



**TEXAS RACING COMMISSION**  
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Texas Racing Commission  
Friday, April 1, 2011  
10:30 a.m.  
Animal Health Commission  
2105 Kramer Lane  
Auditorium  
Austin, Texas 78758

## **AGENDA**

- I. CALL TO ORDER**  
Roll Call
- II. CEREMONIAL ITEMS**
  - A. Welcome Commissioner Allan Polunsky, Public Safety Commission Chairman
  - B. Recognition of Commissioner Kent Carter, DVM
- III. PUBLIC COMMENT**
- IV. GENERAL BUSINESS**
  - A. Report by the Interim Executive Director and Staff on the Status of Sunset Legislation and Legislative Proposals by the 82<sup>nd</sup> Texas Legislature, Regular Session
  - B. Discussion, Consideration, and Possible Action on the Appointment of an Executive Director

**V. PROCEEDINGS ON RACETRACKS**

- A. Discussion on the following matters:
1. Report on Request by Laredo Downs for Conditional Approval to Change Location
- B. Discussion, consideration, and possible action on the following matters:
1. Request by MAXXAM Inc. for Approval of 50% Change of Ownership of Sam Houston Race Park, Valley Race Park, and Laredo Race Park
  2. Request by Retama Park for Approval of One (1) Change of Ownership of Less than 1%
  3. Allocation of Escrowed Purse Account Revenue under Commission Rule 321.509
  4. Request by Gulf Greyhound Park on behalf of Gulf Coast Racing for Approval of an Amendment to the Totalisator Contract with United Tote Company
  5. Request by Gulf Greyhound Park on behalf of Gillespie County Fair and Festival Association for Approval of an Amendment to the Totalisator Contract with United Tote Company
  6. Designation by the Commission of an Application Period for Race Dates under Commission Rule 303.41

**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(1), the Commission may open an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer.
- 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.
- C. Under Texas Racing Act, Tex. Rev. Civ. Stat. Ann. art. 179e, Sec. 6.03, the Commission may open an executive session to review security plans and management, concession, and totalisator contracts.

D. Under Government Code Sec. 551.074, the Commission may open an executive session to deliberate the appointment of an executive director.

**VII. OLD/NEW BUSINESS**

Schedule next Commission Meeting

**VIII. ADJOURN**



## **Texas Racing Commission**

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### **MEMORANDUM**

**TO:** Texas Racing Commissioners

**FROM:** Chuck Trout, Interim Executive Director

**DATE:** March 22, 2011

**SUBJECT:** Staff Review of Proposed 50% Change of Ownership in Sam Houston Race Park Ltd., Valley Race Park, Inc., and Laredo Race Park LLC.

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On September 22, 2010, MAXXAM Inc. (MAXXAM) submitted a request (Appendix A) for approval to transfer 50% of its ownership interests in Sam Houston Race Park Ltd. (SHRP), Valley Race Park, Inc. (VRP), and Laredo Race Park LLC (LRP) to Houston Gaming Ventures, Inc. (HGV), a subsidiary of Penn National Gaming, Inc. (PNG). On December 13, 2011, PNG submitted its application for the change of ownership.

Commission staff has reviewed the application for the proposed change of ownership of SHRP, VRP, and LRP. Listed below is a summary of staff's findings.

#### **STANDARDS FOR CHANGE OF OWNERSHIP IN A RACETRACK LICENSE**

The Texas Racing Act (TRA, or the "Act") governs the issuance of racetrack licenses. Each transaction that involves an acquisition or transfer of pecuniary interest in an association must receive approval from the Commission. A transaction that changes the ownership of an association requires the submission of the following types of

information: identification of the proposed owners and ownership structure; the exact location at which a race meeting is to be conducted; whether the facility is leased or owned; identification of any other beneficial owner of shares that bear voting rights; a detailed statement of assets and liabilities of the applicant; the kind of racing to be conducted and the dates requested; proof of residency; copies of the tote, management, and concession contracts; and any other information required by the Commission.

### **OWNERSHIP REQUIREMENTS**

Section 6.06(d) of the Texas Racing Act provides that "The majority ownership of a partnership, firm, or association applying for or holding a license must be held by citizens who meet the residency qualifications enumerated in this section for individual applicants. ..." However, the requirement does not apply to this applicant because of TRA Section 6.06(i), which states the residency requirements do not apply to an applicant for or the holder of a racetrack license if the applicant, the license holder, or the license holder's parent company is a publicly traded company. Both MAXXAM and PNG are publicly traded companies.

### **Proposed Ownership**

Upon approval by the Commission, MAXXAM proposes to transfer all of its interests in SHRP, VRP, and LRP to PM Texas LLC (PM Texas), a limited liability company formed and registered in Delaware. All of the ownership interests in PM Texas LLC are currently held by MAXXAM through its 100% ownership of PM Texas Holdings, LLC, which is also a Delaware limited liability company. MAXXAM then proposes to transfer 50% of its interests in PM Texas to Houston Gaming Ventures, Inc. (HGV), a Texas corporation that is wholly owned by Delvest Corp. (DELVEST), a Delaware corporation that itself is wholly owned by PNG. See Appendix B for diagrams of the current and proposed ownership structures.

Penn National Gaming, Inc. is a publicly traded company that was formed and incorporated in Delaware. The public holds 71.5% of PNG's common stock in amounts

of less than 5% each. Of the remaining 28.5%, 10.1% is held by the Carlino Family Trust, 9.5% is held by BAMCO, Inc., 5.3% is held by Capital World Investors, and 2.5% is held by PNG Chairman/CEO Peter Carlino. The remaining amounts are held by various PNG officers, directors, and shareholders in amounts of less than 1% each.

PNG describes itself as a growth-oriented, publicly traded, multi-jurisdictional gaming and racing company. It owns, manages, or has ownership interests in 28 facilities in 16 jurisdictions, including Colorado, Florida, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Mississippi, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, West Virginia, and Ontario. These include Thoroughbred, harness and greyhound racetracks, and both land-based and dockside gaming facilities. PNG reported that it will continue to pursue additional acquisitions through the implementation and execution of a disciplined capital expenditure program at its existing properties, the pursuit of strategic acquisitions, and the development of new gaming properties. See Appendix C for an organizational chart and a listing of its gaming licenses as of 11/1/2010.

#### **Management and Organization of PM Texas LLC**

PM Texas will have two owners/members: MAXXAM's PM Texas Holdings LLC and PNG's Houston Gaming Ventures, Inc. Each member will hold equal economic and voting rights. A copy of the draft Operations Agreement is attached in the confidential portion of the Commission's meeting materials.

Each member will appoint two member representatives to the board of PM Texas. Charles E. Hurwitz and Shawn M. Hurwitz will represent MAXXAM. Additionally, Shawn Hurwitz will serve as the nonexecutive chairman of the board. HGV has not named its two representatives but according to the application, both will be individuals who submitted DPS disclosure forms in conjunction with the application. These individuals and their respective positions in PNG and its subsidiaries are:

<b>Penn National Gaming, Inc. (PNG)</b>	<b>Delvest Corporation (DELVEST)</b>	<b>Houston Gaming Ventures, Inc. (HGV)</b>
Peter M. Carlino – Board Chairman		
Harold Cramer – Director		
Wesley R. Edens – Director		
David A. Handler – Director		
John M. Jacquemin – Director		
Robert P. Levy – Director		
Barbara Shattuck-Kohn – Director		
Timothy J. Wilmott - President & COO		
Thomas N. Auriemma - Executive Officer	President	
William J. Clifford -Executive Officer	Vice President	
John Finamore - Executive Officer		President and CEO
Robert S. Ippolito - Executive Officer	Secretary/Treasurer	Secretary/Treasurer
Christopher M. McErlean - Executive Officer		Vice President
Jordan B. Savitch - Executive Officer		
Steven Snyder - Executive Officer		Vice President

PM Texas' Company Agreement provides that a "Managing Member" shall manage the company and designates HGV as the Managing Member. HGV will be empowered to manage, control, administer, and operate the three racetracks. However, the Company Agreement provides that Major Actions require an affirmative vote of all Member Representatives present at a board meeting at which a quorum is present, and at least one MAXXAM and one HGV representative must be present to establish a quorum.

Broadly summarized, these Major Actions include:

- a) approving annual Operating Budgets and Gaming Projects;
- b) making Capital Calls;
- c) making decisions regarding material regulatory matters;
- d) making or paying dividends or other distributions;
- e) amending or waiving any term of the Operating Agreements;
- f) agreeing to and consummating financing or refinancing;
- g) voluntarily entering bankruptcy or similar reorganization;

- h) selling all or a material part of the Business or entering into any merger, consolidation, or similar transaction;
- i) appointing and determining the compensation of each track's general manager and of SHRP's next four most highly compensated management positions;
- j) consenting to or settling certain tax assessments or litigation;
- k) engaging in any business other than the operation of the racetracks and gaming projects; and
- l) appointing a Managing Member.

The Company Agreement also specifies that certain Unanimous Actions require the prior approval of both PM Texas and HGV Members. The Agreement provides that each Member, at such Member's sole discretion, shall be free to approve or not approve any proposed Unanimous Action. These actions include:

- a) amending, repealing, or modifying any provision of the Company's Certificate of Formation or the Company Agreement; and
- b) approving, terminating, amending, or waiving compliance of certain agreements or transactions by any Company Party with any Member or Affiliate of any Member.

Upon approval by the Commission, SHRP, VRP, and LRP will execute the Operating and Development Services Agreement with Houston Operating Ventures, LLC (HOV), a sister company to HGV. The officers of HOV will be the same as those of HGV. A copy of the form Operating and Development Services Agreement is attached in the confidential portion of the Commission's meeting materials.

#### **Applicant's Assets, Liabilities, and Anticipated Funding**

In exchange for 50% membership interest in the new entity, PM Texas LLC, the contribution agreement provides for the existing debts of SHRP, VRP, and LRP to be retired, and as a result, the three licensed entities will be debt-free. In addition, MAXXAM and PNG have agreed to provide additional cash contributions to PM Texas LLC to support racing and other currently authorized business at the racetracks.

According to PNG's Securities and Exchange Commission (SEC) Form 10-K for calendar year 2009, PNG's net worth was \$1.85 billion. This includes total assets of \$4.71 billion and total liabilities of \$2.86 billion. In its Form K-10 filing for calendar year 2010, PNG's net worth was \$1.77 billion. Below is a five-year look at selected financial data included in PNG's SEC filings.

<i>Selected Data</i>	Year Ended December 31				
	\$ in thousands				
	2010	2009	2008	2007	2006
Net cash provided by operating activities	\$ 493,178	\$ 338,246	\$ 420,463	\$ 431,219	\$ 281,809
Net cash used in investing activities	(736,758)	(262,659)	(391,498)	(611,617)	(302,341)
Net cash (used in) provided by financing activities	(223,153)	(108,747)	542,941	186,255	56,427
Depreciation & amortization	212,387	194,436	173,545	147,915	123,951
Interest expense	130,215	134,984	169,827	198,059	196,328
Capital expenditures	362,955	289,551	344,894	361,155	408,883
<i>Selected Balance Sheet Data</i>					
Cash & cash equivalents	\$ 246,385	\$ 713,118	\$ 746,278	\$ 174,372	\$ 168,515
Total assets	4,462,879	4,712,616	5,189,676	4,967,032	4,514,082
Total debts (liabilities)	2,171,123	2,334,777	2,430,180	2,974,922	2,829,448
Shareholders' equity	1,777,766	1,852,076	2,057,273	1,120,962	921,163

### **Department of Public Safety Investigation**

The Department of Public Safety has conducted complete personal, financial, and business background checks. Copies of these confidential reports are being provided to the Commissioners.

*Following is a synopsis of the information provided in the application on each of the three entities involved in this proposed change of ownership.*

## **SAM HOUSTON RACE PARK**

### **Location**

Sam Houston Race Park is an existing Class 1 racetrack located at 7575 North Sam Houston Parkway West in Houston, Texas. The land and facilities are owned by MAXXAM.

### **Totalisator and Concession Contracts**

The 50% change in ownership would not affect the currently approved totalisator contract with Sportech, which has been previously approved by the Commission.

The applicant does not presently intend to contract with a person or company to provide racetrack concessions. Any future change would require Commission approval.

### **Condition of Facility**

Recent inspections and reviews by agency staff show that SHRP has been well maintained and is in good repair. There are no outstanding facilities issues requiring attention.

According to the application, there are no current plans for renovation or new construction at this time.

### **Exemptions**

The Commission has not granted any exemptions relating to SHRP's facilities, and the applicant has not requested any exemptions.

### **Race Dates**

The application provides for the continuance of SHRP's current type of race calendar, which includes the following meets for 2011:

- a recently concluded 27-day Thoroughbred Meet that started on January 21, 2011, and ended on March 2, 2011, and
- a 30-day Quarter Horse meet that began on March 11, 2011, and ends on May 15, 2011.

The Commission will consider and approve all future race dates in accordance with Rule 303.41, Allocation of Race Dates.

### **Simulcasting**

SHRP plans to continue to offer an extensive simulcast plan that includes all of the Texas tracks, and racing from the major racing jurisdictions in the United States, including New York, California, Florida, Louisiana, New Mexico, Illinois, and others. SHRP currently sends all its races to all of the Texas tracks and to as many other tracks as possible.

### **Management**

According to the application, the current key individuals will continue to manage the day-to-day operations of SHRP:

- CEO – Shawn M. Hurwitz
- President & COO – Andrea B. Young
- Operations – Dwight Berube
- Racing Secretary – Eric Johnston
- Marketing – Wayne Hodes

### **Financial and Pari-mutuel Analysis**

Staff's review of the applicant's five-year financial and pari-mutuel projections found the following:

#### **Admissions**

Live Racing – The applicant forecasts 94,292 in attendance over 57 live race days during 2011, resulting in an average daily attendance of 1,654 patrons per

live racing day. The applicant projects static live attendance during each of the following four years with the number of live race days remaining constant.

Simulcasting – The applicant forecasts 136,401 in attendance over 363 simulcast race days during 2011, resulting in an average daily attendance of 376 patrons. The applicant projects static simulcast attendance during each of the following four years.

The attendance estimates for both live and simulcast days appear to be very conservative when comparing each projection to actual average attendance at Texas racetracks over the past five years. For example, the live projected average attendance is approximately 50% more conservative than SHRP's actual historical average and similarly, the projected simulcast attendance is about 38% more conservative.

Staff further tested both live and simulcast attendance projections by analyzing the ratio of attendance to the population of the metropolitan geographical area. Using this ratio to compare track to track historical averages helps overcome some aspects of comparing tracks with vastly different population bases. This further analysis supports staff's position that the applicant's attendance projections are very conservative as the ratios were again well below SHRP's actual historical average.

Overall, the estimates for attendance projections appear to be reasonable and conservatively estimated.

### **Per Capita Wagering**

The pari-mutuel per capita wagering forecast estimates the average daily amount wagered by a patron at the track. According to the applicant's forecasted statement of operations, approximately 80% of the association's gross revenue will be dependant upon these wagers.

Live Per Capita Wagering – The applicant forecasts \$46.63 in live per capita wagers for the 57 live race days during 2011. The applicant projects about a 2% increase in per capita wagers each year, reaching \$50.26 in year five.

Management's stated assumption is that live racing revenues will increase as live racing days decrease. This year, 2011, is the first year of SHRP's shortened race meets. The combined number of Thoroughbred and Quarter Horse days declined from 94 in 2010 to 57 in 2011. Therefore, comparison to the historical per capitās at each operating horse track does not support the projected trend lines. However, SHRP's 27-day Thoroughbred Meet that just ended on March 7, 2011, does support the assumption as there was a 33% increase in per capita wagering, rising to \$40.79 as compared to \$30.63 in 2010.

Simulcast Same-Species Per Capita Wagering – The applicant forecasts \$291.20 in simulcast same-species per capita wagers over 363 simulcast race days during 2011. The applicant projects a decline of 5% per year, resulting in \$237.19 in 2015.

Simulcast Cross-Species Per Capita Wagering – The applicant forecasts \$83.47 in simulcast cross-species per capita wagers in 2011. The applicant projects a decline of 5% per year, resulting in \$67.98 in 2015.

In reviewing the two simulcast per capita forecasts, the historical data for SHRP does not support the applicant's projected 5% per year decline. However, further review showed that SHRP included summer concert attendance at *The Showgrounds*, its infield concert/entertainment venue, in its official simulcast attendance figures. Since SHRP's historical data includes this additional attendance, but the forecasted data for 2011-2015 does not, staff cannot make a realistic comparison and reasonableness test for the simulcast wagering per capita.

Total On-Track Per Capita Wagering – Combining the applicant's three per capita wagering projections establishes a total on-track per capita wagering amount of \$393.65 in 2011, with a decline to \$325.71 by 2015.

### **Pari-Mutuel Handle**

The pari-mutuel handle forecast, the result of multiplying the admissions forecast by the per capita wagering forecast, is important because the handle determines a majority of a racetrack's income and expenses.

Live On-Track Handle – The applicant estimates that its average daily live on-track handle will increase at a rate of 2% each year from its forecasted \$76,814 for 57 days of live racing in 2011, reaching \$83,146 for the same number of days in 2015.

Live Export Handle – The applicant estimates that its average daily live export handle will also increase at a rate of 2% yearly from \$615,134 for the 57 days of live racing in 2011 to \$665,841 in 2015.

Simulcast Same-Species Handle – The applicant estimates that its average daily simulcast same-species handle will decrease yearly by 5%, from \$185,064 for each of its 363 simulcast race days in 2011 to \$150,736 in 2015.

Simulcast Cross-Species Handle – The applicant estimates that its average daily simulcast cross-species handle will also decrease yearly by 5%, from \$53,044 in 2011 to \$43,205 in 2015.

Staff compared each of the applicant's pari-mutuel handle projections to actual data from the state's horse racetracks over the past five years and found that the projections are reasonable.

## **Income**

The income forecast provided by the applicant includes:

- Pari-Mutuel = 80.6%
- Food & Beverage = 8.9%
- Admissions, Sponsorship & Other Income = 10.5%

The applicant provided reasonable projections of income during each of the five years of the forecast. For example, the applicant estimates that its annual income from live on-track wagering would increase from \$952,500 to \$1,031,100 in 2015. These estimates are derived from the projected pari-mutuel handles described above. Similarly, the applicant's combined projections of income from live export wagering, same-species wagering, and cross-species wagering total \$20,439,200 in 2011, and decline to a combined total of \$16,647,800 in 2015. The applicant's live on-track projections are within 0.3% of the estimates prepared by staff and the export and simulcast forecasts are, on average, within 0.9%.

Combined, the projections for food and beverage, admissions, sponsorship and other income total \$5,165,000 in 2011 and decline to \$4,206,900 in 2015. The applicant projects a 5% decline in this income in each year after the initial year of operations under the new ownership. According to the analysis, the average person attending a live or simulcast race will spend approximately \$18 to \$22 on food, beverage, parking, and admission. These appear to be reasonable projections.

## **Operating Expenses**

The projected operating expenses provided by the applicant fell into three major categories: Pari-Mutuel Expense, Operating Expense, and Other Operating Expense. Of these, staff focuses on the Pari-Mutuel Expense to ensure the forecasted statutory expenses are reasonable. The majority of Operating Expense and Other Operating Expense are company specific choices.

Pari-Mutuel Expense – This includes the costs associated with a required set-aside of a portion of the pari-mutuel revenue retained from a wager placed at a racetrack. Typically, the costs are due to statutory requirements and, in some cases, contractual commitments. The applicant projected expenses for the Purses and Breeders' Awards, Host Track Fees, Taxes, and Fees and Breakage. Included in the applicant's Other Expense are Commission License Fees, Totalisator Expense, and Interface and Decoder Fees. These projections of statutory and/or contractual expenses total \$13,562,500 in 2011 and decline to \$12,007,000 in 2015. These projections are well within staff's estimate of these expenses and are reasonable.

### **Financial Statements**

The financial statements provided by the applicant include:

- Statement of Operations
- Statement of Cash Flow
- Balance Sheet
- Breakeven Analysis

## Statement of Operations

The Statement of Operations provides a summary of the revenues, costs, and expenses of a company during an accounting period. It is also referred to as the income statement, the statement of profit and loss, or the income and expense statement.

Sam Houston Race Park, LLC Forecasted Statements of Operations Years Ending 2011 through 2015 ( <i>\$ in Thousands</i> )					
	2011	2012	2013	2014	2015
<b>Revenue</b>					
Pari-Mutuel Revenue	\$21,391.7	\$20,388.8	\$19,437.4	\$18,534.9	\$17,678.9
Other Revenue	\$5,165.1	\$4,906.8	\$4,661.4	\$4,428.4	\$4,206.9
<b>Total Revenue</b>	<u>\$26,556.8</u>	<u>\$25,295.6</u>	<u>\$24,098.8</u>	<u>\$22,963.3</u>	<u>\$21,885.9</u>
<b>Expenses</b>					
Pari-Mutuel Expense	\$13,562.5	\$13,155.6	\$12,761.0	\$12,378.2	\$12,007.0
Operating Expense	\$15,161.2	\$15,025.4	\$14,875.8	\$14,738.5	\$14,612.9
Other Operating Expense	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
<b>Total Expense</b>	<u>\$28,723.7</u>	<u>\$28,181.0</u>	<u>\$27,636.8</u>	<u>\$27,116.7</u>	<u>\$26,619.9</u>
<b>Gain /(Loss) from Operations</b>	(\$2,166.9)	(\$2,885.4)	(\$3,538.0)	(\$4,153.4)	(\$4,734.0)
Less: Interest Expense	<u>\$29.1</u>	<u>\$11.9</u>	<u>\$5.8</u>	<u>\$5.3</u>	<u>\$4.7</u>
<b>Net Gain / (Loss)</b>	<u>(\$2,196.0)</u>	<u>(\$2,897.3)</u>	<u>(\$3,543.8)</u>	<u>(\$4,158.7)</u>	<u>(\$4,738.7)</u>

The applicant's five-year forecast projects annual net losses ranging from about \$2.20 million in 2011 to about \$4.74 in 2015.

## Statement of Cash Flow

The Statement of Cash Flow measures the cash inflows and outflows caused by core business operations. Generally, changes made in cash, accounts receivable, depreciation, inventory, and accounts payable are reflected in cash from operations.

Sam Houston Race Park, LLC Forecasted Statements of Cash Flows December 31, 2011 through 2015 ( <i>\$ in Thousands</i> )					
	2011	2012	2013	2014	2015
<b>Operating Activities</b>					
Net (Loss) from Operations	(\$2,196.0)	(\$2,897.3)	(\$3,543.8)	(\$4,158.7)	(\$4,738.7)
Other Cash Used in Operations	<u>\$1,136.5</u>	<u>\$1,842.0</u>	<u>\$1,638.1</u>	<u>\$1,838.3</u>	<u>\$1,838.6</u>
<b>Net Cash Used In Operations</b>	<u>(\$1,059.4)</u>	<u>(\$1,055.3)</u>	<u>(\$1,705.7)</u>	<u>(\$2,320.4)</u>	<u>(\$2,900.1)</u>
<b>Investing Activities</b>					
Additions to Property	(\$100.0)	\$0.0	\$0.0	\$0.0	\$0.0
Cash Acquisitions of Property	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Net Cash Used in Investing</b>	<u>(\$100.0)</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Financing Activities</b>					
Contribution of Equity	\$1,347.4	\$1,249.3	\$1,745.7	\$2,328.4	\$2,908.1
Long Term Debt Issuance	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Restricted Cash Release	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Principal Payment on Long Term Debt / Capital Lease	<u>(\$188.0)</u>	<u>(\$194.0)</u>	<u>(\$40.0)</u>	<u>(\$8.0)</u>	<u>(\$8.0)</u>
<b>Net Cash Via Financing</b>	<u>\$1,159.4</u>	<u>\$1,055.3</u>	<u>\$1,705.7</u>	<u>\$2,320.4</u>	<u>\$2,900.1</u>
<b>Increase/(Decrease) in Cash</b>	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
<b>Cash at Beginning of Year</b>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>
<b>Cash at End of Year</b>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>	<u>\$325.0</u>

The applicant's five-year forecast projects that it will have \$325,000 on hand at the end of each year. However, in order to do this, the forecast calls for an additional \$1.35 million in equity contributions in 2011 to over \$2.9 million in 2015. MAXXAM and PNG have agreed to provide additional cash contributions to support racing and other currently authorized business at SHRP.

## Balance Sheet

The Balance Sheet is a financial statement that summarizes a company's assets, liabilities and shareholders' equity at a specific point in time.

Sam Houston Race Park, LLC Forecasted Balance Sheets December 31, 2011 through 2015 ( <i>\$ in Thousands</i> )					
	2011	2012	2013	2014	2015
<b>Assets</b>					
Total Current Assets	\$3,072.8	\$2,995.4	\$2,921.9	\$2,852.3	\$2,786.1
Total Property & Equip	<u>\$19,706.3</u>	<u>\$17,856.3</u>	<u>\$16,006.3</u>	<u>\$14,156.3</u>	<u>\$12,306.3</u>
<b>Total Net Assets</b>	<u>\$22,779.1</u>	<u>\$20,851.7</u>	<u>\$18,928.2</u>	<u>\$17,008.6</u>	<u>\$15,092.4</u>
<b>Liabilities</b>					
Current Liabilities	\$4,682.4	\$4,456.9	\$4,331.5	\$4,250.1	\$4,172.6
Long-Term Debt	<u>\$128.0</u>	<u>\$74.0</u>	<u>\$74.0</u>	<u>\$66.0</u>	<u>\$58.0</u>
<b>Total Liabilities</b>	<u>\$4,810.4</u>	<u>\$4,530.9</u>	<u>\$4,331.5</u>	<u>\$4,316.1</u>	<u>\$4,230.6</u>
<b>Equity (Deficit)</b>					
Contributed Capital	\$1,347.4	\$2,596.7	\$4,342.5	\$6,670.8	\$9,578.9
Retained Earnings	<u>\$16,621.3</u>	<u>\$13,724.1</u>	<u>\$10,254.2</u>	<u>\$6,021.7</u>	<u>\$1,282.9</u>
<b>Total Equity</b>	<u>\$17,968.7</u>	<u>\$16,320.8</u>	<u>\$14,596.7</u>	<u>\$12,692.5</u>	<u>\$10,861.8</u>
<b>Total Liabilities and Equity</b>	<u>\$22,779.1</u>	<u>\$20,851.7</u>	<u>\$18,928.2</u>	<u>\$17,008.6</u>	<u>\$15,092.4</u>

Based on staff's review and analysis of the applicant's forecasted Statements of Operation and Statements of Cash Flow, the forecasted Balance Sheet fairly represents the applicant's assets, liabilities, and equity for the five-year period. The forecasts project that SHRP will lose \$17.53 million from operations from 2011 through 2015, and that the applicant will have to contribute an additional \$9.58 million in equity over those years in order to finance SHRP's continued operations.

## Break-even Analysis

The applicant projects that in order to earn sufficient revenue to break even on operational costs, two things would have to change. The total simulcast attendance would have to increase to 247,520, which is an 81.5% increase from the 2011 - 2015 projected simulcast attendance of 136,401.

Additionally, the per capita wager for simulcasting would have to increase to \$438 in each of the five years. This would represent an increase of 50% over the 2011 forecast of \$291 in simulcast per capita wager and an increase of almost 85% over the forecast of \$237 in 2015.

### **Impact on Horse Breeding**

The applicant states that SHRP encourages growth in the horse breeding industry by providing purse money for horses bred in Texas. SHRP also provides the advantage of allowing locally bred race horses to compete at a local facility. SHRP's encouragement of these additional breeding farms has provided an economic benefit to the State of Texas.

### **Impact on the Local Economy**

According to the application, SHRP has and will continue to have a positive economic impact not only on the Greater Houston area, but statewide. The applicant states that there is a multi-billion dollar industry in Texas supported by horse racing. Being located in the most populous city in the state ensures the continued viability of the industry.

In 2010, more than half-a-million people attended SHRP for racing and other entertainment events. The use of the facility as a multi-purpose facility for corporate and convention business brings visitors and tourists not just from Texas, but people outside the state, to contribute additional dollars to the local economy. In 2010, SHRP purchased \$22.6 million in goods and services.

SHRP generates more than 250 regular and part-time jobs throughout the year, increasing to some 500-750 jobs during live race meets, and also fosters statewide employment for horsemen across the state. According to the applicant, during the prior twelve months, SHRP paid almost \$10 million in salaries and wages and more than \$10.2 million in purses.

In 2010, SHRP paid over \$715,000 in pari-mutuel taxes to the state, almost \$516,000 in other taxes, and over \$830,000 in property taxes.

### **Letters of Support and Opposition**

The Commission has not received any letters of support or opposition regarding the request to change ownership in SHRP.

### **VALLEY RACE PARK**

#### **Location**

Valley Race Park is an existing greyhound licensed racetrack located at 2601 South Ed Carey Drive in Harlingen, Texas.

#### **Totalisator and Concession Contracts**

The 50% change in ownership would not affect the currently approved totalisator contract with Sportech. This contract has been previously approved by the Commission.

The applicant does not intend to contract with a person or concessions company to provide the racetrack concessions.

#### **Condition of Facility**

Recent inspections and reviews by agency staff show that VRP has been well maintained and is in good repair for simulcasting operations. However, the live racing facilities have not been used in two years and require a commensurate level of repair.

In September 2009, in response to a proposal by all three licensed greyhound racetracks and stakeholders, the Commission approved a new format for greyhound racing that permitted VRP to change its model from operating seasonally to a model of extended simulcasting with a short festival of live racing. As a result, the Commission allocated VRP five consecutive live performances that will begin on June 30, 2011. As

VRP's live racing dates approach, staff will conduct standard, comprehensive inspections of VRP's facilities and operations.

According to the application, there are no current plans for renovation or new construction at this time.

### **Exemptions**

Prior to the opening of VRP in 1990, the Commission granted several exemptions regarding the kennel facilities, finding that VRP's proposals satisfied the purpose of the rules. Subsequent to 1990, the Commission amended these rules to remove or modify the underlying requirement. The Commission has not granted any other exemptions relating to VRP and the applicant has not requested any exemptions.

### **Race Dates**

The application provides for the continuance of VRP's approved 2011 race calendar that includes five consecutive days of live racing, beginning on June 30 and ending July 4. The Commission will consider and approve all future race dates in accordance with Rule 303.41, Allocation of Race Dates.

### **Simulcasting**

VRP plans to continue to offer an extensive simulcast plan that offers all of the Texas tracks, and racing from the major racing jurisdictions in the United States, including New York, California, Florida, Louisiana, New Mexico, Illinois, West Virginia, and others. VRP does not plan to export its signal for the 2011 festival meet.

### **Management**

According to the application, the current key individuals will continue to manage the day-to-day operations of VRP:

- CEO – Shawn M. Hurwitz
- President & COO – Andrea B. Young
- Operations – Dwight Berube

Assistant GM – Maury Korn

Marketing – Wayne Hodes

In anticipation of VRP's upcoming festival meet, VRP has employed Amy Edmonds to oversee the live racing operations. Ms. Edmonds has previously served in this capacity at VRP.

### **Financial and Pari-Mutuel Analysis**

Staff's review of the applicant's five-year financial and pari-mutuel projections found the following:

#### **Admissions**

**Live Racing** – The applicant forecasts 5,146 in attendance over the five performance festival of live racing scheduled for this coming summer, resulting in an average daily attendance of 1,029 patrons per live racing day. This will be the first live racing at VRP since April of 2009. The applicant projects an increase of 2% in live attendance during each of the following four years with the number of live race days remaining constant. When compared to the five-year historical greyhound racetrack average live attendance, the forecasted increase in attendance does not appear reasonable. However, staff views such a comparison as not realistic since historically the greyhound tracks have raced for at least a four-month period, such as Valley Race Park's prior operations, or year-round, such as Gulf Greyhound Park's current operations. In contrast, short meets at horse racetracks have traditionally drawn larger crowds. This new greyhound business model may have the same results.

**Simulcasting** – The applicant forecasts 56,872 in attendance over 311 simulcast race days during 2011, resulting in an average daily attendance of 183 patrons. The applicant projects a 5% decrease in simulcast attendance during each of the following four years. Doing a similar comparison to historical data, the

projections are reasonable when compared to the historical average daily simulcast attendance at active greyhound racetracks.

Staff further tested both the live and simulcast attendance projections by analyzing the ratio of attendance to the population of the metropolitan geographical area. Using this ratio to compare track-to-track historical averages helps overcome some difficulties when comparing tracks with vastly different population bases. VRP's ratio for live racing is not similar to those of other greyhound tracks, including being 149% higher than VRP's own historical attendance. However, the short meet may attract a much larger percentage of the population. The ratio of simulcast attendance to the population for simulcast attendance is similar to other greyhound tracks' historical data, and is almost identical to VRP's past ratio, supporting the conclusion that the projected simulcast attendance is reasonable.

### **Per Capita Wagering**

The pari-mutuel per capita wagering forecast estimates the average daily amount wagered by a patron at the track. According to the applicant's forecasted statement of operations, over 86% of the association's gross revenue will be dependent upon these wagers made at the track.

**Live Per Capita Wagering** – The applicant forecasts \$22.95 in live per capita wagers for the five live race days during 2011. The applicant projects no change over the next four years.

**Simulcast Same-Species Per Capita Wagering** – The applicant forecasts \$103.89 in simulcast same-species per capita wagers over the 311 simulcast race days during 2011. The applicant projects a minimal decline of less than 1% per year, resulting in \$101.13 in 2015.

**Simulcast Cross-Species Per Capita Wagering** – The applicant forecasts \$107.11 in simulcast cross-species per capita wagers in 2011. The applicant again projects a decline of less than 1% per year, resulting in \$104.26 in 2015.

Comparing the two simulcast per capita forecasts to the historical data for all greyhound racetracks indicates the applicant's forecasts are substantially higher. In addition, the applicant's forecasts are over 50% higher than VRP's historical simulcast wagering per capita.

**Total On-Track Per Capita Wagering** – Combining the applicant's three per capita wagering projections establishes a total on-track per capita wagering amount of \$212.90 in 2011, with a decline to \$207.85 by 2015.

#### **Pari-Mutuel Handle**

The pari-mutuel handle forecast, the result of multiplying the admissions forecast by the per capita wagering forecast, is important because the handle determines a majority of a racetrack's income and expenses.

**Live On-Track Handle** – The applicant estimates that its average daily live on-track handle will increase 2% each year, going from \$23,620 in 2011 to \$25,567 in 2015.

**Live Export Handle** – The applicant will not export its signal.

**Simulcast Same-Species Handle** – The applicant estimates that its average daily simulcast same-species handle will decrease yearly by 5%, from \$20,717 for each of its 311 simulcast race days in 2011 to \$16,874 in 2015.

**Simulcast Cross-Species Handle** – The applicant estimates that its average daily simulcast cross-species handle will also decrease yearly by 5%, from \$21,359 in 2011 to \$17,397 in 2015.

Staff compared each of the applicant's pari-mutuel handle projections to actual data from the state's other greyhound racetracks over the past five years and found that the projections are reasonable.

### **Income**

The income forecast provided by the applicant includes:

- Pari-Mutuel = 86.3%
- Food & Beverage = 7.8%
- Admissions, Sponsorship & Other Income = 5.9%

The applicant provided reasonable projections of income during each of the five years of the forecast. For example, the applicant estimates that its annual income from live on-track wagering would increase from \$26,300 in 2011 to \$28,400 in 2015. These estimates are derived from the projected pari-mutuel handles described above. Similarly, the applicant's combined projections of income from same-species wagering and cross-species wagering total \$2,951,100 in 2011, and decline to a combined total of \$2,403,700 in 2015. The applicant's live on-track income projections are properly calculated.

Combined, the projections for food and beverage, admissions, sponsorship and other income total \$471,600 in 2011 and decline to \$384,100 in 2015. The applicant projects a 5% decline in this income in each year after the initial year of operations under the new ownership. According to the analysis, the average person attending a live or simulcast race will spend approximately \$7.50 on food, beverage, parking, and admission. These appear to be reasonable projections.

### **Operating Expenses**

The projected operating expenses provided by the applicant fell into three major categories: Pari-Mutuel Expense, Operating Expense, and Other Operating Expense. Of these, staff focuses on the Pari-Mutuel Expense to ensure the

forecasted statutory expenses are reasonable. The majority of Operating Expense and Other Operating Expense are company specific choices.

Pari-Mutuel Expense – This includes the costs associated with a required set-aside of a portion of the pari-mutuel revenue retained from a wager placed at a racetrack. Typically, the costs are due to statutory requirements and, in some cases, contractual commitments. The applicant projected expenses for the Purses and Breeders' Awards, Host Track Fees, Taxes, and Fees and Breakage. Included in the applicant's Other Operating Expense are Commission License Fees, Totalisator Expense, and Interface and Decoder Fees. These projections of statutory and/or contractual expenses total \$1,975,000 in 2011 and decline to \$1,748,500 in 2015. These projections fall within staff's estimate of these expenses and are reasonable.

### **Financial Statements**

The financial statements provided by the applicant include:

- Statement of Operations
- Statement of Cash Flow
- Balance Sheet
- Breakeven Analysis

## Statement of Operations

The Statement of Operations provides a summary of the revenues, costs, and expenses of a company during an accounting period. It is also referred to as the income statement, the statement of profit and loss, or the income and expense statement.

Valley Race Park, LLC Forecasted Statements of Operations Years Ending 2011 through 2015 ( <i>\$ in Thousands</i> )					
	2011	2012	2013	2014	2015
<b>Revenue</b>					
Pari-Mutuel Revenue	\$2,977.4	\$2,830.4	\$2,690.7	\$2,558.1	\$2,432.1
Other Revenue	<u>\$471.6</u>	<u>\$448.0</u>	<u>\$425.6</u>	<u>\$404.3</u>	<u>\$384.1</u>
<b>Total Revenue</b>	<b><u>\$3,449.0</u></b>	<b><u>\$3,278.4</u></b>	<b><u>\$3,116.3</u></b>	<b><u>\$2,962.4</u></b>	<b><u>\$2,816.2</u></b>
<b>Expenses</b>					
Pari-Mutuel Expense	\$1,975.0	\$1,915.8	\$1,858.4	\$1,802.5	\$1,748.5
Operating Expense	\$1,785.3	\$1,768.3	\$1,750.5	\$1,736.6	\$1,723.9
Other Operating Expense	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Total Expense</b>	<b><u>\$3,760.3</u></b>	<b><u>\$3,682.1</u></b>	<b><u>\$3,608.9</u></b>	<b><u>\$3,539.1</u></b>	<b><u>\$3,472.4</u></b>
<b>Gain /(Loss) from Operations</b>	(\$311.3)	(\$403.7)	(\$492.6)	(\$576.6)	(\$656.2)
Less: Interest Expense/(Income)	<u>(\$0.0)</u>	<u>(\$0.0)</u>	<u>(\$0.0)</u>	<u>(\$0.0)</u>	<u>(\$0.0)</u>
<b>Net Gain / (Loss)</b>	<b><u>(\$311.3)</u></b>	<b><u>(\$403.7)</u></b>	<b><u>(\$492.6)</u></b>	<b><u>(\$576.6)</u></b>	<b><u>(\$656.2)</u></b>

The applicant's five year forecast projects annual net losses ranging from \$311,000 in 2011 to over \$656,200 in 2015.

## Statement of Cash Flow

The Statement of Cash Flow measures the cash inflows and outflows caused by core business operations. Generally, changes made in cash, accounts receivable, depreciation, inventory, and accounts payable are reflected in cash from operations.

Valley Race Park, LLC Forecasted Statements of Cash Flows December 31, 2011 through 2015 (\$ in Thousands)					
	2011	2012	2013	2014	2015
<b>Operating Activities</b>					
Net (Loss) from Operations	(\$311.3)	(\$403.7)	(\$492.6)	(\$576.6)	(\$656.2)
Other Cash Used in Operations	<u>\$132.6</u>	<u>\$128.6</u>	<u>\$128.8</u>	<u>\$129.0</u>	<u>\$129.2</u>
<b>Net Cash Used In Operations</b>	<u>(\$178.7)</u>	<u>(\$275.1)</u>	<u>(\$363.8)</u>	<u>(\$447.6)</u>	<u>(\$527.0)</u>
<b>Investing Activities</b>					
Additions to Property	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Cash Acquisitions of Property	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Net Cash Used in Investing</b>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Financing Activities</b>					
Contribution of Equity	\$178.7	\$275.1	\$363.8	\$447.6	\$527.0
Long Term Debt Issuance	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Restricted Cash Release	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Principal Payment on Long Term Debt / Capital Lease	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Net Cash Via Financing</b>	<u>\$178.7</u>	<u>\$275.1</u>	<u>\$363.8</u>	<u>\$447.6</u>	<u>\$527.0</u>
<b>Increase/(Decrease) in Cash</b>	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
<b>Cash at Beginning of Year</b>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>
<b>Cash at End of Year</b>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>	<u>\$282.0</u>

The applicant's five-year forecast projects that it will have \$282,000 on hand at the end of each year. However, in order to accomplish this, the forecast calls for the applicant to contribute an additional \$178,700 in equity in 2011 to \$527,000 in 2015. MAXXAM and PNG have agreed to provide additional cash contributions to support racing and other currently permitted businesses at VRP.

## Balance Sheet

The Balance Sheet is a financial statement that summarizes a company's assets, liabilities and shareholders' equity at a specific point in time.

Valley Race Park, LLC Forecasted Balance Sheets December 31, 2011 through 2015 (\$ in Thousands)					
	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Assets</b>					
Total Current Assets	\$547.6	\$542.2	\$537.0	\$532.1	\$527.5
Total Property & Equip	<u>\$1,097.8</u>	<u>\$965.8</u>	<u>\$833.8</u>	<u>\$701.8</u>	<u>\$569.8</u>
<b>Total Net Assets</b>	<b><u>\$1,645.4</u></b>	<b><u>\$1,508.0</u></b>	<b><u>\$1,370.8</u></b>	<b><u>\$1,233.9</u></b>	<b><u>\$1,097.3</u></b>
<b>Liabilities</b>					
Current Liabilities	\$249.3	\$240.4	\$232.1	\$224.2	\$216.7
Long-Term Debt	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.0</u>
<b>Total Liabilities</b>	<b><u>\$249.3</u></b>	<b><u>\$240.4</u></b>	<b><u>\$232.1</u></b>	<b><u>\$224.2</u></b>	<b><u>\$216.7</u></b>
<b>Equity (Deficit)</b>					
Contributed Capital	\$178.7	\$453.8	\$817.6	\$1,265.2	\$1,792.2
Retained Earnings	<u>\$1,217.4</u>	<u>\$813.8</u>	<u>\$321.1</u>	<u>(\$255.5)</u>	<u>(\$911.6)</u>
<b>Total Equity</b>	<b><u>\$1,396.1</u></b>	<b><u>\$1,267.6</u></b>	<b><u>\$1,138.7</u></b>	<b><u>\$1,009.7</u></b>	<b><u>\$880.6</u></b>
<b>Total Liabilities and Equity</b>	<b><u>\$1,645.4</u></b>	<b><u>\$1,508.0</u></b>	<b><u>\$1,370.8</u></b>	<b><u>\$1,233.9</u></b>	<b><u>\$1,097.3</u></b>

Based on staff's review of the forecasted Statement of Operations and Statement of Cash Flow, the balance sheet fairly reflects Valley Race Park, LLC's assets, liabilities, and equity for the five-year period. The forecasts project that VRP will lose \$2.44 million from operations from 2011 through 2015, and that the applicant will have to contribute an additional \$1.79 million in equity over those years to finance VRP's continued operations.

## Break-even Analysis

The applicant projects that in order to earn sufficient revenue to break even on operational costs, three things would have to change. First, the number of days of simulcast operations would have to increase from 311 days to 364 days, a 17% increase. Second, the simulcast attendance would also have to increase to 143,780, which is an 153% increase from the 2011 projected attendance of

56,872 and a 210% increase over the 2015 projected attendance of 46,323. Finally, the simulcast per capita wager would have to increase to \$350, which overall averages about 66% higher than the applicant's forecasted 2011-2015 simulcast per capita wager.

### **Impact on Greyhound Breeding**

According to the application, VRP encourages growth in the Texas greyhound breeding industry by providing purse money for greyhounds bred in Texas. It further states that VRP encourages the area to develop additional greyhound related facilities, including breeding farms, while supporting the agricultural uses in the area that provide a beneficial economic benefit to Texas.

### **Impact on the Local Economy**

The applicant states that VRP helps to support over \$80 million in annual greyhound wagering in Texas and provides over \$1.1 million in annual wages.

The applicant states that the use of the facility as a multi-purpose facility for corporate and convention business provides a location that attracts tourism from McAllen, South Padre Island and Mexico.

### **Letters of Support and Opposition**

The Commission has not received any letters of support or opposition regarding this request for change in ownership.

### **LAREDO RACE PARK, LLC**

Following is information submitted by the applicant regarding Laredo Race Park:

"The Texas Racing Commission issued a license for Laredo Race Park effective September 1, 2007. The Racing Commission's order followed a full hearing on all aspects of the Laredo Race Park Proposal, including location and facilities, and the Commission's order approved the Laredo Race Park proposal as submitted. The application submitted with the

request for approval of a 50% interest to Penn is intended to be consistent with the Commission's order, as it must be.

It is well known to the Commission that Andrea Young and other representatives of Laredo Race Park have been aggressively exploring possible alternate locations for the Laredo racetrack that might be more optimal given the economic realities the industry is facing. Laredo Race Park has for some time submitted bimonthly status reports and has appeared at each Racing Commission meeting to discuss its activities and answer any questions the Commissioners have had about these efforts. It is anticipated that Laredo Race Park will continue to do so. To date, these efforts have not resulted in any alternate proposal to present to the Commission, and it is by no means certain that there will be such a proposal in the future. Accordingly, Laredo Race Park continues to maintain its option to purchase the Mines Road property and continues to believe that such a location would be viable given the right economic climate for racetracks.

The approval of the transfer of a 50% interest to Penn will certainly add considerable expertise and resources, which will enhance Laredo Race Park's ability to pursue the best possible options with the Laredo license, as with the other licenses. It does not, however, fundamentally change the plans for the Laredo license. Laredo Race Park will continue to pursue all options available, and, if a better option is available, will present it to the Commission for its review. In the meantime, the existing license spells out the facility that has been approved. Accordingly, that is what is presented in this application."

In summary, LRP plans to continue to pursue all options available, regardless of the outcome of this proposed change in ownership. This may, or may not, include constructing a horse racetrack on the Mines Road location. At the March 1, 2011, Commission meeting, Shawn Hurwitz, President of LRP, reported that a representative of LRP and PNG met in February with Laredo County officials to continue to explore alternative sites, including the county fair site. Any change to LRP's location would require the Commission's approval, regardless of the outcome of this proposed change of ownership.

The Commission has granted eight live race dates to LRP in August of 2011. According to prior testimony before the Commission, LRP is not on track to conduct those race dates.

## **SUMMARY**

Staff reviewed the applicant's proposal for reasonableness and compliance with state law and provides the following:

- PNG is a publicly traded, multi-jurisdictional gaming and racing company with a net worth of \$1.77 billion as of December 12, 2010.
- To acquire 50% ownership interest in PM Texas LLC, PNG will provide cash to retire 82% of the existing debts of the three tracks. In addition, SHRP will convey land to a MAXXAM affiliate in satisfaction of the remaining debt. As a result, the three tracks will be debt-free.
- SHRP and VRP are existing racetracks that are approved for racing. The facilities at SHRP are currently in good repair and require only routine maintenance. While the facilities at VRP are in good repair for simulcasting operations, the live racing facilities have not been used in two years and require a commensurate level of repair.
- LRP holds a Class 2 horse racetrack license that has not been constructed. The applicant states it will continue to explore possible alternate locations for LRP while maintaining its current option at its current Mines Road location.
- The current management team at SHRP and VRP will continue; these individuals currently are qualified to operate both the horse and greyhound racetracks.
- Sportech, SHRP's and VRP's current totalisator company, will continue to provide services. Sportech has previously been approved by the Commission. Any future change would be subject to the Commission's approval.
- There will be no change in the provider of concessions at SHRP and VRP. Any future change would be subject to the Commission's approval.
- SHRP, VRP, and LRP will enter into Operating and Development Services Agreements with Houston Operating Ventures, LLC, for the overall management of the racetracks. The officers of HOV will be the same as those of Houston Gaming Ventures, LLC.
- The applicant's financial and pari-mutuel projections for SHRP and VRP are reasonable when viewed as a whole.

- The applicant projects that SHRP will lose approximately \$17.53 million and VRP will lose \$2.44 million from operations from 2011 through 2015. The applicant will have to secure an additional \$11.39 million in financing or equity contributions over those years in order to sustain SHRP's and VRP's continued operations. MAXXAM and PNG have agreed to provide additional cash contributions to support racing and other currently authorized businesses of PM Texas and its subsidiaries, SHRP, VRP, and LRP.
- The proposed change in ownership of SHRP and LRP has been adequately described and is in compliance with the Act and the Rules. Due to LRP's current situation, LRP is unable to describe with certainty the exact location at which its race meetings are to be conducted, the kinds of racing to be conducted, or the dates that it will begin racing. Nevertheless, it is within the Commission's discretion under § 6.04(a) of the Texas Racing Act to approve the change in LRP's ownership.
- The Department of Public Safety has conducted complete personal, financial, and business background checks. Copies of these confidential reports are being provided to the Commissioners.
- The continued operation of SHRP and VRP and the construction and opening of LRP would have a positive impact on the greyhound and horse breeding industry and the state and local economies.

Appendices available upon request.

Retama Partners Ltd.  
P. O. Box 17535  
San Antonio, TX 78265-7535  
210-651-7120 x 210-651-7097

2011 FEB 14 PM 4:07  
RECEIVED  
TEXAS RACING  
COMMISSION

February 8, 2011

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

Dear Mark:

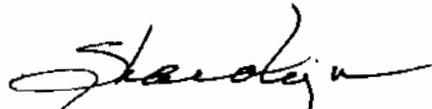
Enclosed are the documents required for transfer of the following ownership interests/units in Retama Partners Ltd.

- Thomas T. Keeler Marital Trust to:
  - Straus 2003 Irrevocable Trust 15 interests/units (.3735% ownership)

The Straus 2003 Irrevocable Trust will have a 7.5528% interest. The effective date of these transfers is December 1, 2010.

A check for \$75.00 is enclosed to cover the transfer/investigation fees. Please let me know if you need any further information for approval of this transfer by the Texas Racing Commission. Thanks for your help.

Sincerely,

  
Sharolyn Grammer

Enclosures

V.B.2.1



**TEXAS RACING COMMISSION**

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

March 10, 2011

To: Chuck Trout  
Interim Executive Director

From: Michael Gougler  
Interim Deputy Director for Racing Oversight

RE: Ownership Changes – Retama Partners, Ltd.

On February 14, 2011, the Commission received a written request from Retama Partners Ltd. for transfer of 15 interests/units (.3735% ownership) from Thomas T. Keeler Marital Trust to Straus 2003 Irrevocable Trust.

Background information forms for the applicant were forwarded to the Department of Public Safety Bureau of Information Analysis for investigation.

On March 10, 2011, the Commission received a written report from DPS advising that there was no disqualifying information revealed by the investigation.

Staff recommends that the ownership transfer be approved.

RECEIVED  
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COMMISSION

2011 MAR 21 PM 5:13

March 21, 2011

Mr. Chuck Trout  
Interim Executive Director  
Texas Racing Commission  
P.O. Box 12080  
Austin, TX 78711

Dear Mr. Trout:

At a previous meeting of the Texas Racing Commission, there was an agenda item concerning allocation of escrow horse purse at Manor Downs.

The Board of Directors of Texas HBPA has discussed this issue at length and has made a determination regarding best use allocation of these funds.

Texas HBPA requests that all quarter horse escrow horse purse funds for Manor Downs currently being held by TxRc be deposited into the Retama Park Quarter Horse Purse Account. In addition, that all future escrow horse purse funds collected by TxRc that would have been credited to Manor Downs quarter horse purser be deposited into the Retama Park Quarter Horse Purse Account until further notice by THBPA.

The disbursement of thoroughbred and minor breed escrow purse funds has not been determined at this time. Once a decision is made concerning these escrow funds, THP will notify you immediately.

THBPA requests that this item be considered for placement on the agenda for the next meeting of the Texas Racing Commission, scheduled for April 1, 2011.

Sincerely,



Marsha Rountree  
Interim Executive Director

CC Mark Fenner  
Howard Phillips  
Bryan Brown  
Rob Werstler  
Sammy Jackson

THP  
PARTNERSHIP



# Memorandum

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

**Date:** March 24, 2011  
**To:** Charles G. Trout, Interim Executive Director  
**From:**  Sammy Jackson, Deputy Director of Wagering & Racing Review  
**RE:** Proposed Distribution of 2011 Manor Downs Escrow Horse Purse Fund Being Held

At the September 2010, Commission Meeting, staff recommended that the 7.8% distribution of the 2011 escrow horse purse fund to Manor Downs be held due to their failure to request race dates for 2011. The Commission's approval of the 2011 distribution was made with the understanding that staff would hold all distributions from the escrow horse purse fund from that date forward to the Manor Downs purse accounts. Additionally, the Commission requested that the Texas Horsemen's Partnership bring forward, at a later date, a request for consideration by the Commission to distribute the held escrow horse purse funds to another location.

The Texas Horsemen's Partnership has submitted a request for consideration to have the Quarter Horse portion of the escrow horse purse funds being held to be distributed to Retama Park for Quarter Horse purses. The following table reflects the balance of the escrow horse purse fund currently being held and the portion assigned to the specific breed of horse:

<b>Escrow Horse Purse Fund Account Balance</b>		
For the Period Ending February 28, 2011		
<b>Manor Downs 7.8% Distribution:</b>	<b>\$59,048.29</b>	
Quarter Horse Allocation		\$42,559.06
Thoroughbred Allocation		\$12,355.85
Arabian Allocation		\$2,066.69
Paint Allocation		\$2,066.69
<b>Total of Breed Allocations:</b>		<u>\$59,048.29</u>

Staff has reviewed the request by the Texas Horsemen's Partnership and finds that it complies with the request of the Commission for that portion of the held escrow horse purse fund allocated to Quarter Horse purses.

If I may be of any assistance or answer any questions, please let me know.

**CC:** Mark Fenner, General Counsel  
Carol Olewin, Compliance Audit Administrator



■ GULF GREYHOUND PARK ■

2011 MAR 22 PM 4: 11

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COMMISSION

*Sally B. Briggs*  
*General Manager*

March 22, 2011

Mr. Chuck Trout  
Interim Executive Director  
Texas Racing Commission  
P. O. Box 12080  
Austin, TX 78711-2080

Dear Mr. Trout:

Enclosed is the executed First Amendment to Service Contract between Gulf Coast Racing and United Tote Company. This Amendment is an addendum to the contract dated May 1, 2009 approved by the Texas Racing Commission and continues the service provided by United Tote Company for two (2) years.

Please place this request on the Agenda for the next Texas Racing Commission meeting.

Thank you.

Sincerely,

Sally B. Briggs  
General Manager

Enclosure (1)



## Memorandum

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

**Date:** March 24, 2011

**To:** Charles G. Trout, Interim Executive Director

**From:**  Sammy Jackson, Deputy Director of Wagering & Racing Review

**RE:** Totalisator Contract between United Tote Company and Gulf Coast Racing

Staff has reviewed the amendment to the tote contract between Gulf Coast Racing and United Tote Company that has been submitted to the Commission for consideration. The original contract was approved by the Commission on June 9, 2009. The amendment, if approved, would extend the current agreement for totalisator services to April 30, 2013, with minor adjustment for fees.

Staff's review found all documents to be in compliance with the Texas Racing Act and the Texas Rules of Racing.

If you have any questions, please feel free to contact Carol Olewin or me.

**Cc:** Mark Fenner, General Counsel  
Carol Olewin, Compliance Audit Administrator



■ GULF GREYHOUND PARK ■

2011 MAR 22 PM 4:11

RECEIVED  
TEXAS RACING  
COMMISSION

**Sally B. Briggs**  
**General Manager**

March 22, 2011

Mr. Chuck Trout  
Interim Executive Director  
Texas Racing Commission  
P. O. Box 12080  
Austin, TX 78711-2080

Dear Mr. Trout:

Enclosed is the executed Fourth Amendment to Service Contract between Gillespie County Fair and Festival Association, Inc. and United Tote Company. This Amendment is an addendum to the contract dated March 15, 2004 approved by the Texas Racing Commission and continues the service provided by United Tote Company for one (1) year.

Please place this request on the Agenda for the next Texas Racing Commission meeting.

Thank you.

Sincerely,

Sally B. Briggs  
General Manager

Enclosure (1)



## Memorandum

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

**Date:** March 24, 2011

**To:** Charles G. Trout, Interim Executive Director

**From:**  Sammy Jackson, Deputy Director of Wagering & Racing Review

**RE:** Totalisator Contract between United Tote Company and Gillespie County Fair Association for live race wagering

Staff has reviewed the amendment to the tote contract between Gillespie County Fair Association and United Tote Company that has been submitted to the Commission for consideration. The original contract was approved by the Commission on June 10, 2004. The amendment, if approved, would extend the current agreement for totalisator services to January 31, 2012, with minor adjustment for fees. It should be noted that simulcast wagering is covered under a separate contract previously approved by the Commission.

Staff's review found all documents to be in compliance with the Texas Racing Act and the Texas Rules of Racing.

If you have any questions, please feel free to contact Carol Olewin or me.

**Cc:** Mark Fenner, General Counsel  
Carol Olewin, Compliance Audit Administrator



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

**To:** Texas Racing Commissioners  
**From:** Chuck Trout, Interim Executive Director  
**Date:** March 25, 2011  
**Subject:** Designation by the Commission of an Application Period for Race Dates under Commission Rule 303.41

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In accordance with Commission Rule 303.41, staff recommends that the Texas Racing Commission open the application period for race dates for January 1 through December 31, 2012; and, January 1 through August 31, 2013.

At the Commission meeting on April 1, 2011, staff recommends that the application period be opened on June 27, 2011, and close on July 15, 2011.

- Please note that the Commission has previously allocated some 2012 race dates to several of the horse racetrack associations. Some racetracks may request amendments to the existing 2012 dates. Other racetracks will be requesting 2012 dates for the first time.
- Allowing associations to request dates through the end of Fiscal Year 2013 will enable both the Commission and the racetrack associations to develop longer-term budgeting and staffing plans.