

Barry Sample: New York State Racing, Pari-Mutuel, Wagering, and Breeding Law Section 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the governor by and with the advice and consent of the Senate; four members confirmed by the New York State Senate are necessary to afford the commission an ability to establish a quorum and undertake action.

This present meeting of the commission is now called to order. This meeting is being conducted in conformity with New York Governor Andrew Cuomo's Executive Orders 202.1 which is entitled "Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency." The order suspended portions of the Open Meetings Law and specifically allows the conduct of meetings by telephone or other similar services.

The governor's executive order in relevant part reads, "Article 7 of the Public Officers Law to the extent necessary to permit any public body to meet and to take such actions authorized by the law without permitting public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that the meetings are recorded and later transcribed." By Executive Order 202.67, Governor Cuomo extended the authority of order 202.1 through November 3, 2020.

Accordingly, this commission meeting is being conducted in conformance with such allowance and we are recording today's meeting for transcription as required. Ms. Secretary, will you please call the roll.

Secretary: John Crotty.

John Crotty: Here.

Secretary: Peter Moschetti.

Peter Moschetti: Here.

Secretary: John Poklemba.

John Poklemba: Here.

Secretary: Barry Sample.

Barry Sample: Here.

Secretary: Jerry Skurnik.

Jerry Skurnik: Here.

Barry Sample: Ms. Secretary, please have the record reflect that a quorum of qualified panelists \_\_\_\_\_ [00:02:07] thus enabling the transaction of business.

Rob Williams: Minutes of the commission meeting conducted on September 21, 2020 have been provided to members in advance. At this time, I'd like to ask the members if there are any edits, corrections, or amendments?

Barry Sample: Hearing none, Ms. Secretary, please let the record reflect the minutes were accepted.

Adjudications. The next item on the schedule of business regards adjudications. Today, we have two items for adjudication. Mr. Williams?

Rob Williams: The commission issued a notice of suspension and hearing of harness driver Kevin Cummings on July 22, 2020, imposing a summary suspension for violation of the rule prohibiting excessive whipping of a horse in a harness race. In particular, Mr. Cummings was charged with engaging in an indiscriminate, unnecessary, brutal, and excessive use of the whip while driving the horse Keystone Keen in the 10th race at Buffalo Raceway on July 18, leaving multiple visible welts on the horse. The present violation and Mr. Cummings' violation history were also alleged to have established that Mr. Cummings lacked the character and general fitness required to hold a harness racing license pursuant to the licensing standards of the Racing, Pari-Mutuel, Wagering and Breeding Law.

Following an adjournment at Mr. Cummings' request, a hearing was conducted on August 14. The hearing officer recommended that the finding of the violation of the rule on the use of whips was established that Mr. Cummings lacked the character and general fitness that warranted penalties and that Mr. Cummings' license be suspended for 60 days with credit for time served and until he completed an anger management course approved by the commission. The hearing officer also recommended the imposition of a \$500 fine.

The commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers' Law Section 108.1. The commission duly deliberated and considered this matter, and determined by a 5-0 vote, to adopt with modification, the hearing officer's findings of fact and conclusions of law. The recommended penalty was modified to impose a six-month suspension reduced by any suspension time already served, a fine of \$2500 and an order that Mr. Cummings complete a commission-approved anger management course before being allowed to resume participation in racing. Rob?

The commission issued a notice of suspension and hearing for thoroughbred racing groom Ramsen Antula on July 312020 imposing a

summary suspension for a violation of the rule prohibiting improper, corrupt, or fraudulent acts, or practices in connection with thoroughbred racing. In particular, Mr. Antula was charged with deliberately letting an unraised two-year-old filly named Pasta loose from her stall at Belmont Park which led to the horse suffering fatal injuries. This violation was alleged to have established that Mr. Antula lacks the character and general fitness required to hold a thoroughbred racing license pursuant to the licensing standards of the Racing, Pari-Mutuel, Wagering and Breeding Law.

Following an adjournment at Mr. Antula's request, a hearing was conducted on August 11, 2020. The hearing officer recommended that a violation of the rule prohibiting improper practices was established that Mr. Antula lacked the general character and fitness to hold a racing license and recommended that Mr. Antula's license be revoked for life. The commission duly deliberated and considered this matter and determined upon a 5-0 vote to accept the hearing officer's findings of fact, conclusions of law, and recommended penalties.

Before we proceed, we would call on the commission, like to acknowledge that this case was heard by Hearing Officer Michael Hoblock, a long friend and colleague of the commission. The conclusion of this case marks the ending of the commission's relationship with Mr. Hoblock and his contract as hearing officer ended and was not extended at his request. Mr. Hoblock started with the Racing and Wagering Board in 1997 and served two terms including a long stint as chairman. When the gaming commission was established, we were fortunate to have him seek to serve as a hearing officer. We wish Mike the best as he embarks on his well-deserved retirement from public service and we'd all like to thank him.

The next matter on our agenda for today is the use of the crop. At a previous meeting, we started some discussion regarding the use of the crop; in late July, staff circulated a rather lengthy and comprehensive memorandum outlining their approaches to the use of the crop being considered or having been adopted on a national, regional, or state basis. Last month, we requested staff to secure the virtual attendance of parties that might be able to directly educate us on this issue and we thank those in attendance with us today.

Today, we have established a few panels that should be able to assist; we will hear from our stewards, the jockey skill, The Jockey Club, horsemen and racing officials, and then from a few state umbrella organizations. The format of today's discussions is not to debate the issue of the use of the crop--we really need to emphasize that; it's an educational session--it is to hear from the various parties as to whether the existing rules need amendment, how those changes might affect those in the sport, whether they would perform on the back of the horse, train the animals, own the

horse or card races, and from a few organizations that might be able to discuss where the United States should be going on this matter. To set appropriate expectations, no one should expect the commission to act today; today is an informational-gathering only. I expect that we will continue to consider the use of the crop rule and perhaps arrive at a consensus among our group.

Commissioners, today is about giving us an opportunity to hear from experts and to get answers to any questions that we all may have. To that extent, please feel free to speak at any time as long as we can do it in an organized manner. We've got some people on video, some people in the room, some people on the phone, so we're trying to play traffic cuts so we don't step on each other.

Rob, can you please identify or introduce the first panel?

Rob Williams: Yes, certainly. The first panel that exists for today is New York State Stewards. We have Braulio Baeza, Jr, our state steward at the NYRA racetracks; Carmine D'Onofrio, our state steward emeritus who serves at the NYRA racetracks; and Erinn Higgins who is a state steward at the Finger Lakes Racetrack.

Barry Sample: I think we might want to start with a basic question that I have. If someone could provide an overview regarding the current state rule on the use of the crop? I don't know if we want to start with Braulio, Erinn, or Carmine?

Carmine D'Onofrio: Our state rule is really--it's kind of vague, but we have a cushion crop which is now in effect; there's also another crop being used, the 360, which is--and they're both much more kinder than anything that was ever there before. And I'd also like to say we don't have a problem in New York.

John Velasquez: Let me just say a few years ago, we imposed a sort of a house rule that the stewards have adopted pretty much for New York right now. We currently have a five-strike rule in process right now, so you might you're allowed to strike the horse five times then you must give the horse a chance to respond. There's no limit on the amount, but we also have in place, with the regular state rule, if your horse is out of contention. And since we put these rules in place here at first when I was a steward, we issued a bunch of fines. So, the fine is 500 for the first offense, then we went to 1000, then we would suspend someone.

The first couple of months were in transition, we had some issues there. Now, again, we started this years ago when we thought it might be a problem when it's tried to become a hot button issue. Since then, we have had just maybe one or two violations, maybe one or two suspensions, that's about it. We jumped ahead of everybody in New York--and I'm

not blaming any other states, but for any other states, you do have a rule in place and in my opinion, if they would enforce the rules they have in place which gives the stewards a lot of latitude to consider what they consider the misuse of a crop, we wouldn't be talking about this right now.

Currently, in New York, as Carmine says, we really don't have an issue here because we enforced the rule and we started a couple years ago on this.

Barry Sample: Erinn, you want to jump in or anything?

Erinn Higgins: Sure. Yeah, I'll just kind of follow up--this is Erinn Higgins--with what Braulio and Carmine have said. There's a state rule that we have in the book right now; it has a specification as to the style of crop that's used and all of the riding crops that are used have to be within a certain parameter; then the rule for the stewards to enforce any penalty is a bit broad and gives stewards the discretion to find and/or suspend if they think that a rider has overused the crop. As Braulio said, we do have a kind of a stewards' policy in place both here at Finger Lakes and at NYRA that enforces the rider can only hit a horse five times consecutively, and then they must give the horse a chance to respond. So, if a jockey is in violation of that five-strike policy, they will get fined.

Also, we have a form that the riders sign at the beginning of every mee--it's in English and in Spanish--to show them that policy. So, if they do violate it, there's no reason--they can't say they didn't know about it because they sign off on a document saying, "You can only strike the horse five times and then you must give the horse a chance to respond."

Carmine D'Onofrio: And if I may jump in, the stewards of New York have been adjudicating this before they ever had the new rule with the cushion crops and everything else; we go way back with that with Dr. Hill from the Jockey Club. And we work together with our riders and we don't--we don't have a problem. We deal with what we have to deal with, and the riders know what we expect here in New York, and I think we do a very good job of policing it.

Barry Sample: I know less about this than anyone. I don't know what five strikes--you could do five but--

Carmine D'Onofrio: Then you must give the horse time to respond; and if the horse isn't responding, we expect that stick to be put down. And if a horse is out of contention, we don't expect that horse to be hit; we ask that the jock just stay down and ride him out. If he doesn't feel good under you, pull up and get off. And our riders, like I said, we have a good rapport with our

riders and we have no problem with them either. If they screw up, they're going to get fined or they could get days and they know it.

Barry Sample: Anyone else have questions?

Peter Moschetti: Yeah, I have a question. First, I think to Braulio. So, with the five strikes--and then you must wait to see if the horse responds, right? Am I getting that correct?

Braulio Baeza: That is correct.

Peter Moschetti: So, conceivably then, you could have as many strikes as possible from the beginning of the race to the end as long as they strike five times, wait and then strike five times again, and then wait, and then strike five times again. Am I getting that sequence correct?

Braulio Baeza: That is correct; but just so you understand, that's the maximum. But on top of that, if we think you're misusing the whip, we will call you in whether it's five strikes or not. Just so everybody understands--and please, anybody jump in if I'm not explaining myself to where you can understand--leaving the starting gate, they usually don't hit the horse with the crop in the upward position, it's usually in the downward position in the shoulder. So, if we see someone using the whip coming out of the gate with the stick in the upward position, we will have them in; we expect a rise--we're fortunate in New York that we have the better riders riding with us; so, they understand just because you're allowed to hit the horse five times doesn't mean that we're going to accept you hitting the horse five times if we think that you're misusing it. That's our maximum for what you can do.

Now, coming to the top of the stretch is where most of the public or the perception, if I may, comes into effect--the last eighth, the last quarter of a mile depends on how long your stretch is. So, in New York, they're going three, maybe four. But they're not consecutive, consecutive, consecutive and the chance to respond is set by us, it's not set by the rider, "Well, he was responding." No, no. That's in our opinion. I know some states have a, "You must take two strides," to what they consider a chance for the horse to respond, but here, it's at the steward's discretion, if we think the horse is responding.

So, most of the issues or perception issues that we are dealing with now is in the stretch, and we don't--I don't know how else to put it, we don't have a problem. So, I don't know why are we going to try--again, this is my opinion--why we're trying to fix something that's not broken right now. Like I said, again, we're fortunate enough to have the better riders in the country here and they are expected to perform up to their abilities here. Again, like Erinn said, we do have a signature sheet for them; so, all the riders in New York get breathalyzed before they ride every day

and any new rider that comes in must sign the sheet form and it's in English and Spanish, and if they don't understand it, I will explain to them verbally.

So, I mean just because we permit them to do five strikes doesn't mean that if you hit three times and we think you're misusing it, then we won't take action on you.

Peter Moschetti: Pete Moschetti again. I don't understand that. So, how do you determine whether it's being misused in three strikes or in five strikes as long as they're not hitting the flank or the head of the horse, and they're striking in the hindquarters or the shoulder, which is where they limited the strike? So, how do you determine?

Braulio Baeza: Well, we will look at the race while we're watching the race and we're going, "Is the horse responding?" So, from the top of the stretch after the first three strikes, four strikes, you can see if your horse is responding to whip or not, "Is he going to place himself a little better or has the horse already reached his max position?" So, is the horse responding at all? So, you can strike the horse and he may not respond; now, we might give you another shot again to strike the horse again; but if not, then we expect you to put the crop down.

Carmine D'Onofrio: I may reiterate too, with some of these other rules with a horse going down the backside, you could have the best horse in the country, he might get the loaf on you and you have to get him back in the race, you may have to strike him just to put him back in the race, nobody's saying you had to abuse him. But this other stuff about telling people how to ride a horse, I think it's ridiculous.

Peter Moschetti: Can I ask another question to any of the stewards--New York stewards. So, when you said in the beginning of the race, it's an underhand motion as opposed to an overhand strike, did I catch that, did you say that?

Braulio Baeza: That's correct.

Peter Moschetti: Is that the rule--the informal rule--that they can only use a backhanded strike?

Carmine D'Onofrio: No.

Braulio Baeza: No, it's not an internal rule, it's just a... it's a circumstance, I would say. It's just the way most people ride and what we expect. Coming down the backside, there's no real reason unless you're in danger now. So, I'm not even concerned; unless it's a safety issue, the riders usually put the riding crop in the up position to strike the horse. It's more of an urging coming down the backside, coming out of the gate, you'll see him tap him on the

shoulder with both hands on the reins to try to get them into a position that they want.

Peter Moschetti: Is that more a safety issue, the underhanded strike?

Braulio Baeza: It's not necessarily, it's a little... softer touch. It's more of a finesse strike just to get their attention to to keep them interested in running; and like Carmine said, you will get some horses that go out in front and then find themselves alone and they will start to lope or to lock until a horse comes up next to them. So, they may have to tap them on the shoulder for that just to keep them focused on running.

Peter Moschetti: So why do you have to go to an overhand strike down the stretch, if you can encourage him with a backhanded strike when you just start off and then the backstretch?

Carmine D'Onofrio: What do you mean by a backhanded strike?

Peter Moschetti: Underhand.

Carmine D'Onofrio: Now, you're telling people how to ride a horse. We have a cushion crop, you have a 360 crop, and you're telling people to go un underhanded, then you might want to wind up hitting a horse in the flank.

Peter Moschetti: I'm sorry. I thought that we said that in the early part of the race, they'll use an underhanded strike to correct the horse to get their attention.

Carmine D'Onofrio: They would use it this way on the shoulder, not to bring it back underneath.

Peter Moschetti: But it's still an underhanded strike, right?

Carmine D'Onofrio: It's underhanded on the shoulder. Underhanded, you're going to get hit a horse on the flank.

Jerry Skurnik: This is Jerry Skurnik. I have a couple of questions about how things have been enforced. I mean I'm not asking for exact numbers, but about how many times each year does a jockey get reprimanded or punished for breaking the rule about the five?

Carmine D'Onofrio: When we first started implementing this, there was no state rule, so when a jockey was fined, the fine went to the chaplain or to the backstretch fund.

Jerry Skurnik: But how many times a year, approximately.

Carmine D'Onofrio: I think we had as much as \$20,000, but it got their attention and we also gave a couple of jocks days.



- Jerry Skurnik: But I mean how many instances? I'm not concerned about the state making money, how many incidents?
- Carmine D'Onofrio: Lately, the last few years in New York, very few.
- Peter Moschetti: Very few is about how many you think?
- Carmine D'Onofrio: About ten.
- Erinn Higgins: This is Erinn. If I can interject, I would say that for one rider, they don't get fined more than twice on average: if the first fine doesn't get the policy through their heads, then by the second fine. We don't usually see a rider have more than two penalties in the structure that we're implementing the fines. So, usually, on average, for each individual rider, I would say one to two times--and then it seems to stop the overuse of the crop.
- Jerry Skurnik: Well, but some riders never get caught because they never do it. But I mean in total, does it happen... I mean I have no idea, is it ten times a year, 100 times, 1000 times? The total, not by the rider, the total number of times.
- Erinn Higgins: Finger Lake, this year--and obviously, with the condensed meet because of the pandemic--but I have fined four riders--one rider twice and then two other riders for misuse of the crop and that's we've been racing since July.
- Jerry Skurnik: Thank you. And how about at NYRA?
- Braulio Baeza: At NYRA, I would say in a year--and again, it's going to vary every year--I wouldn't do more than ten fines now. Obviously, when we first started, it was much more, but ever since we implemented these new rules and additions, we have ten--and that's high.
- Jerry Skurnik: Okay. Thank you. Also, this is another request of an estimate, about how many times a year do you think that the rider uses the crop for safety reasons as opposed to trying to win the race? Just a guess.
- Braulio Baeza: A guess? Less than five.
- Jerry Skurnik: Less than five do you have to use the crop for safety.
- Braulio Baeza: Yes. Again, it all depends on your horse population. Again, in New York, we are fortunate enough to have--our starting gate crew does a very good job, which saves a lot of aggravation with the horses. So, most of our horses are well schooled before they come to the races.
- Jerry Skurnik: Thank you.

- Carmine D'Onofrio: And if I may jump in there too. I mean just because maybe you use it five times a year, you sure as heck want it in your hand if you need it.
- Erinn Higgins: Yeah, I was going to say that that may be a better question for the jockeys when they get on the call. Because, obviously, they would have a better--we can assume that they're using it for safety or not for safety, but the stewards aren't the ones on the horse to know that number. So, I would think that would be a good question for the riders later on.
- Carmine D'Onofrio: You're coming up with this other, with the crop, they're going to outlaw the crop and the stewards have to adjudicate it? I don't know. What if the jock says, "I thought my horse was going to prop, I had to hit him."? Are you going to call him a liar?
- John Velasquez: This is John Velasquez. Can I say something?
- Barry Sample: Go ahead, John.
- John Velasquez: This is John. Can you hear me?
- Barry Sample: Yes.
- John Velasquez: Okay. So, like Braulio said, maybe five times you can see it for safety issues. Well, like Carmine was saying earlier, it's like most horses tell you they're going to do something before they do something; so, we got to act before they do something. And those of the horses that we actually stopped them, or getting out further out, or lugging in more, so we have to be ready for it. So, those things that that you may not count as a safety, well we did it for safety as well. The horse is lugging in and between the horses or behind horses into hills, well, we have to use the crop to make sure that we keep him straight. And it happens many times then anybody can see it with the naked eye. So, only the guy who's on top of the horse knows where the horse is going.
- Carmine D'Onofrio: And may I jump in again as far as the stewards and our riders here in New York. We're very fortunate we have the best riders in the country, and when a new rider comes or young riders come, they get a heck of an education and the older riders don't pull no punches with them either.
- Barry Sample: Commissioner Crotty, Commissioner Poklemba, do you have any questions?
- John Poklemba: No, thank you very much.
- Barry Sample: Commissioner Crotty? [Audio Difficulties] John, do you have any questions? If not, we're going to move on to the next panel.
- John Crotty: No questions.

Barry Sample: Very good.

Rob Williams: I see that we have several representatives from the Jockeys' Guild on. Terry or Mindy, would you like to introduce who's going to participate on behalf of the Jockeys' Guild?

Mindy Coleman: This is Mindy Coleman on behalf of the Jockeys' Guild. I'm counsel for Jockeys' Guild. We have John Velasquez and Mike Smith who are currently co-chairman of the Jockeys' Guild. Obviously, for those of you who are not familiar, they're two Hall of Fame jockeys who are two of the top jockeys in the country and even in the world. As well as Javier Castellano is the Vice-Chair of the Jockeys' Guild. Again, also a Hall of Fame jockey, one of the leading riders obviously in New York, in the country, and throughout the world. These three individuals will be speaking on behalf of the jockeys.

We also have Terry Meyocks who is our President and CEO with any follow-up question, but we will defer to Johnny, Mike, and Javier as the experts to be able to discuss the necessity of the use of the riding crop and why it's imperative not only for the safety concerns that we have, but also for the integrity and perception of the sport on the other hand which is taking into consideration the importance for the owners and the betting public, and those of us who rely on the industry for our livelihood.

Barry Sample: Would your group like to make a statement before we go on to the questions?

Mindy Coleman: I believe we were prepared just to answer questions; we can make a statement if you would request us to.

Barry Sample: Okay. I have one question regarding what is the position of the guild on the use of the crop?

Mindy Coleman: Currently, we recognize that as a result of perception, there has been discussion for the need to have a change. However, with that being said--and we're definitely willing to work with the industry--however, with that being said we need to recognize as Carmine had said previously, the use of the riding crop that we currently use whether it be the ProCush cushioned riding crop and/or the 360 GT, we need to educate the public on the fact that that's a lot more friendly and humane to the equine athletes, number one; number two, again, taking on the necessity of the riding crop for safety, the difference is where the stewards just answered that the riders only use it maybe five times a year, as Johnny indicated, it's difficult to see that the crop is being used for safety because as the professional athlete who's on the back of the horse, they are the ones that are able to feel and determine what horse is going to do before it can be seen by the outside--and including the stewards and even professionals who are very familiar with horse racing and what is happening.

As far as the necessity and the use of it? Again, they are professional athletes; it needs to be recognized that every horse responds differently to the use of the riding crop and many riders have individual styles, different writing styles. You have horses that will need some form of encouragement for the sole purpose of just encouraging them and keeping them focused on the race; you'll have other horses that riders won't use it on at all because they don't respond to the riding crop, but the riders need to be afforded the opportunity to make the decision based on their professional experience.

I'll turn it over to, again, to the riders to answer any questions.

Barry Sample: The issue of safety has been mentioned a few times. And I don't really know what that means because I've never been on the back of a horse going 40 miles an hour. Can you give some examples of the safety issues that you encounter and how the crop is useful when addressing those?

John Velasquez: Is that direct to one of us, one of the jockeys?

Barry Sample: Anyone. Any of the riders who want to respond, please.

John Velasquez: Well, like I was saying earlier--

Barry Sample: Is this John Velasquez?

John Velasquez: Yes, this is John Velasquez.

Barry Sample: If everyone could just say their name before they speak, so we'll all know who's talking. Thank you. Go ahead.

John Velasquez: This is John Velasquez. Sorry. Like I was saying earlier, I mean horses really are reactive and people behind horses, and the horses lugging in, getting out. And the only reason--I mean we're going to do the best we can without reins to not bottle somebody over to even drop yourself, so you have to go by the use of the crop, otherwise, the horse is not going to respect you. So, sometimes, we got to use it even before they do something to let them know that you have control of the horse, and that's the way we keep everybody safe. It doesn't matter where is it in the race: they could do at the beginning of the race, they could do it late on the race, but they're going to do something that--most horses are going to tell you they're going to do something and once you see they're bolting or lugging, or do something really strange that surprises everybody, well that surprises us too. Because even with us trying to keep their minds and keep the momentum on the race and they still bolt out suddenly? Well, that surprises everybody, even the guy on top of them.

So, for most horses, when you have control of it and you let it know that you have it, they respect you.

- Barry Sample: Anyone else on your panel want to comment on the safety concerns?
- Mike Smith: This is Mike Smith speaking. There may be numerous reasons you need the riding crop. At any point in a race, every step can be in dangerous step when you're riding a horse; if they know that you don't have a riding crop or if you're not able to use it properly or the way you're supposed to use it, a horse will figure that out so fast and it'll literally do whatever it wants to do. I know we have the reins and people say, "Well, use the reins," but let me tell you something: try pulling on a horse that weighs 1200 pounds and if it ain't working, all you have next is the riding crop. That's all we have. If you take that away, trust me, the game becomes twice as dangerous if not more, and it becomes very, very difficult.
- I'm in a state right now--in California--where I'm riding, where they have rules that are extremely strict. They changed our style of the way you're supposed to use it properly and it's not working here; we're having a lot of trouble with it, the system's set up to fail, you're having riders being suspended, fined for literally absolutely nothing and it's just... it's ruining our sport out here. Listening to the stewards there in California speak, it's the best that I've heard and since this thing has been going on. You guys got it right, we don't have a problem as long as you use the safety riding crop. If you want to do a chance to respond in each session; right now, it's five in California; I think that's great. But trying to count the number and to use it improperly, underhanded, lefthanded, beat them in the flank when you're not supposed to, the whole thing is just set up to fail. You guys got it right in New York; keep it that way. Trust me. Anyway, I hate to speak too much on it, but it's something that's going on here in California and we're having a rough, rough time with it here. But I believe that you guys have it right. Thank you.
- Barry Sample: Yeah, we're getting echo from a number of the speakers. And I don't know what will help address that, but it might be a matter of people being on speakerphones and if we could limit that use then the feedback or echoing may stop. I don't know if anyone else have an idea of why we're getting it.
- Erinn Higgins: I think also, if people make sure they mute when they're not... if they hit mute, sometimes that helps as well.
- Barry Sample: Very good. So, everybody, please mute your line if you're not speaking, okay? I don't want to ask too many more questions from the--anyone else has questions for the guild?
- Peter Moschetti: I have a question. Pete Moschetti. I don't think anyone is suggesting--or I haven't seen it--that they take away the crop completely. New Jersey, I think you guys are aware of it and I don't think they consulted the guild--but has put into effect or they have passed a rule that the crop can be used only for safety purposes and essentially not for encouragement.

And then California has its rule which Mike was talking about; and we know that Kentucky has their rule, although they--and folks from Kentucky and from California can speak to this--but I understand Kentucky had some issues with their punishment. So, it's clearly a work in progress.

But as long as you would have the crop for safety purposes, would that make you, the jockeys, comfortable with that, that it could be used for safety purposes as New Jersey has suggested?

John Velasquez: Is that a question for me?

Peter Moschetti: Either of you or both of you.

John Velasquez: Okay. I'm going to say that for safety purposes, it's very dangerous because I was trying to explain earlier: horses are going to do something, you have to make sure you have them underneath you and they respect you; if you're going to wait for the horse to do something, those horses that surprise you that you see, well it's going to be more surprises on the races and more dangerous races to be run because you're going to wait for the horse to do something--to try to do something and then try to straighten him out or do something. That's not the way it works; it'll be very, very dangerous the way that stewards want to do something. They actually want to implement something that's not going to work--and actually very, very adventurous for horses and riders.

Mike Smith: This is Mike Smith speaking. A lot of times, you can stop a horse from either lugging in, or getting out, or propping, or ducking one way or the other before it even happens. So, therefore, if I do that and you see nothing happening, well, the stewards are out there going to say, "Well, how do we know that that was for safety or not?" "Well, I'm telling you it was." "Well, we didn't see that." So, it's that talk about a perception. I mean we can stop a horse from doing so many things before it actually happens, and we do each and every day in each and every race, by getting the opportunity to use the riding crop in the proper manner. To absolutely wait for a horse to do something then respond? Well, it's too late. Once the horse does something then you respond, it's already taking a step out or a step in, and all it takes is one step before you drop somebody or you've gone over the fence.

Peter Moschetti: So, I'm following up. Pete Moschetti. I guess I don't understand. So, that means you are striking the horse with the crop for safety purposes even though the horse has not done anything such as lugging in, or pulling up, something that would endanger the other riders, is that you're saying?

Mike Smith: No, not necessarily.

John Velasquez: Absolutely. We actually prevent them from doing something.

Mike Smith: Before they do something. Again, you keep saying "striking".... a lot of times, it's depending on the severity of how bad they're lugging in or getting out, sometimes, the horse can be lugging in and to the naked eye, a normal person wouldn't even realize that they're lugging in, because the horse doesn't necessarily turn their head when you grab the reins. Sometimes, they'll grab a hold of it and try to turn their head the other way to continue to do what they're doing, and that's where the riding crop is very necessary; to either show it to them or if you need to use it, you use it for whatever reason it is. There are so many different things that can happen, that we feel before it even actually either happens or it's happening, you can't even really see it, but we know it, we feel it, and that's why you need to have it. For someone to tell you you got to wait for it to actually do it before you can respond, well at that point, it's too late and the horse has already done the damage.

Erinn Higgins: This is Erinn Higgins. If I may interject quickly. I think we've talked about public perception and one thing that we haven't brought up yet--and I think it was kind of being alluded to--is that horseracing is a competition, and so if there needs to be an encouragement to have that competition, I'm curious where the riders feel--how the riders feel on that topic of we know you can use it for safety, but how about to protect the integrity of racing and the competition and have these horses perform for their trainers and their owners, and the betting public as well?

John Velasquez: Absolutely. This is also a competitive business--this is John Velasquez, again--a competitive business. And yes, we do use it for safety, but the horses, also they need encouragement. Most horses--most horses--will not be competitive if you don't use it for encouragement. Most horses are willing to stay right next to the horse and not pass the horse because that's in the very nature of the horses. So, if you don't ask a horse to do something, they're not going to give you anything.

Now, you got a good horse in the race--or the best horse in the race--that probably is very willing to do what they wanted to do and they're very competitive. You know what? That's the horse that's going to win easy, that's the horse who's going to make you, the jockey, look really, really good; that's the one that you don't have to use the crop at all, hopefully. But for the most part, I'd say 85 to 90 percent of the horses need to be encouraged because otherwise, they're not going to do any running at all.

Carmine D'Onofrio: If I may say something--

Mike Smith: This is Mike Smith. I totally agree. Most horses would rather just stay together, they're herd animals, they'd rather stay together; very seldom you'll see one that just runs off away from the group even if you put them in a field with no one on them; and nine times out of ten, it'll be the same horse that does that every time. Most horses-- and that doesn't necessarily mean that the horse that's playing third is not the best horse,

they need to be encouraged to pass at times; and even when they pass, at times, they'll see something, they'll look at something... there's no telling when you'll need to encourage them, there are so many different times.

And it is a betting--it's a betting sport on top of everything else, and you're supposed to keep the integrity of the sport. It wasn't too long ago that if you didn't encourage one, you would get ruled off or fined for life if you weren't encouraging a horse. Now, all of a sudden, we're not supposed to encourage them. Well, how are you supposed to win a race when you're coming from last and your horse is happy staying last? It doesn't make a lot of sense to me. And then, therefore, again, the riding crop is for so many different reasons, but yes, encouragement is one of them. For us to say that it's not and we shouldn't do that for encouragement, well, then, you might as well just run them without a rider on them and just put them in there and let them run by themselves, and you'll have the same horse that's going to lead every single time.

Carmin D'Onofrio: Again, this is a gambling sport; people are betting on these horses. And should they be abused? Absolutely not. But you have to get the best out of them.

John Crotty: This is John Crotty. Can we ask the riders--any of them, frankly--are there too many times?

Mike Smith: This is Mike Smith speaking again. Yes, there are too many times, and the stewards job is to pull those people off. If someone is absolutely out of contention and they continue to use it, they're going nowhere and they continue to strike a horse, they should be suspended, fined, whatever it is, but that's the steward's job to do that. And I think, in New York, they've done a tremendous job. As I just got on the phone earlier and explained to you, they don't have a problem there especially with our riding crops nowadays, these cushion crops, they're amazing. They're very equine-friendly, they don't hurt a horse. But if someone's continuing to strike a horse and a horse is not responding or it's out of contention of the race, it's not moving forward? Then yes, they should be fined or suspended. We're all for that. As a matter of fact, be as tough as you can for it; but to put a number on it and to try and make us use it in the improper way is not the answer. It's not the answer for it.

How is someone supposed to be on top of a horse going 45 miles per hour, competing in the Kentucky Derby and I got to count to number six and after number six I'm supposed to just... that's it? I'm supposed to just quit and my horse is moving forward; I come from last and I've gotten to the mid-pack, but I'm continuing moving forward, but I passed the number, now I can't even continue to do the proper things to maintain a better place or just to even maintain a place for that matter?

So, there's not a problem with our riding crops nowadays.



Peter Moschetti: Mike, has that hypothetically occurred? You've been in a lot of Kentucky derbies, has that hypothetically occurred? Give me an example, if you'd be so kind.

Mike Smith: What are you talking about?

Peter Moschetti: Well, you were in a lot of Kentucky Derbys, right? 30 of them, I don't know. You said you're riding in the Kentucky Derby?

Mike Smith: Okay, I was blessed enough to win the derby in '05 on a horse called Giacomo; I came from dead last. If you wish to put a number on it back then, say the number six or number five, whatever they have it now, that horse would not have won the Kentucky Derby--and back then, we didn't even have cushioned crops--safety crops--and in no way or manner did I abuse that horse; he didn't have a mark on him whenever he came back.

With the riding crops we have nowadays, you won't see a mark. Period. And if it was a horse that you really had to ride, but he would respond as long as you encouraged him, he would go. It was like a bike: as soon as you stopped pedaling, he would stop running. I mean there was no way in heck that I would've never won the Kentucky Derby on that horse if you were to put a limit on it or if you used to make me use it in an improper way.

Peter Moschetti: So, you think it was more than six times.

Mike Smith: Oh, by far. If you look at a great mare I used to ride called Zenyatta, half the time, she would only win by a head or a nose. Once she thought that was enough, she would completely just gear down and shut down; she would rather just sit there late second or third and just be happy running with the group; she'd come from last, you had to encourage her to go on and surpass them.

Barry Sample: Do the other jockeys have similar stories? Isn't John Velasquez on here?

John Velasquez: Say that again?

Barry Sample: Do you guys have similar stories or is Mike's an outlier?

John Velasquez: Oh, my gosh. I mean I could go tons of times that I said the horses that I rode, if I didn't have the crop or limits in the way they were talking about giving limits, it's like definitely that happens every day. Every horse and any horse they come from behind and cannot really be encouraged by not having the crop and having numbers, though. It happens every day. Not just in the big races, it happens--actually, it happens most of the time in the not-so-big races because the horses--let's face it--they're running for flaming races, they're not as good for a reason, they need more encouragement than other ones. It happens every day.

Javier Castellano: This is Javier Castellano. I just wanted to point out some examples. We talked about racing, John Velasquez, so many he won--more than 6,000 races--and they have so many good horses that come from behind-- Courage, that's one. Mike's too, he did it the same way and then that really good example about Giacomo in 2005, won the Kentucky Derby; Zenyatta, she won the '19, '20 races and the way she encouraged herself. And even I put in my sample when I win the race and I'm blessed to win a race, about the whole \_\_\_\_\_ [00:51:03] beat one of the best horses in history, let's put it that way, American Pharaoh.

And my horse, it came from way back. And I had to use a whip, I had to use a crop, I had to encourage the horse because that's the type of horse we call either "lazy" a little bit, laid back, and you had to motivate that horse, encourage that horse a little bit to go forward, and that's a really good example. I would never beat American Pharaoh that way. I think that's the best example I can show up.

Barry Sample: Great. Thanks a lot.

Jerry Skurnik: This is Jerry Skurnik. I'd like to ask Mr. Smith: can you give us some examples of the difference between the new California rules and how we regulate the use of the crop here in New York?

Mike Smith: So, in New York, I believe it's five times with a chance to respond from the session. Here in California, we get six only. Period. And it's underhanded, you're only able to use it in an underhanded position which is very awkward, especially going left-handed. You wind up hitting him in the flanks most of the time, which is not the place to hit him... it's extremely awkward and you've got a number, you can only go six. So, if a guy goes over six--which is very easy to do--he goes seven... happened to several riders already, they get a three-day suspension and a fine on top of it--they can do both, actually. Just for going over seven to try and continue either to win the race or if a horse is lugging in and you happen to use it one more extra time, and it's up to their discretion if they thought the horse was lugging in or not sometimes.

So, it becomes a guessing game and people's opinions over other people's, and riders are getting fined and suspended just left and right here. As a matter of fact, every day there's someone on the board that have to go in--and I'll guarantee you, you don't have that going on right now in New York; very, very seldom would you probably even see a rider in for it because stewards--if a rider is abusing a horse in any way, they're going to call them in and they're going to reprimand them.

Not only that, but again, I emphasize the safety of the riding cushioned crop that we use nowadays, it puts no marks on them. They're examined by a vet afterwards: if there's any mark on a horse in any way, that rider will be reprimanded; he'll be called in and reprimanded, something

would be wrong with his riding crop in some sort of manner. You don't even see that happening anymore with these cushioned crops. There's not a problem--I think we're making a problem by putting a number on it and telling me how I'm supposed to use the riding crop in an improper manner, in an improper way. It doesn't make sense to me.

Jerry Skurnik: Thank you.

Peter Moschetti: Before we move on, can I just ask--I'm still not sure what the position of the guild is as far as the use of the crop. You have California, Kentucky, New Jersey, New York. Just if you guys could clarify what your position is.

Mike Smith: Our position is since we're using the riding crop--this is Mike Smith--we haven't had a problem; we truly believe there isn't a problem. But they want to change the rules or the number of times that you can use it--whether it'd be five, or six, or whatever it is--and the way they want us to use it which is underhanded--which is almost impossible left-handed or if a horse is getting out or getting in, you can't do anything with it here in California. I truly believe you have it right in New York, you really do. I mean as long as you're using the proper riding crop and the stewards are watching the riders and making sure that someone's not misusing it, there isn't a problem. If someone's misusing it, they're going to pull them up and they're going to reprimand them--and they should be if they're misusing it.

Peter Moschetti: Thank you.

Barry Sample: A number of you have mentioned that the crop has changed over time. Can you... I'm ignorant: what does that mean? What's the crop today as opposed to what it had been in the past?

Mike Smith: This is Mike Smith again. Back then, we used to use--it was a leather property, they call it a popper that would be on the end of the riding crop. It was leather. And now, it's foam, it's cushioned, it's basically a [net] crop which makes a lot of noise, but it makes enough noise and the horse can feel it back there, that they respect it, but it's not hurting them in any way.

John Velasquez: The old whip used to hurt, and mark, and cut as well. I mean it was pure leather and you could really hurt the horse. This is John Velasquez. You could really hurt the horse and actually be very aggressive and leave welts on the horses, though. That was aggressive.

Mike Smith: If you were hitting him in the wrong place, you could really hurt him; if you were doing it right, you wouldn't even hurt him with the old crops. But with these cushioned crops, even if you happen to hit him in the wrong place, you won't even see it mark then. I mean, again, after each

and every race, the vets go over them when they come back. If they see any welts, you would get in trouble back in the day; you don't even see that happening now with these cushion crops.

Barry Sample: How long ago did you go from the old crop to the new crop?

Mike Smith: I would say it probably started--I was one of the first to use it here in America--I started back when Hollywood Park was still running. And believe it or not, back then, the stewards didn't want me to use it, they said it was an improper riding crop, it had to have a leather tip on it. And I tried to explain to them, "Well, this is a cushion crop, it's softer, it came from Europe..." they started using it in Europe before we started using the United States. So, it was a good 12... probably about ten years ago to 12 years ago that we really started using it a lot in California anyway--and around the country. And now, every racetrack requires it and you haven't even seen the problem since then.

Barry Sample: You also mentioned that the horse can tell when the crop is being properly or improperly used meaning that--I took from that that an inexperienced rider will, more than likely than a senior-level rider, misuse the crop. How can the horse tell--and what did you mean by the horse can tell the difference between the crop being properly or improperly used?

Mike Smith: Do you want me to speak on that, Johnny or you want...?

John Velasquez: Yeah, go ahead, Mike.

Barry Sample: Yeah, I don't know if it was you or Mike; one of the two had mentioned it a few times. Please.

Mike Smith: Well, here in California, we can only use it underhanded. Period. So, when you try and go left-handed with it, it's very awkward, you can't--first of all, you can hardly even use it. As a matter of fact, I missed--the other day, I went around and completely missed the horse because I'm trying to do it underhanded. And when I do use it underhanded, I seem to hit him in the wrong place most of the time, it's in the flank because it's put down. When you can turn it up and use it properly, you can reach back and hit him on the muscled part of a horse's butt instead of underneath in the soft part in the flank. And if it's used properly and a horse will respond to it; whenever it's used in the flanks, it's in the wrong area to hit a horse, you can never hit a horse in that area. But going underhanded, a lot of times--especially left-handed--which is very awkward, that's where you wind up hitting them.

Barry Sample: Any additional questions or comments? Good. Okay. Thank you, the members of the Guild, for your time, and attention, and educating us. The next panel up?

Rob Williams: The next group that we have with us are representatives from The Jockey Club. I know Matt Iuliano was on, I'm not sure if Jim Gagliano. Jim, I do see that you're on. If you want to introduce who's with you and then just straight in, if you would.

Jim Gagliano: Sure. I'm joined today by Matt Iuliano. I'll give some opening comments to provide a little context on our position and then Matt can be more specific about the evolution of our position and can discuss some of the research.

First of all, thank you for this opportunity gentlemen. It's an honor to be before you; I give you a lot of credit for diving into a subject like this as deeply as you have, it's good to have these kinds of dialogues, it's good to have them publicly and I commend you. As for the panel that was just before this one with the Jockeys' Guild, likewise, I commend representatives of the Jockeys' Guild, in particular, the two co-chairs and the vice-chair. It isn't very often in organizations like this that you see guys that are at the top of the sport, the ones that have, for years, been the leading earners and often eclipse awards winners, putting time back into the sport on behalf of hundreds of their fellow riders and to try to lead--and they do so very effectively. So, I commend them for doing all that they do for the sport for, frankly, often thankless positions.

The Jockey Club has long been involved in matters of integrity, and safety, and welfare of the horse. We're a 126-year-old New York corporation and through our history, we've often looked at different issues and sometimes provocatively proposed a path forward that others didn't see. And about 15 years ago, we started a standing committee called The Thoroughbred Safety Committee which hears testimony from--it's composed of members of The Jockey Club who meet three or four times a year, hear testimony, and consider various matters and make recommendations that are ultimately approved by the board of stewards. And the matter of the riding crop, as Matt will discuss in a minute, has been pretty much a constant subject since that committee was begun.

The context I'd like to just share with you is that things evolve; our sport, thoroughbred racing has evolved. Over the weekend, I asked Ed Bowen, long time editor of The Blood-Horse and then president of one of our affiliate charities, the Grayson-Jockey Club Research Foundation, if he could find for me the last time that spurs were mentioned in regulations--and they were permitted in America through, we believe, around 1936; some jurisdictions still had permitted them such that they were regulated to be banned.

Clearly, in my lifetime in the sport, we've seen an evolution of the crop. The gentleman before just described changes in the whip itself, changes in its use; and the panel before it discussed increased and heightened scrutiny by regulators to make sure that it is used properly. Gosh, I

remember at one point, a young rider coming through New Jersey and ended up being a prominent rider in New York whose nickname was given was Chop Chop because of his aggressive nature with the whip.

So, all that's kind of part of a background and we'll get into specifics. But I think in today's America--well, in today's world--things are changing. Just last week, Petco, I think the largest retailer of pet supplies, announced that it was no longer selling shock collars because they didn't think that was an appropriate way to train animals. I think they did over \$10 million in sales last year. To me and to The Jockey Club, we see a future where hitting an animal with a stick won't be acceptable, certainly not for urging. We recognize that these are difficult things to change, it's going to take a while, but I'd submit that kind of like the sports bubbles we hear about, perhaps we're in our own bubble too; and I think if we want to grow the sport, we have to look out and engage perception. And, in my view, it's one of the increasing intolerance of things such as hitting an animal with a stick for urging.

I'm going to ask Matt to just give a little chronology of The Jockey Club's position on this subject and our most recent, and share some details about some of our research. Matt?

Matt Iuliano: Can you hear me okay?

Barry Sample: Yes.

Matt Iuliano: Very good. Well, the riding crop itself has been a topic of great interest with The Jockey Club Thoroughbred Safety Committee. And as Jim mentioned, it dates back to at least 2008 when it issued its first recommendation, which specified the details of the cushion crop. In 2011, we took it up again after McKinsey & Company reported that among the results of surveys among current and prospective fans, the imagery of striking the horse during a race was one of the top three drivers that contributed to a negative perception towards the sport. If you recall, that 2011 industry analysis was really looking at what the sport currently does and what changes could we implement in order to grow the customer base and to attract new fans; and striking the horse, in general, was one of three. The other two were the idea of race-day medication and the last one was aftercare.

And so, after studying this matter further, The Jockey Club Thoroughbred Safety Committee issued a recommendation in 2016 that called for prohibiting the striking of a horse from a position where the arm is raised above the shoulder. There were particular comments that were made at that time--again, it's my term, not anything professional--but this idea of windmilling, this striking the horse, raising the arm above helmet height, shoulder height, it just created a public perception that in the consumer surveys and the results that were tabulated. And these were

big surveys, each one of them was in excess of 1500 respondents, they saw that as a very negative, that it casts a negative light on the entire sport.

And so, there was a prohibition, in that 2016 recommendation, for striking the horse from a position above shoulder height. And then secondly, to avoid, as you all have addressed, these long periods of successive striking on the horse, to allow the horse an opportunity to respond; and it also included the third--kind of the third leg of that stool from that recommendation in 2016--was penalties have to be stepped up; there just did not seem to be enough of a deterrent effect to prevent riders from doing those types of actions that, according to what prospective fans were saying, they didn't like; and one of the ways was, perhaps, to reconsider the penalties.

And we took that topic up again in 2019. The Jockey Club--the Urban Safety Committee--again looked at the riding crop, but this time, the recommendation was somewhat different. It was to completely eliminate the use of the crop--or excuse me--for purposes of encouragement, it certainly did not prohibit carrying the crop and to use the crop to avoid dangerous situations or to avoid anything that happens during the conduct of the race that would put the horse or rider in peril.

And then in 2019, there was an additional survey of fans that really categorized themselves as being either avid casual or occasional in nature, and it was interesting that out of those--these are existing fans now, so these are people that have come to the racetrack and some just more frequent frequently than others, or participated in wagering more frequently than others--the principal action that was called for out of that survey was a dramatic and significant increase in penalties for misuse of the crop. They were somewhat silent as to the crop itself, but more so that the penalties have to be increased if there is any type of perception that a horse is being over-encouraged or if the crop is being overused in any way.

So, you can kind of plot this progression along a timeline and the one conclusion that comes out of it is... it's just the imagery, it's the perception of striking a horse, it does create a negative public perception. I realize it's a difficult pill to swallow because crops have been in racing for decades, if not centuries. But that perception of striking has changed in the public's eye; it's something that has been a deterrent to them for greater participation of younger, new fans that may not have been exposed to racing in the past, they see that as a significant barrier. And when we see it, that tells us that that's something that needs to be addressed.

There is a--it's kind of interesting, there's this--we all hear this now. There's this phrase that's been circulating around lately called a "social

license", and that is the social license to operate. It's basically a way of saying that the conduct of a business or the conduct of a sport is accepted by the public, that they conduct themselves in such a way that the public accepts it; and whipping a horse is certainly--has been lately in the gun sights of the public as a practice that is very contrary to general acceptance by the public. And again, I commend you all for for tackling--this is a tough issue, it's a very, very difficult issue, and the representatives from the Jockeys' Guild, they're very informed, they have practical experience on the matter, but I think the time has come where we have to look at some of these other inputs that come into this decision and to begin to apply weight to those inputs and how can we best address them.

Because we certainly didn't enter into this decision lightly to eliminate the use of the whip for encouragement; it was a painful--a long and painful process that was developed over several years when attempts to regulate the use of the whip had done very, very little to try to change public perception on its use.

And with that, I'll conclude and happy to--Jim and I are happy to take any questions.

Peter Moschetti:

Pete Moschetti. I assume that you guys are concerned with having a uniform rule if we can, because I sense and I know that the jockeys that we've talked to--obviously, these are top-end and they ride in different jurisdictions, and it appears now that we have different rules--significantly different--in the different jurisdictions such as California, Kentucky, New Jersey, Maryland, New York. So, maybe you guys could discuss that--I mean I know what the position is as far as abandoning the use of the crop for encouragement--and right now, my understanding, I think, is New Jersey is the only place that's doing that? I think New Jersey is the only place that's doing that? So, maybe you guys could give us some thoughts on that.

[Crosstalking]

Matt Iuliano:

Oh, go ahead, Jim. I was just going to offer the research results and I'm happy to turn it over to you. I can answer that question with a very interesting result that came out of our latest study that was commissioned. This was the one in 2019 and that was--one of the responses that actually ranked in the top three responses is to create a standard policy to regulate crop use around the country. So, what you've said is very consistent with what fans--and this is, again, a survey among fans that are accustomed to horse racing--either avid, occasional, casual, et cetera. So, go ahead, Jim.

Jim Gagliano:

Yeah. Clearly, we would be in favor of the uniform policy; as you know, that requires all other states that have racing to concur, and that's not an



easy process. But I commend you guys for taking a first step here. New York is a leading state, but I'm very sympathetic to the riders when they describe, on a weekend--all those three riders we heard from travel--or under certain normal circumstances, would travel lots on weekend from state to state--and uneven regulations aren't good for them, they're aren't good for those that are judging the races, as betting propositions, or the public at large. So, yeah, we'd like to see uniformity in all roles.

Barry Sample: You mentioned perception on a few occasions. I don't know if that meant general public or the racing public perception; but one of the concerns we have here as an institution is the bettors' perception and how do we address the bettors' perception that the sport isn't as competitive as it could be if we increase, remove, or enhance the limitations of a tool that jockeys have had at their disposal?

Jim Gagliano: Well, every rider in the race would be competing under the same rules.

Barry Sample: Meaning that--I don't know if I was clear--but basically that it takes away the level of competition in a betting sport.

Jim Gagliano: Well, I don't necessarily agree with that; every rider will have the same tools, the same rules.

Barry Sample: I know. I don't necessarily say that you agree with it or disagree with it, I said how do we address the perception that the betting public may have, whether that perception's right or wrong. How do we, as an institution, address that perception or can you give us some guidance on how we could potentially address that perception?

Jim Gagliano: Sure.

Barry Sample: It may be a misconception and the perception might be wrong or might not be accurate, but it's there, and how do we, as an institution--if you can give us some guidance on how we might be able to address that?

Jim Gagliano: The research that Matt discussed, largely it's sourcing from people that are either fans of the sport or are likely to be fans of the sport. And if you look at our customer base, it's constantly replenishing. And so, for us to compete as a sport, our objective is to grow new fans. There may be a segment of current bettors that don't like this change or would be uneasy with this change, we're talking about a linear approach where over time, new people to this sport will be more heightened to concerns about how animals are treated.

So, I think to answer your question, it's going to have to be something that, like today, we begin to talk about and we begin to consider. It's going to take a while--and it's going to take a while for those perceptions to come to bear.

John Velasquez: Can I speak?

Barry Sample: Sure. Thank you.

John Velasquez: Sir, with all due respect and sorry to interrupt, but obviously, the thing that we haven't done to address the problem, the perception even with our own customers, is that we don't do any education to the public, to the general public. And I think this is how the industry has failed to address the problem even with their new fans or with people who are casual fans of horseracing, that we, collectively, have not done anything to educate the public and our own customers as well. And I think business suffers in that sense in our industry because we don't come together and do the proper work to actually educate the public. By saying that, we have to put all our energy between our all parties, between the racetracks, The Jockey Club, Jockeys' Guild, yourself, the commission working tirelessly in order to keep the game going and to make it a better sport for all the people.

And I have to say this COVID-19 has brought so much fans--and I'm going to say not only fans, but customers to our New York-based on NYRA bets; they grew so much in the last year alone. And it shows how important the way our business is run is, and new fans came in and stayed on the New York accounts. I mean we have to address that: how come we don't come together and educate the public and actually hold all those businesses, all those new fans--or new customers, as I said--that came to our betting? And this is why New York business is doing so well. And even not addressing the problems that we're actually talking about today. I think with education, we'll do a lot better to do the perception thing about bringing new people and new fans to plug in. Thank you.

Barry Sample: Thank you. Do you have any more questions?

Peter Moschetti: Before we move on. I think Chris McCarron is on. Chris, are you on?

Chris McCarron: Yes, I'm on. This is Chris. Can you hear me?

Peter Moschetti: Yes. Thanks, Chris. Pete Moschetti. Were you on the or a member of the Thoroughbred Safety Coalition?

Jim Gagliano: No, the Thoroughbred Safety Committee of The Jockey Club.

Peter Moschetti: Yeah, that's what I mean. I'm sorry.

Chris McCarron: Yes, I am.

Peter Moschetti: Alright. Did you have a position when you were on or do you still have a position about the use of the crop?

Chris McCarron: At the time that we took a vote on that, I abstained. I was somewhat neutral, so I did not commit myself either way.

Peter Moschetti: And do you have a position now?

Chris McCarron: I think the progress that you all are making is fantastic and I think that the opportunities that you're giving to the riders to participate in this and have them voice their opinions is priceless; and I do know that since I was--I was general manager at Santa Anita Park for some time, for about a year and a half and I heard quite a few comments from the public about the use of crop; and at that particular time, we really didn't take any action.

But I think that progress is being made and I couldn't agree more with Mike that the current riding crops are much kinder to utilize; however, I disagree with Mike in one point they when we said that it can be difficult or impossible to strike the horse backhanded, underhanded, especially on the left side. I think we're talking about world-class athletes here and any change that may happen, I think that these guys have the capabilities of adjusting to change. That's just my immediate feeling about what I've heard this morning.

Peter Moschetti: I have a couple of follow-up comments if I may. One, I think it's very difficult to educate on striking a horse and getting the public to understand that that's not bad; I just see that as highly problematic. But going to the last eight months or so where we've had this tremendous amount of increased television coverage, it's really breathtaking what a great advantage that's been for our sport--and I'll point out that that coverage--and the high definition, and the 20-plus cameras--all bring that into much sharper focus for the casual fan, and that's a fact.

The other one, going back to the betting, one of my colleagues texted me and reminded me that in England, they've had some fairly stringent rules on the use of whip for a while--and it's been controversial--but to my knowledge and to my colleague, we're not aware of any issues with gamblers shying away from the sport. And I think that might be something that is worthy of further study.

Chris McCarron: This is Chris again. I wholeheartedly agree with the riders that to take away the riding crop--take it out of their hands altogether as is suggested by the new New York regulations--I mean, I'm sorry--New Jersey regulations--is a big mistake. I can remember times when I was riding a two-year-old colt who walked onto the racetrack and was handed from the groom to the pony person, and this colt has nothing better on his mind than to mount the pony because of the testosterone running through his system. And if I didn't have a riding crop--this is just one other example of why the riding crop is so important--that if I didn't have an opportunity to correct the colt, then somebody's going to get hurt.

On the other side of the coin, I do agree with limiting the number of strikes. I'm not exactly sure today what that number is; but by the same token, I agree that most horses need the type of encouragement necessary to get the best out of them. And so, thank you for letting me share today.

Jerry Skurnik: Hi. This is Jerry Skurnik. I have a question for The Jockey Club folks. Your proposal to allow the crop just for safety but not for encouragement, do you also have ideas on how that would be enforced? Would it be to the jockey's discretion or do you have some specific rules that would have to apply?

Jim Gagliano: Matt, in our recommendation, I don't think it's specified.

Matt Iuliano: It's up to the stewards, yeah. It's up to the professionals that are used to adjudicating over the conduct of a race to make that determination--and that's really where it belongs.

Barry Sample: Any other commissioners have questions? Commissioner Crotty? Commissioner Poklemba? Hearing one, we thank The Jockey Club panel.

Matt Iuliano: Thank you all.

Jim Gagliano: Thank you.

Barry Sample: Thank you for your time and attention. We really appreciate it. Rob, you want to go to the next group, please?

Rob Williams: Certainly. The last group today we got includes horsemen and racing officials from New York. We have Will Alempijevic, she's the Executive Director of the New York Thoroughbred Horsemen's Association; and then we have Martin Panza who is the Senior Vice president of Racing Operations at NYRA. Mr. Panza also has collected a few individuals with him that I'll leave for him to introduce.

Barry Sample: Who is going to be the first person on there to speak for the group? Mr. Panza?

Martin Panza: Sure, I can go first.

Barry Sample: You can coordinate any way you want to coordinate as long as we start.

Martin Panza: Sure. Thank you, Rob and Williams, for putting this group together and thank you, commissioners, for us a chance to discuss this in a forum with you

First, I'd like to commend the New York stewards, I think especially during the Saratoga meet this year, they did a very good job of being

consistent and policing the riding up at Saratoga and that's continued through Belmont; I hope that it continues throughout New York. We do have several hall-of-fame riders with us during the Belmont and Saratoga, you do start to get a lot of young riders and I think there's some work to be done there as far as whip usage in race-riding. And I compliment our older leaders especially the ones on this call in trying to help educate those younger riders.

A little background for NYRA on the whip usage and where this started. I think we're all familiar with what took place at Santa Anita early winter and spring of 2019, where they started to have several breakdowns and racing out there just really got thrust into the spotlight for the public. And through that, NYRA started to notice, through our television and our social media platforms late last year, that we were starting to be questioned about the usage of the whip. And Tony Allevato, I think, I think brought it to to our CEO's attention, David O'Rourke that it was starting to become a problem on our social media platforms that people were questioning the use of the whip and why we were allowing it; and in some cases, albeit maybe not many, the overuse of the whip in some races.

That said, in October, November of last year, several of the large race tracks in America got together and formed what we call the Safety Coalition, those tracks being the Churchill Downs racetracks--under their umbrella; the Stronach Group racetracks; the Del Mar Thoroughbred Club, Keeneland, and NYRA. Between those race tracks, we basically control about 85 percent of the country's handle. We met as a group and we started to look at regulations throughout the world for the whip and came up with some thoughts that--and I'm going to include the Breeders' Cup in this coalition as well--came up with some thoughts that there needed to be a uniform rule for whip usage.

And we looked at Europe who currently is, between Germany, France, England, Ireland, restricting the usage of the whip for encouragement to five or six strikes; the whip can be used for safety reasons, but for encouragement in the running of the race, five or six strikes. So, in using that, the group of racetracks got together and put together a proposal for the Jockeys' Guild, of five strikes in a race. You could hit the horse twice in an overhand fashion, wait for the horse to respond, come back and hit him two more times, wait for the horse to respond, and then hit him a fifth time. We then said a sixth, seventh, or eighth strike would be permissible but he would be penalized because we fully understand, in the heat of the running of a race, sometimes it's not the easiest thing, "Did I hit him five times? Did I hit him four times?" So, we said we would like to leave some leeway, albeit there would be a penalty for that leeway.

And then we built the system that the first offense was a warning; the second offense, these penalties came into place; the third offense, the penalties got a little more drastic; the fourth and fifth defense, they got even more drastic; and the sixth offense, you started to get ruled off for a period of time.

So, as a group, the race tracks representing 85 percent of the handle in basically California, Kentucky, New York, Florida, Arkansas, the bigger racing jurisdictions, we would like to start working with our regulators to try and get a uniform rule and a rule that we can work with the Jockeys' Guild on, because I think we all agree they need to use the whip, they are herding animals, they will not go up the rail on their own through a hole; the jockey needs to be able to use the whip. We disagree with New Jersey taking the whip away completely; we think for the integrity of the safety of the running of the race, the jock does need the ability to urge his horse up into a hole at some point during that race.

That said, we approached the guild in January and we've been talking with the guild since January, trying to come to some common ground on getting a uniform rule in place. And look, we, as racetrack managers, fully understand we don't get on the back of that animal and we have complete respect for the gentlemen that do, and we all agree they need to play a part in forming whatever these regulations are. But we, at NYRA, would ask that you, as the regulators of racing in New York, please let's try to get a uniform rule. A very interesting article I read from Gary Stevens in the Thoroughbred Daily News--Gary Stevens, a retired Hall of Fame rider--who basically said it's not fair to young riders, 38 states, 38 different rules. So, let's try to get together and try to get something uniform.

We have a slight advantage in New York in that, listen, whatever you gentlemen do people are going to follow, because New York, Kentucky, California for the most part, are the leaders and what decisions you make will allow the Churchill Downs and Stronach Groups, and even the NYRAs to go to smaller tracks in smaller states around the country and say, "Listen, follow the examples set by the big racing jurisdictions." And we have an advantage because currently, you've got Woodbine and California with rules in place that only allow a horse to be hit underhanded. And so we have the ability, as a group, to watch that for the next six months and see if, in fact, is that the right way to go?

Personally, I think the Safety Coalition Group felt it was much fairer to the rider--and after talking to Mike Smith and riders at Gulfstream in January--it was important to let them use the stick in an overhand fashion, but not to be able to bring it above their head, but to be able to use it in an overhand fashion. And I think in reading some of Mike Smith's comments in California, when you're using it underhand, it is difficult to switch hands and it is causing some safety issues for perhaps

the younger riders. But we have the ability to study what is happening in Woodbine and in California because those rules are already in place.

Firstly, when I watch races from woodbine, I can't really tell the difference underhand or overhand and I watch racing all the time. So, to the general public, I'm not sure that requiring underhanded hitting really does anything from a perception standpoint. Also, in place, obviously in California--and I believe coming online in Kentucky--is going to be a limited strike rule of only six strikes. So, we have the ability, as a group here, to also watch that and see how does that affect racing?

Europe has been doing this for over a year now where the strikes are limited to five or six rights; when I say "Europe", that's Ireland, France, England, Germany, the major racing in Europe, they are not seeing declines in handle, they are not seeing the general public saying, "Oh my god, I'm not going to come racing anymore because the jockey can't hit the horse ten times." And for the most part, the jockeys are trying to cooperate. Listen, will there be an instance where it runs amok? Yes, there will. But the most important thing is we're telling the riders, "If you need it for a safety issue, you have the ability to use it. But from an encouragement issue, we feel we need to put some limit on that."

I'm going to sort of leave my thoughts at that. I would just ask that we're allowed to continue to work together as groups with the guild, with you as regulators, and with the regulators and track managements in these other states because we really feel it's important to try and have uniform racing. With that said, I've asked three gentlemen to join us. Mike Zeigler is in charge of racing for the Churchill Downs race tracks throughout the country; Drew Fleming is the President/CEO of the Breeders' Cup; and we've got Craig Fravel is Director/CEO of Racing for the Stronach Group. So, if we could, I'm going to ask Mike to go first, and then Drew and then Craig to follow up at the end. Thank you very much for your time.

Barry Sample:

Thank you.

Mike Zeigler:

This is Mike. Can you hear me okay?

Barry Sample:

Yes.

Mike Zeigler:

Great. Thanks. So, I appreciate the opportunity to address you this morning. And Martin makes a couple of great points and uniformity is the first, and the need to have a rule, second. And Kentucky went down the path of probably taking the forefront in advance of many of the other states and getting a rule going based on what the Safety Coalition had come up with. And just so you know, in general, the rulemaking process in Kentucky is really lengthy. So, we are still in that rule-making process here, but the first step in that was the racing commission, last summer,

adopted a new rule with penalties and that rule basically is, as Martin described, it's six strikes, no more than two in a row, overhead but not above the shoulder.

Some nuances to it: the crop can be used without penalty to avoid a dangerous situation; the crop can be used during the first eighth of the mile here without those uses being counted towards the six; and then as we spoke about earlier, not going above the shoulder; also the rider can use the crop tapping the horse with his hands on the reins. So, there's a lot of allowances to our rule, but in general, no more than six, no more than two at a time.

And then where we've become challenged here is the penalty structure. The Safety Coalition, as Martin described, had a really strict deterrent. Kentucky's Legislative Review Council found those insufficient, so they came back and countered with a series of suspensions which, honestly, we're challenged with as racetracks because we need to get back and really look at what happens if a rider uses a crop too many times in a race like the Kentucky Derby, they would be suspended for a period of time following that which doesn't necessarily work as a deterrent in those big races.

So, in essence, the Safety Coalition rule was adopted here, we're going back and forth on penalties now, it's been tabled for the short term so that we can readdress the penalties, but we think we're headed in the right direction with respect to having a uniform rule that we can all wrap our hands around with here in Kentucky.

Barry Sample: Your next person. I forgot your order.

Martin Panza: Mike, thank you. Drew Fleming, are you on?

Drew Fleming: Yes, I'm here. And thank you. Good early afternoon, everyone. It's an honor to be here and thank you very much for your time. I think this is a very interesting discussion where we have many different segments of our industry coming together to discuss important issues.

And I want to pretty much just reiterate what Mike and Martin said, I think, as the Thoroughbred Safety Coalition, we obviously agree the use of the riding crop should be used for safety purposes; but the Thoroughbred Safety Coalition has been meeting for many months, lot of thought, time, and diligence has come into what we believe is a good uniform rule that would, hopefully, create uniformity amongst many states, as well as put the United States in line with international standards. As Mike had mentioned early on, I think you're looking at rules in England, Ireland, France, and the United States is pretty far behind from them. So, we believe this is a fair rule, it is balanced, it protects the safety of the riders and it puts us again, in line with



international standards so that we have uniform rules. And hopefully, New York will adopt this rule like what Kentucky recently did.

We're seeing many different states adopt different rules, and I think that creates a fragmented system as we've all heard many times. So, the more we can be uniform, the better. And I think, as Mike put at the very end, we also need penalties that are real, because otherwise, what's the purpose of having a rule if it can't be enforced. So, thank you very much for your time today.

Barry Sample: Thank you. And our last person was Mr. Fravel, is that correct?

Craig Fravel: Fravel. That's how my wife likes me to pronounce it because she thinks it sounds much more sophisticated.

Barry Sample: Well, mine always says, "You can call me anything, just don't call me late to dinner."

Craig Fravel: Exactly. Well, first of all, thank you for having me. You're always afraid to stick your nose in where it doesn't belong in New York State or elsewhere since we don't have a track there, but I think to go along with what Martin had said earlier, the Thoroughbred Safety Coalition of Racetracks has spent a great deal of time on this issue, we all believe very firmly that we need to address the issue with the general public in terms of their perception of crop use; we need to be as horse-friendly and as safety-friendly as we can possibly be; and I think the reforms that have been adopted of late have been a major step in that direction. Probably the greatest shortcoming in terms of the reforms is the lack of uniformity, the fact that we haven't been able to coalesce around the single rule that addresses the issues collectively. And I think that should obviously be an objective.

Also as Martin said, we did have a meeting with Terry Meyocks of the Jockeys' Guild, Mike Smith, Johnny, and a few others in January, and I think most of us felt that we had an agreement on basic usage of the crop where we ran into the inability to put forward a joint recommendation had to do with the penalty structure and not the number of strikes, or the shape of the action. And I would love to think that we could get back to the table with the Guild, come up again with basically that format--which is reflected, for the most part--in the Kentucky rule with the exception of the penalty structure once again--and move forward and try to get this done on a national basis. So, that would be my first play.

I did want to--I have been listening in on the earlier part of this meeting and I do think it's important--and we're going to be--we're doing this here in California--is review carefully the results of the outcomes of races under the new rules--and I know they've been doing that in Woodbine in Canada. But doing things--and to address your question earlier, "How do

we address the gamblers?" Well, I'll say one thing: I've never seen in any past performance data, any indication of how many times a horse was struck during the course of a race by the crop. So, as a handicapping factor, it apparently doesn't seem to factor in too much.

But secondarily, I think we can address things by looking at things like percentage of winning favorites and margins of victory between the first five finishers in a race and look at how races are actually being run, and the outcomes. Have we dramatically changed the game? I'm going to suggest to you--I'm going to guess that the winning favorites are still winning at a very close percentage to how they did last year in California--and the same would be true in Canada--but my point is we need to make those evaluations, publish that information, let gamblers decide for themselves, talk to the algorithmic players who play this game using highly sophisticated computer analysis and figure out if the change in rules has affected their algorithms for their success or failure in races.

So, I don't think that we should concede that simply changing rules is going to destroy the gambling aspect of things; we heard those arguments when we were discussing the modification of medication rules, whether it was steroids, or corticosteroids, or lasix, and I think the gambling public continues to respond positively to our sport; and with good information, good communication, we can maintain that once we have changed these rules and, hopefully, in a uniform fashion

So, happy to answer any questions. But thank you for your time.

Barry Sample: I think that was the last presenter.

Rob Williams: We still have Will Alempijevic from NYTHA.

Barry Sample: We have one other person? Who is it?

Rob Williams: Will Alempijevic.

Barry Sample: Yes. Hi.

Will Alempijevic: Thank you for this opportunity. My name is Will Alempijevic. I'm the Executive Director of NYTHA, the New York Thoroughbred Horsemen's Association; we represent the thousands of owners and trainers that compete at the NYRA racetracks. There's been a tremendous amount of great testimony already, so I won't rehash a lot that has already been said; there's been great discussion and we're going to be willing participants in this going forward.

I do want to say a couple quick comments on behalf of my membership. I must acknowledge that we are doing a great job in New York; the stewards and the jockeys collectively are doing a wonderful job and

there does not seem to be an issue from our constituents. However, as The Jockey Club--Jim Gagliano and Matt--I don't know his last name--talked about--looking internally all the time isn't necessarily the best path going forward and we do need to look outwards and grow the fan base. And some of the data that they've shared previously is of concern to our membership because, as we know, as we grow the business, there will be more horse owners, there will be more horses, there will be more bettors, and all of that collectively leads to a more fruitful industry; and at the end of the day, this is what NYTHA is in support of.

So, we understand the jockeys' concerns, but it's clear that time has now come for some change. And we see it as a little bit of a triangle interwoven between performance, safety, perception. And I'm confident that, collectively, we can come together with a resolution that looks after all three of those aspects so that we can continue to grow our business and have a viable industry in New York going forward. The last commenters all focused on a consensus rule and we echo that sentiment on behalf of our membership, it needs to be simple and consistent across the region, across the nation.

There currently is another proposal, the Mid-Atlantic Proposal, that has been adopted in Delaware and Maryland since August, and we've heard some good feedback from both of those jurisdictions just this past week. I do believe the New York State Gaming Commission is a part of the Mid-Atlantic Group as well--or at least participates in the meeting so they're aware of that rule.

And just to reiterate once again, we look forward to playing an active role in this process going forward.

Barry Sample: Thank you. I only have one question and it's a theme that went throughout this panel: is there a process or suggested process to reach uniformity amongst the different jurisdictions?

Martin Panza: I'll try to answer that and then I'll--

Barry Sample: Everyone is talking about uniformity, but the issue is what process do you suggest be put in place to get there?

Martin Panza: Right. So, as a manager of a racetrack or the racetracks, I think as stated earlier last October, November, we sort of got together as a group, we started to work on--the first issue was Lasix and just getting Lasix out of our two-year-old races and then, next year, getting Lasix out of all of our stakes. And then this whip issue came into place, and we started to work on that. As Craig said, we met with the guild in January, and I think we were very close to a deal with the Guild in January, and we were in January and we were doing follow-up meetings and COVID hit, and the

ability to sit in a room together and have that discussion fell apart, and it's hard to do deals on Zoom.

To get to your question immediately, I think it's trying to sit with the representative of the regulators, and the Guild, and the racetracks and just try and get in a room. And we're very close to figuring this out, we want to keep the safety issue, but we also need to start to protect the perception of our sport and the integrity of our sport. And the train's left the station: California is at six strikes and it's underhand; Kentucky is going to six strikes, albeit overhand; whether we like it in New York or not, we're probably going to have to do something or, publicly, we're going to get attacked that right now, it's five strikes, let the horse respond; it can be five more strikes, let them respond. You can literally-- we had a jockey at Aqueduct in February, a young rider hit the horse 24 times in the last eighth of a mile. And our CEO basically added videotape... and we need to get away from that stuff.

And so, we need to work together. We think we're close and we think if you, as commissioners, will instruct--Rob, if it's your desire to go down this path, we're happy to meet with Rob, and the Guild, and the Safety Coalition tracks, and try to find some common ground.

Mike, Craig, or Drew, any thoughts on that?

Mike Zeigler: The big challenge is to bring the process to \_\_\_\_\_ [01:53:25].

Barry Sample: Whoever's speaking, if you can start over. It's very garbled.

Mike Zeigler: We're challenged by the rulemaking process. And if New York adopts a rule and penalties, and we're still in the rule-making process here in Kentucky, we will do our best to mirror what's happening up in New York.

Barry Sample: I think it was Mr. Panza who mentioned that if we don't do something in New York--and hopefully, I'm quoting you correctly--we're going to get attacked. Attacked by who? Hello?

John Velasquez: Yeah, can I answer that? This is John Velazquez again. Can I answer that?

Barry Sample: Sure.

Martin Panza: I'm happy at our next meeting, commissioner, to have Tony Allevalo and the social media people address the commission because we see a lot of input on our social media platforms at times. Now, that said, I think our jockeys have done a very good job of being cognizant of that this year and we haven't seen a lot of instances, but we do see it on social media. And as Jim Gagliano from The Jockey Club brought up earlier,

we may get to a stage in society that it's just not permissible or acceptable to hit animals anymore.

Barry Sample: The reason I raised that is I've been hearing most of the day, that in New York, we're doing a good job. And now, I'm hearing if we continue to do the job that we're doing, we're going to get attacked, and I just don't know if that's a contradiction.

Martin Panza: Well, I think when you run a triple crown and you can hit a horse six times in the Kentucky Derby and six times in the Breeders', and you come to New York and you can hit them 30 times, I'm pretty sure NBC is going to bring that up. And right now, New York has no restriction on how many times you can hit a horse.

John Velasquez: Well, Martin, they should be following us; we should be following them.

Martin Panza: And that's what we're asking for, Johnny. We're asking for uniformity. Exactly.

Barry Sample: Okay. Any questions.

John Crotty: This is a question to the group; I don't care who answers it. But I think the penalty issue is going to loom large and be difficult, should we get to that stage. And we're trying to balance the equities of a penalty and ensuring that bad behavior isn't a business decision, right? So, you get down to it as, "I know I'm going to be fined if I've struck, I know I'm at my limit, but I want to win the race and get my percentage of the purse. Therefore, I'm going to break the rule and strike three more times, four more times, whatever." And so that's... we want the rule to be a deterrent and we also want it to be fair. So, we're looking for suggestions, I guess.

Martin Panza: I agree. And I think that's the point that, since January, that we've struggled with trying to work with the Guild. The penalties need to mean something, otherwise, the rule doesn't mean anything it won't be followed.

That said, I think Jim Gagliano brought up a good point earlier. This is a starting point and as you put rules in place, if we see that one phase of the rule is not working, we come back and we adjust. And so, maybe to start with the penalty phase, we meet somewhere in the middle with the Guild and if we find that it's being abused, then we sit down as a group and figure out a way to close that abuse. I don't think we're going to get to the perfect spot--and I don't know if anyone can define the perfect spot today--but, where are we going to be five, ten, 15 years from now? And can we put something in place to start to get to that point?

And I think we'll learn more along the way; as I brought up earlier, we have the ability right now, to study two racing jurisdictions that hit

underhanded; we have the ability to study racing jurisdictions that only are allowing five or six strikes. So, I don't think we have to solve the problem 100 percent today, but we would ask that we start to address it. And if, as I say, we find a weakness in the rule, we can always come back and redress that weakness.

Jerry Skurnik: Hi. This is Commissioner Skurnik. I'm wondering does the national regulatory legislation in Washington affect this concept for uniformity at all?

Martin Panza: Drew, could you try to hit on that, because I'm not completely up to date on it.

Drew Fleming: Sure. The short answer is yes, it could potentially do so. The more specific answer is, I think, it hasn't currently passed the Senate, and while we're optimistic it will and should, it will also take a good bit of time to formally establish deals with the authority and come up to fruition. So, there's still months--many months in between that and when the authority will be fully running. And so this is, to Martin's point, something that we can make a meaningful impact on today.

Matt Iuliano: Commissioner Skurnik, just to put a little gloss on that, the federal legislation does very specifically allow the examination of the use of the crop as part of the safety program as contemplated under the federal legislation.

Barry Sample: Anyone else have questions?

Will Alempijevic: Yes, sir. This is Will Alempijevic, if I can answer the question on the penalties or add some insight.

Barry Sample: Please.

Will Alempijevic: From the horseman's perspective, all we want is a level playing field. So, the penalties need to be very mindful of that, because if a jockey can strike a horse a few more times and get a larger percentage of the purse for the owner, owners are going to be wanting jockeys to ride that way; or if an owner and a trainer finishes second in a race and the jockey of the winning horse dropped it a couple more times, they're going to be disappointed. So, the penalty definitely does need to consider the upside for breaking the rule. A level playing field will work best for our membership and then the customer base, the bettors as well. And through education, we can do that.

Barry Sample: A question. In the penalty phrase, if I finished second and the horse in front of me got hit three more times, do I have beef as far as the placing goes? I mean he had an advantage, I didn't.

Martin Panza: That is why we firmly believe that the penalty phase has to be meaningful. Because if the penalty is a weak penalty, as Carmine says, you might as well break the roll and hit the horse three or four more times. And in what we originally proposed, each time you break the rule, the penalties get stiffer, and stiffer, and stiffer, and stiffer until finally, you're rolled off for 30 days or 45 days. Because it's exactly correct; if you're in the Kentucky Derby and you're on the fence and you get beat a nose, and the guy outside of you hit the horse 14 times and you followed the rule and hit it five times, who's stupider: you or the guy outside? Especially if the penalty is a two-day suspension or a \$5,000 fine. So, the penalties do need to mean something.

I'm not saying whether what they did in Saudi Arabia is correct or not--and certainly, with Mike on the call, I would assume he would say it was not--but the Saudi Arabia people put a rule in place, said, "This is what it is," and I believe that penalty was something in the range of \$285,000 because he hit the horse too many times--or so they thought he did. I don't know what the exact answer is, but I agree with Carmine, the penalties need to mean something otherwise the rule doesn't mean anything.

Barry Sample: I want to have time to get to all the commissioners, but I understand that Mindy Coleman from the Guild has a comment? If we could take that and then get back to the questioning, please?

Mindy Coleman: Yes. Again, Mindy Coleman, on behalf of the Jockeys' Guild. And I'll defer to Johnny actually on this in just a moment, but with regards to the discussion and where you had asked where we stood, I thought today was more on education and we could have gone into the penalties and more under the specifics. We did have these meetings with the Safety Coalition; we were close to reaching a possible agreement where there was a number count and a restriction on the underhand us--or overhand, excuse me with the number count, and then possibly trying to use the underhand as necessary, that's where we were differing a bit. When it came to the penalties, there were two major issues that we had. The first is the jockeys were the only ones being penalized; and yet, the horse was going to continue to be allowed to have its placing.

So, now that Saudi Arabia has been brought up--this is a prime example. They had said it for ten times, Mike allegedly used it 14 times; but while he was using it in those 14 times, what no one has talked about is there was a lead car that they have in the races where there's actually a car; the mayor was paying attention or the filly was paying attention to that lead car, Mike was tapping her on the shoulder which they then considered as a strike to keep her attention as opposed to her focusing on that car. Now, had he not done that, the horse would have not finished second to where she won the amount of money she did, which then it's a percentage of the penalty to Mike only whereas the owner and trainer

receive the full amount of purse. So, that's why we had discussions and major concerns about the penalties that were being imposed.

The other issue that we had is everyone's comparing European racing and the other international racing. The style of racing is completely different in those countries versus here in the United States, and that needs to also be taken into consideration when you're making these decisions, just to make sure that everybody's fully educated and informed of the impact that it's going to have.

If I may even turn it over to John Velasquez? And I don't know why I'm all the sudden echoing back. I apologize. I'm not on speaker either, so I'm not sure what's happening. Johnny?

Jerry Skurnik:

Thank you. I think Mindy said it very well, but it's not broken here in New York, we have not done anything and we have grown the business in New York, we are still growing in New York, and this is still going really, really well. Why change something that is not broken?

Martin Panza:

Once again, I'm happy to have the NYRA social media people and the television people address the committee next time you want to meet because we do get significant feedback.

Barry Sample:

Okay. Do any of the other commissioners have questions? Commissioner Crotty? Commissioner Poklemba.

John Crotty:

Mr. Chairman, do you hear me?

Barry Sample:

I can hear you. I think you said you were okay. Hello?

John Crotty:

In the panel before they were talking a lot about education with the jockeys, right?

Barry Sample:

Okay?

John Crotty:

I thought it would be helpful if, perhaps, the Jockeys' Guild or the jockeys could maybe produce some of those events on their own to sort of talk about it. They gave us some good historical examples from horses where the whip was necessary to get a result they achieved--I mean, in some of the criticisms, there seems to be two conversations going on about the same event. Conversation 1 is the health and welfare of the horse; Conversation 2 is a racing event where you want the participants to extend maximum capacity to try to win the race, right? If they didn't extend themselves, we'd be upset with them on both. But maybe the Jockeys' Guild could take some video or some things and sort of produce some instructional videos about why some of the stuff was necessary rather than just sort of have conversations about it when there's multiple real-world examples--or not.



John Velasquez: I had put something in some examples up in Twitter about horses who would not have won, or wouldn't place where they finished, or have not won because of the situation they were in by not having the crop or counting the numbers of hits, and it's been very, very [well-recepted] on Twitter by the way, so it's been out there. Do we have to present new guys videos like that? We're more than welcome to put a lot of videos in a lot of races that have passed, that they can tell you what was the difference in winning or finishing second and third on the race, though.

Barry Sample: Anything that anyone has that they're willing to share with us, that they think could be helpful to our deliberations would be most welcome. So, if you could do that, we'd greatly appreciate it. Commissioner Crotty, any other issues? Commissioner Poklemba? [Crosstalking]

Barry Sample: Okay. I think that's basically it for today.

John Crotty: I think I'm good.

Barry Sample: Okay. Very good. Poklemba, do you have any issues?

John Poklemba: No.

Barry Sample: Nothing from Poklemba. And I think, Commissioner Skurnik, did you finish what you wanted to address?

Jerry Skurnik: Yeah, I'm fine.

Barry Sample: I'll assume that. Peter Moschetti? [Crosstalking] We would like to thank everyone for participating with us today, and I cannot thank everyone enough. I don't know if I adequately did it as each panel closed, but I know everyone is busy and we took a lot of time and attention out of your day--and not just today, but in preparation for today from a number of folks and we thank you a great deal.

We'll be spending some time trying to pool together what direction we're going to be going on the issue, and we'll keep folks advised as we go through that. Different panels suggested additional information that they would like to provide to us; we'd welcome anything that you can send to us here at the agency and hopefully, you'll allow us to reach out to you for additional questions to be answered as we try to determine what we what focus and what we're going to be doing here. But I cannot thank everyone enough for their time, attention, and preparation for today.

That concludes our published agenda. Do any commissioners have any other items that they would like to raise for today's meeting as we close out? Hearing none, the commission, traditionally, is met on the fourth Monday of each month which would be the 26th of October. So, essentially, we've done October already. I'm giving today's meeting and

I guess we have a number of pending rules once we get back, we'll have to work on setting a date for our next meeting. I will not necessarily say November at this point in time unless that drives when we come up with a date that works for all of our members.

With that, I ask for an adjournment for today. Can I have a motion?

Jerry Skurnik:

So, move.

Barry Sample:

Second.

Peter Moschetti:

Second.

Barry Sample:

All in favor, aye.

Peter Moschetti:

Aye.

Barry Sample:

That concludes our meeting today. And thank you, everyone.

John Velasquez:

Thank you, Mr. Chairman.