



TEXAS RACING COMMISSION

**P. O. Box 12080
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Texas Racing Commission
Tuesday, February 10, 2015
10:30 a.m.
Texas Animal Health Commission
2105 Kramer Lane
Austin, Texas 78758

AGENDA

I. CALL TO ORDER

Roll Call

II. PUBLIC COMMENT

III. 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 Wagering Statistics
- C. Inspection and Enforcement Reports

IV. PROCEEDINGS ON RACETRACKS

Discussion, consideration and possible action on the following matters:

- A. Request by PM Texas LLC for Approval of Change in Management Committee
- B. Allocation of funds for the Texas Bred Incentive Program as provided under Commission Rule 321.505(b)
- C. Review of the License Designation of Saddle Brook Park as required under Commission Rule 309.51(f)
- D. Review of the License Designation of Valle de los Tesoros as required under Commission Rule 309.51(f)

- E. Allocation of Live Race Dates for Greyhound Racetracks under Commission Rule 303.41 for the Period beginning January 1, 2015, and ending August 31, 2016
- F. Review of the License Designation of Gulf Coast Racing as required under Commission Rule 309.51(f)

V. PROCEEDINGS ON OCCUPATIONAL LICENSES

Discussion, consideration and possible action on the following matter:

The Proposal for Decision in SOAH No. 476-15-0437; *In Re: The Appeal of Joseph Vacca from Stewards' Ruling RETA 4811*

VI. EXECUTIVE SESSION

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

- A. Under Government Code Sec. 551.071(1), the Commission may open an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer. The executive session may include, but is not limited to, legal advice regarding Case D-1-GN-14-003700, American Legion Department of Texas Temple Post 133, et al, vs. Texas Racing Commission and Chuck Trout.
- 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 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.

VII. SCHEDULING OF NEXT COMMISSION MEETING

VIII. ADJOURN

Texas Racing Commission

FYE 08/31/2015
Operating Budget Status
by LBB Expenditure Object/Codes

OBS-1

Strategy	Program Description	FY 2015 Annual Budget	FY 2015 Expended Thru 12/31/2014	FY 2015 Unexpended Bal 8/31/2015	With 33.3% of Year Lapsed % of Budget Expended
<i>Appropriated</i> A.1.1.	(0.50) FTE's = 4.50 <u>Regulate Racetrack Owners</u>				
Base Appr =	1001 Salaries and Wages	333,985.29	103,372.40	230,612.89	30.95%
\$ 400,839.00	1002 Other Personnel Cost	12,379.88	3,310.60	9,069.28	26.74%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 9,618.00	2003 Consumables	-	395.56	(395.56)	0.00%
Total Appr =	2004 Utilities	-	-	-	
\$ 410,457.00	2005 Travel	9,250.00	1,713.15	7,536.85	18.52%
Budgeted =	2006 Rent Building	-	-	-	
\$ 359,315.17	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	3,700.00	433.87	3,266.13	11.73%
(51,141.83)	CB Computer Equipment	-	-	-	
-12.76%	Total Strategy A.1.1.	359,315.17	109,225.58	250,089.59	30.40%
<i>Appropriated</i> A.2.1.	0 FTE's = 0 <u>Texas Bred Incentive</u>				
	ATB Money Expended	3,475,000.00	947,637.27	2,527,362.73	27.27%
3,475,000.00	Total Strategy A.2.1.	3,475,000.00	947,637.27	2,527,362.73	27.27%
<i>Appropriated</i> A.3.1.	0.60 FTE's = 9.30 <u>Supervise Racing and Licensees</u>				
Base Appr =	1001 Salaries and Wages	580,678.70	188,212.27	392,466.43	32.41%
\$ 591,228.00	1002 Other Personnel Cost	41,645.40	8,490.37	33,155.03	20.39%
Sup Appr =	2001 Prof Fees and Services	2,500.00	-	2,500.00	0.00%
\$ 16,911.00	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 608,139.00	2005 Travel	50,420.00	7,079.97	43,340.03	14.04%
Budgeted =	2006 Rent Building	-	-	-	
\$ 679,144.10	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	3,900.00	640.00	3,260.00	16.41%
71,005.10	CB Computer Equipment	-	-	-	
12.01%	Total Strategy A.3.1.	679,144.10	204,422.61	474,721.49	30.10%
<i>Appropriated</i> A.3.2.	(0.50) FTE's = 3.70 <u>Monitor Occupational Licensee Act.</u>				
Base Appr =	1001 Salaries and Wages	205,472.18	62,742.52	142,729.66	30.54%
\$ 271,136.00	1002 Other Personnel Cost	16,080.96	4,710.25	11,370.71	29.29%
Sup Appr =	2001 Prof Fees and Services	1,000.00	113.97	886.03	11.40%
\$ 5,879.00	2003 Consumables	2,500.00	323.80	2,176.20	12.95%
Total Appr =	2004 Utilities	-	-	-	
\$ 277,015.00	2005 Travel	35,019.00	4,632.41	30,386.59	13.23%
Budgeted =	2006 Rent Building	-	-	-	
\$ 263,572.14	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	3,500.00	518.16	2,981.84	14.80%
\$ (13,442.86)	CB Computer Equipment	-	-	-	
-4.96%	Total Strategy A.3.2.	263,572.14	73,041.11	190,531.03	27.71%
<i>Appropriated</i> A.4.1.	0.50 FTE's = 3.10 <u>Inspect and Provide Emerg. Care</u>				
Base Appr =	1001 Salaries and Wages	204,967.64	65,345.56	139,622.08	31.88%
\$ 292,515.00	1002 Other Personnel Cost	10,174.51	866.00	9,308.51	8.51%
Sup Appr =	2001 Prof Fees and Services	92,500.00	23,461.03	69,038.97	25.36%
\$ 5,465.00	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 297,980.00	2005 Travel	21,783.00	5,227.25	16,555.75	24.00%
Budgeted =	2006 Rent Building	-	-	-	
\$ 331,575.15	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	2,150.00	915.58	1,234.42	42.59%
\$ 33,595.15	CB Computer Equipment	-	-	-	
11.48%	Total Strategy A.4.1.	331,575.15	95,815.42	235,759.73	28.90%

Texas Racing Commission

FYE 08/31/2015
Operating Budget Status
by LBB Expenditure Object/Codes

OBS-2

Strategy	Program Description	FY 2015 Annual Budget	FY 2015 Expended Thru 12/31/2014	FY 2015 Unexpended Bal 8/31/2015	With 33.3% of Year Lapsed % of Budget Expended
<i>Appropriated</i> A.4.2.	0.50 FTE's = 4.30 <u>Administer Drug Testing</u>				
Base Appr =	1001 Salaries and Wages	255,259.07	86,812.30	168,446.77	34.01%
\$ 248,903.00	1002 Other Personnel Cost	8,688.89	2,832.40	5,856.49	32.60%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 7,577.00	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 256,480.00	2005 Travel	12,184.00	8,102.33	4,081.67	66.50%
Budgeted =	2006 Rent Building	-	-	-	
\$ 280,831.95	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	4,700.00	931.00	3,769.00	19.81%
\$ 24,351.95	CB Computer Equipment	-	-	-	
9.78%	Total Strategy A.4.2.	280,831.95	98,678.03	182,153.92	35.14%
<i>Appropriated</i> B.1.1.	(0.60) FTE's = 7.10 <u>Occupational Licensing</u>				
Base Appr =	1001 Salaries and Wages	276,847.21	92,317.22	184,529.99	33.35%
\$ 537,680.00	1002 Other Personnel Cost	13,592.71	4,304.31	9,288.40	31.67%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 9,780.00	2003 Consumables	5,000.00	19.36	4,980.64	0.39%
Total Appr =	2004 Utilities	-	-	-	
\$ 547,460.00	2005 Travel	24,400.00	4,208.59	20,191.41	17.25%
Budgeted =	2006 Rent Building	-	-	-	
\$ 516,339.92	2007 Rent Machine	8,000.00	2,863.92	5,136.08	35.80%
Difference	2009 Other Operating Cost	188,500.00	24,074.42	164,425.58	12.77%
\$ (31,120.08)	CB Computer Equipment	-	-	-	
-5.79%	Total Strategy B.1.1.	516,339.92	127,787.82	388,552.10	24.75%
<i>Appropriated</i> B.1.2.	- FTE's = 0 <u>Texas OnLine</u>				
Base Appr =	1001 Salaries and Wages	-	-	-	
\$ 22,500.00	1002 Other Personnel Cost	-	-	-	
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ -	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 22,500.00	2005 Travel	-	-	-	
Budgeted =	2006 Rent Building	-	-	-	
\$ 22,500.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	22,500.00	4,340.00	18,160.00	19.29%
\$ -	CB Computer Equipment	-	-	-	
0.00%	Total Strategy B.1.2.	22,500.00	4,340.00	18,160.00	19.29%
<i>Appropriated</i> C.1.1.	(0.20) FTE's = 4.80 <u>Monitor Wagering and Audit</u>				
Base Appr =	1001 Salaries and Wages	275,344.37	81,286.88	194,057.49	29.52%
\$ 321,110.00	1002 Other Personnel Cost	13,130.17	38,863.68	(25,733.51)	295.99%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 8,513.00	2003 Consumables	1,000.00	-	1,000.00	0.00%
Total Appr =	2004 Utilities	-	-	-	
\$ 329,623.00	2005 Travel	21,100.00	5,820.03	15,279.97	27.58%
Budgeted =	2006 Rent Building	-	-	-	
\$ 326,774.53	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	16,200.00	2,130.00	14,070.00	13.15%
\$ (2,848.47)	CB Computer Equipment	-	-	-	
-0.89%	Total Strategy C.1.1.	326,774.53	128,100.59	198,673.94	39.20%

Texas Racing Commission

FYE 08/31/2015

OBS-3

Operating Budget Status
by LBB Expenditure Object/Codes

Strategy	Program Description	FY 2015 Annual Budget	FY 2015 Expended Thru 12/31/2014	FY 2015 Unexpended Bal 8/31/2015	With 33.3% of Year Lapsed % of Budget Expended
<i>Appropriated</i> C.1.2.	- FTE's = 3.00 <u>Wagering & Compliance Inspections</u>				
Base Appr =	1001 Salaries and Wages	143,971.65	35,034.14	108,937.51	24.33%
\$ 242,242.00	1002 Other Personnel Cost	5,339.57	1,735.19	3,604.38	32.50%
Sup Appr =	2001 Prof Fees and Services	50,000.00	-	50,000.00	0.00%
\$ 4,383.00	2003 Consumables	1,000.00	-	1,000.00	0.00%
Total Appr =	2004 Utilities	-	-	-	
\$ 246,625.00	2005 Travel	16,000.00	2,362.19	13,637.81	14.76%
Budgeted =	2006 Rent Building	-	-	-	
\$ 217,211.23	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	900.00	-	900.00	0.00%
\$ (29,413.77)	CB Computer Equipment	-	-	-	
-12.14%	Total Strategy C.1.2.	217,211.23	39,131.52	178,079.71	18.02%
<i>Appropriated</i> D.1.1.	0.20 FTE's = 7.00 <u>Central Administration</u>				
Base Appr =	1001 Salaries and Wages	409,368.44	130,546.82	278,821.62	31.89%
\$ 730,012.00	1002 Other Personnel Cost	21,286.67	5,138.81	16,147.86	24.14%
Sup Appr =	2001 Prof Fees and Services	16,500.00	14,321.51	2,178.49	86.80%
\$ 11,900.00	2003 Consumables	12,500.00	2,584.51	9,915.49	20.68%
Total Appr =	2004 Utilities	58,000.00	16,629.37	41,370.63	28.67%
\$ 741,912.00	2005 Travel	23,500.00	2,413.31	21,086.69	10.27%
Budgeted =	2006 Rent Building	86,250.00	35,639.75	50,610.25	41.32%
\$ 735,830.10	2007 Rent Machine	1,500.00	452.76	1,047.24	30.18%
Difference	2009 Other Operating Cost	106,925.00	38,875.54	68,049.46	36.36%
\$ (6,081.90)	CB Computer Equipment	-	-	-	0.00%
-0.83%	Total Strategy D.1.1.	735,830.10	246,602.38	489,227.72	33.51%
<i>Appropriated</i> D.1.2.	- FTE's = 4.80 <u>Information Resources</u>				
Base Appr =	1001 Salaries and Wages	304,548.36	89,922.04	214,626.32	29.53%
\$ 507,335.00	1002 Other Personnel Cost	14,359.35	4,501.48	9,857.87	31.35%
Sup Appr =	2001 Prof Fees and Services	56,000.00	10,977.50	45,022.50	19.60%
\$ 9,277.00	2003 Consumables	15,000.00	236.00	14,764.00	1.57%
Total Appr =	2004 Utilities	1,200.00	329.22	870.78	27.44%
\$ 516,612.00	2005 Travel	4,500.00	559.47	3,940.53	12.43%
Budgeted =	2006 Rent Building	2,700.00	-	2,700.00	0.00%
\$ 521,708.71	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	123,401.00	18,909.35	104,491.65	15.32%
\$ 5,096.71	CB Computer Equipment	-	-	-	
1.00%	Total Strategy D.1.2.	521,708.71	125,435.06	396,273.65	24.04%
<i>Appropriated</i> D.1.3.	- FTE's = 51.60 <u>Other Support Services</u>				
Base Appr =	1001 Salaries and Wages	-	-	-	
\$ 7,640,500.00	1002 Other Personnel Cost	-	-	-	
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 89,303.00	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 7,729,803.00	2005 Travel	-	-	-	
Budgeted =	2006 Rent Building	-	-	-	
\$ 7,729,803.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	-	-	-	
\$ 0.00	CB Computer Equipment	-	-	-	
0.00%	Total Strategy D.1.3.	-	-	-	
\$ 4,254,803	Regulatory Program Operating Budget	4,254,803.00	1,252,580.12	2,433,298.22	29.44%
\$ 3,475,000	TX Bred Program Operating Budget	3,475,000.00	947,637.27	2,527,362.73	27.27%
\$ 7,729,803	Total M.O.F. (TXRC Acct. 597 & GR)	7,729,803.00	2,200,217.39	4,960,660.95	28.46%
	Total All Programs Operating Budget				

Texas Racing Commission

FYE 08/31/2015
Operating Budget Status
by LBB Expenditure Object/Codes

OBS-4

Strategy	Program Description	FY 2015 Annual Budget	FY 2015 Expended Thru 12/31/2014	FY 2015 Unexpended Bal 8/31/2015	With 33.3% of Year Lapsed % of Budget Expended
\$ -	FTE's = 51.60				
<i>Appropriated</i>	Direct Expense of Regulatory Programs				
	1001 Salaries and Wages	2,990,442.90	935,592.15	2,054,850.75	31.29%
	1002 Other Personnel Cost	156,678.10	74,753.09	81,925.01	47.71%
	2001 Prof Fees and Services	218,500.00	48,874.01	169,625.99	22.37%
	2003 Consumables	37,000.00	3,559.23	33,440.77	9.62%
	2004 Utilities	59,200.00	16,958.59	42,241.41	28.65%
	2005 Travel	218,156.00	42,118.70	176,037.30	19.31%
	2006 Rent Building	88,950.00	35,639.75	53,310.25	40.07%
	2007 Rent Machine	9,500.00	3,316.68	6,183.32	34.91%
	2009 Other Operating Cost	476,376.00	91,767.92	384,608.08	19.26%
	CB Computer Equipment	-	-	-	0.00%
\$ 4,254,803	Total Direct Expense of Regulatory Program	4,254,803.00	1,252,580.12	3,002,222.88	29.44%
\$ 3,475,000	FTE's = - Direct Expense of TX Bred Program	3,475,000.00	947,637.27	2,527,362.73	27.27%
\$ 7,729,803	FTE's = 51.60 Total Direct Expense of All Programs	7,729,803.00	2,200,217.39	5,529,585.61	28.46%
<i>Un-Appropriated</i>	Indirect Expense of All Programs				
	OASI Match	229,141.49	72,665.65	156,475.84	31.71%
	Group Insurance	321,472.61	97,599.06	223,873.55	30.36%
	State Retirement	224,283.22	61,547.56	162,735.66	27.44%
	Benefit Replacement	13,000.00	3,497.19	9,502.81	26.90%
	ERS Retiree Insurance	260,000.00	88,492.46	171,507.54	34.04%
	SWCAP GR Reimburse	30,000.00	-	30,000.00	0.00%
	Unemployment Cost	10,000.00	-	10,000.00	0.00%
	Other	-	-	-	0.00%
\$ 1,087,897	Total Indirect Expense of All Programs	1,087,897.32	323,801.92	764,095.40	29.76%
\$ 8,817,700	Total Direct and Indirect Expense of All Programs	8,817,700.32	2,524,019.31	6,293,681.01	28.62%

Source Of Funds	Agency Method Of Finance	FY 2015 Projected Revenue	FY 2015 Actual Revenue Thru 12/31/2014	N/A	With 33.3% of Year Lapsed % of Revenue Collected
	Regulatory Program MOF:				
Acct. 597	Cash Balance Carry Forward	\$ 856,325.04	\$ 856,325.04		n/a
Acct. 597	Live Race Day Fees	\$ -	\$ -		
Acct. 597	Simulcast Race Day Fees	\$ -	\$ -		
Acct. 597	Annual License Fees (Active & Inactive)	\$ 4,191,244.00	\$ 2,163,748.00		51.63%
Acct. 597	Outs	\$ -	\$ -		
Acct. 597	Occupational License Fees and Fines	\$ 747,458.00	\$ 209,846.00		28.07%
Acct. 597	Other Revenue	\$ 23,867.00	\$ 11,833.19		49.58%
Acct. 1	GR Funds	\$ -	\$ -		
	Sub-Total Regulatory Prgm. MOF	\$ 5,818,894.04	\$ 3,241,752.23		55.71%
	Texas Bred Program MOF:				
Acct. 597	Cash Balance Carry Forward	\$ -	\$ -		
Acct. 597	Breakage and 1% Exotic	\$ 3,475,000.00	\$ 947,637.27		27.27%
Acct. 597	Other	\$ -	\$ -		
	Sub-Total Texas Bred Prgm. MOF	\$ 3,475,000.00	\$ 947,637.27		27.27%
All Sources	Total MOF	\$ 9,293,894.04	\$ 4,189,389.50		45.08%
	MOF Estimated to Exceed or (Fall-Short of Covering) Direct & Indirect Expenses of Operating Budget	\$ 476,193.72	\$ 1,665,370.19		



**Fiscal Year 2015
Operational Budget**

Updated: January 15, 2015
Thru: December 31, 2014

Summary of Operating Revenue

By Revenue Type:					Uncollected	
	Budget	Collected	Suspended	Balance	%	
Account 597 - Racing Commission - GRD	\$ 9,293,894	\$ 4,189,390	\$ -	\$ 5,104,505	55%	
Account 1 - State of Texas - GR	\$ -	\$ -	\$ -	\$ -		
TOTAL - ALL REVENUES	\$ 9,293,894	\$ 4,189,390	\$ -	\$ 5,104,505	55%	

Summary of Appropriated Operating Expenses

				Unexpended		
	Budget	Expended	Encumbered	Balance	%	
1001 - Salaries and Wages:	\$ 2,990,443	\$ 935,592	\$ -	\$ 2,054,851	69%	
1002 - Other Personnel Cost:	\$ 156,678	\$ 74,753	\$ -	\$ 81,925	52%	
2001 - Professional Fees and Services:	\$ 218,500	\$ 48,874	\$ -	\$ 169,626	78%	
2003 - Consumable Supplies:	\$ 37,000	\$ 3,559	\$ -	\$ 33,441	90%	
2004 - Utilities:	\$ 59,200	\$ 16,959	\$ -	\$ 42,241	71%	
2005 - Travel:	\$ 218,156	\$ 42,119	\$ -	\$ 176,037	81%	
2006 - Rent Building:	\$ 88,950	\$ 35,640	\$ -	\$ 53,310	60%	
2007 - Rent Machine and Other:	\$ 9,500	\$ 3,317	\$ -	\$ 6,183	65%	
2009 - Other Operating Expense:	\$ 476,376	\$ 91,768	\$ -	\$ 384,608	81%	
4000 - Grants	\$ 3,475,000	\$ 947,637	\$ -	\$ 2,527,363	73%	
5000 - Capital Expenditures:	\$ -	\$ -	\$ -	\$ -	0.00%	
TOTAL - ALL APPROPRIATED EXPENDITURES	\$ 7,729,803	\$ 2,200,217	\$ -	\$ 5,529,586	72%	

Unappropriated Operating Expenses

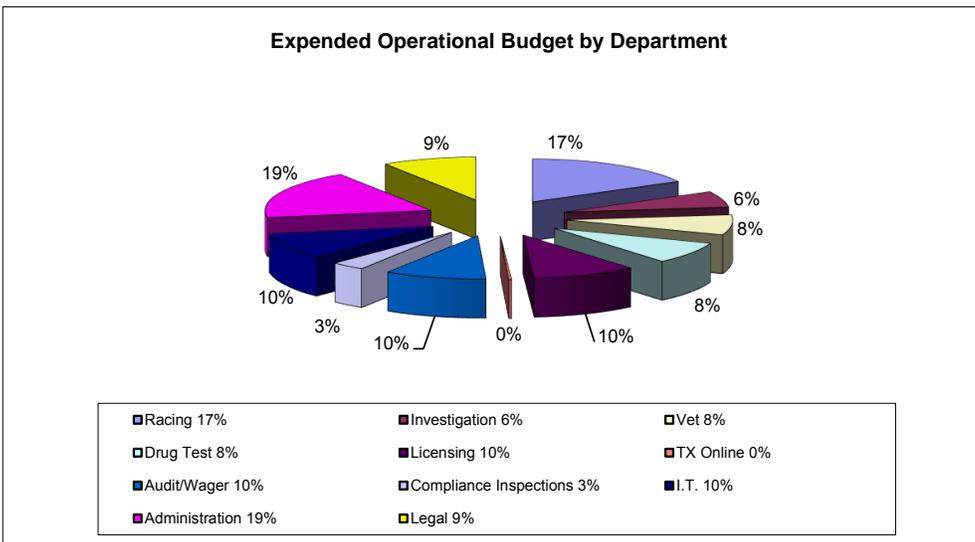
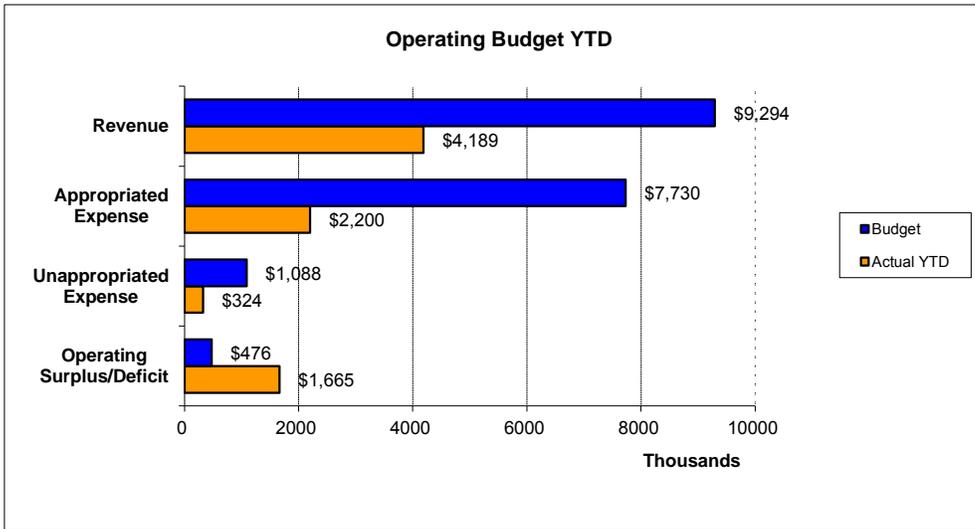
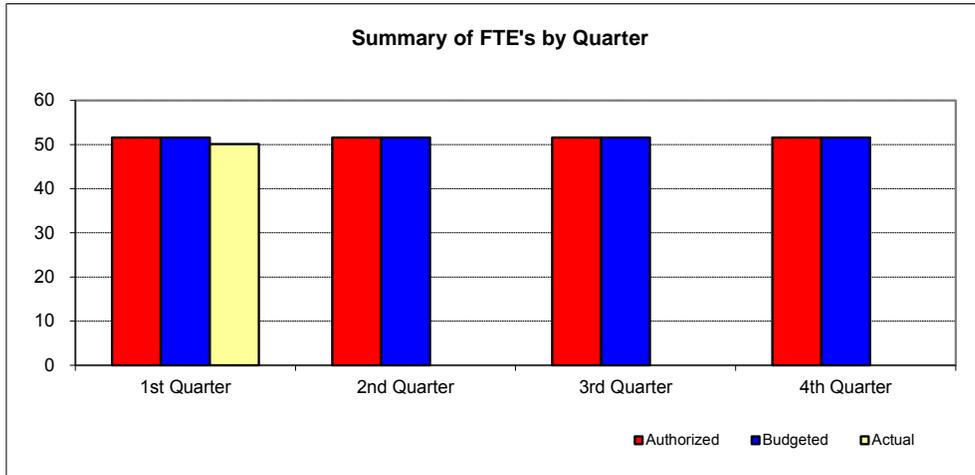
Type:					Unexpended	
	Budget	Expended	Encumbered	Balance	%	
TOTAL - ALL UNAPPROPRIATED EXPENDITURES	\$ 1,087,897	\$ 323,802	\$ -	\$ 764,095	70%	
TOTAL - ALL EXPENDITURES	\$ 8,817,700	\$ 2,524,019	\$ -	\$ 6,293,681	71%	

OPERATING SURPLUS / (DEFICIT)

	\$ 476,194	\$ 1,665,370			
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Summary of FTE's

By Fiscal Quarter:	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Authorized FTE's	51.60	51.60	51.60	51.60
Budgeted FTE's	51.60	51.60	51.60	51.60
Actual FTE's	50.10	0.00	0.00	0.00
Actual FTE's Over / (Under) Budget	(1.50)	n/a	n/a	n/a
Actual FTE's Over / (Under) Authorization	(1.50)	n/a	n/a	n/a





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

For the Period: 01/01/12 -02/01/14 to 01/01/15 -02/01/15

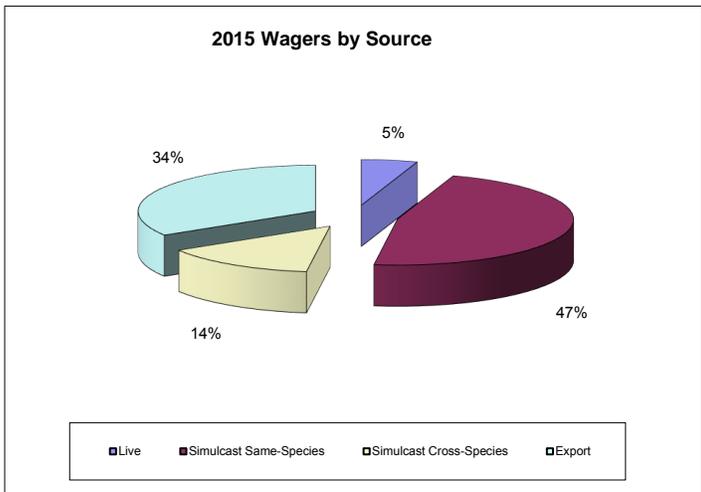
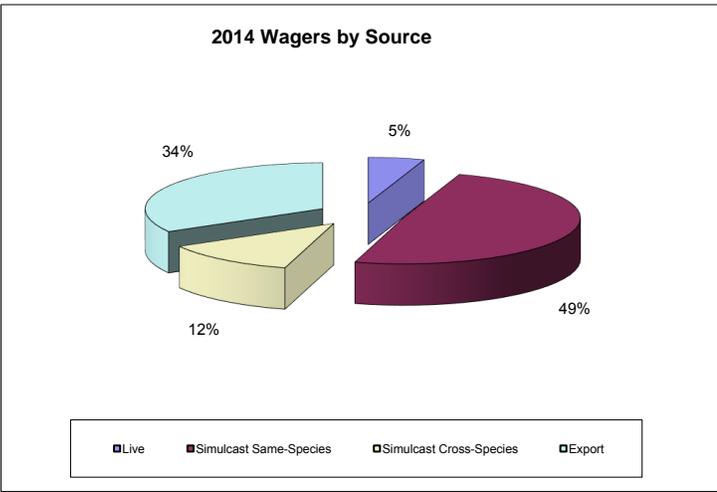
Sources of Wagers	Year 2014 01/01 - 02/01				Year 2015 01/01 -02/01				Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wagers		
Greyhound Racetracks										
Live	23	668,277	\$ 29,056	22	522,820	\$ 23,765	-21.77%	-18.21%		
Simulcast Same-Species	84	2,434,474	\$ 28,982	84	2,627,688	\$ 31,282	7.94%	7.94%		
Simulcast Cross-Species	84	1,741,470	\$ 20,732	84	1,795,543	\$ 21,376	3.10%	3.10%		
Export	23	1,050,145	\$ 45,658	22	896,364	\$ 40,744	-14.64%	-10.76%		
Total Wagers		5,894,367	N/A		5,842,416	N/A	-0.88%	N/A		

Sources of Wagers Horse Racetracks										
Live	10	1,325,286	\$ 132,529	10	1,348,082	\$ 134,808	1.72%	1.72%		
Simulcast Same-Species	115	16,788,023	\$ 145,983	116	14,586,955	\$ 125,750	-13.11%	-13.86%		
Simulcast Cross-Species	115	3,046,018	\$ 26,487	116	3,357,493	\$ 28,944	10.23%	9.28%		
Export	10	11,936,067	\$ 1,193,607	10	11,484,170	\$ 1,148,417	-3.79%	-3.79%		
Total Wagers		33,095,393	N/A		30,776,701	N/A	-7.01%	N/A		

Sources of Wagers All Texas Racetracks										
Live	33	1,993,563	\$ 60,411	32	1,870,903	\$ 58,466	-6.15%	-3.22%		
Simulcast Same-Species	199	19,222,497	\$ 96,595	200	17,214,644	\$ 86,073	-10.45%	-10.89%		
Simulcast Cross-Species	199	4,787,489	\$ 24,058	200	5,153,036	\$ 25,765	7.64%	7.10%		
Export	33	12,986,211	\$ 393,522	32	12,380,534	\$ 386,892	-4.66%	-1.68%		
Total Wagers		38,989,760	N/A		36,619,116	N/A	-6.08%	N/A		

Total Wagers Placed in Texas		26,003,548	N/A		24,238,583	N/A	-6.79%	N/A
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Total Wagers Placed on Texas Races		14,979,774	N/A		14,251,436	N/A	-4.86%	N/A
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**Greyhound Racetrack Wagering Statistics
Comparison Report on Total Wagers Placed**

in Texas & on Texas Races

For the Period: 01/01/12 -02/01/14 to 01/01/15 -02/01/15

Sources of Wagers	Year 2014 01/01 - 02/01				Year 2015 01/01 -02/01				Percentage Change In	
	# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager		
Gulf Coast Racing										
Live	0	0	N/A	0	0	N/A	N/A	N/A	N/A	N/A
Simulcast Same-Species	25	670,681	\$ 26,827	24	759,825	\$ 31,659	13.29%	18.01%		
Simulcast Cross-Species	25	300,909	\$ 12,036	24	345,232	\$ 14,385	14.73%	19.51%		
Export	0	0	N/A	0	0	N/A	N/A	N/A	N/A	N/A
Total Wagers		971,590	N/A		1,105,056	N/A	13.74%	N/A		

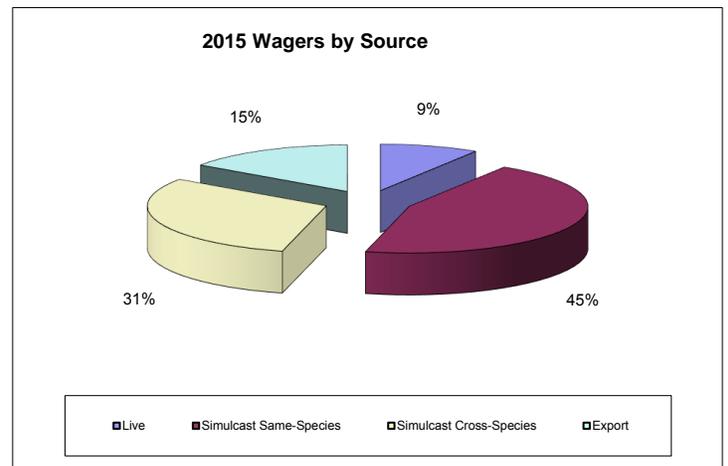
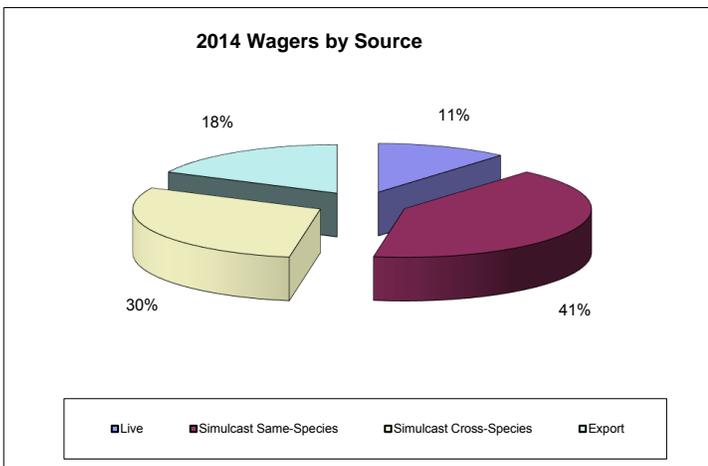
Sources of Wagers										
Gulf Greyhound Park										
# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	
Live	23	668,277	\$ 29,056	22	522,820	\$ 23,765	-21.77%	-18.21%		
Simulcast Same-Species	31	1,041,756	\$ 33,605	32	1,072,684	\$ 33,521	2.97%	-0.25%		
Simulcast Cross-Species	31	905,168	\$ 29,199	32	1,035,423	\$ 32,357	14.39%	10.82%		
Export	23	1,050,145	\$ 45,658	22	896,364	\$ 40,744	-14.64%	-10.76%		
Total Wagers		3,665,346	N/A		3,527,291	N/A	-3.77%	N/A		

Sources of Wagers										
Valley Race Park										
# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	
Live	0	0	N/A	0	0	\$ -	N/A	N/A	N/A	N/A
Simulcast Same-Species	28	722,037	\$ 25,787	28	795,180	\$ 28,399	10.13%	10.13%		
Simulcast Cross-Species	28	535,394	\$ 19,121	28	414,889	\$ 14,817	-22.51%	-22.51%		
Export	0	0	N/A	0	0	N/A	N/A	N/A	N/A	N/A
Total Wagers		1,257,430	N/A		1,210,068	N/A	-3.77%	N/A		

Sources of Wagers										
All Greyhound Racetracks										
# Days	Total Wagers	Avg. Wager	# Days	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	Total Wagers	Avg. Wager	
Live	23	668,277	\$ 29,056	22	522,820	\$ 23,765	-21.77%	-18.21%		
Simulcast Same-Species	84	2,434,474	\$ 28,982	84	2,627,688	\$ 31,282	7.94%	7.94%		
Simulcast Cross-Species	84	1,741,470	\$ 20,732	84	1,795,543	\$ 21,376	3.10%	3.10%		
Export	23	1,050,145	\$ 45,658	22	896,364	\$ 40,744	-14.64%	-10.76%		
Total Wagers		5,894,367	N/A		5,842,416	N/A	-0.88%	N/A		

Total Wagers Placed in Texas		4,844,222	N/A		4,946,052	N/A	2.10%	N/A		
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Total Wagers Placed on Texas Races		1,718,422	N/A		1,419,185	N/A	-17.41%	N/A		
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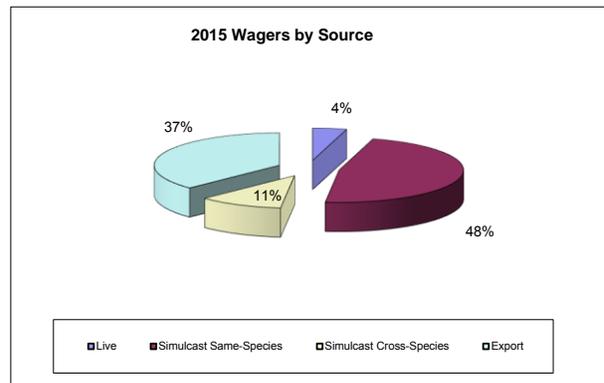
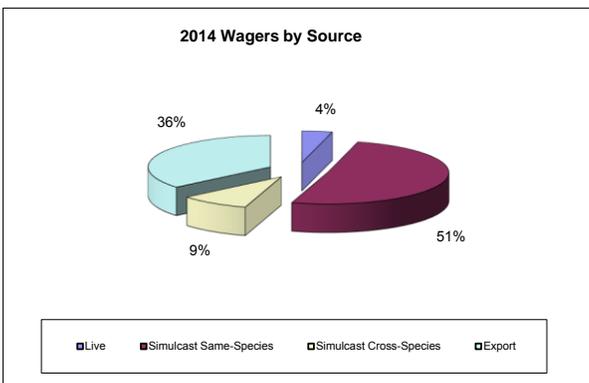


**Horse Racetrack Wagering Statistics
Comparison Report on Total Wagers Placed**

in Texas & on Texas Races

For the Period: 01/01/12 -02/01/14 to 01/01/15 -02/01/15

<u>Sources of Wagers</u>	Year 2014				Year 2015				Percentage	
	<u># Days</u>	<u>Total Wagers</u>	<u>Avg. Wager</u>	<u># Days</u>	<u>Total Wagers</u>	<u>Avg. Wager</u>	<u>Total Wagers</u>	<u>Avg. Wager</u>	<u>Change In</u>	<u>Change In</u>
Gillespie County Fair										
Live	0	0	N/A	0	0	N/A	N/A	N/A	N/A	N/A
Simulcast Same-Species	19	164,404	\$ 8,653	20	289,777	\$ 14,489	76.26%	67.45%		
Simulcast Cross-Species	19	32,430	\$ 1,707	20	39,944	\$ 1,997	23.17%	17.01%		
Export	0	0	N/A	0	0	N/A	N/A	N/A		
Total Wagers		196,834	N/A		329,722	N/A	67.51%	N/A		
Lone Star Park										
Live	0	0	N/A	0	0	N/A	N/A	N/A		
Simulcast Same-Species	32	8,482,589	\$ 265,081	32	8,040,645	\$ 251,270	-5.21%	-5.21%		
Simulcast Cross-Species	32	700,139	\$ 21,879	32	559,670	\$ 17,490	-20.06%	-20.06%		
Export	0	0	N/A	0	0	N/A	N/A	N/A		
Total Wagers		9,182,729	N/A		8,600,316	N/A	-6.34%	N/A		
Retama Park										
Live	0	0	\$ -	0	0	N/A	N/A	N/A		
Simulcast Same-Species	32	2,913,099	\$ 91,034	32	2,250,014	\$ 70,313	-22.76%	-22.76%		
Simulcast Cross-Species	32	720,556	\$ 22,517	32	917,064	\$ 28,658	27.27%	27.27%		
Export	0	0	\$ -	0	0	N/A	N/A	N/A		
Total Wagers		3,633,654	N/A		3,167,077	N/A	-12.84%	N/A		
Sam Houston Race Park										
Live	10	1,325,286	\$ 132,529	10	1,348,082	\$ 134,808	1.72%	1.72%		
Simulcast Same-Species	32	5,227,931	\$ 163,373	32	4,006,519	\$ 125,204	-23.36%	-23.36%		
Simulcast Cross-Species	32	1,592,893	\$ 49,778	32	1,840,815	\$ 57,525	15.56%	15.56%		
Export	10	11,936,067	\$ 1,193,607	10	11,484,170	\$ 1,148,417	-3.79%	-3.79%		
Total Wagers		20,082,176	N/A		18,679,586	N/A	-6.98%	N/A		
All Horse Racetracks										
Live	10	1,325,286	\$ 132,529	10	1,348,082	\$ 134,808	1.72%	1.72%		
Simulcast Same-Species	115	16,788,023	\$ 145,983	116	14,586,955	\$ 125,750	-13.11%	-13.86%		
Simulcast Cross-Species	115	3,046,018	\$ 26,487	116	3,357,493	\$ 28,944	10.23%	9.28%		
Export	10	11,936,067	\$ 1,193,607	10	11,484,170	\$ 1,148,417	-3.79%	-3.79%		
Total Wagers		33,095,393	N/A		30,776,701	N/A	-7.01%	N/A		
Total Wagers Placed in Texas		21,159,327	N/A		19,292,531	N/A	-8.82%	N/A		
Total Wagers Placed on Texas Races		13,261,352	N/A		12,832,252	N/A	-3.24%	N/A		



Texas Racing Commission

Report on Racetrack Inspection Activities

February 10, 2015

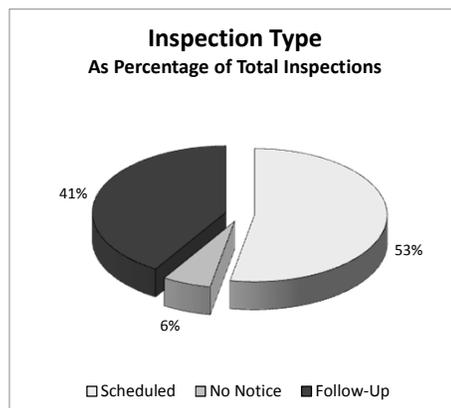
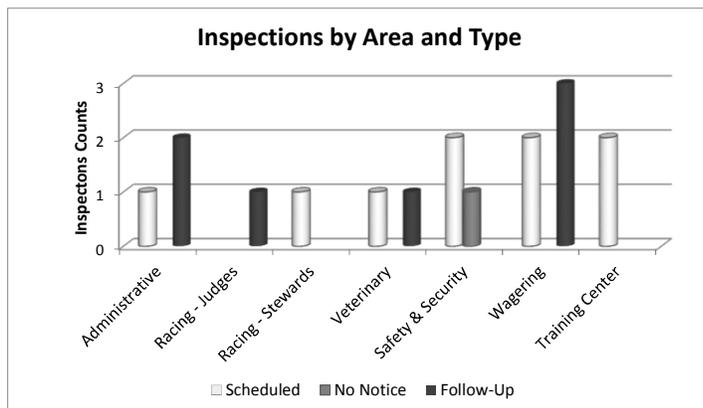
Summary of Inspections Performed For the Period of December 1, 2014 through February 1, 2015					
Track	Area of Inspection	Date of Inspection	Number of Unsatisfactory Items	Track Remediation	Remaining Unsatisfactory Items
Sam Houston Race Park	Veterinary	1/9/2015	2		
	Veterinary	1/30/2015	0	2 (Follow Up from 01/09/15)	0
	Security	1/16/2015	0		
	Administrative	1/9/2015	1		*1
	Wagering	1/9/2015	1		
	Wagering	1/21/2015	0	1 (Follow Up from 01/09/15)	0
	Racing	1/15/2015	0		
Valley Race Park	Wagering	12/18/2014	2		
	Wagering	1/23/2015	0	2 (Follow Up from 12/18/14)	0
	Administrative	12/18/2014	5		
	Administrative	1/23/2015	1	4 (Follow Up from 12/18/14)	*1
Gulf Coast Racing	Security	12/18/2014	0		
Gulf Greyhound Park	Wagering	12/5/2014	0	4 (Follow Up from 11/6/14)	0
	Security	12/17/2014	0		
	Racing	1/15/2015	0	2 (Follow Up from 11/6/14)	0
Diamond D Training	Security	1/9/2015	0		
Oakleaf Training	Security	1/9/2015	0		

* In unique situations ATM provides cash from credit card

Inspection Counts by Area and Type				
Area of Inspection	Scheduled	No Notice	Follow-Up	Totals
Administrative	1		2	3
Racing - Judges			1	1
Racing - Stewards	1			1
Veterinary	1		1	2
Safety & Security	2	1		3
Wagering	2		3	5
Training Center	2			2
TOTAL INSPECTIONS	9	1	7	17

Important Notes Regarding Inspections at Racetracks:

- 1) Scheduled inspections typically occur before the beginning of each race meet. No Notice inspections typically are planned to occur during the middle of a meet, but may occur at any time.
- 2) Follow-Up inspections are performed when a Scheduled or No Notice 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.



REGULATORY ACTIVITIES as of February 1, 2015

There are two (2) racetracks currently conducting live meets, Sam Houston Race Park and Gulf Greyhound Park. Simulcast operations continue at Lone Star Park, Retama Park, the Race Barn in Fredericksburg, Valley Greyhound Park and Gulf Coast Racing in Corpus Christi. Saddle Brook Jockey Club ceased simulcast operations in Amarillo on December 12, 2014.

Sam Houston Race Park – thoroughbred meet began on January 16th, 2015.

Class 1 and 2 Drug Positives	0
Class 3 and 4 Drug Positives	0
Class 5 and Overages of Permitted Medications	0
Ruling Activity	Five rulings for minor riding infractions, reciprocity suspensions for financial responsibility and human drug test cases, and one summary suspension of a jockey. In addition, several enforcement cases are currently pending Steward's action as the result of a TxDPS – TxRC gate inspection.
Outstanding Inspection Items	Problem with ATM provider – in unique situations ATM dispenses cash from credit card

Gulf Greyhound Park – continues operation with no notable enforcement or inspection issues other than continued problems with the ATM provider as reported during the last Commission meeting.

Animal Drug Positives	0
Ruling Activity	1 ruling since December 1, 2014
Outstanding Inspection Items	Problem with ATM provider – in unique situations ATM dispenses cash from credit card



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

February 4, 2015

To: Chuck Trout
Executive Director

From: Jim Blodgett
Director of Investigations

A handwritten signature in black ink, appearing to read "JB", is written over the name "Jim Blodgett" in the "From:" field.

Re: Change in Management Committee of PM Texas LLC

On January 8, 2015, the Commission received a request on behalf of PM Texas LLC (PM Texas) to approve the substitution of one of Houston Gaming Ventures' two member representatives on PM Texas' management committee. PM Texas is the entity that owns the racing licenses for Sam Houston Race Park, Valley Race Park, and Laredo Race Park. Houston Gaming Ventures owns 50% of PM Texas and is a wholly owned subsidiary of Penn National Gaming, Inc. The remaining 50% of PM Texas is owned by PM Texas Holdings LLC, a wholly owned subsidiary of Maxxam, Inc.

The requested change would substitute William J. Fair for the current member representative Timothy J. Wilmott. The Department of Public Safety completed its review of Mr. Fair on January 22, 2015, and reported that it found no disqualifying information.

The procedural and background requirements of Commission Rule 309.151 having been met, I recommend that PM Texas' request be considered by the Commission for approval.



DUGGINS
WREN
MANN &
ROMERO, LLP

One American Center
600 Congress
Suite 1900
Austin, TX 78701

P.O. Box 1149
Austin, TX 78767

p: 512.744.9300
f: 512.744.9399
www.dwmrlaw.com

January 8, 2015

2015 JAN -8 PM 4: 40

RECEIVED
TEXAS RACING
COMMISSION

HAND DELIVERY

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

RE: Houston Gaming Ventures, Inc.'s Member Representative to PM Texas LLC

Dear Mark:

Houston Gaming Ventures, Inc. proposes to replace Timothy J. Wilmott with William J. Fair as one of its member representatives to PM Texas LLC.

In support of this request, I enclose the following documents:

- Request for Change of Board of Directors or Management Committee; and
- Sealed and labeled envelope containing William J. Fair's completed DPS personal disclosure forms and fingerprint card.

Please let me know if I can provide anything further to facilitate the processing of this request.

Sincerely,

Marnie A. McCormick
mmccormick@dwmrlaw.com

MAM:alm
Enclosures



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

Date: February 4, 2015

To: Texas Racing Commissioners

From: Joel Speight, Deputy Executive Director 

Copy: Chuck Trout, Executive Director

Re: Allocation of Texas Bred Incentive Program Funds

Staff has reviewed the agreement provided by the horse breed registries in accordance with Commission Rule 321.505(b)(4). The agreement, if approved, would address the allocation of Texas Bred Incentive Program funds for calendar year 2015. The following table reflects the agreed-upon allocation:

Allocation of 2015 Texas Bred Incentive Program Funds from Simulcasting

By Breed of Horse	GCF	LSP	RP	SHRP
Arabian	2.00%	2.00%	2.00%	2.00%
Paint Horse	1.00%	1.00%	1.00%	1.00%
Quarter Horse	64.67%	32.33%	32.33%	32.33%
Thoroughbred	32.33%	64.67%	64.67%	64.67%

Commission Rule 321.505(b)(4) provides that the breed registries, in lieu of the processes outlined within the rule, may submit a signed agreement for approval. The rule also provides that for the Commission to approve the agreement, the agreement must delineate the percentages by which the breed registries will divide the Texas Bred Incentive Program revenue generated from simulcasting and must be signed by all of the breed registries.

Staff finds that the agreement submitted by the breed registries for Commission approval complies with Commission Rule 321.505(b)(4). Please let me know if you have any questions.

Attachments: Agreement with Signatures

AGREEMENT BETWEEN
TEXAS ARABIAN BREEDERS ASSOCIATION, TEXAS PAINT HORSE
BREEDERS ASSOCIATION, TEXAS QUARTER HORSE ASSOCIATION AND
TEXAS THOROUGHBRED ASSOCIATION

In an effort to achieve a fair and equitable share of revenue available to the Texas state-bred incentive program for owners and breeders, the following Agreement is made by and between Texas Arabian Breeders Association (TABA), Texas Paint Horse Breeders Association (TPHBA), Texas Quarter Horse Association (TQHA) and Texas Thoroughbred Association (TTA).

As previously allocated for calendar years 2011 – 2014, it is agreed that funds generated at licensed Texas horse tracks for the Accredited Texas-Bred Incentive Program shall be allocated to the respective breeds as follows:

At Class 1 tracks (Lone Star Park, Retama Park and Sam Houston Race Park), the funds shall be allocated 66.67% to Thoroughbreds and 33.33% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

At Gillespie County Fair Grounds, the funds shall be allocated 33.33% to Thoroughbreds and 66.67% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

This agreement shall be in effect for calendar year 2015.

The foregoing is acknowledged and agreed to on this 21 day of November 2014.

Texas Arabian Breeders Association

Texas Paint Horse Breeders Association

Texas Quarter Horse Association

Mary Ruzle

Texas Thoroughbred Association

AGREEMENT BETWEEN
TEXAS ARABIAN BREEDERS ASSOCIATION, TEXAS PAINT HORSE
BREEDERS ASSOCIATION, TEXAS QUARTER HORSE ASSOCIATION AND
TEXAS THOROUGHBRED ASSOCIATION

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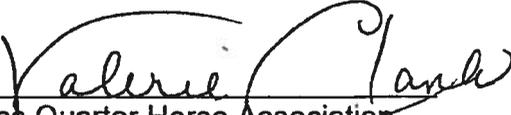
At Gillespie County Fair Grounds, the funds shall be allocated 33.33% to Thoroughbreds and 66.67% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

This agreement shall be in effect for calendar year 2015.

The foregoing is acknowledged and agreed to on this 25 day of November 2014.

Texas Arabian Breeders Association

Texas Paint Horse Breeders Association



Texas Quarter Horse Association

Texas Thoroughbred Association

**AGREEMENT BETWEEN
TEXAS ARABIAN BREEDERS ASSOCIATION, TEXAS PAINT HORSE
BREEDERS ASSOCIATION, TEXAS QUARTER HORSE ASSOCIATION AND
TEXAS THOROUGHBRED ASSOCIATION**

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At Gillespie County Fair Grounds, the funds shall be allocated 33.33% to Thoroughbreds and 66.67% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

This agreement shall be in effect for calendar year 2015.

The foregoing is acknowledged and agreed to on this ____ day of November 2014.



Texas Arabian Breeders Association

Texas Paint Horse Breeders Association

Texas Quarter Horse Association

Texas Thoroughbred Association

AGREEMENT BETWEEN
TEXAS ARABIAN BREEDERS ASSOCIATION, TEXAS PAINT HORSE
BREEDERS ASSOCIATION, TEXAS QUARTER HORSE ASSOCIATION AND
TEXAS THOROUGHBRED ASSOCIATION

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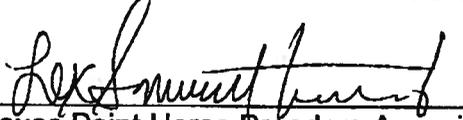
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At Gillespie County Fair Grounds, the funds shall be allocated 33.33% to Thoroughbreds and 66.67% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

This agreement shall be in effect for calendar year 2015.

The foregoing is acknowledged and agreed to on this ____ day of November 2014.

Texas Arabian Breeders Association

 12-2-2014

Texas Paint Horse Breeders Association

Texas Quarter Horse Association

Texas Thoroughbred Association



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: February 4, 2015
Subject: Review of License Designation of Saddle Brook Park, Valle de los Tesoros, and Gulf Coast Racing

At its meeting on February 10, 2015, the Commission will review the license designation of Saddle Brook Park, Valle de los Tesoros, and Gulf Coast Racing. Each of these licenses is currently designated as Active-Other, and each of these licenses recently failed to conduct its live race dates in 2014. Rule 309.51(f) requires the Commission to review the license designation of each of these licenses and provides the opportunity for the Commission to change the designation. In addition, Rule 309.51(c) provides that the Commission may change the designation of a license at any time if the facts that supported the current designation have changed. The rules do not require the Commission to change the designation, but do provide the discretion to do so.

Rule 309.51. Designation of Active and Inactive Racetrack Licenses

(f) Failure to Conduct Granted Live Race Dates. Except as excused by the executive secretary under §303.41(h) of this title, if an Active-Operating or an Active-Other racetrack fails to conduct any live race dates granted to it by the Commission, the Commission shall review and may change the license's designation at a regularly scheduled meeting to be held within the following four months. This subsection does not apply to an Active-Other racetrack that has provided a bond under subsection (e) of this section.

I did not excuse any of the race dates under Rule 303.41(h) and none of the affected racetracks provided a bond under Rule 309.51(e).

In making the initial license designation, the Commission considered the definitions set forth in Rule 309.51(b). These are:

(b) Definitions:

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

(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 taken the following actions to demonstrate good faith efforts to conduct live racing:

(A) is presently conducting pre-opening simulcasting;

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

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

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

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

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

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

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

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

(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.

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

In applying the above definitions to the affected racetracks, the following outcomes would apply if this were an initial license designation:

Active-Operating – None of the three racetracks would qualify for an initial designation as Active-Operating since none of them conducted live racing during the previous State Fiscal Year.

Active-Other – Neither Saddle Brook Park nor Valle de los Tesoros have future live race dates granted to them, so they would not qualify for an initial designation as Active-Other.

Gulf Coast Racing does not currently have live race dates granted, but it does have a pending request for live race dates in 2016 and is also currently conducting pre-opening simulcasting. If the Commission grants Gulf Coast Racing's request for race dates, the license would qualify for an initial designation as Active-Other.

Inactive – The initial designation criteria provide that racetracks that do not qualify for a designation as Active-Operating or Active-Other should be designated as Inactive.

Although the above criteria indicate that the Commission would initially designate Saddle Brook Park and Valle de los Tesoros as Inactive and, assuming that the Commission grants Gulf Coast Racing's request for live race dates, would designate Gulf Coast Racing as Active-Other, the review provided under Rule 309.151(f) is permissive, not mandatory. Therefore, the Commission has the discretion to not change any particular license's designation if it so chooses.



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

January 7, 2015

Lynn Alexander
CEO, Saddle Brook Park
4332 SW 45th Avenue
Amarillo, TX 79109

Re: Review of License Designation

Dear Mr. Alexander:

At its meeting on October 9, 2012, the Commission granted Saddle Brook Park two live race dates to be conducted on October 24 and 25, 2014. Saddle Brook Park did not conduct those race dates. In accordance with Commission Rule 309.51(f), the Commission must now review the designation of Saddle Brook Park's license as Active-Other. To be specific, the rule provides:

Rule 309.51. Designation of Active and Inactive Racetrack Licenses

(f) Failure to Conduct Granted Live Race Dates. Except as excused by the executive secretary under §303.41(h) of this title, if an Active-Operating or an Active-Other racetrack fails to conduct any live race dates granted to it by the Commission, the Commission shall review and may change the license's designation at a regularly scheduled meeting to be held within the following four months. This subsection does not apply to an Active-Other racetrack that has provided a bond under subsection (e) of this section.

I ask that you or your designee attend the Commission's meeting in February to address the members and answer any questions they may have. If you have any written materials that you wish to provide for the Commission's consideration, please furnish these no later than January 27, 2015, so that we may include these in the meeting packet.

If you have any questions, please call me or Mark Fenner, General Counsel, at (512) 833-6699.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chuck Trout", with a long horizontal flourish extending to the right.

Chuck Trout
Executive Director

cc: Corey Johnsen, President, Magellan Gaming and Racing



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

January 7, 2015

Greg LaMantia
President, Valle de los Tesoros
c/o William Moltz & Janessa Glenn
Moltz, Morton & Glenn LLP
5113 Southwest Parkway, Suite 120
Austin, TX 78735

Re: Review of License Designation

Dear Mr. LaMantia:

At its meeting on December 18, 2012, the Commission granted Valle de los Tesoros (VDLT) six live race dates to be conducted on November 21-23 and 28-30, 2014. VDLT did not conduct those race dates. In accordance with Commission Rule 309.51(f), the Commission must now review the designation of VDLT's license as Active-Other. To be specific, the rule provides:

Rule 309.51. Designation of Active and Inactive Racetrack Licenses

(f) Failure to Conduct Granted Live Race Dates. Except as excused by the executive secretary under §303.41(h) of this title, if an Active-Operating or an Active-Other racetrack fails to conduct any live race dates granted to it by the Commission, the Commission shall review and may change the license's designation at a regularly scheduled meeting to be held within the following four months. This subsection does not apply to an Active-Other racetrack that has provided a bond under subsection (e) of this section.

I ask that you or your designee attend the Commission's meeting in February to address the members and answer any questions they may have. If you have any written materials that you wish to provide for the Commission's consideration, please furnish these no later than January 27, 2015, so that we may include these in the meeting packet.

If you have any questions, please call me or Mark Fenner, General Counsel, at (512) 833-6699.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chuck Trout".

Chuck Trout
Executive Director



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

Date: February 4, 2015

To: Chuck Trout, Executive Director

From: Joel Speight, Deputy Executive Director 

RE: Greyhound Race Date Applications Submitted for 2016

At its meeting on April 8, 2014, the Commission opened an application period for race dates for January 1 – December 31, 2015 and January 1 – August 31, 2016. Gulf Coast Racing has requested permission to conduct evening performances on August 24, 25, 26, 27, and 28, 2016. GCR does not have and did not request any race dates in 2015. The Commission has already granted race dates to Gulf Greyhound Park and Valley Race Park for 2015, and neither applied for dates in 2016.

I have attached GCR's request and the 2016 greyhound race date calendar showing the requested dates. If you have any questions or if I may be of further assistance, please let me know.

MOLTZ MORTON GLENN
LLP

Janessa C. Glenn
(512) 439-2174
jglenn@MMandG.com

Travis Oaks Building
5113 Southwest Parkway, Suite 120
Austin, TX 78735
(512) 439-2170
Facsimile (512) 439-2165

June 30, 2014

Mr. Sammy Jackson
Deputy Director for Wagering & Racing Review
Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, Texas 78754

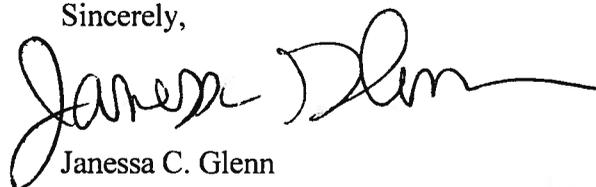
Via Hand Delivery

RE: Gulf Coast Racing – Request for Live Race Dates

Dear Mr. Jackson:

Enclosed is Gulf Coast Racing's Request for Live Race Dates for August of 2016 in response to the Texas Racing Commission's ("Commission") announcement at the April 8, 2014 meeting that it has opened an application period from May 1, 2014 to June 30, 2014 for race dates for January 1, 2015 through December 31, 2015; and January 1, 2016 through August 31, 2016.

Sincerely,


Janessa C. Glenn

JCG/ktg
Enclosure

T E X A S R A C I N G C O M M I S S I O N
REQUEST FOR LIVE RACE DATES
GREYHOUND RACETRACKS - 2016

INSTRUCTIONS: Print or type the information requested in each section and attach all required documents and additional sheets if necessary. The Commission will not consider an incomplete request. The request must be filed at the Commission's Austin office no later than 5:00 p.m. on Monday, June 30, 2014.

I. Schedule Requested

Name of Racetrack: Gulf Coast Racing

Opening Day: 8 / 24 / 16 Closing Day: 8 / 28 / 16

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

Projected Number of Races per Performance 10

Number of Performances per week scheduled for fewer than five races N/A

Projected Number of Races per Performance N/A

TOTAL NUMBER OF PERFORMANCES REQUESTED 5

II. Charity Days

Indicate which days are designated as charity days:

DESIGNATED BY RULE

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

8 /24 /2016 for Texas Greyhound Association
(Name of Charity)

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

8 /25 /2016 for Texas A&M University Scholarship Fund
(Name of Charity)

8 /26 /2016 for STARS-South Texas Academic Rising Scholars
(Name of Charity)

8 /27 /2016 for Charlie's Place
(Name of Charity)

8 /28 /2016 for STARS-South Texas Academic Rising Scholars
(Name of Charity)

For each charity listed, attach the following information:

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

**TEXAS RACING COMMISSION
COORDINATION FORM for RACE DATES REQUEST
GREYHOUND RACETRACKS - 2016**

INSTRUCTIONS: Print or type the information requested in each section and attach all required documents if necessary. **The Commission will not consider an incomplete form.** This form must be submitted to the Commission's Austin office no later than 5:00 p.m. on Monday, October 6, 2014.

I. Requesting Racetrack:

- Gulf Coast Racing Gulf Greyhound Park Valley Race Park

For dates shown on 2016 Requested Race Dates Calendar dated 8/29/14.

Results of negotiations and discussions with the Texas Greyhound Association:

- No objection to the requested racedates and letter of agreement is attached.
 Does not support the requested race dates and letter outlining position is attached.

II. Affected Racetracks:

- Gulf Coast Racing Gulf Greyhound Park Valley Race Park

No objection to the requested race dates.

Despite discussions and negotiations with requesting racetrack, can not support the requested race dates and letter outlining position is attached.

III. Certificate of Service:

I hereby certify that on 9/22, 2014, a true and correct copy of this completed form and any attachments was submitted to the persons listed below by:

- Certified Mail Regular Mail Facsimile E-mail Hand Delivery

Sally B Briggs
Signature

Gen. Mgr.
Title

Gulf Coast Racing
Steve Lamb
General Manager
5302 Leopard Street
Corpus Christi, Texas 78408

Gulf Greyhound Park
Sally Briggs
General Manager
P.O. Box 488
La Marque, TX 77568-0488

Valley Race Park
Andrea Young
President
2601 South Ed Carey Drive
Harlingen, TX 78552



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

January 7, 2015

Greg LaMantia
President, Gulf Coast Racing
c/o William Moltz & Janessa Glenn
Moltz, Morton & Glenn LLP
5113 Southwest Parkway, Suite 120
Austin, TX 78735

Re: Review of License Designation

Dear Mr. LaMantia:

At its meeting on October 9, 2012, the Commission granted Gulf Coast Racing (GCR) five live race dates to be conducted on November 25-29, 2014. GCR did not conduct those race dates. In accordance with Commission Rule 309.51(f), the Commission must now review the designation of GCR's license as Active-Other. To be specific, the rule provides:

Rule 309.51. Designation of Active and Inactive Racetrack Licenses

(f) Failure to Conduct Granted Live Race Dates. Except as excused by the executive secretary under §303.41(h) of this title, if an Active-Operating or an Active-Other racetrack fails to conduct any live race dates granted to it by the Commission, the Commission shall review and may change the license's designation at a regularly scheduled meeting to be held within the following four months. This subsection does not apply to an Active-Other racetrack that has provided a bond under subsection (e) of this section.

I ask that you or your designee attend the Commission's meeting in February to address the members and answer any questions they may have. If you have any written materials that you wish to provide for the Commission's consideration, please furnish these no later than January 27, 2015, so that we may include these in the meeting packet.

If you have any questions, please call me or Mark Fenner, General Counsel, at (512) 833-6699.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Trout", with a long horizontal flourish extending to the right.

Chuck Trout
Executive Director

RULRLICE-FINE
7/16/2014 10:35:11

**Texas Racing Commission
Ruling Report for Licensee**

Page 1

Ruling Date: 07/15/2014

Violation Date: 05/03/2014

Ruling#: SHRP4811

Licensee: JOSEPH VACCA

Status: CLSD

License#	Type	Status
38355	OWNER-TRAINER	ACTIVE

Actions	Begin Date	End Date
SUSPENDED	07/23/2014	07/22/2015

Violation Type: 4 MEDICATION VIOLATION

Redistribute Purse Y

Rules Violated: 311.104 TRAINER/ABSOLUTE INSURER
319.3 DRUG POSITIVE OR PERMITTED MEDICATION VIOLATION
319.302 REASONABLE OVERSIGHT OF ANIMAL

Fine	Fine Due Date	Fine Paid Date
\$ 10,000	07/18/2014	

Narrative:

Owner - Trainer Joseph Vacca was duly noticed and appeared with his attorney, Mr. Lester J. Gauthier, for a formal hearing before the Retama Park Board of Stewards on 7/11/14. The Board of Stewards considered all the documentary evidence and testimony presented at the hearing.

Mr. Vacca is hereby fined ten thousand (\$10,000) dollars and suspended for one year, (7/23/14 through 7/22/15) because a post race sample (#SH054684) taken from his horse, "Dash For Cache," that won the 10th race at Sam Houston Race Park on 5/3/14 tested positive for Methamphetamine and Amphetamine, Class 1 drugs.

First violation within 365 days.

The horse, "Dash For Cache," is hereby disqualified and declared unplaced in the 10th race at Sam Houston Race Park on 5/3/14 and the purse is ordered redistributed as follows:

1. (9) SS Paydirt
2. (2) Rockin Disco
3. (10) Loves Brown Sugar
4. (1) The Field Cricket
5. (5) Barackazoom
6. (6) Pyro
7. (4) Prince Valleyant
8. (3) Nash Jolla
9. (8) Runaway Wagon

Unplaced: (7) Dash For Cache.

During the term of this suspension Mr. Joseph Vacca is denied access to all areas under the jurisdiction of the Texas Racing Commission. Entry of horses owned or trained by Mr. Joseph Vacca is denied pending transfer to a party approved by a Board of Stewards.

FAILURE TO PAY THE ASSESSED FINE BY THE DUE DATE INDICATED ABOVE
MAY RESULT IN THE SUSPENSION OF THE SUBJECT'S OCCUPATIONAL LICENSE(S).


ANNE ALLEY


DAVID ROLLINSON


FRED WINCH JR



Law Offices of
Lester J. Gauthier

Over 30 Years of Experience
as a Trial Lawyer

P.O. Box 3371
Lafayette, LA 70502

306 S. Pierce St.
Phone: 337.264.1783
Fax: 337.264.1869

legauth@bellsouth.net
www.lestergauthier.com

July 17, 2014

CERTIFIED MAIL NO. _____

TEXAS RACING COMMISSION
8505 Cross Park Drive, Suite 110
Austin, TX 78754-4594
& via fax at 512-833-6907
& via fax to Stewards at 210-651-7085

Re: Appeal of Joseph Vacca

Dear Sir or Madam:

I am enclosing the Appeal of Stewards Ruling of Joseph Vacca. I have also enclosed the following:

1. Texas Racing Commission Ruling Report for License re Joseph Vacca.
2. Board of Law Examiners Non-Resident Acknowledgement Letter
3. Cashier's check from Capital One Bank payable to Texas Racing Commission in the amount of \$150.00

I intend to represent Mr. Joseph Vacca in this appeal before the Texas State Office of Administrative Hearings in association with an attorney licensed to practice in the State of Texas. That *pro hac vice* motion will be filed in that court.

Cordially,

Lester J. Gauthier, Jr.

Enclosures as listed above

cc: Joseph Vacca

2014 JUL 17 PM 2:37

APPEAL OF STEWARDS/JUDGES RULING

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, TX 78754-4594

Phone 512-833-6699
Fax 512-833-6907
www.txrc.texas.gov

Office Use Only	
File	File
File	File
File (Application)	File

Pursuant to Texas Racing Commission Rule §307.67(b), an appeal from a Stewards/Judges ruling must be filed not later than 5:00 p.m. of the third day after the day the person is informed of the ruling. Pursuant to Texas Racing Act §3.08(b), however, a decision of the Stewards/Judges on a disqualification for a foul in a race or on a finding of fact regarding the running of a race is final and **may not** be appealed.

The appeal must be filed at the main Commission office in Austin or with the Stewards/Judges issuing the ruling. A cash bond for \$150.00 in the form of a cashier's check or money order must accompany the appeal.

Under Texas Racing Commission Rule §307.64(b) and §307.67(d), a fine is due no later than 5:00 p.m. on the third day after the person is informed of the ruling that imposed the fine, regardless of whether the ruling is appealed. The fine can be paid at any Commission Licensing office or at the main Commission office in Austin. If the appeal is upheld, the fine will be refunded to the licensee.

1a. First Name JOSEPH	1b. Middle Name	1c. Last Name VACCA	1d. TxRC License # 38355
2. Address (Street, City, State, Zip) 12450 DEEP SPRING LANE, HOUSTON, TX 77077			3. Social Security #
4a. Local Telephone (832) 715-2458	4b. Business Telephone ()	4c. Fax Number ()	
5. Appeal Statement I, JOSEPH VACCA , Texas Racing Commission License # 38355 , appeal Ruling Number SHRP 48:1 , dated 7/16/14 , issued by the Board of Stewards/Judges at RETAMA PARK (name of race track) <input checked="" type="checkbox"/> I appeal this ruling for the following reason(s): (See attached sheet) <input checked="" type="checkbox"/> I request a stay of the suspension for the following reason(s): The excellent Record of Joseph Vacca and his age. The stewards did not properly consider mitigating factors in accordance with the EQUINE MEDICATION POLICY AND PENALTY GUIDELINES. (Separate sheet attached) Attach separate page(s) if necessary.			
6a. Signature JOSEPH VACCA		6b. Date Signed July 17, 2014	

At the hearing before the Stewards at Retama Park, photo and video evidence was presented that it is likely that a person named Derrick Tashin was responsible for the introduction of methamphetamines to *Dash for Cache*.

This was clear and convincing evidence that the trainer, Joseph Vacca, was not personally responsible for the introduction of methamphetamines in this horse.

The testimony of Fernando Lopez, a licensed trainer in the State of Texas was credible, trustworthy, clear, and unequivocal.

Joseph Vacca is age 74 and has had a long and successful history as a trainer in the states of Texas and Louisiana. He has been a licensed trainer in Ohio, Oklahoma, New Mexico, and Florida.

The Stewards did not properly apply the Equine Medication and Classification Policy and Penalty Guidelines, which have been promulgated by the Texas Racing Commission. Mitigating circumstances exist in this case. Those guidelines provide in pertinent part: "An example of mitigating circumstances is when the trainer presents credible evidence that another individual actually caused the horse to race with a prohibited substance in its system."

Joseph Vacca proved those exact circumstances, yet received a one year suspension and a \$10,000 fine.



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

July 24, 2014

Lester Gauthier
Law Offices of Lester J. Gauthier
P.O. Box 3371
Lafayette LA 70502

via Fax to (337) 264-1869

RE: Joseph Vacca; Stewards' Ruling SHRP 4811

Dear Mr. Gauthier:

I am in receipt of Joseph Vacca's appeal dated July 17, 2014, in which you requested a stay of the July 15 Stewards' ruling against him.

Pursuant to Texas Racing Commission Rule § 307.68, the Executive Director may grant a stay of a suspension upon determining that the stay is in the interest of justice.

In your request, you cited Mr. Vacca's age and his lengthy career as a trainer. You further state that the stewards failed to properly consider mitigating factors outlined in the Equine Medication Classification Policy and Penalty Guidelines. Note that the penalty guidelines read, in pertinent part, as follows:

Because the facts of each case will vary, an exhaustive list of mitigating or aggravating circumstances is not practical. Generally, mitigating or aggravating circumstances must be shown by persuasive, credible evidence that the circumstances were actually present in the instant case, not mere speculation that the circumstances could have been present. An example of mitigating circumstances is when the trainer presents credible evidence that another individual actually caused the horse to race with a prohibited substance in its system. [Emphasis added.]

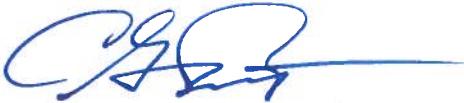
In Mr. Vacca's testimony before the stewards in this case, when questioned about the possibility of Derrick Tashin's methamphetamine use, he said that he had heard rumors

to that effect but that, "as far as for sure, I don't know." The testimony and other evidence established the existence of someone named Derrick Tashin, who *may* have been a methamphetamine user and *may* have exposed Dash for Cache to the substance, but there was no evidence whatsoever to establish that Mr. Tashin did in fact expose Dash for Cache to methamphetamine. The evidence linking him to the drug positive was highly speculative and, as such, the stewards found it to be neither persuasive nor credible.

Given TxRC Rule 307.67(c) (16 TAC §307.67(c)), which states that the appellant has the burden of proving that the stewards' decision was clearly in error, we believe that Mr. Vacca's chances of prevailing on appeal are exceedingly small.

Nevertheless, after considering the information you presented, I have decided to grant a six-month stay in this matter. I have instructed the legal staff to expedite the referral of this case to the State Office of Administrative Hearings for processing as soon as possible to ensure that the matter is concluded within six months; however, I retain the right to rescind the stay before that time if I find that the stay is no longer in the interest of justice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Trout', with a long horizontal flourish extending to the right.

Chuck Trout
Executive Director

cc: Joseph Vacca

CT:MF:mw

JOSEPH VACCA, Appellant	§	BEFORE THE STATE OFFICE
	§	
V.	§	OF
	§	
TEXAS RACING COMMISSION, Appellee	§	ADMINISTRATIVE HEARINGS

NOTICE OF ADMINISTRATIVE HEARING

I. PARTIES AND JURISDICTION

At all times relevant to this matter, Joseph Vacca ("Appellant") was licensed by the Commission as an owner-trainer of race horses. Appellee is the Texas Racing Commission ("Commission"). By copy of this Notice of Administrative Hearing, Appellant is being provided notice of this proceeding, in accordance with the applicable laws, at his address of record with the Commission, as shown in the attached certificate of service.

II. LEGAL AUTHORITY AND JURISDICTION

This matter has been set for administrative hearing pursuant to the authority and jurisdiction granted to the Texas Racing Commission by the Texas Racing Act ("Racing Act"), Tex. Rev. Civ. Stat. Art. 179e. The hearing will be conducted in accordance with the Racing Act; the Administrative Procedure Act, TEX. GOV'T CODE Ch. 2001; 1 TEX. ADMIN. CODE ("TAC") Ch. 155; and 16 TAC Chapters 301-323.

This hearing arises out of a timely appeal filed by Appellant pursuant to Section 3.08(a) of the Racing Act, which states that, with limited exceptions not applicable here, "a final decision of the stewards...may be appealed to the commission in the manner provided for a contested case under the Administrative Procedure...Act."

III. DATE, TIME, AND PLACE OF HEARING

The hearing will be held before an Administrative Law Judge with the State Office of Administrative Hearings at 9:00 a.m. on December 12, 2014, on the 4th floor of the William P. Clements Building, 300 W. 15th Street, Austin, Texas. If the hearing is not concluded on the day it commences, to the extent possible, it will continue at the same place on each subsequent working day until concluded. To gain access into the building, please be prepared to show photographic identification and this Notice of Administrative Hearing.

The hearing will be held pursuant to the Racing Act, Tex. Rev. Civ. Stat. Art. 179e, §3.08, and 16 TAC §§307.33 and 307.67. Pursuant to §3.15 of the Racing Act, hearings before the Commission must be conducted in accordance with the Administrative Procedures Act, Chapter 2001, Government Code. State Office of Administrative Hearings Rules of Procedure 1 TAC Chapter 155 and 16 TAC Chapter 307 also govern practice and procedure before the Commission in contested cases.

Appellant is entitled to seek the assistance of an attorney legally authorized to practice in the State of Texas; however, representation by an attorney is not required. All persons admitted as parties have the right to offer and present evidence, cross-examine witnesses, and make oral argument. After the hearing, the Administrative Law Judge will prepare a proposal for decision (PFD). The Commission will consider the proposal for decision and any exceptions and replies to exceptions filed thereto and will enter an order containing findings of fact and conclusions of law.

IV. FACTUAL BASIS FOR COMMISSION ACTION

This proceeding is based on the following facts:

1. On May 3, 2014, the racehorse "Dash for Cache," trained by Appellant, participated in the tenth race at Sam Houston Race Park.
2. After racing, Dash for Cache provided a urine sample, sample #SH054684, which test barn staff divided into two specimens.
3. One of Dash for Cache's urine specimens was sent to the Texas Veterinary Medical Diagnostic Laboratory (TVMDL) for testing.
4. TVMDL found that the urine specimen provided by Dash for Cache tested positive for methamphetamine.
5. On or about May 25, 2014, Appellant was notified of the positive result and was given the opportunity, pursuant to 16 TAC Section 319.362, Split Specimen, to request that the second specimen (the "split specimen") be sent to a second laboratory for confirmatory testing.
6. Appellant elected to send the split specimen to the Truesdail Laboratory ("Truesdail") for confirmatory testing.
7. Truesdail confirmed the presence of methamphetamine in the urine sample provided by Dash for Cache following the race on May 3, 2014.
8. In or about June 2014, the Commission sent Appellant a Notice of Alleged Violation, notifying him of his right to a hearing before the Retama Park Board of Stewards

regarding alleged violations of 16 TAC §§319.3, Medication Restricted; 319.302, Reasonable Diligence Required; and 311.104, Trainers.

9. On July 11, 2014, the Retama Park Board of Stewards conducted a hearing in this matter.

10. After considering all of the evidence, the Board of Stewards found that Appellant violated 16 TAC §§319.3, Medication Restricted; 319.302, Reasonable Diligence Required; and 311.104, Trainers.

11. In Stewards' Ruling SHRP 4811, the Board of Stewards ordered Appellant's license suspended for a period of one year, imposed a fine of \$10,000, and ordered the purse redistributed.

12. On or about July 17, 2014, Appellant filed a timely appeal with the Commission, challenging the stewards' decision to suspend his owner-trainer license, fine him \$10,000 and redistribute the purse.

V. LEGAL BASIS FOR COMMISSION ACTION

1. 16 TAC §319.3, Medication Restricted, provides that a horse participating in a race may not carry in its body a prohibited drug, chemical, or other substance. 16 TAC §319.1 defines "prohibited drugs, chemicals, and other substances" as, in pertinent part, "any stimulants, depressants, tranquilizers, local anesthetics, drugs, [or] other drug metabolites which could affect the health or performance of a race animal, however minimal, except as expressly permitted by this chapter."

2. Pursuant to 16 TAC §319.302, Reasonable Diligence, Appellant, as trainer, had a duty to guard the horses he trains before races in the manner and for the time necessary to prevent the administration of a prohibited drug, chemical, or substance.

3. 16 TAC §311.104(b), known as the "absolute insurer" rule, provides that "a trainer shall ensure that a horse . . . that runs a race while in the care and custody of the trainer . . . is free from all prohibited drugs, chemicals, or other substances."

4. 16 TAC §319.304, Penalties on Positive Test, authorizes the stewards to impose penalties on a horse's trainer upon a finding that a test specimen contained a prohibited drug, chemical, or other substance.

5. Section 3.07(b) of the Racing Act authorizes the stewards to impose a fine of not more than \$10,000 and to suspend an occupational license for up to five years for each violation of the Racing Act or the Racing Commission Rules.

6. 16 TAC §319.304(b) authorizes the Commission's executive secretary to promulgate medication guidelines, including a classification for prohibited drugs and recommended penalties for various violations.

7. According to the Commission's Equine Medication Classification Policy and Penalty Guidelines, which are based on the national recommendations of ARCI and which the executive secretary promulgated pursuant to 16 TAC §319.304(b), methamphetamine is classified as a Class 1 drug, the most serious category.

8. The Equine Medication Classification Policy and Penalty Guidelines establish the penalty for the first instance of a Class 1 drug positive as suspension of one's license for one year, a fine of the greater of \$10,000 or 10% of the prize purse, and loss of the prize purse. The penalty guidelines also provide the stewards with the discretion to increase or decrease the penalty in the presence of aggravating or mitigating circumstances.

VI. PRAYER FOR RELIEF

Pursuant to 16 TAC §307.67(c), the appellant has the burden of proving that the stewards' decision was clearly in error.

Commission staff prays that the ruling of the Retama Park Board of Stewards, which ordered that Appellant be suspended for a term of one year, imposed a fine of \$10,000, and redistributed the purse, be upheld in full.

Failure to Appear (Default)

If Appellant fails to appear at the scheduled hearing, the Commission will request a default judgment. The factual allegations in this notice may be deemed admitted as true, and the relief sought by the Commission in this Notice of Administrative Hearing may be granted by default.

Respectfully submitted,
Staff of the Texas Racing Commission

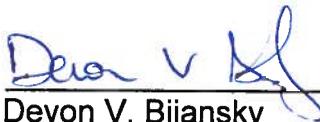


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Certificate of Service

I, Devon V. Bijansky, Deputy General Counsel for the Texas Racing Commission, hereby certify that true and correct copies of the foregoing Notice of Hearing were sent via regular mail to the Appellant and by electronic mail to his counsel as listed below on this the 23rd day of October, 2014.



Devon V. Bijansky
Deputy General Counsel

Joseph Vacca
12450 Deep Spring Lane
Houston, Texas 77077

Lester Gauthier
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SOAH DOCKET NO. 476-15-0437

JOSEPH VACCA § **BEFORE THE STATE OFFICE**
v. § **OF**
TEXAS RACING COMMISSION § **ADMINISTRATIVE HEARINGS**

PROPOSAL FOR DECISION

Joseph Vacca (Appellant) seeks to overturn a portion of the Retama Park Board of Stewards' (Stewards') Ruling 4811 (Ruling), rendered after a hearing. The Stewards found that Appellant, as the trainer, was responsible for his racehorse, Dash for Cache, which tested positive for a prohibited substance in violation of the rules of the Texas Racing Commission (Commission). Appellant denied exposing the horse to the controlled substance and asserted that the prohibited substance was administered by Derek Tashin. This proposal for decision finds that the Stewards' Ruling was not clearly in error.

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.

The Stewards' hearing was held on July 11, 2014. Appellant appeared at the hearing with counsel. After receipt of evidence, the record closed that day. The Stewards subsequently entered Ruling 4811, finding Appellant had violated the Commission's rules at 16 Texas Administrative Code §§ 311.104, 319.3, and 319.302. The sanction imposed was a \$10,000 fine, a one-year suspension, and the loss of the race's purse. Appellant timely appealed the Ruling.

The hearing on the appeal convened December 12, 2014, before State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) Michael J. O'Malley. Deputy General Counsel Devon V. Bijansky represented Commission Staff (Staff). Attorney Lester J. Gauthier, Jr., represented Appellant. At the hearing, the ALJ heard oral argument on the Stewards' Ruling. No witnesses were called to testify; however, the ALJ admitted exhibits

and the recording of the Stewards' hearing in evidence.¹ Appellant only contested the penalty portion of the Ruling, arguing that the Stewards failed to consider persuasive, credible mitigating factors that would reduce the penalty. After the conclusion of the hearing, the record closed December 12, 2014.

II. DISCUSSION

ISSUE ONE: Was the Stewards' ruling clearly in error?

FINDING: The Stewards' ruling was not clearly erroneous as to violations found of 16 Texas Administrative Code §§ 311.104, 319.3, and 319.302. Appellant did not contest these findings because he accepts the positive results of the drug test and realizes that he is responsible for the results even if he did not administer the illegal drug.

ISSUE TWO: Did the Stewards consider Appellant's persuasive, credible evidence of mitigating circumstances justifying less than the recommended penalty and assess an appropriate sanction?

FINDING: The Commission considered the mitigating circumstances; therefore, a lesser sanction should not be imposed.

A. Background and Stipulated Facts

Appellant holds license number 38355 issued by the Commission. On May 3, 2014, the racehorse, Dash for Cache, trained by Appellant, participated in and won the tenth race at Sam Houston Race Park in Houston, Texas. After the race, Dash for Cache provided urine sample #SH054684, and the barn staff divided it into two specimens. One of Dash for Cache's urine specimens was sent to the Texas Veterinary Medical Diagnostic Laboratory, and the urine specimen tested positive for methamphetamine.

On or about May 25, 2014, Appellant was notified of the positive result and was given the opportunity to request the second specimen (split specimen) be tested. Appellant decided to send the split specimen to Truesdail Laboratories, Inc. (Truesdail) for further testing. On or

¹ The exhibits admitted in evidence were the same exhibits admitted in evidence at the Stewards' hearing. The audio of the Stewards' hearing was also admitted in evidence as an exhibit.

about June 13, 2014, Truesdail confirmed the presence of methamphetamine in the urine sample provided by Dash for Cache following the race on May 3, 2014.

In June 2014, the Commission sent Appellant a Notice of Alleged Violation, notifying him of his right to a hearing before the Stewards regarding the alleged violations. On July 11, 2014, the Stewards conducted a hearing. The Stewards found that Appellant violated 16 Texas Administrative Code §§ 311.104, 319.3, and 319.302. In the Ruling, the Stewards ordered Appellant's license be suspended for one year, imposed a \$10,000 fine, and ordered the purse be redistributed. On July 17, 2014, Appellant filed a timely appeal of the Stewards' decision.

B. Applicable Law

Appellant has the burden of proof in this proceeding to show that the Stewards' ruling was clearly erroneous.²

A trainer is the absolute insurer that any horse entered in a race is free from prohibited substances.³ A horse may not have a prohibited substance in its body during a race and presence of a prohibited substance in the animal's urine after a race is prima facie evidence that the substance was in the animal's body during the race.⁴ A trainer must guard the racing animal

² 16 Tex. Admin. Code § 307.67(c).

³ Texas Racing Act, Tex. Rev. Civ. Stat. art. 179e, § 3.16(h). "The licensed trainer of an animal is: (1) considered by law to be the absolute insurer that no prohibited substance has been administered to the animal; and (2) responsible for ensuring that no prohibited substance is administered to the animal."

16 Tex. Admin. Code § 311.104(b). "Absolute Insurer. (1) A trainer shall ensure the health and safety of each horse or greyhound that is in the care and custody of the trainer. (2) A trainer shall ensure that a horse or greyhound that runs a race while in the care and custody of the trainer or kennel owner is free from all prohibited drugs, chemicals, or other substances. (3) A trainer who allows a horse or greyhound to be brought to the paddock or lockout kennel warrants that the horse or greyhound: (A) is qualified for the race; (B) is ready to run; (C) is in a physical condition to exert its best efforts; and (D) is entered with the intent to win."

⁴ 16 Tex. Admin. Code § 319.3(a), (d), and (e). "(a) Except as otherwise provided by this section, a horse or greyhound participating in a race may not carry in its body a prohibited drug, chemical, or other substance.

against administration of prohibited substances before the race.⁵ A trainer is subject to penalties for having a horse race with a prohibited substance in its body.⁶

A licensee who violates a rule adopted pursuant to the Texas Racing Act (Act) may have his license suspended and be barred from facilities under the Commission's control.⁷ The Stewards may also impose a fine of not more than \$25,000.⁸ The Commission may also consider mitigating factors pursuant to the Equine Medication Classification Policy and Penalty Guidelines (Guidelines).⁹

C. Appellant's Evidence

Appellant is a licensed horse trainer in Texas and Louisiana. After Dash for Cache tested positive for methamphetamine, Appellant began to ask questions as to how this could have happened. Appellant denies that he administered any prohibited substance to Dash for Cache.

(d) Except as otherwise provided by this chapter, a person may not administer or cause to be administered to a horse or greyhound a prohibited drug, chemical, or other substance, by injection, by oral or topical administration, by rectal infusion or suppository, by nasogastric intubation, or by inhalation, and any other means during the 24-hour period before the post time for the race in which the animal is entered.

(e) A positive finding by a chemist of a prohibited drug, chemical, or other substance in a test specimen of a horse or greyhound collected before or after the running of a race, subject to the rules of the commission relating to split specimens, is prima facie evidence that the prohibited drug, chemical, or other substance was administered to the animal and was carried in the body of the animal while participating in a race."

⁵ 16 Tex. Admin. Code § 319.302. "The owner, trainer, groom, or other person who has care and custody of a race animal shall guard each animal in his or her custody before the animal races in the manner and for the time necessary to prevent the administration of a prohibited drug, chemical, or other substance."

⁶ 16 Tex. Admin. Code § 319.304(a). "On a finding by the stewards or racing judges that a test specimen from a race animal that participated in a race contains a prohibited drug, chemical, or other substance, the stewards or racing judges may: (1) disqualify the animal and order the purse redistributed; (2) declare the race animal ineligible to race for a period of time; and (3) impose penalties authorized by Chapter 307 of this title (relating to Practice and Procedure) on:

(A) the animal's trainer or kennel owner; . . ."

⁷ Tex. Rev. Civ. Stat. art. 179e, § 3.16(j). "A person who violates a rule adopted under this section may: (1) have any license issued to the person by the commission revoked or suspended; or (2) be barred for life or any other period from applying for or receiving a license issued by the commission or entering any portion of a racetrack facility."

⁸ Tex. Rev. Civ. Stat. art. 179e, § 3.07(b); 16 Tex. Admin. Code § 307.64.

⁹ 16 Tex. Admin. Code § 319.304(b).

Appellant testified that Mr. Tashin, who he believed to be a suspended jockey in Oklahoma, galloped Dash for Cache before the race to help with the horse's nervousness. Appellant also testified that he had heard that Mr. Tashin was using methamphetamines, so the assumption was that he also administered the drug to Dash for Cache.

Fernando Lopez, a licensed horse trainer in Texas, testified that he was present at the Sam Houston Race Park on May 3, 2014, for the Sam Houston Classic. He testified that he arrived two hours before the race and had been asked to take Dash for Cache from the barn to the paddock. Mr. Lopez stated that he did not administer any illegal substance to Dash for Cache. Mr. Lopez indicated that he took a picture of Dash for Cache and, in the picture, was Mr. Tashin.

Although Appellant realizes that he is the absolute insurer of the integrity of the horse, he absolutely denies administering any prohibited substance to Dash for Cache. Appellant believes that, based on what he heard, Mr. Tashin administered the methamphetamines; therefore, this should be considered a mitigating factor in assessing his penalty. Appellant requests a six-month suspension and a \$5,000 fine. Appellant has agreed to return the race purse.

D. Staff's Evidence

Staff's Investigator, Melvin Bell, testified that the Commission received notification of a positive test result. He indicated that once he receives a positive drug test result, he begins his investigation by finding out the name of the trainer. Once he discovered that Appellant was the trainer, he contacted him about the positive test result. Mr. Bell stated that Appellant told him that he did not know why Dash for Cache tested positive, but that he would look into it.

Al Kind, lead chemist for Texas Veterinary Medical Diagnostic Laboratory, testified that the urine sample for Dash for Cache (sample #SH054684) tested positive for methamphetamines and amphetamines.

E. Analysis

The Stewards ruled Appellant violated the Commission rules at 16 Texas Administrative Code § 311.104 (trainer as absolute insurer); 16 Texas Administrative Code § 319.3 (prohibiting presence of certain substances); and 16 Texas Administrative Code § 319.302 (reasonable diligence required to protect the race animal). Appellant does not dispute these findings; therefore, Appellant failed to prove that the Stewards' ruling was clearly erroneous on any of the alleged violations.

1. Rule Violations

The evidence established that Appellant was in violation of the Act and the Commission's rules because, as the horse's trainer, he was deemed the absolute insurer that no prohibited substances would be in Dash for Cache's body during the race.

16 Texas Administrative Code § 319.3-Prohibited substance in race animal.

There was sufficient evidence to support the Stewards' ruling that Dash for Cache had a prohibited substance in his body during the tenth race at Sam Houston Race Park on May 3, 2014, in violation of the Act and the Commission's rules. Both laboratory analyses, Texas Veterinary Medical Diagnostic Laboratory and Truesdail, found methamphetamine in the urine sample.

16 Texas Administrative Code § 311.104-Trainer as absolute insurer. As the trainer, Appellant was subject to discipline for this violation because he was the absolute insurer that Dash for Cache would be free of prohibited substances when he raced. In essence, the rule makes the trainer strictly liable for the integrity of the animal. No evidence of an act or intent on Appellant's part was necessary to find he was liable as the absolute insurer.

16 Texas Administrative Code § 319.302-Lack of due diligence. As the trainer, Appellant should have protected Dash for Cache before the race. There was evidence to show that Appellant failed to use due diligence to safeguard Dash for Cache before the race because he

allowed Mr. Tashin, Mr. Lopez, and possibly others to be around the horse prior to the race without properly safeguarding the horse to prevent the administration of a prohibited drug.

2. Sanction Factors

In adopting the Guidelines, the Commission mandated that the recommended penalties be reduced if persuasive evidence of mitigating circumstances was shown.¹⁰ Appellant failed to show that Stewards' penalty was clearly in error for failure to consider persuasive evidence of mitigating factors.

Mitigating Evidence. According to Appellant, he presented credible evidence that Mr. Tashin administered methamphetamines to Dash for Cache prior to the race. Had Mr. Tashin admitted he administered methamphetamines or had there been corroborating evidence, such as a picture/video showing he administered methamphetamines, then this information could be considered a valid mitigating factor. However, the fact that Mr. Tashin was in the barn and galloped Dash for Cache prior to the race is not enough evidence to prove that he actually administered the methamphetamines. Even Appellant testified that he did not have absolute proof that Mr. Tashin administered methamphetamine to Dash for Cache. In fact, Appellant testified that he heard that Mr. Tashin himself was using methamphetamines, not that he administered the drug to Dash for Cache. The speculative testimony that Mr. Tashin was using methamphetamines is not persuasive evidence that he administered methamphetamines to Dash for Cache. Accordingly, the evidence submitted by the Appellant was not persuasive evidence of mitigating factors.

F. Recommendation

The Stewards' ruling was not clearly erroneous as to the violations of 16 Texas Administrative Code §§ 311.104, 319.3, and 319.302, or the penalty imposed on Appellant.

¹⁰ 16 Tex. Admin. Code § 319.304(b).

III. FINDINGS OF FACT

1. Joseph Vacca (Appellant) holds trainer's license number 38355 issued by the Texas Racing Commission (Commission).
2. Appellant is a licensed horse trainer in Texas and Louisiana.
3. On May 3, 2014, the racehorse Dash for Cache, trained by Appellant, participated in and won the tenth race at Sam Houston Race Park in Houston, Texas.
4. After the race, Dash for Cache provided urine sample #SH054684, and the barn staff divided it into two specimens.
5. One of Dash for Cache's urine specimens was sent to the Texas Veterinary Medical Diagnostic Laboratory (TVMDL).
6. TVMDL found that the urine specimen provided Dash for Cache tested positive for methamphetamine.
7. The urine sample was properly obtained, secured, stored, and transported to the laboratory for analysis.
8. On or about May 25, 2014, Appellant was notified of the positive result and was given the opportunity to request the second specimen (split specimen) be sent to a second laboratory to confirm the results.
9. Appellant decided to send the split specimen to Truesdail Laboratories, Inc. (Truesdail) for further testing.
10. On or about June 13, 2014, Truesdail confirmed the presence of methamphetamine in the urine sample provided by Dash for Cache following the race on May 3, 2014.
11. According to the Commission's Equine Medication Classification Policy and Penalty Guidelines (Guidelines), which are based on the national recommendations of the Association of Racing Commissioners International and which the Commission's executive secretary promulgated at 16 Texas Administrative Code § 319.304(b), methamphetamine is classified as a Class 1 drug, the most serious category.
12. The Guidelines establish the recommended penalty for the first instance of a Class 1 positive drug test is a suspension of a trainer's license for one year, a fine of the greater of \$10,000 or 10% of the prize purse, and loss of the prize purse. The Guidelines also provide the Stewards with the discretion to increase or decrease the penalty in the presence of aggravating or mitigation circumstances as established by persuasive, credible evidence but not mere speculation.

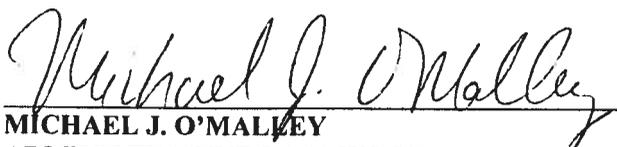
13. Appellant denied that he administered any prohibited substance to Dash for Cache on May 3, 2014.
14. Other individuals, including jockey, Derek Tashin, had access to Dash for Cache prior to the race. Mr. Tashin galloped Dash for Cache to help with the horse's nervousness.
15. Appellant's evidence that Mr. Tashin may have administered the methamphetamine was speculative and not credible, persuasive evidence to be considered a mitigating factor.
16. In June 2014, the Commission sent Appellant a Notice of Alleged Violation, notifying him of his right to a hearing before the Stewards regarding the alleged violations.
17. On July 11, 2014, the Retama Park Board of Stewards conducted a hearing.
18. The Stewards found that Appellant violated 16 Texas Administrative Code §§ 311.104, 319.3, and 319.302.
19. In its Ruling 4811, the Stewards ordered Appellant's license be suspended for one year, imposed a \$10,000 fine, and ordered the purse be redistributed.
20. On July 17, 2014, Appellant filed a timely appeal of the Stewards' decision.
21. The hearing on the appeal convened on December 12, 2014, before State Office of Administrative Hearings (SOAH) Administrative Law Judge Michael J. O'Malley. Deputy General Counsel Devon V. Bijansky represented Commission Staff. Attorney Lester J. Gauthier, Jr., represented Appellant. After the conclusion of the hearing, the record closed.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction to discipline its licensees. Tex. Rev. Civ. Stat. art.179e §§ 3.16(j), 7.04.
2. SOAH has jurisdiction to conduct this contested case. Tex. Gov't Code ch. 2003.
3. A positive finding from a urine sample that a prohibited substance was present in a horse's urine after a race is prima facie evidence that the substance was in his body during the race. 16 Tex. Admin. Code § 319.3.
4. A trainer must guard the horse he trains against administration of prohibited substances before the race and is subject to penalties if his horse races with a prohibited substance in its body. 16 Tex. Admin. Code §§ 319.302, 319.304.

5. As Dash for Cache's trainer, Appellant was the absolute insurer that the horse would be free of prohibited substances when he raced. Tex. Rev. Civ. Stat art. 179e § 3.16(h); 16 Tex. Admin. Code § 311.104(b).
6. Appellant has the burden of proof in this matter to show the Stewards' Ruling 4811 was clearly erroneous. 16 Tex. Admin. Code § 307.67(c).
7. Stewards' Ruling 4811 was not clearly erroneous in finding that Appellant violated 16 Tex. Admin. Code §§ 311.104, 319.3, and 319.302 by racing dash for Cache with methamphetamines in his system.
8. Under the Commission's adopted Guidelines, adopted pursuant to 16 Tex. Admin. Code § 319.304(b), an important reason for prohibiting the use of Class 1 substances, such as methamphetamines, is that such substances have a high potential for affecting the outcome of a race.
9. The Guidelines classify methamphetamine as a Class 1 prohibited substance. 16 Tex. Admin. Code § 319.304(b).
10. Under the Guidelines, the recommended penalties may be reduced if there is persuasive evidence of mitigating circumstances justifying a lesser penalty. 16 Tex. Admin. Code § 319.304(b).
11. The Commission may accept or reverse a decision of the Stewards, modify a penalty imposed by the Stewards, or reinstate a person's license and rescind the penalty. 16 Tex. Admin. Code § 307.69.
12. The Commission should adopt the Stewards' Ruling 4811 that Appellant violated 16 Tex. Admin. Code §§ 311.104, 319.3, and 319.302.
13. The Commission should adopt the Stewards' Ruling suspending Appellant for one year, imposing a \$10,000 fine, and requiring Appellant to return the race purse.

SIGNED January 8, 2015.


MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING

IN RE: THE APPEAL OF §
JOSEPH VACCA FROM § BEFORE THE
STEWARDS' RULING SHRP 4811 § TEXAS RACING COMMISSION
§

ORDER OF THE COMMISSION

On February 10, 2015, the Texas Racing Commission ("Commission") considered in open meeting the appeal of Joseph Vacca ("Appellant"), owner-trainer license number 38355, from Stewards' Ruling SHRP 4811. The Commission hereby makes the following findings based on the record of this matter:

- (a) On or about July 15, 2014, the Retama Park Board of Stewards issued Ruling SHRP 4811, which found Appellant in violation of 16 TAC Sections 311.104, Trainer/Absolute Insurer; 319.3, Drug Positive or Permitted Medication Violation; and 319.302, Reasonable Oversight of Animal, due to a finding of methamphetamine in a horse, Dash for Cache, trained by Vacca arising from a race on May 3, 2014. Appellant was fined \$10,000 and suspended for one year; the horse was disqualified and declared unplaced and the purse redistributed.
- (b) On or about July 17, 2014, Appellant filed an appeal of Ruling SHRP 4811 with the Commission and requested a stay of the suspension while the appeal was pending.
- (c) On or about July 24, 2014, the Commission's Executive Director granted a six-month stay of the suspension, which expired on January 24, 2015.
- (d) On or about December 12, 2014, a hearing in this matter took place before an administrative law judge at the State Office of Administrative Hearings (SOAH).

(e) On or about January 8, 2015, the administrative law judge issued a proposal for decision in which he recommended that the Commission adopt the Stewards' ruling in full, including suspending Appellant's racing license for one year, imposing a \$10,000 fine, and ordering the purse redistributed.

IT IS HEREBY ORDERED that Stewards' Ruling SHRP 4811 is upheld in full. Appellant's owner-trainer license, which was suspended effective January 25, 2015, shall hereby remain suspended through January 24, 2016.

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 _____, 2015.

Robert Schmidt, M.D., Chair

Ronald F. Ederer, Vice Chair

Gary P. Aber, DVM

Gloria Hicks

Michael F. Martin, DVM

John T. Steen III

Vicki Smith Weinberg

Ann O'Connell

A. Cynthia Leon