

1 Minnesota Racing Commission

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3 In the Matter of the Adoption of Rules of the Minnesota Racing
4 Commission Governing Class A License Application, Class A
5 License Criteria, Class B License Application, Class B License
6 Criteria, Class A and Class B License Procedures, Revocation and
7 Suspension of Licenses, Assessment of Penalties, Facilities and
8 Security Modifications, Medical Services, Care of Horses,
9 Approval of Contracts

10

11 Rules as Adopted

12 4 MCAR S 15.001 Identification of applicant for Class A license.

13 An application for a Class A license must include, on a
14 form prepared by the commission, the name, address, and
15 telephone number of the applicant and the name, position,
16 address, telephone number, and authorized signature of an
17 individual to whom the commission may make inquiry.

18 4 MCAR S 15.002 Applicant's affidavit.

19 An application for a Class A license must include, on a
20 form prepared by the commission, an affidavit of the chief
21 executive officer ~~or~~ of a major financial participant as in the
22 applicant setting forth:

23 A. that application is made for a Class A license to own and
24 operate a horse racing facility at which pari-mutuel betting is
25 conducted;

26 B. that affiant is the agent of the applicant, its owners,
27 partners, members, directors, officers, and personnel and is
28 duly authorized to make the representations in the application
29 on their behalf. Documentation of the authority must be
30 attached;

31 C. that the applicant seeks a grant of a privilege from the
32 state of Minnesota, and the burden of proving the applicant's
33 qualifications rests at all times with the applicant;

34 D. that the applicant consents to inquiries by the state of
35 Minnesota, its employees, the commission members, staff and

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1 agents into the financial, character, and other qualifications
2 of the applicant by contacting individuals and organizations;

3 E. that the applicant, its owners, partners, members,
4 directors, officers, and personnel accept any risk of adverse
5 public notice, embarrassment, criticism, or other circumstance,
6 including financial loss, which may result from action with
7 respect to the application and expressly waive any claim which
8 otherwise could be made against the state of Minnesota, its
9 employees, the commission, staff or agents;

10 F. that affiant has read the applicant's identification and
11 disclosures and knows the contents; the contents are true to
12 affiant's own knowledge, except matters therein stated or
13 information and belief; as to those matters, affiant believes
14 them to be true;

15 G. that the applicant recognizes all representations in the
16 application are binding on it, and false or misleading
17 information in the application, omission of required
18 information, or substantial deviation from representations in
19 the application may result in denial, revocation, or suspension
20 of a license or imposition of a fine;

21 H. that the applicant will comply with Minnesota Statutes,
22 chapter 240 and all rules of the commission;

23 I. the affiant's signature, name, organization, position,
24 address, and telephone number;

25 J. the date.

26 4 MCAR S 15.003 Disclosure of ownership and control.

27 An applicant for a Class A license must disclose:

28 A. the type of organizational structure of the applicant,
29 whether individual, business corporation, nonprofit corporation,
30 partnership, joint venture, trust, association, or other;

31 B. if the applicant is an individual, the applicant's legal
32 name, whether the applicant is a United States citizen, any
33 aliases and business names currently used by the applicant, and
34 copies of state and federal tax returns for the past five years;

35 C. if the applicant is a corporation:

36 1. the applicant's full corporate name and any trade

- 1 names currently used by the applicant;
- 2 2. the jurisdiction and date of incorporation;
- 3 3. the date the applicant commenced doing business in
4 Minnesota and, if the applicant is incorporated outside
5 Minnesota, a copy of the applicant's certificate of authority to
6 do business in Minnesota;
- 7 4. copies of the applicant's articles of incorporation,
8 bylaws, and state and federal corporate tax returns for the past
9 five years;
- 10 5. the general nature of the applicant's business;
- 11 6. whether the applicant is publicly held as defined by
12 the rules and regulations of the Securities and Exchange
13 Commission;
- 14 7. the classes of stock of the applicant. As to each
15 class, the number of shares authorized, number issued, number
16 outstanding, par value per share, issue price, current market
17 price, number of shareholders, terms, position, rights, and
18 privileges must be disclosed;
- 19 8. if the applicant has any other obligations or
20 securities authorized or outstanding which bear voting rights
21 either absolutely or upon any contingency, the nature thereof,
22 face or par value, number of units authorized, number
23 outstanding, and conditions under which they may be voted;
- 24 9. the names, in alphabetical order, and addresses of the
25 directors and, in a separate listing, officers of the
26 applicant. As to each director and officer, the number of
27 shares held of record as of the application date or beneficially
28 of each class of stock, including stock options and
29 subscriptions, and units held of record or beneficially of other
30 obligations or securities which bear voting rights must be
31 disclosed;
- 32 10. the names, in alphabetical order, and addresses of
33 each record holder as of the date of application or beneficial
34 owner of shares, including stock options and subscriptions, of
35 the applicant or units of other obligations or securities which
36 bear voting rights. As to each holder of shares or units, the

1 number and class or type of shares or units must be disclosed;

2 11. whether the requirements of the Securities Act of
3 1933 and Securities and Exchange Act of 1934, as amended, and
4 Securities and Exchange Commission rules and regulations have
5 been met in connection with issuance of applicant's securities,
6 and copies of most recent registration statement and annual
7 report filed with the Securities and Exchange Commission;

8 12. whether the securities registration and filing
9 requirements of the applicant's jurisdiction of incorporation
10 have been met, and a copy of most recent registration statement
11 filed with the securities regulator in that jurisdiction;

12 13. whether the securities registration and filing
13 requirements of the state of Minnesota have been met. If they
14 have not, the applicant must disclose the reasons why. The
15 applicant must provide copies of all securities filings with the
16 Minnesota Department of Commerce during the past five years;

17 D. If the applicant is an organization other than a
18 corporation:

19 1. the applicant's full name and any trade names
20 currently used by the applicant;

21 2. the jurisdiction of organization of the applicant;

22 3. the date the applicant commenced doing business in
23 Minnesota;

24 4. copies of any agreements creating or governing the
25 applicant's organization and the applicant's state and federal
26 tax returns for the past five years;

27 5. the general nature of the applicant's business;

28 6. the names, in alphabetical order, and addresses of any
29 partners and officers of the applicant and other persons who
30 have or share policymaking authority. As to each, the applicant
31 must disclose the nature and extent of any ownership interest,
32 including options, or other voting interest, whether absolute or
33 contingent, in the applicant;

34 7. the names, in alphabetical order, and addresses of any
35 individual or other entity holding a record or beneficial
36 ownership interest, including options, as of the date of the

1 application or other voting interest, whether absolute or
2 contingent, in the applicant. As to each, the applicant must
3 disclose the nature and extent of the interest;

4 E. If a nonindividual record or beneficial holder of an
5 ownership or other voting interest of five percent or more in
6 the applicant is identified pursuant to C.9. or 10. or D.6. or
7 7., the applicant makes its best effort to disclose the
8 information required by those clauses as to record or beneficial
9 holders of an ownership or other voting interest of five percent
10 or more in that nonindividual holder. The disclosure required
11 by those clauses must be repeated, in turn, until all indirect
12 individual record and beneficial holders of ownership or other
13 voting interests in applicant are so identified. The term "best
14 effort," as used in this and subsequent sections of these rules,
15 means an active and serious attempt which is made in good faith,
16 and goes beyond due diligence, to provide the information
17 required to be disclosed. When an applicant is unable, despite
18 its best effort, to provide the information required, it shall
19 explain fully and document its inability to do so;

20 F. whether the applicant is directly or indirectly
21 controlled to any extent or in any manner by another individual
22 or entity. If so, the applicant must disclose the identity of
23 the controlling entity and a description of the nature and
24 extent of control;

25 G. any agreements or understandings which the applicant or
26 any individual or entity identified pursuant to this rule has
27 entered into regarding ownership or ~~control-of-the-sponsorship~~
28 ~~or-management-of-horse-racing~~ operation of applicant's horse
29 racing facility, and copies of any written agreements;

30 H. any agreements or understandings which the applicant has
31 entered into for the payment of fees, rents, salaries, or other
32 compensation by the applicant, and copies of any written
33 agreements;

34 I. whether the applicant, any partner, director, officer,
35 other policymaker, or holder of a direct or indirect record or
36 beneficial ownership interest or other voting interest or

1 control of five percent or more in the applicant has held or
2 holds a license or permit issued by a governmental authority to
3 own and operate a horse racing facility or conduct any aspect of
4 horse racing or gambling. If so, the applicant must disclose
5 the identity of the license or permit holder, nature of the
6 license or permit, issuing authority, and dates of issuance and
7 termination.

8 4 MCAR S 15.004 Disclosure of character information.

9 An applicant for a Class A license must make its best
10 effort, as defined in 4 MCAR S 15.003 E., to disclose whether
11 the applicant or any individual or other entity identified
12 pursuant to 4 MCAR SS 15.003 or 15.010 B. or C. has:

13 A. been charged in a criminal proceeding with a felony or
14 fraud, misrepresentation, theft, larceny, embezzlement, tax
15 evasion, robbery, burglary, bribery, extortion, jury tampering,
16 obstruction of justice, perjury, an antitrust violation or
17 conspiracy to commit any of the foregoing. If so, the applicant
18 must disclose the date charged, court, whether convicted, date
19 convicted, crime convicted of, and sentence;

20 B. been a party in a civil proceeding and alleged to have
21 engaged in an unfair or anticompetitive business practice, a
22 securities violation, or false or misleading advertising. If
23 so, the date of commencement, court, circumstances, date of
24 decision, and result;

25 C. had a horse racing, gambling, or other business license
26 or permit revoked or suspended or renewal denied or been a party
27 in a proceeding to do so. If so, the applicant must disclose
28 the date of commencement, circumstances, date of decision, and
29 result;

30 D. been accused in an administrative or judicial proceeding
31 of violation of a statute or rule relating to unfair labor
32 practices, discrimination, horse racing, or gambling. If so,
33 the applicant must disclose the date of commencement, forum,
34 circumstances, date of decision, and result;

35 E. commenced an administrative or judicial action against a
36 governmental regulator of horse racing or gambling. If so, the

1 applicant must disclose the date of commencement, forum,
2 circumstances, date of decision, and result;

3 F. been the subject of voluntary or involuntary bankruptcy
4 proceedings. If so, the applicant must disclose the date of
5 commencement, forum, circumstances, date of decision, and result;

6 G. failed to satisfy any judgment, decree, or order of an
7 administrative or judicial tribunal. If so, the applicant must
8 disclose the date and circumstances;

9 H. been delinquent in filing a tax report required or
10 remitting a tax imposed by any government. If so, the applicant
11 must disclose the date and circumstances.

12 4 MCAR S 15.005 Disclosure of improvements and equipment.

13 An application for a Class A license must disclose with
14 respect to the pari-mutuel horse racing facility it will own and
15 operate:

16 A. the address of the facility, its size and geographical
17 location, including reference to county and municipal boundaries;

18 B. a site map which reflects current and proposed highways
19 and streets adjacent to the facility;

20 C. the types of racing for which the facility is designed,
21 whether thoroughbred, harness, quarterhorse, or other;

22 D. racetrack dimensions by circumference, width, banking,
23 location of chutes, length of stretch, distance from judges'
24 stand to first turn and type of surface. If the facility has
25 more than one racetrack, the applicant must provide a
26 description of each;

27 E. a description of horse stalls at the facility, giving the
28 dimensions of stalls, separation, location, and total number of
29 stalls;

30 F. a description of the grandstand, giving total seating
31 capacity, total reserved seating capacity, indoor and outdoor
32 seating capacity, configuration of grandstand seating and
33 pari-mutuel and concession facilities within the grandstand; the
34 number and location of men's and women's restrooms, drinking
35 fountains, and medical facilities available to patrons; and a
36 description of public pedestrian traffic patterns throughout the

1 grandstand;

2 G. a description of the detention barn, giving distance from
3 detention barn to track and paddock, number of sampling stalls,
4 placement of viewing ports on each stall, location of
5 post-mortem floor, number of wash stalls with hot and cold water
6 and drains and availability of video monitors; and a description
7 of the walking ring;

8 H. a description of the paddock, number of stalls in the
9 paddock, height from the floor to lowest point of the stall
10 ceiling and entrance, and paddock public address and telephone
11 services;

12 I. a description of the jockeys' and drivers' quarters,
13 giving changing areas, a listing of equipment to be installed in
14 each, and the location of the jockeys' quarters in relation to
15 the paddock;

16 J. a description of the pari-mutuel tote, giving approximate
17 location of bettors' windows and cash security areas, and a
18 description of the equipment, including the provider if known;

19 K. a description of the parking, giving detailed attention
20 to access to parking from surrounding streets and highways.
21 Number of parking spaces available ~~for-the,~~ distinguishing
22 between public and other; a description of the road surface on
23 parking areas and the distance between parking and the
24 grandstand; and a road map of the area showing the relationship
25 of parking to surrounding streets and highways;

26 L. a description of the height, type of construction, and
27 materials of perimeter fence; whether the perimeter fence is
28 topped by a barbed wire apron at least two feet wide and
29 directed outward at a 45-degree angle; and whether there is a
30 clear zone at least four feet wide around the outside of the
31 entire perimeter fence;

32 M. a description of improvements and equipment at the
33 racetrack for security purposes in addition to perimeter fence,
34 including the provider of equipment if known;

35 N. a description of starting, timing, photo finish, and
36 photo-patrol or video equipment, including the provider if known;

1 O. a description of work areas for the commission members,
2 officers, employees, and agents;

3 P. a description of access of the facility to public
4 transportation, specifics of the type of transportation and
5 schedules, road maps of area indicating pick-up and drop-off
6 points.

7 4 MCAR S 15.006 Disclosure of development process.

8 An applicant for a Class A license must disclose with
9 regard to development of its horse racing facility:

10 A. the total cost of construction of the facility,
11 distinguishing between fixed costs and projections;

12 B. separate identification of the following costs,
13 distinguishing between fixed costs and projections:

14 1. facility design;

15 2. land acquisition;

16 3. site preparation;

17 4. improvements and equipment, separately identifying the
18 costs of 4 MCAR S 15.005 D.-O. and other categories of
19 improvements and equipment;

20 5. interim financing;

21 6. permanent financing;

22 7. organization, administrative, accounting, and legal;

23 C. documentation of fixed costs;

24 D. the schedule for construction of the facility, including
25 estimated completion date;

26 E. schematic drawings;

27 F. copies of any contracts with and performance bonds from
28 the:

29 1. architect or other design professional;

30 2. project engineer;

31 3. construction engineer;

32 4. contractors and subcontractors;

33 5. equipment procurement personnel;

34 6. G. whether the site has been acquired or leased by
35 applicant. If so, the applicant must provide the

36 documentation. If not, the applicant must disclose what actions

1 the applicant must take in order to use the site.

2 4 MCAR S 15.007 Disclosure of financial resources.

3 An applicant for a Class A license must disclose the
4 following with regard to financial resources:

5 A. an audited financial statement reflecting the applicant's
6 current assets, including investments in affiliated entities,
7 loans and advances receivable and fixed assets and current
8 liabilities, including loans and advances payable, long-term
9 debt and equity;

10 B. equity and debt sources of funds to develop, own, and
11 operate the horse racing facility:

12 1. with respect to each source of equity contribution,
13 identification of the source, amount, form, method of payment,
14 nature and amount of present commitment, documentation, and
15 actions which the applicant will take to obtain more certain
16 commitments and commitments for additional amounts;

17 2. with respect to each source of debt contribution,
18 identification of the source, amount, terms of debt, collateral,
19 identity of guarantors, nature and amount of commitments,
20 documentation and actions which the applicant will take to
21 obtain more certain commitments and commitments for additional
22 amounts;

23 C. identification and description of sources of additional
24 funds if needed due to cost overruns, nonreceipt of expected
25 equity or debt funds, failure to achieve projected revenues or
26 other cause.

27 4 MCAR S 15.008 Disclosure of financial plan.

28 An applicant for a Class A license must disclose with
29 regard to its financial plan:

30 A. the financial projections for the development period and
31 each of the first five racing years, with separate schedules
32 based upon the number of racing days and types of pari-mutuel
33 betting the applicant requires to break even and the optimum
34 number of racing and types of betting applicant seeks each
35 year. The commission will utilize financial projections in

1 deciding whether to issue Class A licenses. Neither acceptance
2 of a license application nor issuance of a license shall bind
3 the commission as to matters within its discretion, including,
4 but not limited to, assignment of racing days and designation of
5 types of permissible pari-mutuel pools. The disclosure must
6 include:

7 1. the following assumptions and support for them:

8 a. average daily attendance;

9 b. average daily per capita handle and average bet;

10 c. retainage;

11 d. admissions to track, including ticket prices and
12 free admissions;

13 e. parking volume, fees, and revenues;

14 f. concessions, gift shop, and program sales;

15 g. cost of purses;

16 h. pari-mutuel expense;

17 i. state taxes;

18 j. real estate taxes;

19 k. breeder fund;

20 l. payroll;

21 m. operating supplies and services;

22 n. utilities;

23 o. repairs and maintenance;

24 p. insurance;

25 q. travel expense;

26 r. membership expense;

27 s. security expense;

28 t. legal and audit expense;

29 u. debt service;

30 v. federal taxes;

31 2. the following profit and loss elements:

32 a. total revenue, including projected revenues from:

33 (1) retainage and breakage;

34 (2) admissions;

35 (3) parking;

36 (4) concessions, gift, and program operations;

1 b. total operating expenses, including anticipated
2 expenses for:

- 3 (1) purses;
- 4 (2) pari-mutuel;
- 5 (3) sales tax;
- 6 (4) breakage to state;
- 7 (5) real estate tax;
- 8 (6) admissions tax;
- 9 (7) breeder fund;
- 10 (8) special assessments;
- 11 (9) cost of concession goods, gifts, and programs;
- 12 (10) advertising and promotion;
- 13 (11) payroll;
- 14 (12) operating supplies and service;
- 15 (13) maintenance and repairs;
- 16 (14) insurance;
- 17 (15) security;
- 18 (16) legal and audit;
- 19 (17) federal and state income taxes;

20 c. nonoperating expenses, including anticipated
21 expenses for:

- 22 (1) debt service;
- 23 (2) facility depreciation and identification of
24 method used;
- 25 (3) equipment depreciation and identification of
26 method used;

27 3. projected cash flow, including assessment of:

28 a. income, including equity contributions, debt
29 contributions, interest income, operating revenue;

30 b. disbursements, including land, improvements,
31 equipment, debt service, operating expense, organizational
32 expense;

33 4. projected balance sheets as of the end of the
34 development period and each of the five racing years setting
35 forth:

36 a. current, fixed, and other noncurrent assets;

1 b. current and long-term liabilities;

2 c. capital accounts;

3 B. an accountant's review report of the financial
4 projections.

5 4 MCAR S 15.009 Disclosure of governmental actions.

6 An applicant for a Class A license must disclose with
7 regard to actions of government agencies:

8 A. the street and highway improvements necessary to ensure
9 adequate access to applicant's horse racing facility, and the
10 cost of improvements, status, likelihood of completion, and
11 estimated date;

12 B. the sewer, water, and other public utility improvements
13 necessary to serve applicant's facility, and the cost of
14 improvements, status, likelihood of completion, and estimated
15 date;

16 C. if applicant has obtained any required government
17 approvals for its development, ownership, and operation of its
18 horse racing facility:

19 1. a description of the approval, unit of government,
20 date, and documentation;

21 2. whether public hearings were held. If they were, the
22 applicant must disclose when and where the hearings were
23 conducted. If they were not held, the applicant must disclose
24 why they were not held;

25 3. whether the unit of government attached any conditions
26 to approval. If so, the applicant must disclose these
27 conditions, including documentation;

28 D. whether any required governmental approvals remain to be
29 obtained, as well as a description of the approval, unit of
30 government, status, likelihood of approval, and estimated date;

31 E. whether an environmental assessment of the facility has
32 been or will be prepared. If so, the applicant must disclose
33 its status and the governmental unit with jurisdiction, and
34 provide a copy of any assessment;

35 F. whether an environmental impact statement is required for
36 applicant's facility. If so, the applicant must disclose its

1 status and the governmental unit with jurisdiction, and provide
2 a copy of any statement;

3 G. whether the applicant is in compliance with all statutes,
4 charter provisions, ordinances, and regulations pertaining to
5 the development, ownership, and operation of its horse racing
6 facility. If the applicant is not in compliance, the applicant
7 must disclose the reasons why the applicant is not in compliance.

8 4 MCAR S 15.010 Disclosure of management.

9 An applicant for a Class A license must disclose with
10 regard to the development, ownership, and operation of its
11 pari-mutuel horse racing facility:

12 A. a description of the applicant's management plan, with
13 budget and identification of management personnel by function,
14 job descriptions, and qualifications for each management
15 position, and a copy of the organization chart;

16 B. management personnel to the extent known and with respect
17 to each:

- 18 1. legal name, aliases, and previous names;
- 19 2. current residence and business addresses and telephone
20 numbers;
- 21 3. qualifications and experience in the following areas:
 - 22 a. general business;
 - 23 b. real estate development;
 - 24 c. construction;
 - 25 d. marketing, promotion, and advertising;
 - 26 e. finance and accounting;
 - 27 f. horse racing;
 - 28 g. pari-mutuel betting;
 - 29 h. security;
 - 30 i. human and animal health and safety;
- 31 4. description of the terms and conditions of employment
32 and a copy of the agreement;

33 C. consultants and other contractors who have provided or
34 will provide management-related services to applicant to extent
35 known and with respect to each:

- 36 1. full name;

- 1 2. current address and telephone number;
- 2 3. nature of services;
- 3 4. qualifications and experience;
- 4 5. description of terms and conditions of any
- 5 contractor's agreement, and a copy of the agreement.
- 6 D. memberships of the applicant, management personnel, and
- 7 consultants in horse racing organizations;
- 8 E. description of the applicant's security plan, including:
- 9 1. number and deployment of security personnel used by
- 10 applicant during a race meeting, security staff levels, and
- 11 deployment at other times;
- 12 2. specific security plans for perimeter, stabling
- 13 facilities, pari-mutuel betting facilities, purses and cash room;
- 14 3. specific plans to discover persons at the horse racing
- 15 facility who have been convicted of a felony, had a license
- 16 suspended, revoked, or denied by the commission or by the horse
- 17 racing authority of another jurisdiction or are a threat to the
- 18 integrity of racing in Minnesota;
- 19 4. description of video monitoring equipment and its use;
- 20 5. whether the applicant will be a member of the
- 21 Thoroughbred Racing Protective Bureau or other security
- 22 organization;
- 23 6. coordination of security with law enforcement agencies;
- 24 F. description of the applicant's plans for human and animal
- 25 health and safety, including emergencies;
- 26 G. description of the applicant's marketing, promotion, and
- 27 advertising plans;
- 28 H. a description of the applicant's plan for concessions,
- 29 including whether the licensee will operate concessions and, if
- 30 not, who will, to the extent known;
- 31 I. a description of training of the applicant's personnel;
- 32 J. a description of plans for compliance with all laws
- 33 pertaining to discrimination, equal employment, and affirmative
- 34 action; policies regarding recruitment, use, and advancement of
- 35 minorities; policies with respect to minority contracting; a
- 36 copy of Equal Employment Opportunity Statement and Policy of the

1 applicant dated and signed by chief executive officer; and a
2 copy of Affirmative Action Policy and Procedures dated and
3 signed; and identification of the affirmative action officer,
4 including name, title, address, and telephone number.

5 4 MCAR S 15.011 Disclosure of public service.

6 An applicant for a Class A license must disclose its plans
7 for promotion of the orderly growth of horse racing in Minnesota
8 and education of the public with respect to horse racing and
9 pari-mutuel betting.

10 4 MCAR S 15.012 Disclosure of impact of facility.

11 An applicant for a Class A license must disclose the impact
12 of its horse racing facility, including:

13 A. economic impact, including:

14 1. employment created and specifics as to number of jobs,
15 whether permanent or temporary, type of work, compensation,
16 employer, and how created;

17 2. purchases of goods and services and specifics as to
18 money amounts and types of purchases;

19 3. public and private investment;

20 4. tax revenues generated;

21 B. ecological impact;

22 C. impact on energy conservation and development of
23 alternative energy sources;

24 D. social impact.

25 4 MCAR S 15.013 Disclosure of public support and opposition.

26 An applicant for a Class A license must disclose public
27 support and opposition, whether by a governmental official or
28 agency or private individual or group and must supply
29 documentation.

30 4 MCAR S 15.014 Effects on competition.

31 An applicant for a Class A license must disclose the
32 effects of its ownership and operation of its horse racing
33 facility on competitors within the horse racing industry.

34 4 MCAR S 15.015 Disclosure of assistance in preparation of

1 application.

2 An applicant for a Class A license must disclose the names,
3 addresses, and telephone numbers of individuals who assisted
4 applicant in preparation of its application.

5 4 MCAR S 15.016 Personal information and authorization for
6 release.

7 In an application for a Class A license the applicant must
8 make its best effort, as defined in 4 MCAR S 15.003 E., to
9 include the following with respect to each individual identified
10 pursuant to 4 MCAR S 15.003 as an applicant, partner, director,
11 officer, other policymaker, or holder of a direct or indirect
12 record or beneficial ownership interest or other voting interest
13 or control of five percent or more in the applicant and each
14 individual identified pursuant to 4 MCAR S 15.010 B. or C.;

15 A. full name, business and residence addresses and telephone
16 numbers, last five residence addresses, date of birth, place of
17 birth, Social Security number, if the individual is willing to
18 provide it, and two references;

19 B. an authorization for release of personal information, on
20 a form prepared by the commission, signed by the individual and
21 providing that he or she:

22 1. authorizes a review by and full disclosure to an agent
23 of the Minnesota Public Safety Department, Bureau of Criminal
24 Apprehension of all records concerning the individual, whether
25 the records are public, nonpublic, private, or confidential;

26 2. recognizes the information reviewed or disclosed may
27 be used by the state of Minnesota, its employers, the
28 commission, members, staff and agents to determine the signer's
29 qualifications for a Class A license;

30 3. releases authorized providers and users of the
31 information from any liability under state or federal data
32 privacy law.

33 4 MCAR S 15.017 Class A license criteria.

34 The commission may issue a Class A license if it determines
35 on the basis of all the facts before it that: the applicant is

1 financially able to operate a racetrack; issuance of a license
2 will not create a competitive situation that will adversely
3 affect racing and the public interest; the racetrack will be
4 operated in accordance with all applicable laws and rules; and
5 the issuance of the license will not adversely affect the public
6 health, safety, and welfare. In making the required
7 determinations, the commission must consider the following
8 factors and indices:

9 A. the integrity of the applicant, its partners, directors,
10 officers, policymakers, managers, and holders of ownership or
11 other voting interests or control, including ~~7-but-not-limited-to~~:

- 12 1. criminal record;
- 13 2. involvement in litigation over business practices;
- 14 3. involvement in disciplinary actions over a business
15 license or permit or refusal to renew a license or permit;
- 16 4. involvement in proceedings in which unfair labor
17 practices, discrimination, or government regulation of horse
18 racing or gambling was an issue;
- 19 5. involvement in bankruptcy proceedings;
- 20 6. failure to satisfy judgments, orders, or decrees;
- 21 7. delinquency in filing of tax reports or remitting
22 taxes;

23 8. any other indices related to integrity which the
24 commission deems crucial to its decision making as long as the
25 same indices are considered with regard to all applicants;

26 B. the types and variety of pari-mutuel horse racing which
27 applicant will offer;

28 C. the quality of physical improvements and equipment in
29 applicant's facility, including ~~7-but-not-limited-to~~:

- 30 1. racetrack or tracks;
- 31 2. stabling;
- 32 3. grandstand;
- 33 4. detention barn;
- 34 5. paddock;
- 35 6. jockeys' and drivers' quarters;
- 36 7. pari-mutuel tote;

- 1 8. parking;
- 2 9. access by road and public transportation;
- 3 10. perimeter fence;
- 4 11. other security improvements and equipment;
- 5 12. starting, timing, photo finish, and photo-patrol or
- 6 video equipment;
- 7 13. commission work areas;

8 14. any other indices related to quality which the
 9 commission deems crucial to its decision making as long as the
 10 same indices are considered with regard to all applicants;

- 11 D. imminence of completion of facility;
- 12 E. financial ability to develop, own, and operate a
- 13 pari-mutuel horse racing facility successfully, including, ~~but~~
- 14 ~~not-limited-to:~~

- 15 1. ownership and control structure;
- 16 2. amounts and reliability of development costs;
- 17 3. certainty of site acquisition or lease;
- 18 4. current financial condition;
- 19 5. sources of equity and debt funds, amounts, terms and
- 20 conditions and certainty of commitment;
- 21 6. provision for cost overruns, nonreceipt of expected
- 22 equity or debt funds, failure to achieve projected revenues or
- 23 other financial adversity;
- 24 7. feasibility of financial plan;

25 8. any other indices related to financial ability which
 26 the commission deems crucial to its decision making as long as
 27 the same indices are considered with regard to all applicants;

- 28 F. status of governmental actions required by the
- 29 applicant's facility, including, ~~but-not-limited-to:~~

- 30 1. necessary road improvements;
- 31 2. necessary public utility improvements;
- 32 3. required governmental approvals for development,
- 33 ownership, and operation of the facility;
- 34 4. acceptance of any required environmental assessment
- 35 and preparation of any required environmental impact statement;
- 36 5. any other indices related to status of governmental

1 actions which the commission deems crucial to its decision
 2 making as long as the same indices are considered with regard to
 3 all applicants;

4 G. management ability of the applicant, including~~7-but-not~~
 5 ~~limited-to~~:

6 1. qualifications of managers, consultants, and other
 7 contractors to develop, own, and operate a pari-mutuel horse
 8 racing facility;

9 2. security plan;

10 3. plans for human and animal health and safety;

11 4. marketing, promotion, and advertising plans;

12 5. concessions plan;

13 6. plan for training personnel;

14 7. equal employment and affirmative action plans;

15 8. any other indices related to management ability which

16 the commission deems crucial to its decision making as long as

17 the same indices are considered with regard to all applicants;

18 H. compliance with applicable statutes, charters,
 19 ordinances, or regulations;

20 I. efforts to promote orderly growth of horse racing in
 21 Minnesota and educate public with respect to horse racing and
 22 pari-mutuel betting;

23 J. impact of facility, including~~7-but-not-limited-to~~:

24 1. economic impact, including employment created,
 25 purchases of goods and services, public and private investment
 26 and taxes generated;

27 2. ecological impact;

28 3. impact on energy conservation and development of
 29 alternative energy sources;

30 4. social impact;

31 5. costs of public improvements;

32 6. any other indices related to impact which the

33 commission deems crucial to its decision making as long as the

34 same indices are considered with regard to all applicants;

35 K. extent of public support and opposition;

36 L. effects on competition, including~~7-but-not-limited-to~~:

1 1. number, nature, and relative location of other Class A
2 licenses;

3 2. minimum and optimum number of racing days sought by
4 the applicant;

5 3. any other indices of the impact of competition which
6 the commission deems crucial to decision making as long as the
7 same indices are considered with regard to all applicants.

8 The commission also must consider any other information
9 which the applicant discloses and is relevant and helpful to a
10 proper determination by the commission.

11 4 MCAR S 15.018 Identification of applicant for Class B license.

12 An application for a Class B license must include, on a
13 form prepared by the commission, the name, address, and
14 telephone number of the applicant, and the name, position,
15 address, telephone number, and authorized signature of an
16 individual to whom the commission may make inquiry.

17 4 MCAR S 15.019 Applicant's affidavit.

18 An application for a Class B license must include, on a
19 form prepared by the commission, an affidavit of the chief
20 executive officer of or a major financial participant as in the
21 applicant setting forth:

22 A. that application is made for a Class B license to sponsor
23 and manage horse racing on which pari-mutuel betting is
24 conducted;

25 B. that affiant is the agent of the applicant, its owners,
26 partners, members, directors, officers, and personnel and is
27 duly authorized to make the representations in the application
28 on their behalf. Documentation of the authority must be
29 attached;

30 C. that the applicant seeks a grant of a privilege from the
31 state of Minnesota, and the burden of proving the applicant's
32 qualifications rests at all times with the applicant;

33 D. that the applicant consents to inquiries by the state of
34 Minnesota, its employees, the commission, members, staff and
35 agents into the financial, character, and other qualifications

1 of the applicant by contacting individuals and organizations;

2 E. that the applicant, its owners, partners, members,
3 directors, officers, and personnel accept any risk of adverse
4 public notice, embarrassment, criticism, or other circumstance,
5 including financial loss, which may result from action with
6 respect to the application and expressly waive any claim which
7 otherwise could be made against the state of Minnesota, its
8 employees, the commission, staff or agents;

9 F. that affiant has read the applicant's identification and
10 disclosures and knows the contents; the contents are true to
11 affiant's own knowledge, except matters therein stated on
12 information and belief; as to those matters, affiant believes
13 them to be true;

14 G. that the applicant recognizes all representations in the
15 application are binding on it, and false or misleading
16 information in the application, omission of required
17 information, or substantial deviation from representations in
18 the application may result in denial, revocation, or suspension
19 of a license or imposition of a fine;

20 H. that the applicant will comply with Minnesota Statutes,
21 chapter 240 and all rules of the commission;

22 I. affiant's signature, name, organization, position,
23 address, and telephone number;

24 J. the date.

25 4 MCAR S 15.020 Disclosure of ownership and control.

26 An applicant for a Class B license must disclose:

27 A. the type of organizational structure of the applicant,
28 whether individual, business corporation, nonprofit corporation,
29 partnership, joint venture, trust, association, or other entity;

30 B. if the applicant is an individual, the applicant's legal
31 name, whether the applicant is a United States citizen, and
32 aliases and business names currently used by the applicant, and
33 copies of state and federal tax returns for the past five years;

34 C. if the applicant is a corporation:

35 1. the applicant's full corporate name and any trade
36 names currently used by the applicant;

- 1 2. jurisdiction and date of incorporation;
- 2 3. date the applicant commenced doing business in
- 3 Minnesota and, if the applicant is incorporated outside
- 4 Minnesota, a copy of the applicant's certificate of authority to
- 5 do business in Minnesota;
- 6 4. copies of the applicant's articles of incorporation,
- 7 bylaws, and state and federal corporate tax returns for the past
- 8 five years;
- 9 5. the general nature of the applicant's business;
- 10 6. whether the applicant is publicly held as defined by
- 11 the rules and regulations of the Securities and Exchange
- 12 Commission;
- 13 7. classes of stock of the applicant. As to each class,
- 14 the number of shares authorized, number issued, number
- 15 outstanding, par value per share, issue price, current market
- 16 price, number of shareholders, terms, position, rights, and
- 17 privileges must be disclosed;
- 18 8. if the applicant has any other obligations or
- 19 securities authorized or outstanding which bear voting rights
- 20 either absolutely or upon any contingency, the nature thereof,
- 21 face or par value, number of units authorized, number
- 22 outstanding, and conditions under which they may be voted;
- 23 9. the names, in alphabetical order, and addresses of the
- 24 directors and, in a separate listing, officers of the
- 25 applicant. As to each director and officer, the number of
- 26 shares held of record as of the application date or beneficially
- 27 of each class of stock, including stock options and
- 28 subscriptions, and units held of record or beneficially of other
- 29 obligations or securities which bear voting rights must be
- 30 disclosed;
- 31 10. the names, in alphabetical order, and addresses of
- 32 each record holder as of the date of application or beneficial
- 33 owner of shares, including stock options and subscriptions, of
- 34 the applicant or units of other obligations or securities which
- 35 bear voting rights. As to each holder of shares or units, the
- 36 number and class or type of shares or units must be disclosed;

1 11. whether the requirements of the Securities Act of
2 1933 and Securities and Exchange Act of 1934, as amended, and
3 Securities and Exchange Commission rules and regulations have
4 been met in connection with issuance of applicant's securities,
5 and copies of most recent registration statement and annual
6 report filed with Securities and Exchange Commission;

7 12. whether the securities registration and filing
8 requirements of the applicant's jurisdiction of incorporation
9 have been met, and a copy of most recent registration statement
10 filed with the securities regulator in that jurisdiction;

11 13. whether the securities registration and filing
12 requirements of the state of Minnesota have been met. If they
13 have not, the applicant must disclose the reasons why. The
14 applicant must provide copies of all securities filings with the
15 Minnesota Department of Commerce during the past five years;

16 D. If the applicant is an organization other than a
17 corporation:

18 1. the applicant's full name and any trade names
19 currently used by the applicant;

20 2. jurisdiction of organization of the applicant;

21 3. date the applicant commenced doing business in
22 Minnesota;

23 4. copies of any agreements creating or governing the
24 applicant's organization and the applicant's state and federal
25 tax returns for the past five years;

26 5. the general nature of the applicant's business;

27 6. names, in alphabetical order, and addresses of any
28 partners and officers of applicant and other persons who have or
29 share policymaking authority. As to each, the applicant must
30 disclose the nature and extent of any ownership interest,
31 including options, or other voting interest, whether absolute or
32 contingent, in the applicant;

33 7. names, in alphabetical order, and addresses of any
34 individual or other entity holding a record or beneficial
35 ownership interest, including options, as of the date of
36 application or other voting interest, whether absolute or

1 contingent, in applicant. As to each, the applicant must
2 disclose the nature and extent of the interest;

3 E. if a nonindividual record or beneficial holder of an
4 ownership or other voting interest of five percent or more in
5 the applicant is identified pursuant to C.9. or 10. or D.6. or
6 7., the applicant must make its best effort, as defined in 4
7 MCAR S 15.003 E., to disclose the information required by those
8 clauses as to record or beneficial holders of an ownership or
9 other voting interest of five percent or more in that
10 nonindividual holder. The disclosure required by those clauses
11 must be repeated, in turn, until all indirect individual record
12 and beneficial holders of ownership or other voting interests in
13 the applicant are so identified;

14 F. whether the applicant is directly or indirectly
15 controlled to any extent or in any manner by another individual
16 or entity. If so, the applicant must disclose the identity of
17 the controlling entity and a description of the nature and
18 extent of control;

19 G. any agreements or understandings which the applicant or
20 any individual or entity identified pursuant to this rule has
21 entered into regarding ~~ownership or control of the~~ applicant's
22 sponsorship or management of horse racing, and copies of any
23 written agreements;

24 H. any agreements or understandings which the applicant has
25 entered into for the payment of fees, rents, salaries, or other
26 compensation by the applicant, and copies of any written
27 agreements;

28 I. whether the applicant, any partner, director, officer,
29 other policymaker, or holder of a direct or indirect record or
30 beneficial ownership interest or other voting interest or
31 control of five percent or more in the applicant has held or
32 holds a license or permit issued by a governmental authority to
33 own and operate a horse racing facility or conduct any aspect of
34 horse racing or gambling. If so, the applicant must disclose
35 the identity of the license or permit holder, nature of the
36 license or permit, issuing authority, and dates of issuance and

1 termination.

2 4 MCAR S 15.021 Disclosure of character information.

3 An applicant for a Class B license must make its best
4 effort, as defined in 4 MCAR S 15.003 E., to disclose whether
5 the applicant or any individual or other entity identified
6 pursuant to 4 MCAR S 15.020 or 15.027 B. or C. has:

7 A. been charged in a criminal proceeding with a felony or
8 fraud, misrepresentation, theft, larceny, embezzlement, tax
9 evasion, robbery, burglary, bribery, extortion, jury tampering,
10 obstruction of justice, perjury, an antitrust violation, or
11 conspiracy to commit any of the foregoing. If so, the applicant
12 must disclose the date charged, court, whether convicted, date
13 convicted, crime convicted of, and sentence;

14 B. been a party in a civil proceeding and alleged to have
15 engaged in an unfair or anticompetitive business practice, a
16 securities violation, or false or misleading advertising. If
17 so, the applicant must disclose the date of commencement, court,
18 circumstances, date of decision, and result;

19 C. had a horse racing, gambling, or other business license
20 or permit revoked or suspended or renewal denied or been a party
21 in a proceeding to do so. If so, the applicant must disclose
22 the date of commencement, circumstances, date of decision, and
23 result;

24 D. been accused in an administrative or judicial proceeding
25 of violation of a statute or rule relating to unfair labor
26 practices, discrimination, horse racing, or gambling. If so,
27 the applicant must disclose the date of commencement, forum,
28 circumstances, date of decision, and result;

29 E. commenced an administrative or judicial action against a
30 governmental regulator of horse racing or gambling. If so, the
31 applicant must disclose the date of commencement, forum,
32 circumstances, date of decision, and result;

33 F. been the subject of voluntary or involuntary bankruptcy
34 proceedings. If so, the applicant must disclose the date of
35 commencement, forum, circumstances, date of decision, and result;

36 G. failed to satisfy any judgment, decree, or order of an

1 administrative or judicial tribunal. If so, the applicant must
2 disclose the date and circumstances;

3 H. been delinquent in filing a tax report required or
4 remitting a tax imposed by any government. If so, the applicant
5 must disclose the date and circumstances.

6 4 MCAR S 15.022 Disclosure of improvements and equipment.

7 An application for a Class B license must disclose with
8 respect to the facility at which it will sponsor and manage
9 pari-mutuel horse racing:

10 A. the address of the facility at which the applicant will
11 sponsor and manage horse racing, size and geographical location,
12 including reference to county and municipal boundaries;

13 B. a site map which reflects current and proposed highways
14 and streets adjacent to the facility;

15 C. the types of racing for which the facility is designed,
16 whether thoroughbred, harness, quarterhorse, or other;

17 D. racetrack dimensions by circumference, width, banking,
18 location of chutes, length of stretch, distance from judges'
19 stand to first turn, and type of surface. If the facility has
20 more than one racetrack, the applicant must provide a
21 description of each;

22 E. a description of horse stalls at the facility, giving the
23 dimensions of stalls, separation, location, and total number of
24 stalls;

25 F. a description of the grandstand, giving total seating
26 capacity, total reserved seating capacity, indoor and outdoor
27 seating capacity, configuration of grandstand seating and
28 pari-mutuel and concession facilities within the grandstand; the
29 number and location of men's and women's restrooms, drinking
30 fountains, and medical facilities available to patrons; and a
31 description of public pedestrian traffic patterns throughout the
32 grandstand;

33 G. a description of the detention barn, giving distance from
34 detention barn to track and paddock, number of sampling stalls,
35 placement of viewing ports on each stall, location of
36 post-mortem floor, number of wash stalls with hot and cold water

1 and drains and availability of video monitors; and a description
2 of the walking ring;

3 H. a description of the paddock, number of stalls in the
4 paddock, height from the floor to lowest point of the stall
5 ceiling and entrance, and paddock public address and telephone
6 services;

7 I. a description of the jockeys' and drivers' quarters,
8 giving changing areas, a listing of equipment to be installed in
9 each, and the location of the jockeys' quarters in relation to
10 the paddock;

11 J. a description of the pari-mutuel tote, giving approximate
12 location of bettors' windows and cash security areas; and a
13 description of equipment, including the provider if known;

14 K. a description of the parking, giving detailed attention
15 to access to parking from surrounding streets and highways.
16 Number of parking spaces available ~~for-the~~, distinguishing
17 between public and other; a description of the road surface on
18 parking areas and the distance between parking and the
19 grandstand; and a road map of the area showing the relationship
20 of parking to surrounding streets and highways;

21 L. a description of the height, type of construction, and
22 materials of perimeter fence; whether the perimeter fence is
23 topped by a barbed wire apron at least two feet wide and
24 directed outward at a 45-degree angle; and whether there is a
25 clear zone at least four feet wide around the outside of the
26 entire perimeter fence;

27 M. a description of improvements and equipment at the
28 racetrack for security purposes in addition to perimeter fence,
29 including the provider of equipment if known;

30 N. a description of starting, timing, photo finish, and
31 photo-patrol or video equipment, including the provider if known;

32 O. a description of work areas for the commission members,
33 officers, employees, and agents;

34 P. a description of access of the facility to public
35 transportation; specifics of types of transportation and
36 schedules; and a road map of area indicating pick-up and

1 drop-off points.

2 4 MCAR S 15.023 Disclosure of authorization to use horse racing
3 facility.

4 An applicant for a Class B license must disclose the terms
5 and conditions of the lease or other agreement authorizing the
6 applicant to sponsor and manage pari-mutuel horse racing at a
7 licensed facility and provide a copy of the agreement.

8 4 MCAR S 15.024 Disclosure of financial resources.

9 An applicant for a Class B license must disclose the
10 following with regard to financial resources:

11 A. an audited financial statement reflecting the applicant's
12 current assets, including investments in affiliated entities,
13 loans and advances receivable and fixed assets and current
14 liabilities, including loans and advances payable, long-term
15 debt and equity;

16 B. equity and debt sources of funds to sponsor and manage
17 horse racing:

18 1. with respect to each source of equity contribution,
19 identification of the source, amount, form, method of payment,
20 nature and amount of present commitment, documentation and
21 actions which the applicant will take to obtain more certain
22 commitments and commitments for additional amounts;

23 2. with respect to each source of debt contribution,
24 identification of the source, amount, terms of debt, collateral,
25 identity of guarantors, nature and amount of commitments,
26 documentation and actions which the applicant will take to
27 obtain more certain commitments and commitments for additional
28 amounts;

29 C. identification and description of sources of additional
30 funds if needed due to cost overruns, nonreceipt of expected
31 equity or debt funds, failure to achieve projected revenues, or
32 other cause.

33 4 MCAR S 15.025 Disclosure of financial plan.

34 An applicant for a Class B license must disclose with
35 regard to its financial plan:

1 A. financial projections for any development period in each
2 of the first or next three racing years, with separate schedules
3 based upon the number of racing days and types of pari-mutuel
4 betting the applicant requires to break even and the optimum
5 number of racing and types of betting applicant seeks each
6 year. The commission will utilize financial projections in
7 deciding whether to issue Class B licenses. Neither acceptance
8 of a license application nor issuance of a license shall bind
9 the commission as to matters within its discretion, including,
10 but not limited to, assignment of racing days and designation of
11 types of permissible pari-mutuel betting pools. The disclosure
12 must include:

- 13 1. the following assumptions and support for them:
 - 14 a. average daily attendance;
 - 15 b. average daily per capita handle and average bet;
 - 16 c. retainage;
 - 17 d. admissions to track, including ticket prices and
18 free admissions;
 - 19 e. parking volume, fees, and revenues;
 - 20 f. concessions, gift shop, and program sales;
 - 21 g. cost of purses;
 - 22 h. pari-mutuel expense;
 - 23 i. state taxes;
 - 24 j. real estate taxes;
 - 25 k. breeder fund;
 - 26 l. payroll;
 - 27 m. operating supplies and services;
 - 28 n. utilities;
 - 29 o. repairs and maintenance
 - 30 p. insurance;
 - 31 q. travel expense;
 - 32 r. membership expense;
 - 33 s. security expense;
 - 34 t. legal and audit expense;
 - 35 u. debt service;
 - 36 v. federal taxes;

- 1 2. the following profit and loss elements:
- 2 a. total revenue, including projected revenues from:
- 3 (1) retainage and breakage;
- 4 (2) admissions;
- 5 (3) parking;
- 6 (4) concessions, gift and program operations;
- 7 b. total operating expenses, including anticipated
- 8 expenses for:
- 9 (1) purses;
- 10 (2) pari-mutuel;
- 11 (3) sales tax;
- 12 (4) breakage to state;
- 13 (5) real estate tax;
- 14 (6) admissions tax;
- 15 (7) breeder fund;
- 16 (8) special assessments;
- 17 (9) cost of concession goods, gifts, and programs;
- 18 (10) advertising and promotion;
- 19 (11) payroll;
- 20 (12) operating supplies and service;
- 21 (13) maintenance and repairs;
- 22 (14) insurance;
- 23 (15) security;
- 24 (16) legal and audit;
- 25 (17) federal and state income taxes;
- 26 c. nonoperating expenses, including anticipated
- 27 expenses for:
- 28 (1) debt service;
- 29 (2) facility depreciation and identification of the
- 30 method used;
- 31 (3) equipment depreciation and identification of the
- 32 method used;
- 33 3. projected cash flow, including assessment of:
- 34 a. income, including equity contributions, debt
- 35 contributions, interest income, operating revenue;
- 36 b. disbursements, including land, improvements,

1 equipment, debt service, operating expense, organizational
2 expense;

3 4. projected balance sheets as of the end of any
4 development period and three racing years setting forth:

5 a. current, fixed, and other noncurrent assets;

6 b. current and long-term liabilities;

7 c. capital accounts;

8 B. an accountant's review report of the financial
9 projections.

10 4 MCAR S 15.026 Disclosure of governmental actions.

11 An applicant for a Class B license must disclose with
12 regard to actions of government agencies:

13 A. if the applicant has obtained any required government
14 approvals for its management and sponsorship of horse racing:

15 1. a description of the approval, unit of government and
16 date, and documentation;

17 2. whether public hearings were held. If they were, the
18 applicant must disclose when and where the hearings were
19 conducted. If they were not held, the applicant must disclose
20 why they were not held;

21 3. whether the unit of government attached any conditions
22 to approval. If so, the applicant must disclose these
23 conditions, including documentation;

24 B. whether any required governmental approvals remain to be
25 obtained, as well as a description of the approval, unit of
26 government, status, likelihood of approval, and estimated date;

27 C. whether the applicant is in compliance with all statutes,
28 charter provisions, ordinances, and regulations pertaining to
29 the sponsorship and management of horse racing. If the
30 applicant is not in compliance, the applicant must disclose the
31 reasons why the applicant is not in compliance.

32 4 MCAR S 15.027 Disclosure of management.

33 An applicant for a Class B license must disclose with
34 regard to its management of pari-mutuel horse racing:

35 A. a description of the applicant's management plan, with

1 budget and identification of management personnel by function;
2 job descriptions and qualifications for each management position;
3 and a copy of the organization chart.

4 B. management personnel and to extent known with respect to
5 each:

6 1. legal name, aliases, and previous names;
7 2. current residence and business addresses and telephone
8 numbers;

9 3. qualifications and experience in the following areas:

- 10 a. general business;
11 b. marketing, promotion, and advertising;
12 c. finance and accounting;
13 d. horse racing;
14 e. pari-mutuel betting;
15 f. security;
16 g. human and animal health and safety;

17 4. a description of the terms and conditions of
18 employment, and a copy of the agreement;

19 C. consultants and other contractors to extent known who
20 have provided or will provide management-related services to
21 applicant and with respect to each:

- 22 1. full name;
23 2. current address and telephone number;
24 3. nature of services;
25 4. qualifications and experience;
26 5. description of terms and conditions of any
27 contractor's agreement, and a copy of the agreement;

28 D. memberships of the applicant, management personnel, and
29 consultants in horse racing organizations;

30 E. a description of the applicant's security plan, including:

31 1. number and deployment of security personnel used by
32 applicant during a race meeting; security staff levels; and
33 deployment at other times;

34 2. specific security plans for perimeter, stabling
35 facilities, pari-mutuel betting facilities, purses, and cash
36 room;

1 3. specific plans to discover persons at the horse racing
2 facility who have been convicted of a felony, had a license
3 suspended, revoked, or denied by the commission or by the horse
4 racing authority of another jurisdiction, or are a threat to the
5 integrity of racing in Minnesota;

6 4. a description of video monitoring equipment and its
7 use;

8 5. whether the applicant will be a member of the
9 Thoroughbred Racing Protective Bureau or other security
10 organization;

11 6. coordination of security with law enforcement agencies;

12 F. a description of applicant's plans for human and animal
13 health and safety, including emergencies;

14 G. a description of the applicant's marketing, promotion,
15 and advertising plans;

16 H. a description of the applicant's plan for the conduct of
17 horse racing, including types of racing, number of days, weeks,
18 specific dates, number of races per day, time of day, and
19 special events;

20 I. a description of the applicant's plan for purses,
21 including total purses, formula, minimum, stakes races, and
22 purse-handling procedures;

23 J. a description of the applicant's plan for pari-mutuel
24 betting, including number of line divisions, windows, selling
25 machines, and clerks; use or duties of each; and accounting
26 procedures, including its proposed system of internal audit and
27 supervisory controls;

28 K. a description of the applicant's plan for concessions,
29 including whether licensee will operate concessions and, if not,
30 who will to the extent known;

31 L. a description of training of the applicant's personnel;

32 M. a description of plans for compliance with all laws
33 pertaining to discrimination, equal employment, and affirmative
34 action; policies regarding recruitment, use, and advancement of
35 minorities; policies with respect to minority contracting; a
36 copy of Equal Employment Opportunity Statement and Policy of the

1 applicant dated and signed by chief executive officer; a copy of
2 Affirmative Action Policy and Procedures dated and signed; and
3 identification of the affirmative action officer, including
4 name, title, address, and telephone number.

5 4 MCAR S 15.028 Disclosure of public service.

6 An applicant for a Class B license must disclose its plans
7 for promotion of the orderly growth of horse racing in Minnesota
8 and education of the public with respect to horse racing and
9 pari-mutuel betting.

10 4 MCAR S 15.029 Disclosure of economic impact.

11 An applicant for a Class B license must disclose the
12 economic impact of its sponsorship and management of horse
13 racing, including:

14 A. employment created, including specifics as to number of
15 jobs, permanent or temporary, type of work, compensation,
16 employer, and how created;

17 B. purchases of goods and services, including specifics as
18 to money amounts and types of purchases;

19 C. tax revenues generated.

20 4 MCAR S 15.030 Disclosure of public support and opposition.

21 An applicant for a Class B license must disclose public
22 support and opposition, whether by a governmental official,
23 agency, private individual, or group, and provide documentation.

24 4 MCAR S 15.031 Effects on competition.

25 An applicant for a Class B license must disclose the
26 effects of its sponsorship and management of horse racing on
27 competitors within the horse racing industry.

28 4 MCAR S 15.032 Disclosure of assistance in preparation of
29 application.

30 An applicant for a Class B license must disclose the names,
31 addresses, and telephone numbers of individuals who assisted the
32 applicant in preparation of its application.

33 4 MCAR S 15.033 Personal information and authorization for

1 release.

2 In an application for a Class B license the applicant must
3 make its best effort, as defined in 4 MCAR S 15.003 E., to
4 include the following with respect to each individual identified
5 pursuant to 4 MCAR S 15.020 as an applicant, partner, director,
6 officer, other policymaker or holder of a direct or indirect
7 record or beneficial ownership interest or other voting interest
8 or control of five percent or more in the applicant and each
9 individual identified pursuant to 4 MCAR S 15.027 B. or C.:

10 A. full name, business and residence addresses and telephone
11 numbers, last five residence addresses, date of birth, place of
12 birth, Social Security number, if the individual is willing to
13 provide it, and two references;

14 B. an authorization for release of personal information, on
15 a form prepared by the commission, signed by the individual and
16 providing that he or she:

17 1. authorizes a review by and full disclosure to an agent
18 of the Minnesota Public Safety Department Bureau of Criminal
19 Apprehension of all records concerning the individual, whether
20 the records are public, nonpublic, private, or confidential;

21 2. recognizes the information reviewed or disclosed may
22 be used by the state of Minnesota, its employers, the
23 commission, members, staff and agents to determine the signer's
24 qualifications for a Class B license;

25 3. releases authorized providers and users of the
26 information from any liability under state or federal data
27 privacy law.

28 4 MCAR S 15.034 Class B license criteria.

29 The commission may issue a Class B license if it determines
30 on the basis of all the facts before it that: the applicant is
31 fit to sponsor and manage horse racing; issuance of a license
32 will not create a competitive situation which will adversely
33 affect racing and the public interest; the racetrack will be
34 operated in accordance with all applicable laws and rules; and
35 issuance of a license will not adversely affect the public
36 health, safety, and welfare. In making the required

1 determinations, the commission must consider the following
2 factors and indices:

3 A. the integrity of the applicant, its partners, directors,
4 officers, policymakers, managers, and holders of ownership or
5 other voting interests or control, including, ~~but not limited to~~:

- 6 1. criminal records;
- 7 2. involvement in litigation over business practices;
- 8 3. involvement in disciplinary actions over a business
9 license or permit or refusal to renew a license or permit;
- 10 4. involvement in proceedings in which unfair labor
11 practices, discrimination, or government regulation of horse
12 racing or gambling was an issue;
- 13 5. involvement in bankruptcy proceedings;
- 14 6. failure to satisfy judgments, orders, or decrees;
- 15 7. delinquency in filing of tax reports or remitting
16 taxes;
- 17 8. any other indices related to integrity which the
18 commission deems crucial to decision making as long as the same
19 indices are considered with regard to all applicants;

20 B. the types and variety of pari-mutuel horse racing which
21 applicant will offer;

22 C. the quality of physical improvements and equipment
23 applicant will use, including, ~~but not limited to~~:

- 24 1. racetrack or tracks;
- 25 2. stabling;
- 26 3. grandstand;
- 27 4. detention barn;
- 28 5. paddock;
- 29 6. jockeys' and drivers' quarters and equipment;
- 30 7. pari-mutuel tote;
- 31 8. parking;
- 32 9. access by road and public transportation;
- 33 10. perimeter fence;
- 34 11. other security improvements and equipment;
- 35 12. starting, timing, photo finish, and photo-patrol or
36 video equipment;

1 13. commission work areas;

2 14. any other indices related to quality which the
3 commission deems crucial to decision making as long as the same
4 indices are considered with regard to all applicants;

5 D. financial ability to sponsor and manage pari-mutuel horse
6 racing successfully, including~~,-but-not-limited-to:~~

7 1. ownership and control structure;

8 2. terms and conditions of the applicant's authorization
9 to use facility;

10 3. current financial condition;

11 4. sources of equity and debt funds, amounts, terms and
12 conditions, and certainty of commitment;

13 5. provision for cost overruns, nonreceipt of expected
14 equity or debt funds, failure to achieve projected revenues, or
15 other financial adversity;

16 6. feasibility of the financial plan;

17 7. any other indices related to financial ability which
18 the commission deems crucial to decision making as long as the
19 same indices are considered with regard to all applicants;

20 E. status of necessary government approvals and compliance
21 with applicable statutes, charters, ordinances, and regulations;

22 F. management ability of the applicant, including~~,-but-not~~
23 ~~limited-to:~~

24 1. qualifications of managers, consultants, and other
25 contractors to manage pari-mutuel horse racing;

26 2. security plan;

27 3. plans for human and animal health and safety;

28 4. marketing, promotion, and advertising plans;

29 5. plan for conducting horse racing;

30 6. plan for purses;

31 7. plan for pari-mutuel betting;

32 8. concessions plan;

33 9. plan for personnel training;

34 10. equal employment and affirmative action plans;

35 11. any other indices related to management which the
36 commission deems crucial to its decision making as long as the

1 same indices are considered with regard to all applicants;

2 G. efforts to promote orderly growth of horse racing in
3 Minnesota and educate public with respect to horse racing and
4 pari-mutuel betting;

5 H. economic impact, including employment, purchases, and
6 taxes;

7 I. extent of public support and opposition;

8 J. effects on competition, including ~~7-but-not-limited-to:~~

9 1. number, nature, and relative location of other Class B
10 licenses;

11 2. minimum and optimum number of racing days sought by
12 the applicant;

13 3. any other indices related to effects on competition
14 which the commission deems crucial to decision making as long as
15 the same indices are considered with regard to all applicants.

16 The commission also must consider any other information
17 which the applicant discloses and is relevant and helpful to a
18 proper determination by the commission.

19 4 MCAR S 15.035 Class A and B license application disclosures.

20 An applicant for a Class A or B license in its disclosures
21 must:

22 A. provide disclosures in printed or typewritten form on
23 8-1/2 by 11 inch paper. Immediately preceding each response, an
24 applicant must restate what disclosure is sought. Any
25 attachments or exhibits must be lettered or numbered
26 separately. An applicant must provide photographs of any
27 three-dimensional exhibits;

28 B. make its best effort, as defined in 4 MCAR S 15.003 E.,
29 to provide all information required to be disclosed;

30 C. provide only information relevant to disclosures
31 requested by the commission;

32 D. upon request of the commission or its agents, provide
33 copies of any documents used in the preparation of its
34 application.

35 4 MCAR S 15.036 Class A and B license application submission.

1 An applicant for a Class A or B license must submit to an
2 individual designated by the commission:

3 A. all documents which are part of its application as a
4 single assemblage;

5 B. a letter of transmittal to the commission and, in sealed
6 envelopes, an original and 20 copies of the application.

7 4 MCAR S 15.037 Investigation fee for Class A and B licenses.

8 An applicant for a Class A or B license must submit to the
9 commission's designee at the time of application a certified
10 check or bank draft to the order of the state of Minnesota in
11 the amount of \$10,000 to cover the costs of the investigation
12 mandated by Minnesota Statutes, section 240.06, subdivision 3,
13 or section 240.07, subdivision 2. Upon completion of the
14 investigation, the commission must refund promptly to the
15 applicant any amount by which the \$10,000 exceeds the actual
16 costs of investigation. If costs of the investigation exceed
17 \$10,000, the applicant must remit the amount of the difference
18 by certified check or bank draft within ten days after receipt
19 of a bill from the commission. An individual or other entity
20 applying for Class A and B licenses simultaneously must submit
21 only one \$10,000 investigation fee.

22 4 MCAR S 15.038 Clarification of Class A and B license
23 application requirements.

24 The commission must designate an individual who will
25 clarify Class A and B license application requirements upon the
26 oral or written request of a potential applicant. The designee
27 must respond to clarification requests in writing within five
28 days. No interpretation of application requirements by any
29 other person will be binding upon the commission.

30 4 MCAR S 15.039 Changes in Class A and B license applications.

31 The commission must not consider a substantive amendment to
32 a Class A or B license application after its submission.

33 4 MCAR S 15.040 Deadlines for submission of Class A and B
34 license applications.

1 Deadlines for submission of a Class A or B license
2 application are as follows:

3 A. applications for a Class A license to own and operate a
4 racetrack in the seven-county metropolitan area must be received
5 by the commission's designee before 5:00 p.m. on the 14th day,
6 as computed pursuant to Minnesota Statutes, section 645.15,
7 after these rules become effective or on ~~January-15~~ March 1,
8 1984, whichever is later. The designee must deliver
9 investigation fees to the commission promptly upon receipt. The
10 designee must retain and safeguard until the deadline with seals
11 intact all applications received. Promptly after the deadline,
12 the designee must deliver the applications to the commission for
13 opening;

14 B. applications for Class A licenses to own and operate
15 racetracks outside the seven-county metropolitan area are not
16 subject to the deadline imposed by A. If the commission
17 determines that applications will be submitted for Class A
18 licenses to own and operate racetracks outside the seven-county
19 metropolitan area which will compete significantly with each
20 other, the commission must establish a deadline for submission
21 of applications;

22 C. applications for Class B licenses must be submitted at
23 least 160 days before the date on which the applicant proposes
24 to commence horse races.

25 4 MCAR S 15.041 Oral presentation by applicant for a Class A or
26 B license.

27 The commission must provide an applicant for a Class A or B
28 license an opportunity to make an oral presentation of its
29 application to the commission before the commission decides
30 whether to issue a license. This rule does not require that the
31 commission afford an applicant more than one opportunity to make
32 an oral presentation before the commission makes its decision.

33 4 MCAR S 15.042 Payment of Class A and B license fees.

34 A Class A or B license does not become effective until the
35 commission receives a certified check or bank draft to the order

1 of the state of Minnesota in the amount of the license fee as
2 follows and is void if the license fee is not received within
3 ten days, as computed pursuant to Minnesota Statutes, section
4 645.15, after issuance:

5 A. a nonrefundable fee of \$10,000 for a Class A license;

6 B. a fee for a Class B license equal to \$100 times the
7 optimum number of racing days sought in the license application.
8 The commission must refund promptly to the licensee any amount
9 by which the fee paid exceeds \$100 times the number of actual
10 days of racing sponsored and managed by the licensee.

11 4 MCAR S 15.043 Class A and B license application information.

12 False or misleading information in a Class A or B license
13 application, omission of required information, or substantial
14 deviation from representations in the application is cause for
15 denial, revocation, or suspension of a license or imposition of
16 a fine.

17 4 MCAR S 15.044 Delay in completion of racetrack facility.

18 Failure of a Class A licensee to complete substantially the
19 construction of its racetrack facility and installation of
20 equipment within 30 days, as computed pursuant to Minnesota
21 Statutes, section 645.15, after the completion date stated in
22 its license application is cause for revocation or suspension of
23 the license, and the commission may impose a penalty of \$1,000
24 on the licensee for each day of delay. The penalty does not
25 apply if and to the extent the licensee proves that the delay
26 arose out of causes beyond the control and without the fault or
27 negligence of the licensee, its contractors and subcontractors.
28 Such causes may include, but are not restricted to, acts of God
29 or enemies of the United States, acts of government in either
30 its sovereign or contractual capacity, fires, floods, epidemics,
31 quarantine restrictions, strikes, freight embargoes, and
32 unusually severe weather, but in every case the delay must be
33 beyond the control and without fault or negligence of the
34 licensee, its contractors and subcontractors. If the cause of
35 delay is the default of a contractor or subcontractor and if the

1 licensee proves the default arose out of causes beyond the
2 control of the licensee, its contractors and subcontractors, the
3 above penalty may not be imposed for the delay unless the
4 supplies or services to be furnished by contractor or
5 subcontractor were obtainable from other sources in sufficient
6 time to permit the licensee to meet the completion date.

7 4 MCAR S 15.045 Construction, expansion, extension, alteration,
8 or remodeling of facilities.

9 No Class A or B licensee may construct, expand, extend,
10 alter, or remodel a racetrack facility at a cost in excess of
11 \$10,000 without the approval of the commission. Failure to
12 obtain approval is cause for revocation or suspension of a
13 license or imposition of a fine.

14 4 MCAR S 15.046 Security.

15 Class A and B licensees must maintain security which is
16 adequate to ensure the health, safety, and comfort of all humans
17 and horses at the racetrack facility and protection of all
18 property.

19 4 MCAR S 15.047 Security modifications.

20 The commission may order Class A and B licensees to make
21 modifications to security facilities, equipment, systems,
22 personnel, or their deployment which are necessary to the
23 integrity of racing or public safety, health, or welfare.
24 Failure to make modifications mandated by the commission
25 promptly is cause for revocation or suspension of a license or
26 imposition of a fine.

27 4 MCAR S 15.048 Medical services.

28 A racetrack facility must provide the following medical
29 facilities, equipment, and personnel:

- 30 A. a fully equipped first aid room with at least two beds;
31 B. a licensed physician and registered nurse on duty in the
32 first aid room on all days during which horse racing is
33 conducted;
34 C. a registered nurse on duty on all days during which the

1 racetrack facility is open for exercising horses;

2 D. an ambulance for humans with necessary equipment and
3 staff whenever the facility is open for racing or exercising
4 horses.

5 4 MCAR S 15.049 Care of horses.

6 A racetrack facility must provide the following facilities,
7 equipment, and personnel for horses:

8 A. an individual box stall for each horse;

9 B. a fence surrounding the stabling facilities;

10 C. stabling and training facilities available at least three
11 weeks before the start of the first race meeting for a species
12 of horse in any year;

13 D. a licensed outrider mounted and on duty whenever a
14 facility is open for exercising horses;

15 E. a horse ambulance available for the safe and expedient
16 removal of crippled animals. The ambulance must be equipped
17 with a screen for use when an animal must be destroyed in view
18 of the public, a winch to lift dead or injured animals onto the
19 ambulance, and a removable floor or any other devices which
20 enable a dead or injured horse to be loaded.

21 4 MCAR S 15.050 Contract approval.

22 Contracts entered into by Class A, B, and D licensees and
23 their contractors for goods and services are subject to prior
24 approval by the commission. Contracts and subcontracts must
25 include affirmative action plans establishing goals and
26 timetables consistent with Minnesota Statutes, chapter 363. All
27 Class A, B, and D licensees must submit copies of any written
28 contracts and subcontracts to the commission. The commission
29 shall approve or disapprove contracts and subcontracts within 30
30 days, as computed pursuant to Minnesota Statutes, section
31 645.15, after submission.