

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

Testimony of  
Anthony Cabot  
Lionel Sawyer & Collins  
Legal Counsel to the Nevada Pari-mutuel Association  
Before the Nevada Senate Judiciary Committee  
March 21, 2003

Mr. Chairman, Members of the Committee,

I am Anthony Cabot of the law firm of Lionel Sawyer & Collins. For the past 13 years, I have served as legal counsel for the Nevada Pari-mutuel Association. With me today is Patty Jones, the Executive Director of the Association.

I would like to say that we come before this committee with new innovations for the Nevada horseracing industry. Instead we are here only to play catch-up with competing states and, hopefully, to stop the precipitous decline in revenues over the past 5 years. We believe the future of horseracing in Nevada lies in the balance.

The Pari-mutuel Association was created in 1990 to bring stability and profitability to the horseracing business. It was immediately successful. It grew from 3 books to 65. By 1999, handle or the total amount of all bets rose to \$619 million. The last four years has seen handle drop to 470 million. I have provided hand-outs showing the financial results of the Industry.

Why has this happened? Simply, we are not staying competitive.

After months of internal meetings, the Pari-mutuel Association came up with a plan to regain our competitiveness. Two of these areas require legislative action. One action point looms high above the rest. That is account wagering. Account wagering allows a person to create an account with a race book and deposit funds into that account. The person can then contact the race book from a remote location and place wagers using the funds on deposit. The method of communication can be by telephone or any of the other evolving technologies. We were almost the innovator in this area. You passed a law in 1997 that would have allowed Nevada race books to accept Interstate account wagers. After this law was passed in 1997, efforts to craft regulations failed because of concerns regarding the legality of interstate account wagering under federal law as it existed then.

Outside Nevada, interstate account wagering gained in both popularity and acceptability. A recent entrant into the game is the State of California. The California legislature passed AB471 in 2001. As such, it became the 14th state to legalize Account Wagering and their OTB operators went live in January 2002. According to a recent study by Bear Sterns, account wagering now makes up between 4% and 6% of all legal US horseracing handle. But, everyone acknowledges that this form of wagering is in its infancy. According to the Bear Sterns Report:

...account wagering will be one of the key growth drivers of the horseracing industry in the next few years...

California began offering account wager in 2001 only after and directly as a result of Congress passing a bill in 2000 that was intended to end the debate between the horserace industry and the Department of Justice as to whether the Federal law

prohibited account wagering. During Congressional debate, Representative Harold Rogers (R-KY), then Chairman of the Appropriation Subcommittee on Commerce, Justice, and State, stated the Federal amendment was specifically intended to "clarif[y] that the Interstate Horseracing Act permits ... wagering activities conducted between individuals and state-licensed and regulated off-track betting systems, whether such wagers are conducted in person, via telephone, or other electronic media." In spite of the 2000 amendment, the United States Department of Justice continued to take the position that the existing prohibitions under the federal law were not affected. But, they have taken no action whatsoever regarding account wagering.

The Federal clarification was a call to action by several states, including California, Connecticut, Kentucky, Louisiana, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, and Wyoming. All of whom allow account wagering. Wyoming passed its account wagering law just two weeks ago. Two states with account wagering laws of particular note are California and New Jersey; New Jersey because it is the major casino competitor to Nevada and California because it is our sister state. Both legalized account wager just last year.

California adopted AB 471 only after obtaining a legal opinion from its attorney general that account wagering was legal under 2000 Federal amendments. Before those Federal amendments, Gov. Davis vetoed the same legislation. California went live in early 2002 and has had extraordinary success. In a very short time, their account wagering facilities are doing between \$18 and 22 million each month. To give you a perspective, if we could do those numbers, it would be about a 40% increase in our handle.

Unlike our competitors in other states, our proposed amendment will require the implementation of border control technology that will provide a high level of security that persons can not place a wager from a state where it is illegal to do so.

The second requested change involves the probation against race books giving rebates to patrons. A rebate is when a patron is given a discount on the face amount of the wager or given a portion of every bet back.

The prohibition was implemented in 1997 because the California tracks refused to provide our books access to their wagering pools without it.

We capitulated as a point of diplomacy to end an extended blackout of California racing in our race books.

California tracks, however, are now giving out rebates. Likewise, OTBs and tracks across the country and world are following such practices.

We are not requesting that the prohibition be lifted, only that the Nevada Gaming Commission be able to carve out exceptions to the prohibition that are in the best interests of the State and only after conducting opening meetings.

This procedure will allow the industry and the regulators to better respond to market conditions as they come up.

We urge your consideration and passage of both amendments.