



TEXAS RACING COMMISSION

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Texas Racing Commission
Tuesday, August 8, 2017
10:30 a.m.
John H. Reagan Building
105 W. 15th Street
Austin, Texas 78701

AGENDA

I. CALL TO ORDER

Roll Call

II. PUBLIC COMMENT

III. 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 MATTERS RELATED TO AGENCY FUNDING

The Commission will discuss methods of addressing agency funding for the remainder of Fiscal Year 2017 and all of Fiscal Years 2018 and 2019. The discussion will include staff's evaluation of various proposals to reduce costs. The Commission will also discuss, consider and possibly take action on the following matters:

- A. Motion for Rehearing/Motion to Overturn/Request for Reconsideration of the Adoption of a Supplemental Fee at the Commission's Meeting on June 13, 2017

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

- B. Proposal of New Rule 309.13, Annual Racetrack License Fee Supplement
- C. Proposal of Amendment to Rule 309.8, Racetrack License Fees
- D. Proposal of Amendment to Rule 311.5, License Categories and Fees

V. PROCEEDINGS ON RACETRACKS

Discussion, consideration and action on the following matter:

- A. Ownership and Management Review of Retama Park's Active Racetrack License under Commission Rule 309.53
- B. Request by Retama Park for Approval of Change in Management Committee
- C. Request by Gulf Greyhound Park to Amend its 2017-2018 Live Racing Schedule

VI. EXECUTIVE SESSION

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

- A. Under Government Code Sec. 551.071(1), the Commission may open an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer.
- B. Under Government Code Sec. 551.071(2), the Commission may open an executive session to discuss all matters identified in this agenda where the commission seeks the advice of 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.

VII. SCHEDULING OF NEXT COMMISSION MEETING

VIII. 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
Operating Budget Status
by LBB Expenditure Object/Codes

OBS-1

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 6/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 83% 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	290,229.14	63,081.25	82.15%
\$ 359,975.00	1002 Other Personnel Cost	10,311.51	7,548.29	2,763.22	73.20%
Sup Appr =	2001 Prof Fees and Services	-	199.00	(199.00)	
\$ 8,218.11	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 368,193.11	2005 Travel	5,750.00	1,618.30	4,131.70	28.14%
Budgeted =	2006 Rent Building	-	-	-	
\$ 376,680.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	7,308.10	4,559.70	2,748.40	62.39%
8,486.90	CB Computer Equipment	-	-	-	
2.36%	Total Strategy A.1.1.	376,680.00	304,154.43	72,525.57	80.75%
<i>Appropriated</i> A.2.1.	0 FTE's = 0 <u>Texas Bred Incentive</u>				
	ATB Money Expended	3,475,000.00	2,508,820.50	966,179.50	72.20%
3,475,000.00	Total Strategy A.2.1.	3,475,000.00	2,508,820.50	966,179.50	72.20%
<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	333,275.54	85,586.46	79.57%
\$ 692,204.00	1002 Other Personnel Cost	19,625.92	14,406.73	5,219.19	73.41%
Sup Appr =	2001 Prof Fees and Services	25,000.00	20,450.77	4,549.23	81.80%
\$ 8,232.86	2003 Consumables	-	-	-	
Total Appr =	2004 Utilities	-	-	-	
\$ 700,436.86	2005 Travel	60,000.00	45,297.79	14,702.21	75.50%
Budgeted =	2006 Rent Building	-	-	-	
\$ 528,348.01	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	4,860.10	3,525.16	1,334.94	72.53%
(172,088.85)	CB Computer Equipment	-	-	-	
-24.86%	Total Strategy A.3.1.	528,348.01	416,955.99	111,392.02	78.92%
<i>Appropriated</i> A.3.2.	0.15 FTE's = 3.45 <u>Monitor Occupational Licensee Act.</u>				
Base Appr =	1001 Salaries and Wages	257,186.59	215,408.48	41,778.11	83.76%
\$ 243,522.00	1002 Other Personnel Cost	18,519.76	15,142.91	3,376.85	81.77%
Sup Appr =	2001 Prof Fees and Services	2,000.00	1,681.12	318.88	84.06%
\$ -	2003 Consumables	1,000.00	593.08	406.92	59.31%
Total Appr =	2004 Utilities	-	-	-	
\$ 243,522.00	2005 Travel	45,000.00	36,209.25	8,790.75	80.47%
Budgeted =	2006 Rent Building	-	-	-	
\$ 327,473.45	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	3,767.09	2,811.96	955.13	74.65%
\$ 83,951.45	CB Computer Equipment	-	-	-	
34.47%	Total Strategy A.3.2.	327,473.45	271,846.80	55,626.65	83.01%
<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	216,150.55	181,028.98	35,121.57	83.75%
\$ 341,149.00	1002 Other Personnel Cost	7,125.25	4,861.52	2,263.73	68.23%
Sup Appr =	2001 Prof Fees and Services	115,000.00	98,780.88	16,219.12	85.90%
\$ 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	14,420.08	10,579.92	57.68%
Budgeted =	2006 Rent Building	-	-	-	
\$ 367,903.39	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	4,427.59	3,550.29	877.30	80.19%
\$ 24,632.79	CB Computer Equipment	-	-	-	
7.22%	Total Strategy A.4.1.	367,903.39	302,689.83	65,213.56	82.27%

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 6/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 83% of Year Lapsed % of Budget Expended
<i>Appropriated</i> A.4.2.	(0.60) FTE's = <u>Administer Drug Testing</u> 3.70				
Base Appr =	1001 Salaries and Wages	179,350.08	139,490.65	39,859.43	77.78%
\$ 284,898.00	1002 Other Personnel Cost	1,176.75	877.48	299.27	74.57%
Sup Appr =	2001 Prof Fees and Services	16,000.00	16,000.00	-	100.00%
\$ 3,489.82	2003 Consumables	500.00	148.81	351.19	29.76%
Total Appr =	2004 Utilities	-	-	-	
\$ 288,387.82	2005 Travel	18,170.67	10,639.46	7,531.21	58.55%
Budgeted =	2006 Rent Building	-	-	-	
\$ 221,351.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	6,153.50	2,429.98	3,723.52	39.49%
\$ (67,036.82)	CB Computer Equipment	-	-	-	
-23.53%	Total Strategy A.4.2.	221,351.00	169,586.38	51,764.62	76.61%
<i>Appropriated</i> B.1.1.	(0.80) FTE's = <u>Occupational Licensing</u> 6.30				
Base Appr =	1001 Salaries and Wages	238,029.71	188,359.97	49,669.74	79.13%
\$ 513,044.00	1002 Other Personnel Cost	8,211.15	6,795.65	1,415.50	82.76%
Sup Appr =	2001 Prof Fees and Services	-	-	-	
\$ 3,025.75	2003 Consumables	2,700.00	2,150.46	549.54	79.65%
Total Appr =	2004 Utilities	-	-	-	
\$ 516,069.75	2005 Travel	32,400.00	23,314.57	9,085.43	71.96%
Budgeted =	2006 Rent Building	-	-	-	
\$ 465,523.15	2007 Rent Machine	1,700.00	1,354.34	345.66	79.67%
Difference	2009 Other Operating Cost	182,482.30	73,962.13	108,520.17	40.53%
\$ (50,546.61)	CB Computer Equipment	-	-	-	
-9.85%	Total Strategy B.1.1.	465,523.15	295,937.12	169,586.04	63.57%
<i>Appropriated</i> B.1.2.	- FTE's = <u>Texas OnLine</u> 0				
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	13,072.00	9,428.00	58.10%
\$ -	CB Computer Equipment	-	-	-	
0.00%	Total Strategy B.1.2.	22,500.00	13,072.00	9,428.00	58.10%
<i>Appropriated</i> C.1.1.	(0.55) FTE's = <u>Monitor Wagering and Audit</u> 4.25				
Base Appr =	1001 Salaries and Wages	247,260.87	207,756.83	39,504.04	84.02%
\$ 327,375.00	1002 Other Personnel Cost	8,737.77	7,273.35	1,464.42	83.24%
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	7,115.13	11,799.43	37.62%
Budgeted =	2006 Rent Building	-	-	-	
\$ 291,341.44	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	15,428.24	9,762.01	5,666.23	63.27%
\$ (41,439.03)	CB Computer Equipment	-	-	-	
-12.66%	Total Strategy C.1.1.	291,341.44	231,907.32	59,434.12	79.60%

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 6/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 83% of Year Lapsed % of Budget Expended
<i>Appropriated</i> C.1.2.	(1.00) FTE's = 2.00 <u>Wagering & Compliance Inspections</u>				
Base Appr =	1001 Salaries and Wages	79,900.06	67,383.30	12,516.76	84.33%
\$ 167,631.00	1002 Other Personnel Cost	2,119.50	1,736.90	382.60	81.95%
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	673.90	1,025.10	39.66%
\$ (83,931.22)	CB Computer Equipment	-	-	-	
-50.07%	Total Strategy C.1.2.	85,648.56	69,831.10	15,817.46	81.53%
<i>Appropriated</i> D.1.1.	- FTE's = 7.00 <u>Central Administration</u>				
Base Appr =	1001 Salaries and Wages	419,251.36	335,371.93	83,879.43	79.99%
\$ 756,949.00	1002 Other Personnel Cost	26,329.19	23,215.36	3,113.83	88.17%
Sup Appr =	2001 Prof Fees and Services	20,175.00	5,950.63	14,224.37	29.50%
\$ 6,897.68	2003 Consumables	11,300.00	9,788.64	1,511.36	86.63%
Total Appr =	2004 Utilities	48,800.00	37,461.90	11,338.10	76.77%
\$ 763,846.68	2005 Travel	10,000.00	6,981.28	3,018.72	69.81%
Budgeted =	2006 Rent Building	97,678.31	87,246.82	10,431.49	89.32%
\$ 712,966.00	2007 Rent Machine	1,900.00	1,013.26	886.74	53.33%
Difference	2009 Other Operating Cost	77,532.13	58,532.27	18,999.86	75.49%
\$ (50,880.68)	CB Computer Equipment	-	-	-	
-6.72%	Total Strategy D.1.1.	712,966.00	565,562.09	147,403.91	79.33%
<i>Appropriated</i> D.1.2.	- FTE's = 4.80 <u>Information Resources</u>				
Base Appr =	1001 Salaries and Wages	296,062.76	214,141.74	81,921.02	72.33%
\$ 538,500.00	1002 Other Personnel Cost	29,910.04	10,663.90	19,246.14	35.65%
Sup Appr =	2001 Prof Fees and Services	91,094.15	58,614.00	32,480.15	64.34%
\$ 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	1,099.46	2,400.54	31.41%
Budgeted =	2006 Rent Building	444.00	370.00	74.00	83.33%
\$ 544,928.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	97,216.05	66,845.73	30,370.32	68.76%
\$ 4,016.27	CB Computer Equipment	23,551.00	13,268.80	10,282.20	56.34%
0.75%	Total Strategy D.1.2.	544,928.00	366,661.66	178,266.34	67.29%
<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	-	-	-	
\$ 7,419,663.00	2007 Rent Machine	-	-	-	
Difference	2009 Other Operating Cost	-	-	-	
\$ (344,835.80)	CB Computer Equipment	-	-	-	
-4.47%	Total Strategy D.1.3.	-	-	-	
\$ 4,289,499	Regulatory Program Operating Budget	3,944,663.00	3,008,204.70	936,458.29	76.26%
\$ 3,475,000	TX Bred Program Operating Budget	3,475,000.00	2,508,820.50	966,179.50	72.20%
\$ 7,764,499	Total M.O.F. (TXRC Acct. 597 & GR)	7,419,663.00	5,517,025.20	1,902,637.79	74.36%
	Total All Programs Operating Budget				

Texas Racing Commission

FYE 08/31/2017
Operating Budget Status
by LBB Expenditure Object/Codes

OBS-4

Strategy	Program Description	FY 2017 Annual Budget	FY 2017 Expended Thru 6/30/2017	FY 2017 Unexpended Bal 8/31/2017	With 83% of Year Lapsed % of Budget Expended
\$ -	(4.20) FTE's = 47.00				
<i>Appropriated</i>	Direct Expense of Regulatory Programs				
	1001 Salaries and Wages	2,705,364.37	2,172,446.56	532,917.81	80.30%
	1002 Other Personnel Cost	132,066.85	92,522.09	39,544.76	70.06%
	2001 Prof Fees and Services	269,269.15	201,676.40	67,592.75	74.90%
	2003 Consumables	19,650.00	14,377.11	5,272.89	73.17%
	2004 Utilities	49,000.00	37,471.89	11,528.11	76.47%
	2005 Travel	220,665.23	146,732.32	73,932.91	66.50%
	2006 Rent Building	98,122.31	87,616.82	10,505.49	89.29%
	2007 Rent Machine	3,600.00	2,367.60	1,232.40	65.77%
	2009 Other Operating Cost	423,374.11	239,725.13	183,648.98	56.62%
	CB Computer Equipment	23,551.00	13,268.80	10,282.20	56.34%
\$ 4,289,499	Total Direct Expense of Regulatory Program	3,944,663.00	3,008,204.70	936,458.29	76.26%
\$ 3,475,000	FTE's = - Direct Expense of TX Bred Program	3,475,000.00	2,508,820.50	966,179.50	72.20%
\$ 7,764,499	(4.20) FTE's = 47.00 Total Direct Expense of All Programs	7,419,663.00	5,517,025.20	1,902,637.79	74.36%
\$ -	Indirect Expense of All Programs				
<i>Un-Appropriated</i>	OASI Match	213,419.64	165,467.34	47,952.30	77.53%
	Group Insurance	261,500.00	231,176.48	30,323.52	88.40%
	State Retirement	221,230.33	165,185.95	56,044.38	74.67%
	Benefit Replacement	6,000.00	4,107.44	1,892.56	68.46%
	ERS Retiree Insurance	345,000.00	319,814.62	25,185.38	92.70%
	SWCAP GR Reimburse	30,000.00	-	30,000.00	0.00%
	Unemployment Cost	10,000.00	-	10,000.00	0.00%
	Other	-	-	-	-
\$ 1,087,150	Total Indirect Expense of All Programs	1,087,149.97	885,751.83	201,398.14	81.47%
\$ 8,851,649	Total Direct and Indirect Expense of All Programs	8,506,812.97	6,402,777.03	2,104,035.93	75.27%

Source Of Funds	Agency Method Of Finance	FY 2017 Projected Revenue	FY 2017 Actual Revenue Thru 6/30/2017	N/A	With 83% of Year Lapsed % of Revenue Collected
	Regulatory Program MOF:				
Acct. 597	Cash Balance Carry Forward	\$ 385,156.68	\$ 385,156.68		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	\$ 3,474,533.00		99.24%
Acct. 597	Outs	\$ -	\$ -		
Acct. 597	Occupational License Fees and Fines	\$ 679,558.00	\$ 596,841.00		87.83%
Acct. 597	Other Revenue	\$ 23,867.00	\$ 20,176.45		84.54%
Acct. 1	GR Funds	\$ -	\$ -		
	Sub-Total Regulatory Prgm. MOF	\$ 4,589,821.68	\$ 4,476,707.13		97.54%
	Texas Bred Program MOF:				
Acct. 597	Cash Balance Carry Forward	\$ -	\$ -		
Acct. 597	Breakage and 1% Exotic	\$ 3,475,000.00	\$ 2,508,820.50		72.20%
Acct. 597	Other	\$ -	\$ -		
	Sub-Total Texas Bred Prgm. MOF	\$ 3,475,000.00	\$ 2,508,820.50		72.20%
All Sources	Total MOF	\$ 8,064,821.68	\$ 6,985,527.63		86.62%
	MOF Estimated to Exceed or (Fall-Short of Covering) Direct & Indirect Expenses of Operating Budget	\$ (441,991.29)	\$ 582,750.60		



Fiscal Year 2017 Operational Budget

Updated: July 17, 2017

Thru: June 30, 2017

Summary of Operating Revenue

By Revenue Type:	Budget	Collected	Suspended	Uncollected Balance	%
Account 597 - Racing Commission - GRD	\$ 8,064,822	\$ 6,985,528	\$ -	\$ 1,079,294	13%
Account 1 - State of Texas - GR	\$ -	\$ -	\$ -	\$ -	
TOTAL - ALL REVENUES	\$ 8,064,822	\$ 6,985,528	\$ -	\$ 1,079,294	13%

Summary of Appropriated Operating Expenses

Type:	Budget	Expended	Encumbered	Unexpended Balance	%
1001 - Salaries and Wages:	\$ 2,705,364	\$ 2,172,447	\$ -	\$ 532,918	20%
1002 - Other Personnel Cost:	\$ 132,067	\$ 92,522	\$ -	\$ 39,545	30%
2001 - Professional Fees and Services:	\$ 269,269	\$ 201,676	\$ -	\$ 67,593	25%
2003 - Consumable Supplies:	\$ 19,650	\$ 14,377	\$ -	\$ 5,273	27%
2004 - Utilities:	\$ 49,000	\$ 37,472	\$ -	\$ 11,528	24%
2005 - Travel:	\$ 220,665	\$ 146,732	\$ -	\$ 73,933	34%
2006 - Rent Building:	\$ 98,122	\$ 87,617	\$ -	\$ 10,505	11%
2007 - Rent Machine and Other:	\$ 3,600	\$ 2,368	\$ -	\$ 1,232	34%
2009 - Other Operating Expense:	\$ 423,374	\$ 239,725	\$ -	\$ 183,649	43%
4000 - Grants	\$ 3,475,000	\$ 2,508,821	\$ -	\$ 966,180	28%
5000 - Capital Expenditures:	\$ 23,551	\$ 13,269	\$ -	\$ 10,282	44%
TOTAL - ALL APPROPRIATED EXPENDITURES	\$ 7,419,663	\$ 5,517,025	\$ -	\$ 1,902,638	26%

Unappropriated Operating Expenses

Type:	Budget	Expended	Encumbered	Unexpended Balance	%
TOTAL - ALL UNAPPROPRIATED EXPENDITURES	\$ 1,087,150	\$ 885,752	\$ -	\$ 201,398	19%
TOTAL - ALL EXPENDITURES	\$ 8,506,813	\$ 6,402,777	\$ -	\$ 2,104,036	25%
OPERATING SURPLUS / (DEFICIT)	\$ (441,991)	\$ 582,751			

Summary of FTE's

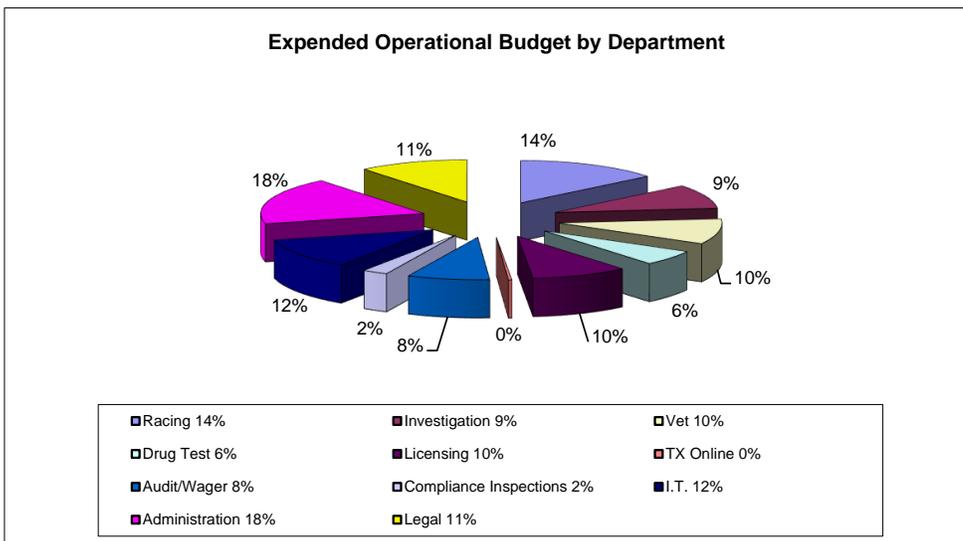
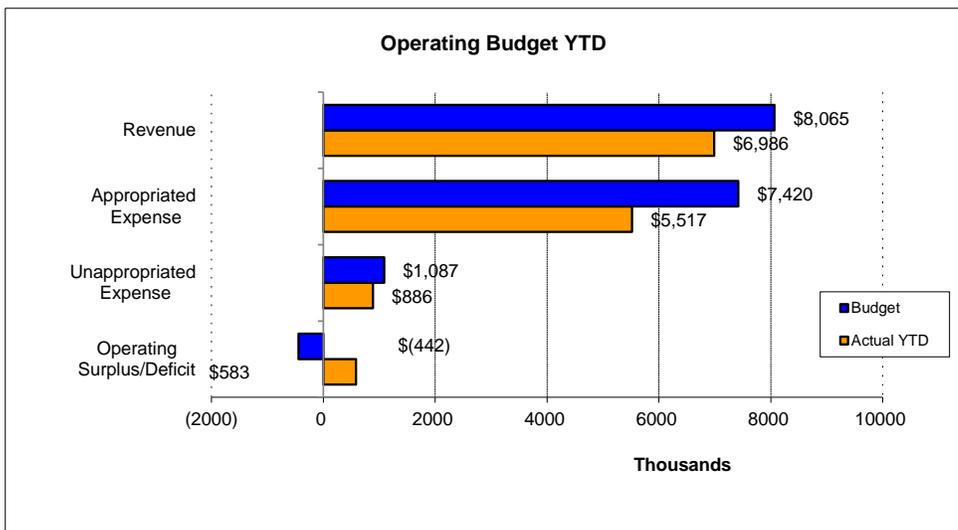
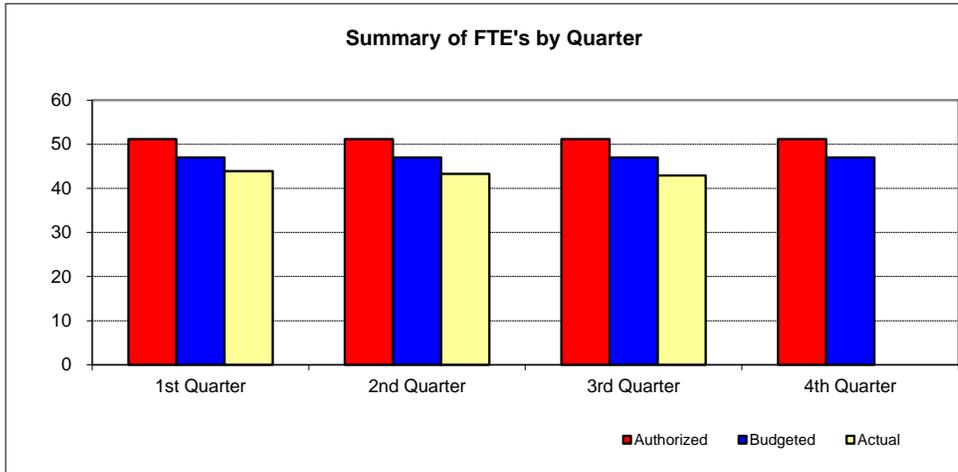
By Fiscal Quarter:	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Authorized FTE's	51.20	51.20	51.20	51.20
Budgeted FTE's	47.00	47.00	47.00	47.00
Actual FTE's	43.90	43.30	42.90	0.00
Actual FTE's Over / (Under) Budget	(3.10)	(3.70)	(4.10)	n/a
Actual FTE's Over / (Under) Authorization	(7.30)	(7.90)	(8.30)	n/a



Fiscal Year 2017 Operational Budget

Updated: July 17, 2017

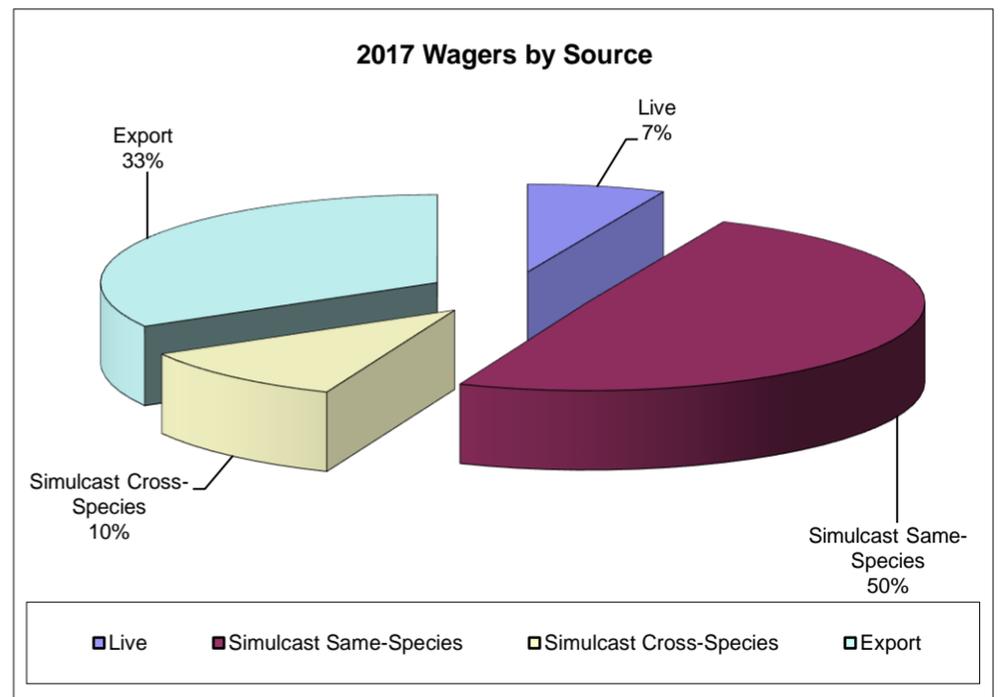
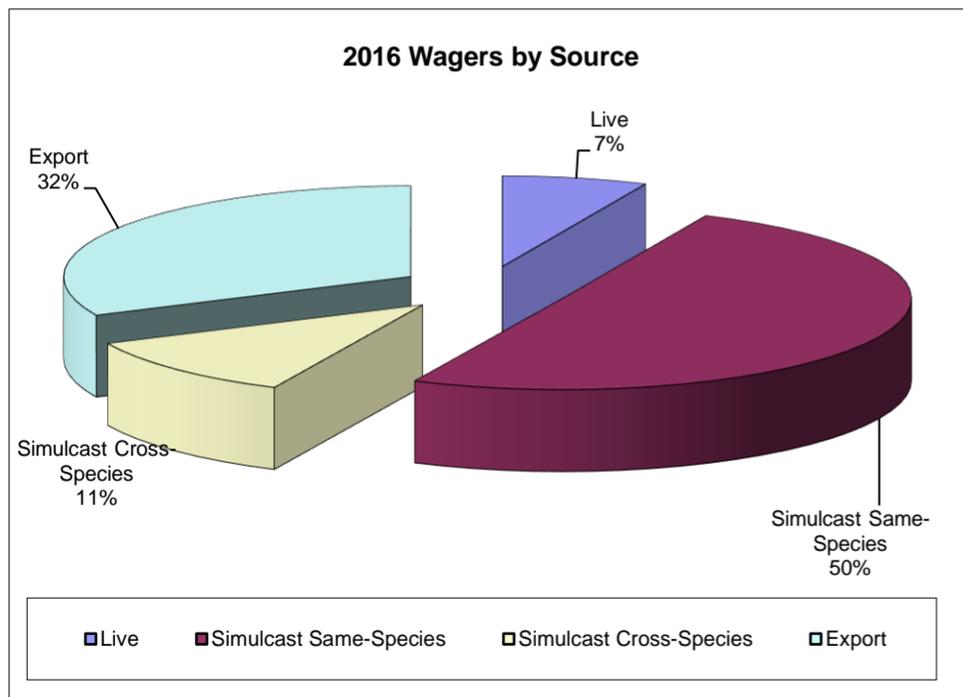
Thru: June 30, 2017





Texas Pari-Mutuel Racetracks Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races For the Period of January 1 through July 23

	Year 2016			Year 2017			Percentage Change	
	# Days	Wagers (Handle)		# Days	Wagers (Handle)		Total	Average per day
		Total	Average per day		Total	Average per day		
Greyhound Racetracks								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	530	\$ 13,913,443	\$ 26,252	527	\$ 12,847,024	\$ 24,378	-7.66%	-7.14%
Simulcast Cross-Species	530	\$ 12,371,365	\$ 23,342	527	\$ 10,381,911	\$ 19,700	-16.08%	-15.60%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
Total Wagers		\$ 26,284,808			\$ 24,046,182		-8.52%	
Horse Racetracks								
Live	124	\$ 18,507,968	\$ 149,258	121	\$ 17,001,574	\$ 140,509	-8.14%	-5.86%
Simulcast Same-Species	732	\$ 123,153,859	\$ 168,243	728	\$ 117,463,847	\$ 161,351	-4.62%	-4.10%
Simulcast Cross-Species	733	\$ 17,686,599	\$ 24,129	728	\$ 17,335,308	\$ 23,812	-1.99%	-1.31%
Export	120	\$ 87,284,738	\$ 727,373	117	\$ 87,116,961	\$ 744,589	-0.19%	2.37%
Total Wagers		\$ 246,633,163			\$ 238,917,690		-3.13%	
All Racetracks								
Live	124	\$ 18,507,968	\$ 149,258	141	\$ 17,419,137	\$ 123,540	-5.88%	-17.23%
Simulcast Same-Species	1,262	\$ 137,067,302	\$ 108,611	1,255	\$ 130,310,871	\$ 103,833	-4.93%	-4.40%
Simulcast Cross-Species	1,263	\$ 30,057,964	\$ 23,799	1,255	\$ 27,717,219	\$ 22,085	-7.79%	-7.20%
Export	120	\$ 87,284,738	\$ 727,373	137	\$ 87,516,645	\$ 638,808	0.27%	-12.18%
Total Wagers		\$ 272,917,971			\$ 262,963,872		-3.65%	
Total Wagers Placed in Texas		\$ 185,633,233			\$ 175,447,227		-5.49%	
Total Wagers Placed on Texas Races		\$ 105,792,705			\$ 104,935,782		-0.81%	

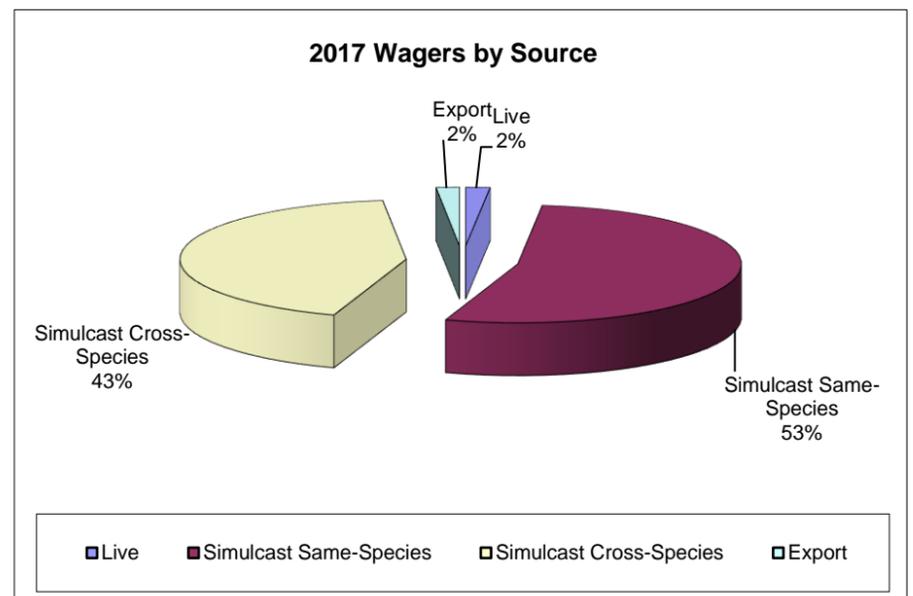
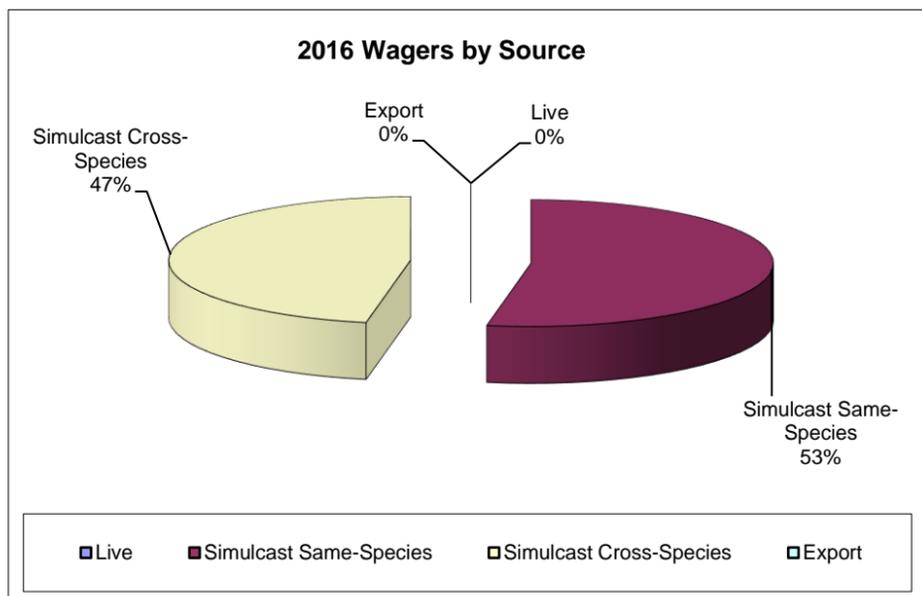




Greyhound Racetrack Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races

For the Period of January 1 through July 23

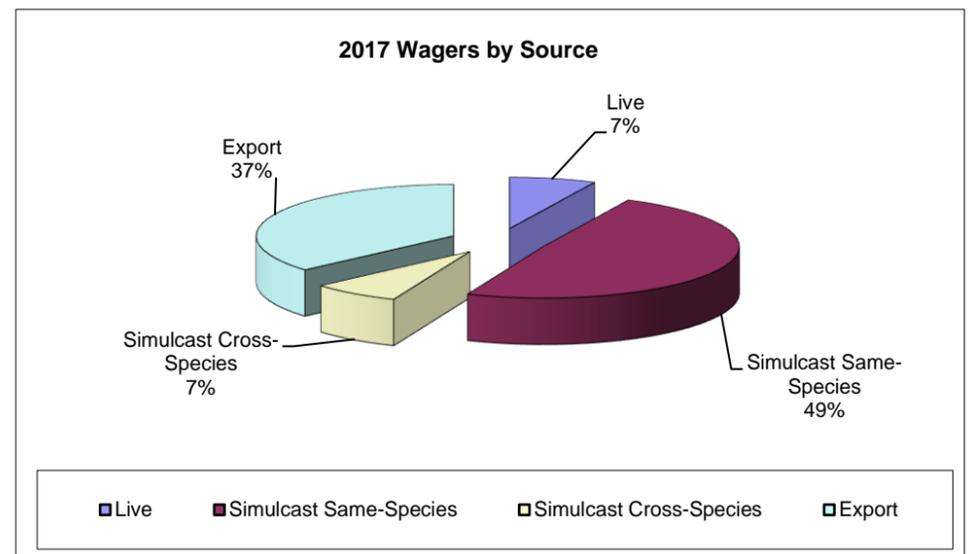
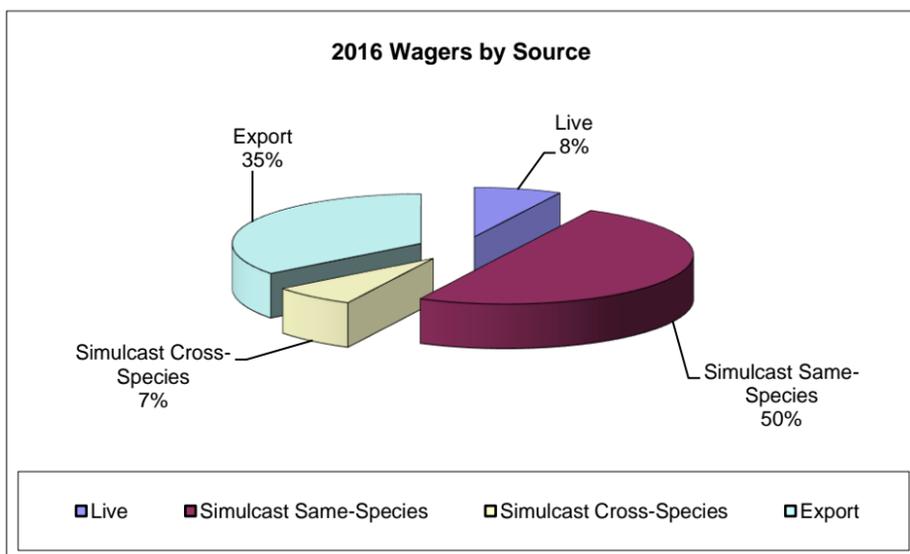
	Year 2016			Year 2017			Percentage Change	
	Wagers (Handle)			Wagers (Handle)			Wagers (Handle)	
	# Days	Total	Average per day	# Days	Total	Average per day	Total	Average per day
Gulf Coast Racing								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	149	\$ 4,044,442	\$ 27,144	147	\$ 3,896,302	\$ 26,505	-3.66%	-2.35%
Simulcast Cross-Species	149	\$ 2,358,112	\$ 15,826	147	\$ 1,941,147	\$ 13,205	-17.68%	-16.56%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Total Wagers		\$ 6,402,554			\$ 5,837,449		-8.83%	
Gulf Greyhound Park								
Live	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Simulcast Same-Species	205	\$ 6,149,682	\$ 29,998	204	\$ 5,609,218	\$ 27,496	-8.79%	-8.34%
Simulcast Cross-Species	205	\$ 6,344,104	\$ 30,947	204	\$ 5,395,400	\$ 26,448	-14.95%	-14.54%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Total Wagers		\$ 12,493,786			\$ 11,004,617		-11.92%	
Valley Race Park								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	176	\$ 3,719,319	\$ 21,132	176	\$ 3,341,504	\$ 18,986	-10.16%	-10.16%
Simulcast Cross-Species	176	\$ 3,669,149	\$ 20,847	176	\$ 3,045,364	\$ 17,303	-17.00%	-17.00%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
Total Wagers		\$ 7,388,468			\$ 7,204,115		-2.50%	
All Greyhound Tracks								
Live	0	\$ -	\$ -	20	\$ 417,563	\$ 20,878	N/A	N/A
Simulcast Same-Species	530	\$ 13,913,443	\$ 26,252	527	\$ 12,847,024	\$ 24,378	-7.66%	-7.14%
Simulcast Cross-Species	530	\$ 12,371,365	\$ 23,342	527	\$ 10,381,911	\$ 19,700	-16.08%	-15.60%
Export	0	\$ -	\$ -	20	\$ 399,684	\$ 19,984	N/A	N/A
Total Wagers		\$ 26,284,808			\$ 24,046,182		-8.52%	
Total Wagers Placed in Texas		\$ 26,284,808			\$ 23,646,498		-10.04%	
Total Wagers Placed on Texas Races		\$ -			\$ 817,247		N/A	





Horse Racetrack Wagering Statistics Comparison Report on Total Wagers Placed in Texas & on Texas Races For the Period of January 1 through July 23

	Year 2016			Year 2017			Percentage Change	
	# Days	Wagers (Handle)		# Days	Wagers (Handle)		Total	Average per day
Gillespie County Fair								
Live	4	\$ 491,057	\$ 122,764	4	\$ 578,587	\$ 144,647	17.82%	17.82%
Simulcast Same-Species	119	\$ 1,744,619	\$ 14,661	116	\$ 1,802,422	\$ 15,538	3.31%	5.99%
Simulcast Cross-Species	119	\$ 219,729	\$ 1,846	116	\$ 278,369	\$ 2,400	26.69%	29.96%
Export	0	\$ -	\$ -	0	\$ -	\$ -	0.00%	0.00%
Total Wagers		\$ 2,455,405			\$ 2,659,378		8.31%	
Lone Star Park								
Live	50	\$ 11,218,349	\$ 224,367	46	\$ 10,491,735	\$ 228,081	-6.48%	1.66%
Simulcast Same-Species	205	\$ 59,839,067	\$ 291,898	204	\$ 60,653,486	\$ 297,321	1.36%	1.86%
Simulcast Cross-Species	205	\$ 3,441,495	\$ 16,788	204	\$ 3,629,228	\$ 17,790	5.45%	5.97%
Export	50	\$ 30,403,800	\$ 608,076	46	\$ 32,200,165	\$ 700,004	5.91%	15.12%
Total Wagers		\$ 104,902,711			\$ 106,974,614		1.98%	
Retama Park								
Live	14	\$ 1,336,798	\$ 95,486	14	\$ 1,135,804	\$ 81,129	-15.04%	-15.04%
Simulcast Same-Species	205	\$ 22,277,095	\$ 108,669	204	\$ 20,332,868	\$ 99,671	-8.73%	-8.28%
Simulcast Cross-Species	205	\$ 4,282,054	\$ 20,888	204	\$ 3,993,471	\$ 19,576	-6.74%	-6.28%
Export	14	\$ 2,682,517	\$ 191,608	14	\$ 2,433,316	\$ 173,808	-9.29%	-9.29%
Total Wagers		\$ 30,578,463			\$ 27,895,459		-8.77%	
Sam Houston Race Park								
Live	56	\$ 5,461,764	\$ 97,532	57	\$ 4,795,448	\$ 84,131	-12.20%	-13.74%
Simulcast Same-Species	203	\$ 39,293,078	\$ 193,562	204	\$ 34,675,071	\$ 169,976	-11.75%	-12.19%
Simulcast Cross-Species	204	\$ 9,743,321	\$ 47,761	204	\$ 9,434,240	\$ 46,246	-3.17%	-3.17%
Export	56	\$ 54,198,421	\$ 967,829	57	\$ 52,483,480	\$ 920,763	-3.16%	-4.86%
Total Wagers		\$ 108,696,584			\$ 101,388,239		-6.72%	
All Horse Tracks								
Live	124	\$ 18,507,968	\$ 149,258	121	\$ 17,001,574	\$ 140,509	-8.14%	-5.86%
Simulcast Same-Species	732	\$ 123,153,859	\$ 168,243	728	\$ 117,463,847	\$ 161,351	-4.62%	-4.10%
Simulcast Cross-Species	733	\$ 17,686,599	\$ 24,129	728	\$ 17,335,308	\$ 23,812	-1.99%	-1.31%
Export	120	\$ 87,284,738	\$ 727,373	117	\$ 87,116,961	\$ 744,589	-0.19%	2.37%
Total Wagers		\$ 246,633,163			\$ 238,917,690		-3.13%	
Total Wagers Placed in Texas		\$ 159,348,425			\$ 151,800,729		-4.74%	
Total Wagers Placed on Texas Races		\$ 105,792,705			\$ 104,118,535		-1.58%	



INSPECTION REPORT

Summary of Inspections Performed For the Period of June 1, 2017 through July 31, 2017					
Track	Area of Inspection	Date of Inspection	Number of Unsatisfactory Items	Track Remediation	Remaining Unsatisfactory Items
Gillespie County Fair	Wagering	6/23/2017	0		
	Administrative	6/23/2017	0		
	Racing	6/29/2017	0		
	Security	6/30/2017	0		
	Veterinary	6/29/2017	0		
Gillespie Race Barn	Administrative	6/30/2017	0		
	Wagering	6/30/2017	2	Pending	2
	Wagering	7/6/2017	2	(Follow-up from 6/30/17)	0
Valley Race Park	Wagering	7/7/2017	5	(Follow-up from 5/19/17)	0
Retama Park	Wagering	6/2/2017	0		
	Veterinary	6/8/2017	0		
	Racing	6/10/2017	0		
Gulf Coast Racing	Wagering	7/7/2017	1	(Follow-up from 5/18/17)	0

Inspection Counts by Area and Type				
Area of Inspection	Scheduled	No Notice	Follow-Up	Totals
Administrative	2			2
Racing - Judges				
Racing - Stewards	2			2
Veterinary	2			2
Safety & Security	1			1
Wagering	3		3	6
Training Center				
TOTAL INSPECTIONS	10		3	13

Important Notes Regarding Inspections at Racetracks:

- 1) Scheduled inspections typically occur before the beginning of each rae 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

Retama Park is presently running a Quarter Horse meet which concludes on August 12, 2017. Lone Star Park concluded its summer Thoroughbred meet on July 30, 2017.

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

Lone Star Park

Rulings Activity – Thoroughbred Meet – April - July 2017
(Report only includes completed rulings.)

Type of Violation	# of Rulings
Human Drug Violations Methamphetamine – 4 Marijuana - 3	7
Conduct Violations	1
Jockey – Riding Infractions	6
Jockey – Non-Riding	4
Medication Positives/Violations <u>Class 2</u> Hydroxymepivacaine - 1 <u>Class 3</u> Clenbuterol - 1 <u>Class 4</u> DMSO - 2	4
Trainer Infractions	2
Licensing	8
Human Alcohol Violations	5
Contraband	13
Total # of Rulings	50

IV. PROCEEDINGS ON MATTERS RELATED TO AGENCY FUNDING

The Commission will discuss methods of addressing agency funding for the remainder of Fiscal Year 2017 and all of Fiscal Years 2018 and 2019. The discussion will include staff's evaluation of various proposals to reduce costs. The Commission will also discuss, consider and possibly take action on the following matters:

- A. Motion for Rehearing/Motion to Overturn/Request for Reconsideration of the Adoption of a Supplemental Fee at the Commission's Meeting on June 13, 2017

IN THE MATTER OF THE

THE ADOPTION OF A

SUPPLEMENTAL FEE

2017 JUL -6 PM 3: 41

TEXAS RACING COMMISSION

BEFORE THE

TEXAS RACING COMMISSION

**MOTION FOR REHEARING/MOTION TO OVERTURN/
REQUEST FOR RECONSIDERATION**

NOW COMES LRP Group, Ltd.; Valle de los Tesoros, Ltd.; Gulf Coast Racing, LLC; and Gulf Greyhound Partners, Ltd. (collectively, "Movants")¹, and submits Motion for Rehearing/Motion to Overturn/Request for Reconsideration in the above-referenced matter (the "Motion"). In support of this timely-filed Motion, Movants respectfully submit the following:

I.

BACKGROUND

Movants are all entities that hold either a horse or a greyhound racetrack license issued by the Texas Racing Commission ("TRC" or "Commission") pursuant to its authority under the Texas Racing Act, Article 179e, Vernon's Texas Civil Statutes § 3.021. They are regulated by the TRC pursuant to the Texas Racing Act and the Rules adopted by the TRC thereunder.

On our about June 13, 2017, during a public meeting, the Executive Secretary of the TRC recommended that the Commissioners adopt a Supplemental Fee for the year 2017 pursuant to Rule 309.8(c)(2). The Commissioners voted during that meeting to impose such a Supplemental Fee for 2017. It is Movant's understanding that such fees are due by August 1, 2017.

¹ Movants are filing this Motion collectively in the interest of administrative efficiency, rather than filing four individual, identical Motions. By doing so, Movants do not take the position that the Texas Racing Commissions' actions challenged in this Motion constitute one comprehensive "contested case" adjudicating the rights of all licensed Texas racetracks collectively. Please see discussion in the Background section of this Motion for further explanation.

The TRC has admitted during work sessions with certain of the regulated entities and during the June 13, 2017 public meeting that the Supplemental Fee is necessary because the agency would be insolvent without it (i.e., the agency's operational budget otherwise would leave the agency's expenditures exceeding its revenue).

The amount of the Supplemental Fee to be paid by each of the Movants is not reflective of an analysis of agency oversight costs that can be directly attributable to a particular Movant. Rather, the TRC determined how much it needs to cover its seemingly always expanding costs, and simply divided that amount among the racetracks by category.

Procedurally, because the Supplemental Fee was not imposed as the result of a contested case or other evidentiary hearing, it is the Movants' position that it need not file this Motion in order to exhaust its administrative remedies. It is Movants' position is that they may file a direct appeal of the Supplemental Fee in Travis County District Court pursuant to the Texas Administrative Procedure Act § 2001.035, .038, and .171; the Texas Uniform Declaratory Judgment Act, Tex. Civ. Prac. & Rem. Code Chap. 37; Article 179c, Vernon's Texas Civil Statutes § 5.02; and pursuant to the Court's inherent authority to consider whether the individual Defendants' actions were *ultra vires* and/or unconstitutional. Movants file this Motion in an abundance of caution to the extent the TRC takes the position that the June 13, 2017 public meeting constituted a series of separate "contested cases" (as defined in the Administrative Procedure Act) against each individual licensed racetrack (including a separate contested case against each of the four Movants). While the four Movants are filing this as one Motion for purposes of administrative efficiency, each Movant is responding to any alleged individual decision made against them in a "contested case" (if any.)

II.
GROUND FOR REHEARING/RECONSIDERATION²

A. *The Supplemental Fee is Invalid on its Face and/or As Applied*

The Commission should rehear, reconsider and overturn the Commissioners' prior decision to adopt the Supplemental Fee.

Rule 309.8(c)(2) of the TRC's Rules allows the Executive Secretary to recommend that the Commissioners adopt a Supplemental Fee should the Executive Secretary determine the total revenue from annual fees is insufficient to pay the Commission's costs during a fiscal year. During a public meeting held June 13, 2017, the Executive Secretary recommended that the Commissioners adopt a Supplemental Fee for the year 2017 pursuant to Rule 309.8(c)(2), and the Commissioners voted during that meeting to do so. This action was improper.

Rule 309.8(c)(2) does not and cannot circumvent or supersede the rulemaking requirements found in the Administrative Procedures Act of the Texas Government Code. The adoption of the Supplemental Fee is clearly a "rule" as that term is defined by the Administrative Procedures Act:

"Rule":

(A) means a state agency statement of general applicability that:

(i) implements, interprets, or prescribes law or policy; or

(ii) describes the procedure or practice requirements of a state agency;

(B) includes the amendment or repeal of a prior rule; and

(C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

² Movants contend that it may also assert all of the points of error contained in this Motion in a suit for judicial review.

Texas Government Code § 2001.003(6). Thus, the TRC was required to adopt the Supplemental Fee by following the rulemaking requirements of the Administrative Procedures Act. If Rule 309.8(c)(2) allows the TRC to ignore those applicable statutory requirements, it is invalid on its face. Alternatively, the TRC has improperly interpreted Rule 309.8(c)(2) to give its Commissioners authority to ignore statutory rulemaking requirements, and thus Rule 309.8(c)(2) is invalid as applied to Movants.

B. *The Adoption of the Supplemental Fee Was and Ultra Vires Act*

As noted above, while Rule 309.8(c)(2) of the TRC's Rules allows the Executive Secretary to recommend that the Commission adopt a Supplemental Fee should the Executive Secretary determine the total revenue from annual fees is insufficient to pay the Commission's costs during a fiscal year, it does not and cannot circumvent the rulemaking requirements found in the Administrative Procedures Act of the Texas Government Code.

Nevertheless, the Commissioners apparently interpret Rule 309.8(c)(2) to provide them unilateral authority to impose a new fee on the regulated industry simply upon recommendation by the Executive Secretary, without engaging in any of the public input and other procedural and analytical requirements of formal rulemaking. The Commissioners are interpreting Rule 309.8(c)(2) as giving them authority to impose fees at their leisure without following statutory rulemaking requirements for those fees, which is an *ultra vires* act. No agency may pass a rule giving itself authority to ignore the rulemaking procedures and requirements established by the Texas Legislature. The Supplemental Fee is therefore both an *ultra vires* act and an invalidly promulgated rule under the Administrative Procedures Act

Under Rule 309.8(c)(2), the Executive Secretary may recommend that the Commissioners follow the statutory rulemaking process to assess a Supplemental Fee when warranted. But the Commissioners' unilateral adoption of a Supplemental Fee without the

necessary rulemaking process is beyond the scope of the Texas Racing Commission's statutory authority, and is therefore an *ultra vires* action by the Commissioners and Executive Secretary.

Furthermore, the adoption of the Supplemental Fee is not justified under Rule 307.4. That Rule addresses decision-making proceedings by the Commissioners during an open meeting, such as the approval of live race dates. Rule 307.4 does not give the Texas Racing Commission the authority to circumvent the rulemaking requirements found in the Administrative Procedures Act of the Texas Government Code.

Even if the TRC is somehow entitled to adopt an entirely new fee through an informal decision-making proceeding, it defied the requirements of Rule 307.4 itself. Subsection (a)(2) requires a "reasonable opportunity for each affected licensee and industry organization to review relevant information presented to the Commission on the matter." The TRC provided no information in support of the Supplemental Fee, other than the Executive Secretary's recommendation at the open meeting where the Supplemental Fee was adopted. The only written information provided by the TRC was information related to the agency's cash-flow issues. Subsection (a)(1) requires "reasonable notice to each affected licensee and industry organization." Although the TRC included the Supplemental Fee as part of the public meeting agenda notice published seven days before the public meeting, this sort of monumental shift in fees warrants more than seven days notice to be reasonable. Subsection (a)(3) requires "reasonable opportunity for each affected licensee and industry organization to present information to the Commission on the matter." While Movants had nominal opportunity to respond to the Supplemental Fee during the public meeting, this opportunity was effectively meaningless given the complete lack of supporting documentation for this significant action. Essentially, the Executive Secretary said in a public meeting that the agency needs more money and thus the Commissioners should impose a Supplemental Fee. This conclusory statement

provided Movants with no meaningful opportunity for response and, as a practical matter, improperly shifted the burden for justifying the Supplemental Fee off the agency's shoulders.

Section 3.02(g) requires the TRC to consider the effect of a proposed action "on the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry." Clearly, the TRC failed to do so in imposing the Supplemental Fee. There is nothing in writing indicating any such consideration was made and there was no discussion at the public meeting of the risk that the Supplemental Fee would bankrupt the entire industry, including the Texas breeders and trainers and related segments of the Texas agriculture industry.

The Commission should rehear, reconsider and overturn the Commissioners' decision to adopt the Supplemental Fee.

C. *The Supplemental Fee is Unconstitutional*

In continuing to purport to impose an illegal Supplemental Fee, the TRC is ensuring the economic failure of racetracks. A racetrack license in Texas has economic value. There are only ten Texas racetrack licenses currently in existence. They are obtained at great expense (often through a contested case hearing). For most Movants, a particular piece of property is tied to the license itself. Without that license, the value of the associated land is decreased, and certainly the license owner is deprived of its reasonable use and enjoyment of the property. Forced license relinquishment resulting from inability to pay improper and unreasonable fees constitutes a regulatory taking prohibited by Article I, Section 17 of the Texas Constitution. *See, e.g., Mayhew v. Town of Sunnyvale*, 964 S.W.2d 9222 (Tex. 1998) (takings can include unreasonable interference with use of property through negative economic impact and interference with investment-backed expectations). It is also well-established that a government-set rate or price control can be considered "confiscatory" such that it constitutes a regulatory taking. Here, the TRC has adopted illegal regulatory fees that are confiscatory.

Similarly, constitutional due process requires that government-set rates must allow a business to operate successfully at a profit reasonable to ensure financial integrity. The TRC has imposed unreasonable and illegal fees that have no relationship to the actual oversight needs of the Movants. The Supplemental Fees were adopted without following any of the rulemaking procedures required by the Texas Administrative Procedure Act and will result in the demise of the financial integrity of Movants in violation of their due process rights provided for in the Texas Constitution, Article I, Section 3.

For all or many of the same reasons, the Supplement Fees amount to an unconstitutional tax in violation of the Texas Constitution, Article 8. The Defendants are collecting “fees” that are well beyond the actual or even reasonably anticipated costs of regulation, which amounts to a tax.

The Commission should rehear, reconsider and overturn the Commissioners’ decision to adopt the Supplemental Fee.

D. The Movants Did Not Receive Proper Notice of a Contested Case Hearing

To the extent the TRC believes the June 13, 2017 meeting constituted a separate contested case against each of the Movants, the TRC failed to provide the requisite ten day notice required by the Administrative Procedure Act § 2001.051(1). Rather, only seven days notice of the public meeting was given. Finally, the TRC did not provide Movants with a written order as provided by the Administrative Procedure Act § 2001.141.

The Commission should rehear, reconsider and overturn the Commissioners’ decision to adopt the Supplemental Fee.

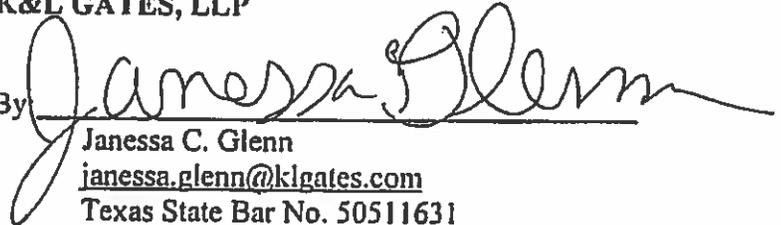
III.
RELIEF REQUESTED

WHEREFORE, Movants LRP Group, Ltd., Valle de los Tesoros, Ltd., Gulf Coast Racing, LLC and Gulf Greyhound Partners, Ltd. ask the TRC to rehear, reconsider and overturn the Commissioners' decision to adopt the Supplemental Fee.

Respectfully submitted,

K&L GATES, LLP

By


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**ATTORNEYS FOR LRP GROUP, LTD.;
VALLE DE LOS TESOROS, LTD.; GULF
COAST RACING, LLC; AND GULF
GREYHOUND PARTNERS, LTD.**

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

B. Proposal of New Rule 309.13, Annual Racetrack License Fee Supplement

C. Proposal of Amendment to Rule 309.8, Racetrack License Fees

D. Proposal of Amendment to Rule 311.5, License Categories and Fees

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

1 309.13. Annual Racetrack License Fee Supplement

2 (a) Purpose. Upon determination by the Commission that the
3 annual fees provided under §309.8 (relating to Racetrack License
4 Fees) are insufficient to pay the costs of administering and
5 enforcing the Act, the Commission may increase the annual fee to
6 be paid by each racetrack by assessing a one-time annual license
7 fee supplement.

8 (b) Fee Supplement for State Fiscal Year Ending August 31, 2018.

9 A licensed racing association shall pay a one-time annual
10 license fee supplement. The supplement is due to the Commission
11 on November 1, 2017. The license fee supplement for each
12 license type is as follows:

13 (1) for a Class 1 racetrack, \$18,713;

14 (2) for a Class 2 racetrack, \$8,608;

15 (3) for a Class 3 or 4 racetrack, \$2,620; and

16 (4) for a Greyhound racetrack, \$13,473.

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

1 **309.8. Racetrack License Fees**

2 (a) (No change.)

3 (b) Annual License Fee.

4 (1) License Fee for State Fiscal Year Ending August 31,
5 2018. A licensed racing association shall pay an annual license
6 fee. The annual license fee for each license type is as follows:

7 (A) for a Class 1 racetrack, \$562,500 [~~\$500,000~~];

8 (B) for a Class 2 racetrack, \$258,750 [~~\$230,000~~];

9 (C) for a Class 3 or 4 racetrack, \$78,750 [~~\$70,000~~];

10 and

11 (D) for a Greyhound racetrack, \$405,000 [~~\$360,000~~].

12 (2) License Fee for State Fiscal Year Beginning September
13 1, 2018, and thereafter. A licensed racing association shall
14 pay an annual license fee. The annual license fee for each
15 license type is as follows:

16 (A) for a Class 1 racetrack, \$559,880;

17 (B) for a Class 2 racetrack, \$257,545;

18 (C) for a Class 3 or 4 racetrack, \$78,383; and

19 (D) for a Greyhound racetrack, \$403,114.

20 (c) Fee Payments for State Fiscal Year Ending August 31, 2018.

21 (1) Beginning on November 1, 2017, an association that is
22 conducting live racing or simulcasting shall pay its annual
23 license fee by remitting to the Commission 1/10th of the fee
24 remaining as of November 1, 2017, on the first business day of
25 each month.

26 (2) Beginning on November 1, 2017, each association that is
27 not conducting live racing or simulcasting shall pay its annual
28 license fee by remitting to the Commission 1/3rd of the fee
29 remaining as of November 1, 2017, in three equal installments on
30 December 1, March 1, and June 1 of fiscal year 2018.

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

1 (d) Fee Payments for State Fiscal Year Beginning September 1,
2 2018, and thereafter.

3 (1)[(+2)] An association that is conducting live racing or
4 simulcasting shall pay its annual license fee by remitting to
5 the Commission 1/12th of the fee on the first business day of
6 each month.

7 (2)[(+3)] An association that is not conducting live racing
8 or simulcasting shall pay its annual license fee in four equal
9 installments on September 1, December 1, March 1, and June 1 of
10 each fiscal year.

11 (e)[(+e)] Adjustment of Fees.

12 (1) Annual fees are calculated using a projected base of
13 143 days of live horse racing and 36 [270] performances of live
14 greyhound racing per calendar year. To cover the additional
15 regulatory cost in the event additional days or performances are
16 requested by the associations the executive secretary may:

17 (A) recalculate a horse racetrack's annual fee by
18 adding \$3,750 for each live day added beyond the base;

19 (B) recalculate a greyhound racetrack's annual fee by
20 adding \$750 for each live performance added beyond the
21 base; and

22 (C) review the original or amended race date request
23 submitted by each association to establish race date
24 baselines for specific associations if needed.

25 ~~(2) If at any point the executive secretary determines the~~
26 ~~total revenue from the annual fees is insufficient to pay the~~
27 ~~Commission's costs during a fiscal year, the executive secretary~~
28 ~~shall recommend to the Commission a supplemental fee, in~~
29 ~~addition to the license fee, that each association would be~~
30 ~~required to pay to generate the necessary revenue to pay the~~
31 ~~Commission's costs.~~

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

DIVISION 1. GENERAL PROVISIONS

1 (2)~~(+3)~~ If the executive secretary determines that the
2 total revenue from the annual fees exceeds the amount needed to
3 pay those costs, the executive secretary may order a moratorium
4 on all or part of the annual license fees remitted [~~monthly~~] by
5 any or all of the associations. Before entering a moratorium
6 order, the executive secretary shall develop a formula for
7 providing the moratorium in an equitable manner among the
8 associations. In developing the formula, the executive secretary
9 shall consider the amount of excess revenue received by the
10 Commission, the source of the revenue, the Commission's costs
11 associated with regulating each association, the Commission's
12 projected receipts for the next fiscal year, and the
13 Commission's projected expenses during the next fiscal year.

14 (3) The annual fees that become due on September 1, 2017,
15 and October 1, 2017, shall be counted towards and be included
16 within the total annual license fee for State Fiscal Year Ending
17 August 31, 2018, that is due under paragraph (b)(1) of this
18 section.

CHAPTER 311. OTHER LICENSES

SUBCHAPTER A. LICENSING PROVISIONS

DIVISION 1. OCCUPATIONAL LICENSES

1 **Sec 311.5 License Fees**

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

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

4	Type of License	1 Year Fee	2 Year Fee	3 Year Fee
5	Adoption Program Personnel	<u>\$28.25</u> [\$25]		
6	Announcer	<u>\$39.50</u> [\$35]		
7	Apprentice Jockey	<u>\$84.50</u> [\$75]		
8	Assistant Farrier/Plater/Blacksmith	<u>\$28.25</u> [\$25]		
9	Assistant Starter	<u>\$28.25</u> [\$25]		
10	Assistant Trainer	<u>\$112.50</u> [\$100]		
11	Assistant Trainer/Owner	<u>\$112.50</u> [\$100]		
12	Association Assistant Management	<u>\$56.25</u> [\$50]		
13	Association Management Personnel	<u>\$84.50</u> [\$75]		
14	Association Officer/Director	<u>\$112.50</u> [\$100]		
15	Association Other	<u>\$84.50</u> [\$75]		
16	Association Staff	<u>\$39.50</u> [\$35]		
17	Association Veterinarian	<u>\$84.50</u> [\$75]		
18	Authorized Agent	<u>\$17.00</u> [\$15]		
19	Chaplain	<u>\$28.25</u> [\$25]		
20	Chaplain Assistant	<u>\$28.25</u> [\$25]		
21	Equine Dental Provider	<u>\$112.50</u> [\$100]		
22	Exercise Rider	<u>\$28.25</u> [\$25]		
23	Farrier/Plater/Blacksmith	<u>\$84.50</u> [\$75]		
24	Groom/Exercise Rider	<u>\$28.25</u> [\$25]		
25	Groom/Hot Walker	<u>\$28.25</u> [\$25]		
26	Groom/Pony Person	<u>\$28.25</u> [\$25]		
27	Jockey	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
28	Jockey Agent	<u>\$112.50</u> [\$100]		
29	Kennel	<u>\$84.50</u> [\$75]		
30	Kennel Helper	<u>\$28.25</u> [\$25]		
31	Kennel Owner	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]

CHAPTER 311. OTHER LICENSES

SUBCHAPTER A. LICENSING PROVISIONS

DIVISION 1. OCCUPATIONAL LICENSES

1	Kennel Owner/Owner	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
2	Kennel Owner/Owner-Trainer	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
3	Kennel Owner/Trainer	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
4	Lead-Out	<u>\$28.25</u> [\$25]		
5	Maintenance	<u>\$39.50</u> [\$35]		
6	Medical Staff	<u>\$39.50</u> [\$35]		
7	Miscellaneous	<u>\$28.25</u> [\$25]		
8	Multiple Owner	<u>\$39.50</u> [\$35]	<u>\$80.50</u> [\$70]	<u>\$120.75</u> [\$105]
9	Mutuel Clerk	<u>\$39.50</u> [\$35]		
10	Mutuel Other	<u>\$39.50</u> [\$35]		
11	Owner	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
12	Owner-Trainer	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
13	Pony Person	<u>\$28.25</u> [\$25]		
14	Racing Industry Representative	<u>\$112.50</u> [\$100]		
15	Racing Industry Staff	<u>\$33.75</u> [\$30]		
16	Racing Official	<u>\$56.25</u> [\$50]		
17	Security Officer	<u>\$33.75</u> [\$30]		
18	Stable Foreman	<u>\$56.25</u> [\$50]		
19	Tattooer	<u>\$112.50</u> [\$100]		
20	Test Technician	<u>\$28.25</u> [\$25]		
21	Trainer	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
22	Training Facility Employee	<u>\$33.75</u> [\$30]		
23	Training Facility General Manager	<u>\$56.25</u> [\$50]		
24	Valet	<u>\$28.25</u> [\$25]		
25	Vendor Concessionaire	<u>\$112.50</u> [\$100]		
26	Vendor/Concessionaire Employee	<u>\$33.75</u> [\$30]		
27	Vendor/Totalisator	<u>\$550/\$600</u> [\$500]		
28	Vendor/Totalisator Employee	<u>\$56.25</u> [\$50]		
29	Veterinarian	<u>\$112.50</u> [\$100]	<u>\$225.00</u> [\$200]	<u>\$337.50</u> [\$300]
30	Veterinarian Assistant	<u>\$33.75</u> [\$30]		

V. PROCEEDINGS ON RACETRACKS

Discussion, consideration and action on the following matter:

- A. Ownership and Management Review of Retama Park's Active Racetrack License under Commission Rule 309.53
- B. Request by Retama Park for Approval of Change in Management Committee
- C. Request by Gulf Greyhound Park to Amend its 2017-2018 Live Racing Schedule



Texas Racing Commission

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www.txrc.texas.gov

MEMORANDUM

TO: Texas Racing Commissioners
FROM: Chuck Trout, Executive Director
DATE: August 2, 2017
SUBJECT: Ownership and Management Review of Retama Park

Pursuant to Section 6.06(k) of the Racing Act, the Commission must review the ownership and management of active racetrack licenses every five years. In accordance with Section 309.53 of the Rules of Racing, which established the schedule and components of such reviews, Retama Park is subject to review this year.

The review process is as follows:

Submission Requirements:

Not later than June 30 of the year in which an association is subject to review, the association shall submit to the Commission:

- (1) copies of its current management, concession, and totalisator contracts;
- (2) a copy of its current security plan;
- (3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission:
 - (A) a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and
 - (B) a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit

those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation;

(4) a review fee of \$5,000, to be held by the Commission in the state treasury in a suspense account until the review is complete or transferred to the Texas Racing Commission Fund as costs are incurred; and

(5) any other information required by the Commission.

Commission Review

(1) The executive secretary shall prepare a report for the Commission's review summarizing:

(A) the information provided by the association under this section or under Rule 309.152, Records;

(B) the Commission's inspection reports from the prior five years; the results of any inspections or investigations conducted by the Commission as part of the review; and

(C) any other information relevant to the ownership or management of the association.

(2) The executive secretary will separately provide to the Commission the results of any background investigations conducted by the Department of Public Safety.

(3) At the conclusion of each review, the Commission:

(A) may take any action authorized under the Act or the Rules; and

(B) shall schedule the next ownership and management review of the association's license.

Retama Park submitted all of the required information and the review fee. Staff has reviewed the submission and relevant information. Following is a summary of staff's findings.

Current Ownership and Management

Retama Park's license is held by Pinnacle Retama Partners, LLC (PRLLC), a Texas limited liability company. The Commission approved Pinnacle Retama Partners' interest in the license on December 18, 2012. The property and physical facilities of Retama Park are owned by the Retama Development Corporation and are leased to PRLLC.

PRLLC is comprised of the following two members: PNK(SA) LLC – 75.5%, and RPL Holdings, Ltd. – 24.5%.

PNK(SA) LLC is a Texas limited liability company whose sole member is Pinnacle Entertainment, Inc. (Pinnacle). Pinnacle is a publicly traded company that is incorporated in Delaware.

RPL Holdings, Ltd. Is a Texas limited partnership.

PRLLC has a four member management committee, with PNK(SA) LLC holding three votes and RPL Holdings holding one vote.

The Vice President and General Manager of Retama Park is William Belcher.

Background Investigations

Each person owning an interest of at least five percent in the association and each officer, director, or management committee member is currently licensed by the Commission and, as part of the licensing process, has undergone a background check within the past three years. The background checks have not revealed any disqualifying information.

Security Plan

Retama Park has submitted a copy of its current security plan. This security plan has been reviewed and approved by the Commission's investigative staff.

Totalisator, Management and Concession Contracts

Retama Park contracts with AmTote International, Inc., for totalisator services. This contract was last reviewed and approved by the Commission at its April 14, 2015, meeting.

Retama Park contracts with PNK(SAM), LLC, for racetrack management services. PNK(SAM) is a Texas limited liability company wholly owned by Pinnacle. The contract was approved by the Commission on December 18, 2012, as part of PRLLC's acquisition of Retama Park's license.

Retama Park contracts with PNK(SAZ), LLC, for alcoholic beverage concession and management services. PNK(SAZ) is a Texas limited liability company wholly owned by Pinnacle. The contract was approved by the Commission at its meeting on February 19, 2013.

Retama Park contracts with The Bracken Store Café for the operation of an on-site restaurant. The contract was approved by the Commission at its meeting on October 11, 2016.

Financial Review

Copies of Retama Park's most recent financial statements have been provided to the Commissioners under separate cover.

Commission Inspections and Investigations

Over the past five years, Commission staff has identified the following violations during routine inspections at Retama Park:

2017 No violations

2016 321.25, Wagering Information – two vendors not licensed

321.101, Totalisator Requirements – tote company president not licensed

309.250, Test Barn – wash rack repairs needed

309.241, Barns – repairs needed

309.114, Restrooms – repairs needed

309.162, Management, Totalisator Companies, and Concessionaire Contracts – one contract requires Commission approval

2015 313.53, Mutuel Manager – mutuel manager designee approvals needed

323.2, Complaints – complaint information not in program

321.29, Mutuel Tickets and 321.31, Vouchers – information missing from tickets and vouchers

321.12, Time Synchronization – video recorder not synched

321.43, Cancellation of Win Wager – self-serve terminals missing required information

321.101, Totalisator Requirements – outdated list of employees with access to tote room, tote reports missing header information

321.23, Wagering Explanations – wagering explanations in program require correction

- 2014 321.129, Automatic Banking Machines – allowed cash withdrawals on credit cards
321.23, Wagering Explanations – wagering explanations in program require correction
- 2013 321.15, License to Provide Totalisator Services – tote contract requires Commission approval
321.23, Wagering Explanations – ticket expiration information not in program
321.411, Public Address System – system requires repair
323.2, Complaints – complaint information not in program

Management addressed these inspection issues in a timely fashion. There were two simulcasting violations in 2014 and one simulcasting violation in 2016, none of which incurred administrative penalties. There have been no other investigations or administrative penalties involving Retama Park.



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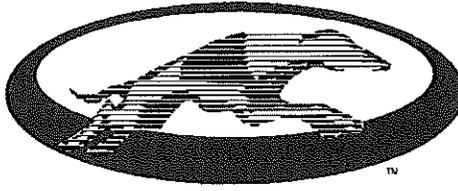
MEMORANDUM

TO: Chuck Trout, Executive Director
FROM: Jim Blodgett, Director of Investigations
DATE: August 2, 2017
Subject: Change in Management Committee of Retama Park

On June 9, 2017, the Commission received a request on behalf of Retama Park to approve the substitution of one of PNK(SA)'s member representatives on the Management Committee.

The requested change substitutes Michael J. Parenton for the current member Kevin Henson. The Department of Public Safety completed its review of Mr. Parenton on July 9, 2017, and reported that it found no disqualifying information.

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



■ GULF GREYHOUND PARK ■

Sally B. Briggs
General Manager

July 31, 2017

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

Dear Mr. Trout:

Gulf Greyhound Park respectfully requests to change our previously approved race dates of Friday, November 24, 2017 – Saturday, February 3, 2018 as follows:

December 27, 29, 30, 2017

January 3, 4, 6, 7, 10, 11, 13, 14, 15, 17, 18, 20, 21, 24, 25, 27, 28, 31, 2018

February 1, 3, 4, 7, 8, 10, 11, 14, 15, 17, 18, 19, 21, 22, 24, 2018

These dates represent a total of 36 performances which is the same amount previously requested. We feel that this time frame will be more profitable than our presently approved dates.

Thank you for considering this request.

Respectfully,

Sally B. Briggs
General Manager

C: Eric Wilson