

STATE of TEXAS
HOUSE of REPRESENTATIVES

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OPINION COMMITTEE



GARNET F. COLEMAN

STATE REPRESENTATIVE
DISTRICT 147

FILE # ML-46037-09
I.D. # 46037

March 18, 2009

RQ-0789-GA

The Honorable Greg Abbott
Attorney General of Texas
Post Office Box 12548
Austin, Texas 78711-2548

Re: Request for opinion regarding (1) ownership of a Class II racetrack interest when declaratory judgments have been entered establishing ownership and (2) requirement of the Texas Racing Commission to have on file for 14 days results of a Department of Public Safety background check before considering to issue or renew a license.

Dear Attorney General Abbott,

Opinion Request #1.

A license to operate and own a Class II horse racing track in Texas was granted by the Texas Racing Commission to a corporation called Longhorn Downs, Inc., which was a wholly owned subsidiary of a group called the Austin Jockey Club, Ltd. Subsequently Dallas City Limits Property Co., LP ("DCLP") acquired one hundred percent of the stock of Longhorn Downs, Inc. Since acquiring the interest, DCLP has sought to have the Texas Racing Commission acknowledge the interest that it acquired in the licenses by substituting the names on the license for the principals of the Austin Jockey Club, Ltd. for its own principals.

DCLP has both requested the substitution and a filed an application for a license to operate a Class II track in Dallas.

One county court and another state district court have, through declaratory judgments, confirmed that AtlanGroup, LLC has acquired all rights, title and interest in DCLP.

Are declaratory judgments from a Texas state district court and a Texas county court establishing ownership interest in a company which acquired a Class II race track sufficient to establish

ownership for the purposes of substitution of ownership names on a license and/or issuance of a new license by the Texas Racing Commission?

Opinion Request #2.

Texas Racing Act Section 6.013

Sec. 6.031. Background Check.

The commission shall require a complete personal, financial, and business background check of the applicant or any person owning an interest in or exercising control over an applicant for a racetrack license, the partners, stockholders, concessionaires, management personnel, management firms, and creditors and shall refuse to issue or renew a license or approve a concession or management contract if, in the sole discretion of the commission, the background checks reveal anything which might be detrimental to the public interest or the racing industry. **The commission may not hold a hearing on the application, or any part of the application, of an applicant for a racetrack license before the completed background check of the applicant has been on file with the commission for at least 14 days.**

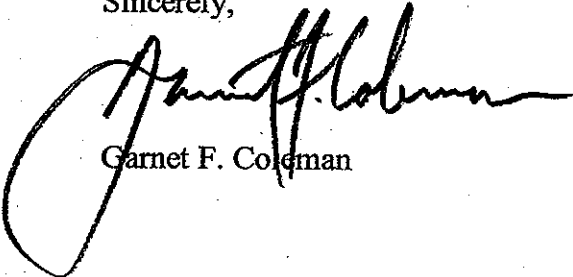
DCLP has both requested a substitution of principals names on the license and has filed a new application.

Section 6.031 of the Texas Racing Act requires all owners to go through a background check and states the Commission "shall refuse to issue or renew a license" without it.

Does Section 6.031 require the background checks be filed with the Texas Racing Commission 14 days before the substitution request can be considered by the Commission in a hearing for those who request a substitution of names or an acknowledgement of a transfer of interests in an existing track license?

General Abbott, thank you very much for your attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Garnet F. Coleman". The signature is written in a cursive style with a large, looping initial "G".

Garnet F. Coleman