



**TEXAS RACING COMMISSION**

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Texas Racing Commission  
Wednesday, February 25, 2009  
10:30 a.m.  
Texas Department of Public Safety  
6100 Guadalupe  
Criminal Law Enforcement, Building E  
First Floor Auditorium  
Austin, Texas 78752

**AGENDA**

- I. CALL TO ORDER**  
Roll Call
  
- II. PUBLIC COMMENT**
  
- III. GENERAL BUSINESS**  
Discussion, consideration and possible action on the following matters:
  - A. Report on Racetrack Inspections III-1
  - B. Report and Update by the Executive Director and Staff Regarding Administrative Matters
    - 1. Status of Sunset Legislation
    - 2. Agency Personnel Changes
  - C. Report by the State Auditor's Office on its Classification Study of Exempt Positions III-3
  - D. Budget and Finance Update III-10

- E. Report by Working Group on Funding III-14
  - 1. Approval to Submit Supplemental Appropriations Request III-23
  - 2. Legislative Changes to Support Agency Funding III-25
- F. Committee on Racetrack Licensing Update III-26
- G. Stakeholders' Report on Status of the Industry

**IV. PROCEEDINGS ON RACETRACKS**

Discussion, consideration and possible action on the following matters:

- A. Report by Sam Houston Race Park on Status of Reconstruction IV-1
- B. Review of the Inspection Report, Timeline for Facility Repairs, and Business Plan for Reopening Corpus Christi Greyhound Race Track IV-6
- C. Allocation of Live Race Dates for Corpus Christi Greyhound Race Track under Commission Rule 303.41 (Tabled from prior meeting.) IV-38

**V. PROCEEDINGS ON RULEMAKING**

Discussion, consideration and possible action on the following rules:

- A. Rule Proposals
  - 1. Proposal to Adopt by Emergency Rule an Amendment to § 309.8, Racetrack License Fees V-1
  - 2. Proposal to Amend § 309.8, Racetrack License Fees V-1
  - 3. Proposal for New § 309.11, Fees for Requests to Approve a Transfer of Pecuniary Interests V-3
  - 4. Proposal for New § 309.12, Fees for Requests to Approve Change of Location V-6
  - 5. Proposal to Amend § 311.5, License Fees V-7
  - 6. Proposal to Amend § 311.104, Trainers V-10
  - 7. Proposal to Amend § 315.1, Required Officials V-11
- B. Rule Adoptions
  - 1. Adoption of New § 313.426, Toe Grabs Prohibited V-12
  - 2. Adoption of New § 319.364, Testing for Androgenic-Anabolic Steroids V-13

**VI. EXECUTIVE SESSION**

The following items may be discussed and considered in executive session or open meeting and have action taken in the open meeting:

- A. Under Government Code Sec. 551.071, the Commission may open an executive session to confer with its attorney regarding pending or contemplated litigation on any matter listed in this agenda.
- B. Under Government Code Sec. 551.071(2), the Commission may open an executive session to discuss all matters identified in this agenda where the commission seeks the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas and to discuss the Open Meetings Act and the Administrative Procedures Act.

**VII. OLD/NEW BUSINESS**

Schedule next Commission Meeting (Tuesday, April 7, 2009)

**VIII. ADJOURN**

**Texas Racing Commission  
Report on Racetrack Inspection Activities  
February 25, 2009**

<b>Date of Inspection</b>	<b>Track</b>	<b>Type of Inspection</b>	<b>Number of Unsatisfactory Items</b>	<b>Track Remediation</b>	<b>Unsatisfactory Items Remaining</b>
2/5/09	Corpus Christi	Group	See notes.	Follow-up to May 6, 2008 inspection	
12/5/08	Gillespie	Pari-mutuel	0		0
10/18/08	Gulf	Veterinary	5	4 Resolved 11/19/08 1 Resolved 1/21/09	0
11/12/08	Gulf	Safety & Security	1	Resolved 1/22/09	0
12/5/08	Gulf	Judges	3	Resolved 2/11/09	0
1/28/09	Gulf	Safety & Security	0		0
1/28/09	Gulf	Pari-mutuel	0		0
1/28/09	Gulf	Administrative	0		0
1/28/09	Gulf	Veterinary	0		0
1/28/09	Gulf	Judges	0		0
11/1/08	Lone Star	Veterinary	1	Resolved 12/18/08	0
12/18/08	Lone Star	Pari-mutuel	0		0
9/25/08	Retama	Safety & Security	1	Resolved 12/12/08	0
10/16/08	Retama	Stewards	3	Resolved 12/6/08	0
01/10/09	Retama	Stewards	2		Jockey Quarters maintenance
12/30/08	Sam Houston	Administrative	0		0
12/30/08	Sam Houston	Pari-mutuel	0		0
11/19/08	Valley	Judges	3	Resolved 1/8/09	0
11/19/08	Valley	Safety & Security	2	1 Resolved 12/5/08 1 Resolved 2/6/09	0
1/20/09	Valley	Judges	5	4 Resolved 2/11/09 1 Resolved 2/17/09	0

Date of Inspection	Track	Type of Inspection	Number of Unsatisfactory Items	Track Remediation	Unsatisfactory Items Remaining
<b>Training Tracks</b>					
1/8/09	Diamond D	Training	1	Resolved 1/22/09	0
1/8/09	Oak Leaf	Training	1	Resolved 1/16/09	0
1/14/09	Lone Star Park	Training	1	Resolved 1/25/09	0

**Corpus Christi Greyhound Race Track:** Facility was inspected for progress of repairs since May 6, 2008 inspection.

**Retama Park:** General maintenance is needed in Jockeys quarters.

**Total Number of Inspections: 23**



**John Keel, CPA**  
**State Auditor**

A Classification Study of  
**Exempt Positions**

August 2008  
Report No. 08-708

*A Classification Study of*  
**Exempt Positions**

SAO Report No. 08-708  
August 2008

## Overall Conclusion

The State would benefit from restructuring the process by which state agencies' chief executive officers (executive officers) are compensated and evaluated in order to attract and retain high-quality chief administrators. A revised process should include expanding and increasing salary ranges for executive officers; annually reviewing individual pay based upon demonstrated performance, experience, and skill; and annually evaluating executive officers' success in reaching defined performance standards. These changes would increase the State's ability to recruit and motivate high-performing, qualified, senior-level professionals to manage and direct state agencies.

The State Auditor's Office's State Classification Team reviewed 84 executive officer salaries and found that the salaries for these positions are, on average, 27 percent behind similar professional positions in the market. Current salary ranges are not sufficient to provide competitive salary rates for executive officer positions. These lower-than-market pay rates have contributed to pay compression between the salaries of exempt state executive officers and those of classified employees. Pay compression exists when the pay of a subordinate comes close to (or at times exceeds) the pay of a direct supervisor.

Although the State provides a comprehensive benefits package to employees and multiple tools to recruit and retain employees, some incentives such as merit or performance awards do not exist for exempt executive officer positions. All of these factors may limit the State's ability to attract and retain high caliber, qualified executive officers.

### Exempt Positions

The 80th Legislature directed the State Auditor's Office to conduct a study of executive positions similar to the biennial review of salary rates for state classified employees. This study, the first comprehensive review of executive officer positions for the State, focuses solely on 84 positions exempt from the State Classification Plan (Plan) and does not include elected officials.

For the purpose of this report, "executive officer" refers to the executive director, administrative officer, or commissioner who serves as the administrative head for each state agency.

Other positions exempt from the Plan but not covered by this report include district attorneys in the Office of the Comptroller of Public Accounts, Supreme Court and Appeals Court justices, and various board and commission members. These exempt positions (825 employees) account for less than 1 percent of the total state agency employee population.

See Chapter 2 for a list of specific positions covered by this report.

### Market Comparison

For purposes of this report, market analysis included a balance of public and private sector data for similar professional professions. This analysis excluded executive positions in the private sector that have stock options or other equity-based compensation.

## Key Recommendations

To address these issues, the Legislature should consider adjusting the salary ranges for exempt positions so that pay ranges are competitive, as well as conduct continued biennial reviews of these positions. This report includes a recommended salary group assignment for each exempt executive officer that is appropriate to the nature and complexity of the agency.

To be consistent with classified employees, executive officers could then be moved to at least the minimum of the salary range for their assigned group. The cost to the State to make these adjustments is \$1.3 million for the 2010-2011 biennium; however, these costs may increase if the Legislature or an agency's governing board moves an individual executive officer to a higher salary within the new pay ranges. The Legislature may want to consider reviewing these recommended salary group assignments to ensure they align with the overall strategies and goals of the State.

The Legislature and/or an agency's governing board should set the individual pay for each executive officer, as well as annually review these rates based upon the executive officer's demonstrated experience, skills, and performance. To help determine individual pay, this report includes guidelines that split each salary range into three defined tiers. The placement of an executive officer in these tiers would be based on an annual review of the individual's experience, performance, and skill level. These tiers are:

### Evaluating Executive Officer Performance

Successful performance of an executive officer should include:

- Achieving the key strategic goals of the agency and its programs, as defined in the agency's strategic plan.
- Attaining targeted levels on key performance measures.

- **A base pay tier**, or minimum salary rate, for each position. Individuals placed in this tier may be new to the position, have limited experience in the field, or may not be meeting current performance targets. This tier may also be used if there are limited funds available to adjust salaries.
- **A market-competitive tier**, or "target range" that corresponds to a market average for similar professional positions. Individuals placed in this tier are skilled performers, bring strong experience to the positions, and are currently meeting performance targets. Although the salary range in this tier represents the market average, not all employees should be paid in this range.
- **A performance tier** that represents pay rates above the market average for similar professional positions. Individuals placed in this tier have additional expertise, qualifications, licenses, or certifications above what is required for the job. This tier may also be used to compensate individuals who are outstanding performers, exceed current performance targets, or are critical skill experts.

Chapter 2 provides additional detail on each of the tiers.

In addition, the Legislature and/or agency governing boards should consider implementing annual performance evaluations of executive officers. These evaluations could provide critical information to the Legislature and the agency's governing board about what the executive officer has and has not accomplished. The Legislature and agency's governing boards also could use these evaluations as the basis for critical decisions, such as determining the annual level of an executive officer's compensation, directing the executive officer to focus on making improvements in selected areas, or removing the executive officer.

## **Key Points**

**Salaries for most state executive officer positions are not comparable with similar professional positions in the market.**

Based on public and private sector survey data, the current salaries for executive officer positions are, on average, 27 percent lower than similar professional positions in the market. Current salary ranges are not sufficient to provide competitive salary rates for executive officer positions. To maintain competitive pay ranges for executive officer positions, the Legislature may want to consider adjusting current salary ranges for exempt positions.

In a survey conducted by the State Auditor's Office, 69 percent of executive officers stated that their current salary is not appropriate for the work performed, and 55 percent stated that the pay for their positions was not in line with comparable classified positions in the State or in similar industries.

To ensure consistency among positions, the Legislature should consider assigning each executive officer to a salary group and ensuring that the executive officer is paid a salary that is at least the minimum of the assigned salary group. The cost to the State to make these adjustments is \$1.3 million for the 2010-2011 biennium; however, these costs may increase if the Legislature or an agency's governing board moves an individual executive officer to a higher salary within the new pay ranges. In placing individual executive officers within a pay range, the Legislature or the agency's governing board should consider various factors, including years of experience; current performance levels; education; and specific licenses, certifications, and specializations. Suggested guidelines for placement of employees in ranges are included in Chapter 2 of this report.

**The difference between the salaries of classified senior-level professional employees and executive officers is relatively narrow.**

Although there may be circumstances in which a subordinate could justifiably be paid more than his or her direct supervisor, there should be a reasonable difference between an executive officer's salary and the salaries of other senior-level employees in most cases. This differential recognizes executives for their skills, experience, and responsibilities and provides an incentive to high-performing employees to aspire to higher-level management positions. A review of

current executive officer positions found that, on average, agencies lacked this type of differential between the salaries of executive officers and senior professional positions. Specifically:

- On average, the highest-paid employee in each agency is paid 6 percent less than the executive officer. After September 1, 2008, that gap will narrow to 4.2 percent because classified employees will receive a 2 percent pay increase. An average difference of at least 15 percent would be more consistent with standard compensation practices.
- Twenty-six of 84 (31 percent) agencies reviewed had employees whose annual pay is at or above the executive officer's annual salary. The majority of the positions with equal or more pay than the executive officer were deputy directors, directors, general counsels, and other specialized professional positions.
- More than 23,000 classified full-time employees are paid in salary ranges comparable to those for executive officers. The majority of these employees (81 percent) are in professional classifications that do not necessarily require any supervisory or managerial responsibilities. The overlap of salary ranges between executive officers and classified employees occurs because executive officer salaries have not been reviewed and adjusted on a regular basis consistent with classified employees.

Low salary rates for executive officers may create an unintentional salary cap at some agencies if the agencies or their governing boards are reluctant to pay employees in professional-level positions more than the executive officer's salary. This limits agencies'—particularly small and mid-sized agencies'—ability to hire and retain senior-level skilled professionals, such as chief financial officers or general counsels, at competitive pay rates.

**The State may want to consider optional compensation incentives for executive officer positions.**

Another option to recognize and reward high achieving executive officers could include the use of merit or performance awards. Merit increases, either in the form of a base pay increase or a one-time payment, could be used to reward those executive officers whose performance is consistently above what is normally expected and required. Executive officers are not currently eligible for these types of awards beyond their base pay, but they could be awarded this type of compensation based upon their accomplishments and achievements. If the Legislature chooses to implement a merit increase program for these positions, criteria for these increases could include current performance measures and mirror the language currently in statute for merit increases for classified employees.

## **Summary of Objective, Scope, and Methodology**

The objective of this study was to conduct a review, similar to the study on the State's classification plan, on the compensation of executive positions as outlined in the General Appropriations Act (Article IX, Section 3.09, 80th Legislature).

### **Classification Study on Scheduled Exempt Positions**

"The State Auditor's Office is directed to conduct a study similar to the biennial study on the state's classification plan that reviews the compensation of exempt positions in the General Appropriations Act. The study should compare exempt positions from different agencies and take into account the size of an agency's annual appropriations, FTE level, market average compensation for similar executive positions, the exempt position salary as compared to classified positions within the agency, and any other objective criteria the Auditor's Office deems appropriate. The study shall be submitted to all members of the Legislature and the director of the Legislative Budget Board no later than September 1, 2008."

Source: General Appropriations Act, Article IX, Section 3.09 (80th Legislature).

For this study, the State Classification Team considered criteria such as average market compensation for similar professional positions; pay for classified employees; the size and complexity of agencies; and specialized experience, education, or skills required for each position. The State Classification Team sent surveys to state executive officers and state human resources directors to gather information about executive officers' minimum qualifications and duties, as well as each agency's organizational structure. Additional surveys were sent to cities, counties, and other states to gather information about executive pay practices and salary rates.

The salary and market analysis was conducted from February 2008 through July 2008. This project was a review; therefore, the information in this report was not subjected to all the tests and confirmations that would be performed in an audit. However, the information in this report was

subjected to quality control procedures to ensure accuracy and compliance with generally accepted compensation practices.

Market Analysis and Recommended Salary Groups Assignments for  
Executive Officer Positions

Article VIII: Regulatory

Executive Director: Executive Council of Physical Therapy and Occupational Therapy Examiners (533)	Current Salary	\$62,000
	<b>Market Average</b>	<b>\$109,706</b>
	Current Salary Group	1
	Recommended Salary Group	3
	Base Pay Tier	\$ 92,600 to \$106,500
	Market Competitive Tier	\$106,500 to \$125,000
	Performance Tier	\$125,000 to \$145,600
	Annual Cost to Move Executive Officer to Minimum of New Salary Group	\$30,600
Executive Director: Board of Plumbing Examiners (456)	Current Salary	\$70,000
	<b>Market Average</b>	<b>\$108,844</b>
	Current Salary Group	2
	Recommended Salary Group	3
	Base Pay Tier	\$ 92,600 to \$106,500
	Market Competitive Tier	\$106,500 to \$125,000
	Performance Tier	\$125,000 to \$145,600
	Annual Cost to Move Executive Officer to Minimum of New Salary Group	\$22,600
Executive Director: Board of Podiatric Medical Examiners (512)	Current Salary	\$55,000
	<b>Market Average</b>	<b>\$88,372</b>
	Current Salary Group	1
	Recommended Salary Group	1
	Base Pay Tier	\$ 70,000 to \$ 80,500
	Market Competitive Tier	\$ 80,500 to \$ 94,500
	Performance Tier	\$ 94,500 to \$110,000
	Annual Cost to Move Executive Officer to Minimum of New Salary Group	\$15,000
Executive Director: Board of Examiners of Psychologists (520)	Current Salary	\$68,250
	<b>Market Average</b>	<b>\$105,175</b>
	Current Salary Group	1
	Recommended Salary Group	2
	Base Pay Tier	\$ 80,500 to \$ 92,600
	Market Competitive Tier	\$ 92,600 to \$108,700
	Performance Tier	\$108,700 to \$126,600
	Annual Cost to Move Executive Officer to Minimum of New Salary Group	\$12,250
Executive Secretary: Texas Racing Commission (476)	Current Salary	\$85,536
	<b>Market Average</b>	<b>\$117,948</b>
	Current Salary Group	2
	Recommended Salary Group	3
	Base Pay Tier	\$ 92,600 to \$106,500
	Market Competitive Tier	\$106,500 to \$125,000
	Performance Tier	\$125,000 to \$145,600
	Annual Cost to Move Executive Officer to Minimum of New Salary Group	\$7,064

# Texas Racing Commission

LBB-4

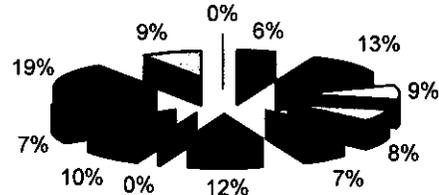
FYE 08/31/2009  
 Cumulative Operating Budget Status  
 by LBB Expenditure Object/Codes

Strategy	Description	FY 2009 Annual Budget	FY 2009 Expended Thru 1/31/2009	FY 2009 Unexpended Bal 1/31/2009	With 41.67% of Year Lapsed % of Budget Expended
\$ 0	FTE's = 72.25				
	<u>Sum Of All Strategies other than A.2.1</u>				
	1001 Salaries and Wages	3,696,109	1,386,337	2,309,772	37.51%
	1002 Other Personnel Cost	181,418	36,659	144,759	20.21%
	2001 Prof Fees and Services	194,221	52,686	141,535	27.13%
	2003 Consumables	30,500	6,336	24,164	20.78%
	2004 Utilities	24,500	10,960	13,540	44.73%
	2005 Travel	276,650	46,623	230,027	16.85%
	2006 Rent Building	108,014	52,486	55,528	48.59%
	2007 Rent Machine	15,900	5,830	10,070	36.67%
	2009 Other Operating Cost	291,440	90,539	200,901	31.07%
	CB Computer Equipment	35,340	292	35,048	0.83%
\$ 4,854,092	Total Operating Budget	4,854,092	1,688,747	3,165,344	34.79%
\$ 5,007,619	Strategy A.2.1. TX Bred Incentive	5,007,619	1,639,132	3,368,487	32.73%
\$ 9,861,711	Total All Strategies	9,861,711	3,327,879	6,533,832	33.75%

### Expended Operational Budget By Strategy

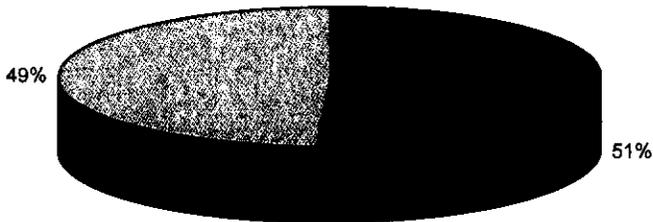
Regulate Racetrack Owners	\$	104,516
Supervise Racing	\$	227,783
Monitor Licensee Activities	\$	150,284
Inspect & Provide Emergency Care	\$	134,072
Administer Drug Test	\$	124,376
Occupational Licensing Program	\$	202,517
Texas On-Line Program	\$	5,656
Monitor Pari-Mutuel Wagering	\$	171,941
Wagering & Compliance Inspection	\$	110,395
Central Administration	\$	298,757
Information Resources	\$	158,450
Other Support Services	\$	-

### Expended Operational Budget



■ Regulate Racetrack Owners	■ Supervise Racing
□ Monitor Licensee Activities	□ Inspect & Provide Emergency Care
■ Administer Drug Test	■ Occupational Licensing Program
□ Texas On-Line Program	■ Monitor Pari-Mutuel Wagering
■ Wagering & Compliance Inspection	■ Central Administration
□ Information Resources	■ Other Support Services

### Expended Appropriations



■ Operational Budget ■ ATB Budget

### Expended Appropriations

Operational Budget	\$	1,688,747
ATB Budget	\$	1,639,132

111-10

# Texas Racing Commission

LBB-1

FYE 08/31/2009  
 Cumulative Operating Budget Status  
 by LBB Expenditure Object/Codes

Strategy	Description	FY 2009 Annual Budget	FY 2009 Expended Thru 1/31/2009	FY 2009 Unexpended Bal 1/31/2009	With 41.67% of Year Lapsed % of Budget Expended
	FTE's = 4.00				
A.1.1.	<u>Regulate Racetrack Owners</u>				
	1001 Salaries and Wages	239,278	99,699	139,579	41.67%
	1002 Other Personnel Cost	4,540	1,880	2,660	41.41%
	2001 Prof Fees and Services	5,000	389	4,611	7.78%
	2003 Consumables	500	-	500	0.00%
	2004 Utilities	-	-	-	
	2005 Travel	10,200	1,413	8,787	13.85%
	2006 Rent Building	-	-	-	
\$ 8,076	2007 Rent Machine	-	-	-	
\$ 251,895	2009 Other Operating Cost	6,075	1,135	4,940	18.69%
\$ 5,622	CB Computer Equipment	-	-	-	
\$ 265,593	Total Strategy A.1.1.	265,593	104,516	161,077	39.35%
	FTE's = -				
A.2.1.	<u>Texas Bred Incentive</u>				
	ATB Money Expended	5,007,619	1,639,132	3,368,487	32.73%
\$ 5,007,619	Total Strategy A.2.1.	5,007,619	1,639,132	3,368,487	32.73%
	FTE's = 12.10				
A.3.1.	<u>Supervise Racing and Licensees</u>				
	1001 Salaries and Wages	752,833	214,911	537,921	28.55%
	1002 Other Personnel Cost	19,940	4,819	15,121	24.17%
	2001 Prof Fees and Services	16,721	-	16,721	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	67,250	5,239	62,011	7.79%
	2006 Rent Building	-	-	-	
\$ 25,819	2007 Rent Machine	-	-	-	
\$ 829,374	2009 Other Operating Cost	4,875	2,521	2,354	51.71%
\$ 41,766	CB Computer Equipment	35,340	292	35,048	0.83%
\$ 896,959	Total Strategy A.3.1.	896,959	227,783	669,176	25.40%
	FTE's = 6.00				
A.3.2.	<u>Monitor Occupational Licensee Act.</u>				
	1001 Salaries and Wages	340,936	141,926	199,010	41.63%
	1002 Other Personnel Cost	23,920	3,300	20,620	13.80%
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	-	18	(18)	
	2004 Utilities	-	-	-	
	2005 Travel	25,500	1,399	24,101	5.49%
	2006 Rent Building	-	-	-	
\$ 13,214	2007 Rent Machine	-	-	-	
\$ 435,947	2009 Other Operating Cost	3,875	3,641	234	93.95%
\$ (54,930)	CB Computer Equipment	-	-	-	
\$ 394,231	Total Strategy A.3.2.	394,231	150,284	243,947	38.12%
	FTE's = 5.55				
A.4.1.	<u>Inspect and Provide Emerg. Care</u>				
	1001 Salaries and Wages	307,991	109,735	198,256	35.63%
	1002 Other Personnel Cost	20,560	2,240	18,320	10.89%
	2001 Prof Fees and Services	23,000	6,048	16,952	26.29%
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	19,700	10,588	9,112	53.74%
	2006 Rent Building	-	-	-	
\$ 10,339	2007 Rent Machine	-	-	-	
\$ 437,982	2009 Other Operating Cost	7,125	5,462	1,663	76.66%
\$ (69,945)	CB Computer Equipment	-	-	-	
\$ 378,376	Total Strategy A.4.1.	378,376	134,072	244,304	35.43%

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# Texas Racing Commission

LBB-2

FYE 08/31/2009  
 Cumulative Operating Budget Status  
 by LBB Expenditure Object/Codes

Strategy	Description	FY 2009 Annual Budget	FY 2009 Expended Thru 1/31/2009	FY 2009 Unexpended Bal 1/31/2009	With 41.67% of Year Lapsed % of Budget Expended
A.4.2.	FTE's = 6.50 <u>Administer Drug Testing</u>				
	1001 Salaries and Wages	294,884	112,473	182,411	38.14%
	1002 Other Personnel Cost	18,020	2,460	15,560	13.65%
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	28,500	5,194	23,306	18.22%
	2006 Rent Building	-	-	-	
\$ 10,993	2007 Rent Machine	-	-	-	
\$ 326,803	2009 Other Operating Cost	6,375	4,250	2,125	66.66%
\$ 9,983	CB Computer Equipment	-	-	-	
\$ 347,779	Total Strategy A.4.2.	347,779	124,376	223,402	35.76%
B.1.1.	FTE's = 12.10 <u>Occupational Licensing</u>				
	1001 Salaries and Wages	416,322	175,609	240,713	42.18%
	1002 Other Personnel Cost	28,420	6,262	22,158	22.03%
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	2,500	21	2,479	0.83%
	2004 Utilities	-	-	-	
	2005 Travel	33,500	6,231	27,269	18.60%
	2006 Rent Building	-	-	-	
\$ 16,097	2007 Rent Machine	13,400	4,678	8,722	34.91%
\$ 549,532	2009 Other Operating Cost	36,625	9,716	26,909	26.53%
\$ (34,862)	CB Computer Equipment	-	-	-	
\$ 530,767	Total Strategy B.1.1.	530,767	202,517	328,250	38.16%
B.1.2.	FTE's = - <u>Texas OnLine</u>				
	1001 Salaries and Wages	-	-	-	
	1002 Other Personnel Cost	-	-	-	
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	-	-	-	
	2006 Rent Building	-	-	-	
	2007 Rent Machine	-	-	-	
\$ 23,250	2009 Other Operating Cost	23,250	5,656	17,594	24.33%
\$ -	CB Computer Equipment	-	-	-	
\$ 23,250	Total Strategy B.1.2.	23,250	5,656	17,594	24.33%
C.1.1.	FTE's = 8.00 <u>Monitor Wagering and Audit</u>				
	1001 Salaries and Wages	382,013	159,172	222,841	41.67%
	1002 Other Personnel Cost	10,980	4,300	6,680	39.16%
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	30,000	4,443	25,557	14.81%
	2006 Rent Building	-	-	-	
\$ 14,834	2007 Rent Machine	-	-	-	
\$ 457,938	2009 Other Operating Cost	19,235	4,025	15,210	20.93%
\$ (30,544)	CB Computer Equipment	-	-	-	
\$ 442,228	Total Strategy C.1.1.	442,228	171,941	270,287	38.88%
C.1.2.	FTE's = 5.00 <u>Wagering &amp; Compliance Inspections</u>				
	1001 Salaries and Wages	235,624	98,177	137,447	41.67%
	1002 Other Personnel Cost	8,460	3,460	5,000	40.90%
	2001 Prof Fees and Services	75,000	-	75,000	0.00%
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	28,500	6,330	22,170	22.21%
	2006 Rent Building	-	-	-	
\$ 8,097	2007 Rent Machine	-	-	-	
\$ 327,883	2009 Other Operating Cost	4,125	2,429	1,696	58.87%
\$ 15,729	CB Computer Equipment	-	-	-	
\$ 351,709	Total Strategy C.1.2.	351,709	110,395	241,314	31.39%

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# Texas Racing Commission

LBB-3

FYE 08/31/2009  
 Cumulative Operating Budget Status  
 by LBB Expenditure Object/Codes

Strategy	Description	FY 2009 Annual Budget	FY 2009 Expended Thru 1/31/2009	FY 2009 Unexpended Bal 1/31/2009	With 41.67% of Year Lapsed % of Budget Expended
	FTE's = 8.00				
D.1.1.	<b>Central Administration</b>				
	1001 Salaries and Wages	435,273	176,724	258,549	40.60%
	1002 Other Personnel Cost	30,278	5,338	24,940	17.63%
	2001 Prof Fees and Services	28,000	3,210	24,791	11.46%
	2003 Consumables	25,500	5,135	20,365	20.14%
	2004 Utilities	24,500	10,672	13,828	43.56%
	2005 Travel	30,500	5,509	24,991	18.06%
	2006 Rent Building	105,314	52,486	52,828	49.84%
\$ 12,729	2007 Rent Machine	2,500	1,152	1,348	46.07%
\$ 760,698	2009 Other Operating Cost	106,857	38,531	68,326	36.06%
\$ 15,295	CB Computer Equipment	-	-	-	
\$ 788,722	<b>Total Strategy D.1.1.</b>	<b>788,722</b>	<b>298,757</b>	<b>489,965</b>	<b>37.88%</b>
	FTE's = 5.00				
D.2.1.	<b>Information Resources</b>				
	1001 Salaries and Wages	290,956	97,910	193,046	33.65%
	1002 Other Personnel Cost	16,300	2,600	13,700	15.95%
	2001 Prof Fees and Services	46,500	43,040	3,460	92.56%
	2003 Consumables	2,000	1,162	838	
	2004 Utilities	-	287	(287)	
	2005 Travel	3,000	277	2,723	9.23%
	2006 Rent Building	2,700	-	2,700	
\$ 10,096	2007 Rent Machine	-	-	-	
\$ 386,349	2009 Other Operating Cost	73,023	13,174	59,849	18.04%
\$ 38,033	CB Computer Equipment	-	-	-	
\$ 434,479	<b>Total Strategy D.1.2.</b>	<b>434,479</b>	<b>158,450</b>	<b>276,028</b>	<b>36.47%</b>
	FTE's = -				
D.1.3.	<b>Other Support Services</b>				
	1001 Salaries and Wages	-	-	-	
	1002 Other Personnel Cost	-	-	-	
	2001 Prof Fees and Services	-	-	-	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	
	2005 Travel	-	-	-	
	2006 Rent Building	-	-	-	
\$ -	2007 Rent Machine	-	-	-	
\$ -	2009 Other Operating Cost	-	-	-	
\$ -	CB Computer Equipment	-	-	-	
\$ -	<b>Total Strategy D.1.3.</b>	<b>-</b>	<b>-</b>	<b>-</b>	
\$ 130,293	Estimated 2% & 2% appropriation rider				
\$ 4,723,798	Operating Budget regular appropriations	4,854,092	1,688,747	2,439,087	34.79%
\$ 5,007,619	Strategy A.2.1. TX Bred Incentive	5,007,619	1,639,132	3,368,487	32.73%
\$ 9,861,711	Total M.O.F.				
\$ 9,861,711	Total All Strategies	9,861,711	3,327,879	5,807,574	33.75%

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**TEXAS RACING COMMISSION**

**P. O. Box 12080**

**Austin, TX 78711-2080**

**(512) 833-6699**

**Fax (512) 833-6907**

To: Commissioners

From: *SHC* Shelley Harris-Curtsinger, Chief Financial Officer

Date: February 17, 2009

RE: Progress Report from the Working Group on Funding – *Changing the Method of Finance and Addressing the FY 09 Revenue Shortfall*

Since the last Commission meeting on December 2, 2008, the members of the Working Group on Funding (Commissioners Hicks and Sowell) and agency staff have taken several steps to address the agency's current and critical revenue shortfall which is estimated to be \$675,000 below the appropriated FY 09 budget. Listed below are the primary activities that have occurred and the major issues that have been addressed since December:

- **December 9, 2008** – Staff briefed the Working Group via teleconference on an analysis of the agency's revenue/cash shortfall which had been caused by decreasing revenue from outstanding tickets (*Outs*) as well as track closures due to the 2008 hurricanes. Also discussed were the potential long-term options for different methods of finance for the agency.
- **December 15, 2008** – First quarterly *Outs* payment is received and is \$146,000 under the original projected amount.
- **December 16, 2008** - Commissioner Sowell and agency staff met with Governor's Office staff to discuss the revenue shortfall and method of finance issues.
- **January 20, 2009** – Staff updated the Working Group on revised projections for the revenue shortfall based on the first *Outs* payment in December. The shortfall amount was greater than anticipated since the payment came in at 23% under the projected amount. Staff addressed the need for immediate action through reducing the current operating budget, developing potential fee increases, and requesting an Emergency and Deficiency Grant from the Office of the Governor.
- **February 4, 2009** – Agency department heads receive instructions for identifying budget cuts for the remainder of FY 09 and for FY 10-11.
- **February 10, 2009** – Staff submitted the official request for the Emergency and Deficiency Grant to the Office of the Governor for the amount of \$250,000 in General Revenue funds. Although an official response has not yet been received, the Governor's Office has indicated that there are no grant funds available due to the impact of the 2008 hurricanes.

- **February 11, 2009** - The Working Group on Funding and agency staff met with industry stakeholders to discuss the agency's revenue and cash flow concerns for the current fiscal year and possible solutions. The primary issue was the agency's most recent projections for a FY 09 revenue shortfall of approximately \$675,000.

Agency staff presented an overview of three different revenue and shortfall projections developed for FY 09: July 2008 – initial projections for Legislative Appropriations Request; October 2008 – revised projections based on impact of hurricanes; and December 2008 – revised projections to reflect significantly reduced *Outs* payments. Staff also discussed the agency's steps to both reduce costs and increase revenue in order to alleviate the shortfall. Agency staff reported that budget cuts had already been implemented by not filling currently unfilled positions and by freezing the current internal audit contract, and that cuts would continue to be identified and made for the remainder of the fiscal year.

Staff also presented two sets of draft rules that would generate additional fee revenue. The first set would amend existing fees (inactive racetrack license fees and occupational license fees) and the second set would establish new fees based on cost recovery for staff work on racetrack license requests related to approval for a transfer of pecuniary interest and approval for a change of location. There was considerable discussion on the rule proposals for the fees. Industry stakeholders indicated that they would review the proposals and provide further feedback to agency staff, particularly on the increases to the occupational licensing fees and the development of new categories of fees.

- **February 25, 2009** – Draft of Supplemental Appropriations Request from the agency to the Governor, Lt. Governor, and Speaker, requesting \$250,000 in General Revenue funds for FY 09, is presented to the Commission for review.

### **Current Status of FY 09 Budget**

The estimated \$675,000 shortfall represents 13.6% of the agency's \$5.0 million operating budget (*not including the pass-through funding for Texas Bred Incentive Program*) and could affect agency operations as soon as May 2009. The agency in anticipation of a need for reductions operated under a conservative fiscal approach that has helped position the staff to implement budget reductions. It is estimated that this approach has yielded \$137,000 in savings to date that staff reported to the Working Group on Funding during the February 11, 2009, meeting.

The agency department heads have turned in the information requested identifying potential budget cuts from each of their departments. The department heads have identified more than \$250,000 in budget reductions. We are now evaluating that information to determine what cuts can be taken immediately and what cuts can be implemented before the end of the fiscal year. This evaluation along with the outcome of the proposed rules will determine the severity of the additional budget reductions and the impact to the agency's ability to operate efficiently and effectively.

### **Attachments**

cc: Charla Ann King, Executive Director  
Sammy Jackson, Deputy Director of Finance & Regulatory Control  
Mark Fenner, General Counsel



**TEXAS RACING COMMISSION**  
P. O. BOX 12080  
AUSTIN, TEXAS 78711-2080  
(512) 833-6699  
FAX (512) 833-6907

February 10, 2009

Mary Katherine Stout, Director  
Governor's Office of Budget, Planning, & Policy  
State Insurance Building  
1100 San Jacinto  
Austin, Texas 78701

Dear Ms. Stout:

As of February 2009, the Texas Racing Commission is facing a significant revenue shortfall for the current fiscal year of \$677,833, or approximately 14% of the agency's total appropriation amount for agency operations. The shortfall is projected to affect agency operations and regulatory duties as early as May 2009. The agency has taken immediate steps to address the situation including implementing budget reductions and developing potential fee increases; however, these steps may not provide the agency with enough cash on hand by the end of the third quarter of FY 09 to prevent the shortfall. Consequently, the Commission is requesting a Governor's Emergency and Deficiency Grant in the amount of \$250,000 to ensure that there are funds available for operations for the remainder of the fiscal year.

The agency is funded solely through general revenue-dedicated appropriations from racing industry fees, fines, and a portion of pari-mutuel wagering revenue from "outstanding tickets" -- the uncashed winning tickets of racetrack patrons. The outstanding tickets or *Outs* revenue, which is collected quarterly and makes up approximately \$1.7 million or 31%, of the agency's \$5.5 million operating budget, has been both an unpredictable and a declining source of funding for the agency for the past several years. While staff anticipated a further decline in *Outs* revenue from FY 08 amounts, when the first quarterly installment was received in December 2008, the decline was greater than initially projected. This situation, combined with a loss of revenue due to the impact of the 2008 hurricanes on horse and greyhound racetracks, has culminated in the cash flow shortfall.

The Commission has always remained within appropriated amounts and absorbed budget cuts when directed to do so. Since 2003, the agency has operated efficiently on a lean \$5.5 million budget. However, there will continue to be difficulties in generating this amount of funding as long as the agency's method of finance remains dependent on the pari-mutuel racing industry. Consequently, the Commission continues to study alternatives for both racing regulation and long-term method of financing.

Thank you for your consideration of the Commission's request for an emergency grant. Additional background information is attached. If you have any questions or need additional information please call me or Shelley Harris-Curtsinger, Chief Financial Officer, at (512) 833-6699.

Sincerely,



Charla Ann King  
Executive Director

cc: Rolando Pablos, Chair, Texas Racing Commission  
Gloria Hicks, Commissioner, Texas Racing Commission  
Sonny Sowell, Commissioner, Texas Racing Commission  
Joaquin Guadarrama, House Appropriations Committee  
Christy Havel, Legislative Budget Board  
Laura Kolstad, Senate Finance Committee  
John O'Brien, Director, Legislative Budget Board  
Michael Schofield, Office of the Governor  
Rebeca White, Office of the Governor

TEXAS RACING COMMISSION – BACKGROUND INFORMATION  
 FY 09 EMERGENCY & DEFICIENCY GRANT REQUEST

Budget Item	Estimated Amount
<b>Total Cash flow Shortfall based on FY 09 Appropriation:</b>	<b>(\$677,833)</b>
<b>Actual Reductions as of Jan. 15, 2009:</b>	
Administration (Contracted & Professional Services)	\$ 18,000
Unfilled Positions	\$119,285
<b>Total:</b>	<b>\$137,285</b>
<b>Proposed Fee Increases as of Feb. 9, 2009:</b>	
<i>Assuming Emergency Rule is Passed in Feb. 2009.</i>	
Total Increase to Occupational Licensing Fees	\$135,394
Total Increase to Inactive Racetrack License Fees	\$150,000
<b>Total:</b>	<b>\$285,394</b>
<b>Total, Agency Reductions and Fee Increases</b>	<b>\$422,679</b>
<b>Remainder of Shortfall (total shortfall -- agency reductions + fee increases)</b>	<b>(\$255,154)</b>
<b>Amount of Request for Governor's Emergency &amp; Deficiency Grant</b>	<b>\$250,000</b>
<i>less shortfall amount</i>	<i>(\$255,154)</i>
<i>difference</i>	<i>(\$ 5,154)</i>
<b>Additional FY 09 Agency Reductions</b> <i>(to be identified by March 2009)</i>	<b>\$125,838</b>
<b>Amount for Cash Reserve for TXRC</b>	<b>\$120,684</b>

# Texas Racing Commission

## Cash Flow Projections for FY 2009

Tab: A-1

Tab: A-2      Tab: A-3      Tab: A-4

	Initial		Revised		Revised		Additional Budget Reductions As of 3/1/09	Proposed Revenue Increases As of 2/25/09	Actual Budget Reductions As of 1/15/09	Ref #	Ref #	Revised Projected FY-09 Cash Flow As of 3/15/09
	Projected FY-09 Cash Flow As of 7/31/08	As of 7/31/08	Projected FY-09 Cash Flow As of 10/29/08	As of 10/29/08	Projected FY-09 Cash Flow As of 12/15/08	As of 12/15/08						
<b># of Racetracks</b>	13	13	13	13	13	13						13
<b>Revenues:</b>												
Live RD Fees	790,315	741,725	741,725	741,725	741,725	741,725	-	-	-	-	-	741,725
Simulcast RD Fees	909,980	897,200	897,200	897,200	897,200	897,200	-	-	-	-	-	897,200
Outs	1,705,677	1,177,928	1,705,677	1,177,928	1,177,928	1,177,928	-	-	-	-	-	1,177,928
Annual Fee	1,005,000	1,005,000	1,005,000	1,005,000	1,005,000	1,005,000	-	150,000	-	3	-	1,155,000
Other	40,000	40,000	40,000	40,000	40,000	40,000	-	-	-	-	-	40,000
Occupational License	775,000	747,776	747,776	747,776	747,776	747,776	-	135,394	-	4	-	883,170
<b>Totals</b>	<b>5,225,972</b>	<b>5,137,378</b>	<b>5,137,378</b>	<b>4,609,629</b>	<b>4,609,629</b>	<b>4,609,629</b>		<b>285,394</b>				<b>4,895,023</b>
<b>Expenses:</b>												
A.1.1. Regulate Racetrack Owners	359,425	359,425	359,425	359,425	359,425	359,425	-	-	-	-	-	359,425
A.2.1. Texas Bred Incentive Program	-	-	-	-	-	-	-	-	-	-	-	-
A.3.1. Supervise Live Races	1,451,421	1,451,421	1,451,421	1,451,421	1,451,421	1,451,421	-	(101,229)	-	1	-	1,350,192
A.3.2. Monitor Licensee Activities	471,239	471,239	471,239	471,239	471,239	471,239	-	-	-	-	-	471,239
A.4.1. Insect & Provide Em-Care	382,047	382,047	382,047	382,047	382,047	382,047	-	-	-	-	-	382,047
A.4.2. Adminster Drug Test	418,256	418,256	418,256	418,256	418,256	418,256	-	(18,056)	-	1	-	400,200
B.1.1. Occupational Licensing Program	532,919	532,919	532,919	532,919	532,919	532,919	-	-	-	-	-	532,919
C.1.1. Monitor Wagering & Auditing	437,836	437,836	437,836	437,836	437,836	437,836	-	-	-	-	-	437,836
C.1.2. Wagering Compliance Inspection	287,550	287,550	287,550	287,550	287,550	287,550	-	-	-	-	-	287,550
D.1.1. Central Administration	892,752	892,752	892,752	892,752	892,752	892,752	-	(18,000)	-	2	-	874,752
D.1.2. Information Resources	504,017	504,017	504,017	504,017	504,017	504,017	-	-	-	-	-	504,017
<b>Total All Expenses by Strategy</b>	<b>5,737,462</b>	<b>5,737,462</b>	<b>5,737,462</b>	<b>5,737,462</b>	<b>5,737,462</b>	<b>5,737,462</b>		<b>(137,285)</b>				<b>5,600,177</b>
<b>Agency Projected FY 09 Operating Revenue</b>	<b>(511,490)</b>	<b>(800,084)</b>	<b>(800,084)</b>	<b>(1,127,833)</b>	<b>(1,127,833)</b>	<b>(1,127,833)</b>						<b>(705,154)</b>
<b>Agency Cash Carry Forward From FY 2008</b>	<b>500,000</b>	<b>450,000</b>	<b>450,000</b>	<b>450,000</b>	<b>450,000</b>	<b>450,000</b>						<b>450,000</b>
<b>Agency Projected Cash Balance 8/31/09</b>	<b>(11,490)</b>	<b>(150,084)</b>	<b>(150,084)</b>	<b>(677,833)</b>	<b>(677,833)</b>	<b>(677,833)</b>						<b>(255,154)</b>
<b>Race Day Counts:</b>												
Greyhound Full Performance	401	384	384	384	384	384						384
Greyhound Abbreviated Performance	71	71	71	71	71	71						71
Horse Race Days	281	259	259	259	259	259						259
<b>Total Live Race Day Counts</b>	<b>753</b>	<b>714</b>	<b>714</b>	<b>714</b>	<b>714</b>	<b>714</b>						<b>714</b>
<b>Simulcast Days</b>	<b>2,294</b>	<b>2,269</b>	<b>2,269</b>	<b>2,269</b>	<b>2,269</b>	<b>2,269</b>						<b>2,269</b>

**Notes:**

- 1 Unfilled positions left unfilled.
- 2 Internal Auditors contract frozen.
- 3 Revised Rule 309.8 Racetrack License Fees: Increases inactive annual license fees by \$25,000 for each license type.
- 4 Revised Rule 311.5 License Fees: Increases occupational license fees for various license types between \$5 and \$25 per year. Additionally, the revised rule creates a new vendor license for totalisator companies with a fee of \$500.

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**Texas Racing Commission**  
**Cash Flow Projections for FY 2009**  
**Prepared 7/31/2008**

Tab: A-2

	# of Racetracks	Active GH / Horse Racetracks	7	In-Active GH / Horse Racetracks	6	Other	Total All Racetracks	13
<b>Revenues:</b>								
Live RD Fees		790,315		-		-	790,315	
Simulcast RD Fees		909,980		-		-	909,980	
Outs		1,705,677		-		-	1,705,677	
Annual Fee		505,000		500,000		-	1,005,000	
Other		-		-		40,000	40,000	
Occupational License		-		-		775,000	775,000	
<b>Totals</b>		<b>3,910,972</b>		<b>500,000</b>		<b>815,000</b>	<b>5,225,972</b>	
<b>Expenses:</b>								
A.1.1. Regulate Racetrack Owners		125,799		197,684		35,943	359,425	
A.2.1. Texas Bred Incentive Program		-		-		-	-	
A.3.1. Supervise Live Races		1,415,135		36,286		-	1,451,421	
A.3.2. Monitor Licensee Activities		141,372		47,124		282,743	471,239	
A.4.1. Insect & Provide Em-Care		362,945		19,102		-	382,047	
A.4.2. Adminster Drug Test		407,800		10,456		-	418,256	
B.1.1. Occupational Licensing Program		-		-		532,919	532,919	
C.1.1. Monitor Wagering & Auditing		437,836		-		-	437,836	
C.1.2. Wagering Compliance Inspection		258,795		28,755		-	287,550	
D.1.1. Central Administration		624,926		223,188		44,638	892,752	
D.1.2. Information Resources		403,214		-		100,803	504,017	
<b>Total All Expenses by Strategy</b>		<b>4,177,821</b>		<b>562,595</b>		<b>997,046</b>	<b>5,737,462</b>	

Agency Projected FY 09 Operating Revenue \$ (266,849) \$ (62,595) \$ (182,046) \$ (511,490)

Agency Cash Carry Forward From FY 2008 \$ 500,000

Agency Projected Cash Balance 8/31/09 \$ (11,490)

	Live Full Performance	Live Abrv. Performance	Simulcast Performance
<b>Race Day Counts</b>			
Greyhound	401	71	728
Horse	281	n/a	1,566
<b>Totals</b>	<b>682</b>	<b>71</b>	<b>2,294</b>

**Notes:** These projections were prepared for the Legislative Appropriations Request and approved at the August 5, 2008 Commission Meeting.

**Texas Racing Commission**  
 Revised Cash Flow Projections for FY 2009  
 Prepared 10/29/2008

Tab: A-3

	# of Racetracks	Active GH / Horse Racetracks	In-Active GH / Horse Racetracks	Other	Total All Racetracks
<b>Revenues:</b>					
Live RD Fees	7	741,725	-	-	741,725
Simulcast RD Fees		897,200	-	-	897,200
Outs		1,705,677	-	-	1,705,677
Annual Fee		505,000	500,000	-	1,005,000
Other		-	-	40,000	40,000
Occupational License		-	-	747,776	747,776
<b>Totals</b>		<b>3,849,602</b>	<b>500,000</b>	<b>787,776</b>	<b>5,137,378</b>
<b>Expenses:</b>					
A.1.1. Regulate Racetrack Owners		125,799	197,684	35,943	359,425
A.2.1. Texas Bred Incentive Program		-	-	-	-
A.3.1. Supervise Live Races		1,415,135	36,286	-	1,451,421
A.3.2. Monitor Licensee Activities		141,372	47,124	282,743	471,239
A.4.1. Insect & Provide Em-Care		362,945	19,102	-	382,047
A.4.2. Adminster Drug Test		407,800	10,456	-	418,256
B.1.1. Occupational Licensing Program		-	-	532,919	532,919
C.1.1. Monitor Wagering & Auditing		437,836	-	-	437,836
C.1.2. Wagering Compliance Inspection		258,795	28,755	-	287,550
D.1.1. Central Administration		624,926	223,188	44,638	892,752
D.1.2. Information Resources		403,214	-	100,803	504,017
<b>Total All Expenses by Strategy</b>		<b>4,177,821</b>	<b>562,595</b>	<b>997,046</b>	<b>5,737,462</b>

Agency Projected FY 09 Operating Revenue \$ (328,219) \$ (62,595) \$ (209,270) \$ (600,084)

Agency Cash Carry Forward From FY 2008 \$ 450,000

Agency Projected Cash Balance 8/31/09 \$ (150,084)

	Live Full Performance	Live Abrv. Performance	Simulcast Performance
<b>Race Day Counts</b>			
Greyhound	384	71	711
Horse	259	n/a	1,558
<b>Totals</b>	<b>643</b>	<b>71</b>	<b>2,269</b>

**Notes:** These projections were prepared after the change in race dates at the October 29, 2008 Commission Meeting in response to the damages caused by hurricane Ike.

**Texas Racing Commission**  
 Revised Cash Flow Projections for FY 2009  
 Prepared 12/15/2008

Tab: A-4

	# of Racetracks	Active GH / Horse Racetracks	7	In-Active GH / Horse Racetracks	6	Other	Total All Racetracks
<b>Revenues:</b>							
Live RD Fees		741,725		-		-	741,725
Simulcast RD Fees		897,200		-		-	897,200
Outs		1,177,928		-		-	1,177,928
Annual Fee		505,000		500,000		-	1,005,000
Other		-		-		40,000	40,000
Occupational License		-		-		747,776	747,776
<b>Totals</b>		<b>3,321,853</b>		<b>500,000</b>		<b>787,776</b>	<b>4,609,629</b>
<b>Expenses:</b>							
A.1.1. Regulate Racetrack Owners		125,799		197,684		35,943	359,425
A.2.1. Texas Bred Incentive Program		-		-		-	-
A.3.1. Supervise Live Races		1,415,135		36,286		-	1,451,421
A.3.2. Monitor Licensee Activities		141,372		47,124		282,743	471,239
A.4.1. Insect & Provide Em-Care		362,945		19,102		-	382,047
A.4.2. Adminster Drug Test		407,800		10,456		-	418,256
B.1.1. Occupational Licensing Program		-		-		532,919	532,919
C.1.1. Monitor Wagering & Auditing		437,836		-		-	437,836
C.1.2. Wagering Compliance Inspection		258,795		28,755		-	287,550
D.1.1. Central Administration		624,926		223,188		44,638	892,752
D.1.2. Information Resources		403,214		-		100,803	504,017
<b>Total All Expenses by Strategy</b>		<b>4,177,821</b>		<b>562,595</b>		<b>997,046</b>	<b>5,737,462</b>

Agency Projected FY 09 Operating Revenue \$ (855,968) \$ (62,595) \$ (209,270) \$ (1,127,833)

Agency Cash Carry Forward From FY 2008 \$ 450,000

Agency Projected Cash Balance 8/31/09 \$ (677,833)

	Live Full Performance	Live Abrv. Performance	Simulcast Performance
<b>Race Day Counts</b>			
Greyhound	384	71	711
Horse	259	n/a	1,558
<b>Totals</b>	<b>643</b>	<b>71</b>	<b>2,259</b>

**Notes:** These projections were prepared after the first fiscal quarter outs/vouchers payment was received and audited. The payments were received on December 15, 2008 and the audit was complete on January 15, 2009.

111-212



**TEXAS RACING COMMISSION**

**P. O. Box 12080  
Austin, TX 78711-2080  
(512) 833-6699  
Fax (512) 833-6907**

February 25, 2009

The Honorable Rick Perry  
Governor  
State Capitol  
1100 Congress, Room 2S.1  
Austin, TX 78701

The Honorable David Dewhurst  
Lieutenant Governor  
State Capitol  
1100 Congress, 2E.13  
Austin, TX 78701

The Honorable Joe Straus III  
Speaker, Texas House of Representatives  
State Capitol  
1100 Congress, 2W.13  
Austin, TX 78701

Dear Governor Perry, Lt. Governor Dewhurst, and Speaker Straus:

Due to lost and declining revenue from the pari-mutuel racing industry, the Texas Racing Commission is facing a significant revenue shortfall of about \$677,833 for the current fiscal year. This is almost 15 percent of the agency's funding for agency operations. The agency has taken immediate steps to address the situation including implementing budget reductions and proposing fee increases. These steps, however, will not provide the agency with sufficient cash flow to prevent a deficit before the end of the fiscal year. Consequently, the Commission requests a supplemental appropriation in the amount of \$250,000 from the General Revenue Fund.

The Commission is financed solely through dedicated general revenue appropriations derived from racing industry fees, administrative fines, and a portion of pari-mutuel wagering revenue from *outstanding tickets* – the uncashed winning tickets of racetrack patrons. The *outstanding tickets*, commonly referred to as *OUTs* revenue, constitute about 33 percent of the agency's revenue for agency operations. This revenue source is dropping precipitously with a 31 percent decrease at the close of first quarter of FY09. The loss of *OUTs* revenue combined with the loss of over \$70,000 in racing fee revenue caused by the 2008 hurricanes is creating this funding shortfall.

The method of finance for the Commission is currently under consideration through the Sunset Review process. In addition, the Commission is exploring method of finance alternatives for consideration by the 81<sup>st</sup> Legislature.

Thank you for your consideration of the Commission's request for a supplemental appropriation. We look forward to working with your staff members to resolve this important funding issue. If you have any questions or need additional information please contact us at the agency at (512) 833-6699.

Respectfully submitted,

Rolando Pablos  
Chair

Charla Ann King  
Executive Director

c:

Mary Catherine Stout, Governor's Office of Budget, Planning, & Policy  
Michael Schofield, Governor's Office of Budget, Planning, & Policy  
Blaine Brunson, Office of the Lieutenant Governor  
Don Green, Office of the Lieutenant Governor  
Lisa Kaufman, Office of the Speaker of the House of Representatives  
John O'Brien, Legislative Budget Board  
Christy Havel, Legislative Budget Board  
Laura Kolstad, Senate Finance Committee  
Joaquin Guadarrama, House Appropriations Committee



# TXRC LEGISLATIVE PROPOSAL

## TXRC Method of Finance Options

**Overview:** The Texas Racing Act §3.09(b) requires the Commission to deposit the money it collects from pari-mutuel racing fees and wagering revenue in a Dedicated General Revenue Fund. The Act authorizes the legislature to appropriate money from this fund for the administration and enforcement of the Act. The Act also authorizes the Legislature to appropriate/loan General Revenue Funds to the agency at a 6 ¾% interest rate. To the best of staff's knowledge no other state agency has this requirement to pay interest on money granted/loaned from the General Revenue Fund.

### **Relevant Sections of the Texas Racing Act:**

Article 3. Powers and Duties of the Commission

#### ***Sec. 3.09. Funding.***

*(a) The comptroller shall deposit the state's share of each pari-mutuel pool from horse racing and greyhound racing in the General Revenue Fund.*

*(b) The commission shall deposit the money it collects under this Act in the State Treasury to the credit of a special fund to be known as the Texas Racing Commission fund. The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this Act. Any unappropriated money remaining in that special fund at the close of each fiscal biennium shall be transferred to the General Revenue Fund and may be appropriated for any legal purpose. The legislature may also appropriate money from the General Revenue Fund for the administration and enforcement of this Act. Any amount of general revenue appropriated for the administration and enforcement of this Act in excess of the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than one year after the date on which the general revenue funds are appropriated, with 12 percent interest per year until August 31, 1993, and 6¾ percent interest thereafter with all payments first attributable to interest.*

### **Method of Finance - Alternative Approaches:**

1. **General Revenue** – The Legislature could fund the agency's operating budget through General Revenue Funding. The agency would continue to collect industry fees to cover operational expenses.
2. **Interest Rate** – The Texas Racing Act §3.09(b) requires the TXRC to reimburse the general revenue fund for any monies that are loaned at an interest rate of 6 ¾%. The Legislature could remove this requirement from the Texas Racing Act.
3. **State's Share of Pari-Mutuel Pool - (State Wagering Tax)** – Texas Racing Act §3.09(a) requires the Comptroller to deposit the state's share of each pari-mutuel pool in the General Revenue Fund. The annual revenue generated from this source is approximately \$4 million. If the state's portion was deposited in the Racing Commission Fund, the funds would provide a reliable reserve that the agency could draw upon to assist with cash flow. The agency would return the equivalent amount of cash used upon collections from its standard revenue sources.
4. **ATM Fees** – A \$1 fee is assessed on each transaction at an ATM located at racetracks. These monies go to the General Revenue Fund per the Texas Racing Act §11.04. The annual revenue generated from this fee is approximately \$200,000. The House Licensing & Administrative Procedures Committee Report to the 81<sup>st</sup> Legislature recommends that these funds be dedicated to the TXRC.

# **TEXAS RACING COMMISSION**

## ***COMMITTEE ON RACETRACK LICENSING***

**FEBRUARY 2009**

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## INTRODUCTION

As charged by the Chairman of the Texas Racing Commission, the (ad hoc) Committee on Racetrack Licensing provides the following report. The Committee has conducted an initial review of existing racetrack licensing policies in statute and administrative rule. The Committee reviewed information on the compliance status of current licenses, requests for changes in ownership/ location and received input from industry stakeholders at two public meetings held on December 19, 2008 and February 13, 2009.

In addition to the Committee's efforts, there has been an ongoing review of existing policies related to racetrack licensing by the agency staff. Based on the experience of the Commission's licensing proceedings occurring since 2005, the agency has focused on identifying areas which will improve and clarify racetrack licensing policies in accordance with state statute. The Commission has also used the standard four-year statutorily-required administrative rule process to identify needed changes and make regulatory improvements.

The recent Sunset Review has provided important recommendations to change the Texas Racing Act in efforts to assist the Commission in addressing the current racetrack licensing challenges being faced by the agency. The Committee supports the recommendations of the Sunset Commission as described below.

The Committee on Racetrack Licensing offers the following report as an information resource to the Commission with the purpose of assisting Commissioners and staff in identifying key issues for further policymaking and regulatory improvements for the future. It is the hope of the Committee that the information provided here will help frame the policy issues for discussion and assist Commissioners and all interested stakeholders participating in the improvement process.

## **PART ONE - THE TEXAS RACING COMMISSION SUPPORTS THE SUNSET RECOMMENDATIONS ON RACETRACK LICENSING**

- 1. Require the Commission to review each racetrack license on a periodic basis and develop renewal criteria along with associated sanctions for failure to comply.**
  - Active racetracks will be reviewed no less than every five years.
  - Inactive licenses will be reviewed no later than September 1, 2010, and if renewed, annually thereafter.
  - New licenses issued after January 1, 2007, will have until 2011 or until two years after license issuance, whichever is later, before the Commission considers each license holder for the renewal program.
- 2. Clarify the Commission's revocation and renewal authority including the agency's proposed modification to allow the Commission to require racetrack licensees to post security at any time.**
  - Clarify the Commission's authority to revoke a racetrack license.
  - Clarify the Commission's authority to refuse to renew a racetrack license.

- Modify the Texas Racing Act to allow the Commission to require racetrack licensees to post security bonds at any time, instead of only when a new license is issued.

***STAKEHOLDERS' INPUT REGARDING SUNSET RECOMMENDATIONS ON RACETRACK LICENSING***

- *The current operating racetracks in Texas have made a significant capital investment in their racetrack facilities and real estate based on the assumption that they were awarded a "perpetual" license.*
- *Elimination of a "perpetual" racetrack license could significantly increase the cost of acquiring capital in the future for racetrack improvements at a time in which the industry can ill afford additional capital burdens.*
- *The operating racetracks in Texas have, over an extended period of time, provided quality racing to the patrons and horsemen and have been in compliance with the directions of the Texas Racing Commission.*
- *The time and capital required to review active licenses would be considerable and would pose a significant burden both on the Texas Racing Commission and on the current licensees during a period during which all segments of the industry are facing financial constraints.*

**PART TWO - POLICY ISSUES IDENTIFIED BY THE COMMITTEE*****RACETRACK LICENSE HOLDER ISSUES***

**Issue 1:** Should the Texas Racing Commission's rules on racetrack license holder non-compliance be further clarified and improved?

- Should a racetrack license holder be penalized for failure to build a racetrack facility? If so, how and when?
- Should a racetrack license holder be penalized for failure to have a Commission-approved site on which to build a racetrack facility? If so, how and when?
- Should a racetrack license holder be penalized for failure to appropriately maintain its existing facility? If so, how and when?

***PUBLIC INPUT AND PARTICIPATION***

**Issue 2:** Should regulations require public input on changes of location in addition to applications for original licenses?

- Should input from existing racetracks affected by an original application or a proposed location change be required? Should such input weigh more heavily in the Commission's review process?

***MANAGING AGENCY PROCESSES***

**Issue 3:** Should rules be established to guide the agency's requests for information for proposed changes of ownerships? Should the process be simplified?

**Issue 4:** Should application processing timelines be established in rule to govern the length of time it takes to approve changes to racetrack licenses including issuance of original licenses, changes in ownership, changes in location, and conducting background checks?

***MARKET EXPANSION AND CONTROL***

**Issue 5:** Should the Commission explore potential opportunities for non-licensed tracks to become licensed?

**Issue 6:** Should the number of Class 2, 3, and 4 racetrack licenses be guided by market principles of supply and demand for horse racing?

## PART THREE - INVENTORY OF RACETRACK-SPECIFIC PROBLEMS

### *RACETRACK LICENSE HOLDER ISSUES*

#### *1. Some license holders have not built facilities.*

##### **Affected Tracks**

Saddle Brook Park, Longhorn Downs, Laredo Downs, Valle de los Tesoros

##### **Key Points**

- Saddle Brook Park was originally licensed in 1989 and has never built a facility. The most recent Commission action was to approve a transfer of ownership interest and change in location in 2001 to Amarillo. Saddle Brook began construction in 2003, but stopped early in 2004 due to EPA problems relating to sewage treatment. Saddle Brook Park reports no current plans to build a facility.
- Longhorn Downs was originally licensed in 1989 and has never built a facility. Longhorn Downs currently does not own or lease any approved site. The Commission last approved a transfer of ownership interest to the Austin Jockey Club and a change in location to Austin during 1999. However, the approved site was not zoned for racing and the Austin City Council ultimately zoned the property for housing. As a result, the license holder let its option on the property lapse. In 2004, the Commission considered Longhorn Downs' request to change location to Pflugerville, but took no action on it because of traffic problems with the site. The Commission then set an August 2005 deadline for the track to either solve the traffic problems or present an alternative site.
- Missing the deadline, the Austin Jockey Club notified the Commission in late 2005 that it would propose changing ownership of Longhorn Downs to Dallas City Limits. Dallas City Limits provided an oral report to the Commission in 2006 before submitting its first formal proposal in 2007. After delays caused by litigation between its two general partners, Dallas City Limits submitted a revised proposal in 2008. Agency staff is now reviewing that proposal and the Department of Public Safety is conducting the required background investigations.
- In 2007, the Commission granted licenses to both Laredo Downs and Valle de los Tesoros. The license holders put up security on both licenses to ensure compliance with the Act and the rules. However, both tracks are now forfeiting portions of their security because they are behind schedule to build their facilities and start simulcasting according to their Security Orders.

2. *An inactive facility that is seeking a transfer of ownership may not be in compliance with Commission rules.*

**Affected Track**

Corpus Christi Greyhound Race Track (CCGRT)

**Key Points**

The Corpus Christi greyhound racing facility may have been out of compliance with Commission rules since mid-2007. In connection with CCGRT's requested race dates, the Commission has directed the track to present its plans to ensure compliance and resuming racing. However, CCGRT has asked that this item be tabled pending the transfer of ownership interests.

***PUBLIC INPUT AND PARTICIPATION***

3. *Public hearings have not been held in advance, in the community where a racetrack is proposed to be built, but instead have been limited to the Commission meeting in Austin at the time the Commission takes up consideration of the proposal for its decision.*

**Affected Racetracks**

Saddle Brook Park, Longhorn Downs

**Key Points**

- Before approving a change in location, the Commission must find that the conduct of racing at the new location will be in the public interest. TRA § 6.14(d)(1). In making this determination, the Commission has used the public interest factors set out in TRA § 6.04(a), which includes the location of the proposed track and the anticipated effect of the race meeting on the breeding industry, the state and local economy from tourism, increased employment, and other sources.
- It appears that the Commission has not issued formal public notice to an affected community about proposed changes. The Commission does post the items in the Texas Register as part of its agenda and in accordance with *Open Meetings* law requirements. However, in the past, the agency has received letters providing input about a proposed transfer or license award after the Commission decision has been made.
- In the case of applications for original licenses, Commission rules and agency policy provide specifically for notice to the affected community. Commission rules require that a notice be published in the Texas Register of an application period for racetrack licenses. Agency policy requires notice in a newspaper of general circulation within the geographic region.
- Existing racetracks also seek to provide input when the Commission is considering granting an original license or changing a license's location. The existing tracks have indicated a need

for an improved opportunity to more fully explore, with the Commission, their review and assessment of the impact of the proposed changes.

--For example, when the Commission considered the Valle de los Tesoros application for a Class 2 license in 2007, Valley Race Park provided an *Impact Study* on the affect of the proposed horse racetrack license on the greyhound track operations. This information was initially provided to the staff in a one-on-one meeting but not fully reviewed by the Commissioners until it was time for the decision to be made.

### **MANAGING AGENCY PROCESSES**

4. *The Commission has not consistently required security from racetrack licensees in order to ensure compliance with the Act and the Rules.*

#### **Affected Racetracks**

Saddle Brook Park, Longhorn Downs, Laredo Downs, Valle de los Tesoros, Corpus Christi Greyhound Race Track.

#### **Key Points**

- Although the statute requires that applicants must post security before the Commission issues them a license, the Commission has not historically enforced this requirement in a consistent manner. Until recently, the Commission had required an association to forfeit part of its security only once, when it negotiated a \$25,000 penalty from Lone Star Park for failing to open on time in 1997.
- The Sunset Commission identified this problem area and decided to adopt a modification that would allow the Texas Racing Commission to require licensees to post security at any time, instead of only when a new racing license is issued.

5. *The Commission has not reviewed whether or not licensees have exercised reasonable diligence in preparing a racetrack to begin racing on the date approved by the Commission.*

#### **Affected Racetracks**

Corpus Christi Greyhound Race Track, Laredo Downs, Laredo Race Park, Valle de los Tesoros

#### **Key Points**

- Commission Rule 309.5(b) requires racetracks to exercise reasonable diligence in preparing their tracks to begin racing on the date approved by the Commission, otherwise the Commission may revoke the license and award the license to another applicant. However, the reasonable diligence requirement only applies if the Commission has specified a date to begin racing.

- In the past, the Commission viewed the withholding of live race dates as a method of penalizing associations. However, the failure to issue live race dates has allowed license holders to either not build or not improve their facilities.
6. *Racetrack license holders have entered into sales contracts that set short timeframes for performance by the buyer.*

**Affected Racetracks**

Longhorn Downs, Corpus Christi Greyhound Race Track

**Key Points**

- The Austin Jockey Club entered into its contract to sell its interests in Longhorn Downs to Dallas City Limits in August 2005. The contract has no escape clause or date by which the sale must be approved by the Commission and makes no provisions regarding the outcome if the Commission does not approve the transfer of interests.
  - Sales contracts that contain short-term expiration clauses and lack renewal options do not allow for sufficient processing time by the Commission or DPS.
  - The Commission has not focused on informing and educating perspective owners about the extensive process of applying for a controlling interest in a racetrack license.
7. *The process of approving original licenses and significant changes to existing racetrack licenses takes a substantial commitment of time and resources both by the licensees (and prospective purchasers) and by the Commission.*

**Affected Racetracks**

All racetracks, most recently Corpus Christi Greyhound Race Track and Longhorn Downs

**Key Points**

- It took the Commission over 2½ years to grant the Laredo Downs and Laredo Race Park licenses. This included an expensive evidentiary hearing before the State Office of Administrative Hearings (SOAH), along with the lengthy prehearing discovery that was required by the parties.
- Because of the commitment of time it took to process the Laredo Downs and Laredo Race Park licenses, it also took the Commission 2½ years to grant the Valle de los Tesoros license. Even though this was a lengthy process, Valley Race Park objected to the granting of the license and proposed that this application should go to SOAH as well.
- Prospective purchasers of existing licenses have objected to the amount of information required by the Commission. Delays have been caused when purchasers submitted insufficient information and staff subsequently asked for additional information.

8. *Prospective buyers of racetrack interests have requested that the Department of Public Safety proceed with its background investigation and that the Commission approve the transfer while litigation over the ownership of the buyer is pending.*

**Affected Racetrack**

Longhorn Downs

**Key Points**

- Dallas City Limits is the proposed buyer of the complete ownership interest in Longhorn Downs. On two occasions the Department of Public Safety has halted its background investigation of Dallas City Limits' owners.
- The first occasion occurred after the corporation's two general partners instituted litigation between them over its ownership. In September 2007, TxRC's Executive Director notified DCL that neither DPS nor TxRC would conduct any further review until all internal litigation ceased. On June 13, 2008, the Commission received a copy of the signed settlement agreement and order ending the litigation within DCL. After receiving and reviewing a new application for approval, TxRC requested that DPS resume its investigation on October 2, 2008.
- The second occasion occurred on October 21, 2008, after the Commission received notification on October 13 of new litigation involving Dallas City Limits. In this litigation, Dallas City Limits sought a declaratory judgment that the former limited partners of DCL no longer retained any ownership interest. The limited partners filed a counterclaim asserting a number of claims and requesting that the court return ownership to Dallas City Limits' original corporate structure. Although this litigation remains ongoing, DPS and TxRC have resumed their background investigations and document review. No decision has been made regarding next steps should litigation remain when DPS and staff have completed their reviews.

**MARKET EXPANSION AND CONTROL**

9. *A greyhound racetrack or Class 1 horse racetrack that ceases to operate causes economic disadvantages to the industry.*

**Affected Racetracks**

Specifically: Corpus Christi Greyhound Race Track.

Generally: Gulf Greyhound Park, Valley Race Park, Lone Star Park, Retama Park, Sam Houston Race Park. Also Generally: All Class 2, 3, and 4 Horse Racetracks.

**Key Points**

- With one greyhound track currently not operating, racing opportunities are diminished and this places trainers, owners, and breeders at an economic disadvantage.

- Corpus Christi Greyhound Race Track functioned as an alternative for less competitive greyhounds and served as a venue for young greyhounds just breaking into racing. According to the Texas Greyhound Association, since the track's closure, approximately 300-400 Texas-bred greyhounds are competing at out-of-state racetracks.

**10. *The number of Class II, III, and IV racetrack licenses in the future may be limited by the economic racing environment in the State of Texas.***

**Affected Racetracks**

Generally: All Class 2, 3, and 4 Horse Racetracks.

**Key Points**

- The Sunset Commission's July 2008 report estimates that the majority if not all of the Texas racetracks are losing money. Attendance since 2003 has fallen by almost 600,000 patrons and total handle in Texas has declined by approximately \$65,000,000. These numbers refer to 2007. The numbers for 2008 handle reflect a continuing decline – with the total down by \$100 million from 2003. Without a significant increase in patron attendance and pari-mutuel handle, the issuance of additional licenses and construction of new facilities (not previously approved or considered by the Commission) may undercut the economic viability of the current facilities and further compromise the racing environment.

## **PART FOUR - STAKEHOLDERS' WRITTEN COMMENTS**

### ***REVIEW OF INPUT FROM INDUSTRY STAKEHOLDERS' COMMENTS***

The Committee on Racetrack Licensing held two public meetings to gather input from stakeholders regarding all aspects of the racetrack licensing policies and procedures. The first meeting, held on December 19, 2009, was attended by Commissioners Tom Clowe and Robert Schmidt. At the February 13, 2009, meeting, Commissioners Dr. Kent Carter and Jimmy Archer joined Tom Clowe and Robert Schmidt to receive public input on the Exposure Draft Report.

All of the written comments submitted are included in this report for the reader's review.

In summary, stakeholders indicated that:

- The Commission has exceeded its authority regarding the type of information requested for changes of ownership and changes of location
- The Commission needs to include additional information regarding a change in location to address the possible impact the proposed site would have on an affected Class 1 track.
- Racetrack licensees are opposed to all of the Sunset recommendations on racetrack licensing, especially the proposed change that would make racetrack licenses renewable.
- The Commission should not be concerned that racetracks have not been built as these licensees are paying fees.
- The Commission has created delays to prevent actions on racetrack licenses.
- The Commission has stifled an interested party's attempt to engage in the racetrack licensing process.
- The Commission already has every statutory tool it needs to solve all issues presented in the Report.
- The Report fails to acknowledge the Commission is presiding over a dying industry and that implementation of the Report's recommendations would punish and over-regulate those licensees attempting to keep the industry alive.\*
- The Report should not have included any specific racetrack issues.
- The Report totally ignored written comments.
- All of the recommendations of the Report should be rejected, not just the Sunset recommendations.\*

\*Note: This report identified several key issues for the Commission's future consideration. Other than affirming the Sunset recommendations, this Report of the Committee on Racetrack Licensing makes no recommendations.

**WRITTEN COMMENTS**  
**Submitted by the Following Stakeholders**

***Racetrack Licensing Committee Meeting - December 19, 2008***

Dave Freeman – representing Trinity Meadows  
Nick James – representing current ownership of Corpus Christi Greyhound Race Track  
Bill Moltz - representing LRP Group, Ltd., Valle de los Tesoros, Ltd., and prospective  
buyers of Corpus Christi Greyhound Race Track, 361 Muy Buena Suerte  
Greg Scoggins – representing Magna Entertainment Corp., Lone Star Park  
Diane Whiteley – representing Texas Greyhound Association

***Racetrack Licensing Committee Meeting - February 13, 2008***

Drew Alexander – representing Saddle Brook Park  
Nick James – representing current ownership of Corpus Christi Greyhound Race Track  
Gordon Johnson – Johnson and Johnson, Attorneys and Counselors at Law  
Bill Moltz - representing LRP Group, Ltd., Valle de los Tesoros, Ltd., and prospective  
buyers of Corpus Christi Greyhound Race Track, 361 Muy Buena Suerte  
Drew Shubeck – representing Magna Entertainment Corp., Lone Star Park  
Andrea Young – representing Sam Houston Race Park

RECEIVED  
TEXAS RACING  
COMMISSION

David J. Freeman  
3300 Killingsworth Lane, Lot 262  
Pflugerville, Texas 78666  
(512) 848-5669

2009 JAN 13 PM 3:48

January 13, 2009

Mr. Mark Fenner  
General Counsel  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

Via Hand Delivery

Re: Written Comments for Racetrack Licensing Sub-committee

Dear Mr. Fenner:

At the meeting of the Racetrack Licensing Sub-committee held December 19, 2008, Commissioners Robert Schmidt and Thomas Clowe requested that specific concerns be addressed in writing prior to the next meeting to be held January 16, 2009. In response to that request, please accept the following comments on behalf of Trinity Meadows.

The criteria for licensing pari-mutuel facilities, for transferring ownership interests in existing licenses, and for relocating sites of racetrack licenses are, by statute and by rule, very clear. Issues relative to racetrack licenses have, for unspecific reasons, become complicated and convoluted due, in part, to over-reaching interpretations of the statutes and the rules and by improperly combining rules sections that do not apply to each other.

The subject of licensing pari-mutuel facilities, for transferring ownership interests in existing licenses, and for relocating sites of racetrack licenses is really very elementary. The subject falls into just a few categories.

In the case of Class 1 licenses, only three are permitted by law. All three are currently active and operating. There are no issues.

Similarly, only three greyhound licenses are permitted by law. All of the licenses have been awarded and two of the licenses are currently active and operating. The license ownership transfer issues related to Corpus Christi Greyhound Racetrack illustrate how the current statutes and rules have been blurred, overlapped, and inappropriately applied. Over the years, and under current rules, the commission has allowed dozens of ownership transfers by virtually all of the licensees. The rules do not require different levels of

information to be provided as it would relate to the percentage of ownership to be transferred, whether it be as little as .01 percent or as much as 100 percent. However, it has been arbitrarily determined that, because the entire ownership will be transferred, other rules sections should apply which consequently require those requesting the transfer to provide far more information than is required by the rules governing ownership transfers. It is especially cumbersome and needless when one takes into account that the facility has existed for many years. To require more than the rules require results in unnecessary, costly, time-consuming work for both the applicant and the Staff. This is an example of a simple request made within the guidelines of the law and the rules that has been made overly complicated and burdensome.

In reality, the meat of the whole racetrack licensing discussion boils down to Class 2 racetracks. In many ways, this issue is the simplest of all. By law, there is no finite number of Class 2 racetrack licenses that may be awarded by the Commission. There are no geographic restrictions where Class 2 racetracks may be located. Clearly, the legislature intended and anticipated that there would be several Class 2 racetracks located throughout the State.

There seems to be great concern that entities that have been awarded Class 2 racetrack licenses have not built their facilities nor have they conducted live racing or engaged in simulcast wagering. So what? If another entity would like to apply for a license in the same area, there is nothing to prohibit the Commission from awarding a license to that entity. If the initial licensee hasn't built its facility, then it has no room to complain. There is no harm. If the licensee does not conduct racing or simulating, the Commission still receives revenue from annual license fees without any cost of regulation. Given the Commission's diminishing revenue stream, it seems counterproductive to take any action to reduce that stream even more.

Presently, there are racetrack licenses that have no facilities and there are existing multi-million dollar facilities that have no licenses. In the case of Trinity Meadows, it has tried, within existing rules, to engage in the process to prove itself qualified to reopen its facility for live racing and simulcast wagering. The simple action was to promulgate an application form (which was required by rule) and give it to Trinity Meadows, collect the required processing fees, and then determine if Trinity Meadows was qualified to conduct racing and wagering. Instead, the Commission directed Trinity Meadows to go to court (in other words, sue the Commission) to allow the court to determine a "narrow issue of law", it asked for an Attorney General's opinion, it repealed a licensing rule that had been in effect for 14 years, it proposed a rule and then did not bring it back for discussion, and otherwise has stifled Trinity Meadows' every attempt to engage in the racetrack licensing process. In fact, the Staff made suggestions that Trinity Meadows should lease its facility to an existing Class 2 licensee (no specific entity) that does not have a facility. Not only is this unseemly and downright insulting, it seems to suggest that a decision has been made that Trinity Meadows will never be afforded a fair and unbiased opportunity to engage in the licensing process. Once again, a straightforward legal process has been made complicated, convoluted, difficult, and costly.

On it's surface, it appears that delays are being created to prevent any actions from being taken with respect to racetrack licenses. Perhaps the Commission is waiting to see what changes to racetrack licensing laws may occur during the legislative session. It also appears that a level of protectionism is being provided for existing licensees to keep the number of racetrack licenses at its current level or fewer in anticipation of VLT legislation. If either, or both, is true, I do not believe it is a legitimate reason to relieve the Commission of its statutory obligation to timely act on matters that are governed by current law. To subject those who wish to participate in the industry to months of costly delays is neither right nor is it fair. Accordingly, I respectfully urge the Commission to administer racetrack licensing concerns under current law and within the rules that the Commission has promulgated.

In a nutshell, the process of issuing and then monitoring racetrack licenses has gone from a concise procedure defined by rules to a confusing, stressful, and overly burdensome ordeal that does not seem to arrive at a rational or positive outcome. My suggestion is to simplify. Do not create problems where none exist. Explore options to streamline the process while maintaining the safeguards to protect the integrity of racetrack ownership.

Finally, I have enclosed a copy of proposed Rules Sec. 309.3 with proposed changes and the written comments submitted to the Commission in September and October of 2008. I am hopeful you will give careful consideration to the proposed changes and that you will agree with me that the rule, with the proposed modification will benefit the racing industry in Texas.

Thank you for the opportunity to submit my written comments to you in advance of the meeting on January 16.

Very truly yours,



David J. Freeman

c: Brent Hamilton

October 1, 2008

Texas Racing Commission  
PO Box 12080  
Austin, Texas 78711

On August 5, 2008, the Texas Racing Commission (TxRC) voted to post for comment proposed Rules Sec. 309.3, "Racetrack License Application Procedure."

On September 8, 2008, I met with Mark Fenner and Rhonda Fritsche to discuss the proposed rule. The intent of my meeting was to request that the provision requiring a racetrack to have conducted live racing within the past two years be struck from the proposed rule. The requirement only affects Trinity Meadows and does not apply to any other racetrack in Texas (see attached comment letter). During our discussion, Mr. Fenner asked me if I thought the rule addressed the issues of concern voiced by Sam Houston Race Park and Retama Park when Rules Sec. 311.51 was repealed. I told Mr. Fenner that I did not believe that the rule accomplished one of the objectives of the prior rule which was to provide a level of security to bond holders or other financial institutions in the event of a failure of a racetrack.

With respect to my request that the two year live racing provision of the rule be eliminated, Mr. Fenner stated that he did not "have a dog in this fight" and that he would defer to the commissioners whether that portion of the proposed rule should be struck. Mr. Fenner also added that the rule did not appear to adequately remedy the other issue and that it might need some more work. In light of that issue, Mr. Fenner stated that he might not post the rule for final adoption at the October 7, 2008 TxRC meeting.

At the August 5, 2008 TxRC meeting, Mr. Fenner told the commissioners that "I did work with the racetracks on this" (referring to the proposed rule). I do not know if Mr. Fenner did or did not meet with the racetracks, but I find it curious that the rule would require more work if he had, indeed, worked with the racetracks.

Trinity Meadows is very disappointed that the proposed rule was not placed on the October agenda for further public comment, discussion, and open debate.

Sincerely,



David J. Freeman

**David J. Freeman**  
**3300 Killingsworth Lane, Lot 262**  
**Pflugerville, Texas 78660**

September 12, 2008

Ms. Gloria Giberson  
Texas Racing Commission  
8505 Cross Park Drive, Ste. 110  
Austin, TX 78754

Re: Written Comment on proposed Rules Sec. 309.3

On June 3, 2008, the Racing Commission voted to repeal Rules Sec. 311.53. In conjunction with the repeal, the Commissioners also directed its Staff to draft a rule which, in essence, would replace certain aspects of the rule that was repealed.

Trinity Meadows supports the proposed rule as it is written with one important exception. Trinity Meadows strongly urges the Racing Commission to strike the language "within the prior two calendar years." The language, which requires a racing facility to have conducted live pari-mutuel racing within the prior two calendar years, would exclude existing racing facilities, most especially Trinity Meadows, from utilizing the rule to apply for a pari-mutuel racing license. The rule applies only to facilities that are in existence, but do not have a license to conduct pari-mutuel activities. As the proposed rule stands now, it clearly affects, and perhaps even targets, Trinity Meadows. Corpus Christi Greyhound Race Track (CCGRT), which currently is not conducting pari-mutuel activities, has a racing license. The proposed rule would not apply to CCGRT.

The balance of the language in the proposed rule provides for strict regulatory authority and oversight by the Racing Commission. There is no harm to any entity if the two year provision is removed from the language in the proposed rule. We would suggest that it is good public policy not to exclude any racing facility that has the potential to provide more live racing opportunities to horse people in Texas. Trinity Meadows respectfully requests the Racing Commission to strike from the proposed rule the two year provision.

Sincerely,

  
David J. Freeman

c: Brent Hamilton

Texas Racing Commission  
Title 16, Part VIII  
Chapter 309. Racetrack Licenses and Operations  
Subchapter A. Racetrack Licenses

1 **309.3. Racetrack License Application Procedure.**

2 (a) (No change.)

3  
4 (b) Application process.

5 (1) From time to time, the Commission shall designate  
6 an application period not to exceed 60 days, during which  
7 the Commission shall accept application documents.

8 (2) The Commission shall specify the class and general  
9 geographic area of the racetrack for which it will consider  
10 applications.

11 (3) <sup>HAS</sup> The Commission may open an application period that  
12 is limited to applications for a license to conduct racing  
13 at a racetrack facility that conducted live pari-mutuel  
14 racing within the prior two calendar years. In the case of  
15 an application period opened under this paragraph, the  
16 Commission shall specify the class of license and the  
17 specific racetrack facility for which it is accepting  
18 applications. The Commission may place any conditions on  
19 the applications that facilitate the expeditious resumption  
20 of live racing while remaining consistent with the Act, the  
21 Rules, and the Commission's duty to ensure the integrity of  
22 pari-mutuel racing.

23 (4) ~~[(3)]~~ The Commission shall publish in the Texas  
24 Register an announcement of the beginning of the  
25 application process at least 30 days before the first day  
26 of the application period.

27 (5) ~~[(4)]~~ While an application for a particular class  
28 of racetrack in a geographic region is pending before the  
29 Commission, the Commission may not designate an additional  
30 application period nor accept additional applications for  
31 the same class and geographic region.

32 (6) ~~[(5)]~~ When deciding whether to open an application  
33 period, the Commission shall consider the availability of  
34 racing and wagering opportunities in the proposed  
35 geographical region, the availability of competitive race  
36 animals for the class of racetrack, and the workload and  
37 budget status of the Commission.

38  
39 (c)-(e) (No change.)

**Nick James**  
1122 Colorado St., Suite 208  
Austin, Texas 78701  
Ofc. 512.499.8081  
Mob. 512.415.0005

Chairman Rolando Pablos  
Texas Racing Commission  
P. O. Box 12080  
Austin, Texas 78711

Dear Chairman Pablos:

The purpose of this letter is to advise you of the current status of the Corpus Christi Dog Track and the improvements that have been made recently. Before the last race was run in 2007, a methodical plan had been developed to remedy the deteriorating conditions of the track.

As you are aware, the track has been experiencing seven-figure operating losses for many years. In this environment, pouring money back into an ailing facility would be inappropriate. At the time a financial analysis was conducted and the result was a decision to temporarily close the facility, curb operational losses, and upgrade both the kennel and patron areas.

Outstanding results have been achieved during the refurbishing effort for the past eleven months. Facility General Manager, Rick Pimantel, has led the team and has documented tremendous strides. The overall plan is designed to have the clubhouse area ready for patrons by July 1, 2009. The kennel and track surface are scheduled for racing six weeks prior to the proposed return of live racing on July 1, 2010. Every area identified on the TRC deficiency reports is scheduled for repair in advance of reopening. This is an older facility that had greatly deteriorated. It will take a step-by-step and well organized campaign to fully restore the venue. Many of the repairs and improvements are obvious to the naked eye. Others, including roof and tile repairs are not. Rick and his assistant, Lynda Beatty, have been hands on directing the maintenance and cleaning crews. The operations team has pursued an 18 month refurbishment plan designed to return simulcasting to Corpus, with an additional 42 months dedicated to returning live racing in July 2010—while ownership has pursued a sale of the track.

The overall economic health of pari-mutuel facilities in Texas and nationwide has not been good. Most venues are reporting ten to fifteen percent declines. Specific tracks have reported waging declines up to twenty-five percent. The Corpus track could not have survived these downturns. Instead management curbed operational losses, dedicated itself to facility improvement and fully intends to operate a shorter boutique-meet that will generate newfound customer excitement and interest in visiting the facility.

The intentions of ownership are echoed in the actions that have taken place at the facility over the past eleven months and future plans provided by the track's operating team. The facility is not shuttered and decaying, but rather busy with activity designed to restore and revitalize the physical plant in anticipation of the return of live racing to Corpus Christi.

We hope the results of the Committee's review will be the sale of the Corpus Dog Track to the current proposed owners.

If you have any questions or need further information, please feel free to contact me.

Respectfully,



Nick James  
On behalf of Corpus Christi Greyhound Track

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MOLTZ | MORTON | O'TOOLE  
LLP

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January 16, 2009

Commissioner Clowe  
Commissioner Schmidt  
Co-members, Subcommittee on Licensing  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

Via Hand Delivery

RE: Written Comments Submitted to the Subcommittee on Licensing.

Dear Commissioners:

We represent LRP Group, Ltd. (current holder of a Class 2 horse racing license for Laredo, Texas); Valle de los Tesoros (current holder of a Class 2 horse racing license for McAllen, Texas); and 361 Muy Buena Suerte (a co-applicant seeking to obtain an ownership transfer of the existing license for the Corpus Christi Greyhound Racetrack).

We recently attended the first meeting of the Licensing Subcommittee of the Texas Racing Commission ("TRC" or "Commission"), and we appreciated the opportunity provided in that forum to express our clients' concerns regarding certain policies seemingly being adopted by the Texas Racing Commission addressing licensing matters. It is our understanding that the Subcommittee is now seeking written comments from the regulated public. We appreciate the Subcommittee's careful review of the written comments provided herein. We are confident that the Commissioners will then take appropriate measures to insure the Commission's actions in licensing matters conform with the enabling statute and regulations governing the TRC.

As you may be aware, our client 361 Muy Buena Suerte, along with three individuals, is seeking to obtain the ownership interests in the Corpus Christi Greyhound Racetrack. On behalf of these prospective new owners we have provided to the TRC Staff an Application to Transfer the Ownership of the Corpus Christi Greyhound Track. It is through this process that we have learned of the Staff's relatively new policies as to what is required as part of ownership transfer application. We presume these policies are universally applicable and not just being applied to our pending Application. For this reason, we believe these comments within the scope of what the Licensing Subcommittee was charged to consider. We are not, however, asking this Subcommittee to consider or evaluate any of the facts or merits of that Application within the context of these comments or its other deliberations.

Commissioners Clowe and Schmidt  
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Historical Framework

The Texas Racing Commission has routinely received applications for ownership interest transfers of various amounts – anywhere from less than a 1% change in ownership to a 100% change in ownership, although there were obviously many more small ownership changes than there were 100% ownership changes. Historically, these applications were processed pursuant to Texas Rules of Racing at 301.151 (16 TAC Section 301.151), which sets forth the requirements for an application for a transfer of ownership of an interest in a racetrack license. Only recently has the TRC Staff developed a new “form” for transfers of ownership - which essentially mirrors the traditional form used when applying for a new license for an entirely new facility - and is using that form where 100% of the ownership interests are to be transferred despite the fact that the relevant TRC rules make no distinction relating to the percent ownership to be transferred. In other words, an applicant for a 100% ownership transfer of an existing facility must now provide to the TRC essentially the same information required of an applicant seeking an initial license to construct and operate a brand new facility. As is discussed at length below, these new requirements for transfers of ownership go well beyond the authority granted to the TRC by the Texas Racing Act, Article 179e, Vernon’s Texas Civil Statutes, arts. 1-18 (“the Act”), as well beyond the Commission’s rules adopted pursuant to this Act. We would emphasize that in order to alleviate this over-reaching, all the TRC need do is return to the review process that has heretofore been properly and successfully used by the TRC and is clearly spelled out in existing rules.

The overall point we wish to make by these comments is that there is absolutely no authority either in the Texas Racing Act or in TRC’s existing rules which would allow the Staff to require all of the information referenced on the new “form” as part of an ownership transfer. Similarly, there is absolutely no authority which would allow the Commissioners to consider such information in the context of an ownership change approval. While the Commission may well have authority to carefully examine a licensee’s facilities and operations, it has no such extensive authority in the context of an ownership transfer. The Commissioners should consider this lack of authority and direct the TRC Staff to resume adhering to the existing rules with respect to ownership transfers and, if deemed necessary, utilize another more appropriate and authorized mechanism to examine such matters.

Statutory and Regulatory Framework

Like all state agencies, the Commission can only exercise the powers given to it by the Texas Legislature in its enabling Act. The Texas Racing Act sets forth the requirements for an application for a transfer of ownership of a racetrack license at Sections 6.13(b) and 6.03(a) and these are the statutory provisions which the Staff was stated it is using as a basis for the new “form”. The Commission powers with respect to such transfers of ownership, however, are only as specifically delineated by these applicable statutory provisions. As is discussed in more detail

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below, any action by the Commission that effectively expands upon those application criteria outlined in Act is *ultra vires* and therefore void.

The Commission has further adopted rules that address the requirements for a transfer of ownership. Texas Rules of Racing at 301.151 (16 TAC Section 301.151). Those rules specifically state what information the Commission will require of those seeking to transfer an ownership interest in a racetrack license. On its face, Rule 301.151 is generally applicable to all ownership transfers regardless of the fractional interest sought to be conveyed. *Id.* The Commission has historically, routinely, and properly followed these rules for ownership transfers. Unless and until the Commission changes its duly adopted rules, it is bound, as a matter of law, to follow those rules as written. Any action by the Commission that effectively expands upon or ignores the explicit language of its own rules is beyond the agency's authority and contrary to law.

*The Newly Imposed Requirements Violate the Statute*

Section 6.13(b) of the Act specifies that a "transaction that changes the ownership of the association requires submission of updated information of the type required to be disclosed under Subsection (a) of Section 6.03 of this Act and payment of a fee to recover the costs of the criminal background check". Section 6.03(a) goes on to delineate the specific type of information required to be submitted as follows:

- (1) *if the applicant is an individual, the full name of the applicant, the applicant's date of birth, a physical description of the applicant, the applicant's current address and telephone number, and a statement by the applicant disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense;*
- (2) *if the applicant is a corporation:*
  - (A) *(A) the state in which it is incorporated, the names and addresses of the corporation's agents for service of process in this state, the names and addresses of its officers and directors, the names and addresses of its stockholders, and, for each individual named under this subdivision, the individual's date of birth, current address and telephone number, and physical description, and a statement disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense; and*

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- (B) *identification of any other beneficial owner of shares in the applicant that bear voting rights, absolute or contingent, any other person that directly or indirectly exercises any participation in the applicant, and any other ownership interest in the applicant that the applicant making its best effort is able to identify;*
- (3) *if the applicant is an unincorporated business association:*
- (A) *the names and addresses of each of its members and, for each individual named under this subdivision, the individual's date of birth, current address and telephone number, and physical description, and a statement disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) or a similar misdemeanor traffic offense; and*
- (B) *Identification of any other person that exercises voting rights in the applicant or that directly or indirectly exercises any participation in the applicant and any other ownership interest in the applicant that the applicant making its best effort is able to identify;*
- (4) *the exact location at which a race meeting is to be conducted;*
- (5) *if the racing facility is in existence, whether it is owned by the applicant and, if leased to the applicant, the name and address of the owner and, if the owner is a corporation or unincorporated business association, the names and addresses of its officers and directors, its stockholders and members, if any, and its agents for service of process in this state;*
- (6) *if construction of the racing facility has not been initiated, whether it is to be owned by the applicant and, if it is to be leased to the applicant, the name and address of the prospective owner and, if the owner is a corporation or unincorporated business association, the names and addresses of its officers and directors, the names and addresses of its stockholders, the names and addresses of its members, if any, and the names and addresses of its agents for service of process in this state;*
- (7) *identification of any other beneficial owner of shares that bear voting rights, absolute or contingent, in the owner or prospective owner of the*

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*racetrack facility, or any other person that directly or indirectly exercises any participation in the owner or prospective owner and all other ownership interest in the owner or prospective owner that the applicant making its best effort is able to identify;*

- (8) a detailed statement of the assets and liabilities of the applicant;*
- (9) the kind of racing to be conducted and the dates requested;*
- (10) proof of residency as required by Section 6.06 of this Act;*
- (11) a copy of each management, concession, and totalisator contract dealing with the proposed license at the proposed location in which the applicant has an interest for inspection and review by the commission; the applicant or licensee shall advise the commission of any change in any management, concession, or totalisator contract; all management, concession, and totalisator contracts must have prior approval of the commission; the same fingerprint, criminal records history, and other information required of license applicants pursuant to Sections 5.03 and 5.04 and Subdivisions (1) through (3) of this subsection shall be required of proposed totalisator firms, concessionaires, and managers and management firms; and*
- (12) any other information required by the commission.*

Clearly, the primary type of information enumerated in Section 6.03(a) is information related to the qualifications and background of the proposed new owner. Specifically Subparagraphs 1, 2, 3, 5, 6, 7, 8, and 10 of Section 6.03(a) of the Act relate solely to whom the new owner will be and that proposed new owner's background and qualifications. The remaining information enumerated within Section 6.03(a) is general in nature including where the track is located (subparagraph 4), the type of racing and when meets will be held (subparagraph 9), and the totalisator, concession, and management contracts (subparagraph 11).

Despite the clear parameters of Section 6.03, much of the information sought by the newly adopted and required form for an ownership transfer is well beyond the type of information the legislature specified in Section 6.03(a). For example: (1) land uses within one half mile of the site, (2) a traffic study, (3) the cost and nature of construction any/or needed repairs, and/or renovation, architectural engineering and similar services, (4) the various pre-racing costs such as promotion, advertising, salaries, fees, administrative costs, and financing, (5) the amount of available working capital, (6) an independently prepared 5-year financial forecast, (7) the purse structure, (8) substantive information regarding fire and safety procedures, (9) social and economic projections, (10) business plans, and (11) a detailed security plan. None of

Commissioners Clowe and Schmidt

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these items are required or even implied by the enumerated information required by Section 6.03(a).

Apparently, the TRC Staff is attempting to require significant additional information well beyond the type of information enumerated within Section 6.03(a) of the Act under the guise of Subparagraph 12 of Section 6.03(a), which provides that an Applicant to which that section applies is to submit "any other information required by the commission". Clearly, the TRC can not ignore the provision of Section 6.13(b) of the Act which requires an applicant for approval of a transfer of ownership to submit "updated information of the type" enumerated in Section 6.03(a) and request absolutely any information merely because one subparagraph of Section 6.03(a) is general in nature. In fact, much of the additional information specified in the newly created form is required under Section 6.04 of the Act (an entirely different portion of the statute) and the TRC rules adopted thereunder, *both of which only apply to an application for a new license*. Those statutory and regulatory requirements are not applicable to the request for a transfer of ownership and are clearly beyond the mandate of Section 6.13(b) of the Act.

It is well-settled that a state agency has only that authority expressly given to it by statute, and those powers necessary to carry out those express functions. *E.g., TNRCC v. Lakeshore Util Co.*, 164 S.W.3d 368 (Tex. 2005); *P.U.C. v. City Pub. Serv. Bd. of San Antonio*, 53 S.W.3d 310, 315-316 (Tex. 2001). A state agency has "only those powers conferred upon it in *clear and unmistakable* language." *P.U.C. v. City Pub. Serv. Bd. Of San Antonio*, 53 S.W.3d at 315-316. (emphasis added). While an agency is implicitly granted whatever powers are *necessary* to fulfill its express statutory authority, it may not "on a theory of necessary implication from a specific power, function or duty expressly delegated, erect and exercise what really amounts to a new and additional power or one that contradicts the statute, no matter that the new power is viewed as being expedient for administrative purposes." *Sexton v. Mount Olivet Cemetery Ass'n*, 720 S.W.2d 120, 137-138 (Tex. App. – Austin 1986, writ ref'd n.r.e.). When the Legislature has provided an agency with a power, and the method for implementing that power is prescribed, that method is to the exclusion of all others. *See Sexton v. Mount Olivet Cemetery Ass'n*, 720 S.W.2d 129 (Tex. App. – Austin 1996, writ ref. n.r.e.); *Denton County Elec. Co-op v. Public Util. Comm'n of Texas*, 818 S.W.2d 490 (Tex. App. – Texarkana 1991, no writ); *Cole v. Texas Army Nat'l Guard*, 909 S.W.2d 535, 539 (Tex. App. – Austin 1995, writ denied). Acting outside the scope of the given statutory authority is void. *E.g., TXU Generation Co. et al. v. P.U.C.* 165 S.W.3d 821 (Tex. App. – Austin 2005, pet. denied).

Here, the statutory requirements for an application seeking to change the ownership of racetrack are unambiguously set forth in Section 6.13(b) of the Act, and is conspicuously different from the requirements for a new racetrack license. The Commission may require an application for a transfer of ownership to include information of the type outlined in Section 6.03(a) of the Act. It may not, however, look to other sections of the Act and its regulations, borrow requirements from those inapplicable sections, and apply those requirements to an application for a transfer of ownership. Doing so is beyond the scope of the Commission's

Commissioners Clowe and Schmidt

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explicit statutory authority. Further, the very general language found in subsection 6.03(a)(12) of the Act, which allows the Commission to require "other information" as part of an ownership transfer application, cannot be the basis for requesting extensive, additional information beyond that specifically enumerated in Sections 6.13(b) and 6.03(a). Section 6.03(a)(12) cannot be interpreted to give the Commission carte blanche to require any information it may wish without running afoul of several basic rules of statutory construction.

Section 6.13(b) is the controlling statute for an ownership transfer application. That Section allows the Commission to require an applicant seeking a transfer of ownership to provide *the type of information* found in Section 6.03 of the Act. That is a specific limiting statutory mandate, which simply does not include the type of information found in other sections of the Act such as Section 6.04 and/or regulations adopted pursuant to Section 6.04 (for example, "the effect of the proposed track on traffic flow" (Section 6.04(a)(4)), "the potential conflict with other licensed race meetings" (Section 6.04(a)(9)), "the facilities for patrons and occupational licensees" (Section 6.904(a)(5)), "facilities for race animals" (Section 6.04(a)(6)), "the anticipated effect of the race meeting on the state and local economy from tourism, increased employment, and other sources" (Section 6.04(a)(11)), and "the availability to the track of support services and emergency services (Section 6.04(a)(7))).

Under applicable rules of statutory construction, where a statute states the methods for carrying out a mandate, then those methods are necessarily to the exclusion of all others. Since in Section 6.13(b) of the Act the legislature only and specifically referenced requirements of the type included in Section 6.03(a), the Agency can not, by implication, include requirements specified in Section 6.04 of the Act. Such an implication renders the specific limitation of 6.13(b) meaningless. As the Court stated in *City Public Service Board of San Antonio v. PUC*, 96 S.W.2d 355, 358 (Tex. App. – Austin 2002, no pet.), "(i)t is a well settled rule of statutory construction that the express mention or enumeration of one person, thing, consequence, or class is equivalent to an express exclusion of all others." Further, the specific language found in Section 6.13(b) of the Act controls over the general language found in Section 6.03(a)(12). Tex. Gov't Code § 311.026; *E.g., Burke v. State*, 28 S.W.3d 545 (2000). The legislature could easily have said that an applicant for a transfer of ownership in a track must submit information of the type found in Section 6.03(a) and Section 6.04(a) of the Act. It did not. A statute cannot be read so as to negate other statutory provisions. The general language of Section 6.03(a)(12) can not be read to negate the specific limitation of Section 6.13(b).

The Staff has also asserted that what information is to be required is a matter of TRC "policy" not a question of statutory interpretation. We disagree. Where the TRC's enabling statute established what the agency shall require in a particular situation, that agency can not vary from those requirements regardless of the policy or good intentions involved. As the courts have repeatedly stated, when the Legislature has acted as to a particular matter, an administrative agency may not act in a manner that effectively nullifies the Legislative action, even though the matter may fall within the general regulatory field of that agency. *See, e.g., State of Texas v.* (01029/1/00021029.1)

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*Jackson*, 376 S.W.2d 341, 344-45 (Tex. 1964); *Central Educ. Agency v. Sellhorn*, 781 S.W.2d 716, 718 (Tex. App. – Austin 1989, writ denied); *Martinez v. Texas Employment Comm'n*, 570 S.W.2d 28, 31 (Tex. App. – Corpus Christi 1978, no writ). Reading Section 6.03(a)(12) of the Act to allow the Commission to require additional information (some of which is required under sections of the Act that are specifically not applicable, and some of which is not discussed in the Act at all) would negate the specific language found in Section 6.13(b) of the Act. That section specifically and purposefully limits what the Commission may require for a request to transfer ownership of an existing racetrack.

*The Newly Imposed Adopted Requirements Circumvent Rulemaking Requirements.*

Even assuming the Act could be read to allow the Commission to require additional information not enumerated in Section 6.13(b) and, by reference, of the type required by Section 6.03(a), seeking such information would at the very least require formal rulemaking by the Commission.<sup>1</sup>

The Texas Rules of Racing currently includes a rule that specifically addresses what is required for the transfer of an ownership interest in an existing racetrack. That rule is found at 16 TAC §309.151. The rule, as currently written and applicable, lists with specificity what information must be provided to the Commission for approval of an ownership change. This rule is written so as to be generally applicable to all ownership transfers, no matter what percentage of ownership is being transferred. Unquestionably, the Commission is bound to follow its own rules. *E.g.*, *Flores v. Employees Retirement System of Texas*, 74 S.W. 3d 532, 542 (Tex. App. – Austin 2002, pet. denied). It cannot, either on a case-by-case basis or though the informal adoption of general “policies,” decide to require additional information not authorized by the current rule.

The Commission cannot on an ad hoc basis add burdens to the application process that have not been subjected to public comment and the scrutiny that goes with that process, as well as the notice that is attendant to that process. This is especially true in light of the fact that the Commission has approved numerous ownership interest transfers, including some relating to one hundred percent of the ownership interests, over the years and has not, until very recently, even raised the issue of the type of additional information required by the newly adopted form. There is nothing in the Commission’s current rules that puts the public on notice that an applicant for a transfer of ownership of an existing facility will be subjected to essentially the same requirements as an applicant for a new license for a new facility.

The Texas Administrative Procedure Act (“APA”) defines a “rule” as follows:

<sup>1</sup> We are not, however, suggesting that this Subcommittee propose that the Commissioners consider such a rule change since, as discussed previously, the Texas Racing Act specifically enumerates the type of information to be required in the context of an ownership change and a rule change which goes beyond that statutory mandate would be counter to those statutory provisions.

Commissioners Clowe and Schmidt  
January 16, 2009  
Page 9

- (A) *means a state agency statement of general applicability that: (i) implements, interprets, or prescribes law or policy; or (ii) describes the procedure or practice requirements of a state agency;*
- (B) *includes the amendment or repeal of a prior rule; and*
- (C) *does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.*

Tex. Gov't. Code § 2001.003(6). Prescribing what a requestor seeking the transfer of the ownership of a racetrack must include in its request is unquestionably a generally applicable requirement that interprets the relevant provisions of the Act, prescribes law and policy, and describes the procedures before the Commission. The application requirements are not a statement that only affects the internal management of the Commission, in that the Commission is prescribing what a member of the public must do to obtain a needed approval from the Commission. The APA provides that all agency rules must be adopted pursuant to the rulemaking procedures outlined therein. Tex. Gov't Code §§ 2001.001-.038. Included in these procedures is a requirement that an agency provide notice and invite public comment. *Id.* It has long been established, and is beyond question, that the main purpose behind these notice procedures is to insure "that the public and affected persons are heard on matters that affect them and receive notice of new rules." *Rodriguez v. Service Lloyds Ins. Co.*, 997 S.W.2d 248, 255; *see Fulton v. Associated Indem. Corp.*, 46 S.W.3d 364, 368 (Tex. App. – Austin 2001, writ denied; *Amarillo Indep. Sch. Dist. v. Meno*, 854 S.W.2d 950 (Tex. App. – Austin 1993, no writ. Accordingly, should the Commission wish to revise its currently applicable rule on transfer of ownership, it must do so pursuant to the rulemaking requirements of the APA. Merely creating a new "form" and making that form available is clearly no substitute for the legally required rulemaking procedures.

*Additional and New Exemption Criteria*

The TRC Staff has also stated a new TRC requirement that an Applicant must either provide the information requested by the new ownership change form or offer a compelling explanation as to why a particular piece of information should not be required. This novel ad hoc requirement serves to highlight the fact that there simply is no authority to require the information in the first place. First a new requirement is created out of whole cloth and then a novel exemption is layered on top totally without any basis in statutory or regulatory authority. The TRC simply can not use the approval process relating to a change in ownership as leverage to create authority it does not otherwise have in that context. Furthermore, the fact that a new owner will have responsibility pursuant to the license does not in any way diminish any authority the TRC may have over the financial and physical conditions at the track.

MOLTZ | MORTON | O'TOOLE  
LLP

Commissioners Clowe and Schmidt  
January 16, 2009  
Page 10

Recommendation

Obviously, the TRC Staff has some policy considerations they would like to address with respect to certain existing tracks. We will not attempt to speak for the Staff nor speculate as to exactly what those policy considerations may be. We recommend that the Subcommittee determine what those policy considerations may be and evaluate what, if any, action should or can be taken and what the proper authority and procedure is, if any, to address those issues. The current developing approach, addressing these issues in the context of an ownership change, is simply inappropriate and contrary to law.

Thank you for your consideration. We look forward to working with you going forward on these and other licensing issues.

Very truly yours,



William J. Moltz

WJM/pjp

cc: TRC Commissioners  
Charla Ann King (via hand delivery)  
Mark Fenner (via hand delivery)

# MEC

Magna Entertainment Corp.

Sender's Direct Dial: 804-752-2014  
Sender's Address: 11388 Farrington Farm Lane  
Ashland, VA 23005

337 Magna Drive  
Aurora, Ontario,  
Canada L4G 7K1  
Tel (905) 726-2462  
Fax (905) 726-7448

January 20, 2009

Sent via Facsimile ((512) 833-6907)

Charla Ann King  
Executive Secretary  
Texas Racing Commission  
8505 Cross Park Drive  
Suite 110  
Austin, Texas 78754

Dear Ms. King

This letter reflects the comments of MEC Texas Racing, Inc., general partner of MEC Lone Star, LP ("Lone Star Park") regarding the proposed Request For Approval of Change of Location and/or Acquisition of Pecuniary Interest in a Horse or Greyhound Association (the "Application") issued by the Texas Racing Commission (the "Commission"). We appreciate the opportunity to provide comment on this draft and look forward to our continuing participation in this process.

Lone Star Park's sole comment is to request that the Application be revised to include a request of the applicant for information regarding the existence or status of any agreement between it and any Class 1 racetrack within a specified radius (we suggest 50 miles) of the applicant's proposed site, which agreement should address, among other possible matters, a resolution of issues concerning the possible impact that the applicant's proposed site will have on the affected Class 1 racetrack. We suggest that this request could be included in Item 1 of Section IV of the Application. Below is some suggested language that the Commission may wish to use:

Please indicate whether you have an agreement with a Class 1 racetrack located within [fifty (50)] miles of your proposed site to mitigate any potential negative market impact that may result to such Class 1 racetrack from any live racing and pari-mutuel wagering conducted on your proposed site. If so, please provide a copy of this agreement. If not, please summarize the status of any negotiations that have taken place with such Class 1 racetrack.

We see this request as part of a greater effort by Lone Star Park to ensure that the Commission's rules and approach to license relocation recognize the potential negative market impact that may result to a Class 1 racetrack in respect of any racetrack license relocation. We also anticipate, to the extent deemed necessary, requesting a rule and/or

January 20, 2009

Page 2

statutory amendment designed to ensure that any effort to relocate a racetrack license be accompanied by a requirement that the applicant reach a market impact mitigation agreement with the affected Class 1 racetrack.

We look forward to explaining our comments further at the Commission's next committee meeting on this issue. In the meantime, please let me know if you have any questions.

Sincerely,

Gregg A. Scoggins  
National Director of Regulatory Affairs

cc: Drew Shubeck  
Bill Ford, Esquire  
Galt Graydon  
Tommy Azopardi  
Dave Hooper  
Rob Wersler  
Mark Fenner, Esquire



# Texas Greyhound Association

*Representing the Greyhound Breeding and Racing Industry in Texas*

January 19, 2009

Mr. Mark Fenner  
Texas Racing Commission  
PO Box 12080  
Austin, Tx 78711-2080

Dear Mark:

As the state breed registry, the Texas Greyhound Association is not directly involved in the track association licensing process. However, as greyhound owners and breeders, we have a significant stake in the successful operation of a greyhound racetrack.

When Corpus Christi Greyhound Track (CCGRT) was running live, approximately 75%, or 400, of the greyhounds competing there were Texas-bred. The majority of these greyhounds came from Gulf Greyhound Park, since Gulf's higher purses made the competition there a higher level than Corpus. The track at Corpus functioned well as the alternative for a less-competitive greyhound, and a venue for young greyhounds just breaking into racing. It created a good racing system for Texas. Since the closing of CCGRT, roughly 300-400 Texas-bred greyhounds now must run out-of-state.

We understand that CCGRT may be changing ownership, subject to Texas Racing Commission approval. Since CCGRT is not a new operation, holds a license, and the Commission has already identified its deficiencies in facilities and operations, the TGA urges that the Commission act expeditiously to re-open the racetrack and offer Texas greyhound owners, breeders and kennels a much-needed opportunity to race their greyhounds.

As you know, under current law only three licenses are available for greyhound tracks and all must be located on the Gulf coast. This makes a greyhound track the equivalent of a Class I horse racetrack. If Sam Houston Race Park, Retama Park or Lone Star Park were to cease operations, we imagine every effort would be made to re-open as quickly as possible.

The TGA is anxious that CCGRT make swift progress to provide our membership a racing venue. If we can provide you with additional information, please contact us.

Sincerely,

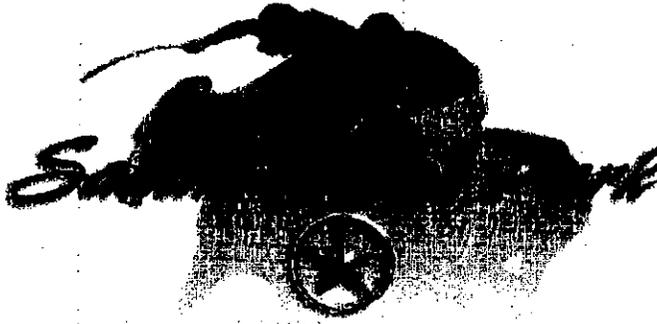
Diane Whiteley  
Executive Director

Post Office Box 40; Lorena, TX 76655-0040  
(254) 857-4377 \* (254) 857-4299 Fax

Email: [txga@texasgreyhoundassociation.com](mailto:txga@texasgreyhoundassociation.com)

Website: [www.texasgreyhoundassociation.com](http://www.texasgreyhoundassociation.com)

111-58



February 12, 2009

Texas Racing Commission

I have several concerns about the future of racing in the state of Texas. In part, the Commission continues to raise fees and increase staff in a time when everyone else is having to tighten their belts just to survive.

My license is a Class II and the fees have gone from \$10,000.00 per year to a proposed \$125,000.00 per year. I was also issued a perpetual license and now the Commission is trying to change that as well. Our governing state agency doesn't understand that you can't build a track in Texas and not go broke.

In their wisdom - the Commission has tried to make it as hard as they possibly could on everyone involved in racing instead of trying to help.

I think that making the LaMantia family pay up part of their bond, particularly in our state of economy, was absolutely the height of audacity and another sign that our Commission has run amuck. Personally, I feel with a few exceptions - the house needs cleaning.

Thank you,

Drew Alexander

Office 806-359-9546 • Fax 806-359-5239 • P. O. Box 50597 • Amarillo, Texas 79159  
[www.saddlebrookpark.net](http://www.saddlebrookpark.net)

111-59

Nick James  
1122 Colorado  
Suite 208  
Austin, Texas 78701

2009 FEB 12 PM 4: 58

Ms. Charla Ann King  
Executive Director  
Texas Racing Commission  
8505 Cross Park Drive  
Suite 110  
Austin, Texas 78754

Dear Ms. King:

I am writing on behalf of my clients, Corpus Christi Greyhound Inc., to comment on the draft report dated February, 2009. We would disagree with the findings in the report and would oppose any rule changes or statute changes proposed as a result of the report.

My clients wish to work with the commission and other members of the industry to keep alive an industry in peril. We shall do our part and hope the commission will also do it's part.

Thank you for your attention.

Respectfully yours,



Nick James

111-60

JOHNSON AND JOHNSON  
ATTORNEYS AND COUNSELLORS AT LAW  
1122 Colorado, Suite 208  
Austin, Texas 78701  

---

(512) 478-7777  
Fax (512) 478-7869

ROBERT E. JOHNSON (1920-1995)  
ROBERT E. JOHNSON, JR.  
GORDON R. JOHNSON

February 12, 2009

The Honorable Charla Ann King  
Racing Secretary  
Texas Racing Commission  
P.O. Box 12080  
Austin, TX 78711

Dear Secretary King,

I write to comment on the February 2009 Draft Report by Committee on Racetrack Licensing ("Draft").

As you are probably aware, this firm drafted and led the effort for passage of the original Texas Racing Act, together with each rewrite of the Act. I can speak first hand to the intentions and structure of the Act.

The Commission currently has every statutory tool it needs to solve all the issues presented in the Draft. In every instance in the previous 20 years when a racetrack needed to be disciplined or have its license revoked, the Commission has taken the appropriate action under the statute and has been successful in its effort.

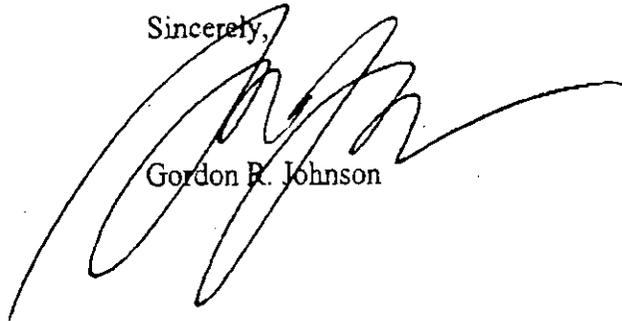
Original license proceedings have varied from a half day (Retama Park) to multi-week (Laredo Downs, Laredo Race Park, Valle de los Toros, Lone Star Park, and Gulf Greyhound). The Commission has, prior to the Laredo and McAllen proceedings, always successfully worked with the applicants to minimize the cost to all parties, particularly the Commission. Changes to existing licenses, whether significant or not, are limited in the Act to an approval of the new ownership. This requires some slight review by Commission staff of the transfer documents, while the DPS handles the background check. All racetrack license ownership changes, large and small, for 20 years have been handled quickly and inexpensively for the buyers and sellers, with no cost to the Commission. The transfers pending at the Commission at this time differ in no way from the prior transfers approved by the Commission.

With all due respect for the time and effort put into this Draft, the Draft reads as if it is designed towards implementation of a licensing structure for a new, growing industry. The Act as written, amended and implemented for 20 years has served effectively to protect the Commission, the public and the industry without a single incidence of problems or embarrassment related to racetrack licenses. That is a very strong statement in favor of the existing Act.

111-61

The Draft fails to recognize that the Commission is presiding over a dying industry that can no longer compete with racing in the rest of the country because of fundamental changes to the very nature of the industry. Yet the Draft seeks to choke what remaining life there is out of the industry by punishing and overregulating those licensees that are attempting to keep the industry alive. The reality is that the Commission will have no licenses to review every 5 years, renew every 2 years, require security from, or approve transfers of in the very near future if racing does not become competitive with adjoining states and the country. The expenditure of any time or effort by the industry or Commission to increase the regulation of existing licenses or hinder the application process for new licenses is a waste.

Sincerely,



Gordon R. Johnson

111-62

RECEIVED  
TEXAS RACING  
COMMISSION

MOLTZ MORTON O'TOOLE

2009 FEB 12 PM 2:28 LLP

William J. Moltz  
(512) 439-2171  
wmoltz@mmotlaw.com

The Littlefield Building  
106 East 6<sup>th</sup> Street, Suite 700  
Austin, TX 78701  
(512) 439-2170  
Facsimile (512) 439-2165

February 12, 2009

Commissioner Clowe  
Commissioner Schmidt  
Co-members, Subcommittee on Licensing  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

**Via Hand Delivery**

RE: Draft Report By Committee on Racetrack Licensing

Dear Commissioners:

We have just obtained and reviewed the "Exposure Draft" Report by the Committee on Racetrack Licensing and were quite surprised. To the extent this "draft" represents a suggested or proposed report by your Committee to the full Commission, we believe the report contains many unfounded allegations, erroneous findings, and incorrect legal conclusions. In addition, the process being used is fundamentally flawed.

First, you will recall that this Committee published the Agenda for its December 19, 2008 public meeting which delineated the issues to be discussed as follows:

**AGENDA**

Discussion of the Commission's Policies and Rules relating to Racetrack Licenses, including:

- (a) Original Licensing
- (b) Changes of Location
- (c) Transfers of Ownership Interests in Associations
- (d) Background Investigations
- (e) Orders for Security for Compliance

This Agenda was circulated along with a memorandum dated December 16, 2008 from Mr. Mark Fenner, TRC General Counsel, which stated, among other things, as follows:

Please note that this meeting is posted for the discussion of rules and policies relating to racetrack licensing in general, but is not posted for the discussion of any specific racetrack license proceedings.

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Commissioner Clowe  
Commissioner Schmidt  
February 12, 2009  
Page 2

As you may recall, the participants at the December 19, 2008 public meeting were repeatedly chastised by Commission Staff to not discuss any particular racetrack or matter pending with respect to that racetrack. Most, if not all, of the participants making oral comments to the Committee referred to that limitation in their comments and made general comments but did not refer to or discuss specific issues as they related to any specific racetrack. On behalf of LRP Group, Ltd., Valle de los Tesoros, Ltd. and 361 Muy Buena Suerte, LLC, we specifically referred to the limitation in our comments and carefully and purposefully did not make comments on specific issues relating to the facts associated with Laredo Downs, Tesoros Racepark, or Corpus Christi Greyhound Racetrack.

Similarly, we, as well as other regulated persons and entities, were given the opportunity to submit written comments by January 16, 2009 on the general issues referred to in the above quoted Agenda. The same limitation to general non-fact specific and non-racetrack comments was repeatedly stated. We submitted written comments and, in compliance with the oft stated limitation, specifically and purposefully did not discuss any factual matters directly regarding pending racetracks, licensees, or proceedings. Furthermore, no allegations were ever raised by the Committee which warranted any response.

Needless to say, we were quite shocked to read the draft Committee Report and find that five of the eight pages are devoted to allegations of "facts" associated with specific racetracks. In addition, the draft included many apparent findings of violations or, at a minimum, the assumption of violations at specific racetracks. At the same time, the comments submitted by the public, both written and oral, were specifically limited such that facts were not addressed and no such facts or allegations were ever part of any agenda for the Committee. Even with that limitation, the submitted comments are totally ignored by the draft Report. Not only are those comments not even acknowledged, many of the factual and legal allegations effectively reject those comments without any consideration. The draft Report goes well beyond raising policy issues for consideration. The draft Report effectively finds violations of applicable Commission rules by several racetracks and owners without any opportunity whatsoever for presentation or consideration of the facts and allegations involved. Not only is this wholly inappropriate, it is a clear violation of the due process rights of the Associations involved.

To the extent the Committee intends to publish and forward a report to the full Commission containing such findings and/or allegations, the affected Associations are entitled to input and a full and fair consideration of all the facts involved. No such right has been afforded and many of the draft Report's assertions are just plain wrong.

Commissioner Clowe  
Commissioner Schmidt  
February 12, 2009  
Page 3

We do not intend to address every allegation and/or finding explicitly stated or implied within the draft Report in this letter. We do, however, vehemently take exception to and disagree with several of the assertions and implications associated with Laredo Downs, Tesoros Racepark, and Corpus Christi Greyhound Racetrack. We believe that after a full and fair hearing and presentation of all of the facts and circumstances, a process to which any regulated entity is absolutely entitled, those allegations and insinuations would be found to be incorrect.

For the reasons stated above, we urge the Committee to wholly reject the draft Report in its current form and with its current allegations, factual findings, and legal conclusions. Making such allegations, findings, and conclusions is well beyond the scope of the charge to this Committee made by the Commission Chairman. To the extent such issues are to be addressed, the procedures used are fatally flawed and clearly deny the affected Associations their right to a meaningful opportunity to respond.

Thank you for your consideration.

Very truly yours,



William J. Moltz  
Moltz Morton O'Toole LLP  
Attorneys for LRP Group, Ltd., Valle de los  
Tesoros, Ltd., and 361 Muy Buena Suerte, LLC

cc: Ms. Charla Ann King, Executive Director, Texas Racing Commission  
Mr. Mark Fenner, General Counsel, Texas Racing Commission

MOLTZ | MORTON | O'TOOLE  
LLP

William J. Moltz  
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Austin, TX 78701  
(512) 439-2170  
Facsimile (512) 439-2165

February 16, 2009

Ms. Charla Ann King  
Executive Director  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754

RE: Proposed Revisions to the Draft "Report by Committee on Racetrack Licensing"

Dear Ms. King:

As we discussed last Friday, attached are our proposed revisions to the draft "Report by Committee on Racetrack Licensing". For clarity, I have presented the proposed revisions in the form of a redline version of the Report. I would like to emphasize that our proposed revisions are intended to only address the language used in presenting the Committee's issues and to remove any conclusory statements or implications regarding the compliance status or prior actions of specific racetracks and/or owners. Specifically, we believe it is inappropriate to include language stating or implying that there has been any determination of noncompliance, unreasonableness, or other such ultimate regulatory finding where, in fact, no such findings have been made and there is clearly disagreement as to that finding. Not only are such statements and implications inappropriate, they are unnecessary and do nothing to further or address the underlying issue

Also, by submitting these proposed clarifying revisions, we are not stating or implying that we are in agreement with the substance of the issues, that the issues are appropriate to forward to the full commission, or that the full Commission should take or not take any specific action with respect to any of the issues. As with the representatives of the other racetracks that submitted comments or addressed the Committee at its recent public meeting, we also have concerns with the substance of the issues.

We have made every effort to merely suggest revisions to the draft Report to state the issue contemplated by the draft in a neutral way. It was not our intent to, and hopefully we did not, make suggested changes which would state or imply anything negative about any other racetrack or the Staff of the TRC. Also, we are not stating any agreement or disagreement with any of the Report's factual assertions. The one exception is the assertion that the owners of

MOLTZ | MORTON | O'TOOLE  
LLP

Ms. Charla Ann King  
February 16, 2009  
Page 2

Laredo Downs, Valle de los Tesoros, and the prospective purchaser of Corpus Christi Greyhound Racetrack are the same individuals or entities. While there is overlap in the individuals that have beneficial interests in the tracks, the tracks are not now nor contemplated to be in the future under identical ownership structures.

We hope you find these suggestions helpful.

Thank you for your consideration.

Sincerely,



William J. Moltz

WJM/pjp  
Enclosure



**LONE STAR PARK**  
*at Grand Prairie*  
A MAGNA ENTERTAINMENT VENUE  
*Our Mission:*  
*Create Winning Experiences.*

February 13, 2009

Ms. Charla Ann King  
Executive Director  
Texas Racing Commission  
P. O. Box 12080  
Austin, TX 78711-2080

Dear Ms. King:

Lone Star Park is in the process of reviewing the sunset Commission's suggested changes to the Texas Racing Act. This letter is not intended to give you a full list of our concerns; it will only highlight areas we feel are unnecessary burdens to Lone Star Park's ongoing operations.

- Lone Star Park strongly objects to modifications to the Texas Racing Act that would change the nature of a license from perpetual to a license that would need to go through a renewal process.
- Lone Star Park strongly objects to modifications to the Texas Racing Act that would require racetrack licensees to post security at any time.

I expect corporate to follow-up with additional comments and I will make myself available anytime for your questions and comments.

Sincerely,

Drew M. Shubeck  
President and General Manager

DMS:sa

HOST SITE OF THE  
2004 BREEDERS' CUP  
WORLD THOROUGHBRED CHAMPIONSHIPS

1000 Lone Star Parkway  
Grand Prairie, Texas 75050  
(972) 263-7223  
lonestarpark.com

111-68



February 12, 2009

**VIA EMAIL AND FEDEX OVERNIGHT**

Charla Ann King  
Texas Racing Commission  
8505 Cross Park #110  
Austin, Texas 78754

Re: *Sunset Advisory Commission Staff Report on the Texas Racing Commission*

Dear Ms. King:

These comments are submitted on behalf of Sam Houston Race Park in response to the Texas Racing Commission's (TRC) Draft Report by Committee on Racetrack Licensing (Report). Sam Houston appreciates this opportunity to comment on the Report. Sam Houston's comments specifically address the recommendations in Part 1 related to periodic renewal of racetrack licenses and expanding the Commission's license revocation and renewal authority. However, the impact of *all* of the recommendations in the Report is broad and far-reaching and will certainly affect the economic viability of the Texas racing industry. Sam Houston therefore urges the Commission to withhold from further action implementing the recommendations in the Report until industry stakeholders have had more time to carefully scrutinize and comment on the Report's recommendations.

**License Renewal and Periodic Review.**

Sam Houston respectfully opposes the Commission's recommendations with respect to license renewal. The Commission is well aware of the economic pressures facing the racing industry in Texas, and Sam Houston would urge the Commission not to impose regulations that would increase the risk that the capital markets associate with investment in the industry. Mandatory periodic renewal of racetrack licenses—whether it be annual or every five years—will, without question, negatively impact the ability of the racetracks to attract capital investment. Making a racetrack license subject to periodic license review hurts the ability of racetracks to obtain financing for construction and operations by taking away lenders' current legislative assurance that racetrack licenses are perpetual. Sam Houston is mindful of the Sunset Commission's recommendations. However, if the Commission were to advocate statutory and

rule changes that in effect do away the perpetual nature of racetrack licenses, investment in the struggling industry will decline.

The mandatory review provisions described in the Report also thwart the legislative intent of §6.18 of the Racing Act, which made racetrack licenses perpetual. A process that impedes that perpetual nature should not be inserted into the Act or the Commission's regulations. Sam Houston supports the comments made by Texans for Economic Development in response to the Sunset Advisory Commission Staff Report on the Texas Racing Commission on this issue, and urges the Commission to reject the current recommendations regarding periodic review. In short, the recommendations are overly prescriptive, create unnecessary administrative process and expense, and would hurt the economic viability of the racing industry.

### **Commission Revocation and Renewal Authority.**

#### **1. Renewal Authority**

Sam Houston opposes the Report's recommendation for clarification of the Commission's authority to refuse to renew a racetrack license. As described previously, the Commission should not impose mandatory renewal requirements that could jeopardize racetrack financing. To that end, the Commission should not support or seek new authority related to license renewal.

#### **2. Revocation Authority**

Sam Houston has concerns regarding the Commission's request for additional clarification regarding its license revocation authority. Such clarification is unnecessary. Section 7.04 of the Racing Act grants the Commission broad revocation authority, while also protecting licensees rights to notice and hearing.<sup>1</sup> The Act enumerates the Commission's specific authority to revoke or suspend a license and sets forth the circumstances under which a license may be revoked or suspended.<sup>2</sup> Changes to the existing statute or Commission Rule 309.9 would result in overly prescriptive rules that remove the Commission's discretion to regulate racetrack licenses.

#### **3. Security Bond Authority**

The Report appears to recommend a modification to the Racing Act to allow the Commission to require racetrack licensees to post security bonds at any time, rather than prior to the issuance of a license. Sam Houston has concerns regarding the Commission's desire to expand its security bond authority. Currently, Section 6.04 of the Act limits the Commission's authority to impose bond restrictions to the time period "before issuance of a license."

---

<sup>1</sup> Texas Racing Act § 7.04 (The commission, after notice and hearing, may refuse to issue any original or renewal license under this article or may revoke or suspend the license if it has reasonable grounds to believe ...")

<sup>2</sup> *Id.* (listing the grounds for license revocation or suspension).

February 12, 2009

Page 3

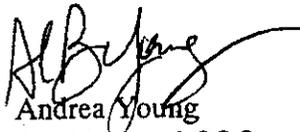
Expansion of that authority would be viewed negatively by the lending community and similarly negatively impact investment in the industry.

**Conclusion.**

Sam Houston commends the efforts of the parties in drafting the Report, but urges the Commission to cautiously consider its recommendations. Many of the recommendations would require significant statutory and/or rule changes where, in many instances, change may not be appropriate. In considering the Report, Sam Houston urges the Commission to consider the economic impact that the recommendations would have on the industry and to seriously assess whether the recommendations would help or hinder industry stakeholders.

Thank you for your consideration of these comments. If you have any additional questions or if we can provide any additional information, please do not hesitate to contact me at (281) 807-8747.

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrea Young", with a long horizontal flourish extending to the right.

Andrea Young  
President and COO

111-71



January 20, 2009

Commissioners of the  
Texas Racing Commission  
P.O. Box 12080  
Austin, TX 78711

Dear Commissioners:

On behalf of Sam Houston Race Park, I would like to provide you a brief update on our continued efforts to restore the property to pre-Hurricane conditions. In addition to restoring the property, we are also excited to be making various upgrades and cosmetic improvements to the facility. We continue to believe that we will be prepared to open on time and on schedule for training and the highly anticipated return of live racing on May 1, 2009.

#### **Sam Houston Race Park Restoration Highlights**

**Ongoing Simulcast Operations** – Our simulcast operation made the transition to the Pavilion Center on January 5, 2009. Since making the move, attendance and handle figures have met expectations and customers appear to be very satisfied. We are excited about this very seamless transition. Simulcast operations will remain in the Pavilion until the roof project is completed in early April.

**Grandstand Reconstruction** – The relocation of our simulcast operations have allowed for repairs to the grandstand to accelerate. The roof project is being coordinated by Linbeck Construction. Roofing materials and other supplies arrived on site in late December and crews began staging equipment and materials during the first week of January. The first pieces of the roof will be physically removed this week and crews will work ten hour days and weekends until the project is completed. We are also pleased to share that the damaged roof sections will be recycled by a local scrap metal firm.

The interiors portion of the project is also underway with fresh paint currently being applied to the Park's lower level. Once the roof repairs are complete, we will install new drywall, paint, carpet, ceiling tiles and countertops throughout the suite and club levels, as well as in The Park's private membership club, the Jockey Club.

**Infield and Paddock Tote Boards** – An initial order for replacement infield and paddock tote boards have been placed with industry display leader Daktronics. Delivery and installation are scheduled for mid-April. While the paddock board will be slightly modified to accommodate fourteen starters with new LED digits, the infield board will have a completely new and updated appearance. The infield board will consist of five panels including a state of the art double height full color video display that will show live and post race video, promotions and appropriate animation.

**SAM HOUSTON RACE PARK LTD.**

7575 North Sam Houston Parkway West, Houston, TX, 77064 • 281.807.8700 • shrp.com

IV-1

**Barns and Stables** -The demolition phase of the stable area project has been completed. We are currently working to finalize contracts and permits that will allow construction to begin very quickly. The contractor identified for this portion of the project has the capability of running several crews to complete the work in a timely manner. The scope of this project includes ceilings, walls, floor coverings, HVAC systems and lighting in the dormitories as well as ceilings in the concrete block tack rooms.

For your convenience I have included an updated chronological timeline of key events as well as some relevant photos as part of this letter.

If you have any questions or would like to review the projects personally, please do not hesitate to contact me. Thank you for your continued support.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Young', written over a horizontal line.

Andrea B. Young  
President and Chief Operating Officer

Enclosures

**Sam Houston Race Park  
Estimated Reconstruction Project Time Line – updated January 20, 2009**

January 5	Simulcast operations begin in Pavilion Roof construction begins
January 15	Interior improvements to grandstand begin (demo, paint)
January 22	First pieces of damaged roof removed; new pieces of insulation and roof begin to be installed
Feb 2	Stable area construction begins
April 1	Grandstand roof completed Club level and suite level interior repairs begin
April 6	Stable Area Construction Project completed
April 13	Stable Area opens for horses
April 15	Tote Boards installed Simulcast operations return to grandstand (paddock level only)
April 16	SHRP opens for training
April 30	Grandstand interior repairs completed
May 1	Live Racing returns

**Sam Houston Race Park  
Selected Photos – updated January 20, 2009**

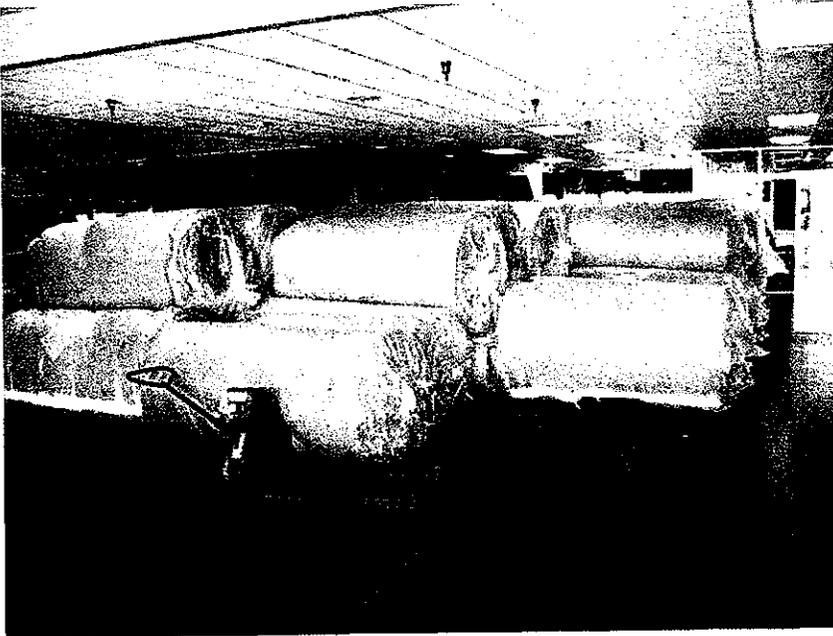


**Simulcast  
Operations in the  
Pavillon Center**

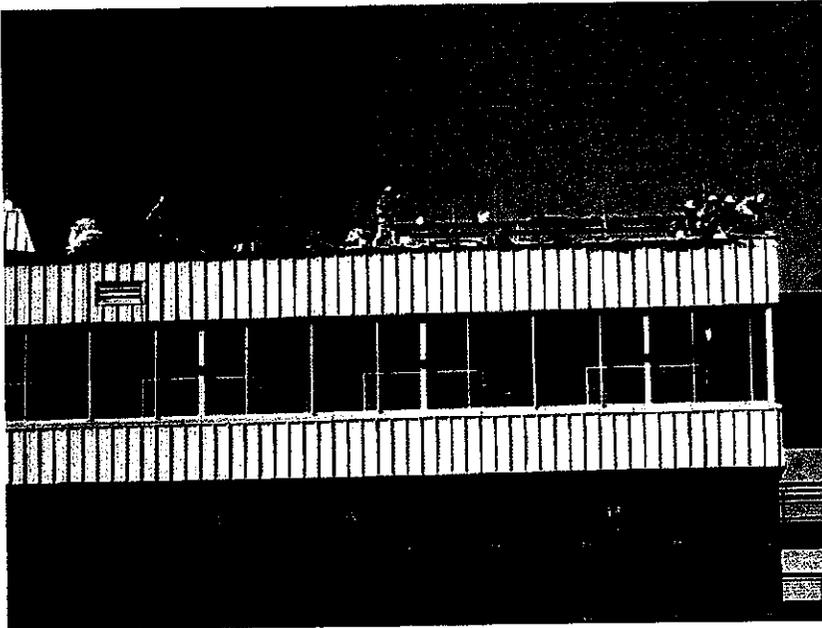


**Large  
Crane/Staging  
Area at Loading  
Dock for Roof  
Repairs and  
removal**

**Sam Houston Race Park  
Selected Photos – updated January 20, 2009**



**Insulation  
Staging Area  
Inside  
grandstand**



**Working Roof  
Photo**



**TEXAS RACING COMMISSION**

**P. O. Box 12080  
Austin, TX 78711-2080  
(512) 833-6699  
Fax (512) 833-6907**

February 12, 2009

Rick Pimentel  
General Manager  
Corpus Christi Greyhound Race Track  
P.O. Box 9087  
Corpus Christi, TX 78469

Via U.S.mail & fax: 361-289-0522

Re: Inspection of Corpus Christi Greyhound Race Track

Dear Rick:

On February 5, 2009, Texas Racing Commission staff conducted an inspection of the Corpus Christi Greyhound Race Track's facilities to evaluate the progress of repairs and renovations made since the May 6, 2008 inspection.

A walk-through of the grandstand and kennel area showed that significant work has been done to clean up and repair the grandstand and kennel buildings. The facilities were clean and freshly painted. Grass and weeds have been mowed and the area was free of trash and abandoned vehicles. Efforts to improve the appearances of the facilities and ready the grandstand for simulcast wagering were very apparent.

The Live-side operations of the racetrack still need attention. Kennel buildings need more work before they will be ready for greyhounds to occupy. The racing surface and associated equipment continue to deteriorate from the environment and still require extensive renovation. Corpus Christi Greyhound Race Track management should continue to submit "Deficiency Status Schedules" to the Texas Racing Commission on a regular basis.

Following is a summary of inspection notes for each area:

**Administrative Operations**

- Facilities are clean and freshly painted.
- Water leaks in the fire sprinkler system have been repaired.
- Mold and mildew have been removed.
- Air conditioning system was operating.

**Pari-mutuel/ Simulcasting Operations**

- Tote room is still adequate for future use.

**Live Racing Operations**

- Tote board needs major repair.
- Track surface is deteriorating due to environment.
- Starting Boxes, Escapes, and Lure are deteriorating due to the environment.

**Animal Health and Safety/Drug Testing Operations**

- Commission Veterinarian's office was locked and unavailable for inspection.
- Lockout kennels still need repairs.
- Walkway from kennel compound needs roof repairs.
- Turnout pens need repairs.
- Roofs have been repaired on 18 kennel buildings.
- Exteriors have been repaired on 8 kennel buildings.
- Interiors of kennels have been cleaned, but not repaired for occupancy.
- Only 11 kennels are being prepared for occupancy.

**Safety and Security**

- Lighting in parking lots and kennel areas is satisfactory for current operations.
- Inoperative lights must be replaced or repaired prior to simulcast operations.
- Breathalyzer must be re-certified prior to simulcast operations.

Enclosed for your review are the signed inspection forms. If you have any questions please call me at 512-490-4024.

Respectfully yours,



Carol Olewin  
Compliance Audit Administrator

cc: Sally Briggs  
CCGP File

RECEIVED  
TEXAS RACING  
COMMISSION

# CORPUS CHRISTI GREYHOUND RACE TRACK

P.O. Box 9087 • Corpus Christi, Texas 78469 • (512) 289-9333 W 2008/12/31 1:26

December 30, 2008

Mr. Sammy Jackson  
Deputy Director of Finance & Regulatory Control  
Texas Racing Commission  
P.O. Box 12080  
Austin, TX 78711-2080

Dear Sammy,

I am submitting my "Deficiency Status Schedule" as requested by the calendar set by the TRC for scheduled date December 31, 2008.

Work continues at a steady pace but as we develop estimates for repairs the severity of the repairs are larger than we had anticipated. Also, some of the qualified contractors are rare locally so I have had to look to the San Antonio area for additional help for some items.

If you have any questions, please do not hesitate to call me.

Sincerely,



Rick Pimentel  
General Manager

Cc: Charla Ann King, Executive Director  
Carol Olewin, Compliance Audit & Inspection Administrator  
Racetrack File  
Juan Fra

**SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES**

Kennel Building # 1	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	
<b>Kennel Building # 2</b>				
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

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## SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 3	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	
Kennel Building # 4				
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

**SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES**

Kennel Building # 5	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

Kennel Building # 6	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 7	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	
<b>Kennel Building # 8</b>				
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

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## SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 9	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	
Kennel Building # 10	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 11	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

Lockout Kennel Building	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Have latches on all cage doors been replaced?	NO	0%	FEB. '10	

12-11

**SCHEDULE B: SPRINT PATH DEFICIENCIES**

<b>Sprint Path # 1</b>				
<b>Specific Deficiency</b>	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET

<b>Sprint Path # 2</b>				
<b>Specific Deficiency</b>	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET

<b>Sprint Path # 3</b>				
<b>Specific Deficiency</b>	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET

<b>Sprint Path # 4</b>				
<b>Specific Deficiency</b>	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET

**Notes:**  
 Rule §309.314 *Sprint Paths* states that an association shall provide, for every three kennel buildings, a sprint path located adjacent to the kennel compound area. Based on Corpus Christi Greyhound Race Track's (CCGRT) letter issued to the Commission on May 27, 2008, CCGRT stated it would be completing renovations on eleven kennel buildings. As such, four sprint paths would need to be renovated to comply with §309.314.

SCHEDULE C: KENNEL COMPOUND DEFICIENCIES

Walkway from kennel compound.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency 1) Has roof over walkway been completely repaired?	NO	0%	UNDECIDED	We have rcv'd our lowest bid for this project at \$250,000. Due to the high expense and also considering the lack of use of walkway, we are asking for an exemption to Rule 309.310

Lighting in the kennel compound.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency 1) Has all non-functioning security lighting in the kennel compound area been replaced?	NO	0%	3 MOS.	3 MOS. PRIOR TO LIVE RACE MEET

**SCHEDULE D: TRACK SURFACE AND TRACK EQUIPMENT DEFICIENCIES**

Track Surface.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has all damaged pad under the surface been repaired or replaced?	NO	60%	OCTOBER '09	
2) Has the track surface been renovated?	NO	50%	APRIL '10	
3) Has all damaged track railing been replaced?	NO	0%	4 MOS.	4 MOS. PRIOR TO LIVE RACE MEET
4) Has all damaged track-fence been repaired or replaced?	NO	0%	SEPT. '09	

Track Equipment.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the race results display board been repaired and painted?	NO	0%	JULY '09	
2) Have the escape area curtains been replaced?	YES			
3) Have the pads on the wall in the escape area been replaced?	NO	0%	SEPT. '09	

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SCHEDULE E: PUBLIC AREA & REGULATORY OFFICE DEFICIENCIES

Public Area.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Have the water leaks in grandstand and clubhouse been repaired?	NO	60%	Amended 12/31/08 LATE JAN. '09	Larger add'l leaks were identified and must be sent out for bids.
2) Have the damaged ceiling tiles in the grandstand and clubhouse been replaced?	NO	75%	Amended 12/31/08 LATE JAN. '09	Have rcv'd 2 bids for sprinkler leaks and awaiting bids for roof leaks.
3) Has the damaged carpet in the grandstand and clubhouse been replaced?	NO	20%	FEBRUARY '09	Carpeting has been removed in areas to be replaced.
4) Have the non-functioning security lights on the parking lots been replaced?	NO	30%	MARCH '09	

Regulatory Office Area.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Have the water leaks in the judges tower office been repaired?	YES			
2) Have the damaged ceiling tiles in the judges tower office been replaced?	YES			
3) Has the mold in the judges tower office been cleaned up?	YES			
4) Has the air-conditioning unit in the judges tower office been repaired?	NO	30%	JANUARY '09	



# Deficiency Status Analysis As of December 30, 2008 For Corpus Christi Greyhound Race Track

Kennel Building Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
		0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
1.) Kennel building roof has been repaired or replaced:	Yes																				n/a	8/31/2008
2.) Ceiling tiles have been inspected and damaged tiles replaced:	No																				None	n/a
3.) Air-conditioning ducts have been repaired or replaced:	No																				None	n/a
4.) Air-conditioning units have been repaired or replaced:	No																				None	n/a
5.) Turnout pen's gates and post have been replaced:	No																				None	n/a
6.) Rusted doors have been replaced:	No																				None	n/a
Notes: Corpus Christi Greyhound Race Track has stated that they would need eleven (11) kennel buildings to accommodate the kennel owners and greyhounds needed to conduct their meet. The deficiency status reported above reflects the status of work completed on all eleven kennel buildings.																						

Lockout Kennel Building Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
		0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
1.) Latches on all cage doors have been replaced:	No																				None	n/a

Sprint Path Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
		0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
1.) Sprint path has been completely renovated:	No																				None	n/a
Notes: Corpus Christi Greyhound Race Track will need four (4) sprint paths to accommodate eleven kennel buildings. The deficiency status reported above reflects the status of work completed on all four sprint paths.																						

Kennel Compound Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
		0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
1.) Roof over walkway has been completely repaired:	No																				None	n/a
2.) All non-functioning security lighting has been replaced:	No																				None	n/a

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**Deficiency Status Analysis  
As of December 30, 2008  
For Corpus Christi Greyhound Race Track**

Track Surface Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed												Change In Project	Completed Date										
		0	5	10	15	20	25	30	35	40	45	50	55			60	65	70	75	80	85	90	95	100	
1.) Damaged pad under the surface has been repaired or replaced:	No																							None	n/a
2.) Track surface has been renovated:	No																							None	n/a
3.) Damaged track railing has been replaced:	No																							None	n/a
4.) Damaged track fencing has been repaired or replaced:	No																							None	n/a

Track Equipment Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed												Change In Project	Completed Date										
		0	5	10	15	20	25	30	35	40	45	50	55			60	65	70	75	80	85	90	95	100	
1.) Race results board has been repaired and painted:	No																							None	n/a
2.) Escape area curtains have been replaced:	Yes																							n/a	8/31/2008
3.) Pads on the walls in the escape area have been replaced:	No																							None	n/a

Public Area Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed												Change In Project	Completed Date										
		0	5	10	15	20	25	30	35	40	45	50	55			60	65	70	75	80	85	90	95	100	
1.) Leaks in the grandstand and clubhouse have been repaired:	No																							None	n/a
2.) Damaged ceiling tiles in public area have been replaced:	No																							+ 35%	n/a
3.) Damaged carpet in public area has been replaced:	No																							None	n/a
4.) Non-functioning security lights have been replaced:	No																							None	n/a

1V-20



The following information was previously provided in the  
October 7, 2008, meeting materials.



**TEXAS RACING COMMISSION**  
**P. O. Box 12080**  
**Austin, TX 78711-2080**  
**(512) 833-6699**  
**Fax (512) 833-6907**

Date: September 29, 2008  
To: Commissioners  
From:  Sammy Jackson, Deputy Director Finance & Regulatory Control  
RE: Corpus Christi Greyhound Race Date Requests for 2009 & 2010

At the August 5, 2008, Commission Meeting, the Corpus Christi Greyhound Race Track (CCGRT) race date request for 2009 & 2010 was voted unanimously to be tabled until the October 7, 2008, Commission Meeting. Additionally, Commissioners requested that CCGRT officials submit a business plan on reopening the track for live racing and asked staff to clarify current authority in terms of greyhound purse accounts and earned purse money. The following documents have been prepared in response to this request:

- (1) CCGRT Business Plan To Reopen,
- (2) CCGRT Amended 2009 & 2010 Race Date Request,
- (3) Purse Allocations & Greyhound Purse Account Authority, and
- (4) CCGRT 2008 Deficiency Status Analysis.

CCGRT officials have submitted a business plan that proposes CCGRT begin simulcast operations on September 1, 2009, and live racing on July 1, 2010. This proposal is different from the race date request submitted at the August 5<sup>th</sup> Commission meeting in that this new proposal results in five fewer months of simulcasting operations before the proposed opening day of live racing on July 1, 2010. The business plan states that CCGRT has invested over \$300,000 to date in the facility since its closure on December 31, 2007, with the majority of the investment being made on kennel building repairs. The business plan calls for an additional investment of \$400,000 to be expended over the next year on the repair and upgrade of the grandstand and clubhouse interior. Additionally as part of their business plan, CCGRT has submitted schedules outlining re-opening timelines and purse computations/projections.

Amended 2009 and 2010 race date request applications have also been submitted. The amended race date requests are necessary because the business plan reflects five fewer months of simulcasting in calendar year 2009.

Staff has prepared documentation detailing current statutory authority that addresses greyhound purse account allocation from simulcasting and Texas Racing Commission Rules of Racing authority addressing greyhound purse account balances. Staff believes

this document will help answer questions on what would happen to accrued purse money at a greyhound racetrack if the racetrack was unable to run its live meet.

Staff has prepared an analysis of CCGRT facility deficiencies as of August 31, 2008. To help streamline reporting of work performed at CCGRT facility on deficiencies reported during the May 6, 2008 inspections, staff developed "Deficiency Status Reporting Schedules" for CCGRT officials. The first of these deficiency schedules was received on September 5, 2008 and staff has requested that CCGRT officials submit an update every sixty days so staff can monitor the progress being made. The charts as updated will show the progression of the work performed by CCGRT at each reporting interval.

If I can answer any questions, please contact me at 512-833-6699.

Cc: Charla Ann King, Executive Director  
Mark Fenner, General Counsel



## CORPUS CHRISTI BUSINESS PLAN

Current plans call for the resumption of simulcast operations at Corpus Christi beginning on September 1, 2009. The date was chosen to coincide with the licensing period and to permit the maximum time period to build up purses through simulcasting. [see estimated purses below] Live racing is scheduled to resume in July of 2010. The past 9 months have been spent cleaning and repairing the facility with a goal of substantial completion by July of 2009. Initial efforts were focused on kennel buildings and the kennel compound. This process has resulted in a full refurbishment of all the expected active kennel buildings. Grounds have been cleared and cleaned of discarded equipment and the general overgrowth of the area has been eliminated. The past few months we have turned our attention to the interior of the clubhouse and grandstand. Painting and cleaning of interiors continues to be the focus of our efforts. The interior refurbishment has included new bathroom tiles, new ceiling tiles, and new painting. The facility will be ready to greet our returning patrons who will enjoy the upgrades and improvements. Over \$300,000 has been invested to date in the refurbishment of the venue. Monies to date have primarily been used for kennel and exterior repairs and improvements. Plans call for an additional \$400,000 to be expended before September 1, 2009. These funds will be used to repair and upgrade interiors of the clubhouse and grandstand in advance of the facility reopening for simulcasting and ultimately the return of live racing. All interior areas will be targeted including cleaning, painting, roofing, and ceiling repairs in all public areas.

## MARKETING

The resumption of simulcasting in September of 2009 will allow us to welcome back our core customers and begin both accruing purses for our live meet as well as distributing monies to greyhound, thoroughbred, and quarter horse interests. The simulcasting period will be equal to the "soft" opening of a new facility. We will bring back many of our former employees as well as hire and train new staff ready to provide upgraded customer service. The bulk of our marketing and advertising dollars will be spent on promoting the live race meet. A shorter meet will allow us to concentrate more money over a shorter period of time making a far greater impact in the market. Print, radio, direct mail, and billboard advertising will all be used to announce the reopening of the facility. Earned media will also play a major role as the venue reopening has and will continue to be a major news story in the local area. Upgraded customer service will aid in the retention of returning former customers and a concentrated effort on attracting new visitors to the track. A clean freshly painted facility will greet old and new patrons alike. An upbeat advertising campaign and limited opportunities to see and enjoy live racing will be the call to action. The success of shorter boutique type meets is evident with Saratoga and Del Mar being prime examples in the thoroughbred world. Longer meets like that at Calder Racecourse in Miami have seen double digit declines that have led to forced reductions in live race days. Less is indeed more and the shorter meet allows more spending over a concentrated time period that will yield better results. The goal is to create a demand for the product and then have the on track experience be positive. We believe we are positioned to make this happen and to begin rebuilding a new fan base for greyhound racing in Corpus Christi.

# CCGRT Re-Opening Timeline

## January 2009

1. A/C check and clean - Inspect, clean; blower units, filters, coils. Repair any units not working
2. Seat repair - Clean and repair grandstand seating

## February 2009

1. Exterior cleaning & paint (main building) - power wash building and paint needed areas
2. Exterior lighting - Repair exterior lighting

## March 2009

1. Plumbing - Check and repair all restroom, bar & kitchen facilities

## April 2009

1. Tile floors - strip and refinish tile floors
2. Paint and refinish (1) - paint required areas, refinish wood work needing attention

## May 2009

1. Paint and refinish (2) - paint required areas, refinish wood work needing attention
2. Carpeting - clean and re-stretch carpeting in C/H, remove and replace carpeting in G/S

## June 2009

1. Ceiling tiles - replace discolored and damaged ceiling tiles throughout main building
2. Parking lot - Seal and stripe parking spaces

## July 2009

1. Lower level East side G/S - remove and replace for new "Kids Zone"
2. Tote board - remove and replace rotten wood. Paint and re-letter tote board

## August 2009

1. Paint Trackside- Paint all trackside items i.e.; tote board, fence
2. Make ready-General cleaning for re-opening tie up loose ends in any lagging projects

## September 2009

### September 1, 2009 Simulcast Grand Re-opening

1. Track Fencing-Remove and replace needed areas of fencing

## October 2009

1. Track Railing- Repair track railing

## November 2009

1. Curtain-Catch curtain needs to be relocated
2. Turnout pen's-Replace and or repair turnout pen's gates and posts

## December 2009

1. Kennel Compound Doors-Replace rusted kennel compound doors
2. Starting Boxes-Replace and/or repair to make operational

## January 2010

1. Tile & Carpet Paddock - Re-do tile and carpet in paddock offices
2. Clean & Paint Paddock - Power wash building and paint needed areas

## **February 2010**

1. Paddock Lockouts - repair 200+crates and doors from rust and pitting

## **March 2010**

1. A/C duct and unit - Repair or replace a/c ducts and units in all designated kennels
2. Covered walkway - Replace damaged walkway

## **April 2010**

1. Kennel ceiling tile- Repair or replace damaged ceiling tiles
2. Compound Guard shack - repair and paint kennel compound guard shack (plumbing, etc.)

## **May 2010**

1. Track surface - Rework and renovate track surface
2. Monday May 24th Kennel compound opens to receive dogs

## **June 2010**

1. Make ready-General cleaning for re-opening of live meet and tie up any loose ends.
2. Begin official schoolings on June 22,25,29

## **July 2010**

**July 2, 2010/ Opening Day Live Meet**

## HOW PURSES AND POINT VALUE ARE CALCULATED

Purses are computed and paid out on a weekly basis during our live racing meet. We are projecting \$14,000 per performance live handle, which at our proposed five performances per week would give us a total of \$70,000 weekly live handle, and \$20,000 daily greyhound simulcast handle, which at our proposed seven day per week simulcasting schedule would give us a total of \$140,000 weekly greyhound simulcast handle. The percentage of the live handle that goes to purses is 4.7% while the percentage from simulcasting is currently 4%. So if we were to begin live racing and simulcasting on the same date, the weekly purse and point value would be as follows:

$$\begin{array}{r} 4.7 \% \text{ of } \$70,000 = \$3,290 \\ + \\ \hline 4\% \text{ of } \$140,000 = \$5,600 \\ \text{Weekly purse} \quad \$8,890 \\ \text{Point value} \quad \$16.93 \end{array}$$

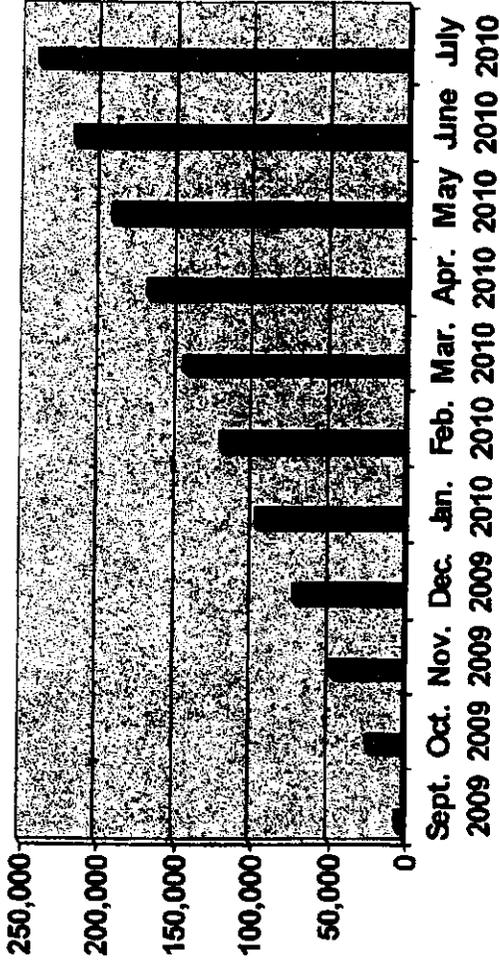
This gives us a total weekly purse of \$8,890. The weekly purse is then divided by the total number of points per week which we are projecting to be 525. Therefore \$8,890 divided by 525 equals a \$16.93 point value.

Our proposal asks for simulcasting to begin September 1, 2009 and live racing to begin July 2, 2010. This proposal gives us 300 days to accumulate extra purse money from greyhound simulcast handle. 300 days at \$20,000 greyhound simulcast handle per day equals \$6,000,000 in greyhound simulcast handle, from which 4% would give us \$240,000 to add to our purses for the duration of our live meet. To distribute in an even fashion, since our proposed live meet is nine weeks, we would divide \$240,000 by nine which gives us \$26,666 added purse every week of our live racing meet. Adding that \$26,666 to our normal weekly purse of \$8,890 now gives us a total weekly purse of \$35,556. Divide that by 525 (our projected points) and we now have a projected point value of \$67.72 for the duration of our live meet.

$$\begin{array}{r} 4.7 \% \text{ of } \$70,000 = \$3,290 \\ + \\ 4\% \text{ of } \$140,000 = \$5,600 \\ + \\ \hline \text{Added purse} \quad \$26,666 \\ \text{Weekly purse} \quad \$35,556 \\ \text{Point value} \quad \$67.72 \end{array}$$

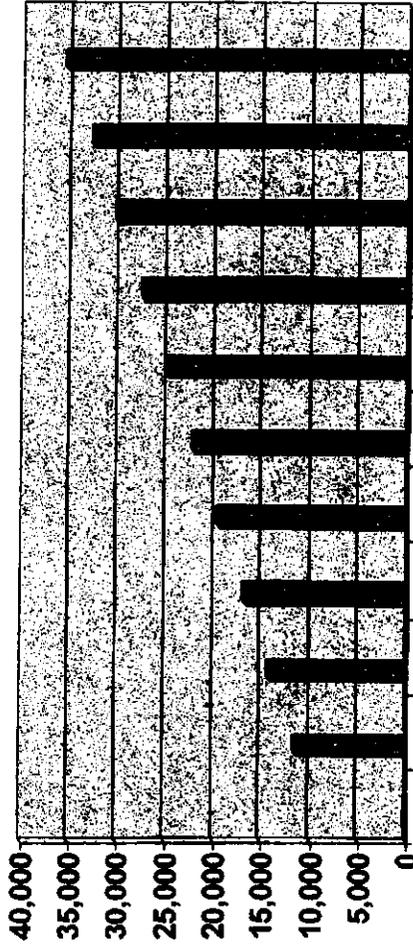
Accumulated Purse from Simulcasting

<u>Sept. 1, 2009</u>	<u>0</u>	<u>Sept. 1, 2009</u>	<u>0</u>
<u>Oct. 1, 2009</u>	<u>\$24,000</u>	<u>Oct. 1, 2009</u>	<u>\$24,000</u>
<u>Nov. 1, 2009</u>	<u>\$48,000</u>	<u>Nov. 1, 2009</u>	<u>\$48,000</u>
<u>Dec. 1, 2009</u>	<u>\$72,000</u>	<u>Dec. 1, 2009</u>	<u>\$72,000</u>
<u>Jan. 1, 2010</u>	<u>\$96,000</u>	<u>Jan. 1, 2010</u>	<u>\$96,000</u>
<u>Feb. 1, 2010</u>	<u>\$120,000</u>	<u>Feb. 1, 2010</u>	<u>\$120,000</u>
<u>Mar. 1, 2010</u>	<u>\$144,000</u>	<u>Mar. 1, 2010</u>	<u>\$144,000</u>
<u>April 1, 2010</u>	<u>\$168,000</u>	<u>April 1, 2010</u>	<u>\$168,000</u>
<u>May 1, 2010</u>	<u>\$192,000</u>	<u>May 1, 2010</u>	<u>\$192,000</u>
<u>June 1, 2010</u>	<u>\$216,000</u>	<u>June 1, 2010</u>	<u>\$216,000</u>
<u>July 1, 2010</u>	<u>\$240,000</u>	<u>July 1, 2010</u>	<u>\$240,000</u>



Weekly Silmucast Purse

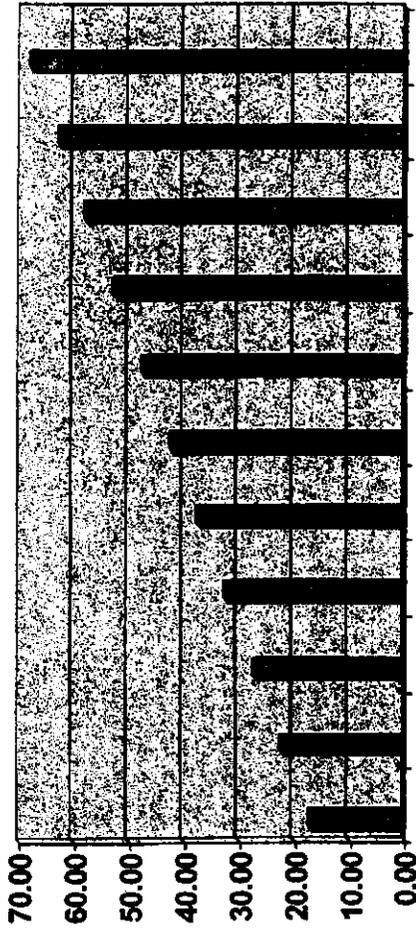
<u>Sept. 1, 2009</u>	<u>Oct. 1, 2009</u>	<u>Nov. 1, 2009</u>	<u>Dec. 1, 2009</u>	<u>Jan. 1, 2010</u>	<u>Feb. 1, 2010</u>	<u>Mar. 1, 2010</u>	<u>April 1, 2010</u>	<u>May 1, 2010</u>	<u>June 1, 2010</u>	<u>July 1, 2010</u>
0	\$11,556	\$14,223	\$16,890	\$19,556	\$22,223	\$24,890	\$27,556	\$30,223	\$32,890	\$35,556



Sept. Oct. Nov. Dec. Jan. Feb. Mar. Apr. May June July  
2009 2009 2009 2010 2010 2010 2010 2010 2010 2010

Point Value

Sept. 1, 2002	16.93	Oct. 1, 2002	22.01	Nov. 1, 2002	27.09	Dec. 1, 2009	32.17	Jan. 1, 2010	37.24	Feb. 1, 2010	42.32	Mar. 1, 2010	47.40	April 1, 2010	52.48	May 1, 2010	57.86	June 1, 2010	62.64	July 1, 2010	67.72
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Sept. Oct. Nov. Dec. Jan. Feb. Mar. Apr. May June July  
2009 2009 2009 2009 2010 2010 2010 2010 2010 2010 2010

**TEXAS RACING COMMISSION  
REQUEST FOR LIVE RACE DATES  
GREYHOUND RACETRACKS - 2009**

**INSTRUCTIONS:** Print or type the information requested in each section and attach all required documents and additional sheets if necessary. The Commission will not consider an incomplete request. The request must be filed at the Commission's Austin office no later than 5:00 p.m. on Thursday, July 3, 2008.

**I. Schedule Requested**

Name of Racetrack: Corpus Christi Greyhound Race Track

Opening Day: 09 / 01 / 2009 Closing Day: 12 / 31 / 2009

Number of Performances per week scheduled for five or more races 0

Projected Number of Races per Performance \_\_\_\_\_

Number of Performances per week scheduled for fewer than five races 0

Projected Number of Races per Performance \_\_\_\_\_

**TOTAL NUMBER OF PERFORMANCES REQUESTED** 0

**II. Charity Days**

Indicate which days are designated as charity days:

*DESIGNATED BY RULE*

(1) A charity that directly benefits the persons who work on the backside:

/ / 2009 for \_\_\_\_\_  
(Name of Charity)

(2) A charity that primarily benefits research into the health or safety of race animals:

/ / 2009 for \_\_\_\_\_  
(Name of Charity)

**For each charity listed, attach the following information:**

1. A brief description of the activities or purposes of the charity.
2. The name and address of each individual who serves as an officer or director.
3. A copy of an IRS letter of determination that qualifies the charity as an exempt organization for federal income tax purposes.

**III. Dates Requested**

Indicate on the attached calendar each live race performance requested with a

- "M" denoting a Matinee performance with five or more races;
- "AM" denoting an Abbreviated Matinee with fewer than five races;
- "E" denoting an Evening performance with five or more races; or
- "AE" denoting an Abbreviated Evening performance with fewer than five races.
- "S" denoting a Simulcast performance

Include standard post time for each performance in space provided on calendar. Any exceptions, such as on holidays, should be noted.

**IV. Certificate of Service**

I hereby certify that on September 16, 2008, a true and correct copy of this request was sent to the persons listed below by:

- Certified Mail R.R.R.
- Regular Mail
- Facsimile
- Hand Delivery

*Ricardo Pimentel* General Manager  
 Signature Title

Corpus Christi Greyhound Race Track  
 c/o Rick Pimentel  
 General Manager  
 5302 Leopard Street  
 Corpus Christi, TX 78408

Gulf Greyhound Park  
 c/o Sally Briggs, General Manager  
 1000 FM 2004  
 La Marque, TX 77568-0488

Valley Race Park  
 c/o Bob Bork, General Manager  
 2601 South Ed Carey Drive  
 Harlingen, TX 78552

**Corpus Christi Greyhound Race Track**  
 (Name of Racetrack)  
**Requested Live Race Dates for 2009**

JANUARY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 New Year's Day	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26 Martin Luther King	27	28	29	30	31

FEBRUARY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Super Bowl Sunday	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23 Presidents' Day	24	25	26	27	28

MARCH						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15 Daylight Savings Begins	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

**Corpus Christi Greyhound Race Track**  
 (Name of Racetrack)  
**Requested Live Race Dates for 2009**

APRIL						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19 Easter	20	21	22	23	24	25
26	27	28	29	30		

MAY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2 Kentucky Derby
3	4	5	6	7	8	9
10	11	12	13	14	15	16 Preakness
17	18	19	20	21	22	23
24	25 Memorial Day	26	27	28	29	30
31						

JUNE						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6 Belmont
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**Corpus Christi Greyhound Race Track**  
 (Name of Racetrack)  
**Requested Live Race Dates for 2009**

JULY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4 Independence Day
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

AUGUST						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

SEPTEMBER						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 S Opening Day	2 S	3 S	4 S	5 S
6 S	7 S Labor Day	8 S	9 S	10 S	11 S	12 S
13 S	14 S	15 S	16 S	17 S	18 S	19 S Rosh Hashanah
20 S	21 S	22 S	23 S	24 S	25 S	26 S
27 S	28 S Yom Kippur	29 S	30 S			

Corpus Christi Greyhound Race Track  
 (Name of Racetrack)  
 Requested Live Race Dates for 2009

<b>OCTOBER</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 S	2 S	3 S
4 S	5 S	6 S	7 S	8 S	9 S	10 S
11 S	12 S Columbus Day	13 S	14 S	15 S	16 S	17 S
18 S	19 S	20 S	21 S	22 S	23 S	24 S
25 S	26 S	27 S	28 S	29 S	30 S	31 S

<b>NOVEMBER</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 S Daylight Savings Ends	2 S	3 S	4 S	5 S	6 S Breeder's Cup	7 S Breeder's Cup
8 S	9 S	10 S	11 S Veterans Day	12 S	13 S	14 S
15 S	16 S	17 S	18 S	19 S	20 S	21 S
22 S	23 S	24 S	25 S	26 DARK Thanksgiving	27 S	28 S
29 S	30 S					

<b>DECEMBER</b>						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 S	2 S	3 S	4 S	5 S
6 S	7 S	8 S	9 S	10 S	11 S	12 S Hanukkah
13 S	14 S	15 S	16 S	17 S	18 S	19 S
20 S	21 S	22 S	23 S	24 DARK Christmas Eve	25 DARK Christmas	26 S
27 S	28 S	29 S	30 S	31 S New Years Eve		

**TEXAS RACING COMMISSION  
REQUEST FOR LIVE-RACE DATES  
GREYHOUND RACETRACKS - 2010**

**INSTRUCTIONS:** Print or type the information requested in each section and attach all required documents and additional sheets if necessary. The Commission will not consider an incomplete request. The request must be filed at the Commission's Austin office no later than 5:00 p.m. on Thursday, July 3, 2008.

**I. Schedule Requested**

Name of Racetrack: Corpus Christi Greyhound Race Track

Opening Day: 07 / 02 / 2010 Closing Day: 08 / 31 / 2010

Number of Performances per week scheduled for five or more races 5

Projected Number of Races per Performance 13

Number of Performances per week scheduled for fewer than five races \_\_\_\_\_

Projected Number of Races per Performance \_\_\_\_\_

**TOTAL NUMBER OF PERFORMANCES REQUESTED** 43

**II. Charity Days**

Indicate which days are designated as charity days:

*DESIGNATED BY RULE*

(1) A charity that directly benefits the persons who work on the backside:

07 / 02 / 2010 for Texas Greyhound Association  
(Name of Charity)

(2) A charity that primarily benefits research into the health or safety of race animals:

07 / 16 / 2010 for Texas A & M Veterinarian College  
(Name of Charity)

07 / 30 / 2010 for Women's Shelter of Corpus Christi, Texas  
(Name of Charity)

08 / 13 / 2010 for The Ark - Catholic Charity for Abused Children  
(Name of Charity)

08 / 27 / 2010 for Family Outreach of Corpus Christi, Texas  
(Name of Charity)

For each charity listed, attach the following information:

1. A brief description of the activities or purposes of the charity.
2. The name and address of each individual who serves as an officer or director.
3. A copy of an IRS letter of determination that qualifies the charity as an exempt organization for federal income tax purposes.



**Corpus Christi Greyhound Race Track**  
 (Name of Racetrack)  
**Requested Live Race Dates for 2010**

JANUARY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 S New Year's Day	2 S
3 S	4 S	5 S	6 S	7 S	8 S	9 S
10 S	11 S	12 S	13 S	14 S	15 S	16 S
17 S	18 S Martin Luther King	19 S	20 S	21 S	22 S	23 S
24 S	25 S	26 S	27 S	28 S	29 S	30 S
31 S						

FEBRUARY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 S	2 S	3 S	4 S	5 S	6 S
7 S	8 S	9 S	10 S	11 S	12 S	13 S
14 S	15 DARK Presidents' Day	16 S	17 S	18 S	19 S	20 S
21 S	22 S	23 S	24 S	25 S	26 S	27 S
28 S						

MARCH						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 S	2 S	3 S	4 S	5 S	6 S
7 S Daylight Savings Begins	8 S	9 S	10 S	11 S	12 S	13 S
14 S Daylight Savings Begins	15 S	16 S	17 S	18 S	19 S	20 S
21 S	22 S	23 S	24 S	25 S	26 S	27 S
28 S	29 S	30 S	31 S			

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Corpus Christi Greyhound Race Track  
 (Name of Racetrack)  
 Requested Live Race Dates for 2010

APRIL						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 S	2 S	3 S
4 DARK Easter	5 S	6 S	7 S	8 S	9 S	10 S
11 S	12 S	13 S	14 S	15 S	16 S	17 S
18 S	19 S	20 S	21 S	22 S	23 S	24 S
25 S	26 S	27 S	28 S	29 S	30 S	

MAY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 S Kentucky Derby
2 S	3 S	4 S	5 S	6 S	7 S	8 S
9 S	10 S	11 S	12 S	13 S	14 S	15 S Preakness
16 S	17 S	18 S	19 S	20 S	21 S	22 S
23 S	24 S	25 S	26 S	27 S	28 S	29 S
30 S	31 S Memorial Day					

JUNE						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 S	2 S	3 S	4 S	5 S Belmont
6 S	7 S	8 S	9 S	10 S	11 S	12 S
13 S	14 S	15 S	16 S	17 S	18 S	19 S
20 S	21 S	22 S	23 S	24 S	25 S	26 S
27 S	28 S	29 S	30 S			

IV-4i

Corpus Christi Greyhound Race Track  
 (Name of Racetrack)  
 Requested Live Race Dates for 2010

JULY						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 E S <i>Opening Day</i>	2 E S	3 E S
4 M S <i>Independence Day</i>	5 S	6 S	7 E S	8 E S	9 E S	10 E S
11 M S	12 S	13 S	14 E S	15 E S	16 E S	17 E S
18 M S	19 S	20 S	21 E S	22 E S	23 E S	24 E S
25 M S	26 S	27 S	28 E S	29 E S	30 E S	31 E S

AUGUST						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 M S	2 S	3 S	4 E S	5 E S	6 E S	7 E S
8 M S	9 S	10 S	11 E S	12 E S	13 E S	14 E S
15 M S	16 S	17 S	18 E S	19 E S	20 E S	21 E S
22 M S	23 S	24 S	25 E S	26 E S	27 E S	28 E S <i>Closing Day</i>
29 S	30 S	31 S				



## Simulcast Purse Allocations & Greyhound Purse Account Authority

**Texas Racing Act § 11.011. Simulcast Races.**

(1) Notwithstanding other provisions of law, a greyhound racing association and the state greyhound breed registry shall by contract agree that each simulcast contract to which the greyhound racing association is a party, including a simulcast contract with a horse racing association or a simulcast contract with another greyhound racing association, include terms that provide adequately for the development of greyhound racing, breeding, purses, and any actual or potential loss of live racing handle based on the association's historical live racing schedule and handle in this state. If a greyhound racing association and the state greyhound breed registry fail to reach an agreement, the racing association or the breed registry may submit the contract negotiations for binding arbitration under Chapter 171, Civil Practice and Remedies Code, and rules adopted by the commission. The arbitration must be conducted by a board of three arbitrators. The greyhound racing association shall appoint one arbitrator. The state greyhound breed registry shall appoint one arbitrator. The arbitrators appointed by the greyhound racing association and the state greyhound breed registry shall appoint the third arbitrator. A greyhound racing association and the state greyhound breed registry shall each pay its own arbitration expenses. The greyhound racing association and the state greyhound breed registry shall equally pay the arbitrator fees and costs. This subsection does not apply to a contract that was in effect before September 2, 1997.

<b>Corpus Christi Greyhound Race Track and Texas Greyhound Association Contractual Agreements In Accordance with §11.011</b>		
<b>Contract Type</b>	<b>Contract Status</b>	<b>Comments</b>
Simulcasting Agreement	Expired: 12/31/2007	Covered purse allocations for calendar year 2007
Simulcasting Agreement	None Exist for 2008	Contract not needed with racetrack closed in 2008
Simulcasting Agreement	None Exist for 2009	Contract does not exist at this time, but both parties acknowledged the need to work on the contract during a conference call on September 12, 2008.
Simulcasting Agreement	None Exist for 2010	Contract does not exist at this time, but both parties acknowledged the need to work on the contract during a conference call on September 12, 2008.



## Simulcast Purse Allocations & Greyhound Purse Account Authority

### **Texas Rules of Racing § 309.361 Greyhound Purse Account and Kennel Account**

#### **(a) Greyhound Purse Account.**

(1) All money required to be set aside for purses, whether from wagering on live races or simulcast races, are trust funds held by an association as custodial trustee for the benefit of kennel owners and greyhound owners. No more than three business days after the end of each week's wagering, the association shall deposit the amount set aside for purses into a greyhound purse account maintained in a federally or privately insured depository.

(2) The funds derived from a simulcast race for purses shall be distributed during the 12-month period immediately following the simulcast.

#### **(b) Kennel Account.**

(1) An association shall maintain a separate bank account known as the "kennel account". The association shall maintain in the account at all times a sufficient amount to pay all money owed to kennel owners for purses, stakes, rewards, and deposits.

(2) Except as otherwise provided by these rules, an association shall pay the purse money owed from a purse race to those who are entitled to the money not later than 10 days after the date of the race and from a stakes race to those who are entitled to the money immediately after the executive secretary advises the association that all of the qualifying rounds and the final race have been cleared for payment.

(c) The Texas Greyhound Association ("TGA") shall negotiate with each association regarding the association's live racing program, including but not limited to the allocation of purse money to various live races, the exporting of simulcast signals, and the importing of simulcast signals during live race meetings.

(d) If an association fails to run live races during any calendar year, all money in the greyhound purse account may, at the discretion of the TGA, be distributed as follows:

(1) first, payment of earned but unpaid purses; and

(2) second, subject to the approval of the TGA, transfer after the above mentioned calendar year period of the balance in the purse account to the purse account for one or more other association.

(e) If an association ceases a live race meet before completion of the live race dates granted by the commission, the funds in and due the greyhound purse account shall be distributed as follows:

(1) first, payment of earned but unpaid purses;

(2) second, retroactive pro rata payments to the kennel owners; and

(3) third, subject to the approval of the TGA, transfer within 120 days after cessation of live racing of the balance in the greyhound purse account to the greyhound purse account for one or more other associations.

#### **(f) Administration of Accounts.**

(1) An association shall employ a bookkeeper to maintain records of the greyhound purse account and the kennel account.

(2) The Commission may at any time inspect, review or audit any and all transactions relating to the greyhound purse account and the kennel account.



# Deficiency Status Analysis As of October 31, 2008

## For Corpus Christi Greyhound Race Track

Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
	0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
Yes	[Bar chart showing 100% completion]																			n/a	8/31/2008
No	[Bar chart showing 0% completion]																			None	n/a
No	[Bar chart showing 0% completion]																			None	n/a
No	[Bar chart showing 0% completion]																			None	n/a
No	[Bar chart showing 0% completion]																			None	n/a
No	[Bar chart showing 0% completion]																			None	n/a

Notes: Corpus Christi Greyhound Race Track has stated that they would need eleven (11) kennel buildings to accommodate the kennel owners and greyhounds needed to conduct their meet. The deficiency status reported above reflects the status of work completed on all eleven kennel buildings.

Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
	0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
No	[Bar chart showing 0% completion]																			None	n/a

Notes: Corpus Christi Greyhound Race Track will need four (4) sprint paths to accommodate eleven kennel buildings. The deficiency status reported above reflects the status of work completed on all four sprint paths.

Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
	0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
No	[Bar chart showing 0% completion]																			None	n/a

Notes: Corpus Christi Greyhound Race Track will need four (4) sprint paths to accommodate eleven kennel buildings. The deficiency status reported above reflects the status of work completed on all four sprint paths.

Completed Yes / No	Percentage of Deficiency Project Completed																			Change In Project	Completed Date
	0	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90		
No	[Bar chart showing 0% completion]																			None	n/a
No	[Bar chart showing 0% completion]																			None	n/a

Notes: Corpus Christi Greyhound Race Track will need four (4) sprint paths to accommodate eleven kennel buildings. The deficiency status reported above reflects the status of work completed on all four sprint paths.

IV-45



**Deficiency Status Analysis**  
**As of October 31, 2008**  
**For Corpus Christi Greyhound Race Track**

Track Surface Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed											Change In Project	Completed Date									
		0	5	10	15	20	25	30	35	40	45	50			55	60	65	70	75	80	85	90	95
1.) Damaged pad under the surface has been repaired or replaced:	No																					None	n/a
2.) Track surface has been renovated:	No																					None	n/a
3.) Damaged track railing has been replaced:	No																					None	n/a
4.) Damaged track fencing has been repaired or replaced:	No																					None	n/a

Track Equipment Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed											Change In Project	Completed Date									
		0	5	10	15	20	25	30	35	40	45	50			55	60	65	70	75	80	85	90	95
1.) Race results board has been repaired and painted:	No																					None	n/a
2.) Escape area curtains have been replaced:	Yes																					n/a	8/31/2008
3.) Pads on the walls in the escape area have been replaced:	No																					None	n/a

Public Area Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed											Change In Project	Completed Date									
		0	5	10	15	20	25	30	35	40	45	50			55	60	65	70	75	80	85	90	95
1.) Leaks in the grandstand and clubhouse have been repaired:	No																					None	n/a
2.) Damaged ceiling tiles in public area have been replaced:	No																					+ 10%	n/a
3.) Damaged carpet in public area has been replaced:	No																					None	n/a
4.) Non-functioning security lights have been replaced:	No																					None	n/a

IV-46



**Deficiency Status Analysis**  
**As of October 31, 2008**  
**For Corpus Christi Greyhound Race Track**

Regulatory Office Area Deficiencies Status	Completed Yes / No	Percentage of Deficiency Project Completed										Change In Project	Completed Date												
		0	5	10	15	20	25	30	35	40	45			50	55	60	65	70	75	80	85	90	95	100	
1.) Leaks in the judges tower office have been repaired:	Yes																						n/a	8/31/2008	
2.) Damaged ceiling tiles in the judges tower office have been replaced:	Yes																							n/a	8/31/2008
3.) Mold in the judges tower office has been removed:	Yes																							n/a	8/31/2008
4.) Air-conditioning unit in judges tower office has been repaired:	No																							+ 10%	n/a

IV-47

# CORPUS CHRISTI GREYHOUND RACE TRACK

P.O. Box 9087 • Corpus Christi, Texas 78469 • (512) 289-9333 WATTS/1-800-580-RACE

October 31, 2008

Mr. Sammy Jackson  
Deputy Director of Finance & Regulatory Control  
Texas Racing Commission  
P.O. Box 12080  
Austin, TX 78711-2080

2008 OCT 31 11 09 AM

Dear Sammy,

Enclosed you will find our updated "Deficiency Status Schedule" of October 31, 2008 per your request in your letter dated October 23, 2008. I have updated the previous schedule to indicate any changes. Please also make every effort to make significant progress with the public areas in the track. The improvements and any changes are starting to come together.

If I can be of further help please call.

Sincerely,



Rick Pimentel  
General Manager

Cc: Charla Ann King, Executive Director  
Carol Olewin, Compliance Audit & Inspection Administrator  
Racetrack File

## SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 1	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency	YES			
1) Has the roof been repaired and/or replaced?	NO	0%	EARLY APRIL '10	
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	"	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	20%	LATE DEC. '09	
5) Have the turnout pen's gates and post been replaced?	NO	30%	SPRING '09	
6) Have all rusted doors in the kennel been replaced?				

Kennel Building # 2	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency	YES			
1) Has the roof been repaired and/or replaced?	NO	0%	EARLY APRIL '10	
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	"	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	20%	DEC. '09	
5) Have the turnout pen's gates and post been replaced?	NO	30%	SPRING '09	
6) Have all rusted doors in the kennel been replaced?				

SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 3	Specific Deficiency	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
	1) Has the roof been repaired and/or replaced?	YES			
	2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
	3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
	4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
	5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
	6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

Kennel Building # 4	Specific Deficiency	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
	1) Has the roof been repaired and/or replaced?	YES			
	2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
	3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
	4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
	5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
	6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

IV-50

SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 5	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

Kennel Building # 6	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

17-51

**SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES** CCGRT

<b>Kenel Building # 7</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	LATE DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

<b>Kenel Building # 8</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

## SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES

Kennel Building # 9	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

Kennel Building # 10	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

**SCHEDULE A: KENNEL BUILDINGS AND TURN OUT PEN DEFICIENCIES** CCGRT

<b>Kenel Building # 11</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Has the roof been repaired and/or replaced?	YES			
2) Have the ceiling tiles been inspected and damaged tiles replaced?	NO	0%	EARLY APRIL '10	
3) Have the air-conditioning ducts been repaired or replaced?	NO	0%	"	
4) Has the air-conditioning unit been repaired or replaced?	NO	0%	"	
5) Have the turnout pen's gates and post been replaced?	NO	20%	DEC. '09	
6) Have all rusted doors in the kennel been replaced?	NO	30%	SPRING '09	

<b>Lockout Kennel Building</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Have latches on all cage doors been replaced?	NO	0%	FEB. '10	

**SCHEDULE B: SPRINT PATH DEFICIENCIES**

**CCGRT**

<b>Sprint Path # 1</b>						
<b>Specific Deficiency</b>						
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET		

<b>Sprint Path # 2</b>						
<b>Specific Deficiency</b>						
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET		

<b>Sprint Path # 3</b>						
<b>Specific Deficiency</b>						
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET		

<b>Sprint Path # 4</b>						
<b>Specific Deficiency</b>						
1) Has sprint path been completely renovated?	NO	30%	2 MOS.	2 MOS. PRIOR TO LIVE RACE MEET		

**Notes:**

Rule §309.314 *Sprint Paths* states that an association shall provide, for every three kennel buildings, a sprint path located adjacent to the kennel compound area. Based on Corpus Christi Greyhound Race Track's (CCGRT) letter issued to the Commission on May 27, 2008, CCGRT stated it would be completing renovations on eleven kennel buildings. As such, four sprint paths would need to be renovated to comply with §309.314.

SCHEDULE C: KENNEL COMPOUND DEFICIENCIES

CCGRT

Walkway from kennel compound.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency 1) Has roof over walkway been completely repaired?	NO	0%	UNDECIDED	We have rcv'd our lowest bid for this project at \$250,000. Due to the high expense and also considering the lack of use of walkway, we are asking for an exemption to Rule 309.310

Lighting in the kennel compound.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
Specific Deficiency 1) Has all non-functioning security lighting in the kennel compound area been replaced?	NO	0%	3 MOS.	3 MOS. PRIOR TO LIVE RACE MEET

**SCHEDULE D: TRACK SURFACE AND TRACK EQUIPMENT DEFICIENCIES**

CCGRT

Track Surface.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has all damaged pad under the surface been repaired or replaced?	NO	60%	OCTOBER '09	
2) Has the track surface been renovated?	NO	50%	APRIL '10	
3) Has all damaged track railing been replaced?	NO	0%	4 MOS.	4 MOS. PRIOR TO LIVE RACE MEET
4) Has all damaged track-fence been repaired or replaced?	NO	0%	SEPT. '09	

Track Equipment.	A. Has deficiency been corrected? Yes / No	B. If No to A., What % of work has been done?	C. Estimated time to complete?	D. Comments
<b>Specific Deficiency</b>				
1) Has the race results display board been repaired and painted?	NO	0%	JULY '09	
2) Have the escape area curtains been replaced?	YES			
3) Have the pads on the wall in the escape area been replaced?	NO	0%	SEPT. '09	

**SCHEDULE E: PUBLIC AREA & REGULATORY OFFICE DEFICIENCIES**

CCGRT

<b>Public Area.</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Have the water leaks in grandstand and clubhouse been repaired?	NO	60%	Amended 10/31/08 LATE DEC. '08	Larger add'l leaks were identified and must be sent out for bids.
2) Have the damaged ceiling tiles in the grandstand and clubhouse been replaced?	NO	40%	Amended 10/31/08 EARLY JAN. '09	
3) Has the damaged carpet in the grandstand and clubhouse been replaced?	NO	20%	FEBRUARY '09	Carpeting has been removed in areas to be replaced.
4) Have the non-functioning security lights on the parking lots been replaced?	NO	30%	MARCH '09	

<b>Regulatory Office Area.</b>	<b>A. Has deficiency been corrected? Yes / No</b>	<b>B. If No to A., What % of work has been done?</b>	<b>C. Estimated time to complete?</b>	<b>D. Comments</b>
<b>Specific Deficiency</b>				
1) Have the water leaks in the judges tower office been repaired?	YES			
2) Have the damaged ceiling tiles in the judges tower office been replaced?	YES			
3) Has the mold in the judges tower office been cleaned up?	YES			
4) Has the air-conditioning unit in the judges tower office been repaired?	NO	30%	JANUARY '09	





**TEXAS RACING COMMISSION**  
**P. O. Box 12080**  
**Austin, TX 78711-2080**  
**(512) 833-6699**  
**Fax (512) 833-6907**

October 22, 2008

Rick Pimentel  
General Manager  
Corpus Christi Greyhound Race Track  
P.O. Box 9087  
Corpus Christi, Texas 78469

Subject: Deficiency Status Schedules

Dear Rick:

Per our letter of September 17, 2008, we look forward to receiving your *updated "deficiency status schedules"* as of October 31, 2008. Please have them delivered to our office by Monday, November 10, 2008.

If you have any questions, please contact me at 512-833-6699.

Sincerely,

A handwritten signature in cursive script that reads "Sammy Jackson".

Sammy Jackson

Deputy Director

cc: Charla Ann King, Executive Director  
Carol Olewin, Compliance Audit & Inspection Administrator  
Racetrack File

1V-60

1 **Sec. 309.8. Racetrack License Fees**

2 (a)-(b) (No change.)

3 (c) Annual License Fee.

4 ~~[(1) Active License Fee for State Fiscal Year Ending~~  
5 ~~August 31, 2007. An association that is licensed and that~~  
6 ~~is conducting live racing or simulcasting shall pay an~~  
7 ~~annual active license fee. The fee is due to the Commission~~  
8 ~~on April 16, 2007, for the State fiscal year ending August~~  
9 ~~31, 2007. The active license fee for a greyhound racing~~  
10 ~~association is \$80,000. The active license fee for a horse~~  
11 ~~racing association is:]~~

12 ~~[(A) for a Class 1 racetrack, \$27,500;]~~

13 ~~[(B) for a Class 2 racetrack, \$15,000; and]~~

14 ~~[(C) for a Class 3 or 4 racetrack, \$5,000.]~~

15 (1) ~~[(+2)]~~ Active License Fee for State Fiscal Years  
16 Beginning September 1, 2007, and thereafter. An association  
17 that is licensed and that is conducting live racing or  
18 simulcasting shall pay an annual active license fee. The  
19 fee is due to the Commission on January 31 of each State  
20 fiscal year. The active license fee for a greyhound racing  
21 association is \$175,000. The active license fee for a horse  
22 racing association is:

23 (A) for a Class 1 racetrack, \$45,000;

24 (B) for a Class 2 racetrack, \$15,000; and

25 (C) for a Class 3 or 4 racetrack, \$5,000.

26 (2) ~~[(+3)]~~ Inactive License Fee for State Fiscal Year  
27 Ending August 31, 2009~~[7]~~. An association that is licensed  
28 but is not conducting live racing or simulcasting shall pay  
29 an inactive license fee in two separate payments. The fee  
30 is due to the Commission on September 1, 2008 and March 15,  
31 2009 ~~[April 16, 2007]~~, for the State fiscal year ending  
32 August 31, 2009~~[7]~~. The total inactive license fee for a  
33 greyhound racing association is \$150,000 ~~[\$125,000]~~ to be  
34 paid \$125,000 on September 1, 2008 and \$25,000 on March 15,  
35 2009. The total inactive license fee for a horse racing  
36 association is:

37 (A) \$150,000 for a Class 1 racetrack, to be paid  
38 \$125,000 on September 1, 2008 and \$25,000 on March 15, 2009  
39 [\$125,000];

40 (B) \$100,000 for a Class 2 racetrack, to be paid  
41 \$75,000 on September 1, 2008 and \$25,000 on March 15, 2009  
42 [\$55,000]; and

43 (C) \$50,000 for a Class 3 or 4 racetrack, to be  
44 paid \$25,000 on September 1, 2008 and \$25,000 on March 15,  
45 2009 ~~[\$25,000]~~.

1           (3) [~~4~~] Inactive License Fee for State Fiscal Years  
2 Beginning September 1, 2010~~[7]~~, and thereafter. An  
3 association that is licensed but is not conducting live  
4 racing or simulcasting shall pay an inactive license fee.  
5 The fee is due to the Commission on September 1 of each  
6 year. The inactive license fee for a greyhound racing  
7 association is \$150,000 [~~\$125,000~~]. The inactive license fee  
8 for a horse racing association is:  
9           (A) for a Class 1 racetrack, \$150,000 [~~\$125,000~~];  
10          (B) for a Class 2 racetrack, \$100,000 [~~\$75,000~~];  
11 and  
12           (C) for a Class 3 or 4 racetrack, \$50,000  
13 [~~\$25,000~~].  
14 (d)-(e) (No change.)

1 **Sec. 309.11. Fees for Requests to Approve a Transfer of**  
2 **Pecuniary Interests**

3 (a) General Provisions. A license holder who requests  
4 Commission approval to transfer a pecuniary interest in a  
5 racetrack license must submit with the request a fee in an  
6 amount set by the Commission.

7 (b) Fees.

8 (1) The request fee is composed of a variable  
9 processing charge and investigation charge. The processing  
10 charge is the amount needed by the Commission to cover the  
11 administrative costs of processing the request. The  
12 investigation charge is the amount needed by the Commission  
13 to cover the costs incurred by the Department of Public  
14 Safety and Commission staff for conducting the background  
15 investigation on the proposed transferee. A license holder  
16 must pay all charges contemporaneously with filing the  
17 request. The Commission will take no action on a request  
18 under this section unless the requestor submits the total  
19 amount of the request fee with the request. The Commission  
20 shall hold the request fee in the state treasury in a  
21 suspense account. The Commission may transfer the  
22 processing funds due to the Commission to the Texas Racing  
23 Commission Fund as costs are incurred. If the actual costs  
24 to the Commission of processing the request or conducting  
25 the investigation exceed the amount deposited for the  
26 applicable charge, the requestor shall pay the remaining  
27 amount not later than 10 business days after receipt of a  
28 bill from the Commission. If the costs of processing the  
29 request or conducting the investigation are less than the  
30 amount of the charge, the Commission shall refund the  
31 excess not later than 10 business days after the  
32 Commission's decision on the request becomes final.

33 (2) The fees for a request for Commission approval to  
34 approve a transfer of pecuniary interests in a racetrack  
35 license that effects a change in the controlling interest  
36 of that license are as follows:

37 (A) The amount to be deposited for the processing  
38 charge for a horse racetrack request is:

- 39 (i) for a Class 1 racetrack, \$50,000;  
40 (ii) for a Class 2 racetrack, \$25,000;  
41 (iii) for a Class 3 racetrack, \$10,000; and  
42 (iv) for a Class 4 racetrack, \$2,500.

43 (B) The amount to be deposited for the  
44 investigation charge for a horse racetrack request is:

- 45 (i) for a Class 1 racetrack, \$25,000;

- 1                   (ii) for a Class 2 racetrack, \$10,000;  
2                   (iii) for a Class 3 racetrack, \$1,500; and  
3                   (iv) for a Class 4 racetrack, \$1,000.  
4           (C) The amount to be deposited for the processing  
5 charge for a greyhound racetrack request is \$50,000.  
6           (D) The amount to be deposited for the  
7 investigation charge for a greyhound racetrack request is  
8 \$25,000.  
9           (3) The fees for a request for Commission approval to  
10 approve a transfer of pecuniary interests of 5.0% or more  
11 in a racetrack license, but that does not effect a change  
12 in the controlling interest of that license, are as  
13 follows:  
14           (A) The amount to be deposited for the processing  
15 charge for a horse racetrack request is:  
16                   (i) for a Class 1 racetrack, \$500;  
17                   (ii) for a Class 2 racetrack, \$250;  
18                   (iii) for a Class 3 racetrack, \$100; and  
19                   (iv) for a Class 4 racetrack, \$50.  
20           (B) The amount to be deposited for the  
21 investigation charge for a horse racetrack request is:  
22                   (i) for a Class 1 racetrack, \$1,000;  
23                   (ii) for a Class 2 racetrack, \$500;  
24                   (iii) for a Class 3 racetrack, \$250; and  
25                   (iv) for a Class 4 racetrack, \$125.  
26           (C) The amount to be deposited for the processing  
27 charge for a greyhound racetrack request is \$500.  
28           (D) The amount to be deposited for the  
29 investigation charge for a greyhound racetrack license  
30 request is \$1000.  
31           (4) The fees for a request for Commission approval to  
32 approve a transfer of pecuniary interests of less than 5.0%  
33 in a racetrack license and that does not effect a change in  
34 the controlling interest of that license are as follows:  
35           (A) The amount to be deposited for the processing  
36 charge for a horse racetrack request is:  
37                   (i) for a Class 1 racetrack, \$100;  
38                   (ii) for a Class 2 racetrack, \$100;  
39                   (iii) for a Class 3 racetrack, \$50; and  
40                   (iv) for a Class 4 racetrack, \$25.  
41           (B) The amount to be deposited for the  
42 investigation charge for a horse racetrack request is:  
43                   (i) for a Class 1 racetrack, \$500;  
44                   (ii) for a Class 2 racetrack, \$250;  
45                   (iii) for a Class 3 racetrack, \$125; and

- 1                            (iv) for a Class 4 racetrack, \$50.  
2                            (C) The amount to be deposited for the processing  
3 charge for a greyhound racetrack request is \$100.  
4                            (D) The amount to be deposited for the  
5 investigation charge for a greyhound racetrack request is  
6 \$500.

1 **Sec. 309.12. Fees for Requests to Approve Change of**  
2 **Location**

3 (a) General Provisions. A license holder who requests  
4 Commission approval to change the location of a racetrack  
5 license must submit with the request a fee in an amount set  
6 by the Commission.

7 (b) Fees.

8 (1) The request fee is composed of a variable  
9 processing charge. The processing charge is the amount  
10 needed by the Commission to cover the administrative costs  
11 of processing the request. A license holder must pay all  
12 charges contemporaneously with filing the request. The  
13 Commission will take no action on a request under this  
14 section unless the requestor submits the total amount of  
15 the request fee with the request. The Commission shall hold  
16 the request fee in the state treasury in a suspense  
17 account. The Commission may transfer the processing funds  
18 due to the Commission to the Texas Racing Commission Fund  
19 as costs are incurred. If the actual cost to the Commission  
20 of processing the request exceeds the amount deposited for  
21 the applicable charge, the requestor shall pay the  
22 remaining amount not later than 10 business days after  
23 receipt of a bill from the Commission. If the costs of  
24 processing the request are less than the amount of the  
25 charge, the Commission shall refund the excess not later  
26 than 10 business days after the Commission's decision on  
27 the request becomes final.

28 (2) The fees for a request for Commission approval to  
29 change the location of a racetrack license are as follows:

30 (A) The amount to be deposited for the processing  
31 charge for a horse racetrack request is:

32 (i) for a Class 1 racetrack, \$100,000;

33 (ii) for a Class 2 racetrack, \$50,000;

34 (iii) for a Class 3 racetrack, \$15,000; and

35 (iv) for a Class 4 racetrack, \$7,500.

36 (B) The amount to be deposited for the processing  
37 charge for a greyhound racetrack request is \$100,000.

1 **Sec. 311.5. License Fees.**

2 (a) - (b) (No change.)

3 (c) The fee for an occupational license is as follows:

Type of License	1 Year Fee	2 Year Fee	3 Year Fee
Adoption Program Personnel	<u>\$25</u> [\$20]		
Announcer	<u>\$35</u> [\$25]		
Apprentice Jockey	<u>\$75</u> [\$55]		
Assistant Farrier/Plater/Blacksmith	<u>\$25</u> [\$20]		
Assistant Starter	<u>\$25</u> [\$20]		
Assistant Trainer	<u>\$100</u> [\$75]		
Assistant Trainer/Owner	<u>\$100</u> [\$75]		
Association Assistant Management	<u>\$50</u> [\$35]		
Association Management Personnel	<u>\$75</u> [\$50]		
Association Officer/Director	<u>\$100</u> [\$75]		
Association Other	\$50		
Association Staff	<u>\$35</u> [\$25]		
Association Veterinarian	<u>\$75</u> [\$50]		
Authorized Agent	<u>\$15</u> [\$10]		
Chaplain	<u>\$25</u> [\$20]		
Chaplain Assistant	<u>\$25</u> [\$20]		
Exercise Rider	<u>\$25</u> [\$20]		
Farrier/Plater/Blacksmith	<u>\$75</u> [\$55]		
Groom/Hot Walker	<u>\$25</u> [\$20]		
Jockey	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]

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Jockey Agent	<u>\$100</u> [\$75]		
Kennel	<u>\$75</u> [\$50]		
Kennel Helper	<u>\$25</u> [\$20]		
Kennel Owner	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Kennel Owner/Owner	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Kennel Owner/Owner-Trainer	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Kennel Owner/Trainer	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Lead-Out	<u>\$25</u> [\$20]		
Maintenance	<u>\$35</u> [\$20]		
Medical Staff	<u>\$35</u> [\$25]		
Miscellaneous	<u>\$25</u> [\$20]		
Multiple Owner	<u>\$35</u> [\$25]	<u>\$70</u> [\$50]	<u>\$100</u> [\$75]
Mutuel Clerk	<u>\$35</u> [\$25]		
Mutuel Other	<u>\$35</u> [\$25]		
Owner	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Owner-Trainer	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Pony Person	<u>\$25</u> [\$20]		
Racing Industry Representative	<u>\$100</u> [\$75]		
Racing Industry Staff	<u>\$30</u> [\$25]		
Racing Official	<u>\$50</u> [\$25]		
Security Officer	<u>\$30</u> [\$25]		
Stable Foreman	<u>\$50</u> [\$25]		

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Tattooer	<u>\$100</u> [\$75]		
Test Technician	<u>\$25</u> [\$20]		
Tooth Floater	<u>\$100</u> [\$75]		
Trainer	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Training Facility Employee	<u>\$30</u> [\$25]		
Training Facility General Manager	<u>\$50</u> [\$25]		
Valet	<u>\$25</u> [\$20]		
Vendor Concessionaire	<u>\$100</u> [\$75]		
Vendor/Concessionaire Employee	<u>\$30</u> [\$25]		
<u>Vendor Totalisator</u>	<u>\$500</u>		
<u>Vendor/ Totalisator Employee</u>	<u>\$50</u>		
Veterinarian	<u>\$100</u> [\$75]	<u>\$200</u> [\$150]	<u>\$300</u> [\$225]
Veterinarian Assistant	<u>\$30</u> [\$25]		

1 **Sec. 311.104. Trainers.**

2 (a) Licensing.

3 (1) (No change.)

4 (2) The standard for passing the written examination must  
5 be printed on the examination. A \$50 non-refundable testing fee  
6 is assessed for administering the written and practical  
7 examinations. The fee is due and payable at the time the first  
8 examination appointment is scheduled. A minimum of 48 hours  
9 advance notice is required to reschedule an examination  
10 appointment without loss of the testing fee. An applicant who  
11 fails to timely reschedule an examination appointment must pay a  
12 new testing fee to reschedule the appointment. An applicant who  
13 fails the written examination may not take the examination again  
14 before the 60th day after the date the applicant failed the  
15 examination. An applicant who fails the practical examination  
16 may not reschedule the practical examination again before the  
17 180th day after the applicant failed the practical examination.  
18 An applicant who fails the practical examination for a second  
19 time may not reschedule another practical examination for 365  
20 calendar days after the day the applicant failed the first  
21 practical examination and the applicant must pay an additional  
22 \$50 non-refundable testing fee. The Commission may waive the  
23 requirement of a written and/or practical examination for a  
24 person who has a current license issued by another pari-mutuel  
25 racing jurisdiction. If a person for whom the examination  
26 requirement was waived demonstrates an inability to adequately  
27 perform the duties of a trainer, through excessive injuries,  
28 rulings, or other behavior, the stewards or racing judges may  
29 require the person to take the written examination. If such a  
30 person fails the examination, the stewards or racing judges  
31 shall suspend the person's license for 60 days with  
32 reinstatement contingent upon passing the written examination.

33 (3)-(4) (No change.)

34 (b)-(k) (No change.)

Title 16, Part VIII

Chapter 315. Officials and Rules for Greyhound Racing

Subchapter A. Officials

Division 1. Appointment of Officials

1 **315.1. Required Officials**

- 2 (a) The following officials must be present at each  
3 greyhound race conducted in this state:
- 4 (1) at least two [~~three~~] racing judges;
  - 5 (2) a commission veterinarian;
  - 6 (3) an association veterinarian;
  - 7 (4) a racing secretary;
  - 8 (5) an assistant racing secretary;
  - 9 (6) a paddock judge;
  - 10 (7) a starter;
  - 11 (8) a clerk of scales;
  - 12 (9) a mutuel manager;
  - 13 (10) a chart writer;
  - 14 (11) a photofinish operator and timer;
  - 15 (12) a kennel master; and
  - 16 (13) a mechanical lure operator.
- 17 (b) - (c) (No change.)

1 **Sec. 313.426. Toe Grabs Prohibited**

2 (a) A Thoroughbred or Arabian horse is ineligible to start in a  
3 race when it has shoes (racing plates) that have toe grabs with  
4 a height greater than two millimeters (0.07874 inches), bends,  
5 jar calks, stickers, or any other traction device on the front  
6 hooves.

7 (b) A Quarter Horse, Paint Horse, or Appaloosa is ineligible to  
8 start in a race when it has shoes (racing plates) that have toe  
9 grabs with a height greater than four millimeters (0.15748  
10 inches), bends, jar calks, stickers, or any other traction  
11 device on the front hooves.

## Title 16, Part VIII

## Chapter 319. Veterinary Practices and Drug Testing

## Subchapter D. Drug Testing

**Sec. 319.364. Testing for Androgenic-Anabolic Steroids**

(a) No androgenic-anabolic steroids shall be permitted in test sample collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

(b) Concentrations of these androgenic-anabolic steroids shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

(1) 16 $\beta$ -hydroxystanozolol (metabolite of stanozolol (Winstrol)) - 1 ng/ml in urine for all horses regardless of sex;

(2) Boldenone (Equipoise<sup>®</sup> is the undecylenate ester of boldenone) in male horses other than geldings - 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses.

(3) Nandrolone (Durabolin<sup>®</sup> is the phenylpropionate ester and Deca-Durabolin<sup>®</sup> is the decanoate ester)

(A) In geldings - 1 ng/ml in urine

(B) In fillies and mares - 1 ng/ml in urine

(4) Testosterone

(A) In geldings - 20 ng/ml in urine

(B) In fillies and mares - 55 ng/ml in

urine

(c) Any other anabolic steroids are prohibited in racing horses.

(d) Post-race urine samples must have the sex of the horse identified to the laboratory.

(e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered androgenic-anabolic steroids, the horse is eligible to be removed from the list.