

**Subcommittee on Oversight and Investigations Hearing:
“Thoroughbred Horse Racing Jockeys and Workers: Examining On-
Track Injury Insurance and Other Health and Welfare Issues”
October 18, 2005**

Testimony Submitted by Chris McCarron

Mr. Chairman and Distinguished Members of the Subcommittee:

Thank you very much for inviting me to participate in this hearing. I am appearing on my own behalf. As my attached resume describes, my career as a professional jockey began in 1974 and continued without interruption (with the exception of several injury recovery periods) until I retired on June 23, 2002. During that 28-year period I rode horses at numerous major and minor race tracks throughout the United States (including Maryland, New York, New Jersey, Delaware, and California) and North America. Among the accomplishments of which I am most proud, as of my retirement date, I had ridden 7,141 winners (the 7th highest among all jockeys) and had purse earnings over \$264 million (then the all-time leader). Horse-racing fans would appreciate that my record includes two Kentucky Derby winners, two Preaknesses, two Belmonts, six Triple Crown wins in total, and nine Breeders' Cup winners. Before retiring at age 47, I had the good fortune of winning virtually every major race in North America at least once.

Since my retirement, I have remained actively engaged in the unique world of horse racing. As you know Mr. Chairman, I am currently involved in the exciting and

challenging process of establishing a school to train jockeys in Lexington, KY – a first of its kind in the United States.

Based on my personal experiences as well as a simple look at the statistics, I am acutely aware that professional jockeys engage in one of – if not the – most hazardous occupations. This should not come as a surprise to anyone. I fully expect that each member of the Subcommittee and the general public recognizes this reality. On-track injuries incurred during the course of employment have left jockeys the victims of fatalities (over 100 jockeys have been killed as a result of a racing or training accidents since the Jockeys Guild of America began keeping records in 1940, at an average of two per year), permanently disabling injuries (there are currently over fifty permanently disabled jockeys), and a disturbingly long list of serious injuries that have had both short-term and cumulative effects on virtually every bone in their bodies. According to a study conducted by and recorded in the *Journal of the American Medical Association* in the late 1990's, jockeys experienced on a nation-wide basis 35 accidents per week. That's 1,820 per year reported to the first-aid rooms at tracks around the country. The injuries range from minor to permanently disabling catastrophes. To provide a perspective with regard to how most jockeys have viewed the degree of their injuries, I broke both my legs and my right arm in a spill in 1990 and considered it just a "minor" injury. I knew I would be back riding and, in fact, I returned to the races only 87 days later with a rod in my left femur and a pin in my arm. Like most jockeys, I am very impatient when it comes to returning to the saddle after an injury, for two reasons: First, because we are not earning any income to support our families; and second, because we hate to see our mounts

ridden by others. Additionally, there are only five states (California, New York, New Jersey, Maryland and Idaho) that have laws requiring owners and/or trainers to provide worker compensation insurance for jockeys. And even where such coverage applies, the reality is that it is very difficult to care for a family on the weekly compensation provided by such coverage. Consequently, jockeys have a major incentive to return to work ASAP.

I joined the Jockeys Guild soon after I started riding professionally. Throughout my career, I have been actively involved in supporting efforts on behalf of myself and fellow jockeys to persuade management to provide more safe and healthful working conditions, i.e. endorsing the implementation of safety rails, being involved in judging unsafe track conditions, complaining to management when our “hot boxes” (steam rooms) are unclean and unhealthful, endorsing a requirement that jockeys wear safety vests while riding, and improving the padding inside the starting gate. Jockeys are not stupid. They know they face inherent dangers each time they mount a horse to participate in a race.

Experience shows that, to the extent these dangers cannot be completely eliminated, serious injuries – some catastrophic – will continue to occur periodically. In those instances, some system of insurance must be in place to provide jockeys and their families appropriate assistance in their times of dire need. In this vein, I have also been actively involved in attempting to achieve that result for my fellow jockeys during my tenure first as a member and later as an officer of the Jockeys Guild of America. (I was elected to the Board of Directors in the early 1980’s, re-elected to the Board in 1998 or

1999, and then elected Treasurer in 2001.) An example of my commitment to this cause is that in 1987 I co-founded, with my wife Judy and actor/comedian Tim Conway, the Don MacBeth Memorial Jockey Fund, which financially and emotionally assists disabled jockeys and their families. We have raised over \$2 million to date and assisted over 1,600 jockeys.

So, I am especially pleased that a major focus of the Subcommittee's attention involves "Examining On-Track Injury Insurance and Other Health and Welfare Issues." The lack of a national on-track accident plan should be the starting point for your investigation and consideration. The Subcommittee may find it hard to believe that as of today no such plan exists. That is, however, the regrettable fact.

Now let me offer some background information to assist you in understanding "why" none exists. The fight to provide jockeys and their families adequate catastrophic insurance for on-track injuries has proven to be complicated and contentious. In plain words, management – race-track owners, horse owners and trainers – has refused to a great degree to accept the responsibility for providing such insurance. For many years this has frustrated me and my fellow jockeys. Our level of frustration reached a peak in late 1994. After ongoing discussions among jockeys and with the involvement of the Guild, through then National Managing Director, John Giovanni, the jockeys decided as a last resort to conduct a nation-wide refusal to ride their mounts on January 1, 1995. Our objective was to call the public's attention to our plight and specifically to pressure race-track owners to provide the revenues necessary to finance the cost of on-track insurance

coverage for jockeys and their families. As I recall, shortly before the scheduled work stoppage the track owners succeeded in persuading the Attorney General of Florida to threaten the Guild with a massive anti-trust damage lawsuit unless it cancelled the planned action. Mr. Giovanni then advised the Guild officers that we were facing a perilous situation and the decision was made to call off the event and ride our mounts on that date. I was among the most resistant and the most unhappy because I believed strongly in the righteousness of our cause.

What this meant was that the jockeys, acting through the Guild, were reduced to purchasing and paying for (out of the Guild's treasury) both an on-track catastrophic group insurance policy for its members and their families and a group health insurance policy. To meet the resulting financial burden, the Guild, among other things, solicited and obtained written authorizations from individual jockeys to license for a fee their "Media Rights" (publicity rights to our faces, pictures, images and names) to the Thoroughbred Racing Association ("TRA"), whose members consisted of numerous race-track owners. In turn, Guild representatives would periodically negotiate an agreement with TRA representatives with the goal of exchanging the jockeys' media rights for as large an annual payment to the Guild as possible. For a number of years those agreed-upon payments from the TRA were sufficient to cover the premium costs of the two major policies obtained by the Guild.

However, in recent years, the cost of health insurance soared to record high levels and the payments we received from the TRA did not keep pace. From 1998 to 2000 the

gap between the negotiated payments obtained from TRA and premium costs became larger and larger.

This ultimately resulted in a recommendation from National Managing Director, Mr. Giovanni, that effective April 1, 2001, the Guild should cease offering health insurance for active members not covered by the California or Delaware insurance plans. The nine-member Executive Committee of the Guild (of which I was then a member) approved that recommendation, that group policy was cancelled, and, as I recall, members were notified in writing that they would thereafter be responsible for obtaining and paying for health insurance for themselves and their families. The fact that the Guild cancelled that policy had no effect on its \$1 million on-track accident insurance policy which continued in full force.

It was my judgment that the financial problem which caused the Guild to cancel the health policy was, in large measure, attributable to the fact that Mr. Giovanni, a former jockey himself and not a professional negotiator, was at a major disadvantage when conducting negotiations against the TRA's sophisticated attorneys and financial advisors. In particular, I was dissatisfied that Mr. Giovanni failed to prevail upon the TRA to finance the increasing premium costs of the Guild's policies.

For that and other reasons, in the spring of 2001, I made the judgment that Guild members would be better served if the National Managing Director position was filled by a professional. That is the model, I have been told, that the entertainment guilds and most sports unions have been following for years.

In 1994 I was introduced to Dr. Wayne Gertmenian through my daughter. I was aware that he was an Economics Professor at Pepperdine University and I understood that, as well, he had acquired significant negotiating experience in handling multi-million dollar international business transactions. His resume on Pepperdine's website states: "Dr. Gertmenian served the Nixon and Ford administrations as a chief detente negotiator in Moscow for the chairman of the National Security Council, as an emissary to Teheran for the Secretary of Commerce, and as a special assistant to the Secretary of Housing and Urban Development. Today, he is a distinguished professor at two universities in China and advises Russian leaders on a free market economy." Further, based upon a number of informal discussions, I was impressed with the articulate, confident manner in which he expressed his views, his stated interest in learning about the problems jockeys face, and his stated desire to help us resolve them. This led me to recommend to my fellow Executive Committee members that we replace John Giovanni with Dr. Gertmenian.

During the course of an Executive Committee conference call meeting in early June 2001 we discussed the question whether to replace Mr. Giovanni with Dr. Gertmenian. A number of Mr. Giovanni's supporters disagreed with my position but ultimately a majority of the Committee voted to replace Mr. Giovanni with Dr. Gertmenian. To conduct the broad spectrum of administrative, financial, and recordkeeping functions that the Guild staff performs on a daily basis, Dr. Gertmenian hired and utilized the services of employees of Matrix Capital Associates, Inc., an organization he established. The staff worked out of the Guild's headquarters in Lexington, Kentucky until the Guild moved to Monrovia, California in late 2002.

Commencing several months after Dr. Gertmenian assumed his duties, I became dissatisfied with his actions in several important respects. First, I was unable to understand why he continually refused fellow Board member Jerry Bailey's request that he provide a comprehensive resume detailing his credentials and his career activities. I found Dr. Gertmenian's explanation that confidential information was involved totally unacceptable. Second, I became concerned that the fees Dr. Gertmenian was insisting upon in his contract with the Guild covering services to be rendered through Matrix Capital were unreasonably high. In my capacity as treasurer, I prevailed upon him to make certain adjustments but, in retrospect, they should have been more extensive. Third, Dr. Gertmenian's presentations at several jockey meetings I attended were troubling to me. He had a bad habit of exaggerating his credentials and his ability to achieve the jockeys' goals. Thus, at least as early as the time that I retired as a jockey and resigned as Guild Treasurer (June 2002), I had serious reservations about Dr. Gertmenian. I had shared many of my reservations with him but his responses to me were extremely negative, to say the least.

Next, I want to state with absolute certainty that I did not learn that Dr. Gertmenian had non-renewed (effectively canceling) the Guild's on-track catastrophic injury policy in April 2002 until two years later. Specifically, I first learned of the non-renewal upon reading various articles shortly after Gary Birzer's horrible on-track injury in West Virginia in July 2004. I was stunned to learn of these circumstances. I know that at no time prior to my resignation from office in June 2002 did the Committee take any

action to non-renew that policy. I want to assure the Subcommittee that I never would have voted to do so. The only conclusion that I can offer, without knowing what led Dr. Gertmenian not to renew the on-track insurance policy, is that he did so on his own.

Having described this unfortunate turn of events, I have one all-important concern: I would implore the Subcommittee not to lose sight of the fact that there remains a critical need to take all appropriate steps to ensure that jockeys and their families receive the requisite catastrophic insurance they most assuredly are entitled to. I welcome your assistance in achieving this worthy goal.