



## **TEXAS RACING COMMISSION**

**P. O. Box 12080**

**Austin, TX 78711-2080**

**(512) 833-6699**

**Fax (512) 833-6907**

Texas Racing Commission  
Tuesday, November 15, 2016  
10:30 a.m.  
John H. Reagan Building  
105 W. 15th Street  
Austin, Texas 78701

## **AGENDA**

### **I. CALL TO ORDER**

Roll Call

### **II. PUBLIC COMMENT**

### **III. PROCEEDINGS ON RACETRACKS**

Discussion, consideration and possible action on the following matters:

- A. Request by Manor Downs, Ltd., to Approve 100% Change of Ownership
- B. Request by PM Texas LLC to Approve Voluntary Surrender of its Laredo Race Park Class 2 Horse Racing License
- C. The Proposal for Decision in SOAH Docket No. 476-16-5482; Texas Racing Commission v. Longhorn Downs, Inc.

### **IV. PROCEEDINGS ON RULEMAKING**

Discussion, consideration and possible action on the following matters:

Rule Proposals. If approved by the Commission, these proposals will be published in the *Texas Register* for public comment.

- A. Proposal to Amend Rule 301.1, Definitions
- B. Proposal to Amend Rule 311.104, Trainers

## **V. EXECUTIVE SESSION**

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

- A. Under Government Code Sec. 551.071(1), the Commission may open an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer.
- B. Under Government Code Sec. 551.071(2), the Commission may open an executive session to discuss all matters identified in this agenda where the commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.
- C. Under Government Code §551.074(a)(1), the Commission may open an executive session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the executive director.
- D. 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.

## **VI. SCHEDULING OF NEXT COMMISSION MEETING**

## **VII. ADJOURN**

### **III. PROCEEDINGS ON RACETRACKS**

Discussion, consideration and possible action on the following matters:

- A. Request by Manor Downs, Ltd., to Approve 100% Change of Ownership  
(Materials provided to Commission separately)
- B. Request by PM Texas LLC to Approve Voluntary Surrender of its Laredo Race Park Class 2 Horse Racing License

**VOLUNTARY SURRENDER OF RACING LICENSE**

Laredo Race Park, LLC hereby voluntarily surrenders its Texas Racing Commission racing association license and acknowledges it no longer has the rights or privileges conferred by that license. This document shall be effective on the closing of the acquisition described in that certain Purchase Agreement by and between Manor Downs, Ltd. and PM Texas LLC, dated September 8, 2016, as amended by that First Amendment to Purchase Agreement dated November 3, 2016 (the "Purchase Agreement") upon the Closing Effective Time (as defined in the Purchase Agreement).

Dated: [\_\_\_\_\_], 2016

For Laredo Race Park, LLC:

By: \_\_\_\_\_  
Andrea Young  
President  
Laredo Race Park, LLC

ACCEPTED:

For the Texas Racing Commission and Staff:

By: \_\_\_\_\_  
Chuck Trout  
Executive Director  
Texas Racing Commission

Dated: \_\_\_\_\_

C. The Proposal for Decision in SOAH Docket No. 476-16-5482; Texas Racing Commission v. Longhorn Downs, Inc.

# State Office of Administrative Hearings



Lesli G. Ginn  
Chief Administrative Law Judge

October 5, 2016

Chuck Trout  
Executive Director  
Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, Texas 78754-4594

**INTER-AGENCY**

**RE: SOAH Docket No. 476-16-5482/TXRC No. 2016-R5-02; Texas Racing Commission v. Longhorn Downs, Inc.**

Dear Mr. Trout:

Please find enclosed a Proposal for Decision on Summary Disposition in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink that reads "Meitra Farhadi".

Meitra Farhadi  
Administrative Law Judge

MF/eh  
Enclosures

cc: Devon Bijansky, Deputy General Counsel, Texas Racing Commission, 8505 Cross Park Drive, Suite 110, Austin, TX 78754 - **INTER-AGENCY**  
Jason Blackmer, C.L. Thomas, Inc., 9701 US Highway 59 North, Victoria, TX 77905 - **REGULAR MAIL**

**SOAH DOCKET NO. 476-16-5482  
TXRC NO. 2016-R5-02**

<b>TEXAS RACING COMMISSION,</b>	§	<b>BEFORE THE STATE OFFICE</b>
Petitioner	§	
	§	
v.	§	<b>OF</b>
	§	
<b>LONGHORN DOWNS, INC.,</b>	§	
Respondent	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

Longhorn Downs, Inc. (Respondent) is licensed by the Texas Racing Commission (Commission) as an inactive Class 2 racing association (License). Staff for the Commission seeks to revoke Respondent's License for failure to pay its license fee. Staff filed a Motion for Summary Disposition (Motion) asserting that no genuine issues of material fact were in dispute and that the Commission is entitled to a decision in its favor as a matter of law. Respondent did not reply to the Motion. On August 23, 2016, the Administrative Law Judge (ALJ) issued Order No. 1, granting the Motion. After considering the summary disposition evidence and the applicable law, the ALJ issues this proposal for decision, recommending that the Commission revoke Respondent's License.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

There were no contested issues of jurisdiction or notice. Those issues are set forth in the Findings of Fact and Conclusions of Law below.

This proposal for decision is based on a motion for summary disposition; a hearing was not held. Staff for the Commission was represented by Devon V. Bijansky, Deputy General Counsel for the Commission, and Respondent was represented by attorney Jason Blackmer. Staff submitted its Motion on August 3, 2016, as discussed above. On August 23, 2016, the ALJ granted the Motion. The record in this case closed on August 23, 2016.

## II. APPLICABLE LAW

An ALJ may issue a decision on all or part of a contested case without an evidentiary hearing if the evidence shows there is no genuine issue as to any material fact and a party is entitled to a decision in its favor as a matter of law.<sup>1</sup> Summary disposition may be based on pleadings; affidavits; materials obtained by discovery; matters officially noticed; stipulations; authenticated or certified public, business, or medical records; or other admissible evidence.

Horse racing in Texas is governed by the Texas Racing Act (the Act) and the rules promulgated by the Commission pursuant to the Act.<sup>2</sup> The Act charges the Commission with regulating and supervising “every race meeting in this state involving wagering on the result of . . . horse racing. All persons and things relating to the operation of those meetings are subject to regulation and supervision by the commission.”<sup>3</sup> The Commission’s rules provide that licensed racing associations are required to pay annual fees to the Commission.<sup>4</sup> The annual fee for a Class 2 racetrack is \$230,000.<sup>5</sup> If it is determined that a licensee has violated the Act or a Commission rule, the Commission may revoke, suspend, or refuse to renew the racetrack license.<sup>6</sup>

## III. DISCUSSION

### A. Evidence and Undisputed Facts

Staff included three exhibits with its motion. Exhibit A is the notice of hearing; Exhibit B is the Affidavit of Adrienne Courtney, Chief Financial Officer for the Commission; and Exhibit C is an authenticated copy of a June 13, 2016, email from Mr. Blackmer on behalf of Respondent.

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<sup>1</sup> 1 Tex. Admin. Code § 155.505(a).

<sup>2</sup> Tex. Rev. Civ. Stat. art. 179e; 16 Tex. Admin. Code part 8.

<sup>3</sup> Tex. Rev. Civ. Stat. art. 179e, § 3.02(a).

<sup>4</sup> 16 Tex. Admin. Code § 309.8(b)(1).

<sup>5</sup> 16 Tex. Admin. Code § 309.8(b)(1)(B).

<sup>6</sup> Tex. Rev. Civ. Stat. art. 179e, § 6.0603(b)(1).

Respondent is licensed by the Commission as an inactive Class 2 racing association. As a Class 2 racing association, Respondent's annual license fee of \$230,000 is due in four quarterly installments of \$57,500 on September 1, December 1, March 1, and June 1 of each fiscal year.<sup>7</sup> For fiscal year 2016, Respondent submitted its first three quarterly license fee payments, but failed to submit the fourth payment that was due on June 1, 2016.<sup>8</sup> On June 13, 2016, Mr. Blackmer communicated via email to the Commission that Respondent would not be making the fourth quarterly payment and also would not be making any future license payments.<sup>9</sup>

#### **B. Analysis and Recommendation**

The undisputed evidence establishes that the Commission is authorized to revoke, suspend, or refuse to renew Respondent's License. Respondent holds an inactive Class 2 racing association license issued by the Commission. As a Class 2 racing association, Respondent is obligated to pay an annual license fee of \$230,000 to the Commission in four quarterly installments of \$57,500. Respondent failed to remit the fourth payment that was due on June 1, 2016, and has asserted that it will not remit that payment, nor any future license payment, to the Commission. Accordingly, pursuant to the applicable law and based on the preponderance of the evidence, Respondent's License should be revoked.

### **IV. FINDINGS OF FACT**

1. Longhorn Downs, Inc. (Respondent) is licensed by the Texas Racing Commission (Commission) as an inactive Class 2 racing association (License).
2. As a Class 2 racing association, Respondent's annual license fee of \$230,000 is due in four quarterly installments of \$57,500 on September 1, December 1, March 1, and June 1, of each fiscal year.
3. For fiscal year 2016, Respondent submitted its first three quarterly license fee payments, but failed to submit the fourth payment that was due on June 1, 2016.

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<sup>7</sup> Staff Ex. B; 16 Tex. Admin. Code § 309.8(b)(3).

<sup>8</sup> Staff Ex. B.

<sup>9</sup> Staff Exs. B and C.

4. On June 13, 2016, Respondent communicated to the Commission that it would not be making the fourth quarterly payment and also would not be making any future license payments.
5. On August 2, 2016, the Commission referred this matter to the State Office of Administrative Hearings (SOAH) for a contested-case hearing.
6. On August 3, 2016, Staff filed a Motion for Summary Disposition (Motion). Respondent did not file a response.
7. On August 23, 2016, the Administrative Law Judge (ALJ) issued Order No. 1 granting Staff's Motion.

## V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the Texas Racing Act (Act). Tex. Rev. Civ. Stat. art. 179e, §§ 3.02, 6.06.
2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Rev. Civ. Stat. art. 179e, § 3.15; 16 Tex. Admin. Code § 307.31(c).
3. Summary disposition of a contested case may be granted without necessity of a hearing on the merits if the pleadings, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue of material fact and that the moving party is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505(a).
4. An ALJ may rule on a motion for summary disposition without a hearing and, if summary disposition is granted on all contested issues in a case, the ALJ shall close the record and prepare a final decision or proposal for decision as appropriate. 1 Tex. Admin. Code § 155.505(e).
5. Licensed racing associations are required to pay an annual fee to the Commission. 16 Tex. Admin. Code § 309.8.
6. The Commission may revoke or suspend a license if, after notice and hearing, it has reasonable grounds to believe and finds that the licensee owes any fee to the state. Tex. Rev. Civ. Stat. art. 179e, § 6.06(a)(7); 16 Tex. Admin. Code § 309.9(b)(4)(A).
7. The Commission may revoke, suspend, or refuse to renew a license if, after notice and hearing, the Commission finds that the license holder has violated the Act or a Commission rule. Tex. Rev. Civ. Stat. art. 179e, § 6.0603(b); 16 Tex. Admin. Code § 309.9(b).

8. Deciding this case on summary disposition without a hearing is appropriate because no genuine issue as to any material fact exists and Staff is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505.
9. Respondent's License should be revoked.

**SIGNED October 5, 2016.**



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**METTRA FARHADI  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS RACING COMMISSION, Petitioner	§	BEFORE THE
	§	
V.	§	
	§	
LONGHORN DOWNS, INC., Respondent	§	TEXAS RACING COMMISSION
	§	

ORDER OF THE COMMISSION

On November 15, 2016, the Texas Racing Commission (“Commission”) considered in open meeting the racing association license of Longhorn Downs, Inc. (“Respondent”).

The Commission hereby makes the following findings based on the record of this matter:

(a) On or about June 14, 2016, the Commission conducted its annual review of Respondent’s inactive racing association license in conjunction with its renewal.

(b) The review revealed that Respondent had failed to make its quarterly license fee payment that had been due on June 1, 2016 and had further stated its intention not to make any future payments.

(c) The Commission took action to refer the matter of Respondent’s license renewal to the State Office of Administrative Hearings (SOAH) for a proposal for decision as to whether its license should be revoked.

(d) On or about August 3, 2016, Commission staff filed a motion for summary disposition with SOAH, asking the administrative law judge to issue a proposal for decision recommending the revocation of Respondent’s racing association license.

(e) On or about Aug 23, 2016, the administrative law judge granted Commission staff’s motion for summary disposition.

(f) On or about October 5, 2016, the administrative law judge issued a proposal for decision recommending the revocation of Respondent’s racing association license.

The findings of fact and conclusions of law outlined in the proposal for decision are incorporated by reference as though they were individually stated herein.

IT IS HEREBY ORDERED that Respondent's racing association license is revoked.

This order takes effect on the date it is entered. If enforcement of this order is restrained by an order of a court, this order takes effect on a final determination by that court or an appellate court in favor of the Texas Racing Commission.

ISSUED AND ENTERED the \_\_\_\_\_ day of November, 2016.

\_\_\_\_\_  
Rolando Pablos, Chair

\_\_\_\_\_  
Ronald F. Ederer, Vice Chair

\_\_\_\_\_  
Gary P. Aber, DVM

\_\_\_\_\_  
Gloria Hicks

\_\_\_\_\_  
A. Cynthia Leon

\_\_\_\_\_  
Margaret Martin

\_\_\_\_\_  
Victoria North

\_\_\_\_\_  
Robert Schmidt, M.D.

\_\_\_\_\_  
John T. Steen III

#### **IV. PROCEEDINGS ON RULEMAKING**

Discussion, consideration and possible action on the following matters:

Rule Proposals. If approved by the Commission, these proposals will be published in the Texas Register for public comment.

- A. Proposal to Amend Rule 301.1, Definitions
- B. Proposal to Amend Rule 311.104, Trainers

**TEXAS RACING COMMISSION  
COMMITTEE ON RULES**

Date of Request: 11/7/16

***Request for Proposed Change to an Existing Rule or  
Addition of a New Rule to the Rules of Racing***

Please submit this information to the attention of the Executive Director *at least 14 days* in advance of the next scheduled Committee on Rules meeting. An electronic form is available to assist in your submission or feel free to add additional pages as necessary in order to provide as much detail as possible. Filing this request does not guarantee that your proposal will be considered by the Committee on Rules.

Texas Racing Commission  
8505 Cross Park Drive, Suite 110  
Austin, TX 78754-4552  
Phone: 512/833-6699 Fax: 512-833-6907  
email: [info@txrc.texas.gov](mailto:info@txrc.texas.gov)

**Contact Information:**

Name:	Staff	Phone(s):	(512) 833-6699
E-mail address:	<a href="mailto:info@txrc.texas.gov">info@txrc.texas.gov</a>	Fax number:	(512) 833-6907
Mailing address:	8505 Cross Park Drive, Suite 110, Austin, Texas 78754		

Check appropriate box(es):

Personal Submission *OR*

Submission on Behalf of Texas Racing Commission  
(Name of Organization)

Proposed Change to (if known): Chapter: 311 Rule: 104

Proposed Addition to (if known): Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

Other Rules Affected by Proposal (if any): Chapter: 301 Rule: 1

Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

Statutory Authority for Proposed Change: TRA §3.02

### **A. Brief Description of the Issue**

This proposal would address the practice of listing one person in the program as the trainer of a horse when the horse is actually under the control of and trained by another person who may or may not hold a trainer's license in any jurisdiction.

### **B. Discussion of the Issue and Problem**

A paper or program trainer is the person who is listed on the program as the trainer of a horse that has been in the care, custody and training of someone else, who is frequently a person whose license has been suspended or revoked or is not qualified for licensure.

Owners and trainers may use a program trainer to avoid the consequences of a positive drug test. If a program trainer is suspended, the owner or actual trainer will replace the trainer with another program trainer. Suspended trainers will also use program trainers in an effort to avoid the consequences of their own suspensions and continue collecting the financial rewards of training and racing.

The wagering public, which uses trainers' records for handicapping purposes, are defrauded when the program does not accurately reflect the name and history of the actual trainer.

### **C. Possible Solutions and Impact**

The proposal would amend Rule 301.1, Definitions, to adopt a definition of Paper/ Program Trainer that has been slightly modified from ARCI's Model Rules. It would also amend Rule 311.104, Trainers, to make the practices of a trainer serving as a program trainer and of an owner naming a program trainer on an entry form as being inconsistent with maintaining the honesty and integrity of racing under §307.7 (relating to Ejection and Exclusion) and as a detrimental practice under §311.6 (relating to Denial, Suspension and Revocation of Licenses.) This will allow the Commission to exclude these licensees from racetracks and allow the stewards to fine and suspend, or even revoke, the licenses of trainers who serve as program trainers and of owners who name program trainers on an entry form.

### **D. Support or Opposition**

The proposal was discussed at the Rules Committee's meeting on September 27, 2016, and again at the Out of Competition Testing Committee's meeting on November 1, 2016. At the Out of Competition Testing Committee's meeting, one minor edit was proposed by the Comptroller's Office and accepted by the Committee. The attendees spoke in favor of the proposal and the Committee recommended that it be brought to the full Commission for consideration.

### **E. Proposal**

See next page.

## CHAPTER 301. DEFINITIONS

### 1 **Sec. 301.1. Definitions**

2 (a) (No change.)

3 (b) The following words and terms, when used in this part, shall  
4 have the following meanings, unless the context clearly  
5 indicates otherwise:

6 (1) Act--The Texas Racing Act, Article 179e, Texas Civil  
7 Statutes.

8 (2) Active license--a racetrack license designated by the  
9 commission as active.

10 (3) [~~+2~~] Age of a greyhound--determined as beginning on  
11 the day the greyhound is whelped.

12 (4) [~~+3~~] Age of a horse--determined as beginning on the  
13 first day of January in the year in which the horse is foaled.

14 (5) [~~+4~~] Application documents--documents submitted by an  
15 applicant for a license in support of the application.

16 (6) [~~+5~~] Application period--a period designated by the  
17 Commission for the submission of application documents for a  
18 racetrack license.

19 (7) [~~+6~~] Association grounds--all real property approved  
20 by the Commission for use by an association in the conduct of a  
21 race meeting.

22 (8) [~~+7~~] Association veterinarian--a veterinarian employed  
23 by the association.

24 (9) [~~+8~~] Authorized agent--a person appointed in writing  
25 by the owner or trainer of a horse or greyhound to represent the  
26 owner or trainer at a racetrack.

27 (10) [~~+9~~] Backstretch--the straightaway on the side of a  
28 track that is opposite to the finish line.

29 (11) [~~+10~~] Booking--a contract between an association and  
30 a kennel owner for the kennel owner to provide greyhounds to the

## CHAPTER 301. DEFINITIONS

1 association for a race meeting and for the association to  
2 provide kennel buildings to house the greyhounds.

3 (12) [~~(11)~~] Branding--the act of a totalisator system  
4 imprinting a mutuel ticket with information that identifies the  
5 ticket as canceled or cashed and automatically making the  
6 appropriate notation in the system's memories.

7 (13) [~~(12)~~] Canceled ticket--a mutuel ticket that  
8 represents a wager that has been canceled and withdrawn from the  
9 pari-mutuel pool.

10 (14) [~~(13)~~] Cashed ticket--a mutuel ticket that is paid for  
11 a winning wager.

12 (15) [~~(14)~~] Chief veterinarian--the chief veterinarian  
13 employed by the Commission.

14 (16) [~~(15)~~] Common pool--a pool in which the wagers  
15 received at a receiving location are combined with the wagers  
16 received at a sending racetrack.

17 (17) [~~(16)~~] Condition of a race--a characteristic element  
18 of the race, such as the distance, qualifications of animal to  
19 enter, purse or stakes, or other special features.

20 (18) [~~(17)~~] Coupled entry--two or more horses entered in a  
21 race that, because of common ties of ownership are joined to be  
22 a single betting interest in that race.

23 (19) [~~(18)~~] Cushion--the top level of a dirt racetrack.

24 (20) [~~(19)~~] Dead heat--a race in which two or more race  
25 animals finish at the same time.

26 (21) [~~(20)~~] Double entry--an entry of two or more  
27 greyhounds in the same race that have either common ownership or  
28 the same trainer and are separate wagering interests.

29 (22) [~~(21)~~] Encrypted--scrambled or otherwise manipulated  
30 audio-visual signals to mask the original video content of the

## CHAPTER 301. DEFINITIONS

1 signal to cause the signals to be indecipherable and  
2 unrecognizable to any person receiving the signal.

3 (23) [~~(22)~~] Entry--a horse, or horses in the case of a  
4 coupled entry, made eligible to run in a race.

5 (24) [~~(23)~~] Established weight--the racing weight for a  
6 greyhound established in accordance with the Rules.

7 (25) [~~(24)~~] Exempt institutional investor--an investor who  
8 is:

9 (A) an insurance company as defined by the Securities  
10 Act of 1933, §2(13), a bank as defined by that Act, §3(a)(2), a  
11 savings and loan association or other institution referenced in  
12 that Act, §3(a)(5)(A), or a foreign bank or savings and loan  
13 association or equivalent institution;

14 (B) an investment company as defined by the Investment  
15 Company Act of 1940, §3(a), an issuer that would have been  
16 deemed an investment company under that Act except for the  
17 exclusion in that Act, §3(c)(1), or a business development  
18 company as defined by that Act, §2(c)(48);

19 (C) a small business investment company licensed by  
20 the United States Small Business Administration under the Small  
21 Business Investment Act of 1958, §301(c);

22 (D) a plan established and maintained by a state, its  
23 political subdivisions, or an agency or instrumentality of a  
24 state or its political subdivisions for the benefit of its  
25 employees;

26 (E) an employee benefit plan within the meaning of  
27 Title I of the Employee Retirement Income Security Act of 1974;

28 (F) a trust fund whose trustee is a bank or trust  
29 company and whose participants are exclusively plans of the  
30 types identified in subparagraph (D) or (E) of this definition,

## CHAPTER 301. DEFINITIONS

1 except trust funds that include as participants individual  
2 retirement accounts or H.R. 10 plans;

3 (G) a business development company as defined by the  
4 Investment Advisers Act of 1940, §202(a)(22), or an investment  
5 adviser registered under that Act;

6 (H) an organization described in the Internal Revenue  
7 Code, §501(c)(3);

8 (I) a dealer registered under the Securities Exchange  
9 Act of 1934, §15;

10 (J) a legal entity with a market value of at least \$50  
11 million whose securities are traded on a nationally recognized  
12 or foreign securities exchange or interdealer quotation system,  
13 such as NASDAQ; and

14 (K) a legal entity, acting for its own account or the  
15 account of other exempt institutional investors, that in the  
16 aggregate owns and invests on a discretionary basis at least \$25  
17 million in securities of issuers that are not affiliated with  
18 the entity, with the aggregate value of the securities being the  
19 cost of the securities, except if the entity reports its  
20 securities holdings in its financial statements based on their  
21 market value and no current information regarding the cost of  
22 the securities has been published, in which case the securities  
23 may be valued at market.

24 (26) [~~(25)~~] Exotic pool--a mutuel pool that involves wagers  
25 on more than one entered horse or greyhound or on entries in  
26 more than one race.

27 (27) [~~(26)~~] False start--failure of the starting gate or  
28 box doors to open simultaneously.

29 (28) [~~(27)~~] Foul--an action by a horse or jockey that  
30 hinders or interferes with another horse or jockey during the  
31 running of a race.

## CHAPTER 301. DEFINITIONS

1        (29) [~~(28)~~] Greyhound race--a contest among greyhounds for  
2        purse, stakes, premium, or wager for money, run in the presence  
3        of the racetrack officials, including the following:

4                (A) Hurdle race--a race over a course in which jumps  
5        or hurdles are used.

6                (B) Match race--a race between two or more greyhounds,  
7        each the property of different owners, on terms agreed on by the  
8        owners and approved by the Commission.

9                (C) Overnight race--a race for which entries close 96  
10       hours or less before the time set for the first race of the day  
11       on which the race is to be run.

12               (D) Purse race--a race for money or other prize to  
13       which the owners of the greyhounds engaged in the race do not  
14       contribute an entry.

15               (E) Race on the flat--a race over a course in which no  
16       jumps or other obstacles are placed.

17               (F) Stakes race--a race in which all money is to be  
18       deposited by the owners of the greyhounds engaged in the race,  
19       including a race of the day on which the stakes race is to be  
20       run.

21        (30) [~~(29)~~] Groom--an individual employed by an owner or  
22        trainer of a racehorse to tend to the physical appearance of the  
23        horse and to perform chores in and around the stable.

24        (31) [~~(30)~~] Growing medium--the substance immediately below  
25        the grass on a turf track.

26        (32) [~~(31)~~] Handle--the total amount of money wagered at a  
27        racetrack during a particular period.

28        (33) [~~(32)~~] Horse--an equine of any breed, including a  
29        stallion, gelding, mare, colt, filly, or ridgling.

## CHAPTER 301. DEFINITIONS

1        (34) [~~(33)~~] Horse Race--a running contest between horses  
2 for entry fees, purse, prize, or other reward, including the  
3 following:

4            (A) Claiming race--a race in which a horse may be  
5 claimed in accordance with the Rules.

6            (B) Derby race--a race in which the first condition of  
7 eligibility is to be three years old.

8            (C) Futurity race--a race in which the first condition  
9 of eligibility is to be two years old.

10           (D) Guaranteed race--a race for which the association  
11 guarantees by its conditions a specified purse, which is the  
12 limit of its liability.

13           (E) Handicap race--a race in which the weights to be  
14 carried by the entered horses are adjusted by the racing  
15 secretary for the purpose of equalizing their respective chances  
16 of winning.

17           (F) Match race--a race between only two horses that  
18 are owned by different owners.

19           (G) Maturity race--a race in which the first condition  
20 of eligibility is to be four years of age or older.

21           (H) Optional claiming race--a claiming race in which  
22 there is an option to have horses entered to be claimed for a  
23 stated price or not eligible to be claimed.

24           (I) Progeny race--a race restricted to the offspring  
25 of a specific stallion or stallions.

26           (J) Purse or overnight race--a race for which owners  
27 of horses entered are not required by its conditions to  
28 contribute money toward its purse.

29           (K) Stakes race--a race to which nominators of the  
30 entries contribute to a purse.

## CHAPTER 301. DEFINITIONS

1           (L) Starter race--an overnight race under allowance or  
2 handicap conditions, restricted to horses which have previously  
3 started for a designated claiming price or less, as stated in  
4 the conditions of the race.

5           (M) Walkover race--a stakes race in which only one  
6 horse starts or all the starters are owned by the same interest.

7           (N) Weight for age race--a race in which weights are  
8 assigned in keeping with the scale of weights in these rules.

9           (35) [~~34~~] In today horse--a horse that is in the body of  
10 a race program which is entered into a race on the next  
11 consecutive race day.

12           (36) Inactive license--a racetrack license designated by  
13 the commission as inactive.

14           (37) [~~35~~] Kennel area--an area on association grounds for  
15 the boarding or training of greyhounds.

16           (38) [~~36~~] Lead out--an individual who handles a greyhound  
17 from the lockout kennel to the starting box.

18           (39) [~~37~~] Locked in the gate--a horse or greyhound that  
19 is prevented from leaving the starting gate or box due to the  
20 failure of the front door of the gate or box to open  
21 simultaneously with the other doors.

22           (40) [~~38~~] Lure--a mechanical apparatus at a greyhound  
23 racetrack consisting of a stationary rail installed around the  
24 track, a motorized mechanism that travels on the rail, and a  
25 pole that is attached to the mechanism and extends over the  
26 track, and to which a decoy is attached.

27           (41) [~~39~~] Maiden--a horse or greyhound that has never won  
28 a race at a recognized race meeting authorized by the Commission  
29 or by another racing jurisdiction.

## CHAPTER 301. DEFINITIONS

1        (42) [~~(40)~~] Minus pool--a pool in which there are  
2 insufficient net proceeds to pay the minimum price to holders of  
3 the winning tickets.

4        (43) [~~(41)~~] Mutuel field--a group of horses joined as a  
5 single betting interest in a race due to the limited numbering  
6 capacity of the totalisator.

7        (44) [~~(42)~~] No race--a race that is canceled after being  
8 run due to a malfunction of the starting gate or box or any  
9 other applicable reason as determined by the Rules.

10       (45) [~~(43)~~] Nominator--the person in whose name a horse or  
11 greyhound is entered for a race.

12       (46) [~~(44)~~] Occupational licensee--an individual to whom  
13 the Commission has issued a license to participate in racing  
14 with pari-mutuel wagering.

15       (47) [~~(45)~~] Odds--a number indicating the amount of profit  
16 per dollar wagered to be paid to holders of winning pari-mutuel  
17 tickets.

18       (48) [~~(46)~~] Off time--the moment when, on signal from the  
19 starter, the horses or greyhounds break from the starting gate  
20 or box and run the race.

21       (49) [~~(47)~~] Paddock--the area in which horses or greyhounds  
22 gather immediately before a race.

23       (50) Paper/Program Trainer--a licensed trainer who solely  
24 for the purposes of the official race program is identified as  
25 the trainer of a horse that is actually under the control of and  
26 trained by another person who may or may not hold a current  
27 trainer's license in any jurisdiction.

28       (51) [~~(48)~~] Patron--an individual present on association  
29 grounds during a race meeting who is eligible to wager on the  
30 racing.

## CHAPTER 301. DEFINITIONS

1        (52) [~~(49)~~] Pecuniary interest--includes a beneficial  
2 ownership interest in an association, but does not include bona  
3 fide indebtedness or a debt instrument of an association.

4        (53) [~~(50)~~] Performance--the schedule of horse or greyhound  
5 races run consecutively as one program. A greyhound performance  
6 consists of fifteen or fewer races unless approved by the  
7 executive secretary.

8        (54) [~~(51)~~] Photofinish--the system of recording pictures  
9 or images of the finish of a race to assist in determining the  
10 order of finish.

11       (55) [~~(52)~~] Place--to finish second in a race.

12       (56) [~~(53)~~] Post position--the position assigned to a horse  
13 or greyhound in the starting gate or box.

14       (57) [~~(54)~~] Post time--the time set for the arrival at the  
15 starting gate or boxes by the horses or greyhounds in a race.

16       (58) [~~(55)~~] Purse--the cash portion of the prize for a  
17 race.

18       (59) [~~(56)~~] Race date--a date on which an association is  
19 authorized by the Commission to conduct races.

20       (60) [~~(57)~~] Race day--a day in which a numerical majority  
21 of scheduled races is conducted and is a part of the  
22 association's allocated race days.

23       (61) [~~(58)~~] Race meeting--the specified period and dates  
24 each year during which an association is authorized to conduct  
25 racing and/or pari-mutuel wagering by approval of the  
26 Commission.

27       (62) [~~(59)~~] Racetrack facility--the buildings, structures  
28 and fixtures located on association grounds used by an  
29 association to conduct horse or greyhound racing.

30       (63) [~~(60)~~] Racetrack official--an individual appointed or  
31 approved by the Commission to officiate at a race meeting.

## CHAPTER 301. DEFINITIONS

1           (64) [~~(61)~~] Racing judge--the executive racing official at  
2 a greyhound track.

3           (65) [~~(62)~~] Reasonable belief--a belief that would be held  
4 by an ordinary and prudent person in the same circumstances as  
5 the actor.

6           (66) [~~(63)~~] Recognized race meeting--a race meeting held  
7 under the sanction of a turf authority.

8           (67) [~~(64)~~] Refunded ticket--a pari-mutuel ticket that has  
9 been refunded for the value of a wager that is no longer valid.

10          (68) [~~(65)~~] Rule off--to bar an individual from the  
11 enclosure of an association and to deny all racing privileges to  
12 the individual.

13          (69) [~~(66)~~] Rules--the rules adopted by the Texas Racing  
14 Commission found in Title 16, Part VIII of the Texas  
15 Administrative Code.

16          (70) [~~(67)~~] Schooling race--a practice race conducted under  
17 actual racing conditions but for which wagering is not  
18 permitted.

19          (71) [~~(68)~~] Scratch--to withdraw an entered horse or  
20 greyhound from a race after the closing of entries.

21          (72) [~~(69)~~] Scratch time--the closing time set by an  
22 association for written requests to withdraw from a race.

23          (73) [~~(70)~~] Show--to finish third in a race.

24          (74) [~~(71)~~] Specimen--a bodily substance, such as blood,  
25 urine, or saliva, taken for analysis from a horse, greyhound, or  
26 individual in a manner prescribed by the Commission.

27          (75) [~~(72)~~] Stakes payments--the fees paid by subscribers  
28 in the form of nomination, entry, or starting fees to be  
29 eligible to participate.

## CHAPTER 301. DEFINITIONS

1        (76) [~~(73)~~] Stallion owner--a person who is owner of  
2 record, at the time of conception, of the stallion that sired  
3 the accredited Texas-bred horse.

4        (77) [~~(74)~~] Starter--a horse or greyhound entered in a race  
5 when the doors of the starting gate or box open in front of the  
6 horse or greyhound at the time the official starter dispatches  
7 the horses or greyhounds.

8        (78) [~~(75)~~] Straight pool--a mutuel pool that involves  
9 wagers on a horse or greyhound to win, place, or show.

10       (79) [~~(76)~~] Subscription--money paid to nominate, enter, or  
11 start a horse or greyhound in a stakes race.

12       (80) [~~(77)~~] Tack room--a room in the stable area of a horse  
13 racetrack in which equipment for training and racing the horses  
14 is stored.

15       (81) [~~(78)~~] Totalisator--a machine or system for  
16 registering and computing the wagering and payoffs in pari-  
17 mutuel wagering.

18       (82) [~~(79)~~] Tote board--a facility at a racetrack that is  
19 easily visible to the public on which odds, payoffs,  
20 advertising, or other pertinent information is posted.

21       (83) [~~(80)~~] Tote room--the room in which the totalisator  
22 equipment is maintained.

23       (84) [~~(81)~~] Tout--an individual licensed to furnish  
24 selections on a race in return for a set fee.

25       (85) [~~(82)~~] Trial--a race designed primarily to determine  
26 qualifiers for finals of a stakes race.

27       (86) [~~(83)~~] Uplink--an earth station broadcasting facility,  
28 whether mobile or fixed, which is used to transmit audio-visual  
29 signals and/or data emanating from a sending racetrack, and  
30 includes the electronic transfer of received signals from the  
31 receiving antenna to TV monitors within the receiving location.

## CHAPTER 301. DEFINITIONS

1       (87) [~~(84)~~] Weigh in--the process by which a jockey is  
2 weighed after a race or by which a greyhound is weighed before  
3 being placed in the lockout kennel.

4       (88) [~~(85)~~] Weighing in weight--the weight of a greyhound  
5 on weighing in to the lockout kennel.

6       (89) [~~(86)~~] Weigh out--the process by which a jockey or  
7 greyhound is weighed before a race.

8       (90) [~~(87)~~] Weighing out weight--the weight of a greyhound  
9 on weighing out of the lockout kennel immediately before post  
10 time for the race in which the greyhound is entered.

11       (91) [~~(88)~~] Win--to finish first in a race.

12       (92) [~~(89)~~] Winner--

13               (A) for horse racing, the horse whose nose reaches the  
14 finish line first, while carrying the weight of the jockey or is  
15 placed first through disqualification by the stewards; and

16               (B) for greyhound racing, the greyhound whose muzzle,  
17 or if the muzzle is lost or hanging, whose nose reaches the  
18 finish line first or is placed first through disqualification by  
19 the judges.

20       ~~[(90) Active license--a racetrack license designated by the~~  
21 ~~commission as active.]~~

22       ~~[(91) Inactive license--a racetrack license designated by~~  
23 ~~the commission as inactive.]~~

CHAPTER 311. OTHER LICENSES

SUBCHAPTER B. SPECIFIC LICENSES

1 **Sec. 311.104. Trainers**

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

3 (1) No licensee shall act as a program trainer, nor shall any  
4 owner name a program trainer on the entry form. Any licensee  
5 found to be acting as a program trainer and any owner who listed  
6 a program trainer is responsible for all violations occurring  
7 from participation of any horse or greyhound entered or raced by  
8 the licensee. Further, the Commission recognizes that  
9 identification of the correct trainer in the program is an  
10 important handicapping tool used by the wagering public.  
11 Therefore, the Commission identifies the practices of utilizing  
12 a program trainer and of acting as a program trainer as being  
13 inconsistent with maintaining the honesty and integrity of  
14 racing under §307.7 (relating to Ejection and Exclusion) and as  
15 a detrimental practice under §311.6 (relating to Denial,  
16 Suspension and Revocation of Licenses.)