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**Tuesday 10 February 2009**

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**Mardi 10 février 2009**

**Standing Committee on  
Government Agencies**

Agency review:

Ontario Racing Commission

**Comité permanent des  
organismes gouvernementaux**

Examen des organismes  
gouvernementaux :

Commission des courses  
de l'Ontario

Chair: Julia Munro  
Clerk: Douglas Arnott

Présidente : Julia Munro  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES  
ORGANISMES GOUVERNEMENTAUX

Tuesday 10 February 2009

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*The committee met at 0931 in room 151, following a closed session.*

## AGENCY REVIEW

## ONTARIO RACING COMMISSION

**The Chair (Mrs. Julia Munro):** Good morning, ladies and gentlemen. Welcome to the Standing Committee on Government Agencies. This morning we are going to conduct ourselves with regard to a review of the Ontario Racing Commission, and I see we have the chair, Mr. Rod Seiling. Good morning. Welcome to the committee. For the purposes of Hansard, I'd ask you to introduce those who are with you.

**Mr. Rod Seiling:** Madam Chair, as you identified, I'm Rod Seiling, chair of the commission. With me I have John Blakney, executive director, and Steve Lehman, our chief administration officer.

**The Chair (Mrs. Julia Munro):** I would just explain to everyone that you have the opportunity to make an opening statement. After that, we will then rotate amongst the caucus for questions and comments.

**Mr. Rod Seiling:** Thank you, and I do wish to make an opening statement. Good morning, Madam Chair and committee members.

As you will know, the Ontario Racing Commission's authority flows from the Ontario Racing Commission Act. We are a self-funding agency, meaning none of our operating funds come from the government. The commission is mandated to govern, direct, control and regulate horse racing in the province. The commission consists of seven members, including myself, and all of us are appointed by the Lieutenant Governor in Council.

An ongoing challenge for the racing industry, and therefore the commission, is its difficulty in understanding the roles and responsibilities of the commission that flow from the act. Adding to this difficulty is the division of responsibilities within the commission, specifically between the governing board and the administration. It is not unusual for me to receive telephone calls or communications wherein the person wants to discuss a specific matter. The standard response is that I can and will converse on a matter generally, but cannot talk specifically without the risk of prejudicing myself. After I explain the reasons, I often then refer the matter to the executive director.

I do this because in effect we function in two specific modes. First, as a governing board, we are responsible for setting policy and direction for the horse racing industry in Ontario. Second, we also act as a quasi-judicial body, hearing the appeals of licensees that arise from decisions made by racing officials employed by the commission. These decisions of the panel of the commission are subject to an appeal by an appellate court, just as all decisions made by the commission's officials can be appealed to the governing board. It is all part and parcel of our due process that is available to every licensee. On an annual basis, the commission's judges, stewards and officials make thousands of rulings annually in the course of their work. On average, only 60 to 70 of these rulings are appealed to the commission.

We are an atypical regulator as we administer, on behalf of the province of Ontario, the HIP, or horse improvement programs, more commonly referred to as the Ontario Sires Stakes, and we make economic decisions primarily related to the allocation of race dates.

Horse racing in Ontario is a large and complex industry. The industry is comprised of racetracks and horse people; that includes owners, trainers, grooms, jockeys, drivers and horse breeders. The commission has approximately 28,000 licensees, and all of them undergo background checks prior to being issued a licence. The background investigations are conducted by commission investigators or Ontario Provincial Police staff seconded to the commission.

The commission became the administrator of the HIP programs by default. They had been handed off to the industry to administer some years ago, but as they were unable to perform this function, the industry made a joint request for the commission to reassume control. This was not surprising, given the varying and sometimes conflicting self-interests and subgroups within the racing industry. Each has its own constituency and its own agenda, which sometimes are in conflict. Theoretically, they are partners with a common business interest. Unfortunately that is not the reality, with the commission left to try and facilitate agreement and, failing that, to arbitrate, and sometimes through a formal hearing process.

The industry traditionally experienced tension between tracks and horse people, no more or less than one would expect to see in a typical labour relations scenario. That relationship has escalated dramatically since the slots-at-racetracks program was initiated some 10 years

ago. The primary cause revolves around the horse people's associations' and the racetracks' disagreements over the number of days of live racing. At the heart of the issue is that the two sides are operating on different business models. Horse people naturally want more racing. The tracks approach the matter, they claim, from more of a business perspective, matching customer demand with operating costs. Revenue split is not at the heart of the tension as it once was, pre-slots, but the issue now is mistrust. However, we are hopeful that that will soon change. There has been a very recent shift in the leadership of the major standardbred association, and we look to signs of improvement in the near future.

This commission supports the principles of the Slots at Racetrack program to support live racing and enhance the rural economy. Our record clearly indicates that we walk that talk. However, it is easy to see that from the horse people's perspective, they see the slots agreement as a possible opportunity for tracks to increase profits by focusing more on the slot partnership than on the partnership with horse people.

We continue to try and have the partners work together, and have started to identify benchmarks that the industry can then utilize in determining measurements of their respective businesses. For example, in a recent decision, a panel of the commission directed the administration to work with the partners to identify an agreed measuring formula for horse supply, an issue of continuing discord. A copy of the reasons for that case has been provided to you. We have also invited them to meet with the commission, who will act as a facilitator to try and find some common ground as to the business model.

The day-to-day administrative affairs of the commission are the responsibility of the executive director. He leads a team of approximately 90 people who officiate at the races at 18 racetracks all across the province. These tracks represent all three breeds of racing: quarter horse, standardbred and thoroughbred.

**The Chair (Mrs. Julia Munro):** I'm sorry. I just must remind you that you're running out of time. Could you make your final comments?

**Mr. Rod Seiling:** I thought that I had a little more time.

**The Chair (Mrs. Julia Munro):** Okay.

**Mr. Peter Kormos:** Excuse me. We're here from 9:30 until noon?

**The Chair (Mrs. Julia Munro):** Yes.

**Mr. Peter Kormos:** Okay.

**Ms. Lisa MacLeod:** I'm fine.

**Mr. Peter Kormos:** I'm eager to hear about—

**Mr. Tim Hudak:** Are you on the stretch, at least, Rod?

**Mr. Rod Seiling:** I'm past the halfway mark. Thank you.

Ontario has the most number of racetracks in North America. These tracks conduct over 18,000 races annually, making Ontario the largest racing jurisdiction in North America. We consult on virtually all our program

and regulatory initiatives. I must say that sometimes, some in the industry mistake consultation for consensus.

**0940**

The objectives of the sires stakes programs are to improve the breeds and to enhance the rural economy. To that extent, the programs by any measure are successful. Ontario horses can and do compete with the best. For example, please refer to the Toronto Star article included in your information package. Ontario's Somebeachsome-where became the world's fastest standardbred this past year, winning races all across North America. Mr. Perkins said it better than I could. This amazing horse was even a recent Lou Marsh Award nominee. The investment in farm land, buildings, livestock and so forth speaks volumes for the success of the program.

The commission operates on three guiding principles: the protection of the health and welfare of the horse, the protection of the safety of participants and the protection of the public interest. The commission operates on a budget of \$11 million annually, including the costs of administering the programs. I am pleased to report that we pride ourselves on being efficient and effective. Two years ago, we were able to reduce our budget by \$2 million and still improve service. We accomplished this feat even though 80% of our costs were out of our control, and that fact is bringing to bear real cost pressures.

We are mandated to provide services to the industry to officiate the running of the races, and these services require people. As well, an important part of our due process is the right to have a hearing, and these costs are beyond our control too. Notwithstanding these budget realities, I am also pleased to say that we are recognized as best in class across North America in terms of the quality of our performance as a regulator. These are not just our words. May I quote from a September 2008 edition of the Daily Racing Form, the leading international horse racing publication, and I quote: "Change is coming" and it starts, "as do many racing innovations, in Ontario."

Wagering in Ontario has remained constant over the years, at about \$1.2 billion. You will note those numbers in the chart provided to you in the information package. What has changed is the mix of that wagering. The number of live race dates has increased over 10% since the inception of the slot program, going from 1,457 in 1998 to 1,634 in 2007. This takes into account that one track and its 25 live race days—Quinte Raceway in Belleville—is closed and is expected to reopen in 2010 with a brand new facility.

When one examines the expanded gaming opportunities and the expansion of competing entertainment options, including those at home, along with the vast explosion of technology, I suggest that racing has fared quite well in many respects. That is not to say it does not have its challenges, and our border tracks are just one example of those.

Despite its warts and the like, I suggest to you that one of the reasons for that success has been and remains the contributions of a regulator that is fair, competent, transparent and professional. We will never be loved by those

whom we regulate, and from time to time they will complain. I can assure you that the basis of any of those complaints will not be from denied due process, fairness or the opportunity to be heard.

Thank you very much. We look forward to answering your questions. Just for the record, due to privacy legislation, we will not be able to provide you with any financial information on the individual racetracks, though.

**The Chair (Mrs. Julia Munro):** Thank you very much. We'll begin questions and comments from the official opposition. Ms. MacLeod.

**Ms. Lisa MacLeod:** Welcome to our friends from the Ontario Racing Commission.

Mr. Seiling, I have a few questions for you. Some are very specific. I'd like to start off with your dual mandate. I just want to quote you in your statement.

You said first that you have "two specific modes. First, as a governing board, we are responsible for setting policy and direction for the horse racing industry in Ontario. Second, we also act as a quasi-judicial body, hearing the appeals of licensees that arise from decisions made by racing officials employed by the commission." I'm just wondering, given the dual mandate of the ORC of policy development and implementation, as well as acting as a regulator, as a quasi-judicial body, do you find that there is a conflict of interest in the ORC's mandate that needs to be dealt with through the appropriate act?

**Mr. Rod Seiling:** I would say that we fully recognize the possibility of conflict and we go to great lengths to ensure we don't have conflicts. We have specific conflict-of-interest guidelines that we adhere to very stringently. In fact, we are recognized as going far beyond what the government requires. I'll turn it over to our executive director, Mr. Blakney, to speak directly about those conflict-of-interest guidelines.

**Mr. John Blakney:** Since 2000, when the Ontario Racing Commission became self-funding and the Racing Commission Act came into force, the issue of conflict of interest was a major one with respect to the operations of the racing commission with respect to its dual mandate.

**Ms. Lisa MacLeod:** Do you think it's possible that you could table the conflict-of-interest guidelines with the clerk, so that when we move on to—

**Mr. John Blakney:** I think they've been included.

**Ms. Lisa MacLeod:** They have been included?

**Mr. John Blakney:** Yes.

**Ms. Lisa MacLeod:** Okay. I think that's important.

One of the things I regret on this committee is that we can't open the doors to every deputant who wants to speak, so we do have to accept written submissions, because people who want to comment can't come. They haven't been invited. I want to read three of those into the record today.

One is from Eric Poteck, who is from Toronto. He is a horse race player advocate. He says: "The ORC currently wears many hats, but the most important one is not fitting properly. The commission needs to get back on track to its core purpose of regulation and enforcement of the

rules of the game, and let the industry stakeholders run the industry."

We also have another disappointed stakeholder with the Horsemen's Benevolent and Protective Association. Sue Leslie, the president of that organization, writes: "We believe the ORC has travelled down a path that is outside its intended mandate. This path results in wasted resources in terms of both time and money. The role of the regulator needs to be more specifically defined and articulated to all stakeholders."

Finally, I want to read a letter, just an excerpt, from a 78-year-old horseman who wrote to me yesterday. His name is Mervin Bud Burke. He's also from the greater Toronto area. He talks about his time as a horse racer, and he says: "The ORC is a large organization and needs experienced management that can draft a long-range business plan, draft a dress code, a code of conduct and a clear understanding of integrity. Set up a professional enforcement team with the power and support to carry out their mandate."

I know that this afternoon we're going to have the OHHA and several other stakeholders who will probably provide us with similar views, that the mandate of the ORC is essentially a contradiction and there is a conflict of interest. I would like you just to talk a little bit more about how your organization makes decisions and what factors the ORC considers when deciding race days.

**Mr. Rod Seiling:** Before I turn it over to Mr. Blakney to talk about the race day allocation process, let me first address the generality of your earlier comments. I think it goes to the heart of my earlier comments about people not understanding the roles and functions of the commission. It's very clear we have two distinct functions; we talk about it, we talk to people about it, and they still seem to have some difficulty. They also do not understand the difference between the commission itself, myself and my six fellow board members, and the role of the administration. We really do have a Chinese wall there. So we go to great lengths to ensure, for example, on matters that deal with due process that we bend over backwards to make sure that neither myself nor any of my board members—

**Ms. Lisa MacLeod:** But surely there must be a great disconnect or a lack of communication between the ORC and the industry if I've just read into the record concerns from three stakeholders. We will hear from another four stakeholders this afternoon. I must say, having learned a little bit about this industry in the last year and a half, that you have a dual mandate in terms of policy development and policy implementation, as well as regulator, as a quasi-judicial body, it has been of great concern to the industry. I think that needs to be addressed. I think that if you're saying—

**Mr. Rod Seiling:** Can I finish my answer?

**Ms. Lisa MacLeod:** —that everyone doesn't understand, and I suspect that you mean also myself, I'm just pointing out as a legislator that that is of grave concern to many in the industry.

**Mr. Rod Seiling:** If you let me finish the answer I think I can help you.

Partly, it's a misunderstanding of or not an understanding of the roles.

**0950**

I spoke earlier about regulators not necessarily being loved by those they regulate. In fact, what happens many times when they have disputes is that they come to the commission for the commission to resolve that dispute. Depending on which way the commission—whether it be the administration dealing with it or the governing board, they like you or don't like you, and that like or dislike changes from issue to issue and from day to day. So it's not a surprise. Regulators are there to enforce the rules of racing as they're promulgated.

As I said earlier, we operate on three guiding principles: to protect the health and welfare of the horse, to protect the safety of participants, and we also protect the public welfare. Sometimes, necessarily, those guiding principles come into conflict with certain industry people's desires to do or not do certain things according to the rules.

**Ms. Lisa MacLeod:** I'd like to move on to some specifics—

**Mr. Rod Seiling:** But you also asked me a question about the allocation of race dates, and I was going to turn it over to Mr. Blakney to deal with that part of it.

**Ms. Lisa MacLeod:** Okay. If we could do that, because I have some more specific questions with respect to that.

**The Chair (Mrs. Julia Munro):** Okay. Just one at a time here. We'll move on to the second part of the question. Mr. Blakney.

**Mr. John Blakney:** With respect to race dates, Madam Chair?

**The Chair (Mrs. Julia Munro):** Yes.

**Mr. John Blakney:** Going back to the foundation principles of the commission, we at the ORC approach matters in terms of race dates with respect to a fair and transparent process. That would ensure, and does ensure, Ontario racetracks and various stakeholders, including horse people, are involved in a process for the establishment and allocation of race dates.

On an annual basis, we have each racetrack in Ontario make an application for a licence to operate its racetrack. Those racetracks must file certain information with their application—fire safety and protection plans, racetrack security plans, racetrack maintenance plans. They have to ensure that their track is surveyed. They have to submit the track rules that they operate under locally, audited financial statements. We require the racetracks now, in the last year or so—we're working toward implementation of standardized financial reporting. Tracks have to provide backstretch improvement plans to back up their race date applications, their business plans, proposed race dates and so on.

We have a process for reviewing at the executive director level with respect to stakeholders on race dates—the applicant and horsemen's groups normally, or

anyone else who's interested in commenting. We submit those applications for race dates to the public for comment. Where the circumstances require, the executive director will meet with the relevant racetrack and the horsemen's groups to try to work out any kind of problems with respect to race dates. Taking all of that information in, and with considerable consideration given to the diversity of interests between the various groups—the racetrack interests in terms of their business and the desire of the horsemen to want to race—a decision is reached and—

**Ms. Lisa MacLeod:** Can I ask you a quick question?

**Mr. John Blakney:** I'm almost finished. A decision is reached and issued by the executive director. That decision is subject to a hearing before an independent panel of the commission board and is reviewed, if there is an agreed party.

**Ms. Lisa MacLeod:** How many lost race days have there been since 2005 per year? Would you know that?

**Mr. John Blakney:** Overall, as the chair pointed out, since the slot program came in we have increased race dates to the tune of 1,600. There have been race dates—I think the reduction has been around 80-some race dates that have been lost throughout Ontario, focused primarily on the Windsor Raceway. Recently, I think two years ago, there was a major reduction at the Woodbine Entertainment Group tracks.

Overall, though, I want to say on race dates, because it is a quasi-adjudicated process—that is where each party that wants to makes a submission, and information that they submit is given consideration—decisions reached by the executive director or ultimately by a panel of the board overall in the last number of years, in terms of the total number of race dates that have been applied for, we have, overall, required race tracks to race more than what they've applied for.

**Ms. Lisa MacLeod:** Would you mind if I shifted gears just a bit to Mr. Seiling's comments toward the end, when he talked about the Quinte Raceway in Belleville, which has closed and is expected to reopen in 2010 with a brand new facility? We're all very happy about that. Would you be able to confirm whether the OLG entered into an agreement with the facility for 2009? They do not intend, obviously, per your deputation, to start racing in 2010. Is there a problem there contractually?

**Mr. Rod Seiling:** You would have to speak to the OLG. We're not involved in those issues.

**Ms. Lisa MacLeod:** Okay. Thanks for the clarification there.

The other one: Through reviewing the legislative report that we received, there are several operational reviews, reports and panels that have been alluded to. I'm wondering if you could put a price tag on internal operation reviews and other communications that you've put out to the horse racing industry for 2004, 2005, 2006 and 2007.

**Mr. Rod Seiling:** I'll turn that over to Mr. Blakney. He'd be better because it's an administrative responsibility.

**Ms. Lisa MacLeod:** Okay.

**Mr. John Blakney:** The total number over those years, as I understand it—the number we have is somewhere in the vicinity of \$700,000 that we've spent on reviewing various aspects of the commission. Our focus of attention has been on governance issues, with risk management, and again I say this has been consistent with overall government policy in terms of ensuring that risk management is reviewed on an ongoing basis. We've focused our attention on a communications audit to address issues that have been raised by the industry and also internally in terms of ensuring that we're communicating at a level that we absolutely need to be in terms of maintaining our best-in-class status.

We've reviewed at the officials level the adjudication process and we've received recommendations with respect to how that process can be improved, and the identification of any risks in that particular area. We've addressed the issues and concerns that have been raised by the industry, either formally or informally, on the practice of our investigations unit. Again, I mentioned a communications audit, and recently we engaged the services of the Ontario internal audit division on purchasing procurement.

**The Chair (Mrs. Julia Munro):** Thank you. We'll move on to Mr. Kormos.

**Mr. Peter Kormos:** Thank you kindly. I simply want to add to the observations by Ms. MacLeod that this inherent conflict in joint regulatory adjudicative bodies is one that's been commented on before. In fact, the government criticized that about the Human Rights Tribunal in the course of its dismantling a big chunk of that because it said there was an inherent conflict in policing, and then the same body that does the policing doing the adjudicating. I'm not suggesting that the ORC has been inappropriate in terms of how it has performed that, but it's not going to go away. It has to be addressed at some point with discussions about ways of addressing that and eliminating—as you well know the terminology—even the impression of conflict.

**1000**

Look, for Mr. Hudak, for me, for Mr. Craiton, if he were here, the elephant in the room down in Niagara is the 111-year-old racetrack, the Fort Erie Race Track, that has just laid off—what?—300-plus of its workers, leaving a handful. The city of Fort Erie says that it is responsible for up to 2,500 actual and spinoff jobs in Niagara. It's also the mainstay of our agricultural industry, short of the market farm. Short of the produce, the vegetables and fruit that are produced there, it's the mainstay of farming, the largest part of farming. We are very, very apprehensive.

Can you tell us a couple of things? What does it mean when it's reported that the racetrack, to have its 2009 licence approved to run races, has to satisfy you that it

can meet financial obligations for the year? What types of financial obligations is the ORC expecting to be met?

**Mr. Rod Seiling:** Mr. Kormos, I'll let Mr. Blakney answer, but I just want to clarify that this commission certainly is doing all it can within its limited powers to ensure that live racing continues at Fort Erie. We want that to happen and we're doing all we—

**Mr. Peter Kormos:** So do we.

**Mr. Rod Seiling:** We're doing all we can, as a regulator, to make that happen.

**Mr. Peter Kormos:** Let's find out what's happening.

**Mr. Rod Seiling:** There are certain requirements that the track has to comply with because of regulatory matters, and I'll turn that over to Mr. Blakney, because as executive director he is the one who has to be satisfied that those issues are satisfied before he can issue a licence.

**Mr. John Blakney:** Thank you. With respect to Fort Erie and its application for racing in 2009, we'll go back even a year before that, to 2008. We worked closely with management of Fort Erie and HBPA in terms of ensuring that our regulatory process would not stand in the way of live racing being successful in Fort Erie, although that's not to say that where the integrity of the licensing process has to be maintained, we are entrusted to do that to ensure that we're being fair and transparent about the process and ensuring that we're not setting an undue precedent.

Since 2008, Fort Erie has addressed issues with respect to licensing matters under request by the ORC with respect to submission of letters updating us and then subsequently providing an application for race dates for 2009. That application, on the face of what was submitted, was on condition that it would meet operational cost overruns. That also meant that if there were overruns, there would be stakeholder requirements. Stakeholders would have to help them out in terms of offsetting those losses.

That was and is a difficult condition for the executive director to deal with on the face of permitting a licence to be issued. However, because the financial issue was there and there was ongoing interest in terms of ensuring that Fort Erie would race in 2009, there was interest in terms of ensuring that the licence or the absence of a licence would not act as a barrier to ensuring that proposals, or what Nordic Gaming or what Fort Erie was considering doing, would not get in the way.

We extended the 2008 licence, which we're allowed to do under the legislation, to ensure that Fort Erie has every opportunity to resolve its financial matters and remove the condition, in terms of the 2009 application, for requiring stakeholders to offset any old cost overruns.

**Mr. Peter Kormos:** Help me understand this: The reason a racetrack competes or seeks more and more race dates is because they can have more and more occasions of paid attendance and betting. Is that fair? The reason the ORC monitors and controls the number and doesn't let the market alone prevail is—

**Mr. Rod Seiling:** There are a number of factors. First of all, you have to look at horse supply and the ability to put competitive races on. You have to look at the market and conditions within that market—is there customer demand for it; are there competing products out there?—all those things, and then you take into consideration what we call the general good for racing, which includes the industry and the stakeholders. I think earlier John dealt a little bit, when Ms. MacLeod asked about race date allocation—that goes into that whole mix. John, maybe you want to talk a little more about these particular matters. What factors do you use that bring you to a decision about a track's application for live race dates?

**Mr. John Blakney:** Yes. Expanding on the issue of race dates, it does apply in the case of Fort Erie. We can give consideration to the area of horse supply-customer demand; the availability of purse levels; the motivation behind live racing in terms of the racetrack owners and management; the financial impact of racing, which is taking into consideration the financial issues related—that may or may not be raised by the racetrack, but financial impact is taken into consideration. So in the case of Fort Erie, we continue to look at those particular variables with respect to the issuance of any kind of licence.

**Mr. Peter Kormos:** And Woodbine would be on the table as well in terms of its sharing a similar, or at least overlapping, market? This is a very difficult thing for us down in Niagara to debate, because we've learned to appreciate the Niagara casino's value as an employer, even those of us who were very critical of casino gaming. It has become the employer of last resort in Niagara. Unfortunately, it's laying off people now too.

One of the concerns we had some years ago now was that the casinos were going to dilute or scoop the gambling dollar. Anecdotally, we've seen it in our communities in terms of everything from church bazaars to bingos. I suspect—and of course we've got the second problem of being a border community as well—that folks in Niagara will go to racetracks in western New York. You see, you control other horse racing by monitoring it and regulating the volume, but you don't have any control over the casino gaming part of it, do you, how that competes with the decision the customer makes?

**Mr. Rod Seiling:** Horse racing doesn't operate in a vacuum. It's an entertainment option and it has to compete for customers. As I said in my opening remarks, our border tracks are suffering just like other border businesses are. As some of you know, in my previous life I was in the tourism business, and it's got the same problems. When you take a look at a Fort Erie track, where its business model at one time was built primarily on US customer business, and that tap is turned off almost entirely, it has a huge impact, and the impacts follow right through down the food chain. If you've been in Fort Erie in the past couple of years, you don't even see a US customer window anymore. There used to be at a time in Fort Erie, when you went to wager, more windows that dealt in US dollars than Canadian dollars. There isn't even one today that I'm aware of. So that tells you the

size of the problem. It's the loss of US business that has altered the business for anyone operating along that border in the entertainment business or in other businesses, quite frankly, as you know better than I do.

**1010**

**Mr. Peter Kormos:** And I think we're going to talk about offshore gaming schemes that don't comply with Ontario-Canadian regulations.

Tim Hudak is too young to remember, but Louie Gale worked out at Bill's pool hall at the end of King Street, and he did the horse betting there. When Louie died—he put two kids through university—Fort Erie's revenues increased exponentially. It was a remarkable impact on the revenues of Fort Erie. But you understand what I'm saying. All of us who rely upon casinos as employers are loath to be critical of the casino's role. In fact, we want to be as supportive as we can, but how is Fort Erie ever going to compete for gaming dollars? It's one of the best tracks in North America, isn't it? It's a great track. It's got a great dining room. It's got a great ambiance. It's in the perfect location in the world. I've been there a few times, I assure you. So how do we protect horse racing?

**Mr. Rod Seiling:** I'm still optimistic that there will be, in 2009 and continuing, live racing in Fort Erie for years to come. Fort Erie has a good product. It still wagers on an annual basis over \$1 million a day. That makes it number two in this province, after the Woodbine and Mohawk tracks. So there still is a demand for the Fort Erie product. It's been savaged by a lot of things out of its control, just as other Ontario businesses have, and hopefully those things will be able to be dealt with. As I said, we're doing all we can to give it as much time as we can to allow people to find a solution to make it go. We don't have the ability to wave a magic wand and say, "You're back in business," but we're doing all we can from the regulatory side to give it the time it needs to find that solution.

You mentioned earlier about the offshore gaming; that's a problem. It's a problem we deal with. We're aware of it. It's out of our control. There's nothing that we can do about it. It is one of the facets of modern technology that people can get what they want through modern technology. So again, it goes to having your product available in many ways and forms and having it attractive enough that people want to patronize it.

**Mr. Peter Kormos:** I'm sure we're going to be talking about this more this morning.

The other facet that I was interested in was the legitimate off-track betting—Champions, I think they're called. Anecdotally, I'm not familiar with how strong the gaming is there. It seems to me that there's a problem because these places champion horse races in Sarasota, horse races electronically broadcast. We're not supporting Ontario horse breeding, we're not supporting Ontario live horse racing when we're giving gamblers access to those horse races. It doesn't do anything for horse racing in Ontario, does it?

**Mr. Rod Seiling:** Well, it does. I spoke earlier that it would be nice—we all long to go back to the good old



days, but the simple fact is we can't go back there. The genie's out of the box in terms of modern technology. So customers have ways and means to get whatever product they want—

**Mr. Peter Kormos:** And they always did. As I say, Louie Gale—

**Mr. Rod Seiling:** But far more. If you go back and look at—I referenced the \$1 million handled at Fort Erie. By far the majority of that handled isn't bet live at Fort Erie; it comes by way of intertrack. The problem is that you're now dealing with three-cent dollars versus 12- to 18-cent dollars, which you do on live racing. Intertrack, simulcasting, whatever you want to call it, is a mainstay of the business today, and customers will bet on Fort Erie—they may be located in California, they may be in Toronto, they may be in Vancouver, they may be in New York City, Florida or wherever. It is a facet of the entertainment business and the horse racing business today that it's there; it won't go away. As I said, you can't put the genie back in, because people will get what they want. If they don't get it from you, they can get it someplace else. Again, we encourage our tracks to do that simply because, if you're not there, it also says something about the quality of your product.

**Mr. Peter Kormos:** Thank you kindly.

**The Chair (Mrs. Julia Munro):** We'll move on. Mr. McNeely?

**Mr. Phil McNeely:** Thank you, Chair Seiling.

In your opening remarks, you said that “we will never be loved by those whom we regulate,” and I guess you're in the same situation as all police.

Horse racing is, of course, a huge industry and is third in agriculture after dairy and beef. That was a surprise to me when I looked at the brief to prepare for this. In our own area, Ottawa, Rideau Carleton is doing quite well. I see that in 1997, we had 77 live-race dates and now we're up to 150. I guess that slots were part of the reason that this has been possible. So from our own racetrack—I don't hear complaints; I don't read articles of problems. I think, probably, Rideau Carleton is very healthy.

I'd just like you to do an overview of what you do. Your business plan for 2008 to 2011 I have, so I guess you're coming up close to a business plan for the next four years—2009 to 2012. Could you look at your business plan and look at the major issues that you have and how you're going to deal with them? What is your strategy moving forward into 2009?

**Mr. Rod Seiling:** Thank you, Mr. McNeely. I'll turn that over to Mr. Blakney in a minute because developing a business plan is the responsibility of the administration. They develop the business plan after the board develops its strategic plan. We do have an annual retreat every year. We revisit the current condition of the industry and look and see where we are and what we need to do.

In fact, just about a year ago, we introduced a health, welfare and integrity omnibus—I don't want to call it a bill because we don't have bills, but it was the equivalent of that—which we've kept the administration quite busy with. They did an excellent job in implementing it, but

I'll let Mr. Blakney lead off. He may even want to turn it over to Mr. Lehman. They're responsible for developing the business plan. We have a rolling business plan; we keep updating it on an annual basis and move it along and they bring it back to the board for approval. But I'll let John speak to the details of it.

**Mr. John Blakney:** The two particular tools that the Ontario Racing Commission has that really set the direction of the commission—its vision—and establish its core values for operation and so on, and as a regulator, the kinds of priorities it gives, generally, are found within the strategic plan of the Ontario Racing Commission. We do that on an annual basis in terms of a review with both the board and management of the Ontario Racing Commission.

From the strategic plan, we receive our basic direction from the board, and from that, the administration, under my direction, develops a business plan for moving into the next year and really the next three years. We've been focusing our attention in terms of those kinds of priorities that we believe we, as a regulator, need to focus on in order to maintain our best-in-class level, and also ensure that our focus is really on the health and welfare of the horse, the integrity of the sport itself and the safety of participants in those key areas that the chair pointed out in his opening remarks.

#### 1020

By way of process, we have introduced a consultation process with the industry where initially, when we begin to contemplate or think about initiatives or moving forward into the future, we do sit down with racetracks and horsemen's groups, industry groups and so on, all in one room, to discuss prevailing issues from their perspective. There are some, of course, where we as the regulator are limited in terms of what we can address, but we take from that our key initiatives that we, as the administration, believe that we have to move forward on, also giving consideration to the industry in somewhat of a collaborative way. So we've had meetings in the past with the racetracks and industry groups to try to grapple with prevailing issues within the industry.

Of the most recent, in 2008-09—I think we provided you with a copy of the 2008-09 business plan moving forward to 2011. On pages 22 and 23 we outlined some major key initiatives which are really the first four that we believe that we needed to move on this year. Of course, we provide a report back, as the year evolves, on how well we're doing in terms of implementation.

We will continue to focus on ensuring that the Ontario Racing Commission provides a fair, competent, transparent and professional service to the horse racing industry. We'll ensure that there are collaborative efforts and involvement; we have those processes in place and have been using them. Out of those, in 2008-09, we've been focusing on the implementation of the horse improvement program, a vital and popular program throughout North America with respect to the improvement of the horse. We're looking at restructuring our rules and trying to ensure that our rules become simpler,

clearer and more usable in trying to ensure that our users, the participants, will be able to understand integrity issues as they evolve out of the rules. We have been trying to, with a major effort, establish standardized financial reporting of racetracks so that we all can share in improved information that will improve decision-making, not only within the board level but also within the racetrack component of the industry and the industry in general and, as the chair has mentioned, implementation on the regulatory health and safety measures.

Moving into the future we will be, again, continuing to concentrate on these areas and trying to ensure that the needs of the industry are reflected in our regulatory systems and processes; ensuring that we, as the experts on the regulation side, have things in place; that we can be contemporary, modernized and ensure that we're meeting effectively those needs that are both internally ours, that we recognize, and those of the industry.

**Mr. Phil McNeely:** If you look forward, then, to 2009, you mentioned a few initiatives that you have. What is the most important one? What do you see that you can key on in 2009 and achieve? What do you expect on your most important initiative, then, on your business plan?

**Mr. John Blakney:** I'll focus on two quickly. One is, we will continue to focus on new initiatives in the equine medication control area. Any particular abuse of equine medication undermines integrity within the industry, and we will continue to focus major efforts on those areas and ensure that we have the most effective means, tools and systems to ensure that we have control of any activities related to equine medication abuse.

The executive director's focus is ensuring that we have the financial ability to meet future needs, and that means that we find new efficiencies in our system in terms of trying to ensure that we remain at the same level of revenue requirement that we're at now. However, under the continued pressure of meeting the demands and expectations of the public and the industry, we'll continue to manage in an effective and efficient way, but our focus of attention has to be ensuring financial efficiency and effectiveness.

**Mr. Phil McNeely:** Just one last question that I have is international strategic efforts, number 10 in your key initiatives. It relates, I suppose, to your comparison with your peers. I suppose this would be mostly North America, but I haven't looked at the context of it. I'm asking you to be objective: How do you rate the ORC with other organizations of equal duties across North America?

**Mr. Rod Seiling:** I did reference, Mr. McNeely, third party endorsement. I think that's always the best. I don't like to blow our own horn, but we are recognized as best in class across North America, and if you look at the quote from the Daily Racing Form, that says it all, in my view. We're a leading member of the Association of Racing Commissioners International.

There are a number of initiatives going on right now. I came back from a board meeting not too long ago on a

couple of major initiatives. As we went around the table, the question, "What's Ontario doing?"—and a lot of them are saying, "We're waiting for Ontario to make its decision on how we're going to go." So we are viewed as being very competent, very fair and very professional. We have to be, because we have the most number of races in North America. We have the largest industry. It's incumbent upon us to be the best, and we take great pride in being the best.

As Ms. MacLeod was talking about, being the best doesn't mean that there isn't going to be someone out there who is not 100% happy with the job you do. We recognize that and understand it. A large part of that angst out there results from not understanding. You asked Mr. Blakney about things to do from the board's perspective. We continue looking for and exploring better ways to communicate because we have licensees—good, hard-working people, mostly rural people. As you know, for those who come from rural ridings, not that many of them are hooked up to the Internet. So the ability to connect today with people, to a large part, in an organization such as ours, that large and with that large of a group, becomes a large problem which is complicated by the due process, because there are lots of times when there are things we can't say to interfere with what's going on, what our judges are doing, what the ministers may be doing, or even taking it further down the line through a de novo hearing. We're restricted, a lot of times, in what we can and can't say at that point in time, so we're always looking at better ways to inform the industry, to keep them current about what's happening and have them understand. But a large part of it is because they don't understand the separation and what our powers are, conveyed by the act.

For example, we don't reveal the powers, and so if something happens and the event is over, you can't redo it. Yet, if someone feels that they were ill done by, there's nothing we can do about it, because the event's gone. You can't rerun a race if it's run. So things like that, not understanding that we don't have powers like that, can grate on a person; we understand that.

**1030**

**Mr. John Blakney:** Just adding specifically to the point that the international decides what the chair has indicated: The Ontario Racing Commission, as I said earlier, focuses on a very important integrity issue, and that's medication control. In order to meet the challenges of a very complex issue, one that transcends boundaries internationally and that touches our boundaries and within our own jurisdiction, one of the areas we are focusing on at the administration level is the development of an international intelligence co-operation effort—at the international level, not just with US jurisdictions—where we're developing very strong relationships. Intelligence sharing, because of the complexities of the medication issue, requires more information exchange at an intelligence level so that we can learn more about new drugs and new areas that we need to focus on in order to curb any kind of challenge to integrity through medication.

We work very closely with our federal counterpart, the Canadian Pari-Mutuel Agency. We've made presentations at an international level at the World Trotting Conference of the International Trotting Association, purely on our initiative, indicating the need for greater intelligence sharing, skill development in investigations and how we go about doing our investigative business, research and development, a focus on science. All this needs to be done in a collaborative way at an international level. That's what we've identified. That is an area where we believe we need to focus our attention; for example, in the area of medication control.

**The Chair (Mrs. Julia Munro):** Thank you very much. We'll move on. Mr. Hudak.

**Mr. Tim Hudak:** Chair Seiling, it's good to see you again. Mr. Blakney, Mr. Lehman, thank you for taking the time to be here.

I want to pursue in this round of questioning the situation with the Fort Erie Race Track, as my colleague Mr. Kormos has done. It's no longer in my riding, but the effects on my riding—of course, being a Fort Erie boy, born and raised, it's an issue very near and dear to my heart. Mr. Craiton, not in attendance today, will be making his own inquiries, I fully expect.

Mr. Kormos outlined 300 employees who have been given layoff notices. It impacts probably about 2,500 to 3,000 jobs, depending on the measures that are used, in the community. What's the impact also on the thoroughbred industry if the Fort Erie Race Track were to close down?

**Mr. Rod Seiling:** Any time you lose a racetrack, the ripple effect goes through not only the people who work there, directly employed by the track, but on the horse people's side as well: jockeys, trainers—on the horse breeding side. You've shut down a store, so that store is no longer selling that product. You have less demand, so you cut back on supplies, and the ripple effect goes all the way through. We recognize that, and it's one of the reasons why—for a whole raft of reasons—we're doing all we can from our side to ensure that we are not a problem in terms of surviving.

It impacts our staffing as well, so we aren't immune. We have people who work there in full-time jobs. If there's no racing, their jobs are at risk. So from purely self-interest, we're interested as well. Certainly that's not our major focus, but we have a great deal of empathy for all those people and we certainly are cognizant of the impacts if it closes.

**Mr. Tim Hudak:** I appreciate that.

**Mr. Rod Seiling:** John, I'll turn it over to you for your perspective.

**Mr. John Blakney:** Just a comment, Mr. Hudak. Even though the Ontario Racing Commission has never really declared itself an economic regulator of the industry—it hasn't expanded its authority to get into the business of the industry in any way other than through regulation—we know that what we do every day impacts on individuals, groups, associations and racetrack associations. In the same way as Fort Erie, we understand that every step

that's taken with respect to jeopardizing Fort Erie's future is a major concern to the Ontario Racing Commission. We take those matters into consideration but, as Chair Seiling has said, there are limits in terms of what we can actually do. We've used an instrument in terms of our ability to—

**Mr. Tim Hudak:** I appreciate the answer and I appreciate the concern. I think, as you know, time's limited for our question-and-answer session. Specifically, by way of example, Fort Erie often supplies additional horses to Woodbine. A lot of staff move back and forth between the two sites. Could you tell me what the impact would be on WEG of the Fort Erie Race Track closing down?

**Mr. John Blakney:** There may be a migration of some better horses to—I guess, getting to my point, sorry.

The loss of Fort Erie would have, in my view, a significant impact with respect to the thoroughbred. One is that, according to information provided—anecdotal, that is, from the HBPA—if we lose the colony of individuals—the trainers and the owners and so on—in the Fort Erie area, they will migrate to other racetracks. There's only one other in Ontario, and that would be Woodbine, for those better horses. Those who would be normally at racing levels at Fort Erie would probably migrate to similar tracks in the US. So the longer the situation at Fort Erie remains unknown, the more difficulty the thoroughbred colony at Fort Erie will have.

**Mr. Tim Hudak:** So basically there would be a significant exodus of the horse population and the talent outside of the province of Ontario.

**Mr. John Blakney:** I think that's fair to say, yes.

**Mr. Tim Hudak:** How about on the breeding side? What's the impact on breeding and then agriculture of the Fort Erie track closing down, in a larger sense, on the province of Ontario?

**Mr. Rod Seiling:** All you have to do is take a look at the number of races. Assume 10 horses per race, 10 or 12. So there are 120 horses. You take that out of the food chain. Those are horses that don't need to be bred; there's no buyer. So if you're a breeder and you are breeding your mare to a stallion and there's no buyer anymore, you're going to stop breeding. You have the ripple effect back through the agricultural community.

**Mr. Tim Hudak:** Of significance? I mean, if Fort Erie had on average over the past 10 years, say, 100 racing days and Woodbine, for the thoroughbred side, had on average 150 racing days?

**Mr. Rod Seiling:** It would be 200 and some.

**Mr. Tim Hudak:** So we're looking at maybe about 40%?

**Mr. Rod Seiling:** Yes. I think Woodbine, if my memory serves me right, has over 200 race days, but—

**Mr. Tim Hudak:** But on the thoroughbred side.

**Mr. Rod Seiling:** I'm talking about the thoroughbred side. They race early April to December, so five days a week. But anyway, it's significant.

**Mr. Tim Hudak:** How many other racetracks are losing money? Nordic estimates that if they operate this

year, it will be a \$7-million to \$8-million loss. How many other racetracks are losing money?

**Mr. Rod Seiling:** Remember my disclaimer earlier?

**Mr. Tim Hudak:** I'm not asking about specific tracks; I'm asking how many in total are losing money.

**Mr. Rod Seiling:** That's something that doesn't come to the board specifically, but I'll turn that over to Mr. Blakney and Mr. Lehman, who receive those reports. We don't see them.

**Mr. Tim Hudak:** Okay.

1040

**Mr. John Blakney:** I'm not sure that there are—I'm doing a guesstimate. Probably it's something that we could check out and provide more specific information on—how many tracks are losing money. Steve, do you have any observations?

**Mr. Steve Lehman:** Through the licensing process, they do submit audited financial statements to us. One of the other indicators that we can actually tell those—when we're placing the race dates, there is, as Mr. Kormos mentioned before, a requirement for them to prove that they have the financial wherewithal to deliver on racing, and that hasn't been an issue for several years. So we take that as another proof to mean that financial situations aren't that bad among tracks.

**Mr. Tim Hudak:** In tracks aside from the Fort Erie Race Track.

**Mr. Steve Lehman:** It's very few that are struggling to maintain their race dates.

**Mr. Tim Hudak:** And as you review the applications for race dates each year, do you know approximately how many other racetracks, aside from Fort Erie, are losing money?

**Mr. Steve Lehman:** We get their audited financial statements, so we would know that, absolutely.

**Mr. Tim Hudak:** Yes, but is it nine? Is it three?

**Mr. Rod Seiling:** To keep out of trouble, I think what he said is that financial considerations are taken under each separate racetrack application, and that issue hasn't come to bear on any application.

**Mr. Tim Hudak:** I appreciate that.

When did the ORC become aware that the racing season in Fort Erie for 2009 was in jeopardy?

**Mr. John Blakney:** I guess I'll address that. As I indicated earlier, concerns were raised regarding their 2008 application. Anecdotally, I think there were movements then from Nordic Gaming to look for assistance or to advance their development in terms of new projects to assist—

**Mr. Tim Hudak:** So the submission of the 2008 racing date request would be—what?—in the winter of 2007?

**Mr. John Blakney:** It would have been in August 2007.

**Mr. Tim Hudak:** So we've had almost 18 months since the ORC became aware. Did the province of Ontario, the government, become aware at the same time?

**Mr. John Blakney:** As I recall, I think the only formal information I had with respect to Fort Erie was their concerns over the ability to meet the race date levels and in conversations I had with HBPA with respect to their concerns. I don't recall any direct involvement as far as the ORC was concerned with respect to government.

**Mr. Tim Hudak:** Okay. So did you or any of your staff notify the ministry that racing at Fort Erie Race Track was in jeopardy, and if not, why not?

**Mr. Rod Seiling:** Mr. Hudak, we're aware that Fort Erie had development plans for the track and had been couching those in terms that those plans were contingent on continuing to keep live racing going, and we were talking to a number of people. It's no secret that for the 2008 date application process we publicly made a special allowance for Fort Erie to table their race date application after the submission date had closed, allowing Fort Erie to continue discussions with the town and with other stakeholders, other governments. I think it's fair to say that there has been a whole raft of agencies, government and non-government, working alongside in their own capacity to try and help Fort Erie through those difficulties. A lot of people have done what they could throughout this time period.

**Mr. Tim Hudak:** So who's in charge? Which ministry, which minister, which regulatory agency is in charge of ensuring that track stays open?

**Mr. Rod Seiling:** Currently, racing is the responsibility of the Minister of Energy and Infrastructure. It just got moved about six, nine months ago. Prior to that, it had been with—what the latest terminology is—the Ministry of Government Services, and has been in what you would have known for years as CCR, for want of a better term. So it's been an iteration of that ministry for quite some time until it was recently moved.

**Mr. Tim Hudak:** My point being, the government will likely have known as of August 2007, if not before—I expect contacts had been made at least, not by the local member, but probably by the HBPA or Nordic directly to government—that racing was in jeopardy in future years. I'm sort of confounded as to why nothing has been done over 18 months that could put us in this situation today, of that great oval closing down.

Is the government making money off the slots there?

**Mr. Rod Seiling:** You'd have to check with the OLG. I believe that there's a return there, but certainly not to the extent it once was.

Going back to your earlier comment, it's my understanding that the government did provide some form of assistance. We're not directly involved because it's not within our purview to be, but I think that through economic development, there was some money that flowed to the town of Fort Erie that may have been related to those discussions; I don't know.

**Mr. Tim Hudak:** Did it work?

**Mr. Rod Seiling:** The track operated in 2008, so I guess one might say that the proof's in the pudding.

**Mr. Tim Hudak:** Was there an expectation that in 2009, similar money would—

**Mr. Rod Seiling:** You'd have to talk to the government. That's not our area of responsibility.

**Mr. Tim Hudak:** I guess back to Mr. Lehman: When you review the applications by the tracks, you would know the percentage that would come in, both to Nordic and the horsemen on an individual basis, via the slots?

**Mr. Steve Lehman:** That's right.

**Mr. Tim Hudak:** So how much is coming into the government then? Is it 80%?

**Mr. Steve Lehman:** The municipalities also share in a portion of it, and then the majority of the net win would go to the Ontario Lottery and Gaming Corp.

**Mr. Tim Hudak:** So roughly—remind me—78%, 77% of their revenue?

**Mr. Steve Lehman:** Seventy-five per cent, something in that range, would probably be about right.

**Mr. Tim Hudak:** I guess back to Mr. Seiling: Let's say the racetrack does not operate in 2009—we hope that is not the case, but it is a possibility. Will the government then close down the slots?

**Mr. Rod Seiling:** I'll turn that over to Mr. Blakney because that goes back to the licensing responsibility and the reason for the extension. That's his area of expertise and responsibility.

**Mr. John Blakney:** The short answer is, I can't speak for what the OLG will do in the case where a licence is not issued for 2009.

**Mr. Tim Hudak:** I thought it was obvious. The program was to help the horse racing industry not only survive but prosper. It was initiated back in 1997, or whatever it was, so I thought: no horses on the track, so no slots.

**Mr. John Blakney:** Again, the Ontario Racing Commission regulates horse racing. It is totally committed to live racing and to ensuring, with the tools and instruments it has, that live racing continues, even at Fort Erie, considering its challenges. But the point is that if there is no licence and if there is no racing at Fort Erie, that will be a decision the OLG would make.

**Mr. Tim Hudak:** But why isn't there a decision? I thought that was government policy, that you could only have slots at a facility if it was either a standardbred or thoroughbred racetrack, or quarter horse. Has something changed?

**Mr. John Blakney:** Again, I can't comment beyond the powers of the Racing Commission Act. That doesn't include decisions related to the OLG.

**Mr. Tim Hudak:** Is that not your understanding, though, that that's the premise for the whole slots-for-racetracks project?

**Mr. Rod Seiling:** I think what Mr. Blakney is trying to say is, you may be right, but it's not our decision. We can issue a licence or not issue a licence; what happens after that is not up to us. We're not saying you're wrong, but we're not—

**Mr. Tim Hudak:** You've got to agree with me, though, right? This would be preposterous. You close down a track—

**Mr. Rod Seiling:** I can't speak for another agency, nor can any of us. We have limited powers and abilities. We take it up to there, and what happens after that is up to somebody else, not us. We can't say, "It's shut down," or, "It's not shut down." It's not our purview.

**1050**

**Mr. Tim Hudak:** Doesn't it seem—I mean, it's pretty straightforward: If the province is raking in 77%, 78% of the revenue from the slots, they're making money from the slots. The racetrack is in jeopardy of closing. Doesn't it make a lot of sense, at least in the interim, to shift the slots for revenue—slots at the racetrack program—to enable the Fort Erie racetrack to continue operating? Isn't that pretty basic?

**Mr. Rod Seiling:** That's a policy decision. That's not ours. We can't answer that.

**The Chair (Mrs. Julia Munro):** Thank you. I think we have to move on.

**Mr. Peter Kormos:** Thank you, Chair. We're still talking Fort Erie.

**Mr. Rod Seiling:** Why am I not surprised?

**Mr. Peter Kormos:** Well, you shouldn't be.

**Mr. John Blakney:** Could I just say—

**Mr. Rod Seiling:** We're still talking Fort Erie?

**Mr. Peter Kormos:** Go ahead. Yes.

**Mr. John Blakney:** There's one important factor when I say that we've taken on the responsibility with respect to Fort Erie, in terms of carrying out our mandate. One of the things we have done is to ensure that the purse account money, the horseman's side of the slot money, is secured. I can ask Mr. Lehman to explain how we've gone about doing that. We've worked with the racetrack and we've worked for the horsemen group to secure those ongoing funds while the slot facility continues to operate, and it would continue to operate given its extended licence with the racetrack now, as the given in-year, because they're in off-season.

**Mr. Peter Kormos:** And it's clear that the slots are OLG turf, right? We don't quarrel with that. Your response to the questions put to the commission point out that as the ORC has responsibility for regulating the racetracks and oversight of the horseracing industry at times, decisions made by the OLG regarding racetracks can affect the ORC. I think that's what Mr. Hudak is talking about, and I am too. Look, nobody's suggesting that you can tell the OLG what to do, but when you have concerns about OLG decisions, surely you're entitled to formulate them and then articulate them.

Also, you say you're not an economic regulator. I appreciate in the pure sense that you're not; yet, when I listen to you and I read your material, your broader agenda is to ensure the viability of live horse racing, by ensuring its integrity and by ensuring the economic viability of racetracks, and you do that by determining race days, and, amongst other things, by needing audited reports. This is our question: Was there ever any relationship between ORC and OLG that created a model for how many slot machines—if the slots are there only—to help sup-

port the track? In 1996 the government's rate was reduced from what: 7.5 to 0.5?

**Mr. Rod Seiling:** Five to 0.5.

**Mr. Peter Kormos:** Yes, so that was a remarkable reduction there. I remember that struggle on the part of the horse track people and the horse industry.

Look, if the slots are there—and I think this is what Mr. Hudak might be trying to address as well—why are we not expressing more concern about their being there for the right reasons, so that a racetrack owner can't turn a live-race facility into a casino through the backdoor?

**Mr. Rod Seiling:** First of all, to the first part of your question, we don't regulate per economic viability, but certainly we recognize that in our decisions; there's no question about that. So while we have our guiding principles, you can't ignore the real world.

In terms of the OLG site-holder agreements, the racing commission has never been a party to those agreements. We weren't consulted. I wasn't around at that point in time but I've reviewed the documents. The racing commission was not consulted at all on those deals. The government of the day made those arrangements in conjunction with the racetracks, and I'm aware that they did consult with horse people at the time. Mr. Hudak would be more familiar with that because he was part of the government at that time. The racing commission was left out for whatever reason. We've never been a party to it. All we see is a site-holder agreement—we're aware of it. I mean, we have not asked to comment during those time periods. We're aware of it. You asked about the number of machines: not our area. We have nothing to do with that. That is something between the OLG and the various site holders.

**Mr. Peter Kormos:** Knowing what the OLG's mandate is, is there any governmental body that has more authority and information about the live horse racing industry than the ORC in this province? Is there somebody we should be talking to, besides you, about this? It seems to me that you're the guys.

**Mr. Rod Seiling:** I think that's the safest—

**Mr. Peter Kormos:** You know more than anybody else knows about this.

**Mr. Rod Seiling:** I think that's a safe assumption.

**Mr. Peter Kormos:** Okay. And that's why we're asking these questions, because we're concerned. We need some counsel here. You pointed out the problems with 9/11; the reduction in cross-border travel by Americans; the racetrack says that the ban on indoor smoking has been a problem. That's not going to change. We know that. That's never going to be rolled back. That genie is not going to be put back in the bottle. Competition from other gaming venues, casinos: We know that that's not going to change. Online wagering: I presume they're referring to either Champions-style or, more so, the off-shore betting stakes.

**Mr. Rod Seiling:** I think that refers to offshore, the unlicensed offshore.

**Mr. Peter Kormos:** And again, that's something that involves the federal government more than the province, and in and of itself is very difficult to police.

**Mr. Rod Seiling:** The one good thing about that, if I might just interrupt: Anecdotally, anyway, it appears that some of those bettors—and I'm not saying all of them, obviously, and we can't track them, but certainly the racetracks know who their customers are and know when customers leave and when they come back. There appears to be a migration of online customers back to bet through legal means, which is a good sign.

**Mr. Peter Kormos:** Having noted that, and the government's not going to drop its revenue take beyond 0.5%, and even if it did, it wouldn't be as substantial as the reduction from 5% to 0.5%, what can be done to protect—you said you're confident Fort Erie will be there in two years' time; I'd like to share the optimism. What, from your perspective as the group with the most expertise about live horse racing in this province, should be being done to ensure the viability of Fort Erie?

**Mr. Rod Seiling:** Well, I understand—

**Mr. Peter Kormos:** That's a fair question, isn't it?

**Mr. Rod Seiling:** It's a fair question. All your questions are fair, some more fair than others. I understand, and I'm sure you're aware and so is Mr. Hudak, who is from that area, that there is a proposal on the table right now that the town of Fort Erie has made—

**Mr. Peter Kormos:** If I can interrupt, they want to run it as a non-profit. Nordic says it's already being run as a non-profit. That's what they say, so there's nothing novel about that.

**Mr. Rod Seiling:** Well, again, I can't get into the individual business operation, but obviously, if one were to take away certain debt loads that aren't there anymore, perhaps there's an opportunity. We're not involved in the offer or discussions between the town and Nordic, and so in fairness, one of the things the commission has done is that Mr. Blakney issued an extension on the licence to allow those talks to continue. Hopefully, they will conclude sooner rather than later and are very positive, and that's why I give my reason for optimism. I have great hope that those talks will come to a positive conclusion and that there's the wherewithal within the various stakeholders to make that happen. We don't have any influence on it. We don't have any ability to do anything about it. We are third hand, anecdotally aware of those things. Hopefully, from what information we've been told, there is cause for optimism.

**Mr. Peter Kormos:** You're not quite as removed as you say you are. I read the memorandum of understanding to the Minister of Government Services and the Ontario Racing Commission, and it says that one of your mandates, one of your responsibilities, is "to ensure that information is provided to the minister in a timely manner concerning all matters of an urgent, critical or relevant nature which arise out of the work of the commission and which require the attention of the minister." It seems to me that your counsel in this regard would be

the very sort of thing that's being called upon you to do, by virtue of that MOU, isn't it?

**Mr. Rod Seiling:** And we've fulfilled our mandate, I can assure you.

**Mr. Peter Kormos:** So the ORC has counselled the minister as to what can and should be done by the government?

1100

**Mr. Rod Seiling:** No, we have informed the minister of the problems as they relate to Fort Erie. That has been an ongoing communication for some time in terms of making them aware of the problem, and quite frankly, other people through other means have been doing the same thing, so it's not new. The government is aware, and it's my understanding that they've been doing what they can within their means to try and help find a solution. We're not privy to those—we offer information. We do that and we fulfill our responsibility under the MOU. I can assure you, as I said earlier, we've done that.

**Mr. Peter Kormos:** You talked about the money being bet on-site versus money being bet off-site, both by bettors in Canada and the United States. Is there data? Do we know, for instance, how much American attention Fort Erie attracts as compared to other racetracks and whether it's from California, whether it's from Florida, whether it's from British Columbia?

**Mr. Rod Seiling:** Yes. There is.

**Mr. Peter Kormos:** How is that information compiled? Somebody's got to tell me which page it's on right now.

**Mr. Rod Seiling:** Steve, do you have anything handy with you right now? If you've got it, just read it out.

**Mr. Steve Lehman:** In the annual report, we do give statistics. I'll refer to our annual statistical report, 2006-07. That's the most recent that you would have in front of you. You can actually see, towards the back—I reference pages 28, 29; that gives you an example of the various types of wagering.

**Mrs. Liz Sandals:** We don't have 28 and 29.

**Mr. Peter Kormos:** See, mine stopped at 27.

**Interjection:** Mine too.

**Mr. Peter Kormos:** I feel better now that I asked the question.

**Mrs. Liz Sandals:** And we've been equally treated. We both got cut off.

*Interjection.*

**Mr. Peter Kormos:** Well, there. Lisa's in the know. All right, so—

**Mr. Steve Lehman:** I actually noticed in the production of my book that some of the final pages of that annual report ended up in the back of the following tabs. You may actually just want to dig in a little bit deeper. There's another annual report there and there's also some pages that belong to the previous tab.

**Mr. Peter Kormos:** I suppose what I want to underscore—

*Interjections.*

**Mr. Rod Seiling:** We can give you the number if you want.

**Mr. Peter Kormos:** We'll get them. I'll get them soon. They are available.

What I want is to underscore the sort of perfect storm qualities of the racetrack in Niagara: border; depressed area—both the Niagara frontier and Ontario; and a major, the flagship casino. I suppose people in Windsor wouldn't say that, but the flagship casino almost within spitting distance. That's a pretty intense set of circumstances that other racetracks may not share, although the proliferation of charity casinos and the slots is pretty broad-based across the province. Are there special things that have to be done for Fort Erie that may not have to be done for other racetracks, and is Fort Erie put at exceptional risk because of its positioning in what that over-clichéd phrase, “perfect storm,” speaks to?

**Mr. Rod Seiling:** I can only answer you from the regulatory side, that we will do and have done and continue to do anything we can do within our ability, under the purview that we've been granted through the legislation, to continue—not just Fort Erie, any other track—to keep them viable and keep them racing. As I said earlier, we are committed to the slots-at-racetracks program and we work and do all we can to ensure that the maximum return goes back to the industry; not just racetracks, but horse people and the breeding industry, because we recognize the chain that feeds through the whole agriculture community. We have done and will continue to do anything at all possible to make sure that happens. I think, as we said earlier, Mr. Blakney's extension of the license, which is, in my recollection, a first, bears witness to how far we will go within what we can do to try and help Fort Erie.

**Mr. Peter Kormos:** Various horse people are going to be here this afternoon. In the context of Fort Erie and its survival, you've already anticipated what they're going to criticize you for in other respects, and that's more than fair enough; you would know better than anybody. What are they going to say about the ORC and what it has or hasn't done with respect to the survival of Fort Erie Race Track—fairly or unfairly?

**Mr. Rod Seiling:** I'll let Mr. Blakney answer that because I couldn't.

**Mr. John Blakney:** This is more of a projection in terms of what they might say. I think the thoroughbred horse people at Fort Erie, from a letter I received yesterday from one thoroughbred owner, have a significant concern with continuing the present process. His concern—whether or not he fully understood the situation—is that if Fort Erie were to race, let's say, beginning in June or in May, it would be very difficult for horses to be prepared and ready to be raced within the normal time frame. So there is a concern, I think, with respect to the horse people that my action as executive director to continue into March or extend the licence—all indications are that they may not agree with what I did. I think, in reference to that, that's what you may hear.

**Mr. Peter Kormos:** Thank you kindly.

**The Chair (Mrs. Julia Munro):** We'll move to Ms. Sandals.

**Mrs. Liz Sandals:** I want to spend time talking a little bit more about race dates and also about some of the drug management issues.

First of all, on the race date issue, we've spent a lot of time talking about Fort Erie and some time talking about process in terms of race dates. I wonder if we could talk a bit about some of the other underlying issues that drive the race date discussion.

When I looked at the data that's in the annual report that we were just talking about and looked at page 25, it actually looks quite favourable, because when you look at the thoroughbred race dates combined, Woodbine and Fort Erie, they are pretty consistent over the years. When you look at the total standardbred dates, they go from 1,100 to over 1,400 in the period up to 2006, and that sounds pretty good. But then when I look at some of the material that you gave us today, when we look at the chart we see the number of dates for standardbred—I'm looking at "Ontario Standardbred Race Dates." When we look at the chart up to 2006, we see that 2006 is actually the peak, and then as we look forward, it goes down in 2008. It looks like you've actually driven the number of dates back up in 2009 to start addressing that issue.

I wonder if you can talk a little bit, from a policy perspective, about the interplay between the wagering money perhaps going away to other venues, both in terms of wagering on the races and the income from slots. Then I notice that you've also included in the package a decision from—actually it seems like two disputes, one with respect to the race dates at Georgian Downs and one with respect to the standardbred race dates at Woodbine. I wonder if you could give us a bit of a sense of the issues that were there and what the commission was attempting to do with the decision that ultimately came in terms of Georgian Downs and Woodbine. Clearly, when you look at the charts, there is a problem. If you're not racing horses, you're not making money, from the point of view of the horse people. Is this an attempt to address the issue, and what's the approach the commission is taking in this decision? Okay?

**Mr. Rod Seiling:** Great; thank you.

**Mrs. Liz Sandals:** Big question.

1110

**Mr. Rod Seiling:** There's a lot there, and if we don't get it all answered, I'm sure you'll remind us and we'll come back and cover it all off.

First of all, on the total number of race dates, they've gone up to over 1,600 from pre-slots, and yes, there was a slight dip. As Mr. Blakney said earlier, the majority of those go back to Windsor. Windsor had attempted to expand its season to a year-round. It was never a year-round facility in its heyday. It didn't race in the summer. It has started to race in the summer. In addition to the border issues—and Windsor has many of the issues that Fort Erie has—it also had horse supply issues. It couldn't fill the races. There simply weren't enough horses there for the year-round, and its attempt, as well—

**Mrs. Liz Sandals:** And given the location, I'm guessing that many of the horse owners who are more located

in central and western Ontario didn't want to ship all that way.

**Mr. Rod Seiling:** There's that, because in the summertime they had opportunities from some smaller tracks that opened up for the summer. As well, Windsor has always depended on US horses. Even to this day, without the availability of horses shipping in from the United States, they'd have difficulty filling their races.

The other thing that was impacting was that, in trying to extend the season, they were impacting their purse pool to such a degree that their level of purses was falling so that they were now non-competitive and Ontario people could race for more purses someplace else, and maybe even closer. It was an attempt to try and reach a compromise where we could keep Windsor viable and keep it attractive for the horse people to race for an adequate purse to go there.

**Mrs. Liz Sandals:** So when we see this peak in this chart of going up and then dropping down, is that mainly related, then—this dramatic peak—to being pushed up by Windsor and dropped down by Windsor?

**Mr. Rod Seiling:** To a large part. It's not all Windsor, but a large part of it. There were some other—during the heyday—tracks that expanded as well and found out that the business wasn't there to support their days, whether it be horses, customers or whatever.

Going back to the Georgian decision, first of all, it was reported in the House, unfortunately, incorrectly. There was no loss of race dates at Georgian Downs. What the commission did—at a hearing at which everyone was allowed to present their side and advocate for their position—is agree to allow Georgian to reallocate all of the dates that it normally and traditionally raced during January and February to another part of the year.

**Mrs. Liz Sandals:** When it's warmer?

**Mr. Rod Seiling:** When it's warmer, for sure, but we did it for a number of reasons. One: If you look at every successful sporting business that we know of, it has a season; it doesn't go year-round. It has a season where you can market it. It opens; it closes; there's something to talk about. Open, closed, whether it's baseball, hockey or you name it, they have a season.

This is a one-year experiment only. The decision of the commission is for the 2009 race date season. In terms of application, it would revert back for 2010 to its traditional dates, unless it's reapplied for and approved. We wanted to see whether there was some good business reason to have Georgian operate on a season and allowed to have those benefits.

We also were quite aware that, given where Barrie is located, anyone in this country knows that they get a lot of snow up in that area during the wintertime.

**Mrs. Liz Sandals:** Especially just south of town there; it whips like mad.

**Mr. Rod Seiling:** Yes.

**Mrs. Liz Sandals:** I also watched the races at Georgian Downs while stuck in traffic just south of Barrie while going northbound. This is where I view the races from.



**Mr. Rod Seiling:** So we had a concern about safety issues. If, in fact, there would be no loss of opportunities for horse people—they had the same number of racing opportunities—but they didn't have to truck their horses from who-knows-where into that area, not knowing whether they're going to get there or get home—or we've had occasions where they've shipped all the way there, driven through all kinds of snow and blowing, only to get there to find out the races were cancelled. It was an attempt to try and find: Is there a better way of doing something and not lose any racing opportunities?

It also allowed the administration to add some more days to the Woodbine application, which Woodbine opposed and which, at this hearing, the commission adopted and agreed with and then said that there will be extra horses around, more racing opportunities—let's try that as well.

**Mrs. Liz Sandals:** So there are more winter dates at Woodbine?

**Mr. Rod Seiling:** There are eight extra winter dates at Woodbine. When we took away or allowed Georgian not to race their dates in January and February, we added eight dates in the winter to Woodbine's schedule.

**Mrs. Liz Sandals:** So is that something that the commission has traditionally done, sort of moving them from here and there, or is that taking a more activist role in trying to manage the race dates than perhaps happened previously?

**Mr. Rod Seiling:** It's a more proactive role, recognizing that there are a whole bunch of influences out there that affect customer demand, but also horse people. So we tried to balance it. We ensured that there wasn't any loss of opportunities. In fact, when you net it all out, there are more racing opportunities as a result of that decision than there would have been. We have to wait and see what happens with the extra dates at Georgian during this summer, but again, it's an experiment. It's one year; it has to be reassessed.

What we also did during that decision is order the administration to pull the horse people together to try and find some agreement on a business model. I spoke earlier about a large part of the angst and the mistrust within the industry. It goes back to some of the comments Ms. MacLeod made earlier, that the horse people and race-tracks are not operating under the same business models. They look at the same set of numbers; one comes up with one and one is two, the other one comes up with a different number, and they both believe they're right but it's because they're fundamentally operating under a different business model. We're going to use the administration of the commission to act as a facilitator, much as we do on many, many issues, to try and see if we can get them to agree on a common, accepted business model: "Here is a business model."

We're also, during that same decision, going to get them to agree on a methodology for counting horse supply. One side—you can guess who—argues that there were all kinds of horses that weren't being raced. On review of it, it became quite evident that there weren't

quite as many there because a horseman might enter a horse for three different classes at the same time. That horse can only race one time, but it was being counted as three horses, so there was a discrepancy. Again, the two sides couldn't agree on the horse supply. We believe that if we can get people to get to the same documentary base, there's a better chance for getting people to reach some agreement.

**Mrs. Liz Sandals:** So if you can agree on the facts, you've got a better chance of negotiating the outcome.

**Mr. Rod Seiling:** Exactly.

**Mrs. Liz Sandals:** If we could turn to the issue of drugs. You're involved, through the Canadian Pari-Mutuel Agency, with the equine drug control program. You're also part of the Equine Medication Control and Drug Task Force, I take it? I notice that we've got a group coming this afternoon that I actually haven't run into before, the Standardbred Horse Owners Panel, which I take it is quite interested in drug issues.

You've also included for us a news article about a change in the rules for penalties when owners—well, trainers, I suppose, directly—are caught drugging horses. I wonder if you could tell us about that work and, in particular, what has changed about the penalties and how you hope that will provide better control.

**Mr. Rod Seiling:** I'm going to turn it over to Mr. Blakney because most of this is under the administrative side, but I do want to, first of all, say that the vast majority of licensees obey the rules. Those who are offenders are a very small minority and it's getting smaller because of the efforts that we've made.

One of the initiatives—and it goes back to Mr. McNeely's question about being best in class. Through the good work of Mr. Blakney and his team, this commission started out a competition-testing program, working in conjunction with the Canadian Pari-Mutuel Agency, but taking the level of testing to a much higher degree and targeting the new designer-type drugs that the federal body just wasn't set up to deal with. It's gone a long way to improving the perceptions and integrity of horse racing in this province. It actually goes back to—I made the comment to Mr. Kormos earlier—why, anecdotally at least, people are returning more to betting on Ontario races, because of their perception of the improved level of integrity of our races on a daily basis. But I'm going to turn it over to Mr. Blakney, because it's much more detailed than that, but that's at the 30,000-foot level.

**1120**

**Mr. John Blakney:** Historically, the Ontario Racing Commission has always worked very closely with the Canadian Pari-Mutuel Agency. Under the Criminal Code, it's that agency that's responsible for penalties or violations with respect to declaring positive tests that are related to post-race testing. So when a horse, for example, races and is chosen by the judges to be tested, then it's under the Pari-Mutuel Agency program that that horse is tested. They have a program. They have a research lab. They have a lab for testing located in Vancouver which

does all the testing across Canada. When a post-race test is declared positive, the provincial agency is responsible for enforcing. So we have to have rules, in terms of violations, where there are positive tests for prohibited drugs. We work with the Canadian Pari-Mutuel Agency just to ensure the post-race program is effective and operates properly.

About two years ago, or a little bit more than that, in Ontario there were observations that were causing great concern on the part of the wagerer, the owners of horses and the trainers. I go back to what Chair Seiling said, that one thing we have to keep in mind is that by far the majority—and we're into the ninety-some per cent level—abide by, have a passion for racing or are involved in this, trying to make a business out of it, trying to ensure that there is a fair playing field, and they do comply with the rules of racing. There's that small percentage, of course, in all jurisdictions that wants to push the envelope in terms of changing the balance of that fair playing field.

Two and a half years ago or so there were observations of, and I was receiving a lot of complaints about, abnormal performances of horses, anecdotal information about drugging and so on. I would say it was reaching, because we didn't know if it was real or not—the perception of the problem was getting to the point where we had to act. What I did was bring together a number of influencers from the industry who I believed could provide me with appropriate guidance in terms of, how do we address this issue? Because we have our post-race testing issue program that's ongoing, but it's not detecting, and it's not being successful in terms of addressing some of these concerns that industry participants had.

**The Chair (Mrs. Julia Munro):** We must move on, and we'll pick that up in the next round, perhaps. We'll go to Ms. MacLeod.

**Ms. Lisa MacLeod:** I'll be splitting my time with my colleague, Tim Hudak.

Just a quick comment and then two very quick questions; it all centres around what Mr. Kormos, and I quite agree with him, calls the viability of horse racing. The comment is: What may be happening in Belleville and what is happening in Fort Erie with respect to the slots when there is no racing—I find it is very difficult for me to understand why the ORC is not being more aggressive on that, because it is the viability of the industry. The slot monies were put in place to protect the industry and, to use Mr. Kormos' words, the viability of the horse racing industry. If there is no racing in 2009 but the slots are opening in Belleville, and there is no racing in Fort Erie but the slots are operating, that is a real problem and a real concern for me, and I think it's one the government ought to be addressing and one I think the ORC should be more aggressive on.

But I would like just to shift a little bit of my focus and reference the Sadinsky report in the guise of your setting and implementing policy direction. Like Mr. McNeely, the Rideau Carleton Raceway is now within my boundaries—it used to be within his—and over a 10-

year period it is undisputed that that racetrack is doing quite well and that it appears that race days have increased. The challenge, though, having gone to the Rideau Carleton Raceway several times, not only for a tour, but it's also quite a centre of activity in our community—and they're a good community participant, they're a great partner, but they do have a deep concern that was identified by the Sadinsky report which suggests there are racetrack market problems with its close proximity to not only the Quebec border, where we have a casino in the national capital region in Gatineau; we are also in close proximity to the United States border, the Gananoque charity casino as well as racing in the province of Quebec. They've identified that as a real challenge, one that could be a challenge in the future, and I'm wondering—I understand that some of those issues are with respect to gaming—is there any movement at the ORC on some of the recommendations that Mr. Sadinsky has made?

**Mr. Rod Seiling:** Let's go back. We'll deal with the first part of your question first. The issues that relate to competition for Rideau Carleton we're certainly aware of, and I'm sure everyone is, including the government. That's a fact of life that we all deal with: Whatever business we're in, we have competitive pressures. Certainly, in our reporting, people are made aware of what those pressures are and what the market conditions are. We don't have any ability to deal with that at all. Our powers relate directly to horse racing, period.

In terms of the Sadinsky report, the government commissioned the report. The commission has taken it at arm's length and not offered opinions. We provided information and acted as a resource to Mr. Sadinsky and his panel because it was the industry's report, not the commission's, and we are waiting for the government to decide whatever it wants to do with that report. It's not up to us. Government sets policy, we implement it, and so we are awaiting whatever decision they will make with that report and what, if anything, they want to bring forward.

**Ms. Lisa MacLeod:** Have you had any communication with the government since that report was released?

**Mr. Rod Seiling:** Certainly we've talked to them and said that—again, not anything different than what I've just told you. It's a report commissioned by the minister of the day. That minister received a report, and so our communication is that you'll make your decisions. If you need any information from us, we'll provide it to you, and whatever you decide to do, we will implement.

**Ms. Lisa MacLeod:** Thanks. This is just purely a comment to the government: I think it's an awful waste to shelve that report. We as legislators, but also the industry, deserve some recognition of the recommendations and we deserve to know what the timeline is for implementation of the recommendations.

Just finally, another issue with Rideau Carleton Raceway that I've become aware of, having met with Warren Armstrong, who runs the racetrack: It does seem

to me that there's an awful lot of—and this would be more in the operational side with OLGC as well as AGCO, in terms of duplication of services and an awful lot of red tape, which I think, in my humble opinion, the ORC could help streamline and have an opinion on. I realize you don't have that right now, but I think there is an opportunity for the ORC to assist these racetracks in simplifying the bureaucratic processes that they have to undergo.

I'll leave that—I'm not sure how much time we have on the clock for Mr. Hudak?

1130

**The Chair (Mrs. Julia Munro):** We have four minutes.

**Mr. Tim Hudak:** I thank my colleague Ms. MacLeod. Just some quick questions: How many racing days occurred at the Baymount track in Belleville in 2008?

**Mr. Rod Seiling:** They haven't been racing. The track closed. I'll turn it over to John—

**Mr. Tim Hudak:** No, that's fine; that's the simple question. How long have the slots been inactive there?

**Mr. Rod Seiling:** There are no slots active there. It's a brand new build. If you haven't been there, the old track, part of the agricultural society, was just off the main drag in Belleville, and it had a lot of issues in terms of safety for participants and horsemen.

**Mr. Tim Hudak:** When will the slot facility be up and running?

**Mr. Rod Seiling:** It's our understanding that it will be late 2009, with the track opening in 2010.

**Mr. Tim Hudak:** The slots will be operating in 2009—

**Mr. Rod Seiling:** Late, yes.

**Mr. Tim Hudak:** —and races will occur in 2010.

**Mr. Rod Seiling:** Yes, that's the commitment.

**Mr. Tim Hudak:** Okay. So they will be running a year of slots without the benefit of the horse racing industry?

**Mr. Rod Seiling:** Not a year.

**Mr. John Blakney:** I think it's more in the vicinity of nine months.

**Mr. Tim Hudak:** What happens to the 20% of the revenue that would normally go to the track and to the purses in those nine months?

**Mr. John Blakney:** I don't have any knowledge of the site-holder's agreement.

**Mr. Tim Hudak:** But you follow the money. I mean, you follow how much revenue comes in, how much goes to purses and how much goes to track.

**Mr. John Blakney:** Yes, but we haven't received anything in terms of—

**Mr. Tim Hudak:** But your expectation would be that the 20% for those nine months would be set aside—

**Mr. John Blakney:** If it follows the existing program.

**Mr. Tim Hudak:** Is there any reason to believe to the contrary?

**Mr. John Blakney:** No.

**Mr. Tim Hudak:** Okay. The point I was trying to make is that the goal of this program, which many of us

here on the committee were involved with, was to ensure that the slot program would benefit the horse racing industry, not only to ensure its survival but to cause it to be a more vigorous industry. I think for a good period of time, that was a tremendous success, and remains that way for many of the tracks. Obviously, as you know with the questions Mr. Kormos and I have asked, and my colleague Ms. MacLeod, we're very concerned about the Fort Erie Race Track.

We want to keep an eye as well on what's happening in Belleville to ensure that the integrity of the program is maintained, as was mentioned in your mandate: ensuring the integrity of the racing industry. Knowing you gentlemen, your staff and your commitment to the horse racing industry, I suspect there are things that you would be saying behind the scenes that you may not want to share with the committee—and I understand that. So I would ask that you advocate to the best of your ability to ensure that the integrity of the slots-at-racetracks program is maintained—no horses, no slots—and if we need to make some change in the system to ensure the viability of the Fort Erie Race Track, I'd ask you to advocate for that and, secondly, to make sure that when Belleville does open, the 20% at a minimum is set aside for the stakeholders in the sector.

Is there any time left?

**The Chair (Mrs. Julia Munro):** A moment or two.

**Mr. Tim Hudak:** Just one quick question: What's been the impact on the horse population at the Fort Erie Race Track, given the uncertainty of the last couple of years?

**Mr. Rob Seiling:** The stall applications are down from what they were before, but again, looking at cause and effect, nothing is ever that simple, because you've had a new racetrack open up across the water—not in Buffalo, but not that far away—so you've added supply. That's a natural occurrence. If life had gone on and Fort Erie was booming, you would have had a natural migration of some horses anyway, at least for a certain period of time. They're just gone because the grass always looks greener on the other side.

**Mr. Tim Hudak:** Thank you, Mr. Seiling. I'll just direct my last comments to my colleagues across the way. I think part of the importance of integrity in the horse racing industry is the integrity of the government operators in the Ontario Lottery and Gaming Corp. I know my colleagues opposite, some who have tracks in their ridings or close by, will advocate to make sure the government operates at full integrity to ensure that they're not going to profit from slots if they're closing down horse racing dates.

**The Chair (Mrs. Julia Munro):** Thank you very much. We'll move to Mr. Kormos.

**Mr. Peter Kormos:** Not unremarkably, I'm wrapping up with Sadinsky as well. You and I have been talking about being responsible for the economic stature or sustainability. I state implicitly; you say, "No, of course not," and as it is, Sadinsky suggests that by default you've fallen into that position with the disassemble-

ment of OHRIA, and that the proposal for a Horse Racing Ontario, which would give them the responsibility for race dates, for instance, would restore you to the position of the pure regulator of integrity. I think that's an interesting observation.

The other thing we have to refer to, and Ray McLellan has provided this for us, some research he's done, is the Econometric Research report. You know that one, 2005, prepared for the Ontario government. It suggested that slots on tracks may not bode well for live horse racing, to the extent that they interfere with the core business of the industry. Some negative trends are beginning to emerge. This includes the decline of nominal and real wagering on live races.

Then we have the other strong recommendation of Sadinsky, which is that there be a cohesive gaming strategy developed for the province of Ontario. Again, you've been very careful—and far more political than I could ever be—in not speaking bluntly about that.

**Mrs. Liz Sandals:** Yeah, right.

**Mr. Peter Kormos:** But I think all of us share the observation that this disconnect between OLG—slots, casino locations—and whoever it is that's going to regulate the economic viability of the horse racing industry has been problematic. There isn't much interaction and there isn't much consultation. Sadinsky also talks about the very sorts of things that Mr. Hudak, Ms. MacLeod and I have been talking about, and that is measuring or metering the amount of slots to ensure that it reflects the real cost of subsidizing that track. Look, Fort Erie has enjoyed great revenues from the slots, the city of Fort Erie; the government has. Mr. Hudak, I think, made reference to how the government is doing. The government always does well.

**Mr. Tim Hudak:** It's over a billion.

**Mr. Peter Kormos:** It's like the guy at the poker game who takes the rake. If that game lasts long enough, he'll have everybody's money without having to bet a penny. So the government's in that unique position, and the problem is that governments have become increasingly dependent upon those revenues. I have confidence in your ability to counsel this government to make sure it does the right thing to keep Fort Erie alive, but I feel a sense of urgency.

**Mr. Rod Seiling:** Thank you, Mr. Kormos, for your confidence. I would make one comment about the success of the slots-at-racetracks program, and just very quickly. The total number of race dates: 1,200 over 1,600; the total number of people employed: 24,500, which is an increase over 13,600 since 1997, and that includes 9,500 full-time jobs. So there are lots of success stories. With that success, there are some bumps right now, but I don't think it's fair to point all the blame at the slots program. There are a lot of other factors that have entered in to create these problems within specific areas, and it's no secret: they're border-related. The tracks aren't immune to those because they were built there for a reason. They were built because there was a great customer base right across that river, in both cases we're

talking about. You know the reasons better than I do why that base doesn't come across that border anymore and is not likely to come across in the foreseeable future.

**Mr. Peter Kormos:** What some of us are saying, though, is that the slots' presence on racetracks as compared to in casinos should be there for the bona fide purpose of supporting that racetrack and not as a yet-extra source of revenue for any number of parties, including the government.

**Mr. Rod Seiling:** That's something that we have no control over.

**Mr. Peter Kormos:** But you know Sadinsky commented on it, and you will be consulted by the government if and when it ever decides to come to the aid of Fort Erie and if and when it ever decides to develop a gaming strategy.

**Mr. Rod Seiling:** As I said, I'm an optimist.

**Mr. Peter Kormos:** Thank you.

**The Chair (Mrs. Julia Munro):** Thank you very much. Mrs. Van Bommel?

**Mrs. Maria Van Bommel:** Thank you, Chair.

You talked earlier about the Belleville raceway and the issues of safety, so you closed it down and it is now rebuilding itself. In your work with the raceways, how do you ensure the safety of the horses?

**Mr. Rod Seiling:** I'm going to turn that over to Mr. Blakney, but from a policy perspective, there is a whole range of things that the board does and directs the administration to do, from the recent introduction of safety lines and to—

**1140**

**Mr. Peter Kormos:** Has Michael Phelps been banned from our racetracks?

**Mr. Rod Seiling:** But there are very specific matters that the administration does, in terms of the racetrack program, the surface and all those things. I'll turn it over to Mr. Blakney because he can deal with them. That's what their responsibility is, or one of them.

**Mr. John Blakney:** The Ontario Racing Commission folks, as I was indicating earlier on the medication areas, I think are leading in terms of meeting the challenges in those particular areas. Of course, that not only goes to the integrity of racing but also the protection and welfare of the horse. In terms of drug abuse and so on, we have some very strong programs, in my opinion, to tackle the challenging issues in the future.

Other areas that we continue to focus on are the condition of the racetrack surfaces. The board itself has established some minimum standards, which were really, as I recall, the first attempts to establish minimum standards for track surfaces. Those are being implemented. Certainly, we have areas of concern in terms of the ongoing condition of track surfaces, their design and the maintenance of the tracks. We engaged a consultant a number of years ago to look at the operations of the systems for the management of racetrack surfaces, and he provided some fairly specific recommendations. We continue to try to provide resources to the racetracks, people who are on site at the tracks and whose job it is to

maintain the tracks on an ongoing basis. We have educational programs. We bring them together. We try to provide them with the best advice and bring the best people together to support racetrack surfaces.

We are, of course, subject to ongoing weather issues. Also, in terms of management decisions, how a particular track is managed may cause difficulties, so we have a cancellation on-track committee program for making determinations as to when it's unsafe for horses to race. Normally it's left up to the horsemen who are racing to decide what the conditions are.

We're instituting now—in the last year especially, we've been getting greater focus on more detail in terms of the backstretches. We've required backstretch improvement plans and so on for some time. We require the tracks to meet those under conditions of licence. But we're even going to a higher level of detail of looking at some of those areas: conditions of parking lots, for example; conditions of barns or stabling, paddocks and so on—things that need to be done that, hopefully, will protect the horse in the long run, and also the participants who are involved. We have a number of ongoing programs that do look at the conditions of the track itself and the backstretch, for the welfare of the horses.

*Interjection.*

**Mr. John Blakney:** Rod is saying—sorry?

**Mr. Rod Seiling:** Two other things we just did, as part of our omnibus package: We're requiring horse people to only use an ORC-licensed vet. The reason we did that is because there are rules that are specific to horse racing and what you can treat a horse with and what you can't, and we wanted to make sure that only licensed professionals who know the rules treat our athletes.

The other is that we are compelling trainers to have a record of all horse medications. That record will now become portable and travels with the horse. What we became aware of is that, for example, a horse can be sold or change hands a number of times over the course of a year, and trainers could quite easily be giving a horse what they think are his annual vaccinations, and this horse could be getting over-vaccinated because they wouldn't know what the previous owner did, or two owners past, and that could become a health problem for horses. So we wanted to ensure that horses were treated as a human—that you had a record, and that, because they are athletes and they're competing, we want to make sure they're in the best health possible.

**Mr. John Blakney:** If I could add two more points. One is that, about five years ago or more, there was significant concern over claiming events and the number of horses that were being claimed. Then there was a turn-over of an individual horse that was too quick and not in the interest and not to the welfare of the horse, so the racing commission took action to take steps with respect to affecting the reduction of claiming, in the interest of the welfare of the horse.

The last thing is that the board of the commission is already taking action on the thoroughbred and standardbred side and under the quarter horse plan. There are

efforts to ensure that some resources are made available for retired racehorses, with thoroughbred, quarter horse and standardbred, to ensure that there are funds available for that extension.

I think one of the more important areas—and I mentioned, on the international side, the whole area of equine research and drug use, the types of drugs that are on the market and the challenges moving into the future on some of the protein ones. A lot of the work that we're doing in terms of knowing more about the horse, the impact of racing and so on, and the impact of service and so on, are areas that are part of the equine research that we're encouraging through the horse improvement program.

It's a great effort that Equine Guelph has put together in terms of encouraging research to the benefit of the horse and the welfare of the horse, because it really represents a joint effort between the regulator, who—in this case, it's program money from the horse improvement program, the quarter horse program, that's supported by the slot program in many ways, and parimutuel wager, but also the horsemen's association and their support for it. So it's one of those joint efforts that's being made in terms of encouraging top-notch research.

**The Chair (Mrs. Julia Munro):** Thank you very much. I believe that we've completed our time. I want to thank you for coming here today and thank everyone for their attention and contribution.

**Mr. Rod Seiling:** And thank you for the opportunity to be here.

**Mr. Peter Kormos:** Thank you, gentlemen.

**The Chair (Mrs. Julia Munro):** That concludes our presentation for this morning. I would ask members of the committee to stay for a brief in-camera meeting.

We are adjourned now until 1 p.m.

*The committee recessed from 1149 to 1302.*

**The Chair (Mrs. Julia Munro):** Good afternoon. Welcome to the afternoon session of the Standing Committee on Government Agencies.

## ONTARIO HARNESS HORSE ASSOCIATION

**The Chair (Mrs. Julia Munro):** I'm pleased to have as our first presentation the Ontario Harness Horse Association, and Mr. Bill O'Donnell, president. I would just say that for the purposes of Hansard, please introduce the person you have with you.

**Mr. William O'Donnell:** I am Bill O'Donnell, president of OHHA. First, I'd like to thank you for inviting us. Our first vice-president is Darryl MacArthur, and he's going to be making the presentation.

**The Chair (Mrs. Julia Munro):** Thank you. As you may know, you have 30 minutes, and any time that remains from your presentation will be used by the caucus members.

**Mr. Darryl MacArthur:** Ideally, we'll be through this document in under 20 minutes, and then that will leave us 10 minutes to have some questions and answers,

which I think would definitely be of benefit to everybody here today.

First and foremost, we're from the Ontario Harness Horse Association. We represent standardbred harness people in Ontario. We're the largest horsemen's representative in the province. We thank you for having us here today.

We're looking for some perspective on the regulation of horse racing in Ontario. We'd like to identify some key areas of concern and also provide some recommendations at the end of all this. Ideally, we're looking to seek some alignment in taking the first steps to improve the harness racing industry as a whole in Ontario.

About us: We were formed in 1961. Currently, there are 4,000-plus members and these are direct members. If we extrapolate past that to family members who are included in that group, we actually represent the opinions and visions of over 12,000 people. Again, it's back four decades. Our responsibilities during that time have changed and evolved. Currently, our main ones are negotiating purses with racetracks—that's key; racing conditions; industry matters; slot agreements; management and disbursements of revenues from purse pools; and the management of OHHA benefits such as the RSP programs, health and dental benefits and benevolence programs.

We also are involved in building the profile of the standardbred racing industry. Such things as the Ontario Sires Stakes program have been very successful; race dates from OHHA where we go to the tracks to provide events and functions to attract families to the racetracks; media days. One of the most successful programs that has been instituted is the youth camps. We go to several racetracks throughout the province and invite children who have not been exposed to the industry, for the most part, to bring their families, and expose them to what a wonderful sport we have. Finally, as a liaison to the racetracks and various quasi-judicial and legislative bodies: the CPMA, the ORC, and Standardbred Canada.

The Racing Commission Act allowed the ORC to become self-funding in 2000. At that time, the regulatory framework changed. The ORC now can set its own fines independent of government consultation. The administrative infrastructure that was put in place is also self-funding. So the roles and responsibility are dictated based on growth in the workload and the expanded scope of the job that they currently do. The revenue comes from a track levy, which is a fixed percentage of wagering, and the fees and fines. That's set at the ORC's discretion. A very conservative estimate on the budget growth has been an increase of approximately \$6.5 million over nine years.

Some of the critical facts: We have concerns that there is no long-term vision that's evident for the harness racing industry itself: the ORC rule-making processes, how those decisions come about and where inputs come in and how they're dealt with; race date determinations—again, we keep hearing about race dates as an issue for horse people, and they truly are some of the concerns we

have; track accountability; and potential unfair track practices.

Overall, what is the economic impact to the Ontario racing industry?

First and foremost, no long-term vision for the industry: Currently, there does not appear to be any cohesion in regard to a long-term vision for where we are going in Ontario with the standardbred racing industry. We see the ORC as paramount in being involved in that process and we do feel that, as the regulator, they're integral in any piece or part of that process as we move forward.

We have concerns in areas that we feel need to be addressed. It has to do with the isolation of facts or industry alignment. The ORC has been tasked with evaluating business plans for tracks and application of race dates without any standardized measurements in place. The decision-making process for economic impacts is lacking any benchmarks. On a go-forward, we would like to say, "This is where we're starting from as we move forward. How are these changes going to affect those benchmarks?"

Backstretch improvement requirements are in place, but there is no compliance or accountability, so each racetrack is required to meet a certain standard, and we struggle annually in reaching those goals. We feel that's something that could be more strongly addressed. The concern is that decisions made in isolation are having a devastating effect on the long-term viability of our industry.

### 1310

Point two, the ORC rule-making process: The ORC has, in the past, implemented rules that may not be supported by the industry as a whole. We're asking for a clear and open process to discuss and implement any changes to the rules, policies and directives; a consistent set of rules and a transparent process that would ensure that rule violations and penalties are very clear to all; that would ensure that all ORC employees are accountable for any actions; that would leverage committees that have been formed to discuss rules and align on decisions; and that would ensure that people who volunteer for committees are treated with respect, and that their voice and experience provides weight to decision-making processes. This is something where over the past few years there have been concerns. While we have been invited to committees and opinions have been offered, when the rules that have been effected come down, the appearance is that a lot of the investment made by members of the industry has not received the proper weighting and consideration.

Basically, we have the decision-making process as a graph, and we don't need to go through this. It does highlight a few points where there are some concerns from the Ontario Harness Horse Association in regard to how that process works and where we feel there could be some adjustments or considerations made. What we're ideally seeking is the need for quality, fair, unbiased sup-

port in decision-making that promotes the overall objective of harness racing's economic growth.

Over to race dates: The ORC has granted permission to reduce race dates without sufficient disclosure by racetracks to support those reductions. The ORC has allowed consolidation of total race dates into a shorter racing season at times. There was some discussion earlier in regard to Georgian Downs and how they had shifted some race dates from the winter months into a later fall session. That does impact horse people. There's only so much ability to race a horse and times to race, and decisions are made from investment standpoints. Historically, Georgian Downs has raced year-round, and we had submissions from people who were at the hearings who validated the point that investments were made in horses that they had intended to race in the spring of the year. They did take those points into consideration. Unfortunately, at the end of the day those changes were allowed to be made.

There was some concern with the language in regard to race dates added to WEG's circuit because of those changes. In effect, two previous years, WEG had raced, approved, for 260 days. The year following, they had reduced those dates to 235 days. So when they've talked about adding race dates back, they went from 260 to 235 and then added eight days to that 235 number. In essence, there were no days truly added. There were dates put back on the table that had previously been removed.

The other concerning point about that situation was, following the submission from Georgian to change that, and to backload those race dates into the fall, that Woodbine Entertainment Group themselves sent a letter to the ORC with concerns that allowing them to do that would in effect challenge them in regard to a horse population, or a horse shortage. There definitely were some concerns there that perhaps all of the players at the table should have been involved in an official capacity to say, "Okay, this is what we're planning on doing, and how is everybody going to be affected?"

It was brought to our attention that there was a meeting that did take place between WEG, the Woodbine Entertainment Group, and the Georgian Downs group prior to those submissions being put forth with the administration at the ORC. This is not standard practice. The horsemen were not invited to that meeting. Unfortunately, the fallout at the end of that was that these changes were made. We were informed of them and a date to come to the hearing. We just felt that, if all participants had been brought to the table, perhaps this unfortunate set of circumstances wouldn't have occurred.

The changes we're looking at: We're looking for the racetracks that benefit from tax breaks and the slots-at-racetracks program to continue to act in the best interests of those programs and to fulfill the mandate, which was to support and promote live racing in the province of Ontario. There's a quote from the actual Site Holder Facilities Agreement which states: "The slot program at racetracks is intended to promote live harness racing in the province and subsequently benefit the agricultural

sector in Ontario and the OLG supports this endeavour." Ideally, we're asking for everybody to continue to look back to that point and remember that this is about live horse racing in Ontario. First and foremost, if it can't be about live racing, then why are we all here? There are just some numbers here to suggest how there have been some changes from 1999 to 2008. These are three of the prominent tracks in the province. As you can see, we've had race date reduction, the most dramatic occurring at Windsor Raceway, which in 1999 raced 193 dates and in 2008 was down to 111. This is obviously contrary to the public policy, and we're needing support to build live harness racing products.

Over to the next page: We've discussed a lot of these different points. There were no data collected or offered that would suggest what the economic impact would be of fewer race dates, or the shorter season in the Georgian Downs case. There is no performance standard or benchmark in the performance of these racetracks. When they do change dates—and by "change" we mean reduce dates—what exactly is happening with the economics of the situation? The reduction of dates does impact the track's bottom line, and it also has a tremendous impact on the economics of all people participating at the track, as a couple of members have previously stated. If you cannot race your horses, it's difficult to make revenue, and the sole way horse people do make revenue is through the racing of racehorses. Any time that we lose those opportunities, it's a burden on the horse people, absolutely. Change with a positive impact for all sectors of the racing industry is what we're looking for here, something that's very desirable.

The agricultural impact: Most people are surprised to hear the numbers because they are substantial. In Ontario alone, the multiplier effect of the horse racing industry is approximately \$2.6 billion per year in estimated revenues. Horse racing is considered the number three agricultural sector in all of Canada, based on revenue. Horse racing is very labour intensive, and normally it's in areas where there are limited employment opportunities, so a lot of these jobs do happen in rural areas, where there are not large factories, where there are not other large employment opportunities. People who race and compete with their horses generate a lot of opportunity to spill out past the people that work with the horses. There's the person who supplies the feed; there's the blacksmith; there's the tack person; there's the person who sells the trucks and services the trailers. It starts at the top with the horse people but it branches out well past that, into the economy of the general area.

From an investment standpoint, it's approximately three to four years before an investment made in the front end turns into an actual, potentially viable racehorse, and these are decisions that need to be made today. Ideally, I need to know that four years from now I'm going to have the ability to race my horse. The concern is that, under current practices, the reduction of race dates is an on-going concern that we feel needs to be addressed. From the slot revenues, 4,100 jobs have been added to the rural

economy, with an estimated annual payroll of \$154 million. This shows a direct impact that does generate down to the agricultural sector from slots.

Aside from just the economic impact, there are hundreds of thousands of acres of green space that is also maintained because of horse racing. These are areas, especially in the times when we talk of going green and being environmentally responsible, that horse racing and its related activities do keep open and available for generations to come.

In Ontario—this is information that came directly from an ORC pamphlet, “A Fair Chance at the Races”—there are 65,000 jobs associated with horse racing; those would be direct and indirect jobs. As we can see, there’s a small graph here. We don’t need to go into it. It pretty much demonstrates how the purse structure works and how the monies do filter down through the racing economy, with all different sectors and all different segments receiving shares, of which most importantly, at the top of the page, is the actual race itself. Again, it’s that live race date that allows this economic engine to run. Simulcast races that local horse people are not able to participate in do not provide that same stimulus.

#### 1320

On to point four, track accountability: Currently, there are benchmarks of accountability to invest and continually improve live racing. The problem is that these measures are invisible within the system. At some racetracks—you will find if you go regularly—there has been limited capital reinvestment into the facilities for the racing participants. Frequently, on the slots side, where the patrons come in to participate in slots, in every racetrack they’ve done a great job. Unfortunately, in the areas where a lot of the horse people spend their day, the same investment has not been made. That’s a concern that we have and that’s why we’re looking for a change. With the OLG slot agreement, there’s a formal requirement of on-site racing investment to continually improve the sport.

We feel that the ORC, in essence, in that case, are the ones who are supposed to be on the forefront and be the watchdog for these initiatives. We hear at times that because they’re not party to the slot agreements and they’re not party to the deals themselves, it’s difficult for them to enter into any sort of discussion on that point. We’ve heard it today: Several times questions were asked and they deferred, simply because that was not part of their scope or mandate. So we’re considering that’s something that should be looked at and considered, for sure.

We’re also asking that the OLG be accountable to these agreement requirements that are in place in all of these different documents. Let’s recognize that the slot agreement was developed to promote and invest in the industry for a positive overall economic impact.

So what do we have that needs to be changed? The ORC is the body that’s actually making the decisions when benchmarks and accountability remain invisible in the system. To some of the points I discussed, it’s the ORC and not actually the OLG that engages in the

business plan review. The ORC is not party to that slot agreement. They have no mandate to address deficiencies and execution in those plans, and there is actually no relationship between the slot agreement and racing days. That’s something that I believe the entire industry struggles with and, on a go-forward, we feel strongly should be readdressed. Again, the slot programs were developed to promote live harness racing in the province of Ontario.

The final point is potential unfair track policies. Currently, there is no track accountability support to the overall objective of Ontario harness racing’s economic growth. Some of the areas where we feel there should be some change:

- tracks trying to reduce overhead costs by offering fewer race dates or shorter racing seasons;

- tracks not fulfilling racing obligations in regards to dates that they have contractually obligated themselves into, and then continuing to go back to the regulator asking for reductions of those race dates;

- some tracks asking horsemen to pay a large percentage or take less commission off of the wagers that have been made. In essence, it transfers revenue from horse people to the racetracks;

- limited capital reinvestment at some facilities; and

- some tracks not investing in marketing and publicity, and as we know, we are an entertainment business and that’s paramount to letting people know exactly what’s going on.

In our estimation, there is a requirement for greater investment, and we’re looking for a commitment from the industry to honour agreements and hold all parties accountable to those agreements.

What do we need to drive economic growth? We’re looking for a long-term business plan that all parties align on. We feel that the ORC, in its position as a regulator, could be and should be a point of interest to move forward on with that. We’re looking to stop all decisions that would impact harness racing until the right due diligence is performed. That’s anything from race dates to rule changes—rule changes in regards to safety lines or whipping rules, or the claiming rule, which was discussed earlier. That is a rule that used to be that claiming horses—these are horses that when they were entered into a race were for sale. Any horse that was put in that race had a price tag posted on him and any person with a licence could buy that horse after the race. It was not a haggle. If the horse was in, you could buy him. They changed the rules to discourage the frequent claiming of horses.

Unfortunately, there was no economic impact study done before that change was made and, in essence, what happened was that an entire segment of our industry, Woodbine Entertainment Group, a very prevalent part of the industry, pretty much changed overnight. Now we’ve gone from having several races every week and every card for high-priced claiming horses, which handicappers do like to wager on, to last year, I believe, perhaps one or two of those races that ran the entire year because of



those changes that were made. I understand the optics of it. It was to try to benefit—they felt that certain horses, perhaps, were being traded through barns too frequently. We feel that could have been addressed in a different manner. Unfortunately, what has happened is that the handle was affected, the economics of the industry were affected by that, and that is definitely something that, as an industry, there was not a cohesiveness on, and individuals from the horse racing side were certainly not in support of that change.

We're looking for third-party immediate evaluation of the economic impact of fewer race dates and a shorter season business model. Let's have somebody look at what this ultimately is going to boil down to. We're looking for transparent decision-making with economic impact tabled and aligned with each decision, annual audits of decisions to ensure accountability by each decision-making party and, ideally, we're going to have collaboration of the OLG, the ORC, OHHA, CPMA, WEG and other key industry leaders to ensure decisions are transparent and potential economic impacts are understood.

So in closing, our ask: We immediately encourage the ORC to fulfill its mandate as the sole provincial regulator of horse racing; we're asking that the ORC ensures to protect the integrity of the original slot site-holder agreements—in essence, that it maintains the live Ontario race dates and maintains current harness racing seasons.

Finally, our goal: The ORC, having gained the support of all industry participants, has a mandate and tools to effectively regulate the public interest while upholding the principles of honesty, integrity and social responsibility. The result of that would be an increase in confidence in the policies and practices of the ORC by all industry stakeholders.

I thank you for your time.

**The Chair (Mrs. Julia Munro):** Thank you. The time left, I think, makes it more practical if we just hear from one caucus, and that would be Mr. Kormos.

**Mr. Peter Kormos:** Thank you, Chair.

**The Chair (Mrs. Julia Munro):** You have about four minutes, five minutes.

**Mr. Peter Kormos:** Look, Mr. Hudak, from down Niagara way, and I are incredibly concerned because of the immediacy of the loss of almost 300 jobs, give or take, so far at the Fort Erie Race Track; it's 111 years old. I'm going to be a little blunter than you were and straightforward about the kind of jobs people can get on racetracks. Although the skill sets range from A to Z, there are a whole lot of jobs in the horse industry and on racetracks that are highly skilled, but the skills aren't acquired in the traditional academic streams. I'm being very politically correct now. But they're wonderful people. I've known a whole lot of them and continue to know them. They're not people who are very likely going to be readily retrained for Mr. Florida's creative economy.

**Ms. Lisa MacLeod:** It's the creative age.

**Mr. Peter Kormos:** The only thing that was creative was Mr. Martin and Mr. Florida on that \$2.2-million report. It should have been tabled under fiction, not fact.

In any event, you seem to be saying a whole lot of the same things the Sadinsky report said: single gaming strategy, eliminate the isolation between the Ontario Lottery and Gaming Corp. and whoever it is that's regulating the economic interests of live horse racing. You and your folks have read Sadinsky?

**Mr. Darryl MacArthur:** Yes.

**Mr. Peter Kormos:** You're close; right? Do you by and large endorse its recommendations?

**Mr. Darryl MacArthur:** I would say the Sadinsky report, as we know, is very broad in its scope, and there are going to be certain areas where there are going to be more challenges. We do feel there are areas that could be implemented sooner rather than later. Our concern overall is that that report does not get lost in the shuffle and that it actually will continue to see the light of day and there will be some discussions on it.

1330

**Mr. Peter Kormos:** You want the government to move on it.

**Mr. Darryl MacArthur:** Absolutely, yes, and move on it with the consultation of the industry participants.

**Mr. Peter Kormos:** I'm going to cede the rest of my time to Ms. MacLeod.

**The Chair (Mrs. Julia Munro):** All right.

**Ms. Lisa MacLeod:** Thank you very much. It was actually us, the official opposition, who called you, so I appreciate that. It's very kind of you, Mr. Kormos.

I have just one comment and I'd like your views on it. Earlier today we obviously had the ORC in, who made the statement that the regulated don't necessarily like the regulator. We then got into the discussion of Belleville, and the OHHA has been very forthright in bringing that concern to our attention, that there would be slots running in Belleville without race days. Then we're finding out a little bit more from my colleagues in Fort Erie, from the Niagara region, both Mr. Hudak and Mr. Kormos, that the same issue may occur in that community. I'd like your opinion not only on that statement that the regulated don't like the regulator, but certainly in terms of the slot days that are occurring in two communities right now without race days.

**Mr. Darryl MacArthur:** Fort Erie is a thoroughbred initiative, and so to speak specifically to it—I'm going to speak to that from a horseman's perspective. We know that there's revenue generation happening, and a majority of that revenue does go to the province, and the municipality also receives revenues. Our concern is that what might happen there is if race dates are no longer offered, there is no live racing, those slots would continue to run—that they would be set aside. Perhaps the deal would change so that the track operators themselves would receive a smaller portion. But any change that involves no live racing means horsemen are left out in the cold. That would be a very dangerous precedent to set on a go-forward basis, because I think what would end up

happening is you would have several other track operators lining up to say, “We’re having some economic challenges as well. Perhaps we can cut a deal like that.”

The Belleville situation, from our standpoint, is a very unfortunate one. There were race dates applied for in 2007 that were granted; I believe it was in the order of 18 to 20. It’s a very small regional track. Approved by the ORC, those races did not occur. To my knowledge, there have been no penalties or sanctions placed upon the track operator for the lack of those race dates actually occurring. The horse people were prepared to race; those races were not offered. On a go-forward, because of the slot deal that the owner has, with the intention of building the new racetrack—2007, no races; 2008, there were no races; and in 2009, there have been no race dates applied for. The conjecture is that 2010 is going to be the first year that those will actually occur—

**Ms. Lisa MacLeod:** I think that’s consistent with what we heard this morning.

**Mr. Darryl MacArthur:** Well, if you followed it all and you read some of the unfortunate press that has happened, the feeling is now that that may not even happen, as well. Because of that slot deal—and the slots are tied to the track—there are other parties who would be interested in grabbing hold of that mantle and running forward with it. They cannot do that, unfortunately, because the slot deal has been bound to Baymount and they control it. So, in essence, whether they build or not, they control the history of racing and slots in the Belleville area.

**Ms. Lisa MacLeod:** To switch gears just a tad, and if you don’t mind commenting on this: Earlier this morning, we heard from the ORC about some of the internal struggles within the racing community. In their business plan, they cite industry tensions: “Apparent discord in the racing community, primarily built on a lack of trust and competing business models, heightened political lobbying by factions within the industry and stagnant wagering have resulted in instability, dysfunction and an increasingly confrontational and litigious environment.”

That’s obviously a very big concern if you’re talking about the amount of jobs that are being invested into the province of Ontario—and where your sector is in the agricultural sector in this province. Is that a fair comment that has been made by the ORC?

**Mr. Darryl MacArthur:** I would say yes. We can be blunt. The racetracks have a different economic model that drives them than do horse people. Ideally, as horse people, we want to have one regulator in this province, and we feel that regulator should be the ORC. Unfortunately, the message from them to us is that there are certain areas, because they do not have a mandate to delve into—that they at times are restricted, that they cannot enter into those discussions with us. We have racetracks that set their own rules in regard to who can race and who cannot race there, which is a concern for us. I think the industry as a whole would strongly support and get behind a regulator if we honestly, honestly felt that they were the true regulator.

**Ms. Lisa MacLeod:** So do you think—

**The Chair (Mrs. Julia Munro):** Thank you. I’m sorry; I must cut you off.

We appreciate you coming and thank you very much for being here today.

#### RACETRACKS OF ONTARIO

**The Chair (Mrs. Julia Munro):** I’d like to call on the Hiawatha Horse Park and Entertainment Centre. Robert Locke? Good afternoon and welcome to the committee.

**Mr. Robert Locke:** Thank you. I’d also like to call upon Dr. Ted Clarke.

**The Chair (Mrs. Julia Munro):** Certainly. I’d make that available to you as we move along here.

**Mr. Tim Hudak:** Chair, can I interrupt just briefly on a point of order while the gentleman gets set up? OHHA’s presentation represents what they would describe as a system malfunction, where the Ontario Lottery and Gaming Corp. enforces the slot agreements and the ORC has no mandate to ensure that money from the slots is helping to invest in the product at the racetracks. Could I ask, through you, Chair, if research could contact the OLG and see how that is remedied; what kind of mechanisms they have in place to ensure the agreement requirements are followed by the racetracks?

**The Chair (Mrs. Julia Munro):** Yes. I can certainly pursue that.

**Mr. Tim Hudak:** Terrific. Thank you.

**The Chair (Mrs. Julia Munro):** Welcome, gentlemen. For the purposes of Hansard, please identify yourselves. You have 30 minutes, and any time remaining then will be divided among members of the committee. Please begin when you’re ready.

**Mr. Robert Locke:** My name is Robert Locke. I’m the general manager of Hiawatha Horse Park and Entertainment Centre. I also act as the chair of an association called Racetracks of Ontario. On behalf of Racetracks of Ontario, I would like to thank the chair and committee members for providing me with this opportunity to speak today.

Racetracks of Ontario is an umbrella association which represents all 18 racetracks in the province. Ontario racetracks are quite diverse in terms of size and ownership, from small seasonal tracks to large year-round operations. Track ownership ranges from privately owned operations, publicly traded companies, agricultural societies and not-for-profit organizations. The product line includes live standardbred, thoroughbred and quarter horse racing and simulcast racing from around the world. Ontario racetracks are partners with the Ontario government, through the Ontario Lottery and Gaming Corp. and the slots-at-racetracks program. It is critical to the longevity of our industry that it be recognized as an integral sport and gambling activity.

Horse racing is the oldest form of legalized gambling in Canada. Betting on horses is regulated and licensed by the Canadian Pari-Mutuel Agency, the CPMA. Racing and racing-related participants are regulated and licensed

by the Ontario Racing Commission, the ORC. In addition, racetrack owners and any staff dealing with OLG, or OLG customers, are subject to the stringent regulation and licensing by the Alcohol and Gaming Commission of Ontario as a result of the slots installations at racetracks. Racetracks of Ontario supports the role and need for each of these regulatory authorities; however, racetracks are smothered in regulation. Duplication of AGCO due diligence by the ORC is not a cost-effective or productive use of ORC resources or the resources of the government of Ontario. Licensing dishwashers at racetracks surely exceeds the requirements contemplated by the Racing Commission Act of 2000.

The OLG and Ontario's racetracks work together through the slots-at-racetracks program to promote live horse racing in the province. The program subsequently benefits the agricultural sector in Ontario through support to the horse racing industry. The benefits reaped by the province from live horse racing are many, including the stimulation of tourism, job creation and agricultural spending, not to mention substantial revenues through the related gaming facilities. In the long term, the racetracks contribute to community well-being and sustained rural economic development.

The border racetracks have not been meeting the revenue expectations of either the site holder or the Ontario Lottery and Gaming Corp. These racetracks have been victims of cannibalization by competing OLG gaming sites within the market catchment, as well as major US casinos being constructed and expanded over the last few years in their area. To overcome these major obstacles, there needs to be a right sizing of the product and improving the product mix to assist them in developing a program that would reinstate their competitiveness and viability. At the same time, there needs to be an understanding from the ORC that there isn't an indefinite flow of cash available from the racetracks, and definitely not from the US border racetracks.

#### 1340

In the year ending March 31, 2002, the first under the new act, the revenue from the industry paid to the ORC was \$6.7 million. In 2003, the commission approached the Ontario Horse Racing Industry Association, OHRIA, to support a new \$4-million levy in order to implement its strategic plan. The basis for the request was that the additional slot income to the industry had created more work for the commission. The strategic plan, as presented to the industry, was to:

- enhance regulatory services provided by the commission, especially in the areas of investigations and enforcement;

- ensure effective and professional regulation through delivery of a comprehensive training program for commission staff;

- improve services to the public and enhance regulatory activities through infrastructure and information technology improvement.

The industry agreed to support the additional funding request. Due to the increased purses from the slot rev-

enues, it was deemed important to ensure that the races were of the highest integrity and conducted fairly.

Now, in January 2009, the ORC issued an RFP to seek an evaluation of the adjudicative procedures and to develop new training programs for staff. This seems extremely belated if this was part of their strategic plan seven years ago. This is welcome recognition of the deficits that plague the ORC in accomplishing its goals as set out in the second bullet above. However, in answering questions submitted by the respondents to this RFP, the ORC has stated that it is not the place of the training provider to either consult with or report findings to racetracks or horse people.

In a quote delivered to the Harness Tracks of America convention, which was just recently, Bill Eadington, an international gaming authority, stated that the ability of the horse racing industry to change its fortune is limited by the fact that “so many people have a stake in the status quo.” This statement is accurate both for the industry and the regulator.

Although the commission has increased its investigative staff from four in 1999 to 20 in 2008, rulings issued by judges—1.1 per race day in 1998 and 1.1 per race day in 2007—remain unchanged. Significant effort and resources have been directed to investigation while day-to-day adjudication obviously has fallen in importance. Racetracks of Ontario is pleased that effort is being directed toward the adjudicative function of the ORC. The product we present each day to wagering customers is often evaluated in terms of the decisions made by the judges or stewards. Racetracks of Ontario would support a more direct focus on the traditional roles of the judges and stewards of the ORC, recognizing the significance for more support to people employed in this front-line position.

Documents published on the ORC website refer to the ORC as being self-funded. Although it is true that the ORC has the right to set fees and recover costs, it is the industry that pays for the activities of the commission. Surely the associations and horse people could provide meaningful input and perspective to the supplier of this report mentioned above. It is a commonly held perception, if not a reality, that industry input which is directed to the ORC is often muted by differing and pre-established viewpoints from within. To be fair, the commission does seek industry input in many of its initiatives. Perhaps it is a lack of sophistication of the respondents or the traditional adversarial role of the commission in the eye of the respondents that leads to the limited uptake of suggestions.

Even though this regulatory levy continues, RoO is gravely concerned, as are other industry participants and customers, about the professionalism of the judges and stewards in their decision-making. Customers have expressed their frustration in industry trade magazines over the manner in which ORC judges are enforcing the rules.

ORC mandate: On its website, the ORC defines its mandate as “acts in the public interest to govern, direct, control and regulate the horse racing industry in Ontario

and to ensure public confidence in the honesty and integrity of the industry.”

In a press release dated June 24, 2008, the chair of the ORC pointed out that the ORC has a responsibility to protect the public interest, to govern, control and regulate in a socially responsible manner. The article further stated that the ORC operates on three guiding principles: ensuring the health of the horse, ensuring the safety of the participant and protecting the public interest.

Again, Racetracks of Ontario fully endorses those principles and is supportive of a strong, independent regulator. We are, however, extremely concerned that the commission is not fulfilling its current responsibilities effectively, yet it continues to expand its mandate.

A more direct focus on the traditional areas of regulation of horse racing and the application of the rules of racing is required. Focused attention to clarify the rules of racing, support and training to assist the judges and stewards to apply those rules, and narrowing the due-diligence efforts to eliminate duplication will bring immediate benefit to the industry and the commission. These are traditional areas of regulation that are essential to the industry. Stretching the hand of the commission into the commercial activities of participants, whether racetracks or horse people, should be limited to those areas that pertain directly to the conduct of horse racing.

We believe that it is not appropriate for the commission to become involved in matters of private property rights, issues involving private contractual matters or economic regulation. These matters have not historically been within the ORC’s jurisdiction, but a recent broader application of the “best interests of racing” has led to mandate creep on behalf of the commission.

It is also our view that the commission should not involve itself in private property matters. As the industry evolves and as the economics change to reflect external realities, racetracks and their various third party stakeholders must be allowed to negotiate without the ORC’s involvement. The economic viability of the industry and its racetracks is dependent upon a private contractual environment that reflects economic reality. The industry requires the agility and flexibility to respond to today’s dynamic marketplace.

Industry consultation: Recent policy directions and decisions of the commission have impinged upon the business responsibilities of the racetracks. Decisions of the board are often cited as being in the best interests of horse racing, often without further explanation. While the commission goes through the process of industry consultation, in fact there is very little consideration of the input provided.

Often, when a final policy is announced, there is little change from the original draft policy which was circulated. A recent example of this is the new standardized annual financial reporting requirements for racetracks. One of the proposed purposes of the information was to allow for comparisons between tracks. With the vast difference in size and scope of the racetracks, a generic comparison does not make sense. It has always been part

of the racetrack licence process to provide the commission with the track’s financial information, and we are quite willing to continue to do this.

It was also suggested that the information would be used to establish benchmarks, but during a consultation, there was no discussion about the purpose and type of benchmarks being proposed. Despite input and submissions from the racetracks adamantly opposing the draft policy, the final policy was virtually identical and has now been added as a condition of receiving our racing licences. This is not uncommon.

If there is no other way to refocus the Ontario Racing Commission, then an amendment to the act may be needed to more precisely define the role and purpose of the ORC as it relates to private property matters, private contractual matters and economic regulation. The focus of the commission on ensuring the integrity of the sport is wholly endorsed by my members and should be the sole mandate of the ORC. A strong and focused ORC will be a benefit to the viability of the entire industry.

**The Chair (Mrs. Julia Munro):** Thank you very much. We’ll begin, then, with Ms. Sandals.

**Mrs. Liz Sandals:** Yes, thank you very much. I appreciate you coming today. I’ve got about three things that I’d like to ask you about and, I understand, no time. Could we start with the first couple, briefly? You’ve raised a couple of issues that I don’t think anyone else has raised today, which are the issues that I see showing up on the second page of your brief around training of judges and stewards; there seems to be some question around how they’re enforcing the rules. So if you could comment briefly, either one of you, with respect to that.

Then you’re also talking about another issue that I don’t think has been raised earlier, which is the matter of private property rights. I’m not sure the committee is even aware of what you’re alluding to when you talk about ORC interference in private property rights. If you could explain briefly what those two issues are, and then if we’ve got some time left, I’d like to ask you specifically about the issues around border tracks.

1350

**Mr. Robert Locke:** Okay. Ted will actually talk about the first part, on the training of the judges and stewards.

**Dr. Ted Clarke:** Thank you. My name is Ted Clarke. I’m manager of Grand River Raceway in Elora.

In this issue, I think what we really hope to draw attention to is the fact that a great effort has been made in expanding the investigative capacity of the racing commission, which is of course the first bullet that’s up there. On the second bullet, on the judging side, it would appear that there isn’t a clearly focused mandate under which the judges are able to perform in a way that is acceptable to the public and facilitates more professional operation and so on.

**Mrs. Liz Sandals:** Can you give me a simple example, Ted?

**Dr. Ted Clarke:** There was a recent race at Western Fair Raceway where a horse left the racing surface, went inside the pylons, advanced about 13 or 14 pylons in the

inside of the racetrack, came back on the track and was awarded a win for that race.

**Mrs. Liz Sandals:** Okay. That would seem to be a problem.

**Dr. Ted Clarke:** It was an enormous perception problem, and the difficulty with it was that not only was there probably an error in the initial judgment, but the next day there was no clear taking control of the situation from the commission itself. I know that they have an enormously difficult job and that, in today's world, because there are video replays available everywhere in the world, this thing was on YouTube about five minutes after the race was completed and everybody saw it. It's an issue, by and large, of establishing some capacity to have respect in this industry, and this was clearly a case where the respect didn't come to the surface.

I've known a number of judges for a very long time and some for lesser time. They're not incompetent people. They have a system that somehow or other is failing them, and I guess what we're hoping to do is re-focus some of the investigative initiative toward upgrading the judging side of this business.

**Mrs. Liz Sandals:** Okay. And then the other issue around the private property rights?

**Dr. Ted Clarke:** Since Robert represents a private owner, I'll let him speak to that one.

**Mr. Robert Locke:** I think, on that part, it's trying to draw the line as to where the regulation stops and where the operation of a private business starts. It's a grey area, and I guess part of this is that we're not sure if we have to do it and we're hoping that we don't have to do it through any type of amendment of the act. But is there maybe a clarification of when the ORC is going to come in and, say, mediate or not mediate? We're not actually quite sure if the regulator should be used as a mediator.

**Mrs. Liz Sandals:** So give me an example, as somebody who's not a race industry participant, of where private property rights would arise.

**Mr. Robert Locke:** Woodbine has actually had a few issues on their side. It actually hasn't really happened on our side. I guess my focus would be if there are any issues with a contract with our horse people or a contract, say, with our Pari-Mutuel people or anything like that and where we're not racing. I'll talk to that because we have a concern with that as to if or when the ORC would actually come in and mediate or force us back to racing, because it's actually in part of our new licence. I'll read the section to you:

"The association shall conduct race dates as set out in the attached calendar and as approved by the director. Failure to conduct some or all race dates in accordance with the attached calendar will be considered non-compliance with this licence and may result in fines, penalties or notices of proposed order to revoke or suspend the licence."

**Mrs. Liz Sandals:** So if I'm understanding the example you gave of Woodbine, where there was a strike of non-racing employees, if I can put it that way, that cancelled race dates, and how does that issue get resolved?

**Mr. Robert Locke:** No, sorry. I didn't clarify it enough. Maybe I'll let Ted talk about the Woodbine issue. He's a little more familiar with it than I am. I was talking about other issues as to issues with the horsemen or things like that.

Actually, as the executive director, Mr. Blakney, when he first came on board—the industry as a whole doesn't always work well together. It's probably like any industry where there are different members of one group. We're not all one big, happy family. I think everybody realizes that.

**Mrs. Liz Sandals:** I think we figured that out.

**The Chair (Mrs. Julia Munro):** On that note, I'm going to have to turn to Mr. Hudak.

**Mr. Tim Hudak:** Thanks very much, gentlemen. I appreciate the presentation. Can you talk a little bit about the mandate creep in terms of what you mean by "commercial activities" that the ORC is trying to regulate, other than its original mandate? It was in the ORC mandate, at the fourth paragraph, so the bottom of the second-last page. It says: "Stretching the hand of the commission into commercial activities of participants, whether racetracks or horse people, should be limited to those areas that pertain directly to conduct of horse racing." What are you worried about?

**Mr. Robert Locke:** Go ahead.

**Dr. Ted Clarke:** If I could speak to that, and I may be speaking in the wrong way, because I'll represent one of the issues we see on the horse people's side.

The commission now has, for instance, a rule that suggests that every trainer must have a contract with the owner whose horse he takes. The tradition in this business, developed over a very long period of time, has not been one that would have a long basis in written contracts between trainers and horse people, or trainers and owners. It's one of those spots where I guess I would raise a question as to why it's necessary for the commission to be involved in that sort of commercial transaction.

Similarly, when I'm selling something out of my gift shop at the racetrack, I would question why the person who is my salesperson needs to be licensed under the Racing Commission Act of Ontario. It seems to me to be a bit of a stretch that somebody who can sell trinkets downtown doesn't need that licence and somebody selling at the racetrack does. Their function is the same. It has absolutely no impact on racing or the business of racing. Really, it seems to me to be a place where the commission wouldn't need to be involved in our business.

**Mr. Tim Hudak:** You mentioned that the ORC undergoes a consultation on new rules. You've expressed some satisfaction and some dissatisfaction with the process. Do they have any kind of process to review existing rules and see if they can be eliminated? The province, for example, has an ongoing red tape process to try to update its regulations.

**Dr. Ted Clarke:** I'll be attending a meeting on, I think, Thursday of this week for the very purpose of the rule review committee. So there is a process.

To the issue of the adversarial positions that we have, it is perhaps the need for the commission to establish that it is in firm control and understands its business, so that the rest of us can function in a way that we know where we're at. So when we go and spend several days giving input that we think is thoughtful, and it's completely disregarded, we think there could be a better outcome.

There is a need for the commission to establish itself in a position where it in fact takes on the burden of the administration of regulation of the sport. This is one of the places where our means of communication is not good enough.

1400

**Mr. Tim Hudak:** Okay. You mentioned another area of overlap, and the ORC in their presentation mentioned it as well, and that's the duplication between the AGCO and the ORC in certain licensing circumstances. You used the example of the notion of the dishwasher at a restaurant at a racetrack having to be licensed by the AGCO—

**Dr. Ted Clarke:** By the ORC.

**Mr. Tim Hudak:** Sorry, by the ORC. So are dishwashers not also licensed by the AGCO?

**Dr. Ted Clarke:** I don't think so. They're not actually conducting business with OLG. But if I can go to a more specific example than that one?

**Mr. Tim Hudak:** Perfect.

**Dr. Ted Clarke:** At this moment in time, I have a request on my desk from the gentleman at AGCO to produce the last five years of my income tax, all of my financial dealings and everything else. I produced them 11 months ago for the ORC, so I've been vetted twice within a year, for the same purpose essentially, and there appears to be no capacity for the two to make use of each other's research or resources or whatever. The OPP guy who is talking to me now is a different person than the one who talked to me last February or whenever it was, but they know each other. I actually suggested to him that he should call her and figure out how to share the information. It hasn't happened and, obviously, I'm now producing the same records over again, but it seems wasteful.

**Mr. Tim Hudak:** You also mentioned that the number of rulings issued by judges has stayed constant—1.1 races per day from 1998 until 2007—but the commission has increased its investigative staff from four to 20 over a similar time period. So if the rulings are staying the same by the judges, what are the investigative staff spending their time on? That's a five-fold increase.

**Dr. Ted Clarke:** I would suggest they may be finding that the industry actually is a pretty straight-up place.

**Mr. Tim Hudak:** I'm sorry, but how does that justify going from four to 20 investigative staff if the rulings stay about the same and the race gains have—

**Dr. Ted Clarke:** I think that's why we raised the point. We're not sure that there is a need for that size of an investigative staff.

**Mr. Tim Hudak:** Thank you. Maybe Mr. Kormos has a question. I could go on but, seeing the Chair is—

**The Chair (Mrs. Julia Munro):** You really have exceeded the time that we have. Mr. Kormos, please.

**Mr. Peter Kormos:** Thank you kindly. You've been very obscure, obtuse, about this privacy, contractual-relationship third party—Ms. Sandals was doing a very good job; even she couldn't extract the facts from you. You have to tell us, please. Something's going on and you want to talk about it—I feel like a therapist—but you have to block. That's number one. Number two, there's the issue about Woodbine and the strike. I remember, it was a few years ago, but I was on the picket line with those workers striking at Woodbine, so I'm certainly interested in that issue, too. Can you tell us about those? Maybe enough information for Mr. McLellan, as researcher, to prepare a little memo. We want to understand.

**Mr. Robert Locke:** I'll try and clarify. When I was talking about the strike or the issues at Woodbine, Woodbine was actually bringing up some issues about the privatization. I'm not clear as to the specific details of it, so I'm actually going to ask Mr. Bruce Barbour, who is with Great Canadian Gaming—he is the director of Flamboro raceway. He actually just came up and said that he would like to answer the question. He's going to be here. He's also a director on the OHRIA board, so he'll be here for the next presentation.

**Mr. Bruce Barbour:** Thank you. With regard to private property rights and the concerns that we as race-tracks have—and I won't speak for Woodbine, but I'll give a very specific example at Georgian Downs, which is a racetrack owned by Great Canadian Gaming. In the winter of 2007, we no longer had a racing contract with OHHA. Our contract ended on December 31. As of January 1, we did not have a contract. OHHA is not a union; they're an association that we contract to have horses race at our track. We could not reach a commercial agreement with them, which is fine. That's what we do; we negotiate etc. The strike, if you will—and it probably really wasn't a strike, in that there was no contract with another commercial entity, OHHA.

**Mr. Peter Kormos:** But the so-called strike was by OHHA, not by unionized workers like—

**Mr. Bruce Barbour:** Right. Exactly.

**Mr. Peter Kormos:** Okay.

**Mr. Bruce Barbour:** The Ontario Racing Commission called us to task, threatened our licence—and I'll be honest, they threatened our racing licence—and very strongly suggested that they mediate the deal between us and OHHA, which we chose not to do. We then chose an outside arbitrator, a retired justice, and we did get a deal done. In our opinion, it is not up to the ORC to interfere with a private, commercial matter between us and, in this case, OHHA. It is up to the ORC, in my opinion, to regulate racing, not regulate the commercial aspects with which we deal. That, I think, is a pretty clear example of why I don't believe that the ORC should be stepping into commercial matters.

**Mr. Peter Kormos:** Now I understand. But is this a single instance, or is there sort of a pattern of this? You've raised it as if it's a big problem.

**Mr. Bruce Barbour:** It is a big problem. I won't speak for Woodbine. Mr. Eaves is not here. I'm sure he would have some issues as well. We have the same issue—not the exact same issue. We had a contract with OHHA at our other track, Flamboro, which called for us to have backstretch stabling. Our interpretation of the contract was that we did not require backstretch stabling. Again, the ORC stepped into what we believed to be a commercial matter, ordered us to keep it open for an extra year, and ultimately it was negotiated and then decided by an arbitrator that, no, we were correct. The ORC, in my humble opinion, should stay with regulating races, not commercial matters.

**Mr. Peter Kormos:** Had OHHA asked the ORC in the first instance of this to intervene and attempt to resolve this?

**Mr. Bruce Barbour:** I don't know.

**Mr. Peter Kormos:** That wouldn't have been unfair in and of itself, would it?

**Mr. Bruce Barbour:** Sorry?

**Mr. Peter Kormos:** Would it have been unfair for OHHA to have asked them to attempt to mediate?

**Mr. Bruce Barbour:** I can't comment on what OHHA did or whether they would consider it unfair. Whether they asked them or not, my opinion would be that the ORC should not have treaded in that—and the contract was clear. Quite frankly, our contract with OHHA did not say that the ORC would arbitrate.

**Mr. Peter Kormos:** Fair enough. I hear you; I understand you. I guess I'm a little more benign about the prospect of the ORC trying to resolve a problem that's interrupting live racing. But we haven't discussed the matter fully. Thank you very much.

Thank you, Mrs. Sandals.

**The Chair (Mrs. Julia Munro):** Thank you very much for being here today. We certainly appreciate the time that you've taken to participate in the committee.

#### ONTARIO HORSE RACING INDUSTRY ASSOCIATION

**The Chair (Mrs. Julia Munro):** I'd like now to call upon the Ontario Horse Racing Industry Association and Hector Clouthier, the executive director.

**Mr. Hector Clouthier:** Bruce, the previous speaker, did such a marvellous job, so I wouldn't let him leave the table.

I'm going to keep this commensurate with my height and my hairline: I'll keep it short, because I'm sure that there will be some Q & A, and you're probably tired of being bombarded with facts and figures and everything else. It's about a page and a half, and then we'll open it up for Q & A, with your indulgence, Madam Chair.

**The Chair (Mrs. Julia Munro):** Certainly. You may begin whenever you're ready.

**Mr. Hector Clouthier:** Thank you very much for inviting us here today. I regretfully apologize on behalf of our president and CEO, Hugh Mitchell, who cannot be with us today. He's out of the country on previously arranged business.

**Overview:** The Ontario Horse Racing Industry Association, better known as OHRIA, is a not-for-profit corporation acting as an umbrella association for the Ontario horse racing industry, representing horse people, breeders and racetrack operators engaged in standard-bred, thoroughbred and quarter horse racing. OHRIA, since its inception in 1995, has been recognized by its external stakeholders as the unified voice of the horse racing industry. The broad mandate of OHRIA is to further the interests of horse racing in the province by acting as the advocate and champion for the industry on industry-wide positions, programs and activities.

#### 1410

**The Ontario Racing Commission's role and responsibilities:** In our opinion, the government would select members for the governing board of the ORC from a list of candidates submitted by OHRIA. ORC would, acting as an arm of government, be responsible for developing, implementing and enforcing all rules and regulations pertaining to live racing; administering and approving the licensing of all participants in the horse racing industry; ensuring licensees' compliance with all racing rules and regulations through fines and suspensions; protecting through regulation the health and safety of both the equine and human athletes participating in live racing; protecting through regulation the integrity of the live racing product and the interest of the betting public.

**OHRIA's role and responsibilities:**

—to provide a forum for industry sectors to speak with one voice on matters that have broad implications to the industry;

—to promote the horse racing industry as a vital part of Ontario's agricultural, entertainment and gaming sectors;

—to advocate on behalf of the industry the public benefits of the horse racing industry;

—to develop and administer activities and programs that benefit the horse racing industry through co-operation and broad participation;

—to maintain and grow productive relations with government, government agencies like the ORC, OLG, CPMA, AGCO, and key stakeholders;

—to guide the creation and implementation of strategic plans;

—to work with regulatory bodies—ORC, CPMA, AGCO—to ensure continuous improvement to the industry's regulatory framework;

—to take a positive role in responsible gaming by partnering with the Responsible Gaming Council of Ontario, RGCO, to develop programs to promote responsible gaming at all horse racing facilities;

—to work with government to eliminate illegal Internet gaming on horse racing.

New roles and responsibilities that we propose are:

- to extend the partnership with OLG to include joint marketing and cross-promotion programs to promote racetracks as gaming and entertainment destination sites;

- to encourage the development of different breed plans and programs to establish a business plan for expanding and enhancing the Ontario standardbred, thoroughbred and quarter horse industries;

- to be responsible for overseeing all commercial/economic aspects of the horse racing industry, but will stay neutral and independent of any and all commercial dealings between racetracks and their respective horse people;

- to promote and encourage customer-focused innovations among industry stakeholders.

That, Madam Chair, is a very brief synopsis of our dissertation, and now we can go to Q&A, if you so wish.

**The Chair (Mrs. Julia Munro):** Thank you very much. We'll begin, then, with the official opposition. Mr. Hudak?

**Mr. Tim Hudak:** Great to see you. Thank you for being here today.

The Sadinsky commission report had considerable discussion this morning. While there was great dust and fanfare around the consultations and around the report, it seems to have been left in the starting gate, so to speak, at that point in time. What's happening?

**Mr. Hector Clouthier:** I don't know. Maybe it's a cheap claimer, to use the horse racing metaphor. I don't know, Tim. You know government, I know government, sometimes they commission things like this and they collect dust. Without a doubt there are some very good things in the Sadinsky report. There are some things in there that most certainly should not be in there. Where it's going to go from here, your guess is as good as mine. It's in Minister Smitherman's hands. He will look at it and carefully review it, and I guess at the end of the day, it is his decision to make.

**Mr. Tim Hudak:** I'm trying to refer back to my notes here. It came out in 2007 or was it early—

**Mr. Hector Clouthier:** It was 2008.

**Mr. Tim Hudak:** Okay. The panel reported in June 2008. Has there been no progress to date?

**Mr. Hector Clouthier:** To be candid, Mr. Hudak, there's been a change of minister. Any time there's a change of ministers—different portfolios—you're going to take your time, and you're going to have to get briefed on it. Listen, George Smitherman does not need Hec Clouthier to defend him, but he's got a lot on his table and I don't know where this is on his priority list.

**Mr. Tim Hudak:** Do you anticipate some movement on it? It's not just going to sit on the shelf? What's the indication that's been given to you?

**Mr. Hector Clouthier:** Hopefully, there would be some movement on it, good or bad or indifferent; I don't know.

**Mr. Tim Hudak:** To your point, there are some things that you like that were in the report. The government's

going to move on parts of the report. What finds favour with—

**Mr. Hector Clouthier:** You know what I did like in the report, and I haven't heard it yet this afternoon—it was talking about a gaming secretariat. I believe it is vitally, vitally important to have something that is a gaming secretariat which would be a conduit between the horse racing industry, the government and the OLG. I know that it was prioritized in the Sadinsky report, but I haven't heard much about it lately. I believe it is very important that we would have a gaming secretariat as something you could go to explain where you think the industry should go without going directly to the ORC. They could be the middle person or the facilitator.

**Mr. Tim Hudak:** Maybe I'd ask of you, Chair, if research could follow up with the ministry to see what their intentions are with respect to the report and timing.

One of the recommendations that met with support on some sides, and others not, was Horse Racing Ontario, which I guess would replace OHRIA in some sense. I'd like your view on the proposed HRO.

**Mr. Hector Clouthier:** Well, if it follows the HRA in Alberta, it's been a disaster. I don't know if you know what happened out in Alberta. Basically, I think that Mr. Sadinsky's report in that regard was patterning itself after HRA because I believe—I could be mistaken—that some of the Horse Racing Alberta people came and met with him. I think that that was his idea of something to go—Horse Racing Ontario and OHRIA would basically segue into it with other industry stakeholders. Whether that would work, once again, I don't know. I don't know what the mandate for it would be. I don't know what the powers of HRO would be, whether they would look—if the HRO did come into existence and one of the powers was on the commercial aspect of the business, I would agree with that 100%. But if it was going to delve into individual racetracks and start negotiating contracts, I wouldn't be in favour of that.

**Mr. Tim Hudak:** As you know, and it's no surprise, I'm sure, to you that a lot of discussion this morning was about the future of the Fort Erie Race Track and some of the risks to other border-area ovals. The Sadinsky report did recommend a change in the slot revenue, though it would be pooled. It recommended 25% would go to the owners, 25% would go toward purses, although, as I mentioned, a pooling mechanism—is it fine for the government to revisit the slots-sharing agreement? And what do you think of Sadinsky's proposal?

**Mr. Hector Clouthier:** It's interesting you brought that up, Mr. Hudak, because OHRIA did meet with Mr. Sadinsky after his report was tabled and we specifically asked questions about that component. To this day, we still haven't got it clear in our mind. I don't know if Mr. Sadinsky really—I shouldn't be speaking on his behalf, but I don't know—we started asking him pertinent questions, and it was kind of all over the map because then he started talking about designating a certain amount of money to breeders, a certain amount of money to the thoroughbred people. It was kind of convoluted. I think it



was a bit of a work in progress, and I think that perhaps he was going to leave that to the gaming secretariat to work its way through.

**Mr. Tim Hudak:** Okay. We'll set aside Sadinsky's particular recommendation, then, in terms of the slot-sharing agreement—

**Mr. Hector Clouthier:** Okay. Listen, it'll come as no surprise to the people in this room that we are adamant that the 20% remain intact. The industry, to tell you the truth, is very concerned and very worried that perhaps there could be a change in the 10% to the track and 10% to the horseman. The original MOU was clearly specific that the reason for the slot deal was to preserve, protect, promote and help the horse racing industry. They did designate 20% of the net of the slots to it, so we would not, in any way, shape or form, be in favour of any reduction. If they want to give us more, certainly, we'll say, "Go to it. Fill our coffers."

1420

**Mr. Tim Hudak:** And I'd assume OHRIA would be of the strong view that was expressed by myself, Mr. Kormos and Ms. MacLeod: No horses, no slots.

**Mr. Hector Clouthier:** Oh, that goes without saying. If there's no live racing, there should not be any slots, and in particular in the Fort Erie situation we have already sent a letter to Mr. Smitherman indicating that we believe there definitely should be live racing at Fort Erie this year, otherwise the slot deal is over.

As you, Tim and Peter, certainly know a lot about the Fort Erie situation, there are some mitigating factors there that some other tracks—and I see Mr. McNeely here and Ms. MacLeod. Rideau Carleton is not immune from it either. Rideau Carleton is suffering a bit because of the casino over in Hull. But specifically to Fort Erie, there's a plethora of problems that all of a sudden reared its ugly head in Fort Erie: After 9/11 it was certainly a lot more difficult for the Americans to come across the border; there were a lot more security checks; the American dollar was high as opposed to Canadian dollar, low; two new casinos, one in Buffalo, one about 90 kilometres south of Buffalo, along the lakeshore, and that really did hurt. On top of that, in the last three or four months the economy has gone into the tank.

**The Chair (Mrs. Julia Munro):** Excuse me. Could I just interrupt you to ask you to sit back a bit from the sound. It'll work.

**Mr. Hector Clouthier:** I was just trying to get away from Kormos. He was moving over this way.

**The Chair (Mrs. Julia Munro):** You can move along further, if you like. That's fine. Sorry to interrupt.

**Mr. Tim Hudak:** OHHA expressed concern too about the situation in Belleville, that we could have a slot facility operating without guaranteed race dates, hopefully in the next year. What's your view on how you approach that situation?

**Mr. Hector Clouthier:** Without a doubt they should not get the slots unless there is clearly a contract signed that they will provide race dates. I can't dictate the timing on it, but there most certainly should be a contract signed

within a specific time frame that they would have the live racing going. Let's face it, some of the tracks as we currently speak, are shut down for two or three months and the slot revenue builds up and then it goes into the purse account, which is fine. But they should not allow Belleville to operate without a signed contract on live racing.

**The Chair (Mrs. Julia Munro):** We'll move to Mr. Kormos.

**Mr. Hector Clouthier:** Uh-oh.

**Mr. Peter Kormos:** Thank you kindly. Tim, help. It seems to me that a recent government had us vote for legislation that was going to allow cross-ministerial communication so that people like Mr. Clarke wouldn't be put into the position he was put in. Do you recall that legislation?

**Mr. Tim Hudak:** I remember that bill.

**Mr. Peter Kormos:** Which government was that?

**Mr. Tim Hudak:** The McGuinty government, if I recall.

**Mr. Peter Kormos:** I voted for it. It obviously isn't working.

Look, Sadinsky was talked about. One of the things that Tim and I find attractive about Sadinsky, as well as Ms. MacLeod and Mr. McNeely, is that we've got these border casinos with these special problems, special pressures, and Sadinsky talks about special economic deals for those racetracks in an effort to sustain those, especially now, in this very difficult time. I only want to raise this with you. Your proposal has been the closest commentary to blending casino gaming with live horse racing. It's been the closest that I've seen, and maybe you don't intend that. My concern about that, although I do support the proposition of a gaming secretariat, as you do so you can coordinate these things—and you have to have integration in terms of slots versus the live racing. People have been using the neologism that it's entertainment. To be fair, and maybe it's because of my age, I consider an afternoon at the racetrack a relatively benign thing.

**Mr. Hector Clouthier:** Probably your age.

**Mr. Peter Kormos:** But I've got to tell you that if gambling can be addictive, the horse track, the live horse race, is perhaps the pot as compared to the crack cocaine of a row of slot machines. I'm telling you, I come from a community that has increasingly attracted people onto casino floors, and the problems have increasingly compounded. It's a totally different type of activity. I can agree with your proposition that a racetrack on a sunny afternoon, out in the open with all the hoopla, is entertainment. I don't know. Maybe I haven't been to enough casinos, but seeing people fixated, sitting for hour after hour in front of a slot machine, pressing the damned button, from my perspective ceases to be entertainment.

My concern is that live horse racing will lose, at the end of the day, against the far more efficient cream separator—in terms of separating people from their money—of electronic gaming equipment. My real concern is that at the end of the day all the best efforts will

be to no avail. We'll have virtual horse races because people will bet for horses on a screen. They don't have to be real horses. Any number of software manufacturers will make them.

My concern is that we have to be very careful if we're really interested in protecting live horse racing and the agricultural industry. That's my motive: to keep some isolation between casino-type gaming, which is hard-core gambling, versus horse racing, which is a lot more than just the bet.

**Mr. Hector Clouthier:** Is that a statement or question?

**Mr. Peter Kormos:** No—

**Mr. Hector Clouthier:** I had a few horses that I thought were real horses, and the way they went, they acted like virtual horses. But it's not that I don't want to answer you, Peter; I'd be a little more concerned, if I were Hudak, that you and he seem to be getting along here on both ends.

*Laughter.*

**Mr. Hector Clouthier:** I knew that the Liberals would get a kick out of that one, right, Maria?

**Mr. Peter Kormos:** It's a regional thing.

**Mr. Hector Clouthier:** I'm going to defer to my friend here, Bruce Barbour, because I'll be accused of eating the microphone if I don't back off here a little bit.

**Mr. Bruce Barbour:** I'm not even sure of what the question really was but I'll take a stab at it.

**Mr. Peter Kormos:** Please.

**Mr. Bruce Barbour:** First of all, virtual horse racing has been tried in the province of BC, and quite frankly wasn't successful. It was through the lottery corporation in BC that they did try a game that included horse racing, race cars, along the lines of Keno; in fact, it was Keno disguised as horse racing, and that's not what our customers want or, quite frankly, need.

I think there is a big difference between a customer going to the racetrack and everything that goes along with the racetrack experience, whether it's the agriculture or the closeness of the horse—the fact of the matter is that you're outside, to some degree, on a day in May, June or July, as an example, as opposed to being in a slot parlour, for want of another term. I think whether we like it or not, we are joined at the hip, at this point in time, with the slot industry, if you will, or the OLG. I would dare say that I'm not sure that horse racing could survive without the revenue coming from slots now, so I don't think it's as simple as, "Let's just separate the two," if that's kind of what you're asking. The revenues that flow both to ourselves as racetrack operators and to the horse-men, in the case of the purse pools for the horse-men, as an example: With the exception of probably Woodbine, 85% of the purses that the horse-men race for come from the slot revenue. So the two are joined at the hip, if you will, and I don't see one proceeding without the other.

Can we go back in time and remove slots from racetracks? I don't think so. I think that horse is out of the gate, so to speak, and we are where we are. Yes, we can separate them to a degree, and they are two different

forms of gaming, but we are joined at the hip. So I don't know if that—

**Mr. Peter Kormos:** No, but that's fair enough. I'm interested in what you had to say. Thank you.

**The Chair (Mrs. Julia Munro):** Mrs. Sandals.

**Mrs. Liz Sandals:** Thank you for coming today. I'm looking at the presentation you made, and I think the last section is new roles and responsibilities for the ORC that you're proposing, right? When it says "New Roles and Responsibilities," those are for the ORC, or for OHRIA?

**Mr. Hector Clouthier:** Those would be for OHRIA.

**Mrs. Liz Sandals:** So you're suggesting that OHRIA would actually become responsible for overseeing all commercial and economic aspects, so that you become the sort of financial overseer?

**Mr. Hector Clouthier:** Mrs. Sandals, if OHRIA did morph into something like HRO, as proposed in the Sadinsky, OHRIA or an entity very similar to it would take the commercial aspect of the horse racing industry away from the Ontario Racing Commission. To be fair and to be honest, we, the industry, four or five years ago, whenever it was, were incapable of doing that, and that's how the Ontario Racing Commission did get involved in it. Some of the previous presenters said that there seemed to be a mandate creep in there. I guess the Ontario Racing Commission, in its wisdom—they thought they were doing the right thing—seemed to be encroaching upon the business end of it.

1430

We in the industry believe that the industry itself should look after our own commercial aspects. Mr. Barbour knows that very well. He was speaking about the ORC encroaching when there was no contract. We think that the Ontario Racing Commission should, as we have specified their role, make the rules, regulate and be the regulator.

**Mrs. Liz Sandals:** You're also proposing that the racing commission would be formed solely from candidates submitted by OHRIA. It seems to me, then, that you're suggesting by extension that OHRIA would be both the commercial manager and, in essence, the controller of the regulator.

**Mr. Hector Clouthier:** No, not necessarily. We said that we would like the opportunity to submit names to the government and they could pick from them. It's very similar, I guess, to what they're proposing with some of the Senate reforms. The provinces would submit names—

**Mrs. Liz Sandals:** We haven't submitted support. In fact, our party says, "Get rid of the Senate."

**Mr. Hector Clouthier:** I know Dalton's on record as saying, "Get rid of the Senate."

**Mrs. Liz Sandals:** So I wouldn't go there, as a model.

**Mr. Hector Clouthier:** The federal government has said that they could look upon that. So what we are saying is that we, the industry—and the only reason we're saying OHRIA is because OHRIA is the umbrella organization. The vast majority of the presenters here today giving their briefs are members of OHRIA.

To be candid, sometimes it's like herding cats. It's a little difficult to get along. But hopefully cooler heads can prevail and we can see the light at the end of the tunnel and we can determine our own future by coming together and coalescing as one strong body.

**Mrs. Liz Sandals:** I understand you're not a self-regulating profession, but the model in self-regulating professions tends to be that while the profession selects some of the bodies to sit on the regulatory college, the government appoints a number of public-interest reps who are totally independent of the industry, because the regulator is presumably ultimately responsible for acting in the interest of the public. It seems to me that you're suggesting that the racing commission should be acting solely in the interest of the industry, because that's where all the participants would come from, as opposed to protecting the public interest, which is the way self-governing colleges are set up. So I'm really struggling with a regulatory agency that is totally populated by industry representatives, who we have all admitted are often a little bit like this.

**Mr. Hector Clouthier:** I know where you're coming from. Perhaps our brief was too brief, because, just to clarify, when we met with Mr. Sadinsky, we did propose that there would be three outside commissioners appointed by the government.

**Mrs. Liz Sandals:** Okay. Just for the record, because I always need a program, could you explain to us who's currently in OHRIA and who's currently out of OHRIA, because I'm not sure that everybody sitting around the table here would automatically know that.

**Mr. Hector Clouthier:** Basically, everyone in this room is in OHRIA. OHHA had left OHRIA. There was a bit of a *bête noire* there about two and a half years ago. I don't know if this is the right public forum to make it official, but the president indicated by way of letter and by a telephone conversation that OHHA has decided to rejoin OHRIA, and we're immensely happy about that, very, very pleased—ecstatic, to use the word.

**Mrs. Liz Sandals:** Okay. So everybody's in; we've got the scorecard sorted out.

**Mr. Hector Clouthier:** Now all we have to do is just get everyone into the room and work things out.

**Mrs. Liz Sandals:** If you could all agree when you're all in the same room, that I'd really want to see.

**Mr. Hector Clouthier:** Yes. It would be something like question period. That's why I was a little concerned about Hudak and Kormos agreeing on something.

**Mrs. Liz Sandals:** Okay. Thank you.

**The Chair (Mrs. Julia Munro):** Thank you very much for coming here today. We certainly appreciate your participation.

**Mr. Hector Clouthier:** Madam Chair, with your indulgence, I have a brief here from the Canadian Thoroughbred Horse Society. They were to be here, but something got misconstrued and they weren't on the agenda. They asked if I would be so kind as to just give the submission to Mr. Arnott. Okay?

**The Chair (Mrs. Julia Munro):** Certainly. It will then be distributed to all members.

**Mr. Hector Clouthier:** Thank you very much.

#### STANDARDBRED HORSE OWNERS PANEL

**The Chair (Mrs. Julia Munro):** I'd like to call up the Standardbred Horse Owners Panel. Lou Liebenau is the president and Dave Drew is the executive director. If you would just identify yourselves for the purpose of Hansard. As you know from observation, you have 30 minutes. You may use that time, and any that remains will be for the members of the committee. If you're ready?

**Mr. Lou Liebenau:** Thank you, Madam Chair. I'm Lou Liebenau, president of SHOP, with Dave Drew, executive director. We appreciate this important opportunity to provide input regarding the Ontario Racing Commission.

Very briefly, SHOP is an association of owners/investors founded on the principle of integrity in racing and is forever focused on the viability of horse ownership. Currently, our membership holds the papers on approximately 1,500 horses in the province of Ontario. Dave?

**Mr. Dave Drew:** I'm Dave Drew, the executive director. We have a very short, succinct group of charts that gives our position relating to the Ontario Racing Commission.

The first item is that we view the Ontario Racing Commission as having a good process for input from the industry. Certainly SHOP welcomed the opportunities that it has had to participate in ORC initiatives, whether they be input on the new owner responsibility rule, in which the Ontario Racing Commission not only put provisions for fines and suspensions for the trainer of the horse, but also will suspend the horse itself for up to 90 days. So there's an impact on owners, which we view as being a positive move by the ORC with input from us. We've participated in the horse improvement program; we have a member on the medication task force, which is a very important initiative, from our perspective, related to the long-term integrity of racing. There are other current activities, such as the use of the whip, safety lines and input on current 2009 rules.

I want to comment on the ORC's mission, vision and mandate, and the strong premise of that is on integrity, protecting the public interest, the health and safety of the horse and participants in racing, and industry sustainability. The Standardbred Horse Owners Panel strongly supports the current mission, vision and mandate. Integrity is a very strong tenet of the Ontario Racing Commission and is consistent with the founding principles of the Standardbred Horse Owners Panel, so we are very much in favour of a continuation of work to improve the integrity in racing. Our organization recommends that the Ontario Racing Commission remain focused on its existing mission, vision and mandate and

continue to do it well, as opposed to any expansion of the existing mandate.

The next primary area where we have a strong interest is the area of rules for racing. Our view is that the primary and essential rules are in place for racing. We will continue to work on refinements through committees and so on. Rules such as out-of-competition testing, which the Ontario Racing Commission has put in place, we view as a strong move toward protecting the integrity of racing and in our view have had an impact already in Ontario. We should use these current rules as the basis for improvement and continuous improvement in integrity.

We believe there should be a strong focus on enforcement of the rules to improve racing and continuing the activities of being transparent in the enforcement of those rules, publication of decisions with all of the detail and rationale behind those decisions, including the provision for appeal, obviously, in terms of having a fair process.

1440

In brief summary, we believe we should stay the course with the Ontario Racing Commission in terms of its mission, vision and mandate; continue to promote integrity as the primary tenet for improvement in racing—the fans absolutely want integrity in racing, and that is what we're dependent on; and continue to strengthen the enforcement of rules in order to achieve that. Thank you.

**The Chair (Mrs. Julia Munro):** Thank you very much. Mr. Kormos.

**Mr. Peter Kormos:** Thank you, gentlemen. Briefly, OHRIA, interestingly, proposes that ORC, or whatever it's name might be, consist of members nominated by OHRIA, which OHRIA says is an accurate representative of a broad cross-section of players. They don't dispute the role of ORC, and indeed appear to be in agreement with me in that regard. What do you say to their proposal about OHRIA being the nominator? It doesn't necessarily mean that a nominee has to be a member of OHRIA, but that OHRIA, being representative of the whole industry, be the nominator of at least a significant number.

**Mr. Lou Liebenau:** Well, if I might, Mr. Kormos, just say that it's OHR-eye-A, not OHR-ee-A, because OHR-ee-A sounds like a disease, so—

**Mr. Peter Kormos:** Ah, my apologies.

**Mr. Lou Liebenau:** So we should maybe go with OHR-eye-A.

**Mr. Peter Kormos:** You understand I come from small-town Ontario, right? We don't use acronyms where I come from.

**Mr. Lou Liebenau:** Yes. We have participated before in questions and answers, and I appreciate your intensity.

We believe, as our presentation has said, that the racing commission should be a regulator and should work very strongly in the public interest and do what's good for the actual racing of the horses. We do believe at this point that OHRIA, or an umbrella organization like OHRIA, is the best vehicle to bring the industry together, and, for lack of a better word, the major players in the

industry should have a much larger say in appointments and how the commercial part of the industry functions.

**Mr. Peter Kormos:** And that's fair enough. Sadinsky proposes that the ORC be rolled back to its traditional role of the bare-bones enforcement of racing rules and regulations, as compared to this sort of, by default, assumption of responsibility for the sustainability of the industry. Sadinsky says that that should be a separate function by a separate body. I put that to you, because that's interesting to me.

**Mr. Lou Liebenau:** Not remembering all the details of the report, I would say that about 80% of our recommendations to the Sadinsky report are in the report. So the traditional function of the racing commission is what we would be very much in favour of, as representing owners, investors and racing—the viability of the integrity, of the level playing field, of the distribution of the funds available in a manner that represents and respects the investment in the horses is of the most importance to SHOP.

**Mr. Peter Kormos:** This committee is only dealing with ORC for one day—today. It just naturally flowed into ORC in the lens of Sadinsky, along with the help of a whole lot of other commentators. Why shouldn't the government simply get draft people implementing Sadinsky, creating this new structure legislatively, and then we can have serious hearings over the course of a number of days with all the players commenting and fine-tuning that? Would that be something that would be a laudable activity?

**Mr. Lou Liebenau:** I believe that the Sadinsky report should be a starting point for the industry and be used in the way of guiding the industry into possible fine-tuning, and the industry getting together. I think it has a lot of benefit.

Specifically to SHOP, I'm not saying the formula indicated in the report is acceptable, but the concept of taking the funds that are available and pooling them and redistributing them in a more equitable manner is very much an initiative that SHOP would be in favour of.

We have a situation now where there are some tracks whose purses have increased 300% to 400% with the slot program and some tracks where—for instance, Woodbine-Mohawk, which provides a tremendous number of race dates—the purses have increased approximately 60%. We have a formula, unfortunately, where the tracks that race a lot of dates are punished for racing a lot of live dates because you only have so many slot dollars at that track and they get divided into the number of race dates. In effect, the thoroughbreds at Woodbine race about 160 days. They get the same slot revenue as harness. We race about 80 more days. So our revenue, from slots, equal to the thoroughbreds', goes into 80 more race days.

**Mr. Peter Kormos:** You know the concern that Mr. Hudak and I have about Fort Erie Race Track. It's on the ropes, to mix a sports metaphor from another arena with horse racing. Do you agree with us that it's important that the government do what it has to do to help that racetrack

survive during what is clearly a very, very difficult and special time?

**Mr. Lou Liebenau:** I would want to delve into the problem. I do not have the details of the situation. We believe that all participants in horse racing are very important to the industry, whether they be grooms, riders, hot walkers, whoever they are. They all have a place in our industry. I think, just from hearing previous answers to questions regarding Fort Erie, that a special-circumstance provision needs to be created where perhaps revenue can be relocated and supplied back to Fort Erie for horses to race. I don't have a formula, but I think that it needs some kind of a creative scenario where machines might be transferred to other tracks in Ontario and some of the revenue go to Fort Erie.

**Mr. Peter Kormos:** Thank you kindly. Thanks for your patience with us, or at least with me, today. I appreciate it.

**Mr. Lou Liebenau:** You're welcome.

**The Chair (Mrs. Julia Munro):** Thank you very much. We'll move to Mrs. Van Bommel.

**Mrs. Maria Van Bommel:** Thank you very much for coming here today. You are a relatively new organization. I'm just wondering, what prompted you to form as an organization? What happened to make you do this and move into something of your own?

**Mr. Lou Liebenau:** Actually, we're a new organization but the members of the organization are certainly not new to the industry. In effect, we have a wealth of experience in the industry as owners of horses and investors in the industry. The members of our association found it necessary, being integrity-minded and representing investors to hundreds of millions of dollars in the agriculture sector in Ontario, to have our own voice. We needed to have our priorities and initiatives up front and be known to the decision-makers—government. I think that in our short lifespan, these decisions have been found to be correct in our acceptance by the decision-makers in the industry and by the fact that we are here today. The investor needs to be heard and have his own voice. That's why we were formed.

**Mrs. Maria Van Bommel:** In your presentation, you talk about a number of initiatives and you talk about the use of the whip, the safety reins. What kind of work have you done as an organization on those particular issues?

**Mr. Lou Liebenau:** Dave? If you don't mind.

**Mr. Dave Drew:** Those specific initiatives I put down because of the interface with the Ontario Racing Commission. That's really, in those cases, what drove those. There were initiatives on the part of the Ontario Racing Commission in which we were invited to participate with them, so that's why they're listed. Our primary point is the Ontario Racing Commission is open to that. Nothing is perfect in those kinds of processes—everybody has opinions; there are going to be disagreements about what the end outcome of those will be—but at least we have a voice and we're at the table with participation in those types and other committees that come up related to the Ontario Racing Commission. So

they're open to the input; we're very pleased to be able to give them that input.

**1450**

**Mrs. Maria Van Bommel:** This morning we heard from the ORC about medications and the possibility of using a card. It's just like a vaccination card for people, and that would be attached to the horse and it would travel with the horse from one owner to another. I see that you're a member of the medications task force. Is that the kind of work that the task force is doing?

**Mr. Dave Drew:** The primary thrust related to medication relates to improper usage of medication as it relates to racing. That's an integrity issue for us. We compliment the Ontario Racing Commission on continuing to take strong action related to medication. They have an advisory group and one of our members is on that to give technical advice as well as practical advice about medication. Our view is that they should continue to raise the bar in terms of illegal use of medication. Recently, they have come out with new regulations related to steroids. We believe that's the right direction to go in order to protect horses and protect the industry.

**Mrs. Maria Van Bommel:** So the medication task force is really about illegal use of medication?

**Mr. Dave Drew:** That's correct.

**Mrs. Maria Van Bommel:** In animal agriculture, a number of livestock organizations have moved toward a sort of traceability: You record the medications that you use for the health of your livestock—not as an illegal performance enhancer. In the normal course of animal husbandry, you would use medications. This morning, like I said, I heard that there was this possibility of starting to record the use of those types of medications. What is your feeling on that type of thing, the same sort of thing that is happening in the rest of agriculture?

**Mr. Lou Liebenau:** One thing, if I may, that's very possible and easily done in horse racing: When a horse is entered to race, the trainer is designated on the entry form, the driver is designated, the owner is designated, and we strongly believe that the veterinarian for that horse should be listed on that entry form. That would give the opportunity for the veterinarian of record to be easily consulted so that he might be able to answer any questions the racing commission or anyone might have regarding the medication of the horse—which is very simple, one line.

**Mrs. Maria Van Bommel:** That's not being done at this time?

**Mr. Lou Liebenau:** I believe it's in one of the rule proposals; I'm not sure. We firmly believe that. It's part of the integrity part of the business, as far as we're concerned.

There was comment earlier regarding the additional investigators that the racing commission has. We believe that while any endeavour could be made better, could be better done, could be more aggressive, could be fine-tuned, we firmly believe in the increase in the number of investigators that the racing commission has. An example of the job that they are doing, another thing we firmly

believe in: the success of the out-of-competition testing. There are a number of horses that have been suspended for 90 days because of positive tests for performance-enhancing drugs, which disallows the owner of that horse to have income from that horse for that 90-day period and prevents the owner who would give that horse to another trainer whom he would deem would treat him the same way as the suspended trainer—so it prevents the moving around of horses to these kinds of trainers. The out-of-competition testing, I think, is supported strongly by the investigative process.

**Mrs. Maria Van Bommel:** Is that testing done at random? How would they decide whether to test the horse?

**Mr. Lou Liebenau:** That would be better answered by someone from the investigative sector. I couldn't really give you an accurate answer.

**Mrs. Maria Van Bommel:** Thank you.

**The Chair (Mrs. Julia Munro):** We'll move to Mr. Hudak.

**Mr. Tim Hudak:** Gentlemen, thank you very much for presenting on behalf of SHOP. My colleague Mr. Kormos threw in a boxing analogy, so I'll mix analogies too and note that horse racing in Ontario and Canada is sort of the big dog, with by far the greatest amount of wagering; I think the ORC says whereabouts 65% of total wagering in Canada as a whole. I don't know where we fit in North America. What's the view of the integrity of the sport and the job the ORC is doing in that North American context?

**Mr. Lou Liebenau:** I think the ORC is quite well respected, North America-wide, for its initiatives. Again, I'm not privy to the specifics of the consultation, of the interactions between commissions, but my perception would be that they're looked upon as doers, which is, I think, a good way to be perceived if you're supposed to protect the public and the participants in racing that operates within the rules of the racing commission, which I think is imperative that they protect.

**Mr. Tim Hudak:** You've been involved in the industry for how many years?

**Mr. Lou Liebenau:** Myself? Forty years.

**Mr. Tim Hudak:** In 2000, the ORC was given a greater mandate, a self-financing authority, greater decision-making ability in the legislation that was passed at the time. Did that improve their ability to govern the integrity of the product? Did it cause mandate drift, and so they've moved away from their original mandate? What's been the impact now, nine years since?

**Mr. Lou Liebenau:** I think currently, if you look at 2009, there has been improvement. I was on the OHRIA board representing OHHA in 2003 when Stan Sadinsky, the chair, and Jean Major, the executive director, came to OHRIA looking for additional funds for education of judges and upgrades and so on. I believe that is still a work in progress. As long as there's openness, as long as there's the ability to work and have cooperation, we at SHOP would like to look at the glass as being half full as opposed to half empty, and look at the prospects of working together and improving the situation.

**Mr. Tim Hudak:** Mandate drift has been a consistent theme with all the presenters this afternoon. You guys mention on page 7 of the report that you recommend "the ORC focus on its existing mission, vision and mandate and continue to do it well."

We also received a letter from the Canadian Thoroughbred Horse Society. Glenn Sikura is the signatory there; he's president. He brought up some concerns with TIP—is that the thoroughbred improvement program?—indicating that he thought the ORC is micro-managing it. For example, he says they tampered with the marketing program, changed the logo and such. Have you seen the same thing on the standardbred side?

**Mr. Lou Liebenau:** I think that the HIP program should be administered by the industry. As a matter of fact, there was a time when OHRIA administered the HIP program under the supervision of the racing commission. Basically, the ORC took it back.

Again, my involvement goes back to OHRIA during the days when I represented OHHA on the implementation of the slots program; I was there. I think that part of the problem that happened to OHRIA and diluted its capabilities of speaking for the industry was the fact that when the slots came in, everybody sort of ran and went home, and took it as OHRIA fulfilling its objective, and, "Now I'm going to look at my little kingdom all over the province," as opposed to—that was the start of the process, as far as I would see it.

Instead of OHRIA getting stronger and, because of its accomplishments, having the ability to run the HIP program etc., it faltered. I think that we're very much in favour of OHRIA coming back and being the voice for the industry and taking back some of the initiatives that belong within the industry.

**Mr. Tim Hudak:** Sikura goes on to say—I'll quote from his letter—"It is clear as well that the ORC has failed to recognize that the thoroughbred and standardbred industry, while similar, also contain many differences. Universal rules and regulations may simplify policy at the ORC but may not work for either breed." Is he accurate in that statement?

**Mr. Lou Liebenau:** It says a lot in there. I think the basics are very similar. I think people want to race their horses for the most money under the best possible circumstances. That's basically the similarity between both the breeds, I think.

I think that the thoroughbred industry—obviously Fort Erie and Woodbine, or possibly just Woodbine now—less than 200 race dates for the year for thoroughbreds, as opposed to well over 1,000 for standardbreds; tracks of all sizes, all availabilities; the number of race dates. This is what complicates the harness industry much more than the thoroughbred industry. That's where I would see the difference.

**Mr. Tim Hudak:** We'd certainly hope that Woodbine won't be standing alone on the thoroughbred side. The fate of Fort Erie was a good part of our discussion during the committee hearing today.

The racetrack owners' group had brought up a concern that the training and effectiveness of judges and stewards was not what it used to be, that the mandate has moved away from them. Is that your view? Do you think that the stewards and judges ain't what they used to be?

**Mr. Lou Liebenau:** I don't think it's any better; I don't think it's any worse. I think it's just ongoing and it's a work in progress. I think it will always be a work in progress for the racing commission to better itself, through the judges.

We view the judges as being the most important entity within the racing commission because they affect the conducting of the races on a nightly basis at tracks all over Ontario. The consistency of the judging, the fairness of the judging, is paramount, especially in situations where decisions are made that can be reversed on appeal. The bettors, whose numbers are shrinking, have lost their money on bad decisions. So proper decisions by the judges on a nightly basis are paramount to the future of the industry.

**Mr. Tim Hudak:** You have expressed a concern that the ORC is getting away from its basic mandate. Can you give some examples of areas that they're moving into that you would prefer that they did not?

**Mr. Lou Liebenau:** I think previous presenters have made points in that regard. What I really would like to do is just reassert our position that it keep to the main, core regulating aspect and the integrity, the viability, of racing.

I think there is so much to do because of the number of standardbred racetracks and the number of race dates.

We would rather have the commission do a really great job in three or four areas, as opposed to being spread too thin and doing a so-so job in 10 areas. We just talk about what's most important, as owners of horses.

**Mr. Tim Hudak:** So what are a couple of areas that you think the ORC should prioritize and strengthen to maintain the integrity of the sport in Ontario?

**Mr. Lou Liebenau:** It would be the upgrading of the judging. It would be the implementation of the rules. It would be the adapting of new rules.

We tend to be in a situation where the breakers of the rules—not to use as harsh a word as “criminals”—seem to get first, second, third and fourth consideration and have the appeal and have this and that, but the large majority, who are also licensed by the commission, seems to suffer. We want due diligence for everyone. But the large majority who play within the rules need to be brought into the forefront and need to be considered a little more, and perpetrators need to be dealt with more severely. We don't need them in the industry.

**Mr. Tim Hudak:** Thank you.

**The Chair (Mrs. Julia Munro):** Thank you very much for coming here today. We appreciate the time you've taken to be here with us.

That concludes the business of the Standing Committee on Government Agencies for today. I would just remind members of the committee that we will begin tomorrow morning at 9 a.m. Until then, the committee is adjourned.

*The committee adjourned at 1503.*

# CONTENTS

Tuesday 10 February 2009

<b>Agency review: Ontario Racing Commission</b> .....	A-423
Ontario Racing Commission .....	A-423
Mr. Rod Seiling	
Mr. John Blakney	
Mr. Steve Lehman	
Ontario Harness Horse Association .....	A-441
Mr. William O'Donnell	
Mr. Darryl MacArthur	
Racetracks of Ontario.....	A-446
Mr. Robert Locke	
Dr. Ted Clarke	
Mr. Bruce Barbour	
Ontario Horse Racing Industry Association.....	A-451
Mr. Hector Clouthier	
Mr. Bruce Barbour	
Standardbred Horse Owners Panel .....	A-455
Mr. Lou Liebenau	
Mr. Dave Drew	

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