into their situations in an honorable fashion—but it wasn't properly handled, it was done in a hasty-type way and I think we've got to elaborate more on, what Mr. Foreman suggested, the positive aspects of this. As a trainer I'm really coming here wearing two hats, I'm trying to be a competitive trainer in the millennium here and I really cut my teeth in the 70s and 80s where pedigree and conditioning was the biggest influence that I had to use to try and win a horse race, and I think there's an inherent problem now in our trainers' colony, the young trainers now, because medication to race a horse—specifically an overnight—unmedicated is practically unheard of anymore. And therein lies an inherent problem and we are going to consistently have problems like this if we can't somewhat reeducate our young trainer base with the idea that the horse he's racing tonight, what conditioning did we do or didn't do. I was always of the impression, if I got beat I want to know what the other guy is doing that I didn't do. Hopefully legally, but in order to stay ahead of the game you have to think that way, you can't simply say what was right in the 70s is going to work in the millennia, but I really appreciate Mr. Foreman speaking first because a good trainer is not always a trainer that has done something wrong and that's the perception that's out there now. People who are winning races are not always guilty. People who are winning races are doing things, they're covering every single aspect, right down to how much grease is in the axles on that race bike. We tend to

overlook that. If a horse runs off for a new trainer, it's because he has illegally medicated that horse and that's a fallacy. We've got an owner base right now that think because they're getting beat it's because they're getting beat by illegal medication and that is not always the case, as documented right here. I wish that thought process would go away because it's a cheap way out. They should be asking their trainers, "Are you treating your horse in a proper manner, are you upgrading your training regime, are you feeding properly, are you feeding four times a day, are you still throwing a can of grain over the stall, going for coffee, coming back, going four turns, going back to the track kitchen and talking about who won last night?" Because I think we've got to look inwardly as much as we've got to look outwardly to be progressive.

**Dennis Dowd:** Bennett Liebman suggested that maybe trainers, to some degree, be given the responsibility of assisting. If you know of something or suspect something, just like a jockey has to report a bribe, that maybe trainers should report it. I know that it's a bit of a code of the west and that nobody wants to report on that.

**Ben Wallace:** Tremendous in theory, it doesn't work. It's a joke to pretend it will work. The jockey, he mentioned, I'm sure as many times as he was questioned about or he was privy to something that may have been of an illegal nature, it wasn't discussed. It's very easy to sit here in our forum today and suggest that all participants are going to be on a crusade to clean the game up, but that just isn't the way it works.

**Dennis Dowd:** But there have been some. I know in Pennsylvania, I forget who it was, reported the milkshaking in harness racing, so it does happen and I think it's beneficial.

**Ben Wallace:** It's certainly going to happen. There's nobody who is going to sit here and argue that. We've got to be realistic here, we can't sugar-coat this and make it flowery because it's just not going to happen. There's a trainer colony at each racetrack, they bump heads every single night, and there is certainly a code that's out there and to think we can break it for the betterment of the game, I'd love to think that, but it's...

**Dennis Dowd:** But don't you think that the statistics that Alan just cited, that it's 1% that have been caught, isn't it the old adage that if you can see one rat in your shed row, there's a hundred in the wall? Don't you think that when you catch one, that there's more than one and they may be clever and to trumpet a 1% catch rate is not necessarily a good thing either.

**Ben Wallace:** Again, I get beat to death over this because I think our game gets kicked squarely in the groin over this and it is not totally the way the game is always played and we just manifest

this so much about the negative impact of drugs in our game. We're fortunate, we've always confronted this. I feel as though our horse game has always confronted this. We can't stay ahead of it, but we've confronted it. Baseball, just now, is starting to dig out their demons and they knew what was happening. But we've battled consistently, and for some reason it's come back on us. Baseball is being heralded now as cleaning itself up, being proper and everyone's going to play straight up, that's not going to happen. But we, on the other hand, when we go and attempt to be progressive and be proactive it comes back on us. When a gambler loses his bet, he doesn't say "I bet a bad horse," he says "Somebody beat me illegally." And that's just an inherent mentality that has flourished over the last decade in our game to the point where the owners now feel as though when they get beat, they get beat illegally. You know what? Maybe you bought a bad horse.

**Alan Foreman:** You know, Dennis, the comment you made, that was the same argument that was made 8 or 10 years ago. The racing industry thought it was in trouble with drug testing and cheaters, so the NTRA commissioned a super-test. They went back and they grabbed samples from all over the country and subjected those samples to the most rigorous testing there is—which is typically done by our lab so it went even further—and the statistics from that are consistent. If you are of the notion that, well you only caught 1%, that means there's 60% of others out there you didn't catch and that's not good enough, the laws aren't good enough, the numbers aren't going to matter, you're going to keep reinforcing this notion. It's time to start looking at what it is that we do from top to bottom. From a prosecution standpoint, from a penalty standpoint, from a testing standpoint, and I think we stack up favorably against any other sport and if we're bidding ourselves about where our sport is going in the future, this seems to be one area where we can separate ourselves if we want to try and look at it from the other side.

**Dennis Dowd:** But don't you think, Alan, that we have a higher obligation because of the gaming aspect of our sport? I'm not naïve enough to say they're not betting on baseball or anything else. We have a regulated gaming industry and I think, as was just said, it's the punter in the stand who to some degree says exactly what you said, "I'm a genius, so if I lost that bet it's because someone cheated me," and the finger is often pointed at the horsemen for no reason other than his horse won. I agree with that. But don't you think because of our interactive gaming nature and the regulated nature of the sport, our obligation is a little higher? Let me throw that question to somebody who has been deeply involved on the regulatory side.



**Ed Martin:** Well, we do have an obligation, and the obligation is to not only hold participants in the sport so that everybody is competing on an equal playing field, but to the general public. We are, collectively, our own worst enemies in the image we give the general public of the sport and that's where I do agree with Alan. I'm not naïve enough to believe that if we're catching 1% positives that we're catching everything that's going on because we don't test every horse. But I look at the topic here: Medication & Regulation: Can Research Succeed Without Stronger, Meaningful Support from Regulators, Including Prosecuting the Guilty while Protecting the Innocent, I thought this was the "When did you stop beating your wife" question. Being the only regulator on the panel I would have to deny that, but of course everybody would leave the room saying "I didn't know Ed beat his wife." We have a problem and that is a mentality that says that if you do get beat it was because of illegal medication, and sometimes that happens. I was talking to an owner-trainer the other night from Ontario who was talking about how the vet would pull up on the backstretch and you want to buy the Bob, \$200 for this shot, you say "what's in the Bob?" "Well I don't know, but it won't test." Now, is that something? Is it nothing? Is it a scam? Hey, if my competitors in the race are doing it then maybe I need to buy too. It's just a mentality that we can't compete on good, honest horsemanship anymore. When can we rely on the vets in the sport as much as we rely on them now? That has shifted, and it has shifted because of a perception in the minds of the horsemen on how to effectively compete. The big thing that we're troubled with is the difference between perception versus reality. Probably one of the best things that can be done, if we had the focused research efforts, would be to focus our research efforts on how to test all the horses for all the substances we want to look at in plasma, not depend on urine to the degree that we have to depend on it because it is costly in terms of manpower and if you could put vet techs at the end of every race, draw a sample off every horse, even if you don't run the tests on every sample, you create a sense of deterrent. It's like when you drive down the highway and you turn a bend and you see the state trooper with the radar gun and you know he's there, what are you going to do? You're not going to go 10 miles over the speed limit. You're going to wonder, "If they're drawing samples from my horse are they going to check it if I'm doing something?" So we need to focus our research on: How can we test all the horses? We can't expend the money right now to do that, under the current system, and we are expending probably more on drug testing than any other major professional sport. Collectively, your state regulators are spending between \$30 and \$40 million on this. The

whole purpose of it is to catch the cheaters. Now, who are we trying to catch? Are we trying to catch the horseman who screwed up or who has got a large stable and his assistant trainer screwed up? Ok, most of our positives are for screw-ups on “therapeutic” medications. If somebody’s trying to cheat, they’re not going to do it for the purse, they’re going to try to fix a race, they’re going to try to structure the wager so they can cash it in at the window. That’s why I think this panel ought to be married to the previous panel on security in the wagering system, because it is interrelated.

**Dennis Dowd:** As you know, when there’s a positive we do go back and check betting patterns and check where a wager is placed. The ironic thing is that—as you know and probably everyone at this panel knows—oftentimes you can’t find it, it’s done that well. And that’s in a situation where it wasn’t just a bute overage or something like that. I’ve worked in a shed row and if a guy doesn’t wash the tub out right or something else, the testing is that sophisticated that it comes up positive. But let’s talk to somebody who has been exclusively working on this for a while. Doctor, maybe you can tell us what kind of testing can we do, what we should do and where are we going with this?

**Dr. Scot Waterman:** I don’t think we know the answer to that yet. I’ll pick up on what Ed said, I think the ideal scenario would be to test every horse in every race, pre-race for as wide a variety of drugs as we possibly can. The problem with that is that we have a system in this country right now where we’ve got states that are paying \$20 a sample to do their testing; are you going to tell me we’re going to build a testing system that allows every horse in every race to be tested in plasma for a wide-variety of drugs for \$20 a sample? I don’t think so. I don’t think there’s enough research in the world to get to a point where we can accommodate all the various spectrums of states and state racing commission budgets. I’ll go back to a point Bennett made about how the government is imploring us to be clean and to detect all these drugs, yet the government doesn’t give us enough money to do that job. I think that is a primary fault in the system right now, and that has to be addressed. Alan mentioned my round table remarks last year and Ed used a statistic that I used in that speech. We do spend \$30 million annually on drug testing in this country which blows any major league sport, any other racing country, out of the water in terms of how much money is spent on testing. But number 1, that figure hasn’t budged in about 20 years. We were spending \$30 million in 1991, according to the McKenzie Report. So why has that not grown considering that technology has advanced, that equipment is more

expensive? Yes, we can test down to lower concentrations of drugs, we can find things that we couldn't have found 15-20 years ago, but that requires money. That's heavy duty, six-figure equipment that you have to have in order to do that. So why have the testing dollars not grown and kept pace even with inflation? That's a problem. That \$30 million is not spent at one laboratory. It's not spent at 2 laboratories. It's not even spent at 3. Currently, it's spent at 18. So you've just taken that \$30 million and divvied it up quite a number of ways. So while we spend more money than any other major sport, it's split up in a way that's not efficient.

**Dennis Dowd:** You're picking up on some of the remarks that Bennett made earlier and some of my own thoughts, that one of our problems is divergent in the testing, the quality of the testing, the labs that are being used, what's a positive in one jurisdiction may not be a positive in another even though the rule in fact reads the same, because they're using a different lab. Wouldn't we be most served, and is this something that the Racing Medication & Testing Consortium is working on, getting to some sort of uniformity and thereby hopefully using fewer labs and pushing the cost down? Then if we continue to spend that same amount of money we can increase the quality of our testing and the number of samples by using fewer labs and having more uniformity. It's got to be awful tough to be a horseman racing in Pennsylvania and wondering, "If I ship to New Jersey and I put the horse in and he's tested, is he going to be the same?" I'm talking about the guy who's using some veterinary administered medication that is absolutely in the best interest of the horse and with no intention of having anything in the horse on the day of the race, but because of the difference in the labs that are being used and the difference in the application or the problem. Couldn't we address both of those problems by using uniform labs; drive down the cost?

**Dr. Scot Waterman:** Absolutely, but let me throw a question back at you. How willing is New Jersey going to be to potentially send those dollars to a lab outside of the state instead of using the New Jersey State Police Laboratory?

**Dennis Dowd:** Not willing at all.

**Dr. Scot Waterman:** Right. Politically it's a very critical issue. Beyond that there are states, New York is a good example, where the laboratory is statutory. The testing dollars have to be spent according to state statute at a land-grant university in the state. I think everybody recognizes that we should be at 2 or 3 laboratories, it's getting there.

**Dennis Dowd:** If it's legislative we can change it. Jeff Gural's proving it. You can move the

New York legislature in directions people never thought possible. So maybe we ought to enlist Jeff to try and get that changed and we can move forward with a more uniform drug policy.

**Ben Wallace:** So what about trying to accommodate some other country?

**Dennis Dowd:** Well I have a good friend who raced up in Canada, a trainer, and he had bute in his trailer, with the prescription from the veterinarian, kept in the trailer to administer to the horse after the race. Post-race, the horse stung, came back sore. That's against the rules in Canada, not in New Jersey. He shipped him from New Jersey and thought he was fully compliant with the rules, thought what he was doing was in the best interest of the animal, and shipped up and got suspended because of that. Then New Jersey, utilizing reciprocity, said, "well if he's suspended up there, he's suspended here," even though what he did up there wouldn't be a violation here. That does show some of the idiocy in our sport. We are now more international and inter-state in our movement of horses and I think the uniformity issue really is important.

**Ben Wallace:** That becomes a doping allegation. That's all they read.

**Alan Foreman:** I will say this about the Mid-Atlantic where I am based, we probably have the best laboratories in the country in the Mid-Atlantic. The labs in New York, Pennsylvania, New Jersey, Delaware and Maryland are among the top labs in the country. They're all testing, almost identically the same, and there is tremendous uniformity in that region. And the horsemen are an advantage there; we've worked very hard to get that far. Conversely, the steroid issue is what highlights the problem from a testing perspective. Just in that region, where you have the best labs, is where you have a region that was the first to start dealing with the steroid problem and identify some of the issues that are causing some of the pushback in the implementation of a national program. They'll figure it out, they'll get it right and they'll move. There's a lot more going on than I think people realize and I've certainly noticed that it's benefited the horsemen, I think Ed, you would agree with that.

**Ed Martin:** I think, first of all, the concept of getting the various state legislatures to eliminate the "we'd like to keep our state money in our state," way of thinking, we could spend a lot of years trying to get to that. I had an interesting conversation with somebody about a week ago who floated the idea, maybe some of these states would be interested in forming a regional inter-state compact in the United States to sort of pool their drug testing resources. The great challenge that any racing commission has, whether it's in Canada or the United States, obviously

is the budget. In terms of the political pecking order it's, I think Ben Leibman said, the last state agency, governmentally, to receive any funding consideration and that explains why the drug testing budgets have not been increased with inflation over the years. What that does is it forces your drug testing to become more random and frankly a little bit more limited than anybody would like it to be. There's a couple of ways to attack that: possibly a multi-jurisdictional approach, then a regional approach, some type of private partnership with the industry, to pool resources. We all have limited resources, especially in an industry that is economically challenged, and we all have a commitment to integrity because the survival of the sport depends on it. How do we pool those resources and try to get to the end? So that's something we've got to start thinking, big picture, pull the camera back, and start looking at stuff like that. I would just throw something else on the table. Ben, you might have a handle on this. The increased use of medication, reliance on vets in the shed row, obviously most of these medications are for pain management. Why are our horses in so much pain? Are there things that can be done, other than medication, to reduce the pain on these horses?

**Ben Wallace:** I believe it's the way the game has gone. Early speed equates early money. Breeding farms want their mares with records early. We don't train horses for \$10 a day anymore; it's an expensive, high economic game. And I think that the millennium trainer of today is put into a position where there needs to be a result sooner rather than later, and that is just a problem that has snowballed to the point where I think it's created horse shortages and obviously it's created racing horses that are competing with more pain, so more pain equates more, hopefully therapeutic, use of medications. Again, you hope to fill that card on the weekend and get those horses racing with that situation. I think basically it becomes an economic scenario right from the breeding farms to the racehorse shed row.

**Dennis Dowd:** It's start them too early and make them go too fast.

**Ben Wallace:** There's a mentality and, like I said, I came out of the 70s and that mentality was, boy, those trainers and drivers were available then. Those guys trained and drove those horses. They knew what kind of a week those horses had. They knew what kind of trip that horse would best benefit off. They knew that horse was going to be around next year. That mentality is gone. The advent of the catch-driver, the advent of \$75 a day training bills, let's giddy up and go. It's unfortunate, and this is the passion that I have because the young horse trainer, the pedigree, the maternal lines, the conditioning, that can all be done with a needle. Unfortunately, that's a

scenario that is so rampant, and whether we can stop it or not, I don't know. As I suggested, research can be a dangerous tool. Research can develop scenarios where it will enhance a horse's ability synthetically and why not go ahead and do that because they haven't created a test for it yet. It's a cat and mouse game and it is here and I'm not being a nay sayer but as Mr. Foreman suggested, I wish the public was aware of how much effort we are putting into it. As this topic suggests, research is useless without proper regulation and regulation is useless without proper research.

**Dennis Dowd:** Doctor, you helped develop the uniform steroid rule which is becoming quite controversial, it was introduced in the racing commission in New Jersey, it will be advertised. The horsemen's groups have asked for some time to make comments which certainly they're entitled to, and I, as an operator, am going to be interested to hear their positions. What's your position on the uniform testing? There has been a lot of nastiness in the press, I don't think it's personal in any way, but I'd like to hear your opinion on that.

**Dr. Scot Waterman:** Well I think that the rule that we put out, and RCI passed, is a good rule. It has worked for 20-30 years in other countries and it has done the job in terms of regulating the judicious use of anabolic steroids. As a fact of the matter, it will probably eliminate the regular, regimented use of anabolic steroids in racing horses and we think that's a positive thing. Are there areas in which we can improve the rule and add to it? Absolutely. This was meant as a starting point and it's meant to give those racing commissions that were desirous of a rule to begin implementing this year the opportunity to do it.

**Dennis Dowd:** As an operator, I'm quite frankly a little nervous that if Pennsylvania moves faster than Delaware, who moves faster than New York, who moves slower than New Jersey, you will end up with a year or some period of time where there are different rules in effect in different states that are regional. As Alan said, the Mid-Atlantic region has been an area—Maryland's obviously taken the position different than the other states—where there is ebb and flow where the horses are moving back and forth across borders, and that's kind of good for the industry in terms of, if you card a race or have a race in one state, your race office can draw horses from another state and that's going to be thrown into a serious problem. In New Jersey, it looks like our rule will be in effect in June, Delaware and Pennsylvania say theirs will be in effect in April—I'm opening Monmouth Park in May, where am I going to get the horses from?

**Stan Bergstein:** We're out of time Dennis. I think probably the folks in the audience must have

some comments and questions. I'd like to start with one, if I may, a hypothetical question. I believe, Scot, that you have said in the past, been quoted at least, maybe misquoted, as saying that steroids are bad for a racehorse, they have no useful purpose in a racehorse, or something to that effect. If that premise is not correct, let me know because I won't go any further on that issue.

**Dr. Scot Waterman:** I think the long-term, regimented use of anabolic steroids is absolutely—

**Stan Bergstein:** Given that, and turning to Mr. Martin whose organization really is going to have to ultimately solve the problem, what if all the racing commissions in RCI made the statement that, on the basis of advice from veterinary leaders, knowing that use of anabolic steroids is bad for horses, what if you said steroids are illegal? Somewhere along the line between Abner Doubleday and Judge Landis they decided that 3 strikes in baseball were out, and what's happened in racing essentially is that Major League Baseball players could say we want 4 strikes instead of 3. I don't believe that the participants in the game can write the rules or regulate, and if the commissions don't exercise their right to do that, we're left in a void leading nowhere.

**Ed Martin:** I don't disagree with you Stan, in fact that's why we adopted the model rule. That's why you have a significant number of racing commissions in the process of promulgating that rule. That's why you also have other commissions who will interpret their existing rules as being applicable to the anabolic steroids. So you've got commissions across the country who are moving to testing in this area. Some of them have already been doing monitoring testing and the use is everywhere. This is a hard term. There is a bit of a push back on the research and when we make a rule, we do it on the best research currently available and if new research comes out then we obviously revisit and modify the rule. There was a tremendous amount of credibility given to the process in the RMTC that came up with the proposed rule. We modified it slightly to give us some more time to get research on plasma, and that is in the works now. Those results should be coming from the RMTC within a matter of months. I think the hard part here is the term for the horsemen. We've told every racing commission that you need to, as you bring these rules in, give ample notice so that people who are used to using these steroids can wean their horses off of them. I totally understand Dennis's problem, it would be great if you could have a rule take effect in a uniform way all across the country. We don't have a federal agency that does that, nor do we advocate that. This medication rule is coming onto the books like every

other medication rule has in this sport, and while it may present a short-term problem, in the long-term it will be good for everybody.

**Stan Bergstein:** Just one quick comment Ed, and then I'll turn it over to the audience. Somewhere along the line, time must be of the essence. My irritation and my impatience that led to some imprudent remarks and possibly belittling Mr. Foreman, was my belief that—Ben's case with aminorex illustrated the problem: It took them five years to come up with a decision in a major drugging case in New York, and who knows how much it cost the defense. I believe the \$25 thousand or whatever the number in Ben's case may be, cost him not only that, but it kept him in public perception. His reputation, which in Canada has been extremely high, was questioned and somewhere along the line someone has to say "this is where it ends" and go from there. I'd like to hear from anybody here who wants to discuss this issue while we have the time. No one? Silence? I don't know what it indicates, here's someone right here who can do it.

**Art Gray:** One thing that we can do, that really sticks in my gut that the commissions can deal with is that there are trainers now—Ben, you can name five trainers right now that you've competed against at racetracks that you know should not be in the business—if an individual has, even if it's therapeutic errors, and they're constantly pushing the envelope, why shouldn't it be served with a sharp warning or why shouldn't his license be revoked? There's a trainer up north that had positives two days ago, all of his horses were scratched at the track two nights ago. This individual probably has 8 positives in the last 5 years. There's no way that he should have the license, and this is something that the commissions can do. They can do it right now without \$30 million worth of testing or anything else.

**Ben Wallace:** Why are you asking me to do the commission's job?

**Art:** I didn't ask you to do anything Ben.

**Ben Wallace:** You just said you think I can name five trainers that I know for a fact are using illegal substances or push the envelope too far. I'm not going to say I can't.

**Art:** I'm not saying that, I'm saying, just in general, we both know guys that a lot of trainers don't want to compete against. Right now, for these five individuals, we come up with the same names, the commission should be serving them with a show cause, sort of why they should lose their right to participate in the sport. And that's something we can start doing tomorrow.

**Ben Wallace:** Absolutely, but as commissioners, as regulators, when you challenge that individual that it's not a botched investigation, that it's not a derelict scenario, that you're going



to lose at a judicial level. That's where a lot of the problems have been created because the defense money now that's available, and rightly so, is out there to defend people who maybe have walked the line, maybe they have pushed the envelope, but it can be proven in court that, you know what? You people, the commissioners or the regulators didn't handle the investigation properly. I'm saying this is a growing problem. It's growing pains that this industry is going through because there's so much defense money out there now.

**Art Gray:** I agree with what you're saying for one or two cases, but someone who has two TCO2 positives, EPO and have Taminol, Clozapramine, someone who has 6 or 7 positives in 5 years, somebody in some commission somewhere, wherever, should be saying "well, maybe we should look at this individual and maybe he should not have the right to participate in this sport." I'm not talking one botched test, I'm referring to someone that is continually coming up positive.

**Ed Martin:** I don't want to talk about any individual case, but no racing commission brings a case unless they believe it's going to be held up on appeal in court. Sometimes that doesn't happen, and sometimes that doesn't happen for valid reasons. That's the process. That's due process. But it is incumbent on everybody to support the level of talent in your individual investigatory agencies and your individual commissions so that you absolutely have the best, so you don't have situations where a case is brought against somebody that is not valid, or is deemed not valid after the fact. That's the challenge we collectively have. But I'll tell you this, it is in the interest of this sport to have talented and in-depth staff at the different racing commissions so that they can do the job that they're supposed to do.

**Alan Foreman:** You know, you're going to get examples here and there, it may take a case 5 years to wind through the courts, but I don't believe those cases affect the system overall. When you think about our scheme, not only does a regulator have the right in a case involving the integrity of the sport to suspend someone summarily—the Supreme Court has upheld that subject to a due process hearing—but tracks, with the exception of perhaps Dennis, have the right of exclusion, as a common law right. How often have you seen, over the years, the tracks exclude someone for an integrity violation? I've worked on probably the most publicized and serious integrity violation in the past year, the Patrick Biancone case. He was tried, convicted, it was almost—I have to be careful about the words I use because some got in trouble with the words—but it was not justice. He was tried and convicted in the press within 48 hours. The steward's hearing wasn't held until 2 to 3 months after the so-called search of his barn. But there was no

summary suspension, if the case was such an astonishing assault on racing, there was no exclusion of any kind by any racetrack, and he was racing at a number of racetracks in the country. And what we did was spend 3 to 4 months trying to get the facts of the case, rather than all of the hyperbole in the press, and then we tried to get some justice out of it, which was almost impossible to do. There are two sides to this situation. The regulators certainly have the ability; the tracks have the ability, and just look and see how many times that right is exercised by either one.

**Stan Bergstein:** I've been a big bolster and a big believer and a big admirer of the Ontario Racing Commission because it's taken very hard stands. But I get their suspension list last week and there was one trainer that had 104 violations on his rap sheet, so somewhere there has to be closure on where you go and how far you allow it. The second question is Dennis, at the Meadowlands you had a trainer who had to sign a release to get stalls, but there were stated restrictions that if he had a positive test he was out, and he had a positive test and he is out, but he went to another jurisdiction and there was no reciprocal licensing because he wasn't suspended in New Jersey, but he went to Illinois and got a license in Illinois without any difficulty apparently, and raced there. What is wrong with the policy of, just as you did in that case, of requiring a trainer to sign a release if there's any malfeasance, he's out?

**Dennis Dowd:** We were on the line with that activity, and when I say we, I mean the Sports Authority, but it was an appropriate thing to do with that individual and occasionally other individuals, that isn't the only person who was forced to sign. Did we call that the McErlean letter or the Garland letter? I forget which one developed it, but that is, in some cases, clearly an appropriate thing to do. At the start of the meet if a trainer who we've had problems with in the past, but the racing commission has felt they should license him, if you're going to try to come here you're going to have a fight on your hands. If you want to not have the fight, sign an agreement, a binding contract that says if you have one of these problems, you're going to pack your tack and leave, and we've done that. Whether or not the track in Illinois lets that person on quite frankly, it is their decision. I agree with what Alan just said, that it's a decision that is not exercised that often. I was kind of surprised that particular individual showed up there, but Illinois did in fact license him and that racetrack had its own business judgment and based upon the business of that racetrack made a determination that that individual and his horses were going to add to the show. I don't know why they made that decision and quite frankly I don't think it

was my position to ask. Phil Langley is standing up so...

**Phil Langley:** First of all, I'll protect our position a little bit, we didn't just let him in. He had been licensed in Illinois for years, as he was at the Meadowlands. He was caught with some medication violations in Illinois, the medication violations were brought before the racing board and they suspended him. When the racing board suspended him, his lawyer went to court, due process, and he got a stay and his stay specifically said that he could not be excluded by the track during the period his hearings and everything else took place. So just to clear that up, we didn't just let him in because we wanted to or anything else, it was because we were under court order. One time, 20 years ago, I went in and a judge threatened me with contempt of court because I wouldn't tell who had informed me of some stuff and I don't particularly want to go spend my time in jail.

**Stan Bergstein:** Is he still racing there?

**Phil Langley:** Yeah, he's still racing there, but the racing board is not taking action. Well the stay might be up now because he's racing in New Jersey, he's racing in Illinois, he's racing a couple places. But his attorney is the master of stays; in our case they had him up to 3 or 4 years. Courts aren't really excited about racing cases. I hate to say that, but we talk about being on the low side of the totem pole on a lot of things and courts just don't get excited and the judges don't want to deprive a guy of anything, and I do agree with one thing that I think Art said. I said he should not be licensed in Illinois, I begged the racing board not to license him, but they said "His suspension is up, he served his time, what are we going to do?" And it's a bad attitude, but that's what they do.

**Stan Bergstein:** Thank you for the clarification, anyone else?

**Jeff Gural:** We're at Tioga & Vernon and we do a lot of exclusions but I think, we don't run into that issue because it's not that important for a lot of people to race at Tioga & Vernon. I will tell you, just as an aside, that I've had a handful of trainers we excluded who called me asking why they were excluded and I'll tell them and they'll say "I don't do that anymore." So I'm just telling you, I have a problem as a racetrack owner. Marion Jones won umpteen Olympic gold medals, was tested to death, and she never tested positive for anything. I just don't see how the fact that only 1% of horses come back positive has absolutely any relevance to anything. If they couldn't catch Marion Jones, with an unlimited budget to catch her, it's a problem. One thing that I don't understand, and I understand Ben's position, but the reality is that, if I was a horse

trainer today, it's your livelihood. I mean, I make money in real estate, I don't care about this, it's a fun thing for me. But the handle in Ontario is like this, and it certainly hasn't been helped by bad publicity and you're absolutely right, any trainer who's successful, the perception is they're dishonest. I don't know why anyone would want to be a harness horse trainer because it's the only industry I can think of where if you're successful it's a black mark on your name. Why don't the trainers at least anonymously help the racetrack owners and tell us who's cheating because we're trying to catch them, but we don't get any help, whatsoever, from the horse racing community. It's really aggravating, and these young guys have no future because this game's not going to be around very long unless we can solve this problem.

**Ben Wallace:** I'd like to touch on that. I'll be honest. I don't know that the guy next door to me is doing something illegal. I'm not privy to that. I'm not in some circle of ne're-do-wells that we communicate like trading baseball cards, "what are you using here and what are you using there?" I'm not privy to that. I don't have substantial evidence that I can phone and say "you know, Joe Blow down there, I just saw him sticking a tube in a horse's throat." I don't know that. To me, I see blatant outlandish records of people still racing, and I'm supposed to pick the phone up and say "how can I race against this son of a gun? He's got 3 TCOs, he's got an epogen, he's got this." I don't have privy that I can phone and tell a racetrack operator that this guy's a bandit and he shouldn't be raced. Anonymous or not.

**Lonny Powell:** I've been a track operator probably longer than in the regulatory end of things. Ben, just to your one point, and I understand where you're coming from, but I'll tell you as a track operator and from somebody on the regulatory side—I know most of these guys up there on the stage are running this same thing as well as people here in this room—there's been many a time when I'll be in the room and we'll be trying to get to the bottom of something, maybe medication, maybe something else, and the licensee will sit there and go "well there's guys doing this all over the place, it's just rampant, I know a whole bunch of them." We say "Ok, tell me who they are, or tell somebody who they are so we can get them." "No, that's not my job, that's you guys, you guys catch them." Well I think we've proven in racing by now that leaving it up to one individual group within the industry isn't going to work. Everybody's going to have to step up and do it together and take the heat. Track exclusions, in my opinion, are not the best way to handle something like medication. At racetracks, the reason I excluded people it was because of things like property damage, being abusive to people in the grandstand, not paying

bills, but when it comes to integrity things like if they're abusing medication or they're fixing races, that's something that we really count on some help from the state. Oftentimes the state would like to say yes to it because we don't have to provide due process, but to me that's not the primary purpose of track exclusions. One other thing I'd like to say, and I love this industry, I've been in it all my life, and we have some warts. I think one of our biggest warts is, for years, for as long as I can remember, we haven't wanted the garbage in our back yard but we don't have a problem dumping it in the neighbor's back yard. It's almost one of racing's dirty little secrets: if you can't get after them and prosecute, if you're not going to sit and throw a rule at them, and stand up and show your cajones, or if you're not going to get together and say "this is not right," instead we say "hey, pack your tack and go into the next state." We're just dumping the garbage into the next state, we're prolonging the problem, more fans get deceived, and we're not solving the problem we're just making our own lives a little bit easier. I think those days are over, I think this medication issue is driving it as much as anything, but I just think that we've got to pull our heads out of the sand a little bit and we've got to step up and be accountable because all of us have a responsibility to protect the integrity of this sport and we all have to help each other out.

**February 20, 2008**

**10:00 a.m. – 11:00 a.m.**

**Racing & New Technologies: Having Missed the Television Boat a Half  
Century Ago, Will We be Left to Sink Again Without Adapting to New**

**Forms of Communication**

- Seth Merrow, Equidaily
- Eric Wing, National Thoroughbred Racing Association
- Dave Johnson, Sirius Satellite Radio

**Chris Scherf:** You come to these conferences and you hear a lot of problems in an industry. I can tell you, coming originally from the newspaper industry, if this was a newspaper conference, they'd make us look like we were cheering because they outline all the problems, and in the past we've often had panels about how do we get more newspaper coverage? This panel is about how do we get coverage if there are no newspapers. It sounds as if that might be fairly far-fetched and overstated, but you can't help but ask the question when last year you have the publisher of the *New York Times* saying he thinks they'll still be publishing the print edition in ten years. When you have Tom Brokaw saying he doubts the *Washington Post* will be printing a print edition in five years. The world is changing and it's going to create a lot of problems. We all have public relations departments; we're all looking to get more media. I guess the question is, are we pointed in the wrong direction and are we going to be trying to ride the right horse? We may be getting on the wrong horse to maintain our fixation on the print media, and there are lots of alternatives here. Our panelists have explored some of that, they've participated in some of that, and they're going to share what they think the opportunity is. This is not a problem, this panel, this is opportunity. To briefly introduce my panel: Immediately to my left is Seth Merrow who edits a Web page called Equidaily.com, I would highly recommend it if you're trying to keep track of what's going on in harness and thoroughbred racing and you go through the internet trying to find things, Seth does all that work for you every day, it's a great site. To Seth's left is Eric Wing who is in charge of public relations efforts of the National Thoroughbred Racing Association and in particular he's going to be able to talk a little bit about how they are redirecting their efforts and trying to take advantage of internet possibilities. If we still need to introduce Dave Johnson at this point, you guys have been asleep, but Dave has a lot of experience obviously in all medias but one of them now is satellite radio, so he'll talk about what the opportunity is there. I guess I'll just start it by throwing out the question: Do you think we should be redirecting a lot of our industry's public relation efforts to alternative media?

**Eric Wing:** I think absolutely Chris, and that's not to exclude some of the traditional media that has been the vast majority of our focus in the last 20 or 30 years. Ideally we want to be pigs, we want all of it, but part of having all of it is having irons in the fire on the new media opportunities presented by the internet and in particular all the social networking opportunities that are out there. I'm sure a lot of you have heard of Facebook or MySpace, you're probably aware of it even if you don't have a page, you're vaguely familiar with the fact that young people seem

really into it and they seem a little sketchy or shady and to some degree that applies to me also. It's where a vast majority of what's known as the millennial generation, this next generation of people 12-29 year-olds, it's where they live and I think anybody, but in our case racing, would be remiss if it didn't seize upon some of the opportunities to engage the fans who are out there through these less traditional media. What we've found about racing fans that sets them apart a little bit from fans of other sports is, perhaps because of the participatory nature of racing, they do not just follow us but they care desperately about us and they want the sport to thrive. Seth here is perhaps just one example, and Seth, I donate one of my precious dozen or so bookmarks to your site, I don't hand them out lightly. They're happy and eager to promote the sport to friends and other people and yet racing doesn't even really help them or engage them in doing this. If racing does put that hand out halfway and helps them do so as the NTRA plans to do in this coming year with the Web 2.0 strategy that we're getting ready to launch, things are going to be that much better. I don't want to hog the microphone so we can talk about that later.

**Chris Scherf:** Dave, as someone who has to stay up to date on everything that's happening in the industry, where do you go for your information these days?

**Dave Johnson:** I'm probably the worst person to be on the technology panel because I actually have a rotary phone in my living room and my laptop upstairs is being held together with a piece of gaffer's tape. Those are actually two truths there. But the question here is: Will we be left to sink again without adapting new forms of communication? Before I worked for Sirius Radio or any of the television gigs or the tracks I've worked for, I was a fan, I'm a gambler, I love the game, my family took me there. But I don't think it's technology that we have to embrace, I think it's the passion that we have to embrace or use the technology to bring the passion out there. People have lost interest in our game, they have. There are less eyeballs looking at the computer screens and the odds boards and everybody says "well, look at the handle today versus 10 years ago or 2 years ago versus 5 years ago." But I think it's less eyeballs, more cash, and it's all about content and delivery once you have the passion. So I think the problem is the interest in the content is dying off and we ought to use the technology, the basic technology, television, now the computer, to stimulate the passion because it doesn't matter—if people don't have the passion and you don't have the interest, if the fan interest is fading you've got to get it back. I think the goal should be to use the technology, not to make the bet simpler or to bet more money, but to bring the passion back into the game.



**Chris Scherf:** Well, talking about eyeballs and content, can you tell us a little bit about Equidaily? You might want to explain a little bit about what it is, how you got in there. How many eyeballs do you capture and what content and what passion is there that you're finding?

**Seth Merrow:** For those of you that haven't visited Equidaily, as Chris said, it's a Web site that essentially we go out every morning spend 3 or 4 hours finding all the horse racing from across the country and around the world and then link it all on Equidaily. We spend 3 or 4 hours so that you can come on our site and spend a couple of minutes, find all the horse racing news from around the world. As somebody who goes out every morning and spends hours like that visiting racetrack Web sites and Web sites for ancillary racing businesses, I think a lot of racetrack Web sites, you can still see them in the box of the old media kind of thinking and I'll give you some examples. When I go out in the morning, very often looking for news stories about racing, I'll find a story of let's say XYZ racetrack and it'll say "XYZ racetrack put out a press release" and then the reporter will maybe pull a sentence or two out or will interpret the press release, which is great, the traditional media can add context to a story like that, but I also want, for my Equidaily people, that traditional news story, but I'd also have the press release which presents the story just the way the track wanted it presented. So I'll then visit the racetrack website, but the press release won't be there, and it happens very often. I think they're still in the box of we print up the press release, send it out to the media, keep our fingers crossed that they use it in their newspaper, radio station, television station. I think a lot of people don't realize that the whole dynamic has changed and their racetrack website or your business website, you now own the printing press, you own the radio station, with broadband you now own the television station. You can now reach out directly to the entire audience that you had to go through the middle man before to get to. I think now you've got to start thinking about, when you have those press releases put it right on your website, you go out, reach the audience. Churchill had that great jockey panel, the fall meet, it came down to not only the last race, it came down to the last 10 yards of the last race, with Julian Leparoux and Calvin Borel where Leparoux got up and just beat Borel to take the fall meet jockey championship. As a guy going out searching for news, I was dying to get the footage of that stretch line because, as a fan, that's what I wanted to see. And as a person that puts together Equidaily for fans, that's what I wanted to offer, but it was nowhere to be found. Again, I think Churchill, and I'm not pointing a finger specifically at Churchill because they've got some things right and they put some things on their site that other

tracks also miss on theirs, so I'm not pointing fingers at anybody specifically, this just sort of jumped out at me. But Churchill I think should now start thinking, "we don't have to go through the local television station and show this, we can shoot the video, put it on our Web site and broadcast to just as big an audience." So it's just the time to get out of that box that we've been in for the past 50 years or so of going through the traditional media to get the stories out.

**Chris Scherf:** Well, do you think that they're trying to recreate newspapers with their website not utilizing the full capability? I mean you talk about press releases, is there any reason it should just be written, why not have a representative of the racetrack sitting down and going into greater detail explaining visually, as television, what they're doing and that they're doing it?

**Seth Merrow:** Absolutely, and I think that's been part of the process of getting out of that box. I think the tracks are going to now have people who are kind of thinking in that way are in charge of that: what's the story and how do we present it?

**Eric Wing:** I think part of what Seth is touching on, with respect to the Churchill Downs rider's title, and his sense of what fans would be interested in was born out in the Risen Star Stakes with Pyro who, within 48 hours had something like 5,500 YouTube hits on what we in the business might consider inside baseball, gee look at this horse goes into a slow pace, that never happens, yet somehow in 48 or 36 hours 5,700 other people managed to care enough to go seek out the same thing. Then Dave, something you said about the passion reminded me of something Mike Maloney said earlier this morning that I'm sure you'd agree with, that content-wise we've got the greatest game.

**Dave Johnson:** Well it's the best. Seth the thing that you talked about, the jockey, that's something that everybody can get involved in, you don't have to really be a sheikh or really know the breeding lines, it's one guy against another, it's a Kentucky hard boot against a very talented kid from France who can ride circles around other guys. That's the kind of thing that I think really stirs the passion, and with respect to the Internet it has the added bonus of being very visual to this, it lends itself to that medium.

**Seth Merrow:** Even on your radio show, that call to John Dooley about Pyro, oh my God he's last and now he...it made me a Pyro-maniac, the stretch call on Sirius radio show not two weeks in a row. So these are the things that light the fire under people and it gets them to go to the track or to go to the websites.

**Eric Wing:** Don't get me wrong, I'm no marketing guy, as Bill Knauf knows anything that

comes up in TPA work that remotely involves marketing, I just sort of go right away, however, in a lot of the studies about this next generation that Dave correctly said we've got to do a good job of igniting their passion, there is a bright spot. I think that if you take it one step outward it'll make sense. The people who study these things say that this next generation is a) more likely to wager online than previous generations, not just on racing but on anything: sports, poker, they do now; and b) this is part and parcel of that, what they're looking to wager on ideally are games or sports or whatever that require thinking. They're not just looking to spin a roulette wheel, they want to outfox the other guy in the game of poker, they want to beat their peers in something such as horseracing. So the opportunity is there and a lot of it is going to be getting at these people where they live.

**Chris Scherf:** Well it's interesting, yesterday at Tampa Bay Downs I went up to the poker room, and what was really evident was how young the crowd was and Lorraine King took me around and said "we get so many young people here for poker," and I go, "well they learned that online."

**Eric Wing:** Another perfect example, I meant to say and didn't quite, classic example of this age group embracing something online, fantasy sports which are through the roof. And they're basically gambling on decisions involving being the general manager, but it's handicapping if you will, it's just a different game.

**Chris Scherf:** Well in terms of racetrack efforts and public relations and all that, for instance, how much do you get approached for the Sirius radio show?

**Dave Johnson:** Sirius radio is still a secret. We get people who are listening to us, they call us and they e-mail us, but it's just like when cable television started, people said "I'm not going to buy cable television," and we realize that we are in the early stages of a growth industry and XM and Sirius will merge and it's because the federal government and the communications people are dragging their feet, they want to make sure, Mel Karmazin is the leader and he's going to be the best and Sirius and XM will survive and there will be a merger and we will be a major part of—but we're not yet. And people that have us, love us, and they would never think of canceling their subscription. Some people came to us because of Howard Stern and they also like to listen to things about racing. We only have, really 3 hours live. We do 2 hours Saturday morning as a preview so people can go out to thoroughbred in the afternoon and harness at night knowing what's going on and then we do live shows for big events. The radio show, compared

to television doesn't start for another month. We started out on February 2, so there's an opportunity for little amount of money. We did the Little Brown Jug live last year. Tom Thomson and Jim Ewart made it possible, and we did a 2 hour show, live on Sirius with the Little Brown Jug.

**Chris Scherf:** Do you think that the racing industry is trying to proactively utilize that outlet?

**Dave Johnson:** They're looking at us just like any other—how much do you cost? Whether it's worth it. We're really lucky to have some support from the NTRA. Breeders' Cup hasn't come around yet. We broadcast the Breeders' Cup in 2005 on Sirius live, we did 8 straight hours of live radio from Belmont Park and we won the Eclipse Award for our coverage. Last year, they wouldn't give us the rights to do it.

**Seth Merrow:** You talk about spending a little money to do a live broadcast on Sirius, I'm still waiting for a racetrack website—which can be done for little money because they're already putting out a simulcast signal—to produce their own show that focuses on their Saturday stakes races. Put it right on their Web site. I think a lot of the racing industry says television has abandoned us a little bit, why not produce it on your own web site and you already have the simulcast signal, you're already pumping out, have cameras focusing on the races, you already have some paddock people there that can provide the color, and that's one of the nice things about the Internet and it's being so new. I'm taken aback when all the bells and whistles aren't there, when ESPN shows up for a broadcast they have a big truck and the crew and the extra cameras, but on an Internet broadcast if you throw up your simulcast signal of the races and you have some color people, you can get away with essentially a broadcast that the folks watching on the internet are going to accept and watch and not at a lot of additional expense to you. Content and delivery, that's all it is.

**Chris Scherf:** Eric, how many full-time racing writers are there left in the United States?

**Eric Wing:** Well, not very many, but probably as many full-time hockey writers as there are in the United States.

**Chris Scherf:** I'm not sure, but I can only think of two now.

**Eric Wing:** What's happening is, with the exception of a Jenny Rees, they don't want, the newspapers do—the problems you alluded to earlier—not have the resources to have Seth here cover thoroughbred racing 365 a year. Seth, you can do racing, but we also need you to do the stock car racing and we also need you to do high school sports.

**Seth Merrow:** Well, the flipside of that is now with the Internet it has allowed a whole new breed of racing writers to come out there. You have the bloggers, some of whom open blogs in any subject, there's a bunch of them that don't do very good jobs but there's a handful that really cover the sport intelligently and that we're seeking out. Then there's guys out there who used to write for the newspapers, you've got John Pricci out there, you've got Paul Moran out there, Dick Powell writes for Brisnet, Bill Christine, exactly, guys out there who are Internet-only now, and that allows them the freedom to write longer pieces and pieces that are maybe more in-depth, more critical maybe. So there's a whole different side of the coverage that has now sprung up because of the new technologies.

**Eric Wing:** I think we're all just kind of in the process, this first wave of figuring out who our favorite bloggers are because, like you say, there's certain guys who have taken the gloves off now that they're not affiliated with their old newspaper and they're shooting from the hip and it's fun to read.

**Chris Scherf:** Sometimes it's not always pleasant if you're what they're shooting at from the hip, but if you're just a racing fan and you're reading it's a lot more interesting than plain vanilla.

**Eric Wing:** Or then worrying about lawsuits from their employer.

**Chris Scherf:** Right.

**Seth Merrow:** I'd also make a point here, going back to that old media mentality, for folks that do have racetrack web sites who are sitting out there, again there's a mentality, you can now reach a very wide audience with information that before—you go back, the Internet is so ubiquitous now, broadband is so ubiquitous, that it's hard to believe that 10 years ago virtually no one had this. So you go back 10, 15 years ago, if you had a photo finish, you took the photo finish picture and you posted it on a tack board at your track and maybe 3 people would see it. I'm amazed now, some of the Southern California tracks do it, there aren't a lot of tracks, there are a few out there, but I'd love to see every photo finish at every track on the web site. And if you remember the Indiana Derby out at Hoosier a couple years ago, 2006, they had the big controversy that was based on an Internet photo finish that had been taken off the TV screen and it looked like it wasn't actually a dead heat and there was an appeal. Well when Hoosier, a couple days later, put up the actual photo finish, it was a much clearer picture and the appeal was taken down. That all could have been done away with if the photo, every photo from every race that has a photo, was put right on the web site. And now that most of your business is coming

from simulcast, there's a lot of people who are not going to see that photo unless you do something like that.

**Chris Scherf:** How about explanations of why there was a late odds shift? You could do that on the web site. How about explanations about disqualification?

**Seth Merrow:** I was just going to say, I'd love to see a daily steward's report, if you go to Hong Kong, Dubai, there are daily steward's reports and I think we've heard people up here talking about perceptions of integrity and I think that would help to address that for fans if you could go and see and read just what the stewards focus on each and every day.

**Eric Wing:** If I could be permitted to speculate, two years from now I think the direction that that web relationship with the fans is going to take on is like what you and Chris just said, what about explaining late odds jobs, what about explaining the rationale for that DQ last Thursday? It's going to become much more back and forth, much more two-way and interactive. I think you'll see all of corporate America doing this, in fact a lot of big companies like Dow Chemical, some of the traditional old-fogey companies you would think of like Dow and other ones, they're doing this on a regular basis; it's part of their culture now, and I think you're going to see racetracks eventually start to get into interaction with its fans in areas that it used to really shy from, like the controversial.

**Chris Scherf:** Well we all have customer service people at the track but 90% of our bettors are somewhere else and you could reach them another way, immediately.

**Eric Wing:** And we know that 90% of the bettors at your track aren't at the track anyway and they've got issues that go beyond "where's the restaurant" or where can I find this or that? It's more like, "Gee, what's going on with that trainer who got suspended? How come he's still training? Gee, where can I go to learn more about handicapping?" From one extreme to another. I think what you'll see is Alex Waldrop, the head of the NTRA, probably getting involved in an Ask Alex type column on ntra.com with racing fans out there. And I think on a smaller scale this is something that you'll probably see at other racetracks as time goes forward.

**Dave Johnson:** You mentioned Dubai. We did live, five hours from Dubai, the World Cup day, and Bill Finley stayed in the studio in New York and had it on the screen and I was in Dubai with a producer and it was almost like he was watching it. Of course if you can watch it, you're going to watch it instead of listening to it on Sirius radio or radio, but if you're in your car or if you can't get a computer or watch it on TV, but the TV feed from Dubai was incredible.

**Seth Merrow:** Again, if you go to their web site or you go to the Hong Kong Jockey Club web site I think you see a little more of what I've been talking about, I'm not sure why that is with the international venues that they seem a little bit more progressive with some of these internet issues. Hong Kong, you can get free past performances, and not only do they show photo finish, they show a photo of the entire field spread out. You can get replays of every race, and so I think we have to start to move in that direction.

**Chris Scherf:** Are there any comments, suggestions or questions.

**Todd Roberts:** I've got a suggestion. First of all, you're talking about wanting to promote the sport, and to get new people to the sport you've got to have something to promote and unfortunately, in my talks with people that I know who aren't horse racing fans and you ask them "what do you know about horse racing?" you get two things, you get Seabiscuit and you get Barbaro, and that's great but, this year, for example, I honestly believe that if we didn't have this lawsuit going on Curlin' wouldn't be around, it's great that he is. But you talk about a jockey race that came down to the last wire, but you ask anybody in the general populous if they know the name of a jockey, the answer is going to be no and I think if we're going to promote the sport you've got to promote the drivers, the trainers, to a lesser extent than the animals. Every day you watch a poker tournament, Phil Ivey's on TV, and you got somebody you can follow. When you watch baseball, these guys play for 10 years, and you can develop that following and there are hooks there. It's really hard, you're not getting any attraction to the jockeys, it doesn't appear, maybe advertising on their pants and things maybe helps that, definitely not in the mainstream, but you've got to have something to promote.

**Seth Merrow:** I think somewhere out there there's the killer app, that's going to combine the Internet and horseracing, and for folks who aren't familiar with the term, the killer app, it's an old personal computer term, back in the early 80s when personal computers first came on the scene, inherently we knew that it was a useful tool but nobody was quite sure how, and then computer makers said well, you can balance your checkbook and you can keep recipes on it, and everybody knew that was kind of a waste of the technology, but then the applications came out, the killer applications, the sophisticated word processors, databases, graphics programs that defined the personal computer. And it was the same with the Internet, the Internet came out we all knew inherently it was a useful tool but we weren't quite sure how, then the killer apps—google and amazon and eBay—came out and defined the Internet. I think horseracing as a game

is well-suited to the Internet, starts about noontime on the east coast, racing goes through until well after midnight. I think it's an easy game to understand if you want to get into it, it can be arcane, but I think basically it's the first horse across the finish line wins, so I think basically it's an easy game to understand and somewhere out there there's going to be this killer app that is going to define how horseracing and the Internet work well together and I think you folks in the industry just have to be open and receptive to new ideas because eBay, which we all agree now is a great application for the Internet. In the first meeting I heard somebody came in and said, "Ok, what we're going to do is a worldwide rummage sale," and people probably weren't that thrilled about the idea, so you just have to be open and receptive as people in your organization or outside your organization bring some new ideas because I think there will be something that will combine the technology with horseracing and raise both to a new level.

**A Voice:** I would definitely encourage, similar to what they've discussed, anyone who hasn't been to the Daily Racing Form community pages with Steve Crist and Dan Ulman's blogs, the community that those two gentlemen have created surrounding their blogs basically definitely could be replicated if you had the right talent at your particular racetrack, maintain a blog about your race meet or anything going on, that'd be a natural for something like a jockey race, I mean clearly you'd need a good writer and someone who knows how to generate content and for a racetrack obviously there would be issues where you could be too critical, but Steve and Dan write for a publication that has those issues too on a lesser extent which I certainly deal with as well at Thoroughbred Times. So if anyone has an interest in developing their Web site, more as a content delivery and as Seth suggested, which I definitely agree with, definitely check out those weblogs because I think they really deliver a community of people who are very interested in racing, willing to talk about anything from the fan aspect of it to the analytical part as well, certainly Steve's blog has a lot of numbers, but it also is very accessible to someone who just likes racing or betting on it.

**Chris Scherf:** Do you want to just take a moment to talk about—he brought up community and the Internet has been a useful tool in what they call Web 2.0 now in building communities of common interest and common passions.

**Seth Merrow:** Right, and the term "Web 2.0" for those who don't know, it's like the next version of the web as we know it, so the old web, when we just got started with it that was Web 1.0 and now we've got Web 2.0, the next version. And yeah, it's gone from "gee, isn't this great,



we can check out e-mail or I can e-mail Dave anytime I want, and oh I can go to the NYRA site and get the scratches” to now “I can be in a virtual room with 300 horse racing fans who care about all the same things that I do,” or 300 Metallica fans, or 300 Amy Winehouse fans, whatever. It’s the ultimate search for like-minded individuals and these things are happening without us, or Metallica, doing anything to create them, but think of the potential that’s there to be unlocked if we actually maybe help them do what they do best, help them spread the word about the sport, help make it easier for them to provide fun things to do on their pages or to come to the top so to speak for thoughts or for their questions. This thing has come from the ground up, it’s the next step in the evolution of the internet and those who capitalize on it and mine these people for the value that they inherently mean to us will be that much ahead of the game.

**Eric Wing:** I think, and the key difference, seeding some control as to what happens. The thing is they set their own agendas as opposed to, and this is the way we’re used to dealing with customers and maybe not always to the good, trying to direct them to do what we’d like them to do, the good part of this is they can tell you “this is what we want to do,” and you can make changes to adapt to what your public is going to demand. It’s going back again to our first panel.

**Dave Johnson:** And just a thought that over the next several months you’re going to see the greatest race played out and it’s the political one for the presidency and as you watch it, think about what television is doing and the Internet is doing for that race and what maybe we can pick up from that for our own game.

**Roy Arnold:** This is all good and everything you’re saying I think we’re all thinking about doing, but once again I think we’re really missing the main point. If you look at who is being successful in the Internet, if you look for instance, just think about what happened in Hollywood in the last 3 or 4 months, the writer’s strike, what was it about? It was about content rights for Internet, just intellectual property rights on content, their product to be put onto the Internet, that distribution of their content. We’ve lost this game twice at least. We’re talking about bloggers and wouldn’t it be nice to see an instant replay, what’s the revenue model, what’s the business model? And what hampers us is the NFL and Major League Baseball have used this to their advantage, as revenue-generating centers, as marketing tools, but they’ve now come together to cede their respective rights to a central organization that then is able to focus the resources to develop that content right, the intellectual property right, and develop it in ways which benefit those member teams. We don’t have that. So we can do nice things for our fans, but I’m not

sure at the end of the day, that it's going to drive the business because it's fractured, it's not cohesive. And, I think we're going to find, we've got some serious problems with content rights, with intellectual property rights, we're in a honeymoon phase now because it's all new, but I know I've approached jockeys to do things and the first question out of their mouths is about media rights. We can do all these things, we can bring these services to our customers and we're all doing that and trying to do it aggressively, but I think we also have to recognize that where we've made mistakes in the past, when television came to racing and we rejected it, we did not understand the business model, and then when people came to us for exclusive content rights for TVG and we didn't understand the content model, we licensed that content to third parties and we lost control of our intellectual property. The Internet is a great opportunity for our sport to recover from those past mistakes, but we've got to get serious about it from a business development standpoint first and as an industry. Again, that's the biggest problem I see in these conferences, we've talked about the industry in a lot of these things, "the industry must address medication," well who is the industry? Jeff Gural yesterday brought it up with the marketing fees the differences between horseracing and casinos, the casinos are the industry, they control the revenue, and they are able to make a business decision concerning reallocating assets into the marketing program, able to project the benefit that's going to come out of that investment, but as he pointed out, if you do that in our business, we get to do two sharings of five to people who have not taken that risk. So it's a fundamental threat to the long-term viability of our industry that we not comprehensively address this. I don't have the solution.

**Eric Wing:** I can say one thing, and when you talk about the intellectual property of CDI or Arlington Park, that's when I yield to people like Bill Knauf because I don't know anything about that.

**Roy Arnold:** What I was referring to was the picture, the use of Curlin's name. We aren't enforcing that because we're taking baby steps on this issue by putting content out there. But I have a fundamental question of my right to create new content from somebody else's—from taking a picture with you and your horse in the winner's circle—what gives me the right to distribute that?

**Eric Wing:** You may be right and that's one element I think of what we were talking about today that could be used up there, and I guess that's for lawyers to figure out as to what constitutes those rights, but in other areas like fan development, I could never with a straight face

tell you that there's a way to do a good accurate cost-benefit analysis of that, but I can guarantee you that the cost involved to you would be minimal to do a pretty good...

**Roy Arnold:** Let me clarify something, I'm all for this, what I'm saying though is: while we play around with this, a third party offshore is going to figure it out and is going to patent it and we're going to have somebody else come in and deliver that comprehensive property like they have for wagering, like they have for other elements of our business where we have ended up losing control because while we have these conferences and talk about it, there's somebody else in the back room somewhere in India that's figuring out how to pull all this stuff together, patent it, copyright it, trademark it, and then they're going to come say "would you like to use our product? We just want 3% of everything you do." And that's what I'm trying to get at. The industry has to recognize what Major League Baseball and the NFL did, they came together as an industry, they dedicated the resources, and they copyright and they protected the content and they deliver it in a way which benefits the audience, builds their fan base, and continues to drive the revenues higher. The revenues are going through the ceiling; they're higher than they've ever been because they have maintained control over their product. I'm just saying, as a cautionary thing, everything you're saying is absolutely right, we've been meeting with Equibase, we have a subcommittee working on developing a casual fan, products that can help us with that, I think everybody is exploring all the elements you're talking about, it's all relevant at the time, we can continue to talk about it, but this is the fundamental thing to be focused on which is this technology side.

**Eric Wing:** We can prove out your case in something as simple as simulcasting. We did tremendous innovation, we've moved the business, but we did it off the cuff and we created a lot of problems because we didn't have a comprehensive strategy when we went into it. And I would agree with you that were they worth the industry making that a priority to come up with a comprehensive strategy managing that aspect of our business.

**Dave Johnson:** Even more pessimistic for me about the industry is the more immediate thing about the Breeders' Cup. Look at what people who love the Breeders' Cup now have been reading Steven Crist's columns, the blogs, etc. We talk about this being a family gathering, but there is a dysfunctional part of this family when you hear about the prime racetrack in the country saying to the Breeders' Cup, you know, maybe you'd better look somewhere else. Can you imagine a stadium owner presented with the Super Bowl for them to say, "you know I think

we're going to pass on the Super Bowl this year," or remember Paris and London when they were in competition for the Olympics, for even now to call up the Olympic committee and say, "You know, we just decided that we really don't want the Olympics." This is what makes me so pessimistic is that our industry is fragmented, it's something like the Breeders' Cup, it's like musical chairs, when the music stops the last track standing gets the Breeders' Cup.

**A Voice:** I think it would be unfair to say, that's only one side of the story.

**Dave Johnson:** But that's what the fan is reading.

**A Voice:** But both sides didn't come to an arrangement, and the Breeders' Cup has made a big move and I'm all for two days, the Breeders' Cup is one of my favorite events that I go to on a regular basis.

**Dave Johnson:** But I'm saying it's the perception of the fan, the novice fan, that doesn't understand.

**A Voice:** It is dysfunctional Dave, it is part of the industry where one group says "this is what I want" and then they don't come to a deal. There aren't two parties saying "we want to make a deal" it's "I want my way."

**Roy Arnold:** You made my point. Who owns the intellectual property rights to the Super Bowl? The NFL does, but all those teams revenue share in that big event that they have created as an industry. None of the track operators here share a single penny of the Breeders' Cup for helping to develop that event. There's a very real economic issue and I agree that there are two sides to the story, hopefully the story will continue, let me just say that, and I think it is continuing, but there is a problem. There are real economic issues that need to be worked out, and that's one of the things that again, we're talking about here. If we're all going to build the Breeders' Cup, then there needs to be an ability for the industry to share that so that we can address things like racing integrity, putting money into the tote system—how much money is going into the tote system from Breeders' Cup revenues? None. Zero. These are the types of things that I'm talking about that technology opens up opportunities, but we've got to have some underlying core objectives as an industry that we agree to include the horsemen, to include the jockeys, to include the track operators, and if we do identify ourselves as an industry it's going to be tough because it's a pretty diverse, independent, set in their ways group of stakeholders, but I think there is promise. I think the Internet is our chance to finally not lose out.

**Dave Johnson:** Can the industry, as fractured as it is, come together on this do you think?

**Roy Arnold:** I think it can.

**Dave Johnson:** I sure hope you're right.

**Roy Arnold:** I think it's going to have to take the industry though, and the Breeders' Cup is a perfect example, everybody needs to be putting pressure on to come up with a comprehensive industry solution that makes sense, this is a business, the outcome has to make business sense. If it doesn't make business sense, it's going to fail. Ultimately it will fail within a year, two or three years, if there isn't a fundamental, underlying, sound business objective that the industry subscribes to in terms of why we are doing this. I think we all agree that the Breeders' Cup is a huge potential venue for us, but it has got to be developed for more than one stakeholder and right now that's what it is.

**Chris Scherf:** I'm listening to you guys talk, I'm thinking of the early 90s and a Steve Crist column somewhere, didn't we go through a spell in the early 90s where tracks were reluctant to host the Breeders' Cup as well?

**Dave Johnson:** I worked with the NJSEA, and I know we wanted the Hambletonian and then we wanted the Breeders' Cup then. I don't remember ever having not wanting it. I didn't mean to give the impression that there was only one side to that story, but the perception by the kid reading the Steven Crist column. I sure hope the industry can come together and the Internet is the perfect way.

**A Voice:** You look at every major sport and even a lot of minor sports in the world, they all have a central ruling agency and horse racing doesn't.

**Chris Scherf:** Well that's never going to happen, I feel safe saying that. It's a, 43 jurisdictions, state regulated, different markets, very diverse business models. That's the Holy Grail but I've been here 30 years. But that doesn't mean we can't come together out of necessity and do things that we need to do together and Equibase was one example that did work in terms of—to get information out to fans so you could have simulcasting and delivery information—but a business model was built first which is part of why that worked. I think you're right; we should make that a priority in the industry this year to try and develop that business model among the stakeholders.