

RECOMMENDATIONS OF THE SALES INTEGRITY TASK FORCE

Pursuant to an agreement between the Consignors and Commercial Breeders Association, Fasig-Tipton, Inc., Horse Owners' Protective Association, Keeneland Association, Inc., Kentucky Thoroughbred Association and Thoroughbred Owners and Breeders Association, and Representative Larry Clark, the Sales Integrity Task Force was reinstated to develop industry consensus on the following issues which were implicated by Kentucky House Bill 388:

- Licensing bloodstock agents and consignors;
- Transparency in ownership in the sales arena; and
- Transparency in medication in the sales arena.

Members of the Task Force are:

John Adger (Stonerside Stables)

Reiley McDonald (Eaton Sales)

Mike Akers (Dapple Bloodstock)

Martha Jane Mulholland (Mulholland Springs Farm)

Headley Bell (Nicoma Bloodstock)

Nick Nicholson (Keeneland Association)

Jimmy Bell (Darley USA)

Denny Nunnelley (Ky. Quarter Horse Racing Assn.)

Reynolds Bell, Jr. (Reynolds Bell Thoroughbred Services)

Frank Penn (Pennbrook Farm)

Wayne Boyd (Western Kentucky Horse Sales)

Walt Robertson (Fasig-Tipton)

Bill Casner (WinStar Farm)

Earl Rogers (Kentucky Walking Horse Association)

Robert Clay (Three Chimneys)

Geoffrey Russell (Keeneland Association)

Joe Costa (Tattersalls)

Dermot Ryan (Ashford Stud)
Charles "Redd" Crabtree (Crabtree Farms)
Satish Sanan (Padua Stables)
Bruce Crowe (United Mountain Horse Association)
Fred Sarver (American Saddlebred Horse Assn.)
Bill Farish (Lane's End)
Fred Seitz (Thoroughbred trainer/Brookdale Farm)
Bill Heiligbrodt (Heiligbrodt Racing Stable)
John Sikura (Hill 'n' Dale Farms)
Jess Jackson (Stonestreet Farm)
Mark Taylor (Taylor Made Farm)
Ken Jackson (Kentuckiana Farms)
D.G. Van Clief (Fasig-Tipton)
Bill Landes (Hermitage Farm)
John Ward (Thoroughbred trainer)
Norman Luba (Kentucky Quarter Horse Association)
Bayne Welker (Mill Ridge Farm)
Tom Ludt (Vinery)
Jack Wolf (Starlight Stables)
Alex Waldrop (NTRA, Task Force moderator)

The Task Force has a deadline of December 31, 2007 to give the Interim Joint Licensing and Occupations Committee and Representative Clark a final report that outlines the industry's consensus on the three issues and makes recommendations for legislation, if any, that may be required for the 2008 Kentucky legislative session.

Licensing of Bloodstock Agents and Consignors

The Task Force recommends industry self-regulation of agents and consignors through the conditions of sale. All sellers, consignors, agents, owners, prospective bidders/buyers and all other interested parties are bound by the conditions of sale. Therefore the code of conduct, as summarized below, should be included in a sales company's conditions of sale.

- The Code of Conduct applies to public auction sales.
- The Code sets out definitions of Agent, Principal, Luck Money, Consignor, Secret Profit, Seller Purchaser and Equine Auction Sale.
- Luck Money means any financial payment or payment in kind of anything of value in excess of \$500 made by or on behalf of a Seller to a Purchaser or his Agent in connection with an Equine Auction Sale either before or after the Equine Auction Sale has been concluded.
- Secret Profit means anything of value in excess of \$500 received by an Agent in connection with an Equine Auction Sale that is not disclosed to the Agent's Principal.
- The Code states that an Agent owes a duty of good faith and loyalty to his Principal, and requires an Agent to act at all times in an Equine Auction Sale in accordance with the Principal's best interests.
- The Code enumerates, without limitation, seven specific situations where an Agent must disclose and/or account to his principal in order to act in the Principal's best interest:
 - o An Agent must not place himself in a position where personal interests conflict with duties to his Principal, except with full advance disclosure;
 - o When an Agent acts as a Seller of any horse in which he has an interest, the Agent must disclose to the Principal the full extent of the Agent's ownership interest and benefit to be derived from the transaction;
 - o If an Agent represents more than one Principal, the Agent must first disclose the dual agency and obtain the consent of all Principals to the Agent's dual agency;
 - o An Agent must notify his Principal when a conflict of interest arises;
 - o An Agent must disclose any Luck Money he receives to his Principal, and account to his Principal for the Luck Money if the Principal requires;
 - o A Seller or Agent shall not offer any Secret Profit to any person the Seller or Agent believes is acting as an Agent for a prospective purchaser; and
 - o An Agent shall not bid at public auction on any horse the Agent knows his Principal intends to bid or his Principal is selling, except with the Principal's full knowledge and consent.
- Any complainant of an alleged breach of the Code must first provide a written statement to the sales company describing how the alleged breach occurred.

- If the parties are unable to resolve the matter among themselves, the complainant may initiate arbitration pursuant to the rules of the American Arbitration Association.
- Arbitration will be held in Lexington, Kentucky.
- The findings and decisions through arbitration are final and binding on the parties.
- The Code or a finding of a violation of thereof does not preclude the aggrieved party from pursuing all remedies at law that he may have.
- If the arbitrators find that a violation of the Code has occurred, the arbitrator(s) may impose sanctions against the person(s) violating the Code. The Sanctions are limited to exclusion from participation in the sales, or from the sales grounds for various prescribed periods of time, depending on the number of offenses by the person(s) violating the Code.
- Fasig-Tipton and Keeneland have agreed to make the code of conduct part of their conditions of sale and observe the findings and sanctions of the arbitrator(s).
- In the event of a finding of a violation of the Code, the sales companies will post the name of the party sanctioned and the sanction in a conspicuous manner during the period of exclusion.
- The prevailing party in arbitration is entitled to recover costs and expenses, including attorneys' fees.

Transparency in Ownership in the Sales Arena

The Task Force recommends a condition of sale be added by each sales company that incorporates the following points:

- The establishment of a voluntary Ownership Registry that would be maintained by the sales companies.
- Disclosure of ownership is encouraged.
- If ownership is disclosed either in the catalogue or in the Ownership Registry, a change in ownership is required to be disclosed in the Ownership Registry or by written notice to the sales company.
- If a change in ownership occurs after a horse is on the sales grounds, the change in ownership is required to be disclosed to the sales company by giving written notice of such change in ownership to the sales company. The change in ownership will be announced by the auctioneer prior to the sale of the horse.
- A change of ownership of 10% or less is deemed not to be a change in ownership for purposes of the Condition of Sale.
- There is no requirement to identify to whom ownership is transferred.

- If information is placed in the Ownership Registry, or if information regarding ownership is disclosed in the catalogue, the party supplying the information warrants that the information is materially accurate.
- If the purchaser of a horse learns, after the sale, that the information in the catalogue or Ownership Registry was not materially accurate, or that there was an undisclosed change in ownership after the horse was on the sales grounds, the purchaser has the right to collect liquidated damages, provided that:
 - (1) the purchaser accessed the Ownership Registry regarding the subject horse;
 - (2) the purchaser has paid for the horse in full;
 - (3) the purchaser notifies the sales company of its election to collect liquidated damages within six months from the date of sale of the horse;
 - (4) the purchaser establishes, by clear and convincing evidence, that there was a material inaccuracy in the Ownership Registry or in the catalogue at the time of sale of the horse that was not corrected by subsequent notice as required by the Condition, or that the seller or consignor failed to disclose to the sales company, as required by the Condition, that there was a change in ownership prior to the sale of the horse; and
 - (5) the purchaser establishes, by clear and convincing evidence, that the party from whom purchaser seeks liquidated damages had actual knowledge at the time of the sale of the material inaccuracy in the Ownership Registry or catalogue, or of the failure to disclose change in ownership as required by the Condition.
- Liquidated damages are 50% of the hammer price of the horse, but the consignor's liability is limited to two times its commission on the horse. Accordingly, if a purchaser prevails against both the seller and consignor, the consignor would pay two times the commission the consignor received on the sale of the horse, and the seller would pay the balance of the 50% of the hammer price.
- If any dispute arises regarding ownership disclosure, the parties to the dispute agree to submit the dispute to binding arbitration, which will be held in Lexington, Kentucky.
- The non-prevailing party in arbitration pays the costs of arbitration and reasonable attorneys' fees of the prevailing party, including the costs of the sales company.

Fasig-Tipton and Keeneland have agreed to implement this condition of sale.

Transparency in Medication in the Sales Arena

The Task Force recommends sales companies encourage owners selling horses at public auction to disclose known and material medical information regarding the offered horse through the veterinary

repositories maintained by the sales companies. Also, the Task Force recommends that policies regarding anabolic steroids and additional prohibited practices be included in the conditions of sale. These include:

Anabolic Steroids

The Task Force recommends that other sales companies adopt the position statement on anabolic steroids developed by Fasig-Tipton and Keeneland as part of their conditions of sale. The position statement is as follows:

It is the sales companies' desire that horses not be sold under the influence of anabolic steroids. Our position is that no anabolic steroids be given within 45 days of sale. To that end, we have the ability to test for the presence of exogenous anabolic steroids. Beginning in January 2008, at the Purchaser's request, testing will be performed immediately after the horse is sold and any presence of these anabolic steroids in the sale horse may result, at the Purchaser's discretion, in its return.

Starting in 2008, research will be done to establish naturally occurring levels of other anabolic steroids in different ages and sexes of horses. As the ability to determine what is an abnormal level is achieved, the presence of other steroids in sale horses may result in the rescission of a sale.

Prohibited Practices

Pursuant to recommendations of the Sales Integrity Task Force from meetings in 2004, the current Conditions of Sale of Keeneland contain a list of "Prohibited Practices." Horses which have been subject to Prohibited Practices are subject to Rejection, which is defined as rejection or revocation of acceptance by the purchaser. The Task Force recommends:

- Other sales companies add a list of Prohibited Practices to their conditions of sale.
- A horse should not be injected behind its knee prior to sale to conceal the true condition and conformation of the horse, and recommends that injections behind the knee be placed on the list of Prohibited Practices.
- An industry committee meet annually to review and recommend additions and deletions to the list of Prohibited Practices to the sales companies.
- The industry committee would be comprised of one representative from each of the following: (1) the sales companies, (2) the American Association of Equine Practitioners (AAEP), (3) the Thoroughbred Owners and Breeders Association (TOBA), and (4) Consignors and Commercial Breeders Association (CBA).