

April 20, 2005

Dr. Wayne Gertmenian
President and Chief Executive Officer
The Jockeys' Guild
P.O. Box 150
Monrovia, CA 91017

Dear Dr. Gertmenian:

I write to request documents and information relating to the efforts made by the Jockeys' Guild ("the Guild") to promote the interests and protect the welfare of its members – licensed professional horseracing jockeys in the United States. I request this information in connection with an ongoing investigation by the Subcommittee on Oversight and Investigations concerning the adequacy of on-track injury health insurance for jockeys, as well as the absence of such injury-related health insurance for many "exercise riders" and "backstretch workers" who are paid by horse trainers to exercise and care for the racehorses.

In particular, pursuant to the Energy and Commerce Committee's jurisdiction over both public health and sports-related issues, I seek documents and information related to the actions taken by the Guild regarding its health insurance policies for on-track accident coverage, as well as the Guild's efforts to persuade racetracks around the country to increase their own on-track accident insurance coverage. I also seek information regarding the Guild's management, accounting, and oversight of all funds provided to the Guild from its various funding streams, including, but not limited to, those funds received from: jockeys as part of their membership dues; North American racetracks pursuant to contracts or any other agreements; donors to either the Disabled Jockeys' Fund or the Disabled Jockeys' Endowment; and various state racing authorities for the purposes of additional "off track" health insurance for Guild members from those respective states.

Thoroughbred horseracing is one of the nation's most dangerous sports professions, and we appreciate that the Guild was founded in the 1930s with a primary

goal of protecting the interests of disabled and injured jockeys. Serious questions have recently been raised by well-known jockeys, media reporting, and papers filed in federal litigation regarding your leadership and management of the Guild, as well as the Guild's use of its resources on behalf of its members. Among the circumstances triggering these questions about the Guild's activities and your leadership of that group, on July 20, 2004, an active jockey and Guild member, Gary Birzer, was paralyzed below the waist during a race at Mountaineer Park, in West Virginia. The racetrack's standard on-track injury insurance covered the first \$100,000 of Mr. Birzer's medical costs. However, the excess medical costs, which far exceeded \$100,000, were not covered by an accident insurance policy that Mr. Birzer – and other jockeys, for that matter – assumed they had through their Guild membership. As a result of Mr. Birzer's tragic accident, it was discovered that the Guild in 2002 chose not to renew an insurance policy that covered medical claims exceeding the racetracks' individual policies, up to \$1 million.

Many of the Guild's members claim they were never notified regarding the absence of this absolutely vital accident insurance. Following this incident, Guild members and others demanded answers from the Guild's leadership, as well as an independent audit of the Guild's finances and operations. Further, the California Horse Racing Board (CHRB) recently initiated an inquiry into how the Guild has utilized that state's contributions of funds, totaling roughly \$1 million per year, for the purposes of separate off-track insurance for California jockeys and their families. The Delaware Thoroughbred Racing Commission is also investigating how the Guild has utilized Delaware's \$350,000 annual contribution to the Guild for off-track insurance that benefits Delaware jockeys.

It is my understanding that, in the meantime, many racetracks around the country that previously provided the Guild with "per mount" fees that were intended to pay for the Guild's supplemental on-track accident coverage have refused to make further payments, given the questions surrounding the use and accounting of these funds – which in the past have amounted to over \$2 million in direct annual payments from the racetracks. These racetracks, such as Churchill Downs, have instead decided to purchase additional on-track accident coverage for jockeys having a higher injury benefit than the previous \$100,000 policies, apparently until the Guild's accounting issues are rectified.

Finally, the former Treasurer of the Guild – a jockey from New Jersey named Edwin King – filed a civil lawsuit in November 2004 alleging, *inter alia*, that you discussed divesting \$1 million from the Guild's Disabled Jockeys Fund "to create the illusion that the Fund was in financial trouble, thereby encouraging donations from wealthy benefactors of the Fund." The complaint further alleges that after Mr. King pressed for answers regarding a sharp decrease in the Fund's assets and subsequently called for an independent audit of the Fund and other Guild monies, Mr. King was removed from his post as Treasurer on November 7, 2004. While reserving any judgment on the merits of these allegations, the complaint includes e-mail documents that raise serious questions about the Guild's administration of the Fund and Mr. King's removal as Treasurer.

Ultimately, I am very concerned about the health and welfare of the people who are so vital to the multi-billion dollar horseracing industry – jockeys, exercise riders, and backstretch workers. These individuals are very often overlooked, because of the focus on the impressive power and majesty of the thoroughbred horses and the excitement of watching them race. The Guild is supposed to be one institution that remains focused on horseracing’s human participants, working for the health and safety of jockeys.

Consequently, I seek information relating to our oversight of the health of jockeys, exercise riders, and backstretch workers in the horseracing industry, and I request that, pursuant to Rules X and XI of the U.S. House of Representatives, you provide the following information detailed below on or before Wednesday, May 4, 2005:

1. Provide your current *curriculum vitae* or resume, including, but not limited to: all college and graduate education received and the dates of all degrees received; all corporate or executive positions held, and the respective job responsibilities and dates of service for each; and all government employment positions, and the respective job responsibilities and dates of service for each.
2. List the names and titles, and describe the respective responsibilities, of all officers and other individuals employed by the Guild (or by Matrix Capital Associates, Inc. (Matrix) – of which you are the President and Chief Executive Officer – which assists in Guild management and operations). For each named individual, provide the total annual compensation, including salaries and bonuses, received from the Guild.
3. List the names and titles, and describe the respective responsibilities, of all individuals who “volunteer” at the Guild (including any individuals from Matrix who volunteer at the Guild and assist in Guild management or operations). For each named individual, specify whether the Guild has provided any form of compensation to that volunteer.
4. Describe in detail the relationship between the Guild and Matrix, including, but not limited to, the specific services provided to the Guild by Matrix and the role of Matrix in daily Guild operations.
5. All records relating to the relationship between the Guild and Matrix, including, but not limited to, all contractual or other written agreements between the Guild and Matrix.
6. All records relating to the Guild’s management and operations, including, but not limited to, the Guild’s bylaws and any other operations manuals or memoranda providing guidance on Guild management and activities.

7. All records relating to Guild members' current and past health insurance coverage, both on-track (*i.e.*, "catastrophic") and off-track policies, including, but not limited to assessments, minutes, notes, correspondence, internal meetings, or memoranda.
8. All health insurance policies maintained by the Guild since March 2000.
9. Describe the Guild management's basis for permitting the Guild's on-track accident coverage to lapse in 2002, and whether – and if so, when – Guild members were ever notified that the Guild's supplemental on-track accident insurance had not been renewed. Further, describe whether the Guild has since that time ever acquired a replacement policy for the lapsed insurance.
10. All records relating to the circumstances surrounding the Guild's decision to allow its supplemental on-track accident insurance to lapse in 2002, including, but not limited to assessments, minutes, notes, correspondence, internal meetings, or memoranda.
11. Describe whether the Guild has ever provided, or otherwise arranged for, accident insurance coverage for "exercise riders," and if so, when such coverage was terminated and the basis for terminating the coverage.
12. All contracts or other written agreements between the Guild and the racetracks or the Thoroughbred Racing Association(s) (TRA) regarding "per mount" fees or other fees paid to the Guild by the racetracks, including, but not limited to, any agreement between the Guild and the racetracks or TRA concerning the jockeys' claim to intellectual property rights in their likenesses ("publicity rights").
13. A copy of the standard contract which Guild members enter, assigning their publicity rights, or any other intellectual property rights, to the Guild for the purpose of allowing the Guild to negotiate with racetracks for compensation or other fees.
14. List and describe in detail all sources of revenue received by the Guild, and explain for what purposes each funding stream is used.
15. All records relating to the Guild's use of "per mount" fees or other fees paid to the Guild by the racetracks, including, but not limited to, internal discussions or deliberations about the use of such revenue.
16. All records relating to the Guild's use of any money provided to the Guild by any state racing authority, including, but not limited to, internal discussions or deliberations about the use of such revenue.

17. All audits or assessments of the Guild's funds and operations, whether conducted by an independent auditor, a state racing commission or racing authority, the Guild, Matrix, or any other party.
18. All records relating to oversight conducted by the California Horse Racing Board (CHRB) or any other agency of the State of California, including, but not limited to, any audits conducted by the CHRB.
19. All records relating to the removal of Edwin King from the post of Guild Treasurer and the grounds for his removal.
20. All records relating to the decision by the Guild's Board to renew the Guild's contract with you and Matrix, including, but not limited to, assessments, minutes, notes, correspondence, internal meetings, or memoranda.
21. Describe the Guild's Disabled Jockeys' Endowment, including, but not limited to, the Endowment's current account balance, any projections of future distributions, rules regarding such distributions, and a list of individuals who have raised funds for the Endowment. Provide all records relating to the Guild's creation and maintenance of the Disabled Jockeys' Endowment.
22. List all members of the Guild's Board, and describe in detail how members of the Board are chosen, how a member may be removed, compensation received by Board members, and the terms of service by Board members.
23. Did you order, authorize, or otherwise approve of the divestiture of assets from the Guild's Disabled Jockeys' Fund? If assets were divested from the Disabled Jockeys' Fund, describe the transaction or transactions in detail, including, but not limited to, the basis and purpose for any such divestiture, what individuals authorized any such divestiture, the quantity of money divested, and to where the funds were moved. Provide all records relating to any plan by you, the Guild, or Matrix to "divest" the Disabled Jockeys' Fund of \$1 million dollars or any other sum.

Please note that, for the purpose of responding to these requests, the applicable time period is January 1, 1999, to the present, unless noted otherwise. The terms "records," "relating," and "regarding" should be interpreted in accordance with the attachment to this letter.

Dr. Wayne Gertmenian
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Thank you for your attention to this matter. Should you have any questions, please contact Tom Feddo or Joby Fortson, Committee Majority Counsel at (202) 226-2424.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Joe Barton, Chairman
The Honorable John D. Dingell, Ranking Member
The Honorable Bart Stupak, Ranking Member
Subcommittee on Oversight and Investigations

Attachment

ATTACHMENT

1. The term “records” is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.

2. The terms “relating,” “relate,” or “regarding” as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.