

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

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Department of Business and Professional Regulation Deputy Agency Clerk	
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File #	

CASE No. _____

In re: Petition for Initiate Rulemaking

FLORIDA GUEST TRACK ASSOCIATION, INC.

Petitioner.

_____ /

PETITION TO INITIATE RULEMAKING

Pursuant to the provisions of Section 120.54(7), Fla. Stat. (2012), the Petitioner, Florida Guest Track Association, Inc., hereby petitions the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, to amend current Rule 61D-9.005, Florida Administrative Code (the "Rule"), and in support of this petition states the following:

1. The affected agency is the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (the "Division"), located at Northwood Centre, 1940 Monroe Street, Tallahassee, Florida, 32399.
2. The Petitioner is Florida Guest Track Association, Inc. (the "Association") whose address is 4415 SW 52nd Circle, Suite 108, Ocala, FL 34474. For purposes of service, the Petitioner's address shall be in care of its counsel, David S. Romanik, Esq., Post Office Box 650, Oxford, Florida 34484.
4. The Association is a Florida not for profit corporation authorized to conduct business in the State of Florida. The organizational purposes of the Association are set forth in the Articles of Incorporation filed with the Department of State include

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representing and advocating the interests of its members before public bodies in matters that affect the interests of the members.

5. All of the members of the Association: (a) hold pari-mutuel permits and/or licenses issued by the Division; (b) are parties to totalisator agreements with one of the three (3) major totalisator system providers licensed by the Division and currently providing totalisator services to Florida pari-mutuel permitholders as authorized and regulated by the Division under Section 550.495 and Chapters 61D-7 and 61D-9 (the "Tote Companies"); (c) are engaged in accepting wagers at their pari-mutuel wagering facilities as a "Guest Track" on races conducted at racetracks located inside or outside the State of Florida as authorized and regulated by the Division under the "Intertrack Wagering Statutes", being Sections 550.615, 550.625 and 550.6305; (d) have their respective on-track totalisator systems linked by dedicated data lines to hub systems operated by their respective totalisator providers; and (e) are interested in insuring the absolute integrity of all aspects of the totalisator service provided to members of the Association by the Tote Companies, including the timely and accurate transfer of wagering data from their pari-mutuel facilities to and between all of the hub systems involved in the processing of any wager made and accepted at their pari-mutuel facilities under the Intertrack Wagering Statutes.

6. The interests that the Association seeks to protect through the initiation of this action are germane to the Association's organizational purposes set forth in paragraph 4 above and therefore are within the Association's general scope of interests and activity.

7. The Supreme Court has recognized that the pari-mutuel industry in Florida is a unique industry having limited participants engaged in almost identical operations.

Florida Department of Business Regulation v. Investment Corp., 747 So.2d 374 (Fla. 1999). Although under the authority of the foregoing cited decision, any of the individual members of the Association would be entitled to initiate this proceeding, the nature of the relief sought herein does not preclude the Association from fully and adequately representing the interests of its membership. *Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982).

The Rule at Issue—Rule 61D-9.005

8. The rule at issue here is Rule 61D-9.005, a copy of which is attached as Exhibit 1.

9. The current rule includes Rule 61D-9.005(3) that currently provides as follows:

(a) Each hub site shall have leased dedicated data lines to communicate with each track linked to the system. In addition the following equipment shall be in place and serve as back-up in case of emergencies:

- 1. Private phone line;**
- 2. Facsimile machine; and**
- 3. Back-up lines.**

(b) All the equipment shall be in place and in working order prior to commencement of intertrack wagering activity.

10. Historically, the totalisator service offered to Florida pari-mutuel permitholders by the Tote Companies has included data transfer services between a permitholder's facility and the permitholder's totalisator provider's hub system and between the the totalisator provider's hub system and the hub systems operated by the other Tote Companies. In this way, there was created a complete circuit of dedicated data lines under the control of the Tote Companies, all of which totalisator providers are regulated and licensed by the Division, that links all of the necessary participants in a

typical wagering accepted at a Florida pari-mutuel facility, as a Guest Track, under the Intertrack Wagering Statutes. The current rule, however, requires a licensed Florida totalisator provider operating a hub system to provide dedicated lines for only one leg of the data transmission process—viz., the transmission of data from the Florida permitholder's facility to the facility's totalisator provider's hub system. It is a matter of sound regulatory policy to insure through rulemaking the integrity of the entire process by which wagering data is transferred from and between the Florida pari-mutuel facility at which a wager under the Intertrack Wagering Statutes was accepted and all of the totalisator and/or hub systems involved in the ultimate processing of the wager. Because of the Division's vital interest in insuring the integrity of the entire process by which a wager accepted at a Florida Guest Track is processed and because the licensed Tote Companies are in the best position to arrange for and to monitor the integrity of the transmission of wagering data over data lines by and between the hub systems the Tote Companies independently operate, the suggested amendment to Rule 61D-9.005(3) provides that the totalisator service that the Tote Companies shall offer to all Florida pari-mutuel permitholders shall include the provision of, and the maintenance by, the Tote Companies of dedicated data lines between each permitholder's facility and the totalisator provider's hub system and also between the totalisator provider's hub system and the hub systems operated by the other Tote Companies. The suggested amendment to adds Rule 61D-9.005(10) that provides that the provisions of Rule 61D-9.005 shall not be waivable by contract between a permitholder and a totalisator provider.

PROPOSED AMENDMENTS TO RULE 61D-9.005

11. The Petitioner requests that the Division amend Rule 61D-9.005(3) as follows:

(3)(a) Each totalisator owner or operator licensed by the division that operates a hub-site system shall have provide, as a required component of the totalisator service provided to all Florida permitholders, leased dedicated data lines to communicate with each track that connect the hub system to both the Florida pari-mutuel facilities linked to the hub system and to the hub systems operated by the other totalisator owners or operators licensed by the division. In addition the following equipment shall be in place and serve as back-up in case of emergencies:

- 1. Private phone line;**
- 2. Facsimile machine; and**
- 3. Back-up lines.**

(b) All the equipment shall be in place and in working order prior to commencement of intertrack wagering activity.

12. The Petitioner requests that the Division amend Rule 61D-9.005 by adding thereto Rule 61D-9.005(10) as follows:

(10) No licensed totalisator owner or operator shall enter into a totalisator service agreement with a licensed Florida pari-mutuel permitholder that contains any provisions that are contrary to or that seek to waive any of the requirements of these rules or Chapter 550, FS.

WHEREFORE, the Petitioner respectfully requests initiation of rulemaking and that rules be adopted in substantially the same form as set forth in paragraphs 11 and 12 above.

DATED this 4th day of April, 2013.

David S Romanik

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EXHIBIT 1

61D-9.005 Intertrack and Interstate Wagering, Hub Systems Requirements.

(1) Any entity licensed to do business in the State of Florida as a totalisator owner or operator may apply to the division to operate a hub system for the purpose of receiving and transmitting pari-mutuel wagering data. The division shall approve an applicant once it determines that the system is programmed to comply with the pari-mutuel accounting requirements.

(2) Each hub system shall be programmed to record, classify and accumulate wagering data, and do calculations as required in the Intertrack Wagering rules and rules governing pari-mutuel wagering and shall meet the requirements of a totalisator system as defined in Rule 61D-7.024, Florida Administrative Code.

(3)(a) Each hub site shall have leased dedicated data lines to communicate with each track linked to the system. In addition the following equipment shall be in place and serve as back-up in case of emergencies:

1. Private phone line;
2. Facsimile machine; and
3. Back-up lines.

(b) All the equipment shall be in place and in working order prior to commencement of intertrack wagering activity.

(4) The hub site manager, in coordination with each guest track and its related host track, shall test the system and communication equipment. Whenever a new guest track other than a tim-to-tote guest is added, a manual merge drill will be conducted with the new guest. The hub manager shall ensure that all guest sites are familiar with manual merge procedures.

(a) The system tests shall occur not earlier than 10 days and not later than 6 hours before the following events take place:

1. The first performance of the host intertrack wagering period;
2. Implementation of changes in computer systems affecting data transmission;
3. Implementation of changes in data communication; and
4. The Division shall be notified of emergency changes within 48 hours of the change.

(b) Programming errors affecting pari-mutuel accounting, including the content of accounting reports, shall be corrected prior to commencement of the intertrack wagering activity.

(5) The authority of each permit holder's Mutuels Manager is limited only to the mutuels activity conducted by his employer and does not extend to transactions and activities conducted by any other permit holder who may be using a common totalisator or hub system. With respect to intertrack wagering, unless specifically indicated in Chapter 61D-7 or 61D-9, Florida Administrative Code:

(a) The hub managers shall receive instructions on the status of wagers only from the Florida host Mutuels Manager.

(b) Each guest track Mutuels Manager (or designee) shall monitor the intertrack wagering activity at his facility and promptly communicate any problems to the host track Mutuels Manager for a decision. Where computer problems are being experienced, both the hub manager and the host track Mutuels Manager shall be promptly informed.

(c) With respect to wagers with exchange provisions, if computer problems exist at any guest facility, the guest Mutuels Manager shall promptly notify the host track Mutuels Manager and the hub manager, and request additional time for the exchange process.

(6)(a) The hub system shall be programmed to communicate with the host totalisator and must be able to receive and relay commands from the host to start and stop betting periods.

(b) The hub site totalisator personnel shall monitor the broadcasts and ensure that the stop bet command functions are applied not later than as provided for in paragraph 61D-9.001(3)(d), Florida Administrative Code. For this purpose, the totalisator company shall have in place and in working condition one video display for each pari-mutuel facility who transmits stop bet commands through the hub site. The hub totalisator room shall be staffed with no less than two totalisator operators for each operating shift. In the event the hub system fails to receive or relay the stop bet command, the following procedures shall apply:

1. Where the hub receives wagering data from the guest tracks' totalisators, the Mutuels Manager of each guest track shall apply the stop bet command not later than the start of the contest. Corrective action will begin immediately and a report shall be submitted to the division hub personnel within 48 hours of the failure.

2. Where the hub receives wagering data from the guest tracks through terminals linked to the system, the hub site manager shall apply the stop bet command.

(c) Any wager accepted by any guest track after the contest has started shall be disallowed and the bettor will not receive any winnings related to the disallowed wager. All Mutuels Managers shall have procedures in place to ensure that mutuels tellers do not wager or place wagers after the start of a contest.

(7) In the event of a hub system error or malfunction, the hub site manager shall submit to the division a written report within 48

hours of the occurrence explaining the circumstances. The report shall include:

- (a) Cause of error or malfunction;
- (b) Corrective measures taken;
- (c) Duration of down time; and
- (d) Amount of lost wagers.

(8)(a) Where the hub site is at a pari-mutuel facility which is conducting wagering on live contests and the totalisator has the dual roles of hub system and totalisator for the track, or is a totalisator system serving remote pari-mutuel facilities which are conducting live contests, all wagering data not related to the live contests being conducted at the pari-mutuel facility or facilities shall be kept separate and the wagering data for each pari-mutuel facility conducting live events shall be kept logically separate from one another.

(b) Under no circumstances will the ability of the computers to record, classify and accumulate wagering data, do calculations or produce the required reports for the transactions related to the live contests or games be compromised.

(9) The hub system shall provide the following end of performance or end of day pari-mutuel accounting reports. All reports shall be clearly identified as to host and, where applicable, guest.

(a) Terminal activity or Machine Sales Report. The window numbers on this report shall be grouped by guest track. If this report cannot be issued separately for each host, recaps for each host performance or day are acceptable provided that detailed data can be provided upon request.

(b) Future Bets Report (by host).

(c) Tax Withholding Report (by guest and host).

(d) Outs Account Balance Report (by guest and host).

(e) List of tickets canceled via totalisator operator intervention (for each guest identifiable by host).

(f) List of tickets cashed via key board entries (for each guest identifiable by host).

(g) List of tickets canceled via teller key board entries (by guest). This report will be printed only upon request.

(h) A log of tickets purchased by the totalisator licensee (for each site, identifiable by host and guest).

(i) Outstanding Vouchers Report (by guest and host). This report will be printed only upon request.

(j) A liability report for each guest whose terminals are linked to the hub. The report shall identify the guest and host and shall contain the date, the generation time, and the guest's share of each gross pool and related refunds, commissions, winnings, and breaks. In the event that the guest is maintaining separate intertrack wagering pools there shall be separate liability summaries for both the commingled and non-commingled pools. Copies of these reports shall be provided to the division hub personnel.

(k) Where the terminal/window activity report includes cross cashing of pari-mutuel tickets, the system shall print a supplementary report summarizing the cashing activity. The supplementary report must provide the amount paid for tickets issued by each pari-mutuel facility by cashing site and issuing site and totals shall be segregated by meet if previous meets outs are included. The reporting of pari-mutuel tickets and credit vouchers shall not be commingled.

Specific Authority 550 0251(3), (7), 550 125(2)(b), 550.155(1), 550.3551(10), 550.495(4), 550.6305(5) FS Law Implemented 550 0251, 550.125, 550 155, 550 3551, 550 495, 550 615, 550 625, 550 6305 FS. History—New 10-20-96, Amended 12-15-97, 9-19-04