



FROM THE DESK OF...
Bill Oppenheim



A 41-year-old native of St. Louis, Missouri and graduate of the University of North Carolina and UNC Law School, Greg Avioli joined the NTRA at its inception in 1998, having been a Senior Vice-President of a sports marketing firm, International Sports and Entertainment



Greg Avioli Horsephotos

Strategies, which advised on the formation of the NTRA. In the last eight years, Avioli has emerged as the NTRA's 'go-to guy.' Internally, he is the NTRA's COO (Chief Operating Officer), overseeing everything from deals on television contracts to chairing the 2004 Wagering Systems Task Force, an exhaustive study of issues facing the U.S. pari-mutuel industry. Externally, he spearheads racing's legislative agenda in Washington, which we discuss in detail in the following interview. Seriously bright and energetic, Avioli is considered

a leading candidate to succeed D.G. Van Clief, at least in the role of CEO of the NTRA.

Many of us – this writer included – have been critical of the NTRA's alleged lack of accomplishments since its inception. After speaking with Greg Avioli for over 90 minutes, it's obvious that, whatever else has or hasn't been happening, Avioli and his team have delivered big-time results for the racing industry in Washington. The NTRA may not have succeeded in its quest to emulate the American Dairy Association and get everybody in America to do the horse racing equivalent of 'drink

milk,' but these accomplishments are at least as important. I spoke by phone to Avioli two weeks ago in his Washington office on a wide-ranging variety of topics, including immigration and tax reform, the day before the 25-11 result in the House Judiciary Committee that Avioli was hoping for.

Oppenheim: Can I start by asking you to explain the very complex issue of the anti-internet gambling bill currently before Congress. Why are we trying to be against internet gambling? It's all very complicated to the lay person.

Avioli: That's the challenge up here in Washington and with the horse racing industry as a whole, because these are complex issues and unless you're really expert as a lawyer or as a technocrat, you could really easily get lost in the weeds with this stuff. Let's start with internet gambling. As a matter of federal law, the only form of internet gambling that is legal in the United States is on horse racing. And that's the result of the 2000 amendment to the Interstate Horseracing Act. The Interstate Horseracing Act was passed by Congress in 1978, and it authorized interstate simulcasting. It basically set rules that said if people in New York or New Jersey were going to take bets on the Kentucky Derby, that they had to do it with the approval of the track of Louisville, the horsemen of Louisville, and the Kentucky Racing Commission. And that was really done for the purpose of making sure that the rights of the host track were protected.

Oppenheim: Was it a good act, and has it worked?

Avioli: It's extremely good. Like a lot of laws, no one understood the importance this law would come to play down the road. But currently, it's the lifeblood of this industry, so I would say it's been a very important act, and it became more important in 1998 and 1999. I'll explain how. When the NTRA was first formed in 1998, one of the concerns was that at the national level, the thoroughbred industry did not have strong representation in Washington. **Cont. p. 2**

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There were elements within the industry that were members of the American Horse Council, but the American Horse Council as compared with other organizations that represented similar-sized industries was very under-funded and understaffed. It had no real political action committee, or ways of generating contributions for candidates and just didn't have the resources to be a major player in actual lobbying...they did excellent work on certain issues and everybody who loves the industry should love Jay Hickey. He's devoted his life to it, he's done a great job with the staff but they didn't really have the resources that an industry of our size needed to have. In addition, they represented not just Thoroughbreds but Quarter Horses, Harness, Tennessee Walking horses--dozens of other breeds when you get down to it. So, the issue at the time that really focused the NTRA's attention was an internet gaming bill introduced in 1998.

Oppenheim: Were you brought in in 1998 or at the inception?

Avioli: I was a lawyer and a sports marketing consultant who was working in Atlanta when the NTRA got started and was involved in actually designing the original NTRA. So I came in as the original counsel and the head of business operations; I was in charge of the deals, setting it up, structuring the membership contracts. At the time, we really didn't have any television to speak of, and marketing and advertising--those I was not in charge of, but I was in charge of most everything else. And what we realized in the course of a bill proposed shortly after the NTRA was formed was that the Justice Department was vigorously opposed to the thoroughbred industry's interstate simulcasting and account wagering. And the argument that they made before Congress was the Interstate Horseracing Act does not authorize interstate wagering. Which is a fascinating argument.

Oppenheim: So the Justice Department was going to oppose account wagering, in other words, phone wagering and internet.

Avioli: I'll espouse Justice's position here. Notwithstanding the name of the Interstate Horseracing Act, they said if you read the act closely, it doesn't authorize commingling of pools from New York into Kentucky if someone in New York, for example, is betting on the Kentucky Derby. What it envisioned was that people in New York would bet on races in Kentucky but they would do it with a separate pool within New York. It would be intra-state betting. You could send the television signal across state lines but not the betting.

Oppenheim: Europe came up with a similar thing on tote pools with the sale of the British tote, about how it is anti-competitive to have one tote pool, and that everybody is going to have their own pool. It's a serious argument that's being advanced right now.

Avioli: I was not aware of that. I'm familiar with some of what the International Federation of Horseracing Authorities does but I was not aware of that one. That almost seems anti-competitive from the betting perspective.

Oppenheim: I can see that somehow along the line that you persuaded Justice that this wasn't the way it had to happen.

Avioli: Actually, the Department of Justice had two basic points: first, even on your basic commingled pools across state lines--simulcasting, which at that time was about 70 percent of all the wagering (it's now closer to 90 percent)--they said, 'we don't think that's legal; we think that violates the Wire Act. And, along the way, we don't think there's any basis for this emerging account wagering.' TVG was just getting started, and they said, 'show us in the Interstate Horseracing Act where you can do that.' And essentially what they argued was that if it's not specifically authorized in the Interstate Horseracing Act, then they thought it was illegal under the Wire Act. So we went and met with them. We started a dialogue which continues as late as this morning. We said, 'If you look at the Wire Act, if you look at its preamble, it was written in 1961 to combat organized crime. It was about racketeering. It's really not designed to go after state-licensed industries. So we disagree in general with the statements that you are now espousing before Congress. We noted that these are activities that have been open and notorious for many years and you've never prosecuted it. And you're having a real chilling effect on our industry and we respectfully request that you not do it anymore.' They said, 'well we don't make policy at the Justice Department; we just enforce the laws, and this is our read of the Wire Act, this is our read of the Interstate Horseracing Act and the only thing that's going to change this is either a judicial decision in your favor, or to have Congress pass a new law.' So we took their advice, and we got the Interstate Horseracing Act amended in 2000 to redefine the definition of what an interstate bet was to include commingling of pools across state lines and to include the key words 'telephonic or electronic wagering,' which is internet wagering. And, in fact, it's interesting, because there are a lot of ongoing debates as to what that act did or didn't do. However, in 2000, Representative Frank Wolf, a vehement anti-gambling proponent, said in the Congressional Record, 'I want my colleagues to realize that if you pass this law, you will be authorizing internet betting on horse racing.' (*Cont. p. 3*)



So we have this provision that, again, even back in 2000, we knew was significant, but we didn't realize how significant. It's kept Justice at bay. We have the specific statute that says that we can commingle pools across state lines, so they're off of that. On internet gambling, however, they have a problem policy-wise because the administration and the government as a whole frown on internet gambling. They see real social problems with it and they see issues within their conservative base about allowing the proliferation of internet gambling. And, candidly, internet gambling poses some real challenges because you know how heavily regulated gambling is at the state level; it probably is the most heavily regulated form of business in the country. To now just open it up to the Wild West of the internet where anybody can take bets anywhere, anytime, is about as far away from the current regulation scheme as you can be, so they're grappling with that. They're tough issues, and unfortunately for our industry, Justice continues to say, 'we don't really acknowledge that racing can do this internet gambling. We continue not to prosecute it, but even though Congress amended the IHA, the Wire Act still applies.' And, I don't want to bore you with too many legal issues, but one of their main legal arguments is because the IHA is a civil statute and the Wire Act is a criminal statute, criminal trumps civil. It's an incorrect legal argument. It's a matter of law, decided multiple times by the Supreme Court. If you have a very specific civil statute on a subject, it is stronger than a more general, older criminal statute. So we're in a position with Justice right now where we clearly have the superior legal argument. That's a safe harbor, as far as we're concerned, for legal and practical purposes.

(Ed: This interview was conducted on the eve of the Internet Gambling Prohibition Act (H.R. 4777)'s passage out of the U.S. House of Representative's Judiciary committee with a provision which contained exemptions for account wagering on horse racing. Avioli was later quoted in the media as saying, "this is huge for the racing industry.")

Avioli: The new law that is up for debate, and discussion tomorrow in Washington is the Internet Gambling Prohibition Act sponsored by Bob Goodlatte, from Virginia, who is the chairman of the House Agriculture Committee and a senior member of the House Judiciary Committee. Bob Goodlatte is one of the leading technocrats in Washington and highly interested in the internet since he's been in Congress. At one point, he was voted by Yahoo as the most internet-savvy member of Congress and he is an excellent legislator and he's a good listener. While he wants to limit and restrict internet gambling, he has always been open to our arguments that we're not looking for any special treatment. All we want is not to change the current law as it pertains to horseracing.

Oppenheim: But doesn't H.R. 4777 in some way give 'special treatment' to horseracing, though?

Avioli: Well, that's the debate. We maintain we cannot support legislation that's going to roll back what we can do now. As an industry, we are all for restricting illegal internet gambling. Illegal internet gambling does not help our industry; in fact, it's hurting our industry severely right now. The bill that is currently under debate tomorrow essentially says, that none of the prohibitions in this act apply to any activity that is authorized under the Interstate Horseracing Act.

Oppenheim: So, it's specifically exempted.

Avioli: Rather than saying exempted, we say recognized. It acknowledges existing law. What the proposed language in the Goodlatte Bill says, in fairness, is not that we're right, and Justice can never sue racing under the Wire Act. It says it takes no position on that. If Justice wants to make a case, they can do it. If they're right, great; if we're right, great. This law is not going to change that position, which is fine for us because we already have the dominant legal position. The reason it's so important is if we were not in this legislation what would result is that you would essentially shut down account wagering in the United States overnight because this legislation bars the use of any credit card or non-cash form of payment for internet gambling and it's directed at credit card companies. So no one could ever use a credit card, or debit card or do anything other than show up with cash in hand, to fund account wagering.

Oppenheim: So this raises the obvious question, which is, how do these people think that they're going to stop people from doing it? And by that, I mean internet gambling. It's huge; what, you can't play poker on the internet?

Avioli: No. You can't legally now, but people are still doing it. The estimates that I've seen that are probably most accurate are that \$15 billion will be wagered on the internet this year, which is interesting because it's the exact same number that we believe will be wagered, legally, on licensed parimutuel wagering in the U.S.

Oppenheim: So it's pretty amazing to think that the internet will equal all parimutuel wagering coming from zero five years ago, isn't it?

Avioli: Yes, but keep in mind that, for the most part, we believe internet wagering tracks the real world so that vast majority of wagering on the internet is going to be on sports betting, casino gaming, and racing is somewhere between two and five percent of all wagering.



Oppenheim: I went to a conference in London last month put on by a group called Global Gaming, and I think they estimate that eight percent is racing's total.

Avioli: Again, they are estimates. It could be. What's interesting is that the majority of all internet gambling comes from the United States. The U.S. makes up more than 50 percent of the world market.

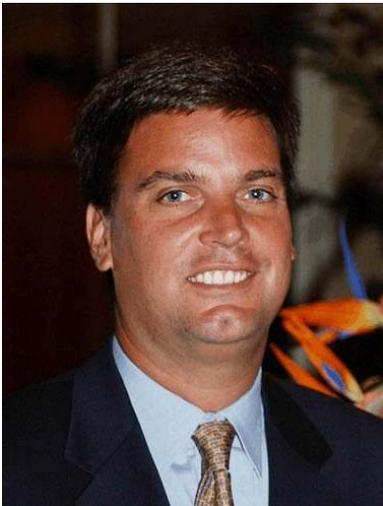
Oppenheim: So why is the U.S. opposing internet gambling when it is just so huge? I mean, it's absurd, isn't it, to tell people that they can't gamble on the internet? Isn't that going to happen anyway?

Avioli: I asked this question to a lobbyist about two years ago. I asked the exact question: it's going on, they're not going to be able to stop it, why won't the government just turn a blind eye to it? I mean, look at sports betting. How much money is wagered on the major sports? By some estimates, it's over \$10 billion on the Super Bowl. They know it's going on, but that doesn't mean they're going to legalize it. There are a number of activities in this category, from sports betting to prostitution.

Oppenheim: I was just going to say that.

Avioli: It's a small percentage of Americans--it's shrinking--but if you talk with the various pollsters, I'm told that it's down to under 20 percent of Americans who are just vehemently opposed to gambling at any level. Well, if you're a politician, you don't want to alienate those 20 percent of people. Why start with throwing 20 percent of the electorate out? I don't think this actually changes if the Democrats take control of the House and the Senate. Churches are very important--think of the slots debate in various states. It's a tough issue to say we're going to have an open house, anybody can do anything they want gambling-wise.

Oppenheim: As far as the arguments that are set forward here are concerned, if somebody is willing to commingle and come into a host track's pools, and is willing to come to an agreement with the state horsemen's association and the state and the track, would there then be any objection from our industry to these secondary parimutuel outlets (SPMO's) betting on American wagering. In other words, if it all went through the pools?



Greg Avioli *Horsephotos*

Avioli: Well it happens now.

Oppenheim: Betfair doesn't go through the pools.

Avioli: No, Betfair doesn't, but many do. If you're an account wagering operator out there in cyberspace or in Antigua or wherever, that is occurring on a daily basis. It doesn't necessarily have to be offshore. It could be an Indian tribe in South Dakota that would still be under the definition of a SPMO--somebody who doesn't put on live racing, who's just taking bets. Here's the objection, and the most vigorous proponent of this position is David Wilmott at Woodbine. Here's the problem with letting SPMO's into the pool. Let's just assume there's a 20-percent takeout. And, let's say this is a bet at Churchill Downs; it's from a guy in Louisville walking up to the window. Well, again, I'll use old, high tax numbers, so let's say it's a three percent tax. So Churchill now has 17 cents, they put half of that into purses and the other half goes to expenses and profit. That's how people make money; that's how people in this industry lived until 1980. Now let's say you're simulcasting, now Churchill is sending that signal to Hollywood Park, because it's 1980 and we figured out that we can do this inter-state simulcasting. Now we've got all this new money. Because Hollywood Park is going to pay Churchill Downs three cents for every wagering dollar that they take, every bet they take--still working with a 20 percent takeout. Hollywood Park pays three percent to California for tax, they pay three percent to Churchill for the right to take wagers on Churchill's races, and get into their pools, Hollywood Park is making 14 cents, half of which they pay to purses, and they keep seven cents.

So now you have an account wagering company and they're offshore, and the industry, for the most part, is charging them a little higher rate over time, because they just realized they could, so now instead of charging you three percent like Hollywood, we may charge you five. Well, again, the good news is, if it were just everybody from the Bahamas betting into this pool, it's five cents of found money for Churchill Downs. They otherwise wouldn't have this money. Now the economics for the guy in the Bahamas: let's assume he's the same 20 percent takeout. He's paying Churchill five cents, he's got a couple of internet operators and a website that maybe costs him two cents to operate. He's got 13 cents--quite a profit, right? But what he really wants is bettors. He wants people to come to his website and bet, so what he does is he takes 10 cents of that 13 cents profit, and he gives it back to the bettor. That's the rebate. And so now, in the worst-case scenario, you've got a guy who used to show up at Churchill Downs, walk into the high-rollers' room and bet a million dollars a year with them where 17 percent of that money was going to purses and the track because he was on track betting those races. **(Cont.)**



Now, he goes to Churchill Downs, he gets the same room and the same suite. He loves watching the races, and he picks up his cell phone and he's making his bet through the Bahamas. He's great because every million he bets, he's getting another hundred thousand dollars back. The guy in the Bahamas loves it because he's getting more and more gross handle from these guys, because the more rebate they get, the more they'll bet with him, and so the one who's getting his ox gored is the U.S. racetrack. They are actually letting this company from Antigua bet into their pools because they're saying, 'well, at least we're getting five percent of their money.' The difference is, if this same customer had been betting with them directly, they'd be getting another 12 percent on top of it. I am just using Churchill as an example. This is happening at tracks throughout the United States.

Oppenheim: Can you say rebates are not allowed? Or is that a violation of fair trade?

Avioli: It varies by state. Until last year, rebates were not allowed in New York. The problem with the domestic parimutuel operator rebating is that they don't have that kind of money in the deal to pay rebates that match the SPMO's. If you're NYRA, and their takeout is lower, as you know, let's say that by law, they have to give half the net takeout to purses. For every 17 cents they get from takeout they have to give eight and a half cents to purses. Plus, they have the cost of running that whole facility and all the barns and everything else, so where are they going to get 10 cents out of that 17 cents to match the SPMO's? But, the U.S. operators are coming around to the fact that they're going to have to have some kind of rebates; think of them as customer rewards programs for better customers.

Oppenheim: To me, though, it distorts the pools, and I think a lot of the evidence that you presented shows how all other bettors are disadvantaged by these big-handle players. That seems patently unfair, but I understand that just because it's unfair doesn't mean it's illegal.

Avioli: It all comes down to this: it's an economic decision that the racetracks and the horsemen need to make as to who they want to allow in their pool. Is the five percent money that you're getting from XYZ company worth it? Clearly, some tracks, like NYRA, Tampa Bay Downs and Woodbine took the position that we won't do business with you; we don't want that five percent of your big internet offshore money when you won't disclose to us where your betting money is coming from. We don't want it.

Oppenheim: So, the industry's objection to internet betting has to do with a very small number of people who are getting the advantage of rebates, not somebody who bets with the internet, but doesn't get a rebate?

Avioli: Yes. Over the internet or the telephone. The objection to the SPMO's within the industry is that by rebating the biggest customers, they're moving the biggest customers away from the track. That's part A. Part B deals with the offshore bookmakers and the Betfairs. This is one that's clearly not coming back into the parimutuel pools; this is the money we think we can get back by further tightening the internet gambling rules. Betfair is illegal in the United States, no question about it. There's no exception: the way gaming law works, it's illegal unless somebody authorizes it.

Oppenheim: And also it's basically illegal if it's not a pool bet, isn't it?

Avioli: That's what I'm saying—a pool bet equals a parimutuel bet. In theory, a state could allow a Betfair-type wager on an intra-state basis, and I know Oregon did consider it for a while there a few years ago, but for now, it's illegal.

Oppenheim: Well the ironic thing is, if you went to Betfair and you said, here's the way we can make it work and make it legal, and it's going to cost x, they couldn't sign up fast enough.

Avioli: They've been to visit the NTRA and all the major racetracks, and they're looking for partners, but, again, my job is really to deal with the practicality of the issue and it's going to be a long time before Betfair is legal in this country. That's against the political climate right now. The people that I talk to and ask about when will the government get around to licensing and regulating internet gambling on a federal level say no sooner than a decade. It's just how things work up here.

Oppenheim: So you expect that this internet gambling prohibition bill very likely will become law?

Avioli: I think it's very likely it will pass the House Judiciary Committee with racing's provision intact. (*Ed: it did, passing by a vote of 25-11.*) I think it's likely that it will go on to pass the House of Representatives. The problem would come in the U. S. Senate because the American Gaming Association, which represents all the casinos. Within the last 30 days, they have come out with a new position that rather than prohibiting internet gaming, they believe that the government should do a one-year study on regulating and taxing it. they just try to prevent legislation from getting passed that they don't approve of, and that's a much easier role.

(Cont.)



The AGA is going to either openly or behind the scenes oppose passing a form of the Internet Gambling Prohibition Act in the Senate, and, given the power structure of the Senate, the rules of the Senate, and the fact that there are probably less than 50 days left in this congressional session, I think that this bill might get stalled in the Senate. Even if it does, however, the fact that this bill would pass this year in the House, in this climate, and with a recognition, hopefully, from the Justice Department that our provision is okay to be in there, would be a big win. It has good precedential value when you go into the next Congress.

Oppenheim: One final question on this prohibition act: do you think if it is passed that it will be enforced?

Avioli: I believe it will be enforced. That's the whole purpose of this bill. This bill has an enforcement mechanism. What it will do is force operators to move to new and more complicated forms of non-cash payments. So, sure, if I want to set up an account with a Betfair, if I can't use my card, or wire-fund it, I could find a way to get my money there, but it's going to be so complicated to do it. Maybe the diehard guys might still do it, but other people are going to say, 'maybe I'll just bet back with the United States where it's legal. I don't need the hassle of getting another credit card, say in Aruba, just so I can bet.' So I think if it's passed, it really would help out the domestic industry significantly because we can assume that at least some of them will bet back in the United States.

Oppenheim: To go back to my original question--Churchill, TVG, anything that's legal, that's approved, that's going to be fine?

Avioli: I believe that's going to be fine. Sure, a player might like to keep betting with his site in Aruba but if he can't, we have to find ways to get these people back, we're never going to be able to fully compete with the rebate, so anything that makes it illegal to make a bet offshore can only help our chances of getting them back betting in the United States.

Oppenheim: What about international residents who want to bet on American racing?

Avioli: That's fine. That's authorized under a separate law. What we're talking about here are U.S. residents betting with offshore sites. There was a separate law passed two years ago that removed all taxation, so people internationally--Canada, France, etc. got into U.S. pools without any taxation. Right now, U.S. tracks will common-pool with international racetracks. Let's look at that one for a while. This bill passed in 2004. There was about a year lag for the totes to get up to speed on the new technology, but once they started, that eliminated the 30% withholding tax on interna-

tional bets. U.S. racetracks are now reporting between 20 and 40-percent bigger handle from Canada than in previous years, which is significantly higher than even we projected. So the common pools have had a real, immediate benefit. That was a process that had been ongoing for over a decade, initially undertaken by the American Horse Council, and it wasn't until we got the right set of lobbyists to put all the right set of lobbying tools together that we were able to get that passed. That's probably the biggest single accomplishment in terms of actually directly affecting wagering dollars. The other accomplishment was amending the IHA in 2000 to specifically authorize internet betting which--as we have discussed--has become the life-blood of this industry.

Want to talk immigration?

Oppenheim: Yes, I'm quite interested in that. How do you read that?

Avioli: I'll tell you in general what our position is. This issue is obviously much broader than just the thoroughbred industry, but on behalf of the thoroughbred industry, foreign workers are a critical part of our business and anyone who has been to the larger or smaller farms understands how important that is. Whatever the solution is going to be, we think it's important that the fact that our industry, like many other industries--the restaurant industry, hotel industry, etc.--rely on a large immigrant workforce and that's going to have to be factored into any solution. The solutions that would say, 'we need to send all the illegal immigrants back and never let them in again,' we think is a) impractical and, b) would have a negative impact on our business.

Oppenheim: Well, that's putting it mildly.

Avioli: Well, okay, I'm coming from a Washington perspective. The House has already passed border security legislation. And they're not expected to do anything else on this issue for now. It's passed and it's there. The Senate is looking at two different proposals right now. One is very similar--border security legislation. The only thing different is there might be more money for border security, fencing and all that. But, same concept--address the inflow first. That, candidly, would probably have a much better chance at being made into law this year, because when you pass a bill in the Senate and you pass a bill in the House, there is a conference where they iron out any differences in the bills. Then they bring back a bill that's a compromise between the House and the Senate, they each vote on it and then it goes to the President. In the case of the immigration bill, if you pass the border security-only bill, it would probably get there. There's probably enough common ground with the Senate and the House that you'd get that into law. *(Cont.)*



(Cont.) However, it appears as if the Senate is setting out a path to a much broader bill, which would include many of the provisions outlined by the President in his speech last week. *(Ed: The Senate passed a broad immigration bill the day after this interview.)* The Senate is looking at a much broader bill including how to deal with the illegal immigrants who are already here, coming up with a new guest-worker program, etc. To the extent the Senate bill includes any elements beyond border security, the word on Capitol Hill is that they may not be able to get a bill out of the conference committee with the House and nothing will get passed this year.

Oppenheim: Are any of these things, that, for example, are going to make a horse trainer a felon, going to happen in this Congress?

Avioli: I don't believe so. What we understand is that border security legislation, if backed by the Senate, could probably get passed through the Senate and the House, but if you get into any of the other provisions, it's unlikely.

Oppenheim: And this is because the House would have to go back and go through a process that was parallel and then have a conference committee? And there's not really time to do that?

Avioli: Well, the House isn't going to act again on this bill until after a conference committee, so if the conferees come back with any new provisions, it would have to go to a vote in the House as if it's a new bill, and they don't believe there's support within the Republican base for that type of legislation. Particularly right now, in an election year. This goes back to what we were talking about earlier; how can Congress not act on a problem just for political reasons? This is another great example of that.

Oppenheim: So that is actually kind of good news?

Avioli: I'm not sure. I mean for our industry right now, it's better than the alternative. For the country as a whole, we have to address this problem one way or another.

Oppenheim: In the meantime, what's going to happen if it doesn't happen in this session?

Avioli: Everything starts anew in 2007. That applies to internet gambling bill as well. If bills aren't passed and signed into law by the end of this year, everything starts brand new with the next Congress. And if there are going to be some significant changes in the makeup of the Republican-Democratic mix, it could be harder to pass legislation next year. For example, if the Democrats took control of the House, and if the Republicans couldn't pass an immigration bill when they controlled both the Senate and the House, I doubt the bill is going to move very quickly if they don't control the House.

Oppenheim: What else is going on on the domestic front, and internationally in racing?

Avioli: What you're seeing right now is that we are making progress on some uniform domestic standards such as racing medication with uniform rules passed in most all racing states, but that's taken nearly a decade and it's by no means done yet. We are also working on trying to set up uniform account wagering rules and uniform tote protocols domestically. That is not making the progress it needs. It seems to be going in the right direction, but it is slow, hard going, and I think we're going to have to do a lot better job integrating ourselves as a domestic industry on a federal level before we look to adopt a lot of international standards. The other thing I can tell you from my work with the International Federation is one of the difficulties we have is that most of the international racing jurisdictions have one entity, a National Jockey Club, for example. They say, 'let's turn left,' and their national industry turns left. With all of our different state racing jurisdictions, it's harder for us in the U.S. as a national industry. Just because we recommend something at the NTRA, that doesn't mean it's necessarily going to happen at the state level. So I think there are reasons to stay close internationally, because we have common problems like the illegal internet offshore wagering issues, and there are reasons to maintain close dialogue with our friends around the world, but I don't think you're going to see anything more formal than that in the near future.

Oppenheim: What work have you done with equine-specific issues?

Avioli: Last year, we were able to pass legislation that got horses defined as livestock, so that in the case of an agricultural emergency, if you're a farmer who has cattle and horses, you can get the same government assistance for your horses as you could for cattle. In a fluke of federal law, horses were not within the traditional definitions of food or fiber, so that there was no basis to have emergency government relief for the so-called "rich horse owners," so we got that changed last year. Back when the MRLS agricultural disaster hit, we had to go and get a special law passed just for the MRLS-affected farms, because horses were not defined as livestock. Now that that's done, we don't have to get specific relief every time.

Oppenheim: What about the Depreciation and Capital Gains?

Avioli: We are working on landmark tax legislation--the Equine Equity Act. It was introduced by Mitch McConnell in the Senate and Ron Lewis in the House, and would do two things. The first thing is that it would reduce the capital gains holding period for horses from two years to one year.

(Cont.)



That results from an anomaly in tax law that dates back to the late sixties, where in an attempt, from the best we can glean, to try to protect against illegal tax shelters, the government treats horses differently than any other form of property. Horses and cattle are the only categories of capital-asset categories that have a two-year holding period. Everything else has one year, and this would reduce that to one year for horses. The second, and I think even more significant, provision would reduce the period for depreciating a racehorse from seven years to three years.

Oppenheim: Racehorses are seven years?

Avioli: Without getting into all the technicalities--unless you don't put your horse in training for the first time until its third year, which applies to a very limited number of racehorses--racehorses are on a seven-year depreciation schedule. If you look in the Congressional history, the law dates back to the forties and fifties, when racehorses did run for seven years. But you know, you could probably count on one hand the horses that are running for seven years today. When you bring a piece of tax legislation before Congress, when it's introduced, it goes before something called the Joint Tax Committee. They give you a score and say, 'How much will this cost the treasury?' On ours, it's a mixed blessing. The score on those two provisions is that they would provide \$444 million in tax relief to the industry in the next 10 years. That's the good news for our industry. The challenge is, that's a big number. It is difficult to pass \$444 million in industry-specific tax relief in the current climate in Washington. The good news is that we have wonderful supporters, we have the



Sen. Mitch McConnell and Avioli
Horsephotos

number-two man in the Senate, Mitch McConnell, having introduced the legislation, and we have long-time veteran Ron Lewis of the Ways and Means Committee having introduced it in the House, so we couldn't have better sponsors or be better positioned. The other thing I should mention is that legislation like the Equine Equity Act will

likely have to pass through a much larger piece of tax legislation, and there is a chance that there might be such a tax vehicle either at the end of this year, or if there is a lame-duck session. We're just going to have to keep hammering on it and when our time is right it'll get done.

Oppenheim: Who is The Alpine Group?

Avioli: We were smart enough to hire what is rapidly becoming one of the top-five lobbying firms in Washington. They go about their business much differently than the previous lobbying firms for the last two or three decades, who were primarily based on getting former members of Congress, then paying them lots of

money to go talk to their friends. Now, this firm that we use, The Alpine Group, actually has a bylaw that no former members of Congress can ever be a member of the firm. So it's all formed by former chiefs of staff, and they lobby from the staff up. They are also very successful in their fundraising efforts within Capitol Hill and are much more practical and pragmatic. Their list of clients keeps growing and growing. Having the right lobbyist is just like playing football and having the right quarterback. I mean, you can't do it without the right people. And with their advice, and on the heels of the campaign finance reform laws three years ago, we activated the NTRA political action committee, "Horse PAC." We seek individual contributions from members of the industry, and then in turn make consolidated contributions on behalf of the entire industry to members of Congress. Although it's maligned by some people, in fact, it is legal and a critical part of government to support the candidate that supports your issues. The coupling of Horse PAC with the strong lobbyist and then just a lot of leg work meeting with the members of Congress has put us in position for the first time since I've been around that we're not just reactive in Congress. The NTRA has an agenda and a platform and a one-year plan and a three-year plan and a five-year plan. We don't just react when something happens. Given that we are a licensed and regulated business in this ever-complicated world of internet gambling and with other pressing issues such as tax relief or addressing plans for the spread of equine disease, etc., it's so important for the industry to build on its success. Washington and the federal government are only going to get more important to the industry.

Oppenheim: So you think that the horse industry, through the NTRA, is positioned certainly as well as it has been in recent history, and you're satisfied that it's in a good position to represent the views of the horse industry?

Avioli: I believe we are in a good position. You never want to rest on your laurels, but I think as you look back, you'd be hard-pressed to find any area where the NTRA has been more successful than you have in Washington. The NTRA is very aggressive in terms of identifying issues in the future and seeing if we can work to pass legislation, such as tax-relief legislation, international wagering legislation, etc., so we have a substantive agenda. Overall in D.C., in terms of number of people, size of our budget, what our agenda is, we're now much bigger than the casino industry, for example, which is a testament to what this industry (cont.)e in the last seven years. One of the things you asked was about some other programs, advertising, etc. I can briefly review those for you, and there have been successes and failures along the way. But I have learned that the industry, when it works together, on a common agenda, with the requisite resources, is a force to be reckoned with.

(Cont.)



(cont.) And that is what you find here--a perfect storm of all the good things in the industry. We represent 500,000 jobs and a \$39-billion agri-business. And, with limited exceptions, we're on the same page, we're not arguing amongst ourselves. And that's how you win in Washington.

Oppenheim: Is the funding and financing of all this from the quarter-percent checkoff?

Avioli: We'll get, from the buyers and the consigners, around \$1.2 million. That's how much I expect we could raise this year.

Oppenheim: What would the potential be? How much participation does that program have?

Avioli: It's not anywhere near 50 percent. It's a small percentage. So the potential would be much bigger.

Oppenheim: Does the quarter-percent go to the NTRA or to the political efforts directly?

Avioli: The quarter percent goes to the NTRA, but we allocate that for use in the lobbying, so, for example, our total lobbying budget is probably close to \$2 million, and \$1.2 million of that will come from the quarter-point.

Oppenheim: So \$2 million is the lobbying budget?

Avioli: That's everything, including internal personnel, then lobbyists, tax lawyers, the taxes you pay for lobbying and racing integrity issues. But that's all totally separate from the political action committee. That is, that money by law goes in a separate federal PAC account and that money is only used for political contributions. That money is primarily contributed by owners and breeders. There's no overhead. Every penny goes to either a member of Congress or a Congressional committee.

Oppenheim: Did you say people make individual contributions?

Avioli: Yes. In a perfect world we would love to be able to take that quarter point money and use that to fund Horse PAC, but that is not allowed. We still have done a phenomenal job by Washington's standards, because within just over three and a half years, we've raised \$1.3 million dollars with the PAC. That's hard money, and the reason they call it "hard money" is that it's hard to raise. You've got to get people to write checks from their own personal bank accounts. Those efforts have been driven first and foremost by the efforts of Lucy Young Hamilton and Bill Farish, who have been the lead fund raisers. We're raising right now, on average, about \$400,000 a year. That puts us within the top six percent of all of the PAC's in this country. It's just critically important to what we do.

Oppenheim: I'm not sure that if you had \$2 million to go out and target getting the younger generation to the racetrack that you'd accomplish as much as \$2 million seems to be accomplishing in Washington.

Avioli: And I go back to what I said before: one of the reasons that Washington has been such a big success for the industry is you have this perfect storm of cooperation. On a national level, what has been very clear is that before the NTRA started, there was no Churchill national brand, Magna didn't exist, there was no TVG and youbet, and you didn't have all these different national companies trying to do their national branding, their own marketing. This industry is so disparate, and so regionalized, corporatized, that I just don't think you have the building blocks right now within the industry for the industry to get behind and support a common, national marketing brand, which was really the basis for the NTRA marketing effort. And no one knows whether it would work or not.

Oppenheim: Of course it would work.

Avioli: It would probably work better than what we have now, I'll give you that.

Oppenheim: Would you say that all sectors of the industry have been supporting these efforts?

Avioli: I'll give you a statistic. We've raised, I think, close to a \$1.3 million with the PAC, and less than five percent of that has come from racetrack management. Ninety-six percent of that has come from the racehorse owners or breeders. And we've made pitch after pitch to the racetrack management with only limited success. We need to do better in this area moving forward.

Oppenheim: Greg, thank you so much for your time. It has been really interesting and we appreciate your being so open and responsive.

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