

CHAPTER 4. ETHICS POLICY AND STANDARDS OF CONDUCT

4-1. OFFICE POLICIES AND CONDITIONS OF EMPLOYMENT

SECTION 4.1 INCLUDES THE FOLLOWING SUBSECTIONS:

- SCOPE/PREAMBLE
- TEXAS RACING COMMISSION ETHICS POLICY: STANDARDS OF CONDUCT
- STATE ETHICS POLICY FOR ALL REGULATORY AGENCIES
- PROHIBITIONS ON EMPLOYMENT UNDER THE TEXAS RACING ACT
- OTHER STANDARDS OF CONDUCT

SCOPE/PREAMBLE

The Commission is a regulatory state agency, and by law its employees are held to high standards with respect to their conduct and their relationships with the regulated population. The Commission will not tolerate behavior that in any way compromises these high standards or adversely affects the Commission's ability to effectively regulate pari-mutuel racing. Each Commission employee is expected to behave in a professional manner at all times while on duty. Each employee has a duty to avoid situations and activities in which the employee may receive an economic benefit from any of the people or entities regulated by the Commission.

Therefore, pursuant to Section 572.051(c) of the Texas Government Code, the Texas Racing Commission promulgates the following ethics policy. This ethics policy prescribes standards of conduct for all Commission employees. This ethics policy does not supersede any applicable federal or Texas law or administrative rule. In addition, the Texas Ethics Commission interprets the laws relating to standards of conduct for state employees; therefore, to the extent that any statement in this Handbook conflicts with an interpretation of the Ethics Commission, the Ethics Commission interpretation controls.

All employees of the Texas Racing Commission must abide by all applicable federal and Texas laws, administrative rules, and the Texas Racing Commission's conduct policies, including this ethics policy. An employee of the Texas Racing Commission who violates any provision of the Texas Racing Commission's conduct policies is subject to termination of the employee's state employment or another employment-related sanction. An employee of the Texas Racing Commission who violates any applicable federal or Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

ETHICS POLICY FOR THE TEXAS RACING COMMISSION: STANDARDS OF CONDUCT

For purposes of this policy, "benefit" means anything reasonably regarded as economic gain or economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, such as a friend or relative.

Determining what is a benefit depends on the facts of each case and the Commission cannot devise a rule to cover every situation that might arise. The following guidelines are intended to illustrate the principle to be applied to ensure good judgment and avoid the appearance of impropriety. Even if these guidelines permit a particular activity, however, a supervisor may impose a more strict standard for that supervisor's employees, subject to the Executive Secretary's approval.

An employee shall not engage in any activity or incur any obligation that conflicts with the employee's ability to conduct his or her duties in the public's interest. An employee shall not:

- accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties, or that the employee knows or should know is being offered with the intent to influence the employee's official conduct;
- intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another;
- disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act (Tex. Gov't Code Ann. Ch. 552), or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position, or accept other employment, including self-employment, or engage in a business, charity, nonprofit organization, or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act, or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position;
- accept other employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's official duties;
- make personal investments, or have a personal or financial interest, that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest;
- utilize state time, property, facilities, or equipment for any purpose other than official state business, unless such use is reasonable and incidental and does

not result in any direct cost to the state or the Texas Racing Commission, interfere with the employee's official duties, and interfere with the Texas Racing Commission's function;

- utilize his or her official position, or state issued items, such as a badge, indicating such position for financial gain, obtaining privileges, or avoiding consequences or illegal acts;
- knowingly make misleading statements, either oral or written, or provide false information, in the course of official state business; or
- engage in any political activity while on state time or utilize state resources for any political activity.

An employee of the Texas Racing Commission shall:

- perform his or her official duties in a lawful, professional, and ethical manner befitting the state and the Texas Racing Commission; and
- report a conduct or activity that the employee believes to be in violation of this ethics policy to the General Counsel or his/her designee or to the confidential hotline established by the Commission.

STATE ETHICS POLICY FOR ALL REGULATORY AGENCIES

Definitions.

- "Participated" means to have taken action through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action. Tex.Gov't Code Ann. § 572.054(h)(1).
- "Particular Matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, accusation, charge, arrest, or judicial or other proceeding. Tex. Gov't Code Ann. § 572.054(h)(2).
- "Business entity" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or not for profit entity. Tex. Gov't Code Ann. § 572.022(2)
- "Regulatory Agency" means any department, commission, board, or other agency, except the secretary of state and the comptroller of public accounts, that:
 - is in the executive branch of state government;
 - has authority that is not limited to a geographical portion of this state;
 - was created by the Texas Constitution or a statute of this state; and
 - has constitutional or statutory authority to engage in regulation. Tex. Gov't. Code Ann. § 572.022(8)
- A former employee of the Commission who was compensated, as of the last day of state employment, at or above the amount prescribed by the General

Appropriations Act for step 1 – salary group 17 of the position classification salary schedule, may not represent any person or entity, or receive compensation for services rendered on behalf of any person or entity, regarding a particular matter in which the former employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a matter within the employee’s official responsibility. Tex.Gov’t Code Ann. § 572.054(b)-(c).

- The above paragraph does not apply to a rulemaking proceeding that was concluded before the employee’s service or employment ceased. Tex.Gov’t Code Ann. § 572.054(d).
- An association or organization of employees of the Commission shall not solicit, accept, or agree to accept anything of value from a business entity regulated by the Commission and from which the business entity must obtain a permit to operate that business in this state or from an individual directly or indirectly connected with that business entity. Tex.Gov’t Code Ann. § 572.055(a).

PROHIBITIONS ON EMPLOYMENT UNDER THE TEXAS RACING ACT

- An association may not employ any person who has been a member of the commission, the executive secretary of the commission, or an employee employed by the commission in a position in the state employment classification plan of grade 12 or above, or any person related within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, to such a member or employee, during the one-year period immediately preceding the employment by the association. A person may not seek or accept employment with an association if the association would violate this section by employing the person. (TRA § 6.16)
- The commission may not employ or continue to employ a person:
 - who owns or controls a financial interest in a licensee of the commission;
 - who is employed by or serves as a paid consultant to a licensee of the commission, an official breed registry, or a Texas trade association, as defined by Section 2.071(c) of this Act, in the field of horse or greyhound racing or breeding;
 - who owns or leases a race animal that participates in pari-mutuel racing in this state; or
 - who accepts or is entitled to any part of the purse or Texas-bred incentive award to be paid on a greyhound or a horse in a race conducted in this state. (TRA § 2.12(b))
- The commission may not employ or continue to employ a person who is residentially domiciled with or related within the first degree by affinity or

consanguinity to a person who is subject to a disqualification prescribed by this section. (TRA § 2.12(c))

OTHER STANDARDS OF CONDUCT

PROHIBITIONS ON ACCEPTANCE OF BENEFITS, GIFTS, HONORARIA, ETC. BY PUBLIC SERVANT

Texas Penal Code Ann. § 36.08, relating to corrupt influence on public administrators and gifts to public servants, provides that a violation of the following standards constitutes a Class A misdemeanor:

- A Commission employee may not solicit, accept, or agree to accept any benefit from a person the employee knows is subject to audit, regulation, inspection, or investigation by the Commission. Texas Penal Code Ann. § 36.08(a).
- An employee may not solicit, accept, or agree to accept any benefit, directly or indirectly, from any opposing litigant, criminal defendant, or their respective legal representatives while civil litigation or a criminal prosecution involving the Commission is pending. Texas Penal Code Ann. § 36.08(c).
- An employee whose official responsibilities include the exercise of discretion on behalf of the Commission pertaining to contracts, purchases, payments, claims, or any other pecuniary transaction may not solicit, accept, or agree to accept any benefit, directly or indirectly, from any person or entity who has or who may likely have a beneficial interest in such pecuniary transactions. Texas Penal Code Ann. § 36.08(d).
- An employee whose official responsibilities include the exercise of discretion on behalf of the Commission pertaining to any disciplinary or administrative proceeding, or who participates in the enforcement of any such disciplinary or administrative decision, may not solicit, accept, or agree to accept any benefit, directly or indirectly, from any person or entity who has or may likely have a beneficial interest in the disciplinary or administrative proceeding or decision. Texas Penal Code Ann. § 36.08(e)

The Texas Penal Code provides the following exceptions to the prohibitions found in § 36.08:

- An employee may accept a gift, favor, or entertainment when the circumstances make it clear the gift was conferred due to kinship, friendship, or other relationship that exists independently of the employee's official status. Texas Penal Code Ann. § 36.10(a)(2).
- An employee may participate as an authorized representative of the Commission in an event such as a convention, conference, or special day of racing and accept reasonable benefits other than cash or cash-equivalents that are an integral part of the event, such as commemorative items of reasonable value which are publicly presented in the course of the event, as

long as the Commission or the employee has independently paid for any registration fees. Texas Penal Code Ann. § 36.10(b).

- An employee may accept a promotional item of nominal value, such as a mug or ball cap, offered by a racetrack to the general public, provided the employee obtains the item in essentially the same fashion as a member of the public. Texas Penal Code Ann. § 36.10(a)(6).
- An employee who receives an unsolicited benefit that the employee is prohibited from accepting under Penal Code § 36.08 may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes. Texas Penal Code Ann. § 36.08(i). (The Texas Racing Commission is not authorized to accept gifts.)

The following standards of conduct also apply:

- An employee may not solicit, accept, or agree to accept an honorarium in consideration for services that the employee would not have been requested to provide but for the employee's official position or duties. This section does not prohibit an employee from accepting transportation and lodging expenses in connection with a conference or similar event or from accepting meals in connection with such an event if the employee makes a speech or otherwise participates in the event as an authorized representative of the Commission. Texas Penal Code Ann. § 36.07.
- If an employee is assigned to a racetrack that sells coupons for reduced-cost concessions to track employees, the employee may purchase the coupons provided the coupons are for the employee's personal use and are obtained at the same cost and in the same manner as track employees. Texas Ethics Commission Advisory Opinion No. 66.
- A state officer may not solicit or accept from the State or any state entity a commission, fee, bonus, retainer, or rebate that is compensation for the officer's personal solicitation for the award of a contract of services or sale of goods to the State or state entity, excluding those contracts that are awarded by competitive bid as provided by law and that are not otherwise prohibited by law and court appointments. Texas Gov't Code Ann. § 572.056.

4-2. CONFLICT OF INTEREST

SECTION 4.2 INCLUDES THE FOLLOWING SUBSECTIONS:

- CONTRACTS AND BUSINESS RELATIONSHIPS
- OWNING AND/OR BREEDING OF RACE ANIMALS
- TESTIFYING AGAINST THE STATE
- USE OF OFFICIAL AUTHORITY OR INFLUENCE TO AFFECT AN ELECTION OR ACHIEVE A POLITICAL PURPOSE
- MULTIPLE EMPLOYMENT/ACTIVITY
- CONTRACTING WITH FORMER EMPLOYEES

In addition to the qualifications for employment and standards of conduct prescribed by statute, the Commission has a policy relating to conflict of interest. Due to the nature of the Commission's regulatory work, employees often develop friendships with individuals regulated by the Commission. As a general rule, an employee's personal relationships are his or her own business. However, in some instances, a relationship with a licensee, a licensee's representative, or another member of the Commission's regulated population has the potential to create an appearance of impropriety.

Each employee shall take care to ensure personal relationships do not hinder the employee's ability to perform his or her duties. Further, each employee has the duty to ensure personal relationships do not call the high standards and integrity of the Commission into question.

Therefore, to protect public confidence and the image of the Commission as an unbiased and effective regulatory body, the Executive Secretary reserves the right to take disciplinary action against an employee if the Executive Secretary, in his or her sole discretion, determines that a relationship between an employee and a person regulated by or doing business with the Commission creates an appearance of impropriety or negatively affects the Commission's ability to effectively regulate the pari-mutuel racing industry in Texas.

CONTRACTS AND BUSINESS RELATIONSHIPS

Contractual and business relationships between commission employees and licensees are prohibited, with the following exceptions:

- A Commission employee may purchase goods and/or services from a commercial vendor who is a licensee, but only on the same terms and conditions that the vendor makes these goods and/or services available to the general public, and the goods and/or services purchased must be of the type sold by the vendor in the normal course of business. This exception does not apply to the purchase of race animals.

- A Commission employee who is employed by another with the permission of the Executive Secretary may sell goods and/or services to a licensee if the goods and/or services are sold on the same terms and conditions as the employer makes available to the general public, and employee has no personal financial interest in the transaction other than regular wages, i.e., the employee receives no bonus or other financial incentive payment for making the sale.

OWNING AND/OR BREEDING OF RACE ANIMALS

TRA § 2.12(b) provides that the Commission may not employ a person who:

- owns or leases a race animal who participates in pari-mutuel racing in this state; or
- accepts or is entitled to any part of the purse or Texas-bred incentive award to be paid on a greyhound or horse in a race conducted in this state.

TRA § 2.12(c) extends the prohibitions in subsection (b) to relatives of the employee and those who are domiciled with the employee.

TESTIFYING AGAINST THE STATE

Because of an inherent conflict of interest, the Commission cannot pay salary, benefits, or expenses of an employee who is retained as or serves as an expert witness or consultant in litigation against the State, unless the employee serves on behalf of a state agency on a case in which the state agency is in litigation against another state agency.

USE OF OFFICIAL AUTHORITY OR INFLUENCE TO AFFECT AN ELECTION OR ACHIEVE A POLITICAL PURPOSE

The Texas Government Code prohibits state employees from using their official authority or influence to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. The Code does allow state employees to provide public information or to provide information responsive to a request from policymakers. Tex. Gov't Code Ann. § 556.004.

MULTIPLE EMPLOYMENT/ACTIVITY

The Commission is considered to be the primary employment for its full-time employees. Because of the Commission's position as a regulatory agency, the Commission must guard against any appearance of impropriety among its employees and any additional employment (paid or unpaid) they may hold.

Therefore, an employee who is employed by another or receives compensation, whether cash or non-cash, for work performed or services rendered to another must obtain the written permission of the Executive Secretary prior to the start of

the activity. HR Form 101 – Request for Dual Activity – should be submitted at least fourteen (14) days prior to the start date to his/her supervisor. The form with the approval of the Executive Secretary must be received by the employee prior to the start of the activity. The Executive Secretary may place reasonable conditions on any approval given for secondary employment/activity.

An employee may not use Commission equipment, supplies, or office space to further an outside employment or activity.

Additionally, the Texas Constitution, Art. XVI, §33 prohibits a person from holding more than one "civil office of emolument" at the same time. This means an employee may not also hold another position that is compensated through state funds. There are some exceptions to this general rule. An employee who plans to seek elective office, appointment to a state board, or additional employment with another state agency should consult the General Counsel to determine whether this constitutional provision would be violated.

Non-compliance with prior approval of secondary employment and/or activity may result in disciplinary action up to and including termination. A copy of the form approving the activity will be placed in the employee's official personnel file.

CONTRACTING WITH FORMER EMPLOYEES

The Commission may not enter into a contract for consulting or professional services or employment with a former employee of the agency for twelve months following the employee's termination. Texas Gov't Code § 2252.901. Employment contracts include personal services contracts regardless of whether the performance of the contract involves the traditional relationship of employer and employee.

4-3. ETHICS POLICY AND STANDARDS OF CONDUCT FOR COMMISSIONERS

(The Commissioners are solely responsible for familiarity and compliance with the provisions of the Texas Racing Act, General Appropriations Act, Texas Government Code and Texas Penal Code. All are incorporated by title and reference as set out below.)

SECTION 4.3 INCLUDES PROVISIONS FROM THE FOLLOWING STATUTES:

- TEXAS RACING ACT
- GENERAL APPROPRIATIONS ACT
- TEXAS GOVERNMENT CODE
- TEXAS PENAL CODE

SOME PROVISIONS HAVE BEEN PARAPHRASED FOR BREVITY AND CLARITY.

TEXAS RACING ACT

ELIGIBILITY (§ 2.05)

FINANCIAL STATEMENT (§ 2.06)

CONFLICT OF INTEREST (§ 2.071)

LOBBYIST RESTRICTION (§ 2.072)

GROUND FOR REMOVAL (§ 2.073)

EMPLOYMENT OF FORMER COMMISSION MEMBERS OR EMPLOYEES (§ 6.16)

GENERAL APPROPRIATIONS ACT (HB 1.80TH LEGISLATURE, 2007)

TEXAS RACING ACT APPROPRIATION (ART. VIII, P. VIII-61)

Rider 3. Each commissioner is limited to \$1,500.00 reimbursement for out-of-state travel and \$6,000 reimbursement for in-state travel for each fiscal year.

Rider 7. A commissioner is prohibited from benefiting from Texas Bred Incentive Program funds.

POLITICAL AID AND LEGISLATIVE INFLUENCE PROHIBITED (ART. IX, §6.24, P. IX-32)

(See also: Texas Government Code, Chapter 556 – Political Activities by Certain Public Entities and Individuals)

Appropriated money may not be used to influence the outcome of any election or the passage or defeat of any legislative measure. Therefore, a commissioner may not be reimbursed for travel expenses made for the purpose of lobbying for changes to the Texas Racing Act or another statute. This does not apply to

travel expenses incurred for the purpose of providing public information or to provide information responsive to a legislative request.

TEXAS GOVERNMENT CODE

CHAPTER 305 – REGISTRATION OF LOBBYISTS

The lobby statute contains several requirements relating to the reporting of expenditures made by lobbyists to influence action by a regulatory agency. A commissioner should be aware that if the commissioner accepts, food, lodging, transportation, entertainment, gifts, awards, or mementos from a registered lobbyist, the commissioner's name may appear on the lobbyist's report filed with the Ethics Commission.

CHAPTER 551 – OPEN MEETINGS

CHAPTER 556 – POLITICAL ACTIVITIES BY CERTAIN PUBLIC ENTITIES AND INDIVIDUALS

CHAPTER 572, SUBCHAPTER C

STANDARDS OF CONDUCT (§572.051)

REPRESENTATION BY FORMER OFFICER OF REGULATORY AGENCY RESTRICTED (§572.054) (Revolving Door Prohibitions – See also Texas Racing Act § 6.16 above.)

CONTRACTS BY STATE OFFICERS WITH GOVERNMENT ENTITIES (§ 572.056)

PRIVATE INTEREST IN MEASURE OR DECISION (§ 572.058)

A commissioner who has a personal or private interest in a measure, proposal, or decision pending before the commission shall publicly disclose that fact to the commission in an open meeting and may not vote or otherwise participate in the decision. A commissioner who violates this section is subject to removal from office through a lawsuit filed by the Attorney General.

CHAPTER 2001 – ADMINISTRATIVE PROCEDURE AND PRACTICE

EX PARTE CONSULTATIONS (§ 2001.061)

A commissioner who will render a decision in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to participate.

A commissioner may communicate ex parte with another member of the commission.

TEXAS PENAL CODE
CHAPTER 36 – BRIBERY AND CORRUPT INFLUENCE

BRIBERY (§ 36.02)

ACCEPTANCE OF HONORARIUM (§ 36.07)

GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION (§§ 36.08, 6.10)

CHAPTER 39 - ABUSE OF OFFICE

ABUSE OF OFFICE (§ 39.02)

OFFICIAL OPPRESSION (§ 39.03)

A commissioner acting under color of office commits a Class A misdemeanor if the commissioner:

1. intentionally subjects another to mistreatment;
2. intentionally denies or impedes another in the exercise or enjoyment of a right, privilege, power, or immunity, knowing the commissioner's conduct is unlawful; or
3. intentionally subjects another to sexual harassment.

MISUSE OF OFFICIAL INFORMATION (§ 39.06)

4-4. ETHICS POLICY AND STANDARDS OF CONDUCT FOR THE GENERAL COUNSEL'S OFFICE

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

RULE 1.05 CONFIDENTIALITY OF INFORMATION

(a) Confidential information includes both privileged information and unprivileged client information. Privileged information refers to the information of a client protected by the lawyer-client privilege of Rule 5.03 of the Texas Rules of Evidence or of Rule 5.03 of the Texas Rules of Criminal Evidence or by the principles of attorney-client privilege governed by Rule 5.01 of the Federal Rules of Evidence for United States Courts and Magistrates. Unprivileged client information means all information relating to a client or furnished by the client, other than privileged information, acquired by the lawyer during the course of or by reason of the representation of the client.

(b) Except as permitted by paragraphs (c) and (d), or as required by paragraphs (e), and (f), a lawyer shall not knowingly:

- 1) Reveal confidential information of a client or a former client to:
 - (i) a person that the client has instructed is not to receive the information; or
 - (ii) anyone else, other than the client, the client's representatives, or the members, associates, or employees of the lawyers law firm.
- 2) Use confidential information of a client to the disadvantage of the client unless the client consents after consultations.
- (3) Use confidential information of a former client to the disadvantage of the former client after the representation is concluded unless the former client consents after consultation or the confidential information has become generally known.
- (4) Use privileged information of a client for the advantage of the lawyer or of a third person, unless the client consents after consultation.

(c) A lawyer may reveal confidential information:

- (1) When the lawyer has been expressly authorized to do so in order to carry out the representation.
- (2) When the client consents after consultation.
- (3) To the client, the client's representatives, or the members, associates, and employees of the lawyers firm, except when otherwise instructed by the client.

- (4) When the lawyer has reason to believe it is necessary to do so in order to comply with a court order, a Texas Disciplinary Rule of Professional Conduct, or other law.
 - (5) To the extent reasonably necessary to enforce a claim or establish a defense on behalf of the lawyer in a controversy between the lawyer and the client.
 - (6) To establish a defense to a criminal charge, civil claim or disciplinary complaint against the lawyer or the lawyer's associates based upon conduct involving the client or the representation of the client.
 - (7) When the lawyer has reason to believe it is necessary to do so in order to prevent the client from committing a criminal or fraudulent act.
 - (8) To the extent revelation reasonably appears necessary to rectify the consequences of a clients criminal or fraudulent act in the commission of which the lawyers services had been used.
- (d) A lawyer also may reveal unprivileged client information.
- (1) When impliedly authorized to do so in order to carry out the representation.
 - (2) When the lawyer has reason to believe it is necessary to do so in order to:
 - (i) carry out the representation effectively;
 - (ii) defend the lawyer or the lawyer's employees or associates against a claim of wrongful conduct;
 - (iii) respond to allegations in any proceeding concerning the lawyers representation of the client; or
 - (iv) prove the services rendered to a client, or the reasonable value thereof, or both, in an action against another person or organization responsible for the payment of the fee for services rendered to the client.
- (e) When a lawyer has confidential information clearly establishing that a client is likely to commit a criminal or fraudulent act that is likely to result in death or substantial bodily harm to a person, the lawyer shall reveal confidential information to the extent revelation reasonably appears necessary to prevent the client from committing the criminal or fraudulent act.
- (f) A lawyer shall reveal confidential information when required to do so by Rule 3.03(a)(2), 3.03(b), or by Rule 4.01(b).

APPLICATION

1. Rule 1.05 shall apply to all confidential information of the Racing Commission.
2. Rule 1.12 shall apply to the client-lawyer relationship of the Racing Commission.