



TEXAS RACING COMMISSION

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

Texas Racing Commission
Tuesday, June 19, 2012
10:30 a.m.
John H. Reagan Building
105 W. 15th Street, Room 120
Austin, Texas 78701

AGENDA

I. CALL TO ORDER
Roll Call

II. CEREMONIAL ITEMS

- A. Welcome New Commissioner Aber
- B. Recognition of former Deputy Director Shelley Harris-Curtsinger

III. PUBLIC COMMENT

IV. GENERAL BUSINESS

Discussion and consideration of the following matters:

Reports by the Executive Director and Staff regarding Administrative Matters

- A. Budget and Finance Update
- B. Report on Racetrack Inspections
- C. Report on Wagering Statistics
- D. Enforcement Report
- E. Report by the Committee on Rules

Discussion, consideration, and possible action on the following matter:

F. Strategic Plan for Fiscal Years 2013-2017

V. PROCEEDINGS ON RACETRACKS

Discussion, consideration, and possible action on the following matters:

- A. Designation by the Commission of an Application Period for Race Dates under Commission Rule 303.41
- B. Request by Gulf Greyhound Park for Approval of Amendment to Totalisator Contract with United Tote Company
- C. Request by Retama Park to Amend its 2012 Live Racing Schedule

VI. PROCEEDINGS ON RULEMAKING

Discussion, consideration, and possible action on the following matters:

Rule Proposals

- A. Proposal to Amend Rule 311.3, Information for Background Investigation

Rule Adoptions

- B. Adoption of New Rule 309.51, Designation of Active and Inactive Racetrack Licenses
- C. Adoption of New Rule 309.52, Review and Renewal of Inactive Racetrack Licenses
- D. Adoption of Amendment to Rule 313.409, Jockey Mount Fees
- E. Adoption of Amendment to Rule 313.103, Eligibility Requirements
- F. Adoption of Amendment to Rule 313.101, Entry Procedure
- G. Adoption of Amendment to 313.104, Registration Certificates
- H. Adoption of Amendment to 313.306, Transfer of Claimed Horse
- I. Adoption of New Rule 303.97, Dually Registered Horses

Rule Reviews

Adoption of Completed Rule Reviews

- J. Chapter 301, Definitions
- K. Chapter 303, General Provisions
- L. Chapter 319, Veterinary Practices and Drug Testing

Opening of Rule Review

M. Chapter 309, Racetrack Licenses and Operations

VII. 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.

Litigation that may be discussed includes, but is not limited to:
Cause No. D-1-GN-12-000580; *Dallas City Limits Property Co., LLP, v. Texas Racing Commission*

- 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.

VIII. OLD/NEW BUSINESS

Schedule next Commission Meeting

IX. ADJOURN



**Fiscal Year 2012
Operational Budget
By LBB Obj Code**

Updated: May 15, 2012

Thru: April 30, 2012

Summary of Operating Revenue

By Revenue Type:	Budget	Collected	Suspended	Uncollected Balance	%
Cash Balance Carry Forward	\$ 556,568	\$ 556,568			0%
Live Race Day Fees	\$ 154,725	\$ 158,855		\$ (4,130)	-3%
Simulcast Race Day Fees	\$ 296,330	\$ 294,580		\$ 1,750	1%
Annual License Fees (Active & Inactive)	\$ 4,308,997	\$ 3,354,663	\$ 54,548	\$ 954,334	22%
Occupational License Fees and Fines	\$ 844,600	\$ 464,170		\$ 380,430	45%
ATB Program Pass Thru Fees	\$ 4,125,000	\$ 2,069,150		\$ 2,055,850	50%
Other Revenue	\$ 37,200	\$ 24,549		\$ 12,651	34%
Account 597 - Racing Commission - GRD	\$ 10,323,420	\$ 6,922,534	\$ 54,548	\$ 3,400,886	33%
State of Texas General Revenue Fund	\$ -	\$ -		\$ -	n/a
Account 1 - State of Texas - GR	\$ -	\$ -	\$ -	\$ -	n/a
TOTAL - ALL REVENUES	\$ 10,323,420	\$ 6,922,534	\$ 54,548	\$ 3,400,886	33%

Summary of Appropriated Operating Expenses

By Division:	Budget	Expended	Encumbered	Unexpended Balance	%
Racing Oversight	\$ 1,474,369	\$ 856,681		\$ 617,687	42%
Wagering & Racing Review	\$ 711,535	\$ 345,345		\$ 366,190	51%
Finance & Administration	\$ 651,303	\$ 423,055		\$ 228,249	35%
1001 - Salaries and Wages:	\$ 2,837,207	\$ 1,625,081	\$ -	\$ 1,212,126	43%
Racing Oversight	\$ 79,860	\$ 46,541		\$ 33,319	42%
Wagering & Racing Review	\$ 23,300	\$ 23,358		\$ (58)	0%
Administration	\$ 22,800	\$ 25,720		\$ (2,920)	-13%
1002 - Other Personnel Cost:	\$ 125,960	\$ 95,619	\$ -	\$ 30,341	24%
Racing Oversight	\$ 84,124	\$ 20,827		\$ 63,297	75%
Wagering & Racing Review	\$ 131,000	\$ 6,367		\$ 124,633	95%
Finance & Administration	\$ 67,000	\$ 10,900		\$ 56,100	84%
2001 - Professional Fees and Services:	\$ 282,124	\$ 38,094	\$ -	\$ 244,030	86%
Racing Oversight	\$ 2,700	\$ 138		\$ 2,562	95%
Wagering & Racing Review	\$ 3,500	\$ 3,604		\$ (104)	-3%
Finance & Administration	\$ 20,708	\$ 8,501		\$ 12,207	59%
2003 - Consumable Supplies:	\$ 26,908	\$ 12,243	\$ -	\$ 14,665	55%
Racing Oversight	\$ -	\$ -		\$ -	
Wagering & Racing Review	\$ -	\$ 304		\$ (304)	
Administration	\$ 26,500	\$ 15,041		\$ 11,459	43%
2004 - Utilities:	\$ 26,500	\$ 15,345	\$ -	\$ 11,155	42%
Racing Oversight	\$ 119,150	\$ 47,737		\$ 71,413	60%
Wagering & Racing Review	\$ 34,452	\$ 12,386		\$ 22,066	64%
Finance & Administration	\$ 35,259	\$ 12,023		\$ 23,236	66%
2005 - Travel:	\$ 188,861	\$ 72,146	\$ -	\$ 116,715	62%
Racing Oversight	\$ -	\$ -		\$ -	
Wagering & Racing Review	\$ 2,700	\$ 2,700		\$ -	0%
Finance & Administration	\$ 105,314	\$ 79,175		\$ 26,139	25%
2006 - Rent Building:	\$ 108,014	\$ 81,875	\$ -	\$ 26,139	24%

1V-A-1



**Fiscal Year 2012
Operational Budget
By LBB Obj Code**

Updated: May 15, 2012

Thru: April 30, 2012

Summary of Operating Revenue

	Budget	Expended	Encumbered	Uncollected Unexpended Balance	%
Racing Oversight	\$ 12,000	\$ 5,393		\$ 6,607	55%
Wagering & Racing Review	\$ -	\$ -		\$ -	
Finance & Administration	\$ 2,500	\$ 1,101		\$ 1,400	56%
2007 - Rent Machine and Other:	\$ 14,500	\$ 6,493	\$ -	\$ 8,007	55%
Racing Oversight	\$ 300,225	\$ 84,417		\$ 215,808	72%
Wagering & Racing Review	\$ 105,910	\$ 66,351		\$ 39,559	37%
Finance & Administration	\$ 134,065	\$ 38,270		\$ 95,795	71%
2009 - Other Operating Expense:	\$ 540,200	\$ 189,038	\$ -	\$ 351,162	65%
Racing Oversight	\$ -	\$ -		\$ -	
Wagering & Racing Review	\$ 4,125,000	\$ 2,069,150		\$ 2,055,850	50%
Administration	\$ -	\$ -		\$ -	
4000 - Grants	\$ 4,125,000	\$ 2,069,150	\$ -	\$ 2,055,850	50%
Racing Oversight	\$ -	\$ -		\$ -	
Wagering & Racing Review	\$ 8,710	\$ -		\$ 8,710	100%
Finance & Administration	\$ -	\$ -		\$ -	
5000 - Capital Expenditures:	\$ 8,710	\$ -	\$ -	\$ 8,710	100%
TOTAL - ALL APPROPRIATED EXPENDITURES	\$ 8,283,984	\$ 4,205,084	\$ -	\$ 4,078,899	49%

Summary of Unappropriated Operating Expenses

Type:	Budget	Expended	Encumbered	Unexpended Balance	%
OASI Match	\$ 217,671	\$ 126,301		\$ 91,370	42%
Group Insurance	\$ 243,716	\$ 151,563		\$ 92,153	38%
State Retirement	\$ 183,177	\$ 86,234		\$ 96,942	53%
Benefit Replacement	\$ 29,791	\$ 15,140		\$ 14,651	49%
ERS Retiree Insurance	\$ 200,000	\$ 131,018		\$ 68,982	34%
SWCAP GR Reimbursement	\$ 55,000	\$ 20,233		\$ 34,767	63%
Unemployment Cost	\$ 20,000	\$ 2,451		\$ 17,549	88%
Other	\$ -	\$ -		\$ -	
Unappropriated Operating Expenses	\$ 949,354	\$ 532,940	\$ -	\$ 416,414	44%
TOTAL - ALL UNAPPROPRIATED EXPENDITURES	\$ 949,354	\$ 532,940	\$ -	\$ 416,414	44%
TOTAL - ALL EXPENDITURES	\$ 9,233,338	\$ 4,738,024	\$ -	\$ 4,495,314	49%

OPERATING SURPLUS / (DEFICIT) \$ 1,090,082 \$ 2,184,510

Summary of FTE's

By Fiscal Quarter:	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Authorized FTE's	61.30	61.30	61.30	61.30
Budgeted FTE's	53.05	53.05	53.05	53.05
Budgeted FTE's Over / (Under) Authorization	(8.25)	(8.25)	(8.25)	(8.25)
Budgeted FTE's	53.05	53.05	53.05	53.05
Actual FTE's	47.30	42.23		
Actual FTE's Over / (Under) Budget	(5.75)	(10.82)		
Actual FTE's Over / (Under) Authorization	(14.00)	(19.07)		

IV-A-2



**Fiscal Year 2012
Operational Budget**

Updated: May 15, 2012

Thru: April 30, 2012

Summary of Operating Revenue
By Revenue Type:

	Budget	Collected	Suspended	Uncollected Balance	%
Account 597 - Racing Commission - GRD	\$ 10,323,420	\$ 6,922,534	\$ 54,548	\$ 3,400,886	33%
Account 1 - State of Texas - GR	\$ -	\$ -	\$ -	\$ -	
TOTAL - ALL REVENUES	\$ 10,323,420	\$ 6,922,534	\$ 54,548	\$ 3,400,886	33%

Summary of Appropriated Operating Expenses

	Budget	Expended	Encumbered	Unexpended Balance	%
1001 - Salaries and Wages:	\$ 2,837,207	\$ 1,625,081	\$ -	\$ 1,212,126	43%
1002 - Other Personnel Cost:	\$ 125,960	\$ 95,619	\$ -	\$ 30,341	24%
2001 - Professional Fees and Services:	\$ 282,124	\$ 38,094	\$ -	\$ 244,030	86%
2003 - Consumable Supplies:	\$ 26,908	\$ 12,243	\$ -	\$ 14,665	55%
2004 - Utilities:	\$ 26,500	\$ 15,345	\$ -	\$ 11,155	42%
2005 - Travel:	\$ 188,861	\$ 72,146	\$ -	\$ 116,715	62%
2006 - Rent Building:	\$ 108,014	\$ 81,875	\$ -	\$ 26,139	24%
2007 - Rent Machine and Other:	\$ 14,500	\$ 6,493	\$ -	\$ 8,007	55%
2009 - Other Operating Expense:	\$ 540,200	\$ 189,038	\$ -	\$ 351,162	65%
4000 - Grants	\$ 4,125,000	\$ 2,069,150	\$ -	\$ 2,055,850	50%
5000 - Capital Expenditures:	\$ 8,710	\$ -	\$ -	\$ 8,710	100%
TOTAL - ALL APPROPRIATED EXPENDITURES	\$ 8,283,984	\$ 4,205,084	\$ -	\$ 4,078,899	49%

Unappropriated Operating Expenses
Type:

	Budget	Expended	Encumbered	Unexpended Balance	%
TOTAL - ALL UNAPPROPRIATED EXPENDITURES	\$ 949,354	\$ 532,940	\$ -	\$ 416,414	44%
TOTAL - ALL EXPENDITURES	\$ 9,233,338	\$ 4,738,024	\$ -	\$ 4,495,314	49%

OPERATING SURPLUS / (DEFICIT)

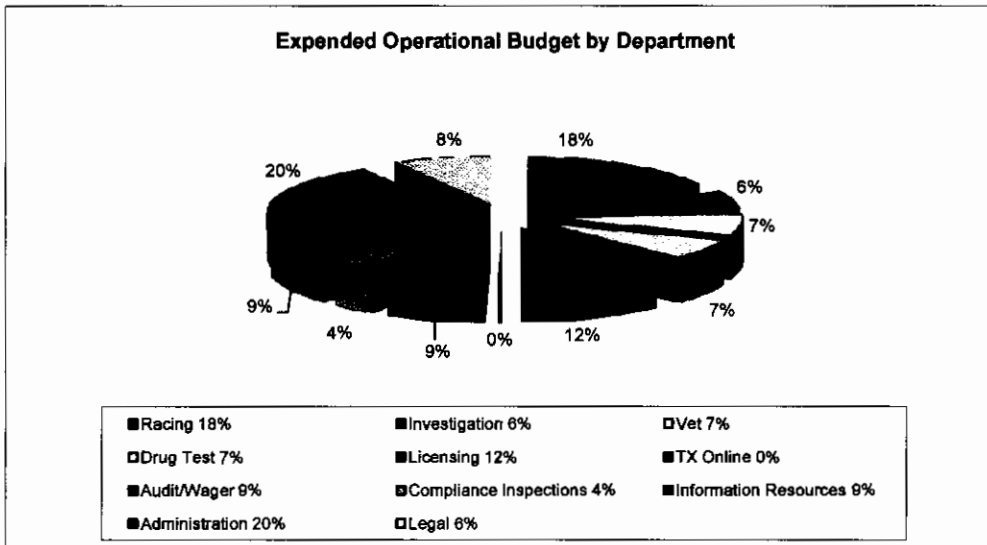
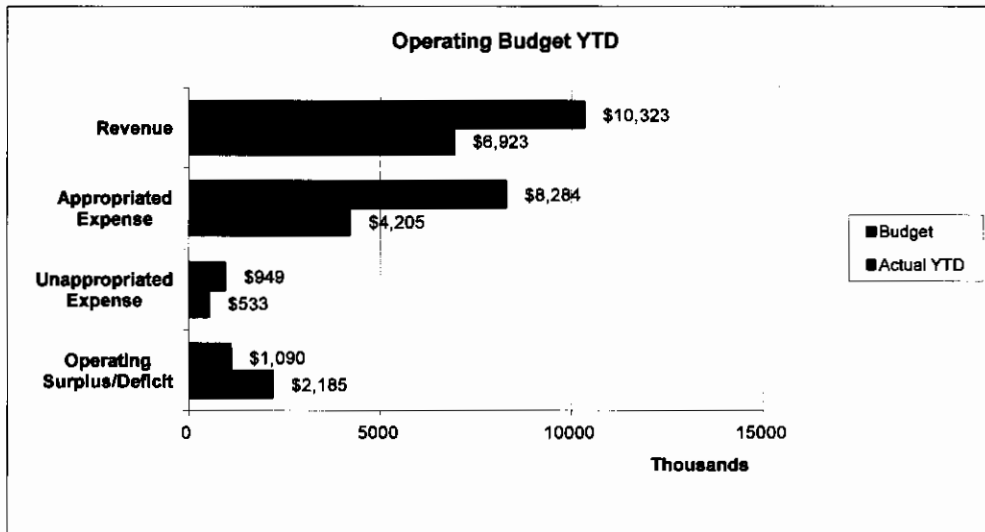
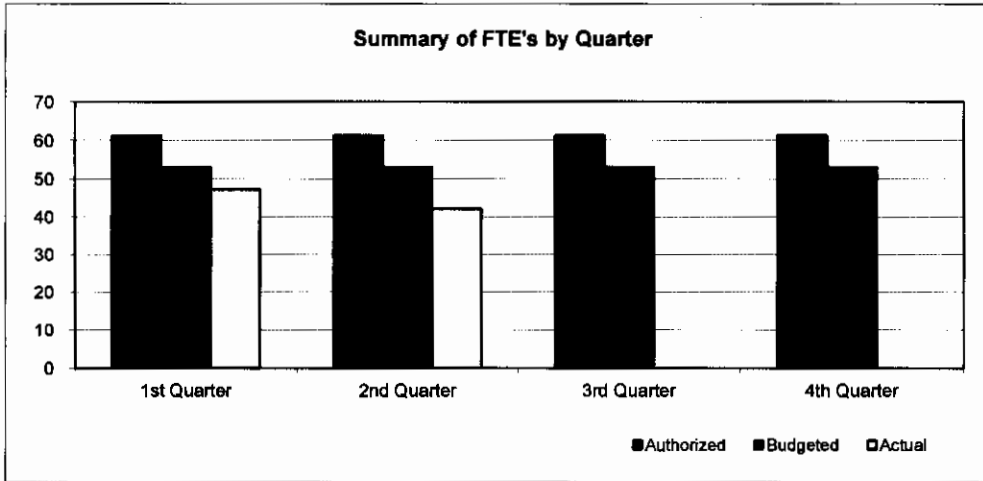
\$ 1,090,082 \$ 2,184,510

Summary of FTE's

By Fiscal Quarter:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Authorized FTE's	61.30	61.30	61.30	61.30
Budgeted FTE's	53.05	53.05	53.05	53.05
Actual FTE's	47.30	42.23		
Actual FTE's Over / (Under) Budget	(5.75)	(10.82)		
Actual FTE's Over / (Under) Authorization	(14.00)	(19.07)		

IV-A-3



IV-A-4

Texas Racing Commission

Report on Racetrack Inspection Activities

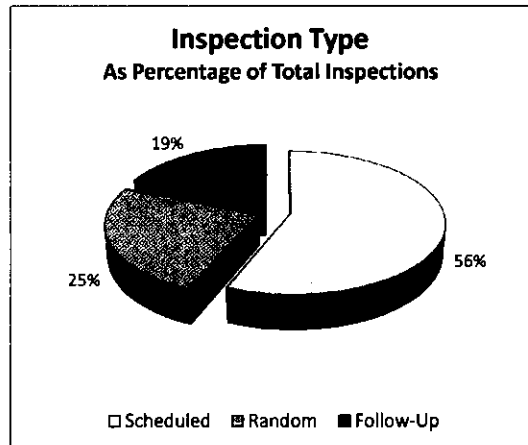
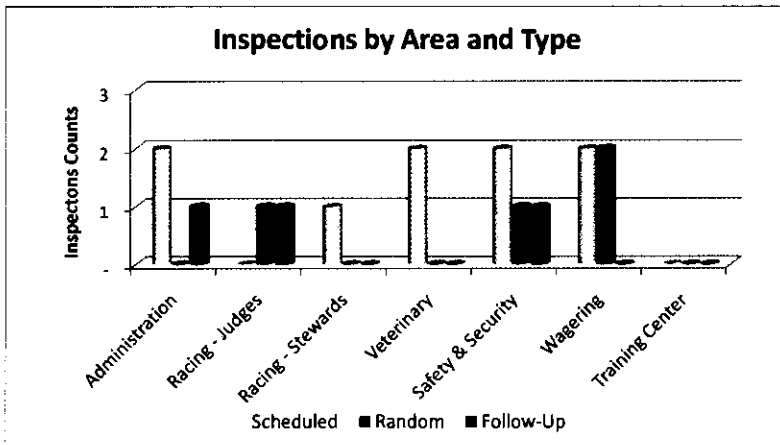
June 19, 2012

Summary of Inspections Performed For The Period of April 1, 2012 thru June 5, 2012					
Track	Area of Inspection	Date of Inspection	Number of Unsatisfactory Items	Track Remediation	Remaining Unsatisfactory Items
Gulf Coast Racing	Administration	4/19/2012	-	-	-
	Wagering	4/19/2012	-	-	-
Gulf Greyhound Park	Administration	4/11/2012	1	1	-
	Racing - Judges	5/25/2012	3	3	-
Lone Star Park	Safety & Security	4/5/2012	1	1	-
	Veterinary	4/5/2012	-	-	-
	Racing - Stewards	4/10/2012	-	-	-
	Wagering	4/5/2012	-	-	-
Retama Park	Safety & Security	5/31/2012	-	-	-
	Veterinary	6/5/2012	-	-	-
	Wagering	6/5/2012	-	-	-
Sam Houston Race Park	Safety & Security	5/9/2012	-	-	-
Valley Race Park	Administration	5/16/2012	-	-	-
	Wagering	5/16/2012	-	-	-

Inspection Counts by Area and Type				
Area of Inspection	Scheduled	Random	Follow-Up	Totals
Administration	2	-	1	3
Racing - Judges	-	1	1	2
Racing - Stewards	1	-	-	1
Veterinary	2	-	-	2
Safety & Security	2	1	1	4
Wagering	2	2	-	4
Training Center	-	-	-	-
Total Inspections	9	4	3	16

Important Notes Regarding Inspections at Racetracks:

- 1) Scheduled inspections typically occur before the beginning of each race meet. Random inspections typically are planned to occur during the middle of a meet depending on the length of the meet.
- 2) Follow-up inspections are only performed when a scheduled or random inspection identifies an unsatisfactory item. The follow-up inspection is performed after the association has had an opportunity to remedy any unsatisfactory item initially reported.





**Texas Pari-Mutuel Racetracks Wagering Statistics
Comparison Report on Total Wagers Placed
in Texas & on Texas Races**

For the Period: 01/01/11 - 06/10/11 to 01/01/12 -06/10/12

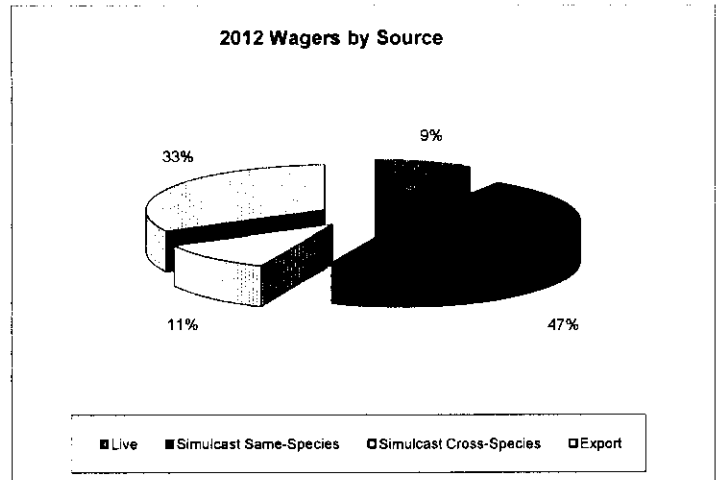
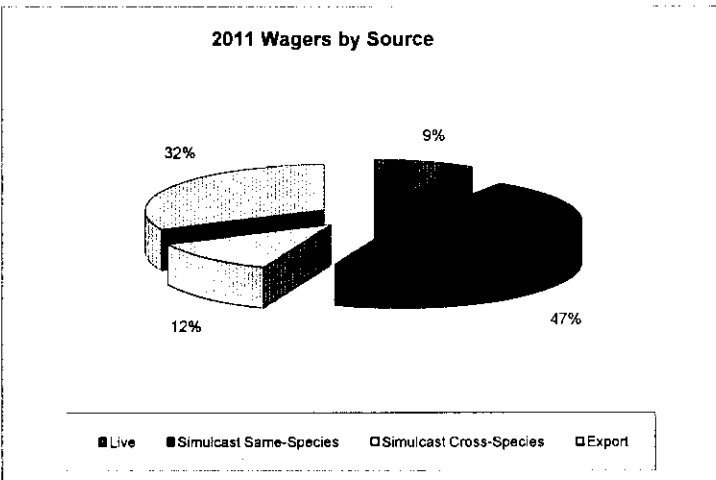
Sources of Wagers <u>Greyhound Racetracks</u>	Year 2011 01/01 - 06/10				Year 2012 01/01 -06/10				Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wagers		
Live	112	\$ 4,665,477	\$ 41,656	109	\$ 4,086,043	\$ 37,487	-12.42%	-10.01%		
Simulcast Same-Species	412	\$ 12,367,426	\$ 30,018	417	\$ 12,501,328	\$ 29,979	1.08%	-0.13%		
Simulcast Cross-Species	412	\$ 11,580,680	\$ 28,108	417	\$ 10,418,597	\$ 24,985	-10.03%	-11.11%		
Export	112	\$ 5,779,594	\$ 51,604	109	\$ 5,212,976	\$ 47,825	-9.80%	-7.32%		
Total Wagers		\$ 34,393,177	N/A		\$ 32,218,945	N/A	-6.32%	N/A		

Sources of Wagers <u>Horse Racetracks</u>	Year 2011 01/01 - 06/10				Year 2012 01/01 -06/10				Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wagers		
Live	91	\$ 15,479,935	\$ 170,109	96	\$ 16,770,538	\$ 174,693	8.34%	2.69%		
Simulcast Same-Species	575	\$ 91,464,813	\$ 159,069	579	\$ 98,308,713	\$ 169,791	7.48%	6.74%		
Simulcast Cross-Species	574	\$ 14,921,687	\$ 25,996	579	\$ 14,691,092	\$ 25,373	-1.55%	-2.40%		
Export	91	\$ 64,824,540	\$ 712,358	96	\$ 71,077,825	\$ 740,394	9.65%	3.94%		
Total Wagers		\$ 186,690,975	N/A		\$ 200,848,167	N/A	7.58%	N/A		

Sources of Wagers <u>All Texas Racetracks</u>	Year 2011 01/01 - 06/10				Year 2012 01/01 -06/10				Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wagers		
Live	203	\$ 20,145,412	\$ 99,238	205	\$ 20,856,581	\$ 101,739	3.53%	2.52%		
Simulcast Same-Species	987	\$ 103,832,238	\$ 105,200	996	\$ 110,810,041	\$ 111,255	6.72%	5.76%		
Simulcast Cross-Species	986	\$ 26,502,367	\$ 26,879	996	\$ 25,109,689	\$ 25,211	-5.25%	-6.21%		
Export	203	\$ 70,604,134	\$ 347,804	205	\$ 76,290,801	\$ 372,150	8.05%	7.00%		
Total Wagers		\$ 221,084,152	N/A		\$ 233,067,112	N/A	5.42%	N/A		

Total Wagers Placed in Texas	\$ 150,480,018	N/A	\$ 156,776,310	N/A	4.18%	N/A
-------------------------------------	----------------	-----	----------------	-----	-------	-----

Total Wagers Placed on Texas Races	\$ 90,749,547	N/A	\$ 97,147,383	N/A	7.05%	N/A
---	---------------	-----	---------------	-----	-------	-----



IV-C-1



**Greyhound Racetrack Wagering Statistics
Comparison Report on Total Wagers Placed**

in Texas & on Texas Races

For the Period: 01/01/11 - 06/10/11 to 01/01/12 -06/10/12

Sources of Wagers <u>Gulf Coast Racing</u>	Year 2011 01/01 - 06/10			Year 2012 01/01 -06/10			Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager
Live	0	\$ -	N/A	0	\$ -	N/A	N/A	N/A
Simulcast Same-Species	114	\$ 3,243,363	\$ 28,451	116	\$ 3,478,421	\$ 29,986	7.25%	5.40%
Simulcast Cross-Species	114	\$ 1,811,376	\$ 15,889	116	\$ 1,939,983	\$ 16,724	7.10%	5.25%
Export	0	\$ -	N/A	0	\$ -	N/A	N/A	N/A
Total Wagers		\$ 5,054,739	N/A		\$ 5,418,404	N/A	7.19%	N/A

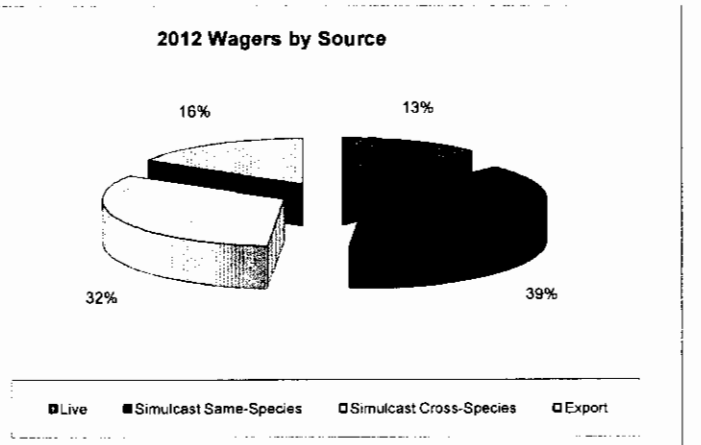
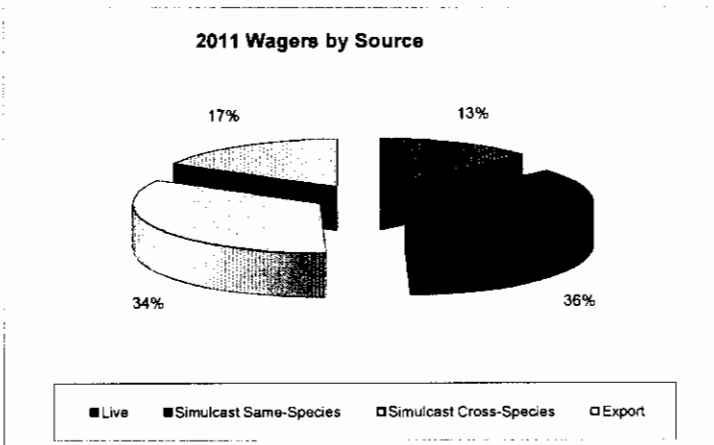
Sources of Wagers <u>Gulf Greyhound Park</u>	Year 2011 01/01 - 06/10			Year 2012 01/01 -06/10			Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager
Live	112	\$ 4,665,477	\$ 41,656	109	\$ 4,086,043	\$ 37,487	-12.42%	-10.01%
Simulcast Same-Species	160	\$ 5,792,448	\$ 36,203	162	\$ 5,739,861	\$ 35,431	-0.91%	-2.13%
Simulcast Cross-Species	160	\$ 6,399,406	\$ 39,996	162	\$ 5,488,064	\$ 33,877	-14.24%	-15.30%
Export	112	\$ 5,779,594	\$ 51,604	109	\$ 5,212,976	\$ 47,825	-9.80%	-7.32%
Total Wagers		\$ 22,636,926	N/A		\$ 20,526,944	N/A	-9.32%	N/A

Sources of Wagers <u>Valley Race Park</u>	Year 2011 01/01 - 06/10			Year 2012 01/01 -06/10			Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager
Live	0	\$ -	\$ -	0	\$ -	N/A	N/A	N/A
Simulcast Same-Species	138	\$ 3,331,615	\$ 24,142	139	\$ 3,283,046	\$ 23,619	-1.46%	-2.17%
Simulcast Cross-Species	138	\$ 3,369,898	\$ 24,420	139	\$ 2,990,550	\$ 21,515	-11.26%	-11.90%
Export	0	\$ -	N/A	0	\$ -	N/A	N/A	N/A
Total Wagers		\$ 6,701,513	N/A		\$ 6,273,596	N/A	-6.39%	N/A

Sources of Wagers <u>All Greyhound Racetracks</u>	Year 2011 01/01 - 06/10			Year 2012 01/01 -06/10			Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager
Live	112	\$ 4,665,477	\$ 41,656	109	\$ 4,086,043	\$ 37,487	-12.42%	-10.01%
Simulcast Same-Species	412	\$ 12,367,426	\$ 30,018	417	\$ 12,501,328	\$ 29,979	1.08%	-0.13%
Simulcast Cross-Species	412	\$ 11,580,680	\$ 28,108	417	\$ 10,418,597	\$ 24,985	-10.03%	-11.11%
Export	112	\$ 5,779,594	\$ 51,604	109	\$ 5,212,976	\$ 47,825	-9.80%	-7.32%
Total Wagers		\$ 34,393,177	N/A		\$ 32,218,945	N/A	-6.32%	N/A

Total Wagers Placed in Texas	\$ 28,613,583	N/A	\$ 27,005,968	N/A	-5.62%	N/A
-------------------------------------	----------------------	------------	----------------------	------------	---------------	------------

Total Wagers Placed on Texas Races	\$ 10,445,072	N/A	\$ 9,299,020	N/A	-10.97%	N/A
---	----------------------	------------	---------------------	------------	----------------	------------



IV-C-2

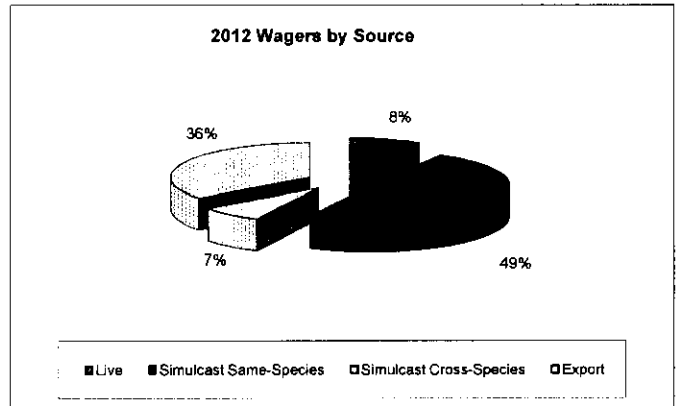
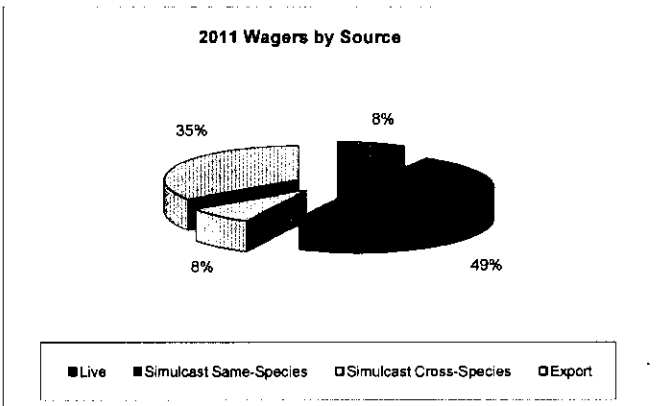


Horse Racetrack Wagering Statistics
Comparison Report on Total Wagers Placed

in Texas & on Texas Races

For the Period: 01/01/11 - 06/10/11 to 01/01/12 -06/10/12

Sources of Wagers	Year 2011 01/01 - 06/10			Year 2012 01/01 -06/10			Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager
Gillespie County Fair								
Live	0	\$ -	N/A	0	\$ -	N/A	N/A	N/A
Simulcast Same-Species	92	\$ 1,815,966	\$ 19,739	93	\$ 1,424,101	\$ 15,313	-21.58%	-22.42%
Simulcast Cross-Species	92	\$ 186,882	\$ 2,031	93	\$ 161,843	\$ 1,740	-13.40%	-14.33%
Export	0	\$ -	N/A	0	\$ -	N/A	N/A	N/A
Total Wagers		\$ 2,002,848	N/A		\$ 1,585,944	N/A	-20.82%	N/A
Lone Star Park								
Live	34	\$ 10,108,917	\$ 297,321	36	\$ 10,242,149	\$ 284,504	1.32%	-4.31%
Simulcast Same-Species	161	\$ 43,589,229	\$ 270,741	162	\$ 46,431,937	\$ 286,617	6.52%	5.86%
Simulcast Cross-Species	160	\$ 2,495,479	\$ 15,597	162	\$ 2,384,377	\$ 14,718	-4.45%	-5.63%
Export	34	\$ 26,743,467	\$ 786,573	36	\$ 23,742,685	\$ 659,519	-11.22%	-16.15%
Total Wagers		\$ 82,937,092	N/A		\$ 82,801,146	N/A	-0.16%	N/A
Retama Park								
Live	0	\$ -	N/A	2	\$ 271,132	\$ 135,566	N/A	N/A
Simulcast Same-Species	161	\$ 16,231,730	\$ 100,818	162	\$ 18,602,136	\$ 114,828	14.60%	13.90%
Simulcast Cross-Species	161	\$ 3,314,727	\$ 20,588	162	\$ 3,319,602	\$ 20,491	0.15%	-0.47%
Export	0	\$ -	N/A	2	\$ 269,711	\$ 134,856	N/A	N/A
Total Wagers		\$ 19,546,457	N/A		\$ 22,462,581	N/A	14.92%	N/A
Sam Houston Race Park								
Live	57	\$ 5,371,018	\$ 94,228	58	\$ 6,257,257	\$ 107,884	16.50%	14.49%
Simulcast Same-Species	161	\$ 29,827,889	\$ 185,266	162	\$ 31,850,539	\$ 196,608	6.78%	6.12%
Simulcast Cross-Species	161	\$ 8,924,599	\$ 55,432	162	\$ 8,825,271	\$ 54,477	-1.11%	-1.72%
Export	57	\$ 38,081,073	\$ 668,089	58	\$ 47,065,429	\$ 811,473	23.59%	21.46%
Total Wagers		\$ 82,204,579	N/A		\$ 93,998,496	N/A	14.35%	N/A
All Horse Racetracks								
Live	91	\$ 15,479,935	\$ 170,109	96	\$ 16,770,538	\$ 174,693	8.34%	2.69%
Simulcast Same-Species	575	\$ 91,464,813	\$ 159,069	579	\$ 98,308,713	\$ 169,791	7.48%	6.74%
Simulcast Cross-Species	574	\$ 14,921,687	\$ 25,996	579	\$ 14,691,092	\$ 25,373	-1.55%	-2.40%
Export	91	\$ 64,824,540	\$ 712,358	96	\$ 71,077,825	\$ 740,394	9.65%	3.94%
Total Wagers		\$ 186,690,975	N/A		\$ 200,848,167	N/A	7.58%	N/A
Total Wagers Placed in Texas		\$ 121,866,435	N/A		\$ 129,770,342	N/A	6.49%	N/A
Total Wagers Placed on Texas Races		\$ 80,304,475	N/A		\$ 87,848,363	N/A	9.39%	N/A



IV-C-3

**Texas Racing Commission
Enforcement Report
Selected Regulatory Statistics
April 1, 2012 – May 31, 2012**

	GREYHOUND	HORSE	NOTES
# of Live Race Performances/Days	41	50	
# of Live Races	519	467	
# of Animals Inspected	3,970	3,831	
# of Samples	475	999	
# of Animal Drug Positives*	0	5	
% of Samples Testing Positive	0%	0.5%	
# of Simulcast Days	156	217	
# of Simulcast Races	48,827	71,087	
# of Import and Export Requests	89	279	
# of New Licenses Issued	549		
# of Licenses Renewed	1,111		
# of Gate, Barn, and Kennel Searches	17		
# of Administrative Investigations	33		
# of Rulings	3	58	
# of Suspensions	0	15	
# of Revocations	0	0	
# of Animals DQ'ed for Drug Positive – Purse Redistributed	0	3	
# of Rulings with Fines	3	45	
Total Fines Assessed	\$275	\$9,700	

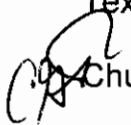
*These are results of the initial sample testing. The results of any subsequent split sample testing and the resulting investigative case may not be reflected.

CLASSIFICATION OF DRUG POSITIVES: Drugs are classified by their effect on the animals, with Class 1 being the most serious for greyhounds and horses and for greyhounds, Class 6 is the least serious, and for horses, Class 5 is the least serious.

W-D-1



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, Executive Director
Date: June 11, 2012
Subject: Designation by the Commission of an Application Period for Race Dates under Commission Rule 303.41

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, 2013; and, January 1 through August 31, 2014.

At the Commission meeting on June 19, 2012, staff recommends that the application period be opened on June 20, 2012, and be closed on July 20, 2012.

- Please note that the Commission has previously allocated some 2013 race dates to several racetrack associations. Some racetracks may request amendments to the existing 2013 dates. Other racetracks will be requesting 2013 dates for the first time.
- Allowing associations to request dates through the end of Fiscal Year 2014 will enable both the Commission and the racetrack associations to develop longer-term budgeting and staffing plans.

V-A-1



Texas Racing Commission

MAILING ADDRESS: P.O. BOX 12080 - AUSTIN, TX 78711-2080

PHONE: (512) 833-6699 FAX: (512) 833-6907

www.txrc.state.tx.us

MEMORANDUM

To: Mark Fenner, General Counsel

From:  Sammy Jackson, Deputy Director for Wagering & Racing Review

Date: June 1, 2012

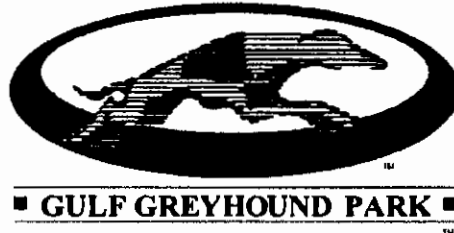
Subject: Amendment to Totalisator Contract between Gulf Greyhound Partners, Ltd. and United Tote

Attached to this memorandum is an amendment to the tote contract between Gulf Greyhound Partners, Ltd. and United Tote Company that has been requested by Gulf Greyhound Park to be placed on the June 19, 2012, Commission Meeting Agenda for consideration. The amendment is to the originally contract that was recently approved at the April 10, 2012, Commission Meeting. The amendment defines a calendar week and operating year, provides more clarification regarding features and functionality of a specific type of wagering terminal, and establishes December 31, 2015, as the date of expiration of the contract. Staff has completed a review of the amendment and finds it 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 Curley Trahan or me.

Cc: Chuck Trout, Executive Director
Curley Trahan, Compliance Auditor

V-B-1



Sally B. Briggs
General Manager

May 16, 2012

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

Dear Mr. Trout:

Enclosed please find an Amendment to Tote Service Contract between Gulf Greyhound Partners, Ltd. and United Tote Company. This Amendment is an addition to the United Tote Contract dated March 22, 2012 and approved by the Texas Racing Commission at the April 20, 2012 meeting.

This Amendment clarifies certain definitions as well as equipment used at Gulf Greyhound Park.

If you have questions, please let me know.

Yours truly,

A handwritten signature in black ink that reads "Sally B. Briggs". The signature is written in a cursive, flowing style.

Sally B. Briggs
General Manager

c: Sammy Jackson, Texas Racing Commission
Mark Fenner, Texas Racing Commission
Eric Wilson, Greene Group, Inc.



RETAMA PARK™

June 11, 2012

Mr. Chuck Trout
Executive Director
Texas Racing Commission
8505 Cross Park Drive
Suite 110
Austin, TX 78754

Dear Mr. Trout:

Retama Park respectfully requests that an item be added to the June 19, 2012 Texas Racing Commission meeting agenda. The item would be as follows:

Request by Retama Park to Modify its 2012 Live Racing Schedule.

Specifically, Retama Park would like to add August 17 and 18 to our current Quarter Horse meet.

We have contacted Rob Werstler of the TQHA who voiced approval for the additional days. Marsha Rountree, with the Texas Horsemen's Partnership LLP, is traveling but we have attempted to contact her as well. We believe the horsemen will be very supportive of the proposal as racing opportunities are very important to them.

Our entire staff is excited about providing these additional days and the impact they will have on the industry. We believe that it is incumbent on the industry to strive to create positives when possible. Please let me know if you have any questions.

Many thanks.

Yours truly,

Bryan P. Brown, CEO

cc: Drew Alexander, Terry Blanton, Jan Haynes, Dr. Tommy Hays, Dave Hooper, Tooter Jordan, Greg LaMantia, Howard Philips, Brian Roeder, Marsha Rountree, Drew Shubeck, Karen Utecht, Pancho Villarreal, Rob Werstler, Ed Wilson, Andrea Young.

V-C-1

Texas Racing Commission
Title 16, Part VIII,
Chapter 311. Other Licenses
Subchapter A. Licensing Provisions
Division 1. Occupational Licenses

1 **Rule 311.3. Information for Background Investigation**

2 (a) Fingerprint Requirements and Procedure

3 (1)-(3) (No change.)

4 (4) A person who desires to renew an occupational license
5 must:

6 (A)-(B) no change

7 (C) if the applicant's original fingerprints are
8 classified and on file with the Department of Public
9 Safety, the applicant must pay a processing fee ~~of \$34.25~~
10 to resubmit the original fingerprints in lieu of submitting
11 another set of fingerprints under paragraph (6) of this
12 subsection. The processing fee shall be equal to the amount
13 necessary to reimburse the Department of Public Safety for
14 obtaining criminal history records under subsection (b) of
15 this section.

16 (5) (No change.)

17 (6) If an applicant for a license or license renewal is
18 required to submit fingerprints under this section, the
19 applicant must also submit a fingerprinting fee and a processing
20 fee equal to the amounts necessary to reimburse the Commission
21 and the Department of Public Safety for obtaining criminal
22 history records under subsection (b) of this section. ~~of \$44.20.~~

23 (b) (No change.)

1 **Sec. 309.51. Designation of Active and Inactive Racetrack**
2 **Licenses**

3 (a) Initial Designation. The Commission shall designate a
4 racetrack license as either active or inactive as those
5 terms are defined in subsection (b). The Commission shall
6 make the initial designation for each racetrack license not
7 later than September 1, 2012.

8 (b) Definitions.

9 (1) "Active-Operating" means the license holder
10 conducted live racing events at the racetrack during the
11 previous State Fiscal Year and has been granted future live
12 race dates.

13 (2) "Active-Other" means the license holder has
14 applied for and received pending live race dates under
15 §303.41, Allocation of Race Dates, and taken the following
16 actions to demonstrate good faith efforts to conduct live
17 racing:

18 (A) is presently conducting pre-opening
19 simulcasting;

20 (B) has demonstrated that the conduct of
21 simulcast or live racing is imminent. Factors the
22 Commission may consider include, but are not limited
23 to, the license holder's:

24 (i) securing sufficient financial
25 commitments to fund construction of the racetrack
26 facility;

27 (ii) securing the real property of the
28 designated racetrack location for which the
29 racetrack license was granted, either by purchase
30 or through a long-term lease of 20 years or more;

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 (iii) entering into contracts for the
2 construction of the simulcasting and racetrack
3 facilities;

4 (iv) securing Commission approval of the
5 racing facility's construction plans;

6 (v) securing permits and utilities necessary
7 for the construction of the racing facilities;

8 (vi) beginning and sustaining construction
9 of the simulcasting or live racing facilities;

10 and

11 (vii) providing to the Commission a
12 construction and operations management schedule
13 demonstrating that simulcasting is imminent and
14 that the facilities will be ready to conduct live
15 racing by the beginning of the approved live race
16 dates; or

17 (C) voluntarily providing a bond under subsection
18 (e) of this section to ensure that the license holder
19 conducts pre-opening simulcasting and completes the
20 pending allocated live race dates.

21 (3) "Inactive" means the license holder does not meet
22 the requirements for the racetrack license to be designated
23 as Active-Operating or Active-Other.

24 (c) Subsequent Designation. After the initial racetrack
25 designation is made under subsection (a) of this section,
26 the Commission may change the designation of the racetrack
27 license at any time if the facts that supported the current
28 designation change.

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 (d) Racetrack Reviews.

2 (1) Racetracks designated "Active-Operating" or
3 "Active-Other" will undergo an ownership and management
4 review every five years pursuant to §6.06(k) of the Act.

5 (2) Racetracks designated "Inactive" will undergo an
6 annual review described by §309.52 of this Chapter.

7 (e) Bonds.

8 (1) To be designated as Active-Other under
9 subparagraph (b) (2) (C) of this section, a license holder
10 shall submit a bond by September 1 of the State Fiscal Year
11 for which it is offered.

12 (2) The amount of the bond for the State Fiscal Year
13 beginning September 1, 2012, and each year thereafter is
14 \$400,000.

15 (3) Return or Forfeiture of Bond.

16 (A) If the racetrack conducts pre-opening
17 simulcasting during the first fiscal year of the bond,
18 the bond shall be retained for an additional fiscal
19 year or until the racetrack completes its live race
20 dates. Upon successful completion of all of the
21 racetrack's live race dates allocated for the first
22 two fiscal years of the bond, the Commission shall
23 return the bond to the license holder.

24 (B) If the racetrack does not conduct pre-opening
25 simulcasting during the initial fiscal year of the
26 bonding period, the bond shall be forfeited on August
27 31 of the same fiscal year.

28 (C) If the racetrack conducts pre-opening
29 simulcasting during the first fiscal year but fails to
30 conduct all of its allocated live race dates during

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 the first two fiscal years of the bond, the bond shall
2 be forfeited on August 31 of the second fiscal year.

3 (D) A bond is automatically forfeited on the date
4 provided in this subsection unless the Commission
5 takes action in an open meeting to return the bond or
6 extend the date of automatic forfeiture.

7 (E) For purposes of this paragraph, live race
8 dates do not include those race dates that have been
9 excused by the executive secretary under §303.41(h) of
10 Chapter 303, General Provisions.

11 (4) The bond of a horse racetrack that is forfeited
12 under this section shall accrue to the Escrowed Purse
13 Account under §321.509 of Chapter 321 and shall be
14 distributed in accordance with that section. The bond of a
15 greyhound racetrack that is forfeited under this section
16 shall accrue to the state greyhound breed registry and be
17 distributed through the Accredited Texas Bred Program.

18 (5) If an Active-Other racetrack forfeits a bond under
19 this section, the Commission shall review and may change
20 the license's designation at a regularly scheduled meeting
21 to be held within the following four months of the bond
22 forfeiture.

23 (f) Failure to Conduct Granted Live Race Dates.
24 Except as excused by the executive secretary under
25 §303.41(h) of Chapter 303, General Provisions, if an
26 Active-Operating or an Active-Other racetrack fails to
27 conduct any live race dates granted to it by the
28 Commission, the Commission shall review and may change the
29 license's designation at a regularly scheduled meeting to
30 be held within the following four months. This subsection

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

- 1 does not apply to an Active-Other racetrack that has
- 2 provided a bond under subsection (e) of this section.

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 **Sec. 309.52. Review and Renewal of Inactive Racetrack**
2 **Licenses.**

3 (a) The Commission shall annually review each inactive
4 racetrack license. At the conclusion of each review, the
5 Commission may:

6 (1) designate the license as Active-Operating;

7 (2) designate the license as Active-Other;

8 (3) renew the license as Inactive; or

9 (4) refer the inactive racetrack license to the State

10 Office of Administrative Hearings for an evidentiary
11 hearing and Proposal for Decision as to whether the
12 Commission should refuse to renew the license.

13 (b) Notice of Review

14 The executive secretary shall provide written notice to an
15 inactive license holder that the license holder must file
16 an application for renewal. Such notice must be provided
17 by certified or registered mail no later than June 1 of
18 each year the license remains in effect and is designated
19 as inactive. The first such notice shall be sent by the
20 executive secretary by June 1, 2013. The notice must
21 specify the procedure for filing an application for renewal
22 and the information to be included in the application. The
23 application for renewal shall be filed on or before July 1
24 following the receipt of the notice. The first application
25 for renewal shall be filed by July 1, 2013, with additional
26 applications filed annually on July 1 thereafter. The
27 executive secretary may extend the deadline for filing the
28 renewal application. The timely filing of an application
29 for renewal extends the license until the Commission renews
30 or refuses to renew the license. If an inactive racetrack

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 license holder does not file a timely application for
2 renewal, the Commission may either renew the license or
3 refer the license to the State Office of Administrative
4 Hearings for an evidentiary hearing and Proposal for
5 Decision as to whether the Commission should refuse to
6 renew the license.

7 (c) Application for Renewal.

8 (1) Each inactive racetrack license holder must submit
9 an application for renewal on a form prescribed by the
10 executive secretary.

11 (2) The applicant must submit one original and two
12 copies of the application and any supplemental documents.

13 (3) The applicant must swear before a notary public to
14 the truth and validity of the information in the
15 application and its supplemental documents. If the
16 applicant is not an individual, the chief executive officer
17 of the applicant must swear before a notary public to the
18 truth and validity of the information in the application
19 and its supplemental documents.

20 (4) The applicant must state the name, address, and
21 telephone number of an individual designated by the
22 applicant to be the primary contact person for the
23 Commission during the review and renewal process.

24 (d) Renewal Criteria. In determining whether to renew an
25 inactive racetrack license, the Commission shall consider:

26 (1) the inactive racetrack license holder's:

27 (A) financial stability;

28 (B) ability to conduct live racing;

29 (C) ability to construct and maintain a racetrack
30 facility;

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 (D) other good faith efforts to conduct live racing;
2 and

3 (2) other necessary factors considered in the issuance
4 of the original license.

5 (3) For purposes of this section, the Commission will
6 consider actions that demonstrate good faith efforts
7 towards conducting live racing, although live racing is not
8 imminent. Actions the Commission may consider include, but
9 are not limited to:

10 (A) securing sufficient financial commitments to
11 fund construction of the racetrack facility;

12 (B) securing the real property of the designated
13 location for which the racetrack license was granted,
14 either by purchase or through a long-term lease of 20
15 years or more;

16 (C) entering into contracts for the construction of
17 the simulcasting and racetrack facilities;

18 (D) securing Commission approval of the racing
19 facility's construction plans;

20 (E) securing permits and utilities necessary for the
21 construction of the racing facilities; and

22 (F) beginning and sustaining construction of the
23 simulcasting or live racing facilities.

24 (e) Nonrenewal. The Commission may refuse to renew an
25 inactive racetrack license if, after notice and a hearing,
26 the Commission determines that:

27 (1) renewal of the license is not in the best
28 interests of the racing industry or the public; or

29 (2) the license holder has failed to make a good faith
30 effort to conduct live racing.

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 (f) For purposes of this section, the Commission will
2 consider, but is not limited to, the following factors as
3 evidence that renewal of a license is not in the best
4 interests of the racing industry or the public:

5 (1) the presence of any ground for denial, revocation,
6 or suspension of a license under §6.06 or §6.0603 of the
7 Act;

8 (2) forfeiture of any bond by an inactive racetrack
9 license holder that was required by the Commission;

10 (3) failure by an inactive racetrack license holder to
11 comply with any condition or order placed on the license by
12 the Commission;

13 (4) failure to maintain the ownership or leasehold
14 interest in the real property constituting the designated
15 location; or

16 (5) any factor identified in subsection (a) of §6.04
17 of the Act.

18 (g) The presence of any particular factor or factors under
19 this section does not require the Commission to renew or
20 refuse to renew an inactive racetrack license.

21 (h) Review Fees.

22 (1) Each inactive racetrack license must submit a
23 review fee with its application for renewal. The review
24 fee is composed of a variable processing charge. The
25 processing charge is the amount needed by the Commission to
26 cover the administrative and enforcement costs of
27 processing the request for renewal, including any costs
28 associated with processing a hearing at the State Office of
29 Administrative Hearings. A license holder must pay the
30 initial review fee contemporaneously with filing the

Chapter 309. Racetrack Licenses and Operations

Subchapter A. Racetrack Licenses

Subdivision 2. Active and Inactive Racetrack Licenses

1 application for renewal. The Commission shall hold the
2 review fee in the state treasury in a suspense account. The
3 Commission may transfer the processing funds due to the
4 Commission to the Texas Racing Commission Fund as costs are
5 incurred. If the actual cost to the Commission of
6 processing the request exceeds the amount deposited for the
7 applicable charge, the requestor shall pay the remaining
8 amount not later than 10 business days after receipt of a
9 bill from the Commission. If the costs of processing the
10 request are less than the amount of the charge, the
11 Commission shall refund the excess not later than 10
12 business days after the Commission's decision on the
13 request becomes final.

14 (2) The initial review fee for an inactive racetrack
15 license is \$5,000. If the Commission refers an application
16 to the State Office of Administrative Hearings under
17 subsection (a) of this section, the applicant for renewal
18 shall submit an additional \$50,000 review fee within 30
19 days of the referral.

MOLTZ MORTON O'TOOLE LLP

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

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

May 2, 2012

Via Hand Delivery

Texas Racing Commission
c/o Carolyn Weiss, Assistant to the Executive Director
8505 Cross Park Drive, Suite 110
Austin, Texas 78754

Re: Comments Relating to Proposed "Active/Inactive" Rule
Proposed 16 TAC §309.51 and Proposed 16 TAC §309.52

Commissioners:

We appreciate the opportunity to submit these comments relating to proposed new 16 TAC §309.51 and 16 TAC §309.52 on behalf of LRP Group, Ltd. (Laredo Downs), Valle de los Tesoros, Ltd. (Tesoros Race Park), and Gulf Coast Racing, LLC. We understand the time constraints placed upon the Racing Commission by the Legislature and believe, to a great degree, the proposed rules present a reasonable approach to fulfilling the Legislature's mandates. In one respect, however, the proposed rules are contrary to the Texas Racing Act, as amended by H.B. 2271, and, as such, their adoption would be an ultra vires and invalid act of the Commission. This basic flaw in the proposed rules is found in proposed 16 TAC §309.51(b)(2), the definition of "Active-Other". In addition, we believe this fundamental flaw in the proposed rules has led to the assertion that the Commission has the authority to require a bond for the reasons delineated in proposed §309.52(h). The comments, below, discuss the fundamental problem with proposed 16 TAC §309.51(b)(2) followed by brief comments relating to the similar problem with proposed 16 TAC §309.52(h).

Definition of "Active-Other" (Proposed 16 TAC 309.51(b)(2))

Section 6.0601(b) of the Texas Racing Act, as amended, Article 179(e), Vernons Civil Statutes (the "Act"), provides as follows:

- (b) *The commission shall designate a racetrack license as an active license if the license holder:*
- (1) *holds live racing events at the racetrack; or*
 - (2) *makes good faith efforts to conduct live racing.*

2012 MAY -2 PM 3:31
RECEIVED
TEXAS RACING
COMMISSION

V1-C-6

Texas Racing Commission
May 2, 2012
Page 2

Section 6.0601(c) of the Act further provides:

(c) The commission by rule shall provide guidance on what actions constitute, for purposes of this Act, good faith efforts to conduct live racing.

The proposed rule is fundamentally flawed in that any racetrack where the license holder is not currently conducting live racing is automatically considered "Inactive" unless strict and specific actions are taken and results are achieved as delineated in the proposed definition of "Active-Other". To be considered "Active-Other," the racetrack only has three inflexible options, none of which allows for consideration of good faith efforts but, instead, indicate achievement of inflexible milestones toward live racing. Nowhere in the proposed rule is the Commission given the discretion to consider good faith efforts toward those milestones nor is guidance given as to what type of efforts the Commission would consider in the exercise of that discretion.

Sections 6.0601 of the Act, quoted above, clearly states that the Commission "**shall**" designate a racetrack license as an "Active" license if the license holder makes "**good faith efforts**" to conduct live racing (emphasis added). In addition, it provides that the Commission "**shall**" adopt a rule providing "**guidance**" on what actions constitute "good faith efforts" (emphasis added). These statutory provisions are mandatory directives to the Commission. The language is clear and unambiguous.

Interpreting §6.0601(b)(2) of the Act involves nothing more than determining what type of activity/activities could constitute a "good faith effort". The meaning of "good faith" is not complex. It basically means doing something honestly and without fraud or deceit. The definition of "effort" is no more complex. It simply means expending energy or working in an attempt to achieve a specific goal. While achieving a specific milestone or the ultimate final result may very well be the desired result of good faith efforts and are usually indicative of good faith efforts, good faith efforts by their very nature do not always achieve the milestone or ultimate result. Nevertheless, honest attempts at achievement can constitute good faith efforts.

Similarly, the definition of "guidance" is not ambiguous. It merely means providing information or advice to assist someone in reaching a goal. Merely requiring someone to achieve the interim or final goal provides absolutely no guidance relating to what would constitute adequate efforts to reach the goal. By way of analogy, if the Commission were directed to provide guidance to a jockey on how to make good faith efforts to win horse races, it surely would not merely require that the jockey have already placed in some races and demonstrate that

¹ We are aware that the Texas Thoroughbred Association has suggested that a sole requirement of actually conducting live racing in the prior year should be the sole criteria for determining whether a racetrack is "Active". While this approach may indeed meet their stated goal of simplicity, it completely ignores §6.0601(b)(2) of the Act, relating to good faith efforts to conduct live racing, and, as such, is not an option legally open to the Commission.

Texas Racing Commission

May 2, 2012

Page 3

he or she will actually begin winning races within a short time. This would provide absolutely no guidance to the jockey on what sort of activities that jockey should undertake and does nothing to suggest or recognize efforts. Where the meaning of words or phrases in a statute is clear and unambiguous, the Commission can not ignore that meaning and substitute something different.

It was apparent to all at the outset that developing rules to implement the active/inactive determination would be challenging. To address this challenge, the Commission created the Ad Hoc Committee to Implement HB 2271. With respect to most aspects of this challenging issue, the Committee developed sound and workable proposed policies and procedures. As part of their consideration, the Committee held periodic meetings with interested persons over several months where it received extensive written and oral comments suggesting activities undertaken by a racetrack which the Commission could include in its guidance as potential examples of "good faith efforts to conduct live racing". The draft rule which has now been proposed, however, limits consideration of such factors relating to good faith efforts only to "inactive" license renewal proceedings. Good faith efforts and the associated factors are completely ignored, however, with respect to the "Active-Other" designation despite the clear statutory mandate. While we agree that the degree or nature of good faith efforts may vary depending on whether the issue being considered is an active/inactive designation or the renewal of an inactive license, the statutory mandate and the attendant overall concept of undertaking "good faith efforts to conduct live racing" nevertheless is identical.

For these reasons, we request that the Commission revise proposed rule §309.051(b)(2) to include a discretionary finding by the Commission that a racetrack has undertaken good faith efforts to conduct live racing and, based on that finding, indicate that such a racetrack will be designated as "Active-Other". All mandatory actions and/or accomplishments should be deleted or made factors for the Commission to consider. For example, proposed §309.051(b)(2) begins by providing that, in order to designated as "Active-Other", a license holder must have "applied for and received pending live race dates" **and** taken certain specific "actions to demonstrate good faith efforts to conduct live racing". This requirement is on its face contrary to Section 6.0601(b) of the Act which provides that good faith efforts alone support a designation of a racetrack as Active. The Commission simply can not by fiat add a live race date requirement to Section 6.0601(b) of the Act where the statute contains no such requirement.

In order to further comply with the mandates of the Act, the revised rule should provide examples of relevant activities which would be considered when making the discretionary finding. Based on such a rule, the Commission would have the ability to evaluate, on a case-by-case basis, the actions taken by a racetrack in light of the regulatory guidance of the rule, and determine if a particular effort or group of efforts is sufficient to warrant a designation of "Active-Other". For the Commission's convenience, below is a revised version of proposed

MOLTZ MORTON O'TOOLE
LLP

Texas Racing Commission
May 2, 2012
Page 4

§ 309.051(b)(2) which we believe meets the requirements of the Act, as amended, while still retaining many of the criteria of the proposal:²

(2) "Active-Other" means the licensee does not meet the requirements to be designated as "Active-Operating" but has made good faith efforts to conduct live racing.

(A) For purposes of this section, the Commission will consider, but is not limited to, the following actions as evidence that a license holder is making or has made good faith efforts to conduct live racing:

(i) has applied for and/or received pending live race dates under §303.41, Allocation of Race Dates;

(ii) is presently conducting pre-opening simulcasting;

(iii) has purchased or otherwise acquired necessary rights to the real property of the designated track site;

(iv) is in the process of or has secured Commission approval of the racing facility's construction plans;

(v) is in the process of or has secured all permits and utilities necessary for the construction of the racing facilities;

(vi) has provided to the Commission executed contracts for the construction of facilities at the site;

(vii) has provided to the Commission a construction and operations management schedule demonstrating that simulcasting will begin within a reasonable time;

(viii) has an application pending before the Commission which requires action by the Commission prior to continuing activities necessary to begin live racing; and

² Proposed §309.51(e) would also need to be revised to change the reference to "subparagraph (b)(2)(C) of this section" to "subparagraph (b)(2)(B) of this section" to be consistent with the renumbering of the subsection relating to the voluntary bond.
165110/L00038397.21

V1-C-9

Texas Racing Commission
May 2, 2012
Page 5

(ix) other factors which, in the Commission's discretion, indicate that the licensee is making good faith efforts to conduct live racing.

(B) If a licensee voluntarily provides a bond under subsection (e) of this section, the Commission shall designate the racetrack as Active-Other and that designation may not be changed until the racetrack qualifies for a designation of Active-Operating or the bond is forfeited pursuant to subsection (e) of this section.

As you will note, the above revised §309.51(b)(2) retains, to a great degree, the criteria of the provision as proposed. However, it presents these criteria as *guidelines* regarding the type of *efforts* a licensee could take to be designated as Active-Other. This approach is what the clear language of the Act, as amended, requires. Ultimately, whether to designate a racetrack as Active-Other would be in the discretion of the Commission based on good faith efforts to conduct live racing, as clearly required by § 6.0601(b) of the Act, instead of being mechanically mandated based on a list of specified results.

Bond Authority (Proposed §309.52(h))

Proposed §309.52(h) provides that the "Commission may require an inactive license holder to provide a bond under §6.032 of the Act to ensure completion of any or all of the factors listed in subsection (d) of this section". Subsection (d), in turn, is a nonexclusive listing of the various discretionary criteria the Commission will consider when renewing an inactive license. As explicitly stated in the proposed rule, §6.032 of the Act would ostensibly be the statutory authority for any such required bond. That Section of the Act provides, in pertinent part, as follows:

The commission at any time may require a holder of a racetrack license or an applicant for a racetrack license to post security in an amount reasonably necessary, as provided by commission rule, to adequately ensure the license holder's or applicant's compliance with substantive requirements of this Act and commission rules. (§6.032(a), Texas Racing Act).

The "Renewal Criteria" specified in proposed §309.52(d) are simply not substantive requirements of the Act with which a licensee can comply. By its very terms, the criteria listed within proposed §309.52(d) are nonexclusive factors which "the Commission shall consider" when exercising its discretion. Many of the criteria listed within §309.52(d) relate to a licensee's "good faith efforts to conduct live racing". As discussed above, "good faith efforts" are simply and clearly not synonymous with milestones and achievements. Section 6.032 of the Act does not give the Commission authority to require a bond to ensure that efforts equate to results.

Texas Racing Commission

May 2, 2012

Page 6

Proposed §309.52(h) is beyond the authority of the Commission and, therefore, would be invalid if adopted.

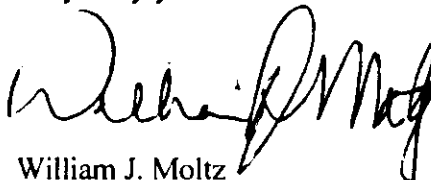
To the extent the Commission wants to delineate within its rules its authority to require a bond, it should revise proposed §309.52(h) to track, verbatim, the language of §6.032 of the Act.

Conclusion

The rules as proposed by the Commission to implement the requirements of H.B. 2271 generally present a workable and reasonable framework to accomplish the statutorily mandated goals. However, they are improper to the extent they ignore the statutorily mandated consideration of "good faith efforts to conduct live racing" and replace that consideration with requirements that a licensee achieve mandated goals and/or milestones. This fatal flaw in the proposals is further exacerbated by the provision that ostensibly would allow the Commission to require a bond to ensure that the goals and/or milestones are achieved. The proposed rules should be modified to correct these flaws.

Again, we appreciate the opportunity to present these comments and look forward to working with the Commission to implement the Act, as amended.

Very truly yours,



William J. Moltz
Counsel for Valle de los Tesoros, Ltd.,
LRP Group, Ltd., and Gulf Coast Racing, LLC



2012 MAY 11 AM 10:39

RECEIVED
TEXAS RACING
COMMISSION

May 10, 2012

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, Texas 78754

Re: *Proposed 16 TAC 309.51 and Proposed 16 TAC 309.52—Rulemaking on Active and Inactive Racetrack Licenses*

Dear Commissioners:

Sam Houston Race Park (SHRP), Valley Race Park (VRP) and Laredo Race Park (LRP) appreciate the opportunity to provide these comments on the proposed rule to implement the provision of HB 2271 requiring the Commission to designate racetrack licenses as "active" or "inactive." We previously submitted comments on the draft rule provided at the March meeting at Lone Star Race Park. We have also actively participated in meetings of the Ad Hoc Committee on Rules throughout the discussion and drafting process.

The published rule is a significant improvement over the draft that was circulated in March, and incorporates some of the suggestions we previously submitted. We appreciate the Commission's effort to be responsive to the concerns that we and other participants have raised about the appropriate standards for qualifying as an "active" license. However, the published rule still does not satisfy HB 2271 in one critical aspect: a license holder that is clearly making "good faith efforts" to conduct live racing could still fail to qualify as an active licensee if the license holder did not meet certain requirements or achieve certain results provided in the published rule. This outcome is inconsistent with HB 2271 and needs to be corrected.

HB 2271 states that the Commission "shall designate a racetrack license as an active license if the license holder ... makes good faith efforts to conduct live racing." This means that if a license holder is exercising good faith efforts to conduct live racing, the Commission *must* designate that license as active. If a license-holder did not conduct live racing in the prior fiscal year, the published rule would allow the license to be considered active if the license holder has pending live race dates, and either (a) is conducting pre-opening simulcasting, (b) posts a bond to guarantee that live racing or simulcasting will commence within a certain time period, or (c) meets each of a series of "milestones" provided under proposed Sec. 309.51(b)(2)(B). Because the published rule makes an "Active-Other" designation contingent upon meeting certain requirements or accomplishing certain results, a license holder that is making good faith "efforts" to conduct live racing may still not receive an active designation under this framework. This conflicts with the requirements of HB 2271.

The underlying problem with the proposed rule is that obtaining an "Active-Other" designation is based solely on satisfying certain requirements or achieving certain *results*, with no consideration of a license-holder's *efforts*. Achieving a specific set of results may prove that good faith efforts were made to conduct live racing, but it is not true that failing to achieve those results proves that good faith efforts were *not* made. For example, a license holder that is actually conducting live racing has clearly made good faith efforts to conduct live racing. However, those efforts alone are not enough to guarantee that live racing will actually occur. There may be other conditions, apart from the license-holder's efforts, that

prevent the license holder's from actually conducting live racing despite his efforts. Likewise, good faith efforts may be a prerequisite to achieving the milestones provided in proposed Sec. 309.51(b)(2)(B), but those efforts alone do not ensure that the list of results will be accomplished. Further, there may be other types of "good faith efforts" the Commission should consider that are not captured by the specific set of results included in the proposed rule. Respectfully, it is the license holder's "efforts," and not results, that the Commission was directed to consider under HB 2271. Determining whether good faith efforts were made by looking solely at whether a specific set of results were achieved leaves open the possibility that a license-holder could clearly be making good faith efforts to conduct live racing and still be designated "inactive." This does not comply with HB 2271.

To satisfy HB 2271, the Commission must provide "guidance" as to the types of efforts it will consider in making an "active" designation, rather than establishing "results" that must be achieved. We submit that the list of milestones provided in Sec. 309.51(b)(2)(B) would be a good starting point for guidance as to the types of "efforts" the Commission would consider to determine whether a licensee qualifies as "Active-Other." However, these milestones would need to be considered individually, rather than cumulatively, and the rule would also need to be revised to allow the Commission to consider other types of "good faith efforts" that are not specifically listed. To that end, we propose the following changes to Sec. 309.51(b)(2) for the Commission's consideration:

Sec. 309.51. Designation of Active and Inactive Racetrack Licenses

(2) "Active-Other" means the license holder has applied for and received pending live race dates under § 303.41, Allocation of Race Dates, and taken the following actions to demonstrate that it is making good faith efforts to conduct live racing. The following is a list of the types of activities the Commission will consider to determine whether "good faith efforts" are being exercised for purposes of designating a license as "Active-Other":

- (A) is presently conducting pre-opening simulcasting;
- (B) has demonstrated that the conduct of simulcast and live racing at its racetrack facility is imminent by completing the following: (i) purchasing or otherwise acquired necessary rights to the real property of the designated racetrack site;
- (ii) securing Commission approval of the racing facility's construction plans;
- (iii) securing or negotiating with local authorities in an effort to secure all the permits and utilities necessary for the construction of the racing facilities;
- (iv) providing to the Commission negotiating or executed contracts for the construction of the racing facilities; and
- (F) obtaining and maintaining appropriate zoning for the racetrack location;
- (v) providing to the Commission a construction and operations management schedule demonstrating that simulcasting will begin within four months of the designation and that the facilities will be ready to conduct live racing by the beginning of the approved live race dates;
- (G) submitting an Application for a Change in Location; voluntarily providing a bond under subsection (e) of this section to ensure that the license holder conducts pre-opening simulcasting and completes the pending allocated live race dates.¹
- (I) demonstrating ongoing ability to access the capital needed to complete the racetrack facility;

- (J) demonstrating an experienced team of employees and offers capable of developing and operating the racetrack;
- (K) making regular and timely payment to the Commission to support the horse racing industry;
- (L) conducting studies on the economic viability of racing at the licensed location and taking steps to improve that viability; or
- (M) other factors which, in the Commission's discretion, indicate that the licensee is making "good faith efforts" to conduct live racing.

These proposed changes would provide the Commission with the ability to examine a licenseholder's actual "efforts" to determine whether the license should be designated as "Active-Other," rather than exclusively examining results that may or may not reflect the license holder's efforts.

We appreciate the opportunity to submit these comments and look forward to working with the Commissioners and other participants to develop a rule that meets the requirements of HB 2271. We also welcome any questions or further discussion on the changes we have proposed to the published rule.

Sincerely,


Andrea B. Young
President

cc: Chuck Trout, Texas Racing Commission
Mark Fenner, Texas Racing Commission
Drew Shubeck, Lone Star Park
Bryan Brown, Retama Park
Sally Briggs, Gulf Greyhound
William Moltz, Valle de los Tesoros/LRP Group
Howard Phillips, Manor Downs
Marsha Rountree, Texas Horsemen's Partnership
Rob Werstler, TQHA
David Hooper, TTA



2012 MAY 22 PM 1:14

RECEIVED
TEXAS RACING
COMMISSION

May 25, 2012

Texas Racing Commission
P.O. Box 12080
Austin, TX 78711-2080

Dear Commissioners:

The Texas Thoroughbred Association supports the Texas Racing Commission's proposed rulemaking on Active and Inactive Racetrack Licenses as published in the Texas Register dated April 27, pursuant to a unanimous vote of the TTA Board of Directors on May 22.

TTA, along with other recognized industry organizations and organization licensees, has received a copy of a May 10 letter from Sam Houston Race Park with several proposed amendments to the published rules. TTA does not agree with the proposed amendments for the following reasons:

The proposed amendments to Sec. 309.51(2)(#D) and (ivE) are nothing more than delay tactics rather than efforts to move to conducting live racing, which we've seen since licenses were awarded several years ago. There have been several references to "negotiating with local authorities in an effort to secure the permits" and "negotiating contracts" serving as the testimony of representatives of some licensed but unbuilt tracks when providing progress reports to the Commission during public hearings.

The proposed amendment to Sec. 309.51(2)(EH) is unnecessary as there is already a provision in the rules for applying for a change of location, which led to a request to change location by the owners of Laredo Downs filed in the spring of 2011. Including a new provision under the section governing Active and Inactive Racetrack Licenses will provide the owners of other unbuilt Class 2 tracks another way to use a delay tactic.

The proposed amendment to Sec. 309.51(2)(I) is not necessary. Financial information was reviewed by the Commission before approval of the issuance of a license and the Commission has rule provisions in place to assure the maintenance of sustainable financial viability.

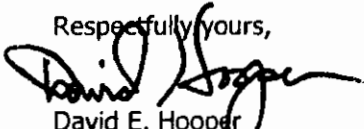
The proposed amendment to Sec. 309.51(2)(K) is also unnecessary as the Commission has the authority to act if a track licensee fails to remit required payments.

The proposed amendment to Sec. 309(2)(L) is nothing more than a stall tactic as studies could be requested for one track or another ad nauseam to delay moving towards the start of live racing.

The one suggested amendment that TTA would support is Sec.309(2)(M) which would give the Commission broad "discretion" in determining a track licensee's "good faith efforts."

Thank you for your consideration of TTA's position on this subject.

Respectfully yours,


David E. Hooper
Executive Director

cc: Chuck Trout, Texas Racing Commission
Drew Shubeck, Lone Star Park
Bryan Brown, Retama Park
Greg LaMantia, Valle de los Tesoros/LRP Group
Drew Alexander, Saddle Brook Park
Marsha Rountree, Texas Horsemen's Partnership

Mark Fenner, Texas Racing Commission
Andrea Young, Sam Houston Race Park
Sally Briggs, Gulf Greyhound
Howard Phillips, Manor Downs
Robert Werstler, TQHA
Ed Wilson, TABA



2012 MAY 29 PM 12:07

RECEIVED
TEXAS RACING
COMMISSION

May 04, 2012

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

Dear Mr. Fenner:

We have reviewed rules 309.51 and 309.52 and very much appreciate the time and effort by the Commission in formulating and drafting the rules. The comments we have with regard to 309.51 are as follows:

Section 309.51

- 309.51 (e)(3)(E). In the fourth line of this section add the words "or canceled due to Acts of God or other events beyond the control of the racetrack" to the end of the sentence.
- 309.51 (f). Add the words "or canceled due to Acts of God or other events beyond the control of the racetrack" after the word "Provisions" in the third line of that section.

Please let me know if you have any questions with regard to these comments.

Many thanks

Bryan P. Brown
CEO

cc: Chuck Trout
Tommy Azopardi
Sally Briggs
David Hooper
Greg LaMantia
Howard Philips
Marsha Rountree
Drew Shubeck
Rob Werstler
Andrea Young

V1-C-16

2012 MAY 29 PM 3:14

GLOBAL GAMING LSP, LLC
1000 LONE STAR PARKWAY
GRAND PRAIRIE, TEXAS 75050-7941

RECEIVED
TEXAS RACING
COMMISSION

May 22, 2012

The Texas Racing Commission
c/o Mark Fenner, General Counsel
8505 Cross Park Dr. #110
Austin, Texas 78754

Re: Proposed Rules on Active/Inactive Racetrack Licenses

Dear Commissioners:

Lone Star Park believes that the proposed rules governing active and inactive racetrack licenses, as published in the April 27, 2012 issue of the *Texas Register*, are statutorily-authorized, reasonable, and in harmony with the Legislature's objectives and the language of H.B. 2271.

The Legislature has given the Commission the power to make rules that carry out legislative purposes and objectives. In H.B. 2271, the Legislature did not define "good faith efforts to conduct live racing." Rather, the Legislature has given the Commission the power to use its expertise and regulatory experience to decide what that phrase means. Consequently, in classifying licensees as "Active," "Active-Other," and "Inactive," the Commission has the latitude to decide what actions constitute "good faith efforts to achieve live racing" and what actions do not.

Also, in interpreting a statutory amendment, a prime consideration is "the evil" to be remedied. Tex. Gov't Code § 312.005. The "evil" at which H.B. 2271 is aimed is the existence of racetrack licenses that have never conducted live race meetings despite being given years in which to do so. In this context, the proposed requirement that to qualify as an "Active-Other" license, the holder of a "paper" license must have taken results-oriented positive steps that make live racing imminent is reasonable and consistent with the Legislature's objectives. This is especially so when one recalls that (1) each license holder was required to identify, among other things, the "exact location" of their proposed racetrack, the "facilities" for patrons, occupational licensees, and race animals, and the "kind of racing to be conducted and the dates requested" when its license was originally issued; and (2) to issue the license, the Commission had to find that "the conduct of race meetings at the proposed track and location" was "in the public interest" and complied "with all zoning laws." Art. 179e, §§ 6.03(a), 6.04(a).

V1-C-17

The Texas Racing Commission
Page 2
May 22, 2012

Under these circumstances, it is difficult to believe that the Legislature would want the Commission to adopt rules that simply preserve the *status quo*. In classifying a racetrack license as "Active-Other," the Commission has the discretion to reject as "good faith efforts" acts or intentions that do not make live racing imminent. Allowing the kind of conduct that has never achieved the goal of live racing to qualify as "good faith efforts" would undermine the Legislature's objective.

Lone Star Park also believes that the bonding provisions of the proposed rules are reasonable. The Texas Racing Act allows the Commission to require a bond to "ensure the license holder's or applicant's compliance with substantive requirements of this Act and commission rules." Art. 179e, § 6.032(a). The Legislature recognizes that the Commission's rules can be substantive as well as procedural. The Commission's proposed rules on active and inactive licenses contain substantive components for which a performance bond may be reasonably required.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ricky C. Knox", written in a cursive style.

Ricky Knox
Chairman, Global Gaming LSP, LLC

V1-C-18



Lexington Financial Center
 250 West Main Street, Suite 1500
 Lexington, Kentucky 40507-1746
 859.233.2012
 Fax: 859.259.0649

Lisa E. Underwood
 859-233-7665
 lunderwood@wyattfirm.com

2012 MAY 29 PM 4: 22

RECEIVED
 TEXAS RACING
 COMMISSION

May 29, 2012

VIA FACSIMILE to 512-833-6907

Texas Racing Commission
 c/o Carolyn Weiss, Assistant to the Executive Director
 P. O. Box 12080
 Austin, TX 78711-2080

RE: Comments relating to Proposed "Active/Inactive Rules" – Proposed 16 TAC Section 309.51 and Proposed 16 TAC Section 309.52

Commissioners:

I am writing to provide comments on proposed new 16 TAC Section 309.51 and 16 TAC Section 309.52 on behalf of Saddle Brook Park. By way of introduction, I served as Executive Director of the Kentucky Horse Racing Commission for a little more than five (5) years and recently returned to private practice. During my term as Executive Director, I had the pleasure of working with several members of the staff of the Texas Racing Commission.

We appreciate the opportunity to provide comments during your rule-making process. We understand there have been several meetings and opportunities to comment prior to this time and apologize for this being our first formal communication. Our client, Drew Alexander, has had significant health issues and has not been able to dedicate the time and attention to this important matter that has been required. His brother, Lynn Alexander, who is also a minority owner of Saddle Brook Park, is interested in helping Drew and has asked that we participate. We plan to be actively engaged going forward.

First we want to start by stating we agree conceptually with many of the comments submitted previously by other license holders regarding the proposed rule going beyond what is authorized under Texas Racing Act (the "Act") Section 6.0601 (HB 2271). The statute clearly states as follows:

(b) The commission shall designate a racetrack license as an active license if the license holder:

- (1) holds live racing events at the racetrack; OR
- (2) makes good faith efforts to conduct live racing. (emphasis added)

V1-C-19

Texas Racing Commission
May 29, 2012
Page 2

(c) the commission by rule shall provide guidance on what actions constitute, for purposes of this Act, good faith efforts to conduct live racing.

The statute clearly contemplates that a license may be classified as an Active License if the license holder is demonstrating good faith efforts. There is no requirement that live racing be held within a certain period of time. The legislature asked the Commission to provide guidance regarding what actions would constitute good faith efforts. The legislature did not ask the Commission to provide specific milestones or results which must be met for the good faith requirement to be satisfied. The proposed rule requires certain results to be accomplished, rather than a showing of efforts as is required by the statute. We suggest a simple solution would be to characterize the list in the proposed rule as an example of the type of actions which could be taken into account in determining whether there have been good faith efforts. Those efforts should be assessed individually and should not be required to be met on a cumulative basis. There may be other activities taken by the licensee which should also be taken into account in determining whether the licensee is making good faith efforts which are not on the specific list. This concept is included at proposed rule § 309.52(d)(3) in connection with determining whether "good faith efforts" have been made in renewing an inactive license. Section 309.52(d)(3) provides: "For purposes of this section, the Commission will consider, but is not limited to, the following actions as evidence that a license holder is making good faith efforts to conduct live racing." We submit that if the Commission is given discretion to determine whether good faith efforts have been made in the Inactive licensing context they should be given that same discretion in the Active-Other context.

The following is language we are submitting as a proposed alternative to the language in proposed 16 TAC Section 309.51(b)(2).

Section 309.51 Designation of Active and Inactive Racetrack Licenses

(2) "Active-Other" means the license holder has ~~applied for and received pending live race dates under §303.41 of this title (relating to Allocation of Race Dates), and demonstrated good faith efforts to conduct live racing.~~ For purposes of this section, the Commission will consider, but is not limited to, the following actions as evidence that the license holder is making "good faith efforts" to conduct live racing taken the following actions to demonstrate good faith efforts to conduct live racing:

(A) is presently conducting or is in the process of being able to conduct pre-opening simulcasting at the permanent location or an approved temporary location; or

(B) has demonstrated that the conduct of simulcast and live racing at its racetrack facility is imminent by completing or is in the process of completing any of the following:

(i) the purchase of purchasing the real property of at the designated racetrack site;

Texas Racing Commission
May 29, 2012
Page 3

- (ii) securing Commission approval of the racing facility's construction plans;
 - (iii) securing -all permits and utilities necessary for the construction of the racing facilities;
 - (iv) negotiating, — executing and providing delivering to the Commission executed contracts a contract for the construction of the racing facilities; ~~and~~
 - (v) providing delivering to the Commission a construction and operations management schedule demonstrating that simulcasting will begin within ~~four months~~ a reasonable time of the designation and that the facilities will be ready to conduct live racing by the beginning of the approved live race dates;
 - (vi) providing to the Commission documentation demonstrating an experienced team of employees and officers capable of developing and operating the racetrack;
 - (vii) making regular and timely payment to the Commission to support the horse racing industry; and
 - (viii) other factors which, in the Commission's discretion, indicate that the licensee is making "good faith efforts" to conduct live racing.
- ~~(C) voluntarily providing a bond under subsection (e) of this section to ensure that the license holder conducts pre-opening simulcasting and completes the pending allocated live race dates.~~

The proposed rule at 16 TAC Section 309.51(e) provides that a \$400,000 bond would be forfeited if (1) simulcasting is not conducted during the initial fiscal year of the bonding period or (2) live racing is not conducted during the first two fiscal years. There is no requirement in Section 6.0601 or 6.0602 of the Act that either of these time deadlines be met. This penalty goes beyond what is contemplated by the statute. Section 6.032 of the Act does not give the Commission the permission to require a bond to ensure that actual results are achieved. Pursuant to Section 6.032, a bond may be required to ensure a license holder complies with the "substantive requirements of the Act and commission rules." We respectfully suggest that to the extent the proposed rule is not authorized under Section 6.0601 or 6.0602 or any other provision of the Act, any bond requirement would likewise be unauthorized under Section 6.032. We suggest that the bond requirement in 16 TAC Section 309.51 be deleted.

We reserve comment on certain aspects of proposed rule 16 TAC Section 309.52 because we have not seen the application for renewal.

We appreciate the opportunity to provide these comments and would appreciate the Commission seriously considering these remarks. We would welcome any questions or further discussion on these comments.

V1-C-21



Texas Racing Commission
May 29, 2012
Page 4

Very truly yours,

Lisa E. Underwood
Counsel for Saddle Brook Park

LEU:dsk

cc: Chuck Trout, Texas Racing Commission
Mark Fenner, Texas Racing Commission

60172208 4

VI-C-22



COMMITTEES
FINANCE *Vice Chair*
CRIMINAL JUSTICE
SUNSET ADVISORY COMMISSION
LEGISLATIVE BUDGET BOARD

THE SENATE OF TEXAS
JUAN "CHUY" HINOJOSA

DISTRICT 20

COMMITTEES
TRANSPORTATION & HOMELAND SECURITY
NATURAL RESOURCES
AGRICULTURE & RURAL AFFAIRS

June 4, 2012

Robert Schmidt, M.D., Chairman
Texas Racing Commission
8505 Cross Park Dr., Suite 110
Austin, Texas 78754

2012 JUN - 5 PM 2:00
RECEIVED
TEXAS RACING
COMMISSION

Dear Dr. Schmidt:

I authored the Texas Racing Commission ("commission") Sunset legislation in two consecutive legislative sessions, more notably H.B. 2271 during the 82nd Session which passed and is now in effect. As the author of the legislation, I am well-versed in the intent behind the provisions of H.B. 2271, specifically those portions relating to determining whether a racing license is active or inactive. I worked closely with commission staff and industry representatives to articulate my design behind the wording in the law.

During my discussions with commission staff, it became clear the commission lacked the necessary clarity to take enforcement actions against inactive license holders - those license holders who did nothing to bring live racing to Texas. By not acquiring land, seeking permits, conducting feasibility studies and otherwise going about the complex business of preparing to host live racing, these inactive license holders were, and presumably still are, in effect commoditizing their licenses. Inactive license holders are precisely that - inactive.

However, I was clear in my conversations with the commission that I wanted a bright line established between active license holders who are in the process of obtaining permits, financing, and all of the other elements necessary to host live racing and the inactive license holders I have already described. That bright line is to come from the commission through rulemaking authority expressly granted in H.B. 2271.

In extending this authority to the commission, the actions which would constitute "good faith" efforts to conduct live racing were to comprise an inclusive list as opposed to an exhaustive itemization that would limit your discretion. That is precisely why I did not build a list of actions into the statute. There is a substantive analysis that must be

612 NOLANA, SUITE 410-B
McALLEN, TEXAS 78504-3089
956/972-1841 • FAX: 956/664-0602

P.O. BOX 12068
CAPITOL BUILDING
AUSTIN, TEXAS 78711
TOLL FREE: 866/259-5016
512/463-0120 • FAX: 512/463-0229
DIAL 711 FOR RELAY CALLS

www.senate.state.tx.us

2820 SOUTH PADRE ISLAND DRIVE, SUITE 291
CORPUS CHRISTI, TEXAS 78415
361/225-1200 • FAX: 361/225-0119

V1-C-23

Letter to Texas Racing Commission Chairman
Re: Proposed Rule Affecting Active-Other License Holders
June 4, 2012

conducted by the commission on a case-by-case basis, taking into account the effort shown by a license holder to move toward hosting live races.

As I read your proposed rule for designating a license as Active-Other, I do not read any substantive criteria that you would evaluate in determining the license holder's status. Rather, the rule only contemplates a procedural standard - one fiscal year. The rule does not give the license holder any guidance as to what types of good faith efforts an Active-Other license holder could be showing the commission in order to maintain their active status and not forfeit their bond.

In its current form, the proposed rule does not reflect the spirit of the legislature's intent nor is it consistent with the statute's intentional omission of an exhaustive list. The commission, in its rule, does not set forth activities that would create the bright line test I wanted so as to facilitate the distinction between inactive and Active-Other licenses. Examples of those good faith efforts would include:

- conducting pre-opening simulcasting;
- securing commission approval of the racing facility's revised construction plans;
- securing or negotiating with local authorities in an effort to secure the permits and utilities necessary for the construction of the racing facilities;
- negotiating or executing contracts for the construction of the racing facilities;
- obtaining and maintaining appropriate zoning for the racetrack location;
- providing to the commission a construction and operations management schedule demonstrating that the facilities will be ready to conduct live racing by the beginning of the approved live race dates;
- submitting an Application for a Change in Location;
- demonstrating ongoing ability to access the capital needed to complete the racetrack facility;
- demonstrating recruiting efforts to retain an experienced team of employees capable of developing and operating the racetrack;
- making regular and timely payment to the commission to support the horse or greyhound racing industry;
- conducting studies on the economic viability of racing at the license's location and taking steps to improve that viability; or
- other factors which, in the commission's discretion, indicate that the license holder is making "good faith efforts" to conduct live racing.

The state of racing in Texas, particularly in what is proving to be a prolonged economic downturn, is not good. For the past two sessions, through my position as vice chairman of the Senate Finance Committee, I have worked to secure the necessary funding to keep operations running at the commission because of a decrease in wagers at Texas tracks. In creating a bright line test for inactive license holders, the legislature sought to eliminate those license holders who have held licenses for decades without a single gesture toward hosting live racing.

V1-C24

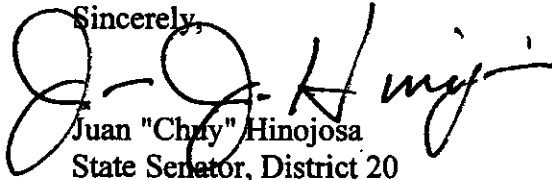
Letter to Texas Racing Commission Chairman
Re: Proposed Rule Affecting Active-Other License Holders
June 4, 2012

Yet we have more recent license holders who are negotiating a difficult financial landscape, actively moving toward live racing operations. These are license holders who are retaining engineers, attorneys, and contractors at a time when many business interests are withholding investment in racing. The legislature's intent in H.B. 2271 was clear - to allow the commission necessary latitude in creating rules that would give those Active-Other license holders the necessary time to put a live racing operation together.

Before adopting this rule, I would like to see the commission develop a regulatory regime that is more thorough in its ability to assess "activity" for the sake of designating license holders as Active-Other. A simple fiscal year timetable does not delve into the substantive nature of building a successful live racing operation.

Please feel free to contact me or Arturo Ballesteros in my Capitol Office should you have any questions regarding H.B. 2271 and your proposed rule. I am available to discuss my intent of that legislation so you can develop a rule that is consistent with the bill.

Sincerely,



Juan "Chuy" Hinojosa
State Senator, District 20

Cc: Texas Racing Commission Members
Chuck Trout, Executive Director, Texas Racing Commission ✓

V1-C-25

Texas Racing Commission
 Title 16, Part VIII
 Chapter 313. Officials and Rules of Horse Racing
 Subchapter D. Running of the Race
 Division 1. Jockeys

1 **Sec. 313.409. Jockey Mount Fees**

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

3 (c) In the absence of a written agreement, the following jockey
 4 mount fees apply:

Purse	Winning Mount	Second Mount	Third Mount	Fourth Mount	Losing Mount
Up to \$4,999	10% Win Purse	\$70	\$60	\$58	\$50
\$5,000-9,999	10% Win Purse	\$80	\$65	\$63	\$55
\$10,000-14,999	10% Win Purse	5% Place Purse	\$75	\$68	\$60
\$15,000-24,999	10% Win Purse	5% Place Purse	5% Show Purse	\$75	\$70
\$25,000-49,999	10% Win Purse	5% Place Purse	5% Show Purse	\$80	\$75
\$50,000-99,999	10% Win Purse	5% Place Purse	5% Show Purse	5% Fourth Place Purse	\$90
\$100,000 and up	10% Win Purse	5% Place Purse	5% Show Purse	5% Fourth Place Purse	\$110

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$599 & under	\$33	\$33	\$33	\$33
\$600-699	\$36	\$33	\$33	\$33
\$700-999	10% Win Purse	\$33	\$33	\$33
\$1,000-1,499	10% Win Purse	\$33	\$33	\$33
\$1,500-1,999	10% Win Purse	\$35	\$33	\$33
\$2,000-3,499	10% Win Purse	\$45	\$40	\$38
\$3,500-4,999	10% Win Purse	\$55	\$45	\$40
\$5,000-9,999	10% Win Purse	\$65	\$50	\$45

V1-D-1

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter D. Running of the Race
Division 1. Jockeys

\$10,000-14,999	10% Win Purse	5% Place Purse	5% Show Purse	\$50
\$15,000-24,999	10% Win Purse	5% Place Purse	5% Show Purse	\$55
\$25,000-49,999	10% Win Purse	5% Place Purse	5% Show Purse	\$65
\$50,000-99,999	10% Win Purse	5% Place Purse	5% Show Purse	\$80
\$100,00 and up	10% Win Purse	5% Place Purse	5% Show Purse	\$105

5 (d) (No change.)

6 (e) If the jockey does not weigh out because the owner or
7 trainer replaces the jockey with another jockey, the owner or
8 trainer shall pay the appropriate fee to each jockey engaged for
9 the race unless otherwise authorized by the stewards. The fee
10 to be paid is equal to that earned by the jockey who rode the
11 horse.

12 (f) - (g) (No change.)

VI-D-2

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter B. Entries, Scratches, and Allowances

1 **Sec. 313.103. Eligibility Requirements**

2 (a) To be entered in a race, a horse must:

3 (1) be properly registered with the appropriate national
4 breed registry;

5 (2) be eligible to enter the race under the conditions of
6 the race; and

7 (3) if the horse is to start for the first time:

8 (A) be approved by a licensed starter for proficiency
9 in the starting gate within 90 days of the race entered; and

10 (B) have two published workouts, one within 90 days
11 and one within 60 ~~45~~ days of the race entered.

12 (b)-(e) (No change.)

13 (f) Except as otherwise provided by this section for first-time
14 starters, to be eligible to start in a race, a horse must have
15 either started in a race or had a published workout in the 60-
16 day ~~45-day~~ period preceding a race.

17 (g) To be entered in a race around a turn for the first time, a
18 quarter horse must:

19 (1) have a published workout around a turn at a minimum
20 distance of 660 yards in the 60-day ~~45-day~~ period preceding the
21 race; and

22 (2) be approved by the clocker, the outrider and, if the
23 horse is worked from the gate, the starter.

24 (h) To be eligible to start in a race, a horse must be properly
25 tattooed and the horse's registration certificate, or
26 certificates if dually registered, showing the tattoo number of
27 the horse must be on file with the racing secretary before
28 scratch time for the race, unless the stewards authorize the
29 certificate or certificates to be filed at a later time.

VI-E-1

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter B. Entries, Scratches, and Allowances

- 1 ~~(i) A horse may not participate as a member of more than one~~
- 2 ~~breed at the same race meeting, even though the horse may be~~
- 3 ~~registered in more than one breed registry.~~

VI-E-2

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter B. Entries, Scratches, and Allowances

1 **Sec. 313.101. Entry Procedure**

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

3 (e) A horse which, during the 12-month period preceding the date
4 of a race, has started in a race where past performance lines
5 are available, but which are not on file with the Daily Racing
6 Form or Equibase ~~the American Quarter Horse Association~~, may not
7 be entered at a racetrack licensed in this state unless the
8 owner of the horse has furnished performance records to the
9 racing secretary at the time of entry.

10 (f) A person entering a dually registered Accredited Texas Bred
11 horse in a mixed breed conditioned race shall declare during
12 entry which breed the horse shall run as for purposes of Breeder
13 Awards eligibility.

VI-F-1

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter B. Entries, Scratches, and Allowances

1 **Sec. 313.104. Registration Certificates**

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

3 (f) If a horse is dually registered and entered in a claiming
4 race, both certificates of registration must be in the racing
5 secretary's office.

VI-G-1

Texas Racing Commission
Title 16, Part VIII
Chapter 313. Officials and Rules of Horse Racing
Subchapter C. Claiming Races

1 **Sec. 313.306. Transfer of Claimed Horse**

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

3 (c) The registration certificate of a claimed horse, and both
4 certificates of a dually registered claimed horse, shall
5 transfer to the successful claimant.

6 (d)-(e) The engagements of a claimed horse automatically transfer
7 to the new owner. A claimed horse is ineligible for entry in a
8 future race unless the entry is made on behalf of the new owner.

9 (e)-(d) A horse may not be delivered to a successful claimant
10 without written authorization from a steward or a designee of
11 the stewards.

Texas Racing Commission
Title 16, Part VIII
Chapter 303. General Provisions
Subchapter D. Texas Bred Incentive Programs General Provisions
Program for Horses

1 **Sec. 303.97. Dually Registered Horses**

2 Dually registered horses that are eligible for Accredited Texas
3 Bred Incentive program awards are not eligible for awards from
4 more than one recognized breed registry per race.

CURRENT RULE REVIEWS CHAPTERS 301, 303, & 319

Texas Government Code § 2001.039 requires state agencies to review all current rules to determine whether the reasons for initially adopting the rules continue to exist. The review must be conducted not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The state agency must readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

On June 21, 2011, the Commission opened the review of Chapter 301, Definitions, Chapter 303, General Provisions, and Chapter 319, Veterinary Practices and Drug Testing. Notice of the review was published in the July 8, 2011 edition of the *Texas Register* (36 *TexReg* 4423). The commission received no comments on the rule review in response to the notice other than the comments received in response to individual rule proposals.

The *Table of Contents* for each chapter is attached. A notation has been placed beside each rule that has been repealed, added, or amended during the review process.

Staff recommends that the Commission readopt the remaining rules of Chapters 301, 303 and 319.

VI-J-1

CHPT. 301. DEFINITIONS

TABLE OF CONTENTS

§ 301.1 Definitions (*amendments adopted December 8, 2011*)

V1-J-2

CHPT. 303. GENERAL PROVISIONS

TABLE OF CONTENTS

SUBCHAPTER A. ORGANIZATION OF THE COMMISSION

§ 303.1.	Purpose
§ 303.2.	Commission Responsibilities
§ 303.3.	Offices
§ 303.4.	Meetings
§ 303.5.	Quorum
§ 303.6.	Commission Officers
§ 303.7.	Employees
§ 303.8.	Executive Secretary
§ 303.9.	Records
§ 303.10.	Investigatory Files
§ 303.11.	Vacancies in the Commission
§ 303.12.	Use of Commission Motor Vehicles
§ 303.13.	Seal of the Commission
§ 303.14.	Unofficial Statements
§ 303.15.	Acts in the Commission's Name
§ 303.16.	Historically Underutilized Businesses
§ 303.17.	Vendor Protests

SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

§ 303.31.	Regulation of Racing
§ 303.32.	Power of Entry
§ 303.33.	Subpoenas
§ 303.34.	Certified Documents
§ 303.35.	Access to Commission Programs
§ 303.38.	Cooperation with Peace Officers and other Enforcement Entities
§ 303.41.	Allocation of Race Dates
§ 303.42.	Approval of Charity Race Days
§ 303.43.	Allocation of Live Race Dates for Class 1 Racetracks

SUBCHAPTER C. POWERS AND DUTIES OF THE COMPTROLLER OF PUBLIC ACCOUNTS

§ 303.61.	Power of Entry
§ 303.62.	Records
§ 303.63.	Comptroller Rules

SUBCHAPTER D. TEXAS BRED INCENTIVE PROGRAMS GENERAL PROVISIONS

- § 303.81. Texas Bred Incentive Programs
- § 303.82. Bond Required
- § 303.83. Audits, Financial Statements and Performance Measures
- § 303.84. Report to the Commission
- § 303.85. Background Investigations
- § 303.86. Participation in Texas Bred Programs

PROGRAMS FOR HORSES

- § 303.92. Thoroughbred Rules
- § 303.93. Quarter Horse Rules
- § 303.94. Arabian Horse Rules
- § 303.95. Races for Accredited Texas-Bred Horses
- § 303.96. Paint Horse Rules
- § 303.99. Stakes and Other Prepayment Races-Breed Registries

PROGRAMS FOR GREYHOUNDS

- § 303.101. Greyhound Breed Registry
- § 303.102. Greyhound Rules

SUPCHAPTER F. LICENSING PERSONS WITH CRIMINAL BACKGROUNDS

- § 303.201. General Authority
- § 303.202. Guidelines
- § 303.203. Evidence by Applicant

CHAPTER 319. VETERINARY PRACTICES AND DRUG TESTING

TABLE OF CONTENTS

SUBCHAPTER A. GENERAL PROVISIONS

- § 319.1. Purpose and Definitions
- § 319.2. Treatment Restricted
- § 319.3. Medication Restricted (*amendment adopted December 8, 2011*)
- § 319.4. Veterinarians
- § 319.5. Report of Treatment by Veterinarians
- § 319.6. Access to Pre-race and Test Areas Restricted
- § 319.7. Labeling Requirements
- § 319.8. Submission Required
- § 319.9. Witnesses Required
- § 319.10. Devices and Substances Prohibited
- § 319.11. Powers of Inspection, Examination, and Search and Seizure
- § 319.12. Cooperation Required
- § 319.13. Disposable Syringes
- § 319.14. Possession of Certain Substances
- § 319.15. Storage of Certain Medications
- § 319.16. Postmortem Examination
- § 319.17. Removal of a Race Animal

SUBCHAPTER B. TREATMENT OF HORSES

- § 319.101. Pre-Race Examination
- § 319.102. Veterinarian's List
- § 319.104. Blocking of Legs
- § 319.105. Bandages
- § 319.107. Altering Sex of Horse
- § 319.108. Extracorporeal Shock Wave Therapy
- § 319.109. Destruction of Horses
- § 319.111. Bleeders and Furosemide Program

SUBCHAPTER C. TREATMENT OF GREYHOUNDS

- § 319.201. Pre-Race Examination
- § 319.202. Veterinarian's List
- § 319.203. Condition of Greyhounds and Inspection of Kennels
- § 319.204. Vaccination Requirements

V1-L-1

SUBCHAPTER D. DRUG TESTING

GENERAL PROVISIONS

- § 319.301. Testing Authorized
- § 319.302. Reasonable Diligence Required
- § 319.303. Tampering with Specimen
- § 319.304. Penalties on Positive Test
- § 319.331. Equipment for Testing
- § 319.332. Procedure for Obtaining Specimens
- § 319.333. Specimen Tags
- § 319.334. Delivery and Retention of Specimens
- § 319.335. Auditing and Approval of Testing Costs (*amendment adopted December 8, 2011*)
- § 319.336. Payment of Testing Costs (*amendment adopted December 8, 2011*)
- § 319.337. Interference with Testing Prohibited
- § 319.338. Storage of Splits

PROVISIONS FOR HORSES

- § 319.361. Testing of Horses
- § 319.362. Split Specimen
- § 319.363. Testing for Total Carbon Dioxide.
- § 319.364. Testing for Androgenic-Anabolic Steroids

PROVISIONS FOR GREYHOUNDS

- § 319.391. Testing of Greyhounds

PROPOSED RULE REVIEW CHAPTER 309

Texas Government Code 2001.039 directs each state agency to review, and consider for re-adoption, each of its rules every four years. During the review, the Commission must assess whether the reasons for adopting the rules continue to exist.

To formally initiate the rule review process, the Commission must vote at a public meeting to publish notice in the *Texas Register* of the Commission's intention to review specific rules. After the time for public comment has passed, the Commission will take one of the following actions in regard to the rules in Chapter 309: re-adoption, repeal, or re-adoption with revisions.

If the Commission readopts a rule (with no changes), notice of the re-adoption will appear in the *Texas Register* "Rules Review" section, but the text of the readopted rule will not be published.

Any proposed repeal of a rule or any proposed amendment to a rule will be published in the "Proposed Rules" section of the *Texas Register*, and will be the subject of an additional 30-day comment period.

The Table of Contents for Chapter 309 is attached below.

VI-M-1

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

TABLE OF CONTENTS

Subchapter A. Racetrack Licenses

- Sec. 309.1. Racetrack Licenses.
- Sec. 309.2. Criteria.
- Sec. 309.3. Racetrack License Application Procedure.
- Sec. 309.4. Information for Background Investigation.
- Sec. 309.5. Restrictions on Licensing.
- Sec. 309.6. Order for Security for Compliance.
- Sec. 309.7. Horse Racetrack Application Fees.
- Sec. 309.8. Racetrack License Fees.
- Sec. 309.9. Denial, Suspension and Revocation of Licenses.
- Sec. 309.10. Notice and Curative Right To Debt Holders.
- Sec. 309.11. Fees for Requests to Approve a Transfer of Pecuniary
..... Interests.
- Sec. 309.12. Fees for Requests to Approve Change of Location.

Subchapter B. Operation of Racetracks

Division 1 General Provisions

- Sec. 309.101. Duty of Association.
- Sec. 309.102. Exemption or Deferred Compliance.
- Sec. 309.103. Construction and Renovation of Racetrack Facilities.
- Sec. 309.104. Compliance Inspections.
- Sec. 309.105. Reimbursement of Breeders' Cup Costs.

Division 2 Facilities and Equipment

- Sec. 309.111. Comfort and Safety.
- Sec. 309.112. Maintenance.
- Sec. 309.113. Accessibility by Disabled Persons.
- Sec. 309.114. Restrooms.
- Sec. 309.115. Refreshments.
- Sec. 309.116. Complaints.
- Sec. 309.117. First Aid.
- Sec. 309.118. Regulatory Office Space and Equipment.
- Sec. 309.120. Parking for Licensees.
- Sec. 309.122. External Communication.
- Sec. 309.123. Internal Communication System.
- Sec. 309.124. Public Address System.
- Sec. 309.125. Photofinish Equipment.
- Sec. 309.126. Videotape Equipment.
- Sec. 309.127. Maintenance of Negatives and Videotapes.

- Sec. 309.128. Lighting.
- Sec. 309.129. Automatic Banking Machines.
- Sec. 309.130. Attendance.
- Sec. 309.131. Breathalyzer Machine.
- Sec. 309.132. Approval of Equipment.

Division 3 Operations

- Sec. 309.151. Change of Ownership, Board of Directors, or Management Committee.
- Sec. 309.152. Records.
- Sec. 309.153. General Security.
- Sec. 309.154. Stable or Kennel Area.
- Sec. 309.155. Stable/Kennel Area Visitors Pass.
- Sec. 309.156. Incident Reports and Accident Records.
- Sec. 309.157. Fire Prevention.
- Sec. 309.158. Insect Control.
- Sec. 309.159. Alcoholic Beverages.
- Sec. 309.160. Vendors.
- Sec. 309.162. Management, Totalisator Companies, and Concessionaires
..... Contracts.
- Sec. 309.163. Fingerprinting.
- Sec. 309.165. Cooperation with Commission.
- Sec. 309.166. Race Information.
- Sec. 309.167. Organizational Chart.
- Sec. 309.168. Hazardous Weather.

Subchapter C. Horse Racetracks

Division 1 Racetracks

- Sec. 309.201. Applicability.
- Sec. 309.202. Track Length.
- Sec. 309.203. Track Width.
- Sec. 309.204. Elevation and Surface of Track.
- Sec. 309.205. Drainage.
- Sec. 309.206. Rails.
- Sec. 309.207. Maintenance of Track.
- Sec. 309.208. Gates.
- Sec. 309.209. Turf Access Path.
- Sec. 309.210. Lighting.
- Sec. 309.211. Obstacles.
- Sec. 309.212. Official's Stands.
- Sec. 309.213. Starting Gates.
- Sec. 309.214. Distance Markers.
- Sec. 309.215. Survey.

- Division 2 Facilities for Horses*
- Sec. 309.241. Barns.
 - Sec. 309.242. Receiving Barn.
 - Sec. 309.243. Stalls.
 - Sec. 309.244. Accommodations for Stakes Races.
 - Sec. 309.245. Manure Removal.
 - Sec. 309.246. Hay and Feed Storage.
 - Sec. 309.247. Maintenance of Common Areas.
 - Sec. 309.248. Pre-race Holding Area.
 - Sec. 309.249. Paddock.
 - Sec. 309.250. Test Barn.
 - Sec. 309.253. Postmortem.
 - Sec. 309.254. Equine Ambulance.
 - Sec. 309.255. Chase Vehicle.

- Division 2 Facilities for Licensees*
- Sec. 309.281. Jockeys.
 - Sec. 309.282. Living Quarters for Licensees.

- Division 3 Operations*
- Sec. 309.291. Racing Hours.
 - Sec. 309.292. Number of Races.
 - Sec. 309.293. Saddle Cloth.
 - Sec. 309.294. Starting Crew.
 - Sec. 309.295. Condition Book.
 - Sec. 309.296. Official Program.
 - Sec. 309.297. Purse Accounts.
 - Sec. 309.298. Stakes and other Prepayment Races.
 - Sec. 309.299. Horsemen's Representative.

Subchapter D. Greyhound Racetracks

- Division 1 Facilities and Equipment*
- Sec. 309.301. Applicability.
 - Sec. 309.302. Track Specifications.
 - Sec. 309.303. Track Surface.
 - Sec. 309.304. Watering Equipment.
 - Sec. 309.305. Starting Boxes.
 - Sec. 309.306. Escapes.
 - Sec. 309.307. Lures.
 - Sec. 309.308. Video Monitoring System.
 - Sec. 309.309. Lockout Kennel.
 - Sec. 309.310. Walkway.
 - Sec. 309.311. Kennel Compound.
 - Sec. 309.312. Turnout Pens.
 - Sec. 309.313. Kennel Buildings.
 - Sec. 309.314. Sprint Path.

V1-M-4

SUBCHAPTER D. DRUG TESTING

GENERAL PROVISIONS

- § 319.301. Testing Authorized
- § 319.302. Reasonable Diligence Required
- § 319.303. Tampering with Specimen
- § 319.304. Penalties on Positive Test
- § 319.331. Equipment for Testing
- § 319.332. Procedure for Obtaining Specimens
- § 319.333. Specimen Tags
- § 319.334. Delivery and Retention of Specimens
- § 319.335. Auditing and Approval of Testing Costs (*amendment adopted December 8, 2011*)
- § 319.336. Payment of Testing Costs (*amendment adopted December 8, 2011*)
- § 319.337. Interference with Testing Prohibited
- § 319.338. Storage of Splits

PROVISIONS FOR HORSES

- § 319.361. Testing of Horses
- § 319.362. Split Specimen
- § 319.363. Testing for Total Carbon Dioxide.
- § 319.364. Testing for Androgenic-Anabolic Steroids

PROVISIONS FOR GREYHOUNDS

- § 319.391. Testing of Greyhounds