



**TEXAS RACING COMMISSION**

**P. O. Box 12080**

**Austin, TX 78711-2080**

**(512) 833-6699**

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Texas Racing Commission  
Tuesday, June 13, 2017  
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 OCCUPATIONAL LICENSES**

Discussion, consideration and possible action on the following matter:

The Motion for Rehearing/Reconsideration of the Commission's Order in SOAH No. 476-17-0121; In Re: The Appeal of Roman Chapa from Stewards' Ruling SHRP 4840

## **V. PROCEEDINGS ON RACETRACKS**

Discussion, consideration and action on the following matter:

Approval of a Supplemental Fee to be paid by each Racing Association under Rule 309.8, Racetrack License Fees, to generate the necessary revenue to pay the Commission's costs during the remainder of Fiscal Year 2017

## **VI. PROCEEDINGS ON RULEMAKING**

Discussion, consideration and possible action on the following matters:

- A. Rule Proposals. The Commission will discuss and possibly take action on proposed rule amendments addressing agency funding for Fiscal Years 2018 and 2019. The proposals may include, but are not limited to, a proposal to amend Rule 309.8, Racetrack License Fees, and a proposal to amend Rule 311.5, License Fees. If approved by the Commission, these rule proposals will be published in the Texas Register for public comment.
- B. Rule Adoptions. These proposals have been published in the *Texas Register* and are eligible for adoption.
  - 1. Adoption of Amendment to Rule 311.5, License Types
  - 2. Adoption of Amendment to Rule 311.104, Trainers
  - 3. Adoption of Amendment to Rule 313.24, Records and Reports

## **VII. EXECUTIVE SESSION**

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

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

- D. Under Texas Racing Act, Tex. Rev. Civ. Stat. Ann. art. 179e, Sec. 6.03, the Commission may open an executive session to review security plans and management, concession, and totalisator contracts.

**VIII. SCHEDULING OF NEXT COMMISSION MEETING**

**IX. ADJOURN**

### **III. GENERAL BUSINESS**

#### **B. Reports by the Executive Director and Staff regarding Administrative Matters**

- 1) Budget and Finance Update
- 2) Report on Wagering Statistics
- 3) Inspection and Enforcement Reports

# Texas Racing Commission

FYE 08/31/2017

OBS-1

Operating Budget Status  
by LBB Expenditure Object/Codes

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 4/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 66.7% of Year Lapsed % of Budget Expended
<i>Appropriated</i> A.1.1.	- FTE's = 4.50 <u>Regulate Racetrack Owners</u>				
Base Appr =	1001 Salaries and Wages	353,310.39	233,739.32	119,571.07	66.16%
\$ 359,975.00	1002 Other Personnel Cost	10,311.51	6,194.24	4,117.27	60.07%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 8,218.11	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 368,193.11	2005 Travel	5,750.00	1,076.73	4,673.27	18.73%
Budgeted =	2006 Rent Building	-	-	-	
\$ 376,680.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	7,308.10	3,223.92	4,084.18	44.11%
8,486.90	CB Computer Equipment	-	-	-	
2.36%	<b>Total Strategy A.1.1.</b>	<b>376,680.00</b>	<b>244,234.21</b>	<b>132,445.79</b>	<b>64.84%</b>
<i>Appropriated</i> A.2.1.	0 FTE's = 0 <u>Texas Bred Incentive</u>				
	ATB Money Expended	3,475,000.00	1,881,204.99	1,593,795.01	54.14%
3,475,000.00	<b>Total Strategy A.2.1.</b>	<b>3,475,000.00</b>	<b>1,881,204.99</b>	<b>1,593,795.01</b>	<b>54.14%</b>
<i>Appropriated</i> A.3.1.	(1.90) FTE's = 7.40 <u>Supervise Racing and Licensees</u>				
Base Appr =	1001 Salaries and Wages	418,862.00	260,691.76	158,170.24	62.24%
\$ 692,204.00	1002 Other Personnel Cost	24,625.92	10,908.51	13,717.41	44.30%
Sup Appr =	2001 Prof Fees and Services	25,000.00	12,202.03	12,797.97	48.81%
\$ 8,232.86	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 700,436.86	2005 Travel	60,000.00	39,097.07	20,902.93	65.16%
Budgeted =	2006 Rent Building	-	-	-	
\$ 533,348.01	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	4,860.10	2,952.07	1,908.03	60.74%
(167,088.85)	CB Computer Equipment	-	-	-	
-24.14%	<b>Total Strategy A.3.1.</b>	<b>533,348.01</b>	<b>325,851.44</b>	<b>207,496.57</b>	<b>61.10%</b>
<i>Appropriated</i> A.3.2.	0.15 FTE's = 3.45 <u>Monitor Occupational Licensee Act.</u>				
Base Appr =	1001 Salaries and Wages	237,186.59	171,441.94	65,744.65	72.28%
\$ 243,522.00	1002 Other Personnel Cost	18,519.76	12,354.53	6,165.23	66.71%
Sup Appr =	2001 Prof Fees and Services	2,000.00	1,506.12	493.88	75.31%
\$ -	2003 Consumables	1,000.00	593.08	406.92	59.31%
Total Appr =	2004 Utilities	-	-	-	
\$ 243,522.00	2005 Travel	45,000.00	26,421.14	18,578.86	58.71%
Budgeted =	2006 Rent Building	-	-	-	
\$ 307,473.45	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	3,767.09	2,522.88	1,244.21	66.97%
\$ 63,951.45	CB Computer Equipment	-	-	-	
26.26%	<b>Total Strategy A.3.2.</b>	<b>307,473.45</b>	<b>214,839.69</b>	<b>92,633.76</b>	<b>69.87%</b>
<i>Appropriated</i> A.4.1.	0.50 FTE's = 3.60 <u>Inspect and Provide Emerg. Care</u>				
Base Appr =	1001 Salaries and Wages	221,150.55	144,488.62	76,661.93	65.33%
\$ 341,149.00	1002 Other Personnel Cost	5,365.25	4,099.76	1,265.49	76.41%
Sup Appr =	2001 Prof Fees and Services	110,000.00	78,725.88	31,274.12	71.57%
\$ 2,121.60	2003 Consumables	200.00	48.08	151.92	24.04%
Total Appr =	2004 Utilities	-	-	-	
\$ 343,270.60	2005 Travel	25,000.00	12,615.50	12,384.50	50.46%
Budgeted =	2006 Rent Building	-	-	-	
\$ 366,143.39	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	4,427.59	2,672.35	1,755.24	60.36%
\$ 22,872.79	CB Computer Equipment	-	-	-	
6.70%	<b>Total Strategy A.4.1.</b>	<b>366,143.39</b>	<b>242,650.19</b>	<b>123,493.20</b>	<b>66.27%</b>

# Texas Racing Commission

FYE 08/31/2017

OBS-2

Operating Budget Status  
by LBB Expenditure Object/Codes

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 4/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 66.7% of Year Lapsed % of Budget Expended
<i>Appropriated</i> A.4.2.	(0.60) FTE's = 3.70 <u>Administer Drug Testing</u>				
Base Appr =	1001 Salaries and Wages	180,350.08	103,452.68	76,897.40	57.36%
\$ 284,898.00	1002 Other Personnel Cost	1,416.75	657.28	759.47	46.39%
Sup Appr =	2001 Prof Fees and Services	15,000.00	-	15,000.00	0.00%
\$ 3,489.82	2003 Consumables	500.00	125.80	374.20	25.16%
Total Appr =	2004 Utilities	-	-	-	
\$ 288,387.82	2005 Travel	18,170.67	8,669.58	9,501.09	47.71%
Budgeted =	2006 Rent Building	-	-	-	
\$ 221,591.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	6,153.50	1,958.23	4,195.27	31.82%
\$ (66,796.82)	CB Computer Equipment	-	-	-	
-23.45%	<b>Total Strategy A.4.2.</b>	<b>221,591.00</b>	<b>114,863.57</b>	<b>106,727.43</b>	<b>51.84%</b>
<i>Appropriated</i> B.1.1.	(0.80) FTE's = 6.30 <u>Occupational Licensing</u>				
Base Appr =	1001 Salaries and Wages	238,029.71	152,607.06	85,422.65	64.11%
\$ 513,044.00	1002 Other Personnel Cost	7,611.15	5,520.87	2,090.28	72.54%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 3,025.75	2003 Consumables	3,000.00	2,101.16	898.84	70.04%
Total Appr =	2004 Utilities	-	-	-	
\$ 516,069.75	2005 Travel	32,400.00	19,593.23	12,806.77	60.47%
Budgeted =	2006 Rent Building	-	-	-	
\$ 465,523.15	2007 Rent Machine	1,400.00	1,174.06	225.94	83.86%
Difference	2009 Other Operating Cost	183,082.30	51,619.36	131,462.94	28.19%
\$ (50,546.61)	CB Computer Equipment	-	-	-	
-9.85%	<b>Total Strategy B.1.1.</b>	<b>465,523.15</b>	<b>232,615.74</b>	<b>232,907.42</b>	<b>49.97%</b>
<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	8,717.00	13,783.00	38.74%
\$ -	CB Computer Equipment	-	-	-	
0.00%	<b>Total Strategy B.1.2.</b>	<b>22,500.00</b>	<b>8,717.00</b>	<b>13,783.00</b>	<b>38.74%</b>
<i>Appropriated</i> C.1.1.	(0.55) FTE's = 4.25 <u>Monitor Wagering and Audit</u>				
Base Appr =	1001 Salaries and Wages	247,260.87	166,167.55	81,093.32	67.20%
\$ 327,375.00	1002 Other Personnel Cost	8,737.77	5,798.49	2,939.28	66.36%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 5,405.48	2003 Consumables	1,000.00	-	1,000.00	0.00%
Total Appr =	2004 Utilities	-	-	-	
\$ 332,780.48	2005 Travel	18,914.56	4,695.69	14,218.87	24.83%
Budgeted =	2006 Rent Building	-	-	-	
\$ 291,341.44	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	15,428.24	7,611.23	7,817.01	49.33%
\$ (41,439.03)	CB Computer Equipment	-	-	-	
-12.66%	<b>Total Strategy C.1.1.</b>	<b>291,341.44</b>	<b>184,272.96</b>	<b>107,068.48</b>	<b>63.25%</b>

# Texas Racing Commission

FYE 08/31/2017

OBS-3

Operating Budget Status  
by LBB Expenditure Object/Codes

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 4/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 66.7% of Year Lapsed % of Budget Expended
<i>Appropriated</i> C.1.2.	(1.00) FTE's = 2.00 <u>Wagering &amp; Compliance Inspections</u>				
Base Appr =	1001 Salaries and Wages	79,900.06	53,666.64	26,233.42	67.17%
\$ 167,631.00	1002 Other Personnel Cost	2,119.50	1,388.32	731.18	65.50%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 1,948.78	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 169,579.78	2005 Travel	1,930.00	37.00	1,893.00	1.92%
Budgeted =	2006 Rent Building	-	-	-	
\$ 85,648.56	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	1,699.00	536.72	1,162.28	31.59%
\$ (83,931.22)	CB Computer Equipment	-	-	-	
-50.07%	<b>Total Strategy C.1.2.</b>	<b>85,648.56</b>	<b>55,628.68</b>	<b>30,019.88</b>	<b>64.95%</b>
<i>Appropriated</i> D.1.1.	- FTE's = 7.00 <u>Central Administration</u>				
Base Appr =	1001 Salaries and Wages	429,251.36	271,472.76	157,778.60	63.24%
\$ 756,949.00	1002 Other Personnel Cost	34,069.19	20,122.44	13,946.75	59.06%
Sup Appr =	2001 Prof Fees and Services	20,175.00	4,697.59	15,477.41	23.28%
\$ 6,897.68	2003 Consumables	7,600.00	5,889.97	1,710.03	77.50%
Total Appr =	2004 Utilities	51,000.00	29,164.95	21,835.05	57.19%
\$ 763,846.68	2005 Travel	10,500.00	4,223.44	6,276.56	40.22%
Budgeted =	2006 Rent Building	97,678.31	70,117.78	27,560.53	71.78%
\$ 730,706.00	2007 Rent Machine	1,900.00	832.96	1,067.04	43.84%
Difference	2009 Other Operating Cost	78,532.13	45,585.87	32,946.26	58.05%
\$ (33,140.68)	CB Computer Equipment	-	-	-	
-4.38%	<b>Total Strategy D.1.1.</b>	<b>730,706.00</b>	<b>452,107.76</b>	<b>278,598.24</b>	<b>61.87%</b>
<i>Appropriated</i> D.1.2.	- FTE's = 4.80 <u>Information Resources</u>				
Base Appr =	1001 Salaries and Wages	326,062.76	172,610.48	153,452.28	52.94%
\$ 538,500.00	1002 Other Personnel Cost	29,930.04	8,519.12	21,410.92	28.46%
Sup Appr =	2001 Prof Fees and Services	61,094.15	21,450.00	39,644.15	35.11%
\$ 2,411.73	2003 Consumables	2,950.00	1,648.04	1,301.96	55.87%
Total Appr =	2004 Utilities	200.00	9.99	190.01	5.00%
\$ 540,911.73	2005 Travel	3,500.00	670.19	2,829.81	19.15%
Budgeted =	2006 Rent Building	444.00	296.00	148.00	66.67%
\$ 544,948.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	97,216.05	59,561.03	37,655.02	61.27%
\$ 4,036.27	CB Computer Equipment	23,551.00	13,268.80	10,282.20	56.34%
0.75%	<b>Total Strategy D.1.2.</b>	<b>544,948.00</b>	<b>278,033.65</b>	<b>266,914.35</b>	<b>51.02%</b>
<i>Appropriated</i> D.1.3.	(4.20) FTE's = 47.00 <u>Other Support Services</u>				
Base Appr =	1001 Salaries and Wages	-	-	-	
\$ 7,722,747.00	1002 Other Personnel Cost	-	-	-	
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 41,751.81	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 7,764,498.81	2005 Travel	-	-	-	
Budgeted =	2006 Rent Building	-	-	-	
\$ 7,420,903.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	-	-	-	
\$ (343,595.80)	CB Computer Equipment	-	-	-	
-4.45%	<b>Total Strategy D.1.3.</b>	<b>-</b>	<b>-</b>	<b>-</b>	
\$ 4,289,499	Regulatory Program Operating Budget	3,945,903.00	2,353,814.87	1,348,924.05	59.65%
\$ 3,475,000	TX Bred Program Operating Budget	3,475,000.00	1,881,204.99	1,593,795.01	54.14%
\$ 7,764,499	Total M.O.F. (TXRC Acct. 597 & GR)	7,420,903.00	4,235,019.86	2,942,719.06	57.07%
	<b>Total All Programs Operating Budget</b>	<b>7,420,903.00</b>	<b>4,235,019.86</b>	<b>2,942,719.06</b>	<b>57.07%</b>

# Texas Racing Commission

FYE 08/31/2017

OBS-4

Operating Budget Status  
by LBB Expenditure Object/Codes

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 4/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 66.7% of Year Lapsed % of Budget Expended
\$ -	(4.20) FTE's = 47.00				
<i>Appropriated</i>	<u>Direct Expense of Regulatory Programs</u>				
	1001 Salaries and Wages	2,731,364.37	1,730,338.81	1,001,025.56	63.35%
	1002 Other Personnel Cost	142,706.85	75,563.56	67,143.29	52.95%
	2001 Prof Fees and Services	233,269.15	118,581.62	114,687.53	50.83%
	2003 Consumables	16,250.00	10,406.13	5,843.87	64.04%
	2004 Utilities	51,200.00	29,174.94	22,025.06	56.98%
	2005 Travel	221,165.23	117,099.57	104,065.66	52.95%
	2006 Rent Building	98,122.31	70,413.78	27,708.53	71.76%
	2007 Rent Machine	3,300.00	2,007.02	1,292.98	60.82%
	2009 Other Operating Cost	424,974.11	186,960.66	238,013.45	43.99%
	CB Computer Equipment	23,551.00	13,268.80	10,282.20	56.34%
\$ 4,289,499	Total Direct Expense of Regulatory Program	3,945,903.00	2,353,814.87	1,592,088.12	59.65%
\$ 3,475,000	FTE's = - Direct Expense of TX Bred Program	3,475,000.00	1,881,204.99	1,593,795.01	54.14%
\$ 7,764,499	(4.20) FTE's = 47.00 Total Direct Expense of All Programs	7,420,903.00	4,235,019.86	3,185,883.13	57.07%
\$ -	<u>Indirect Expense of All Programs</u>				
<i>Un-Appropriated</i>	OASI Match	213,419.64	131,698.23	81,721.41	61.71%
	Group Insurance	261,500.00	184,628.54	76,871.46	70.60%
	State Retirement	221,230.33	132,538.19	88,692.14	59.91%
	Benefit Replacement	6,000.00	4,107.44	1,892.56	68.46%
	ERS Retiree Insurance	345,000.00	253,413.40	91,586.60	73.45%
	SWCAP GR Reimburse	30,000.00	-	30,000.00	0.00%
	Unemployment Cost	10,000.00	-	10,000.00	0.00%
	Other	-	-	-	0.00%
\$ 1,087,150	Total Indirect Expense of All Programs	1,087,149.97	706,385.80	380,764.17	64.98%
\$ 8,851,649	Total Direct and Indirect Expense of All Programs	8,508,052.97	4,941,405.66	3,566,647.30	58.08%

Source Of Funds	Agency Method Of Finance	FY 2017 Projected Revenue	FY 2017 Actual Revenue Thru 4/30/2017	N/A	With 66.7% of Year Lapsed % of Revenue Collected
	<b>Regulatory Program MOF:</b>				
Acct. 597	Cash Balance Carry Forward	\$ 387,000.00	\$ 387,000.00		n/a
Acct. 597	Live Race Day Fees	\$ -	\$ -		
Acct. 597	Simulcast Race Day Fees	\$ -	\$ -		
Acct. 597	Annual License Fees (Active & Inactive)	\$ 3,501,240.00	\$ 2,971,993.00		84.88%
Acct. 597	Outs	\$ -	\$ -		
Acct. 597	Occupational License Fees and Fines	\$ 679,558.00	\$ 442,482.25		65.11%
Acct. 597	Other Revenue	\$ 23,867.00	\$ 11,841.99		49.62%
Acct. 1	GR Funds	\$ -	\$ -		
	<b>Sub-Total Regulatory Prgm. MOF</b>	\$ 4,591,665.00	\$ 3,813,317.24		83.05%
	<b>Texas Bred Program MOF:</b>				
Acct. 597	Cash Balance Carry Forward	\$ -	\$ -		
Acct. 597	Breakage and 1% Exotic	\$ 3,475,000.00	\$ 1,881,204.99		54.14%
Acct. 597	Other	\$ -	\$ -		
	<b>Sub-Total Texas Bred Prgm. MOF</b>	\$ 3,475,000.00	\$ 1,881,204.99		54.14%
All Sources	<b>Total MOF</b>	\$ 8,066,665.00	\$ 5,694,522.23		70.59%
<b>MOF Estimated to Exceed or (Fall-Short of Covering) Direct &amp; Indirect Expenses of Operating Budget</b>		\$ (441,387.97)	\$ 753,116.57		



## Fiscal Year 2017 Operational Budget

Updated: May 15, 2017

Thru: April 30, 2017

### Summary of Operating Revenue

By Revenue Type:	Budget	Collected	Suspended	Uncollected Balance	%
<b>Account 597 - Racing Commission - GRD</b>	\$ 8,066,665	\$ 5,694,522	\$ -	\$ 2,372,143	29%
<b>Account 1 - State of Texas - GR</b>	\$ -	\$ -	\$ -	\$ -	
<b>TOTAL - ALL REVENUES</b>	\$ 8,066,665	\$ 5,694,522	\$ -	\$ 2,372,143	29%

### Summary of Appropriated Operating Expenses

	Budget	Expended	Encumbered	Unexpended Balance	%
<b>1001 - Salaries and Wages:</b>	\$ 2,731,364	\$ 1,730,339	\$ -	\$ 1,001,026	37%
<b>1002 - Other Personnel Cost:</b>	\$ 142,707	\$ 75,564	\$ -	\$ 67,143	47%
<b>2001 - Professional Fees and Services:</b>	\$ 233,269	\$ 118,582	\$ -	\$ 114,688	49%
<b>2003 - Consumable Supplies:</b>	\$ 16,250	\$ 10,406	\$ -	\$ 5,844	36%
<b>2004 - Utilities:</b>	\$ 51,200	\$ 29,175	\$ -	\$ 22,025	43%
<b>2005 - Travel:</b>	\$ 221,165	\$ 117,100	\$ -	\$ 104,066	47%
<b>2006 - Rent Building:</b>	\$ 98,122	\$ 70,414	\$ -	\$ 27,709	28%
<b>2007 - Rent Machine and Other:</b>	\$ 3,300	\$ 2,007	\$ -	\$ 1,293	39%
<b>2009 - Other Operating Expense:</b>	\$ 424,974	\$ 186,961	\$ -	\$ 238,013	56%
<b>4000 - Grants</b>	\$ 3,475,000	\$ 1,881,205	\$ -	\$ 1,593,795	46%
<b>5000 - Capital Expenditures:</b>	\$ 23,551	\$ 13,269	\$ -	\$ 10,282	44%
<b>TOTAL - ALL APPROPRIATED EXPENDITURES</b>	\$ 7,420,903	\$ 4,235,020	\$ -	\$ 3,185,883	43%

### Unappropriated Operating Expenses

Type:	Budget	Expended	Encumbered	Unexpended Balance	%
<b>TOTAL - ALL UNAPPROPRIATED EXPENDITURES</b>	\$ 1,087,150	\$ 706,386	\$ -	\$ 380,764	35%
<b>TOTAL - ALL EXPENDITURES</b>	\$ 8,508,053	\$ 4,941,406	\$ -	\$ 3,566,647	42%
<b>OPERATING SURPLUS / (DEFICIT)</b>	\$ (441,388)	\$ 753,117			

### Summary of FTE's

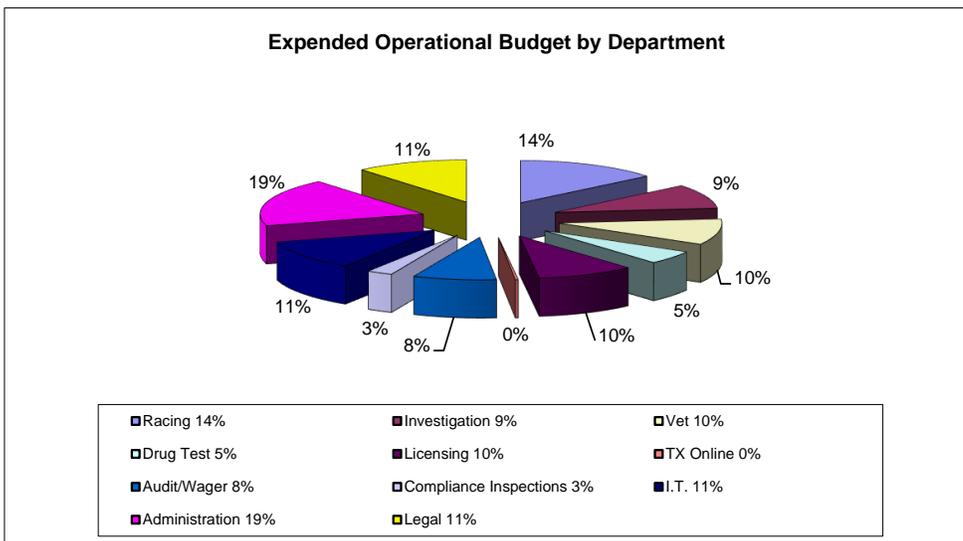
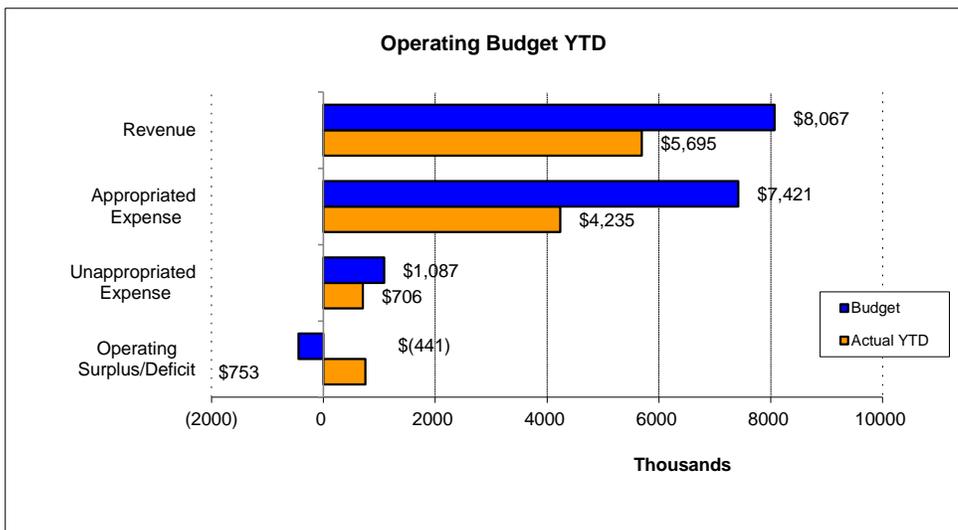
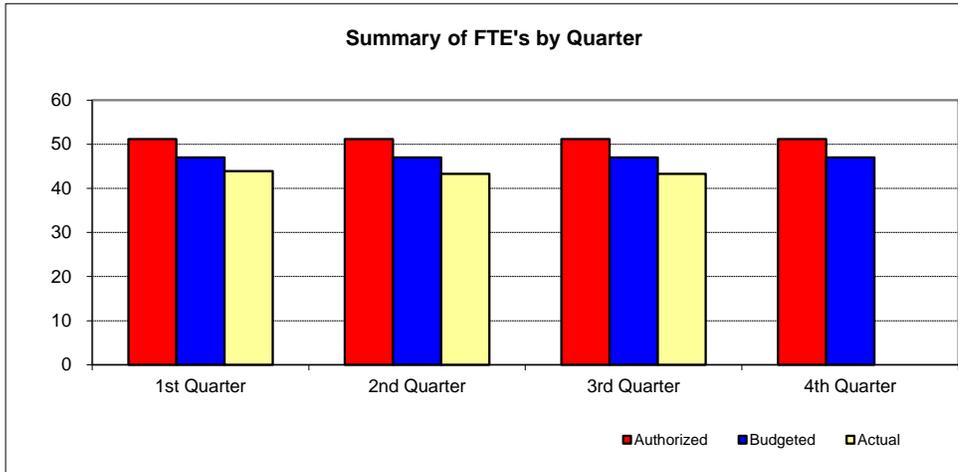
By Fiscal Quarter:	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Authorized FTE's	51.20	51.20	51.20	51.20
Budgeted FTE's	47.00	47.00	47.00	47.00
Actual FTE's	43.90	43.30	43.30	0.00
<b>Actual FTE's Over / (Under) Budget</b>	(3.10)	(3.70)	(3.70)	n/a
<b>Actual FTE's Over / (Under) Authorization</b>	(7.30)	(7.90)	(7.90)	n/a



# Fiscal Year 2017 Operational Budget

Updated: May 15, 2017

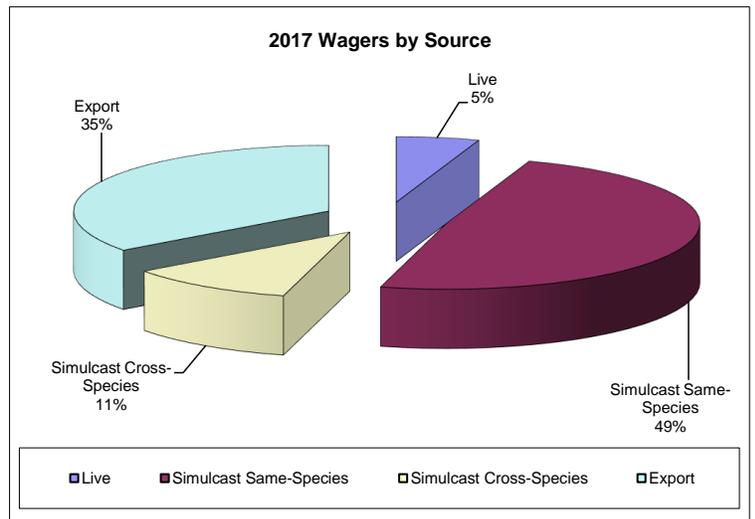
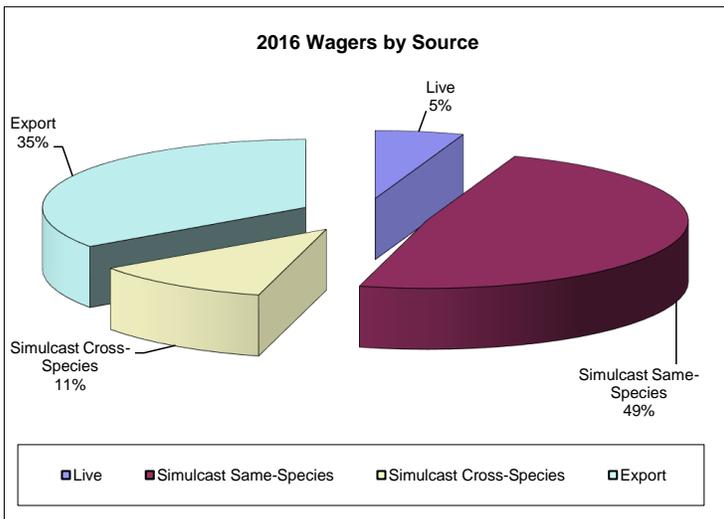
Thru: April 30, 2017





## Texas Pari-Mutuel Racetracks Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races For the Period of January 1 through May 28

	Year 2016			Year 2017			Percentage Change	
	# Days	Wagers (Handle)		# Days	Wagers (Handle)		Wagers (Handle)	
		Total	Average per day		Total	Average per day	Total	Average per day
<b>Greyhound Racetracks</b>								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	384	\$ 10,432,674	\$ 27,168	381	\$ 9,332,102	\$ 24,494	-10.55%	-9.84%
Simulcast Cross-Species	384	\$ 9,338,290	\$ 24,318	381	\$ 7,574,699	\$ 19,881	-18.89%	-18.25%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
<b>Total Wagers</b>		<b>\$ 19,770,963</b>			<b>\$ 17,724,048</b>		<b>-10.35%</b>	
<b>Horse Racetracks</b>								
Live	81	\$ 11,105,490	\$ 137,105	76	\$ 9,691,919	\$ 127,525	-12.73%	-6.99%
Simulcast Same-Species	530	\$ 89,128,104	\$ 168,166	527	\$ 84,695,590	\$ 160,713	-4.97%	-4.43%
Simulcast Cross-Species	531	\$ 13,422,418	\$ 25,278	527	\$ 12,953,263	\$ 24,579	-3.50%	-2.76%
Export	81	\$ 71,025,121	\$ 876,853	76	\$ 67,166,816	\$ 883,774	-5.43%	0.79%
<b>Total Wagers</b>		<b>\$ 184,681,133</b>			<b>\$ 174,507,588</b>		<b>-5.51%</b>	
<b>All Racetracks</b>								
Live	81	\$ 11,105,490	\$ 137,105	96	\$ 10,109,482	\$ 105,307	-8.97%	-23.19%
Simulcast Same-Species	914	\$ 99,560,778	\$ 108,929	908	\$ 94,027,691	\$ 103,555	-5.56%	-4.93%
Simulcast Cross-Species	915	\$ 22,760,708	\$ 24,875	908	\$ 20,527,962	\$ 22,608	-9.81%	-9.11%
Export	81	\$ 71,025,121	\$ 876,853	96	\$ 67,566,500	\$ 703,818	-4.87%	-19.73%
<b>Total Wagers</b>		<b>\$ 204,452,096</b>			<b>\$ 192,231,636</b>		<b>-5.98%</b>	
<b>Total Wagers Placed in Texas</b>		<b>\$ 133,426,975</b>			<b>\$ 124,665,136</b>		<b>-6.57%</b>	
<b>Total Wagers Placed on Texas Races</b>		<b>\$ 82,130,611</b>			<b>\$ 77,675,982</b>		<b>-5.42%</b>	

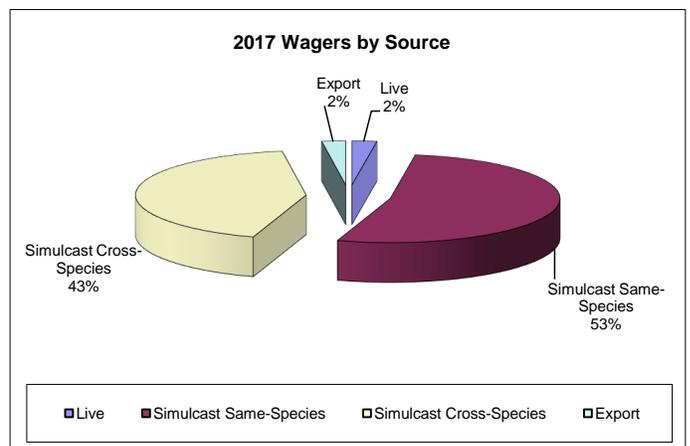
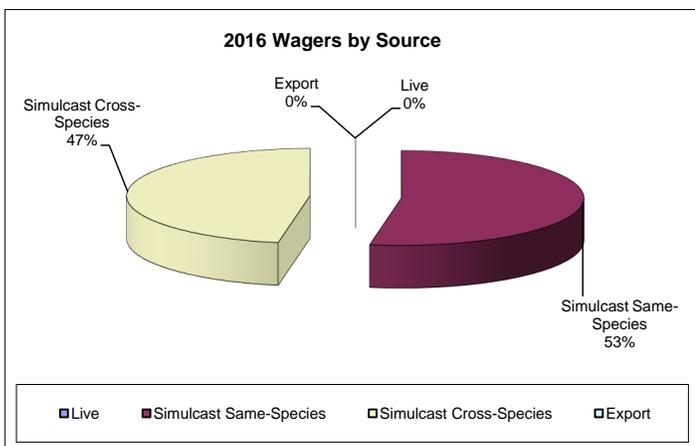




## Greyhound Racetrack Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races

For the Period of January 1 through May 28

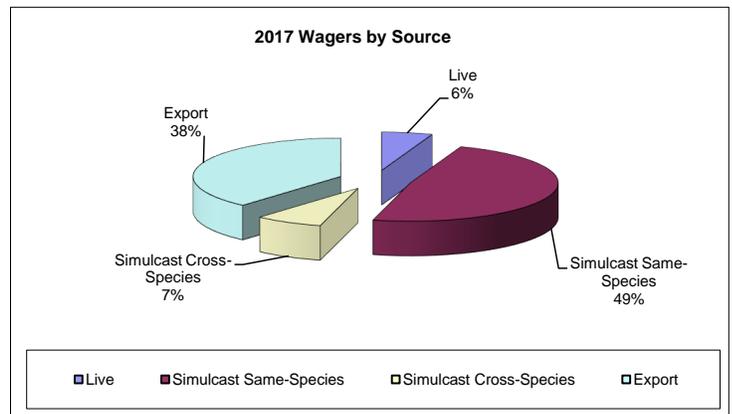
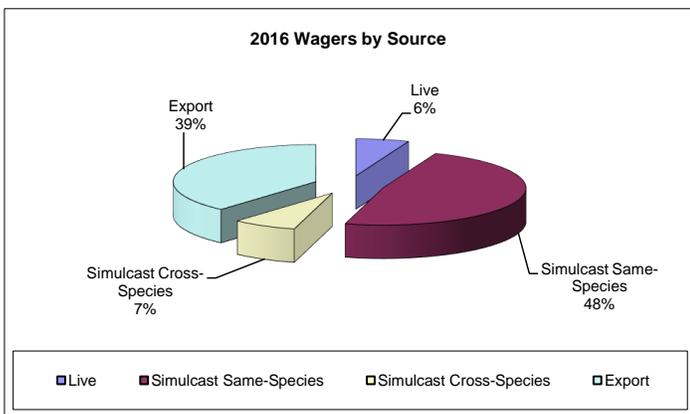
	Year 2016			Year 2017			Percentage Change	
	# Days	Wagers (Handle)		# Days	Wagers (Handle)		Wagers (Handle)	
		Total	Average per day		Total	Average per day	Total	Average per day
<b><u>Gulf Coast Racing</u></b>								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	107	\$ 3,057,052	\$ 28,571	106	\$ 2,871,231	\$ 27,087	-6.08%	-5.19%
Simulcast Cross-Species	107	\$ 1,737,304	\$ 16,236	106	\$ 1,387,017	\$ 13,085	-20.16%	-19.41%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
<b>Total Wagers</b>		<b>\$ 4,794,356</b>			<b>\$ 4,258,248</b>		<b>-11.18%</b>	
<b><u>Gulf Greyhound Park</u></b>								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	149	\$ 4,569,766	\$ 30,670	148	\$ 4,026,262	\$ 27,204	-11.89%	-11.30%
Simulcast Cross-Species	149	\$ 4,824,074	\$ 32,376	148	\$ 4,014,065	\$ 27,122	-16.79%	-16.23%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
<b>Total Wagers</b>		<b>\$ 9,393,840</b>			<b>\$ 8,040,327</b>		<b>-14.41%</b>	
<b><u>Valley Race Park</u></b>								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	128	\$ 2,805,857	\$ 21,921	127	\$ 2,434,609	\$ 19,170	-13.23%	-12.55%
Simulcast Cross-Species	128	\$ 2,776,911	\$ 21,695	127	\$ 2,173,617	\$ 17,115	-21.73%	-21.11%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
<b>Total Wagers</b>		<b>\$ 5,582,768</b>			<b>\$ 5,425,473</b>		<b>-2.82%</b>	
<b><u>All Greyhound Tracks</u></b>								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	384	\$ 10,432,674	\$ 27,168	381	\$ 9,332,102	\$ 24,494	-10.55%	-9.84%
Simulcast Cross-Species	384	\$ 9,338,290	\$ 24,318	381	\$ 7,574,699	\$ 19,881	-18.89%	-18.25%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
<b>Total Wagers</b>		<b>\$ 19,770,963</b>			<b>\$ 17,724,048</b>		<b>-10.35%</b>	
<b>Total Wagers Placed in Texas</b>		<b>\$ 19,770,963</b>			<b>\$ 17,324,364</b>		<b>-12.37%</b>	
<b>Total Wagers Placed on Texas Races</b>		<b>\$ -</b>			<b>\$ 817,247</b>		<b>N/A</b>	





## Horse Racetrack Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races For the Period of January 1 through May 28

	Year 2016			Year 2017			Percentage Change	
	# Days	Wagers (Handle)		# Days	Wagers (Handle)		Wagers (Handle)	
		Total	Average per day		Total	Average per day	Total	Average per day
<b>Gillespie County Fair</b>								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	85	\$ 1,275,924	\$ 15,011	83	\$ 1,256,986	\$ 15,144	-1.48%	0.89%
Simulcast Cross-Species	85	\$ 151,129	\$ 1,778	83	\$ 195,787	\$ 2,359	29.55%	32.67%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
<b>Total Wagers</b>		<b>\$ 1,427,053</b>			<b>\$ 1,452,773</b>		<b>1.80%</b>	
<b>Lone Star Park</b>								
Live	25	\$ 5,643,725	\$ 225,749	19	\$ 4,896,472	\$ 257,709	-13.24%	14.16%
Simulcast Same-Species	149	\$ 43,152,838	\$ 289,616	148	\$ 43,008,298	\$ 290,597	-0.33%	0.34%
Simulcast Cross-Species	149	\$ 2,639,821	\$ 17,717	148	\$ 2,736,537	\$ 18,490	3.66%	4.36%
Export	25	\$ 16,826,700	\$ 673,068	19	\$ 14,683,336	\$ 772,807	-12.74%	14.82%
<b>Total Wagers</b>		<b>\$ 68,263,084</b>			<b>\$ 65,324,642</b>		<b>-4.30%</b>	
<b>Retama Park</b>								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	149	\$ 16,131,384	\$ 108,264	148	\$ 15,025,033	\$ 101,520	-6.86%	-6.23%
Simulcast Cross-Species	149	\$ 3,222,234	\$ 21,626	148	\$ 3,051,960	\$ 20,621	-5.28%	-4.64%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
<b>Total Wagers</b>		<b>\$ 19,353,619</b>			<b>\$ 18,076,993</b>		<b>-6.60%</b>	
<b>Sam Houston Race Park</b>								
Live	56	\$ 5,461,764	\$ 97,532	57	\$ 4,795,448	\$ 84,131	-12.20%	-13.74%
Simulcast Same-Species	147	\$ 28,567,958	\$ 194,340	148	\$ 25,405,273	\$ 171,657	-11.07%	-11.67%
Simulcast Cross-Species	148	\$ 7,409,233	\$ 50,062	148	\$ 6,968,979	\$ 47,088	-5.94%	-5.94%
Export	56	\$ 54,198,421	\$ 967,829	57	\$ 52,483,480	\$ 920,763	-3.16%	-4.86%
<b>Total Wagers</b>		<b>\$ 95,637,377</b>			<b>\$ 89,653,179</b>		<b>-6.26%</b>	
<b>All Horse Tracks</b>								
Live	81	\$ 11,105,490	\$ 137,105	76	\$ 9,691,919	\$ 127,525	-12.73%	-6.99%
Simulcast Same-Species	530	\$ 89,128,104	\$ 168,166	527	\$ 84,695,590	\$ 160,713	-4.97%	-4.43%
Simulcast Cross-Species	531	\$ 13,422,418	\$ 25,278	527	\$ 12,953,263	\$ 24,579	-3.50%	-2.76%
Export	81	\$ 71,025,121	\$ 876,853	76	\$ 67,166,816	\$ 883,774	-5.43%	0.79%
<b>Total Wagers</b>		<b>\$ 184,681,133</b>			<b>\$ 174,507,588</b>		<b>-5.51%</b>	
<b>Total Wagers Placed in Texas</b>		<b>\$ 113,656,012</b>			<b>\$ 107,340,772</b>		<b>-5.56%</b>	
<b>Total Wagers Placed on Texas Races</b>		<b>\$ 82,130,611</b>			<b>\$ 76,858,735</b>		<b>-6.42%</b>	



# INSPECTION REPORT

<b>Summary of Inspections Performed For the Period of April 1, 2017 through May 31, 2017</b>					
Track	Area of Inspection	Date of Inspection	Number of Unsatisfactory Items	Track Remediation	Remaining Unsatisfactory Items
<b>Lone Star Park</b>	Security	4/10/2017	0		
	Wagering	4/13/2017	1	(Resolved on 4/19/2017)	
	Wagering	4/19/2017	0	(Follow-up from 4/13/17)	
	Racing	4/20/2017	0		
	Veterinary	4/13/2017	0		
<b>Valley Race Park</b>	Wagering	5/19/2017	5	Pending	5*
<b>Gulf Coast Racing</b>	Wagering	5/18/2017	0		

\*Follow up required to resolve 1) unlicensed mutuel employee, 2) time synchronization for security recorder, 3) update pari-mutuel monthly report, 4) correct expiration language not printing on some mutuel tickets, and 5) updating tote room access list.

<b>Inspection Counts by Area and Type</b>				
Area of Inspection	Scheduled	No Notice	Follow-Up	Totals
<b>Administrative</b>				
<b>Racing - Judges</b>				
<b>Racing - Stewards</b>	1			1
<b>Veterinary</b>	1			1
<b>Safety &amp; Security</b>	1			1
<b>Wagering</b>	2	1	1	4
<b>Training Center</b>				
<b>TOTAL INSPECTIONS</b>	5	1	1	7

**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.

## ENFORCEMENT REPORT

Sam Houston Race Park concluded its Quarter Horse meet on May 22, 2017.

Lone Star Park began its Thoroughbred meet on April 20, 2017.

Retama Park began its Quarter Horse meet on June 9, 2017.

Gulf Coast Racing, Gulf Greyhound Park, Sam Houston Race Park, Valley Race Park, and the Gillespie County Fair & Festivals Race Barn are currently conducting simulcast operations.

### Sam Houston Race Park

Rulings Activity - Quarter Horse Meet – March – May 2017

Type of Violation	# of Rulings
Human Drug Violations Marijuana - 2	2
Conduct Violations	2
Jockey – Riding Infractions	3
Jockey – Non-Riding	1
Medication Positives/Violations <u>Class 3</u> Clenbuterol - 3 <u>Class 4</u> Flunixin – 1 <u>Overage of Permitted Medication</u> Phenylbutazone - 9	12
Trainer Infractions	14
Licensing	9
Failure To Disclose	1
Contraband	4
Financial Obligations	1
Failure To Pay Fine	1
<b>Total Number of Rulings</b>	<b>50</b>

#### **IV. PROCEEDINGS ON OCCUPATIONAL LICENSES**

Discussion, consideration and possible action on the following matter:

The Motion for Rehearing/Reconsideration of the Commission's Order in SOAH No. 476-17-0121; In Re: The Appeal of Roman Chapa from Stewards' Ruling SHRP 4840

(Materials include the appellant's *Motion for Rehearing/Reconsideration* beginning on page 17 of 39 and the staff response beginning on page 21 of 39.)

IN RE: THE APPEAL OF

ROMAN CHAPA FROM

STEWARDS RULING SHRP 4840

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BEFORE THE TEXAS  
RACING COMMISSION

**ROMAN CHAPA’S MOTION FOR RECONSIDERATION/REHEARING**

Now comes Roman Chapa, Movant, and requests that this Honorable Commission reconsider its Order of the Commission regarding the penalties contained in the order.

**INTRODUCTION**

Chapa files this Motion for Reconsideration/Rehearing of the TRC’s “Order of the Commission” dated April 11, 2017, and argues that the TRC’s order assessing punishment of a \$100,000 fine and five-year suspension is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion (Tex. Gov’t. Code §2001.174). A penalty of this magnitude has never been issued by the Texas Racing Commission, in spite of much more egregious violations by trainers and owners. Further, the TRC based its findings on the representation that this was a “third offense” regarding Mr. Chapa possessing an electronic shocking device. However, this is an erroneous representation by the Commission. Mr. Chapa had been found to possess an electronic shocking device on one other occasion, and the penalty imposed should be in line with other actions by the Commission based upon two violations.

**ARGUMENT**

Counsel for the Commission argued that Chapa had three violations and this is what set him apart from past offenders; however the third “violation” referred to by counsel involved a finding of inhumane treatment and did not involve an electronic shocking device. The

Commission expressly states in the order that they adopt in full the proposal for decision by the administrative law judge. The administrative law judge found that the Commission was clearly in error regarding any finding of inhumane treatment in the incident under review regarding Chapa; therefore, there was no finding in this instance of “inhumane treatment”.

In reviewing past decisions by the Texas Racing Commission as posted on their website, there are only eighteen (18) violations out of the 3,303 rulings by the Commission which involve penalties more than \$5,000. Of those eighteen, only one exceeds \$10,000; that being a fine for \$25,000 and a suspension of three years for a second violation by Trainer Servando Camacho for positive tests of Class 1 and Class 2 drugs taken from his horses after two races at Sam Houston Race Park on March 29, 2014. The horses were disqualified and the purse from both races was redistributed.

Frankly, it is clear that the Class 1 and 2 drugs administered by Mr. Camacho influenced the outcome of the race by virtue of the purse being redistributed. Neither of the two instances involving Mr. Chapa involved influence on the outcome of the race. Again, the Commission expressly states in the order that they adopt in full the finding by the administrative law judge who found the Commission was clearly in error regarding any finding of inhumane treatment because there was no evidence that an electronic shocking device was actually used in the race.

In fact, of the eighteen cases described above, the allegations break down as follows:

- 4 cases involving bribery;
- 10 cases involving the use of a Class 1 or Class 2 drug by a trainer/owner, all resulting in the purse being redistributed;
- 2 cases of finding an electronic shocking device where a device was actually found;

- 1 case of an electronic shocking device where no device was ever found (Mr. Chapa);
- 1 case of practicing veterinary medicine without a license.

Moreover, based on the above, it can only be concluded that the action by the Commission is directly related to the audacity of Mr. Chapa to challenge a Steward's ruling. Immediately after Mr. Chapa appealed the first Steward's ruling, the SHRP Steward's alleged a second violation against Mr. Chapa seeking a lifetime suspension without any effort to give him a due process hearing as required by Commission rules. Of course, the second allegation was never pursued any further when Mr. Chapa requested that the SHRP Stewards provide the evidence of the violation on which they relied to make the allegation (which was never provided).

Perhaps most telling aspect of the second allegation is that the allegation was brought forward by the SHRP Stewards just days after Mr. Chapa formerly appealed the ruling from the first allegation. One can only surmise that this was a clear act of retaliation for the legitimate exercise of Mr. Chapa's rights under TRC rules.

### **CONCLUSION AND REQUEST FOR RELIEF**

As previously discussed, the Order of the Commission assesses penalties so severe that they exceed 4 times any other penalties ever assessed by the Commission for a second violation.

For the foregoing reasons, Mr. Chapa respectfully requests that the TRC reconsider the Order of the Commission, and amend the order to reflect a \$25,000 fine and a two-year suspension running from the date of the alleged violation.

Respectfully Submitted,

Law Offices of Paul G. Vick  
Spectrum Circle

12703 Spectrum Drive, Suite 103  
San Antonio, Texas 78249  
210-735-1794  
210-733-7510 fax

**By:** //s// Paul G. Vick  
Paul G. Vick  
State Bar No. 20563950

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served on counsel for the Texas Racing Commission on the 2nd day of May 2017.

**By:** //s// Paul G. Vick  
Paul G. Vick

IN RE: THE APPEAL OF

ROMAN CHAPA FROM

STEWARDS RULING SHRP 4840

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BEFORE THE

TEXAS RACING COMMISSION

**STAFF'S RESPONSE TO ROMAN CHAPA'S MOTION  
FOR RECONSIDERATION/REHEARING**

TO THE HONORABLE MEMBERS OF THE TEXAS RACING COMMISSION:

Staff of the Texas Racing Commission files this Response to Roman Chapa's Motion for Reconsideration/Rehearing in the above-entitled and numbered case relating to Mr. Chapa's possession of an electrical shocking device during the ninth race at Sam Houston Race Park on January 17, 2015.

**Introduction**

Section 2001.146 of the Texas Government Code establishes the following requirements for motions for rehearing:

2001.146 Motions for Rehearing: Procedures

...

(g) A motion for rehearing must identify with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis for the claimed error.

In his motion, Mr. Chapa does not identify any findings of fact or conclusions of law that he wishes to challenge. He does not dispute that the evidence presented at the stewards' hearing in this matter established that he violated multiple provisions of the Texas Racing Act and agency rules. Rather, he presents a vague argument that the penalty imposed against him – a five-year suspension and \$100,000 fine – was arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. While this does not satisfy the requirements of Tex. Gov't. Code Sec. 2001.146(g), staff will nevertheless respond to Mr. Chapa's arguments.

### Analysis

First, Mr. Chapa points to the fact that the Commission has not imposed the penalty imposed against Mr. Chapa in any other case as proof, he believes, that such penalty is excessive in this case. It is a widely recognized tenet of administrative law that governmental agencies in Texas have broad discretion to determine the appropriate sanction when a violation of the licensing statute and/or rules has been established.<sup>1</sup> This is true even when the State Office of Administrative Hearings (SOAH) has recommended a penalty other than that which the agency deems appropriate, although in this case, SOAH made no such recommendation. Accordingly, the Commission was well within its authority to affirm the sanction imposed by the stewards and the executive secretary.

Moreover, the Commission has only had authority to impose a five-year suspension and \$100,000 fine since House Bill 1187 took effect on September 1, 2013. Prior to that time, the Racing Act limited suspensions to one year and fines to \$5,000. Therefore, Mr. Chapa's contention that "only" 18 rulings have included penalties of *more than* \$5,000 ignores the fact that such fines were impossible for the vast majority of the agency's existence. It might have been more useful to examine how many and what types of cases have received the maximum penalty available at the time the order was issued – although it would still be difficult to imagine how the results of such analysis could bar the Commission from imposing the maximum penalty against Mr. Chapa under the circumstances presented here.

Mr. Chapa contends that his 2015 violation should not have been penalized as harshly as it was because his violations did not involve influence on the outcome of a race, while certain other cases that resulted in lighter penalties "clearly did." In fact, that is not correct. It was not proven in the Camacho case cited by Mr. Chapa – nor, presumably, in any other case – that the licensee's conduct definitively affected the outcome of a race. As the Racing Commission's penalty guidelines (based on the penalty guidelines of the Association of Racing Commissioners International) say, various substances have the "potential to affect performance." That potential, even without proof of actual effect, is a sufficient basis to impose penalties against a licensee for a drug violation without the need to prove that the outcome was actually affected – a near impossibility in a pursuit as unpredictable as horse racing.

Mr. Chapa further argues that it is inappropriate to consider the January 17, 2015, incident as a third offense because only one of his two prior rulings for possession of a prohibited device involves an electrical shocking device (the other involved the use of a nail). However, there is no requirement that incidents be identical in order to be considered as repeat offenses. As Mr. Chapa was found to have violated the prohibition

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<sup>1</sup> *Tex. State Bd. Of Dental Exam'rs v. Brown*, 281 S.W.3d at 697-98; *Froemming v. Tex. State Bd. of Dental Exam'rs*, 380 S.W. 3d 787, 791-92 (Tex. App.—Austin 2012, no pet.); *Fay-Ray Corp. v. Tex. Alcoholic Beverage Comm'n*, 959 S.W.2d 362, 369 (Tex. App.—Austin 2012, no pet.).

in 16 TAC Sections 311.206(b) and 311.215 against *possession of a prohibited device*, this incident is indeed a third offense and was rightfully considered as such.<sup>2</sup>

Last, Mr. Chapa alleges that the severity of the penalty imposed against him was in retaliation for his "audacity...to challenge a Steward's [sic] ruling." This is simply not true. While the appeal and the additional action against Mr. Chapa occurred within similar timeframes, that was because they were triggered by the same event: the determination that Mr. Chapa had committed the very serious offense of possession of an electrical shocking device during the 2015 Richard King Stakes. That determination led Mr. Chapa to appeal the Stewards' ruling and also led the Commission's executive secretary to review the case, ultimately enhancing the penalty, and the Commission's investigative staff to launch an inquiry into previous races in which he had participated where similar violations might be identified.

### Conclusion

As outlined above, Mr. Chapa's stated reasons for seeking reconsideration and/or a rehearing of this matter are without merit. He engaged in egregious conduct, was caught, and was penalized accordingly. Although that penalty was undeniably serious, it was commensurate with Mr. Chapa's conduct. For that reason, the motion should be denied.

Respectfully submitted,  
Staff of the Texas Racing Commission



By: Devon V. Bijansky  
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Texas Racing Commission  
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<sup>2</sup> It should be noted that the 1994 ruling against Mr. Chapa for use of a nail on a horse cited different rule sections; while the numbers are different, they were substantially similar to the rules he was found to have violated in the 2015 case. Likewise, the other case took place in New Mexico, where the statutory and rule citations are different, but the essence of the conduct was the same.

**CERTIFICATE OF SERVICE**

I, Devon V. Bijansky, Deputy General Counsel for the Texas Racing Commission, hereby certify that a true and correct copy of the foregoing Response to Petitioner's Cross-Motion for Summary Disposition was sent via e-mail to Respondent's counsel, Paul Vick, at pvicklaw@aol.com on this the 11<sup>th</sup> day of May, 2017.

  
\_\_\_\_\_  
Devon V. Bijansky

## **V. PROCEEDINGS ON RACETRACKS**

Discussion, consideration and possible action on the following matter:

Approval of a Supplemental Fee to be paid by each Racing Association under Rule 309.8, Racetrack License Fees, to generate the necessary revenue to pay the Commission's costs during the remainder of Fiscal Year 2017



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

Date: June 7, 2017

To: Texas Racing Commissioners

From: Chuck Trout, Executive Director

Re: Request for Approval of Supplemental Fee

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Staff has reviewed the agency's budget and determined that the available revenue is insufficient to pay the Commission's costs of operating for the remainder of Fiscal Year 2017. In order to ensure the continuous regulation of Texas racing, I am recommending that each racing association be ordered to pay an additional 5.1834% of its total license fees for Fiscal Year 2017 in the form of a supplemental fee under Commission Rule 309.8(c)(2). Subject to your approval at the Commission's meeting on June 13, 2017, supplemental fees in accordance with the following schedule shall be due in full to the Commission no later than August 1, 2017.

Lone Star Park	\$31,943
Retama Park	\$26,112
Sam Houston Race Park	\$28,055
Laredo Downs	\$11,922
Manor Downs	\$11,922
Valle de los Tesoros	\$11,922
Gillespie County Fair	\$3,628
Gulf Coast Racing	\$18,660
Gulf Greyhound Park	\$18,660
<u>Valley Race Park</u>	<u>\$18,660</u>
<b>TOTAL</b>	<b>\$181,485</b>

Please let me or Chief Financial Officer Adrienne Courtney know if you have any questions.

## VI. PROCEEDINGS ON RULEMAKING

Discussion, consideration and possible action on the following matters:

- A. Rule Proposals. The Commission will discuss and possibly take action on proposed rule amendments addressing agency funding for Fiscal Years 2018 and 2019. The proposals may include, but are not limited to, a proposal to amend Rule 309.8, Racetrack License Fees, and a proposal to amend Rule 311.5, License Fees. If approved by the Commission, these rule proposals will be published in the Texas Register for public comment.

*(Materials to be provided separately.)*

- B. Rule Adoptions. These proposals have been published in the *Texas Register* and are eligible for adoption.
  - 1. Adoption of Amendment to Rule 311.5, License Types
  - 2. Adoption of Amendment to Rule 311.104, Trainers
  - 3. Adoption of Amendment to Rule 313.24, Records and Reports

**TEXAS RACING COMMISSION  
COMMITTEE ON RULES**

Date of Request: 3/20/17

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

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

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

Check appropriate box(es):

Personal Submission *OR*

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

Proposed Change to (if known): Chapter: 311 Rule: 5

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

Other Rules Affected by Proposal (if any): Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

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

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

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

Statutory Authority for Proposed Change: §3.02 and §7.02

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

Commission Rule 311.2(d)(2) states:

An occupational licensee may not act in any capacity other than that for which he or she is licensed.

This proposal would address the issue of individuals who are licensed only as an exercise rider or as a pony person but who also perform unlicensed work for a trainer as a groom.

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

Individuals licensed as a pony person or exercise rider are considered independent contractors and are licensed for those jobs alone; they are not linked to any specific trainer or employer.

Licensees licensed as grooms work for a specific trainer in caring for the horses; their applications are signed by a trainer and their license is linked to that trainer.

By working as a groom without a groom's license, these licensees expose the horses to the same risk of contamination as any other groom, but without being subject to the random drug testing program that applies to all other trainer employees. In addition, they violate the clear prohibition in the rules against acting in an unlicensed capacity.

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

The proposal would address the problem by creating two new combination license types:

- Groom/Exercise Rider, and
- Groom/Pony Person.

The licensee would benefit by being able to obtain a \$25 combination license instead of separately paying for two \$25 licenses in order to comply with Rule 311.2(d)(2).

The Commission would benefit by ensuring that all persons working as grooms are associated with their employing trainers and are therefore subject to the random human drug testing program.

## **D. Support or Opposition**

The proposal was discussed at the Rules Committee meeting on March 28, 2017, and again at the Commission meeting on April 11, 2017. No attendee spoke in opposition to the proposal and the Commission voted to publish the proposal in the *Texas Register* for public comment, where it appeared in the April 28, 2017, edition. Staff received no written comments in response to the publication. The proposal was then discussed at the Rules Committee meeting on June 6, 2017, where no attendee spoke in opposition. The Committee authorized staff to bring the proposal to the full Commission for possible adoption.

## **E. Proposal**

See next page:

**CHAPTER 311. OTHER LICENSES**

**SUBCHAPTER A. LICENSING PROVISIONS**

**DIVISION 1. OCCUPATIONAL LICENSES**

**Sec 311.5 License Fees**

(a)-(c) (No change.)

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

<b>Type of License</b>	<b>1 Year Fee</b>	<b>2 Year Fee</b>	<b>3 Year Fee</b>
Adoption Program Personnel	\$25		
Announcer	\$35		
Apprentice Jockey	\$75		
Assistant Farrier/Plater/Blacksmith	\$25		
Assistant Starter	\$25		
Assistant Trainer	\$100		
Assistant Trainer/Owner	\$100		
Association Assistant Management	\$50		
Association Management Personnel	\$75		
Association Officer/Director	\$100		
Association Other	\$75		
Association Staff	\$35		
Association Veterinarian	\$75		
Authorized Agent	\$15		
Chaplain	\$25		
Chaplain Assistant	\$25		
Equine Dental Provider	\$100		
Exercise Rider	\$25		
Farrier/Plater/Blacksmith	\$75		
Groom/Exercise Rider	\$25		
Groom/Hot Walker	\$25		
Groom/Pony Person	\$25		
Jockey	\$100	\$200	\$300
Jockey Agent	\$100		
Kennel	\$75		
Kennel Helper	\$25		
Kennel Owner	\$100	\$200	\$300
Kennel Owner/Owner	\$100	\$200	\$300
Kennel Owner/Owner-Trainer	\$100	\$200	\$300
Kennel Owner/Trainer	\$100	\$200	\$300
Lead-Out	\$25		
Maintenance	\$35		
Medical Staff	\$35		
Miscellaneous	\$25		
Multiple Owner	\$35	\$70	\$105
Mutuel Clerk	\$35		
Mutuel Other	\$35		
Owner	\$100	\$200	\$300
Owner-Trainer	\$100	\$200	\$300
Pony Person	\$25		
Racing Industry Representative	\$100		
Racing Industry Staff	\$30		
Racing Official	\$50		
Security Officer	\$30		
Stable Foreman	\$50		
Tattooer	\$100		
Test Technician	\$25		
Trainer	\$100	\$200	\$300
Training Facility Employee	\$30		
Training Facility General Manager	\$50		
Valet	\$25		

**CHAPTER 311. OTHER LICENSES**

**SUBCHAPTER A. LICENSING PROVISIONS**

**DIVISION 1. OCCUPATIONAL LICENSES**

Vendor Concessionaire	\$100		
Vendor/Concessionaire Employee	\$30		
Vendor/Totalisator	\$500		
Vendor/Totalisator Employee	\$50		
Veterinarian	\$100	\$200	\$300
Veterinarian Assistant	\$30		

**TEXAS RACING COMMISSION  
COMMITTEE ON RULES**

Date of Request: 1/25/17

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

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

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

**Contact Information:**

Name:	Racing Staff	Phone(s):	(512) 833-6699
E-mail address:	<a href="mailto:info@txrc.texas.gov">info@txrc.texas.gov</a>	Fax number:	(512) 833-6907
Mailing address:			

Check appropriate box(es):

Personal Submission *OR*

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

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

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

Other Rules Affected by Proposal (if any): Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

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

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

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

Statutory Authority for Proposed Change: TRA § 3.02

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

The posted rule proposal addresses two issues. These are:

- 1) The Commission's need for more information about which licensees are present on the backside of a racetrack in order to implement an effective random drug testing program.
- 2) Staff's review of the ARCI model rules has identified a potential improvement to TxRC's rules. The proposal would require that a disciplined trainer notify his or her clients of any suspension or revocation assessed against him.

## **B. Discussion of the Two Issues and Problems**

- 1) The recent increase in positive human drug tests show that drug use is a problem among certain licensees. Further, the recent increase in methamphetamine positives in equine samples raises the possibility that some licensees may be contaminating horses through their handling of them.

Commission Rule 311.303, Method of Selection, provides that the executive secretary may select occupational licensees for drug testing using a method of random selection. Other states have adopted drug testing programs that target the gate crew, test barn staff, pony persons, trainers, jockeys, and the grooms that bring horses to the test barn. However, there are licensees who these programs miss. In particular, assistant trainers and stable foremen avoid testing under these programs, and grooms may avoid them merely by refraining from bringing horses to the test barn.

Further, Commission Rule 311.104(c) provides that trainers' employees are not permitted in the stable area unless they are doing work for the trainer. Currently, TRC staff have no record showing which employees are working for which trainers at any particular time, so this rule is difficult to enforce.

- 2) ARCI Model Rule ARCI-008-020, Trainers, addresses eligibility requirements to become a trainer and the responsibilities of trainers, including the duty to notify one's clients if a trainer is suspended or revoked. On past occasions, staff has received calls from owners asking about the status of purse payouts and inquiring as to why their horses have not been entered into races, only to learn from staff that the purse has been redistributed and/or that the trainer is currently ineligible to participate due to disciplinary rulings.

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

- 1) In order to adopt an effective system for randomly drug testing all licensees who handle the racehorses, TRC requires a list of all licensees who are regularly present in an association's stable area. Staff proposes that the trainers maintain a list of current employees with the licensing office and be required to promptly update the list when any change in personnel occurs. This is a similar system to that already used in greyhound racing, where kennel owners are subject to the same requirements under Rule 311.103(b). This list will also enable staff to know when trainer employees are no longer employed and attempt to either reclaim the badge or replace the badge with one that does not allow access to any secured areas.

2) The relevant portion of the model rule provides:

*A trainer is responsible for notifying horse owners upon the revocation or suspension of his/her trainer's license.*

The Commission's proposal also includes denial of a license, such as for a trainer licensed in another state who comes to Texas to race but is deemed ineligible for a license here.

The impact on licensees should be minimal, as trainers are already required to stop training when their licenses are suspended or revoked, so in most cases they are already promptly notifying their owners so that the horses can be transferred to another trainer. By specifically requiring trainers to notify owners, the Commission will ensure that owners are promptly notified and able to attend to the situation.

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

1) At the Rules Committee's meeting on September 27, 2016, industry representatives expressed concern that some backside employees quit without giving notice to the trainer or leave without notice for days and then reappear later. Without being able to know when an employee has quit, a trainer could be in violation of the "prompt notice" requirement without knowing of the employment separation himself.

Staff then revised the proposal to require the trainer to notify the Commission within 72 hours of either initiating or learning of any change. It was also amended to limit its application to the period of lockdown under Rule 309.154.

1) & 2) Both proposals were discussed at the Rules Committee's meeting on January 31, 2017, and again at the Commission meeting on February 16, 2017. No attendee spoke in opposition to the proposals and the Commission voted to publish them in the *Texas Register* for public comment, where they appeared in the March 24, 2017, edition. Staff received no written comments in response to the publication. The proposals were then discussed at the Rules Committee meeting on June 6, 2017, where no attendee spoke in opposition. The Committee authorized staff to bring the proposals to the full Commission for possible adoption.

#### **E. Proposal**

See next page.

CHAPTER 311. OTHER LICENSES

SUBCHAPTER B. SPECIFIC LICENSES

1 **§311.104. Trainers**

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

3 (g) Trainer Employees.

4 (1) A horse trainer shall provide a list to the Commission  
5 of all of the trainer's employees on association grounds during  
6 the period of continuous security service under §309.154(a)(1)  
7 (relating to Stable or Kennel Area.) The list shall include each  
8 employee's name, occupation and occupational license number. The  
9 trainer shall notify the Commission in writing within 72 hours  
10 of initiating or learning of any change.

11 (2) A trainer may not sign an application as the employer  
12 of a licensee that the trainer does not actually employ.

13 (3) [~~+1~~] A trainer may not employ an individual who is  
14 less than 16 years of age to work for the trainer on an  
15 association's grounds.

16 (4) [~~+2~~] A trainer may not employ a jockey to prevent the  
17 jockey from riding in a race.

18 (h) (No change.)

19 (i) Suspended, Revoked or Ineligible Horse Trainers.

20 (1) Upon the suspension, revocation or denial of a  
21 trainer's license, the trainer shall notify each owner for whom  
22 he or she trains horses of the suspension, revocation or denial.

23 (2) [~~+1~~] A person may not assume the responsibilities of a  
24 horse trainer who is ineligible to be issued a license or whose  
25 license is suspended or revoked if the person is related to the  
26 trainer within the first degree of consanguinity or affinity.

**CHAPTER 311. OTHER LICENSES**

**SUBCHAPTER B. SPECIFIC LICENSES**

1        (3) [~~+2~~] A person who assumes the care, custody, or  
2 control of the horses of a suspended, revoked or ineligible  
3 horse trainer may not:

4            (A) receive any compensation regarding those horses  
5 from the suspended, revoked or ineligible trainer;

6            (B) pay any compensation regarding those horses to the  
7 suspended, revoked or ineligible trainer;

8            (C) solicit or accept a loan of anything of value from  
9 the suspended, revoked or ineligible trainer; or

10           (D) use the firm or individual name of the suspended,  
11 revoked or ineligible trainer when billing customers.

12        (4) [~~+3~~] A person who assumes the care, custody, or  
13 control of the horses of a suspended, revoked or ineligible  
14 trainer is directly responsible for all financial matters  
15 relating to the care, custody, or control of the horses.

16        (5) [~~+4~~] On request by the Commission, a suspended, re-  
17 voked or ineligible trainer or a person who assumes the care,  
18 custody, or control of the horses of a suspended, revoked or  
19 ineligible trainer shall permit the Commission to examine all  
20 financial or business records to ensure compliance with this  
21 section.

22        (j) - (k) (No change.)

**TEXAS RACING COMMISSION  
COMMITTEE ON RULES**

Date of Request: 1/25/17

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

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

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**Contact Information:**

Name:	Racing Staff	Phone(s):	(512) 833-6699
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Mailing address:			

Check appropriate box(es):

Personal Submission *OR*

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

Proposed Change to (if known): Chapter: 313 Rule: 24

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

Other Rules Affected by Proposal (if any): Chapter: \_\_\_\_\_ Rule: \_\_\_\_\_

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

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

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

Statutory Authority for Proposed Change: TRA § 3.02

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

At the direction of the Executive Director, TRC staff compared the ARCI model rules on racing issues to the Commission's rules to identify any areas in which TRC's rules could be improved. Staff has identified a potential efficiency improvement based on the model rule regarding the report submitted to the executive director at the conclusion of a race meeting.

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

ARCI Model Rule ARCI-006-015, Stewards, addresses the duties of the racing stewards and requires the presiding steward to submit a report to the executive director within seven days of a race meet's conclusion. The current TRC rules requires all of the stewards to submit this report. However, TRC typically retains only the presiding steward at a racetrack for a few days after a meet has ended; the other stewards are released and participate in preparing the report remotely. Allowing the presiding steward to complete the report independently will be more efficient and will eliminate the extra hours worked by the two other stewards.

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

The relevant portion of the model rule, ARCI 006-015(l)(3), provides:

*Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the Commission a written report regarding the race meeting. The report shall contain:*

- (a) the stewards' observations and comments regarding the conduct of the race meeting and the overall conditions of the association grounds during the race meeting; and*
- (b) any recommendations for improvement by the association or action by the Commission.*

The Commission's proposal closely tracks this language.

The only expected impact of this change is that it will be more efficient for staff to prepare the the report because it will not require the coordination and participation of all three stewards at a time when some of the stewards have left the track.

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

The proposal was discussed at the Rules Committee meeting on March 28, 2017, and again at the Commission meeting on April 11, 2017. No attendee spoke in opposition to the proposal and the Commission voted to publish the proposal in the *Texas Register* for public comment, where it appeared in the April 28, 2017, edition. Staff received no written comments in response to the publication. The proposal was then discussed at the Rules Committee meeting on June 6, 2017, where no attendee spoke in opposition. One Commissioner did express concern that the report could be submitted without the review of the other stewards, but agreed that the issue could be addressed administratively. The Committee then authorized staff to bring the proposal to the full Commission for possible adoption.

### **E. Proposal**

See next page.

CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

SUBCHAPTER A. OFFICIALS

DIVISION 2. DUTIES OF STEWARDS

1 **313.24. Records and Reports**

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

3 (c) Not later than seven days after the last day of a race  
4 meeting, the presiding steward[s] shall submit to the executive  
5 secretary a written report regarding the race meeting. The  
6 report must contain:

7 (1) the presiding steward's [~~stewards~~] observations and  
8 comments regarding the conduct of the race meeting and the  
9 overall conditions of the association grounds during the race  
10 meeting; and

11 (2) any recommendations for improvement by the association  
12 or action by the Commission and any recommendations for changes  
13 to the Rules.