

**Charles W. Drago**, Secretary

**Charlie Crist**, Governor

## MEMORANDUM

**TO:** Tom O'Donnell, President & General Manager, Calder Race Course  
Peter Berube, Vice President & General Manager, Tampa Bay Downs  
Bill Murphy, President & General Manager, Gulfstream Park

**FROM:** David J. Roberts, Director  
Division of Pari-Mutuel Wagering

**SUBJECT:** Memo re Requirements of Section 550.6305(9)(g)1., Florida Statutes

**DATE:** April 24, 2009

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For your information, please see the attached memo from Mr. Joe Helton, Chief Attorney for the Florida Division of Pari-Mutuel Wagering, regarding the requirements of Section 550.6305(9)(g)1., Florida Statutes, and potential consequences for failure to comply with the requirements of the section.


Please feel free to contact me if you have any questions.

### Attachment

**Cc:** Wilbur Brewton  
Marc Dunbar  
Robert Clark

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TO: David J. Roberts, Director, Division of Pari-mutuel Wagering  
FROM: Joseph M. Helton, Jr., Chief Attorney for Pari-mutuel Wagering   
DATE: April 24, 2009  
RE: Penalties for Failure to Redistribute Thoroughbred Racing Signal as required by  
Section 550.6305(9)(g)1., Florida Statutes

You have asked me to provide you with the potential consequences for a Florida thoroughbred pari-mutuel wagering permitholder that does not redistribute a simulcast signal received from out of state as an intertrack signal to other pari-mutuel permitholders who are authorized to conduct intertrack wagering. Florida and federal courts have ruled that Florida law requires a thoroughbred permitholder to redistribute a simulcast signal to other Florida permitholders as an intertrack signal. A permitholder that does not comply with this requirement could potentially lose its pari-mutuel permit and license, its cardroom license, and, where applicable, its slot machine license.

Section 550.6305(9)(g)(1), Florida Statutes mandates any thoroughbred permitholder which accepts wagers on a simulcast signal to make that signal available to any permitholder that is eligible to conduct inter-track wagering under the provisions of Chapter 550 of the Florida Statutes. Further, the Interstate Horse Racing Act does not authorize an out-of-state thoroughbred race track to restrict a Florida thoroughbred track receiving and conducting wagering on an out-of-state thoroughbred simulcast signal from either disseminating those signals to other Florida pari-mutuel venues or from contracting with those other venues to allow inter-state wagering on those simulcast signals.

This was explained by the Florida Supreme Court in Gulfstream Park Racing Association v. Tampa Bay Downs, 948 So. 2d 559 (Fla. 2006) and by the United States Court of Appeals for the Eleventh Circuit in Gulfstream Park Racing Association, Inc. v. Tampa Bay Downs, Inc., 479 F. 3<sup>rd</sup> 1410 (11 Cir 2007). Any permitholder which enters into any agreement with an out-of-state track which restricts a Florida thoroughbred race track receiving and conducting wagering on an out-of-state thoroughbred simulcast signal from either disseminating those signals to other Florida pari-mutuel venues or from contracting with those other venues to allow inter-track wagering on those simulcast signals violates the requirements of Chapter 550 of the Florida Statutes.

Any violations may result in the suspension or revocation of the permitholder's license pursuant to Section 550.0251(10), Florida Statutes. There are other significant consequences for a permitholder whose pari-mutuel license and permit have been either suspended or revoked. Section 551.104(4)(b), Florida Statutes, requires that a pari-mutuel permitholder located in Miami-Dade or Broward Counties remain in compliance with Chapter 550, Florida Statutes, as a condition of licensure to conduct slot machine gaming. Revocation of a pari-mutuel permit would also invalidate the permitholder's cardroom license and suspension of a pari-mutuel permit could result

in suspension of the permitholder's cardroom license under Section 849.086, Florida Statutes. Therefore, a thoroughbred permitholder's willful failure to redistribute a simulcast signal as required by Section 550.6305(9)(g)1., Florida Statutes, could result in a significant penalty.

Further, Rule 61D-2.005, Florida Administrative Code, provides that "[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other person or persons to engage in a violation of Chapter 550, Florida Statutes, or the rules promulgated thereunder, nor shall he/she commit any such act on his/her own." Thus, any Florida pari-mutuel occupational licensee whose actions result in another person violating Section 550.6305(9)(g)1., could potentially face license revocation, suspension, or fines as authorized by Section 550.0251(10), Florida Statutes, or license denial under Section 550.105(5)(b), Florida Statutes.

Please let me know if I can be of further assistance.

JMH/jmh