



## PUBLIC PROTECTION CABINET

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#### SUMMARY AND FINDINGS

In re Investigation of Allegations made by PETA against Steve Asmussen, Scott Blasi and KDE Equine, LLC.

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Following are the summary and findings of the investigation into allegations made by People for the Ethical Treatment of Animals ("PETA") against trainer Steve Asmussen ("Asmussen") and assistant trainer Scott Blasi ("Blasi"), as well as into the operation of the Asmussen stable generally. When first reading the allegations and viewing the video, concern was raised about the conduct of Mr. Asmussen and Mr. Blasi. After a thorough and rigorous investigation, no evidence of a rule violation was found. In addition, no evidence was found to substantiate PETA's claims that "Asmussen and Blasi maintained horses in their care in poor physical condition" or subjected any horse to "cruel or injurious mistreatment," abuse or neglect.

The investigative report and materials were sent to the Stewards to review and make an independent determination of whether or not a rule violation occurred or there was evidence to substantiate any claim of horse abuse, mistreatment or neglect. (See Investigative Report attached as Exhibit A.) After careful review of the lengthy and thorough investigation conducted by the KHRC staff into the allegations of animal cruelty and rule violations by Steve Asmussen, Scott Blasi, and KDE Equine, including videos, interviews, medical reports and medication statistics, the Stewards concluded that the evidence does not support any administrative action, as no evidence of rule violations was presented.

#### I. ALLEGATIONS

On March 18, 2014, the KHRC received a letter from PETA ("March 18 Letter") requesting an investigation into certain activities of trainer Steve Asmussen ("Asmussen"), assistant trainer Scott Blasi ("Blasi"), and KDE Equine (dba Steve Asmussen Racing Stables).<sup>1</sup> (March 18 Letter

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<sup>1</sup> On the same date, the KHRC also received a copy of a letter addressed to Louisville Metro Animal Services. (Letter attached as Exhibit C.) Louisville Metro indicated to KHRC staff that it did not intend to open an investigation in response to the PETA letter. Some of the activities described in the letter to Louisville Metro are the same as contained in the letter to the KHRC. However, the allegations are criminal in nature and, therefore, fall outside of the jurisdiction of the KHRC.

attached as Exhibit B.)<sup>2</sup> In the March 18 Letter, PETA alleged that actions of Asmussen and Blasi documented between April and July 2013 at Churchill Downs by a “PETA undercover investigator” possibly violated Kentucky regulations.<sup>3</sup> Generally, PETA claimed that Asmussen and Blasi “were maintaining horses who were apparently in poor physical condition.” PETA also claimed that Asmussen and Blasi “apparently instructed an employee to administer a prescription drug to a horse.”

On May 27, 2014, PETA submitted a “supplement” to the March 18 Letter (“Supplemental Letter”) wherein they asked the KHRC to investigate “the use of thyroxine in light of evidence of KDE Equine’s widespread use of the medication in New York.” (Supplemental Letter attached as Exhibit D.) PETA also claimed that trainer D. Wayne Lukas<sup>4</sup> and jockeys Gary Stevens, Calvin Borel, and Ricardo Santana, Jr. “may have possessed or used [electrical shock devices] in violation of Kentucky law, or may have knowledge of others who possess or use them in an illegal manner.”

## II. SCOPE OF INVESTIGATION

### A. Background

On March 19, 2014, the day after the KHRC received the March 18 Letter, PETA posted a YouTube video entitled “Horse Racing Exposed: Drugs and Death,”<sup>5</sup> and Joe Drape (“Drape”) published an article entitled “PETA Accuses Two Trainers of Cruelty to Horses” in the *New York Times* (“First Drape Article”). (First Drape Article attached as Exhibit E.) On March 27, 2014, Drape published an article entitled “Seamy Side of a Sport: Prodding Horses with Shocks” (“Second Drape Article”). (Second Drape Article attached as Exhibit F.) The articles and YouTube video contained details about the allegations—including the allegations regarding the horses Nehro and Teardrop, and allegations regarding the use of electronic shock devices (“buzzers”).

In the First Drape Article, Drape stated: “The [PETA] investigator used a hidden camera to record more than seven hours of video that showed mistreatment of the horses to be widespread and cavalier. In addition, PETA produced a 285-page report about Asmussen’s operations that consisted of the investigator’s notes, medical documents and reports from veterinarians who reviewed the videotape.”

Despite repeated requests, PETA refused to provide a copy of the “285-page report” and the “seven hours of video that showed mistreatment of the horses to be widespread and cavalier.” Rather, all PETA provided was as follows:

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<sup>2</sup> The exhibits to the March 18 Letter included a video and photographs.

<sup>3</sup> The New York Gaming Commission also received a letter from PETA containing allegations against Asmussen and Blasi.

<sup>4</sup> Mr. Lukas is a member of the Kentucky Horse Racing Commission. He has recused himself from consideration of any matters related to this investigation.

<sup>5</sup> The description of the video on YouTube is as follows: “A PETA undercover investigation of leading thoroughbred trainer Steve Asmussen reveals chronic misuse of drugs, reportedly to enhance horses’ performance and mask their injuries.”

- March 18 Letter with a 22:17 minute video, five still photographs, and certain race and workout charts attached. An additional four still photographs were attached to the letter addressed to Louisville Metro Animal Services and copied to the KHRC.
- Supplemental Letter with a 7:31 minute video and four still photographs attached.<sup>6</sup>

The videos are extensively edited and audio has been overdubbed.<sup>7</sup> PETA presented conversations out of context and contrary to the substance of the conversation as a whole.<sup>8</sup> All of the allegations concern specific horses and specific events that took place almost a year prior to the KHRC's receipt of the information from PETA.<sup>9</sup>

After receipt of the March 18 Letter, KHRC staff issued a subpoena to PETA for the aforementioned 285-page report, seven hours of video, and all other information related to the allegations in PETA's possession and in PETA employee Kerin Rosen's<sup>10</sup> possession, as per standard KHRC practice and as per standard practice by agencies in enforcement actions.<sup>11</sup> A complaining witness has never refused service of a subpoena from the KHRC or refused to cooperate. However, PETA refused service of the subpoena and refused to provide the information, despite repeated assurances from PETA that they would assist in the KHRC investigation, and despite the fact that at least some of these materials were provided to Drape and included in the YouTube video.<sup>12</sup>

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<sup>6</sup> The two videos were copied onto a DVD, which is attached hereto. The video that accompanied the March 18 Letter is the second video on the DVD. It is entitled, "VTS\_01\_0\_mpeg1video." The video that accompanied the Supplemental Letter is the first video on the DVD. It is entitled, "entertainment\_case\_KHRC\_supplemental\_c2\_mpeg1."

<sup>7</sup> For example, the audio from video clip #19 attached to the March 18 Letter is overdubbed onto a different scene in the YouTube video. See YouTube video at approximately 1:05. Video clip #9 attached to the March 18 Letter shows Blasi sitting at a desk at a track office with his back to Rosen. He appears to be talking to someone on the telephone—not responding to Rosen. In one segment of the YouTube video dealing with undocumented workers, Rosen asks Blasi if he obtains social security numbers for employees—Blasi audibly says, "nah," but the subtitles read "yeah."

<sup>8</sup> For example, Rosen recorded a conversation at a dinner party in someone's home during which Gary Stevens and D. Wayne Lukas are telling stories about the use of buzzers. In the Supplemental Letter, PETA presents the information as if it had occurred recently. However, it is clear that Stevens and Lukas are telling old stories from when they were involved in Quarter Horse racing, some 35-40 years ago. Additionally, video clip #22 attached to the March 18 Letter shows Blasi and Rosen at a restaurant talking about the condition of Teardrop's foot. Blasi clearly states he will not run her if she's not right, but PETA did not include that statement in its allegations contained in the March 18 Letter. In addition, video clips #3-8 attached to the March 18 Letter show excerpts from a longer conversation between Blasi and Hinton regarding what had occurred with Nehro's feet over the winter months when Blasi was in California. Rather than supplying the KHRC with the entire, unedited footage to be evaluated in its entirety, PETA only provided excerpts presumably taken out of context and manipulated for shock value and in support its position.

<sup>9</sup> KHRC veterinarians and other racing officials have never received any reports that Asmussen horses are in poor physical condition, in receipt of inadequate care, maintained in unsanitary conditions or are subjects of abuse or neglect. The KHRC also has never received any such complaints on its toll-free hotline, where complaints can be made anonymously.

<sup>10</sup> Kerin B. Rosen was licensed by the KHRC on April 11, 2013, as a stable employee to Asmussen. (Redacted application attached as Exhibit G.)

<sup>11</sup> Pursuant to KRS 230.260(12) the KHRC is authorized to "issue subpoenas for the attendance of witnesses before it and for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing within the Commonwealth." In order to enforce a subpoena out-of-state, the KHRC would have to seek an order from a court of competent jurisdiction.

<sup>12</sup> Upon information and belief, PETA also provided some of this material to the New York Gaming Commission.

By email dated May 16, 2014, PETA confirmed that they would not provide any further information to the KHRC, stating: “[T]his email confirms that all relevant information pertaining to the matters set forth in PETA’s March 18, 2014, complaint to the KHRC concerning KDE Equine LLC, Steve Asmussen, and Scott Blasi, was provided with that complaint.” (Email attached as Exhibit H.)

However, PETA claimed publically to have relevant and credible information in its possession. According to a *Blood-Horse* article posted on April 30, 2014: “PETA said it has more ‘evidence’ of injured horses, injections, horses with sore legs, photographs of drug records, racing of sore horses, mismanagement of pharmaceuticals, immigration violations, and about 300 pages of notes said to describe ‘chronic soreness, injury, drugging, and suffering of horses.’” (*Blood-Horse* article attached as Exhibit I.) Additionally, when the KHRC interviewed Rosen, she referred to a daily log she kept while employed with Asmussen, presumably the “285-page report” referenced in the First Drape Article.<sup>13</sup>

It is the KHRC that should determine whether or not information is relevant to an investigation into potential regulatory violations, not PETA. The information provided to the KHRC in the two letters and attachments lacks credibility and does not substantiate PETA’s claims. PETA’s refusal to provide materials that would presumably aid in an investigation they requested is baffling at best and calls into question PETA’s credibility and motivation for undertaking their “investigation.” It appears that PETA created a shocking video using highly edited content.

Rosen’s credibility was also questionable. In her interview, she repeatedly insisted that all she did was document what she observed, and then transmit information to someone else to interpret. However, the PETA letters contradict this statement,<sup>14</sup> and she contradicted this statement throughout her interview. She indicated she has an equestrian background and is knowledgeable about horses.<sup>15</sup> Presumably, she was selected by PETA for this “investigation” precisely because of her knowledge of horses. Second, she admitted that she “was instructed to document things that [she] thought might be unusual or problematic.” Rosen tr., pg. 19. It is clear from the interview and in the March 18 Letter that she decided what to document based on her determination that something seemed “unusual or problematic.” However, when asked specifically during her interview to explain why something she had documented seemed unusual or problematic, she refused to provide an explanation.<sup>16</sup>

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<sup>13</sup> “I kept notes. I wrote and maintained notes every day of the investigation.” Rosen tr., pg. 10.

<sup>14</sup> For example, the March 18 Letter states: “On April 21, PETA’s investigator saw that the frog ... on Nehro’s left front foot was abnormally flat and apparently worn down and that an unusual dip was present in the frog, which PETA’s investigator had never seen present on any other horse.” March 18 Letter, pg. 4.

<sup>15</sup> “I have been horseback riding since I was about 7 years old, so for about 20 years. I did hunter jumpers competitively throughout high school and rode on two different college teams. Aside from riding, I’ve had various jobs with horses as I’ve done feeding, clean stalls, taught lessons, worked at summer camps, those sort of things.” Rosen tr., pg. 5.

<sup>16</sup> For example, when asked if, based on her equestrian experience, Nehro seemed as if he were in pain, Rosen responded: “I don’t really have a reading on what I experienced at the time. From what I’ve read, from what the experts have said, that’s now what I feel. But at the time, I was more concentrating on documenting what I was seeing so that someone else could interpret it. I really wasn’t trying to interpret what was going on with the horse.” Rosen tr., pg. 13. When asked why she took photographs of Nehro’s front hooves, Rosen responded: “I took the photograph so an expert could review it, as there had been expressed concern about Nehro’s feet already ... I was

Also affecting her credibility is that fact that she was in an intimate relationship with Blasi while PETA's "investigation" was ongoing.<sup>17</sup> In text messages voluntarily provided by Blasi, it appears that Rosen regretted her involvement in the "investigation" and did not agree with the negative image the allegations paint of Blasi. In a text message string sent Friday, August 16, 2013, Rosen apologizes to Blasi. When Blasi asks what she is apologizing for, Rosen states: "Just am, I like you and think that you're a great person." In his interview, Blasi indicated that Rosen called him two days before the First Drape Article posted, or on March 17, 2014. Telephone records obtained as part of the KHRC's investigation corroborate Blasi's statement.<sup>18</sup> According to Blasi, when she called, she was "hysterical, telling me what a good person I am." The next morning, March 18, the day the KHRC received the March 18 Letter, Rosen sent Blasi a text message at 4:24 a.m., stating: "You're a good person." (Text messages attached as Exhibit J.)

In addition, she voiced no concerns about the condition or welfare of any horses while she was employed by Asmussen to anyone associated with Churchill or the KHRC, or to Dr. Reed, Hinton, Blasi or Asmussen. Even after she left Asmussen's employment, she did not bring any concerns to the attention of any officials, concerns which she could have reported anonymously if she truly believed horses were being abused.<sup>19</sup> Allegations of mistreatment should be brought to the attention of the KHRC immediately so the horses can be examined and appropriate and timely action taken to protect the horses' welfare if necessary. Indeed, all licensees have an affirmative duty to report any suspected wrongdoing to the KHRC or track security.<sup>20</sup> As Rosen was licensed at the time, if she believed Asmussen or Blasi was committing regulation violations or other improper acts, she had a legal duty to report those concerns. Given her equestrian background, she would certainly recognize the signs of a mistreated, neglected or abused horse and would presumably care about the horses' welfare. However, the first the KHRC learned of any alleged mistreatment was upon receipt of the March 18 Letter, almost a year after the supposed activities occurred.

Additionally, Rosen claimed she did not record any footage of Nehro the morning he colicked and had to be euthanized. Given the dramatic nature of Nehro's illness, his violent behavior, and the extraordinary efforts required to treat and load Nehro on a trailer, it simply defies credibility and reason that she did not record any footage. Additionally, there are inconsistencies between

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just documenting." Rosen tr., pg. 19. When asked if she ever felt the need to intervene or report any issues with respect to Nehro, Rosen responded: "I wasn't hearing the interpretation of this evidence. So I didn't have any idea ... I'm typically not given explanation of why this needed to be looked into further. I was just asked to get further documentation." Rosen tr., pgs. 21-22.

<sup>17</sup> During her interview, the PETA employee indicated the relationship "just happened," and she was not instructed to enter into a relationship with Blasi. Rosen tr., pg. 43.

<sup>18</sup> On March 17, 2014, Rosen called Blasi twice: the first call was at 5:43 p.m. and lasted 89 seconds; the second call was at 6:45 p.m. and lasted for 93 seconds.

<sup>19</sup> The KHRC maintains a toll-free hotline and email address for people to report any issues. The system is designed so that information can be shared anonymously by both telephone and email.

<sup>20</sup> "A licensee shall report to track security or the stewards any knowledge the licensee has that a violation of this administrative regulation has occurred or may occur." 810 KAR 1:025 Section 21(2). "All licensees shall immediately report to the commission any known or suspected irregularities, any violation of the administrative regulations of the commission, or any wrongdoings by any person, and shall cooperate in any subsequent investigation." 810 KAR 1:025 Section 21(7).

the statements in the March 18 Letter and Rosen's interview. For example, the March 18 Letter states that Rosen saw Nehro "lying on his side on the gravel outside of the barn, where he had apparently fallen." However, in her interview, Rosen claimed she did not see Nehro outside of his stall. Rosen tr., pgs. 27-28.<sup>21</sup>

According to Dr. Reed, if Rosen "wanted to make racing look bad, that would have been the perfect opportunity because it couldn't have looked any worse." Reed tr., pg. 16. Blasi stated: "I don't understand ... if you're going for the wow effect, where's the video of that because that was a bad morning at nobody's fault, just trying to take a horse that was violent and trying to get him to the clinic. Blasi tr., pg., 84.

She claimed she was walking another horse and: "I might have taken footage, but it would have been fairly useless because I was walking laps. So unless I'm standing there watching, there's not much I can capture." Rosen tr., pg. 28. However, she certainly could have recorded what she observed of the situation at the time—even as she was walking another horse. Indeed, if she was supposed to be documenting situations she thought were "unusual or problematic," she would undoubtedly make an effort to capture footage of a difficult situation that could appear shocking to some. We have only her explanation for why she did not, and her explanation raises many questions.

Dr. Holly Cheever, DVM, reviewed "footage of Nehro that had been captured by PETA's investigator as well as daily log notes maintained by PETA's investigator."<sup>22</sup> Dr. Cheever has previously made public comments that demonstrate her bias against the sport of horse racing.<sup>23</sup> Based on her review of the materials, Dr. Cheever opined, among other things, that Nehro "was so injured and structurally unsound that he was in severe pain and should have been given strict pasture rest for months—possibly for a year—to permit the healing of his ... lameness[]." March 18 Letter. Dr. Cheever never examined Nehro. Nonetheless, she provides medical opinions about Nehro's condition and treatment. The KHRC consulted qualified medical experts as outlined below. Those experts did not agree with the opinions expressed by Dr. Cheever.<sup>24</sup>

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<sup>21</sup> Additionally, the March 18 Letter states that Rosen saw Nehro in his stall "with his head hanging low from apparent exhaustion." However, in her interview, Rosen stated: "Based on my experience, it looked like he had possibly been given a tranquilizer." Rosen tr., pg. 27.

<sup>22</sup> According to the March 18 Letter, Dr. Cheever issued a written opinion. However, PETA refused to provide the opinion to the KHRC.

<sup>23</sup> See "[Association of Veterinarians for Animal Rights] Vice-President Holly Cheever, D.V.M., Provides Testimony to Israel's Supreme Court," *AVAR Directions*, Winter 2006, available at [www.chai-online.org/en/campaigns/racing/media/avar\\_winter06.pdf](http://www.chai-online.org/en/campaigns/racing/media/avar_winter06.pdf); "Holly Cheever, DVM—'Cruelty inherent part of the horse racing industry,'" posted in the *Horse Racing Forum*, June 4, 2008, available at <http://www.topix.com/forum/sports/horse-racing/T3RJ1JPJMC4ONP5GR>. (Articles attached as Exhibit K.) See also, [www.PETA.org](http://www.PETA.org). PETA's "motto" is: "Animals are not ours to eat, wear, experiment on, use for entertainment, or abuse in any other way" (emphasis in original).

<sup>24</sup> For example, Dr. Cheever opined: "For his quarter crack, he would have done better to have been shod with an egg bar shoe (rather than a Z-bar type) with the hoof wall trimmed away from the shoe at the crack's location." March 18 Letter. According to Dr. Scott Morrison, an egg bar shoe would be contraindicated for the management of a quarter crack as it would increase stress on the quarters of the foot and would make matters worse by delaying healing or causing expansion of the crack. In addition, with respect to Nehro's colic, Dr. Nat White firmly disagreed with Dr. Cheever's statement that "extreme pain and stress can have vascular consequences." According to Dr. White, if extreme pain were causative for colic, and specifically colitis, it would be reasonable to expect that colic

The KHRC based its findings on the opinions of qualified medical experts and determined that Dr. Cheever's opinions did not have a scientific basis.

Despite PETA's refusal to cooperate and the questionable credibility of the information they provided and of Rosen, the KHRC undertook a thorough investigation into the allegations and into the Asmussen stable generally as the KHRC takes any allegation of horse abuse seriously.

Following is an outline of the general scope of the investigation:

**B. Interviews conducted.<sup>25</sup>**

1. April 29, 2014. Assistant trainer Scott Blasi.
2. May 15, 2014. Farrier David Hinton.
3. May 17, 2014. Stable employee Alberto Bahena.
4. May 22, 2014. Assistant trainer/exercise rider Jamie Radosevich Hernandez.
5. May 28, 2014. Veterinarian Ken Reed, DVM.
6. May 29, 2014. PETA employee Kerin Rosen.
7. June 2, 2014. Trainer Steve Asmussen.

**C. Documents reviewed.**

1. Subpoenas/Stewards' orders issued.<sup>26</sup> With the exception of the documentation requested from PETA, all the requested documents were produced.
  - a. PETA. Subpoena for any and all materials related to the allegations. Sent via electronic mail and by certified letter.
  - b. Ahmed Zayat. Stewards' Order for all documents pertaining to the horse Nehro.
  - c. Ron Winchell. Stewards' Order for all documents pertaining to the horse Teardrop.
  - d. Dr. Jay Addison. Stewards' Order for all documents pertaining to the horses Nehro and Teardrop.
  - e. Dr. Marc Cheney. Stewards' Order for all documents pertaining to the horse Nehro.
  - f. Dr. Ken Reed. Stewards' Order for all documents pertaining to the following horses: Nehro, Teardrop, Primed n Willing, Del Mar Holiday, Conservative, Lemon Drop Dream, Special Jo, Charlie's Phantasy.
  - g. David Hinton. Stewards' Order for all documents related to the horse Nehro.

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would develop in a high percentage of cases of laminitis. Rather, the converse is true; horses with colitis are at substantial risk of developing laminitis.

<sup>25</sup> Draft interview transcripts are available for review upon request. Note, however, corrections have not been made to the transcripts.

<sup>26</sup> Per standard practice, the KHRC issued a Stewards' Order, as opposed to a subpoena, to current KHRC licensees.

- h. Telephone records of Scott Blasi from April 1, 2013 through April 15, 2014.
2. Scott Blasi voluntarily produced copies of text messages between him and Rosen and between him and Justin Zayat.

**D. Medical investigation relevant to the health and welfare of horses trained by Asmussen/Blasi.<sup>27</sup>**

1. In the March 18 Letter, PETA cites diagnoses and medical opinions provided by Holly Cheever, DVM, relative to PETA's allegations. Medical experts in the relevant veterinary specialties were interviewed to evaluate PETA's claims. The following experts were consulted:
  - a. Dr. Nat Messer<sup>28</sup> (endocrinology/thyroid gland function);
  - b. Dr. Nathaniel White<sup>29</sup> (colic/colitis);
  - c. Dr. Scott Morrison<sup>30</sup> (shoeing/hoof health);
  - d. Dr. Corinne Sweeney<sup>31</sup> (exercise induced pulmonary hemorrhage); and
  - e. Dr. Norm Ducharme<sup>32</sup> (dorsal displacement of the soft palate).
2. Scientific literature relevant to veterinary matters cited was reviewed.
3. The Jockey Club Equine Injury Database ("JC-EID") for Kentucky was reviewed for Kentucky data on Asmussen from January 1, 2007 through June 9, 2014, including racing fatalities, veterinary scratches, and race-related non-fatal conditions. Specifically,
  - a. Performed comparison of Asmussen JC-EID incidence of fatalities to JC-EID North American statistics (2008-2013);
  - b. Performed comparison of Asmussen JC-EID incidence of KHRC initiated scratches to general Kentucky racing population (2012-2013);
  - c. Performed comparison of Asmussen JC-EID incidence of race-related non-fatal conditions to general Kentucky racing population (2012-2013); and
  - d. Performed comparison of Asmussen JC-EID incidence of EIPH (epistaxis) to general Kentucky racing population (2012-2013).

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<sup>27</sup> Documents related to the medical investigation available for review upon request.

<sup>28</sup> DVM, Diplomate American Board of Veterinary Practitioners, Professor Emeritus, University of Missouri, Veterinary Medical Teaching Hospital.

<sup>29</sup> DVM, MS, Diplomate American College of Veterinary Surgeons. Professor Emeritus of Equine Surgery, Virginia-Maryland College of Veterinary Medicine.

<sup>30</sup> DVM, Podiatry Department, Head; Rood & Riddle Equine Hospital.

<sup>31</sup> DVM, Diplomate American College of Veterinary Internal Medicine, Associate Dean for New Bolton Center, University of Pennsylvania School of Veterinary Medicine, Professor of Medicine, University of Pennsylvania.

<sup>32</sup> DMV, MS, Diplomate American College of Veterinary Surgeons, James Law Professor of Surgery, Section of Large Animal Surgery, Medical Director, Equine and Farm Animal Hospitals, Cornell University.



4. Reviewed and compared all post-race drug testing results with “filters off” for Asmussen to general Kentucky racing population subjected to post-race testing for 2012 and 2013. “Filters off” represents a comprehensive review of all drug testing results identifying the detection of any substance at any concentration. This includes therapeutic medications detected at concentrations below KHRC threshold levels. The presence of therapeutic medications at such concentrations is indicative of compliance with KHRC regulations and the legitimate and ethical use of prescription medications outside of the context of a race.
5. Research any KHRC drug violations for Asmussen for 2007-June 2014.
6. Acquire and review PP’s, published works, pre-race exam findings, KHRC drug testing results (where available) for all horses cited in the March 18 Letter.
7. Review documents relevant to Nehro and Teardrop.
8. Compile composite spreadsheets of activity reported for horses cited in the March 18 Letter.
9. Review Kentucky Bleeder Lists 2009-2014.
10. Review InCompass List history for all horses cited in the March 18 Letter.

**E. Investigation related to use of electronic shock devices.**

1. With respect to allegations of buzzer use by Ricardo Santana, Jr., the Stewards interviewed Santana and reviewed 20 races from the 2013 Keeneland fall meeting in which he participated.
2. With respect to allegations of buzzer use by Calvin Borel, the Stewards interviewed Borel and reviewed videos of his 2007, 2009, and 2010 Derby wins.
3. D. Wayne Lukas and Gary Stevens were interviewed about the comments made by them about buzzers in the video attached to the Supplemental Letter.

III. **FINDINGS.** After a rigorous and thorough investigation, no evidence of a rule violation was discovered.

**A. ALLEGATION 1. “A KDE Equine Employee—Who Was Not Licensed to Practice Veterinary Medicine in Kentucky—Was Apparently Instructed by KDE Equine to Administer a Prescription Drug That Was Not Permitted Under Section 4.”**

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**Findings:**

The March 18 Letter states that Rosen saw an Asmussen employee administer dantrolene to a horse. Video clip # 1 included in the March 18 Letter shows a horse in a stall receiving an oral administration of a substance in an orange bottle. While it cannot be independently confirmed that the substance being orally administered is, in fact, dantrolene as Rosen claimed, Dr. Reed and Blasi also identified the substance as dantrolene. Blasi indicated the substance is routinely given in the mornings to Asmussen-trained horses. The medical records reviewed by the KHRC indicate that oral formulations of prescription medications were dispensed by veterinarians to horses in Asmussen’s care.

The oral administration of prescription medications by a non-veterinarian does not constitute a violation of Kentucky regulations when the medication is properly prescribed by a veterinarian and properly labeled.<sup>33</sup> 810 KAR 1:018 Section 4 provides the following:

Liniments, antiseptics, antibiotics, ointments, legal paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission.

Dantrolene is commonly used to prevent episodes of exertional rhabdomyolysis or “tying up.” It is listed as a Class C<sup>34</sup> substance in the KHRC classification schedule. Blasi indicated the dantrolene would have been administered early in the morning, before the horse trained. Dr. Reed explained that Asmussen gives dantrolene to “anything he thinks has a chance of tying up,” prior to morning works as a preventative measure. Reed tr., pg. 38. Dr. Reed stated: “You give them Dantrium so that they don’t tie up, rather than having to treat them afterwards.” Reed tr., pg. 69. This is the conventional way the medication is used in race horses.

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<sup>33</sup> See 810 KAR 1:018 Section 3.

<sup>34</sup> “Class C drugs are those that have a therapeutic indication in the horse and have a low potential to influence performance based on their presence in Classes 4 and 5 of the Association of Racing Commissioners International Uniform Classification of Foreign Substances.” *Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule*, available at <http://www.khrc.ky.gov/pages/equinehealth.aspx>.

The video shows the medication being administered orally, not injected. There is no evidence that the substance was not properly prescribed or not properly labeled. Dantrolene is a permitted medication, and there is no evidence to support PETA's allegation that the medication was improperly administered.

## **B. ALLEGATION 2. "Asmussen and Blasi Maintained Horses in Their Care in Poor Physical Condition."**

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PETA claims that Asmussen and Blasi maintained certain horses identified in the March 18 Letter in "poor physical condition" and forced some of them to run at Churchill Downs "while in these unfit conditions."

1. **Nehro.** PETA claims Asmussen and Blasi "subjected Nehro to cruel or injurious mistreatment by forcing him to continue training...even *after* PETA's investigator heard Blasi acknowledge Nehro's poor physical condition..." The main focus of PETA's allegations regarding Nehro is the condition of his feet and the allegation that his "severe pain" from "overexertion and stress" could have been a contributing factor to his fatal episode of colic.

### **Findings:**

PETA alleged that Nehro was lame and was suffering "severe pain." However, none of the information supplied by PETA corroborates this claim. The video footage shows Nehro standing quietly in a stall or in the shed row, bearing weight evenly on all four feet, and demonstrating no behavioral signs of fear, distress, or pain. He does not show any evidence of fear of any of the people in his stall, including Blasi. Rosen herself indicated that, on the occasions when she walked Nehro, she noted nothing unusual about his gait, demeanor or anything else that would make Nehro stand out from any of the other horses she walked. Rosen tr., pgs. 13-14.

Interestingly, PETA did not submit any video of Nehro in motion. It is impossible to determine from the materials provided by PETA if Nehro was lame.<sup>35</sup>

Video clips #3-8 show excerpts of a conversation between Blasi and Hinton regarding Nehro's feet. Nehro had been at the Fairgrounds for the winter, and Blasi had been in California. Hinton explains what had occurred with Nehro's feet during the winter months. Due to his confirmation, Nehro distributed more weight on the inside quarters of his hooves, which predisposed him to sheared heels. Nehro's stride predisposed him to overreaching and stepping on the heels of his front shoes. This resulted in his tendency to grab and pull off shoes during exercise. Nehro had thin hoof walls, a condition attributed to genetics. The thin hoof walls made the anchoring of shoes with conventional nails problematic. Glue-on shoes were used to address the thin walls and pulled shoes. Z-bar shoes were used to address the sheared heels.

The evidence and information provided by qualified medical experts establish that the issues with Nehro's feet were neither unusual nor unmanageable. The evidence further establishes that

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<sup>35</sup> Dr. Cheever diagnosed Nehro as being lame and "structurally unsound." March 18 Letter. It is unclear if Dr. Cheever reviewed video of Nehro in motion. Dr. Morrison explained that a horse's soundness cannot be assessed without seeing the horse move.

Nehro's feet were being properly cared for and managed. When properly managed, as the evidence suggests in this case, these issues would not prevent a horse from safely and comfortably remaining in training and competing.

Following are findings related to specific allegations made by PETA relative to Nehro.

**A. Filler.** Rosen noticed "a considerable amount of filler—used to fill in cracks or holes—on Nehro's front hooves." When asked if she believed the presence of "filler" was evidence that the horse was in pain, Rosen responded: "I have no idea. It was just something I saw that was unusual, and I recorded it so that an expert could review it." Rosen tr., pg. 12. Though she stated the presence of "filler" was "unusual," she also stated that she saw "filler" on other horses in Asmussen's barn, but no mention was made of any of these other horses. Rosen tr., pg. 12.

Hinton explained that the "filler" was Equilox, which is commonly used to affix glue-on shoes and fill in hoof wall defects. Hinton tr., pg. 27-31. Hinton stated that Nehro often pulled his front shoes off with his hind feet, which caused cracks and breakage in the front hoof wall. If the hoof wall is too thin, it is difficult or impossible to nail on shoes.<sup>36</sup> Hinton explained that glue-ons are used in such cases and can help prevent the horse from grabbing the shoes again thereby protecting the foot. Hinton tr., pgs. 27-31.

In Dr. Morrison's opinion, the shoe application in the photographs looked like a "fairly normal glue-on job." According to Dr. Morrison there was nothing unusual about the shoe application, and he did not believe the amount of Equilox shown in the photographs was excessive. He also did not see any evidence of corrective shoeing. Rather, Dr. Morrison said that glue-on shoes are not necessarily indicative of a problem, but may be used to prevent a problem.

**B. Pulse.** The March 18 Letter cites lack of pulse in the right front leg and barely a pulse in the left front leg as evidence that Nehro had "very bad feet." Contrary to PETA's assertion, in his interview, Hinton explained: "It's bad to have a pulse." Dr. Morrison concurred with Hinton and explained that the absence of a pulse in a horse's foot is a desirable finding because it indicates the foot is not inflamed.<sup>37</sup> This corroborates Hinton's statement that Nehro's feet were manageable and were improving. Hinton tr., pgs. 8, 45.

**C. "Little bitty nub."** In video clip #3 attached to the March 18 Letter, Hinton explains that Nehro pulled his shoes off several times over the winter. When asked to explain what he meant by the term "little bitty nub," Hinton explained that Nehro had a very thin hoof wall and had pulled z-bars off his front feet. Thus, according to Hinton, "there's no place to put good nails." Hinton was explaining to Blasi why he used glue-on shoes. Hinton tr., pg. 12. Dr. Reed stated

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<sup>36</sup> Dr. Morrison explained that thin walled hooves are very common in Thoroughbreds, whether racing or non-racing, and are generally managed by use of glue-on shoes. He stated the condition appears to be genetic as opposed to exercise- or work-related. He further explained, as the condition appears to be genetic and breed-related, and occurs in pasture-managed horses, there is no expectation that pasture turn out would have an impact on thin walls.

<sup>37</sup> Dr. Cheever incorrectly opined that Nehro's "poor pulse quality" was indicative of a problem with Nehro's feet. As stated in the March 18 Letter, "Dr. Cheever indicated that Nehro's poor pulse quality and perfusion in one of his forelimbs was 'possibly caused by injury and wear and tear' and that 'a compromised blood supply to the hoof's sensitive laminae [sic] is disastrous for the hoof's proper function.'" Dr. Morrison explained that the absence of a pulse would not be indicative of poor perfusion, but rather of a foot that is not inflamed.

that if a horse was lame, Asmussen would call him to examine the horse. Reed tr., pg. 35. Dr. Reed was aware that Nehro pulled his shoes. "I know they had a hard time keeping shoes on him." Reed tr., pg. 22. However, Dr. Reed stated that he never treated Nehro's feet: "I never did anything like blocking his feet or injecting his feet or any of that type of thing." Reed tr., pg. 22. The medical records reviewed by the KHRC corroborate this statement.

According to Dr. Morrison, thin walls are very common in Thoroughbreds, racing or non-racing. Dr. Morrison reviewed the photographs of Nehro's feet and did not agree that the foot was a "little bitty nub." He stated that the shoe application looked like a "fairly normal glue-on job," and did not note any unusual or extreme shoeing measures. He noted that the horse's hooves in the photographs appeared to be appropriately managed.

**D. Hole in left front foot/"unusual dip" in frog.** The photographs do not show a hole in the left front foot or evidence of ongoing or recent hemorrhage, an unhealed wound, or active disease. In his interview, Hinton stated that z-bars cover the frog and can rub against the frog, creating an abrasion or blister. Hinton tr., pg. 18. This is a minor condition that will spontaneously resolve upon removal of the z-bar shoe. Covering the frog with a z-bar, full pad, or other sole protecting device, can also make treatment of thrush (a fungal condition that is particularly prevalent in humid environments like New Orleans) more difficult. Dr. Reed stated, "the z-bar that goes across the frog because it puts pressure on that frog from the z-bar. And there was often slough there. The frog—the tissue that is going to die that's underneath the bar, and it's going to slough up. And when it sloughs up, it makes a little hole up underneath it that you ... need to clean out and keep clean so that it doesn't get thrush underneath it." Dr. Reed tr., pgs. 52-53.

Dr. Morrison stated that any shoe has the potential to have negative effects, but that injury associated with the use of a z-bar shoe is rare. He further stated that if a problem develops in response to the use of a particular type of shoeing application, the farrier switches to another type of shoe. Removal of the z-bar in response to the development of a frog lesion is an appropriate response by the farrier.

**E. "Pink and hairless sore."** On April 17, the PETA employee claimed to see a "pink and hairless sore in the middle of Nehro's right front heel, approximately 1 inch wide, with a scab on it." The photographs show no evidence of any sore or scab. Dr. Morrison saw no evidence of the "pink and hairless sore." In photograph #39, Dr. Morrison observed evidence of healing in the region of the medial heel, probably the result of a grabbed quarter that likely occurred several weeks or more prior to the date of the photograph.

Dr. Morrison's observation corroborates Blasi's observation that photograph #39 "appears to me like an old grab." Blasi tr., pg. 24. It also corroborates the fact that Nehro had pulled shoes during the winter. Dr. Morrison did not believe the healing grabbed quarter would result in lameness or other gait abnormality, nor should it preclude a horse from exercising or racing.

**F. Quarter crack.** The photographs show a quarter crack patch on the left front hoof. Dr. Morrison explained that a quarter crack is a full thickness crack in the hoof wall that develops in the quarter region, an area towards the rear of the foot. They usually start at the hairline and are

usually deep. There may be some bleeding associated with the development of a quarter crack. Quarter cracks often develop secondary to sheared heels—a consequence of the horse’s conformation. Some quarter cracks can be painful, some are not. Dr. Morrison said he would need to see the horse in motion to make that assessment. Once the crack grows down several millimeters, if the crack caused pain, it usually no longer does. He could not evaluate the quarter crack displayed in the photographs because it is covered with a patch.

Dr. Morrison stated that a crack is stabilized by patching, stitching or a combination of the two. Treatment is also focused on unloading the affected heel and transferring weight to another area of the foot—as with a z-bar. It generally takes approximately 6 months for a quarter crack to grow out, depending on a variety of factors, such as the horse’s rate of hoof growth, the severity and extent of the crack, and amount and nature of exercise the horse is receiving.

Dr. Cheever stated: “There is no justification for running a horse with a quarter crack [like Nehro] at all: complete retirement till full healing has been achieved is essential for the horse’s future.” March 18 Letter. Dr. Morrison disagreed with Dr. Cheever’s opinion. According to Dr. Morrison, if the crack is appropriately stabilized, it would not be painful unless there was infection present. If there was infection present, there would be a bounding pulse associated with that foot. Dr. Morrison encourages exercise in horses with stabilized quarter cracks. Exercise will stimulate hoof growth and improve the rate of healing. Dr. Morrison stated that horses can safely and comfortably train and race with quarter cracks.

Dr. Morrison’s statements corroborate Hinton’s and Blasi’s explanations regarding Nehro’s quarter crack.<sup>38</sup> Dr. Morrison indicated the management of Nehro’s quarter crack was consistent with accepted and conventional practices.

**G. Works.** The March 18 Letter references Nehro’s works on April 23 and April 30 as an indication of his unsoundness. However, Nehro’s times are consistent with the other Asmussen-trained horses that worked those days at that distance. The official chart for April 23, 2013, shows that Nehro worked 4 furlongs in :52.2.<sup>39</sup> On that same date, five other Asmussen-trained horses worked 4 furlongs, producing times ranging from :51.1 to :52.0. For April 30, 2013, the official chart shows that Nehro worked 5 furlongs at 1:02.3.<sup>40</sup> On that same date, six other Asmussen-trained horses worked 5 furlongs, producing times ranging from 1:01.3 to 1:03.2. These works are consistent with Asmussen’s statement: “Whenever I change surfaces, my first work somewhere is always—I just ask them to go 52 ... you just want 13, 26, 39, 52.” Asmussen tr., pg. 24. (Charts attached as Exhibit L.)

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<sup>38</sup> For example, Blasi stated: “We’ve won races with horses that have had quarter cracks. It is a temporary condition ... we wouldn’t run them if they were sore. But when they grow down and they’re stabilized, it’s perfectly normal.” Blasi tr., pg. 43.

<sup>39</sup> After Nehro breezed, Blasi sent Justin Zayat a photograph of Nehro grazing. Nehro is bearing weight on all four feet and does not look stressed or in pain. Zayat asks how Nehro’s foot is doing, and Blasi responded: “It’s coming our way I hope.” See Exhibit J.

<sup>40</sup> In his interview, Blasi stated: “[Nehro] worked nice that day, and I had sent Justin ... a text that Nehro ... is doing much better exclamation point.” Blasi tr., pg. 56.

**H. Contracted or sheared heels.** Hinton and Blasi both stated that Nehro had “contracted heels.” According to Dr. Morrison, however, Nehro did not appear to have “contracted heels,”<sup>41</sup> based upon the photographs. Rather, Hinton and Blasi are likely using the term “contracted heels” to refer to “sheared heels.” Dr. Morrison explained that “sheared heels” are secondary to lower limb conformation that results in increased weight bearing on the medial heel. This is consistent with how Hinton and Blasi described Nehro’s conformation.<sup>42</sup>

Z-bars are a preventive measure used to protect the quarters and more evenly distribute the horse’s weight across the foot. Sheared heels are not unusual, are not an indication of unsoundness, and can be managed. Dr. Morrison indicated that neither Nehro’s sheared heels, thin hoof walls, nor old quarter crack represented unique challenges, and in the photographs the conditions appear to be managed by conventional, accepted, and effective methods.

**I. Osselet.** According to Rosen, Blasi said Nehro had an osselet on his left front ankle. In his interview, Blasi described an osselet as “an old, inflamed joint capsule that gets some calcification on it—on the front of the—it’s not in the joint. It’s on the front.” Blasi said a new, soft osselet could be painful, in which case, “you give them time.” Blasi tr., pg. 54. However, according to Blasi, Nehro’s was old and set and, while an osselet does not go away, once it is set, it does not cause pain. Blasi tr., pg. 54.

An osselet is a thickening of the joint capsule that often develops in athletic horses. At the outset, it may be associated with inflammation and discomfort, but after the condition stabilizes, an osselet is associated with neither pain nor limitation of athletic ability. This condition is present in many horses and, in and of itself, does not raise concerns about a horse’s racing soundness.

**J. Nehro’s euthanasia.** On May 4, 2013, Derby day, Nehro appeared normal and ate all his feed at the 3:30 a.m. feeding. Less than an hour after finishing his feed, Nehro rapidly became very ill, developing signs of what those who observed him assumed was colic.<sup>43</sup> Dr. Reed stated he was called to the barn about 4:15 a.m. He said Nehro, “was in very poor condition, very bad condition, was obviously in real trouble, profuse sweating, extreme pain. I gave everything I could to get to the pain, and ... we put a catheter in him and started running fluids to him as fast as we could. We tried to control his pain, which honestly I could not control the horse’s pain ... it was obvious that he was going to need to go to the hospital for surgery.” Reed tr., pg. 11. Dr. Reed thought Nehro had “a torsion in his gut. He’s got to have a gut supply shut-off to be this painful.” Reed tr., pg. 12.

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<sup>41</sup> According to Dr. Morrison, contracted heels are the result of under loading of the heel region of the foot (the weight is shifted away from the heels). For example, contracted heels can develop in horses that have club feet, have undergone extensive stall rest, or worn foot casts. When contracted heels develop, the central sulcus of the frog closes up. Dr. Morrison did not observe this condition in the photographs. Additionally, none of the individuals interviewed who had personal knowledge of Nehro mentioned this condition.

<sup>42</sup> For example, Hinton stated: “[Nehro’s] conformation made us want to put bar shoe on him, take the pressure off his inside quarters.” Hinton tr., pg. 13. Blasi stated Nehro tended to pull his front shoes off due to his conformation: “Because [Nehro] ... used to reach up with his hind—that’s probably one of the reasons he was so good is he would get his hind end so far up underneath him. And sometimes he would reach up and either catch a quarter or catch his shoe. But you had to be careful ... with bell boots and everything because he would—he had the tendency to want to step on his front feet.” Blasi tr., pg. 22.

<sup>43</sup> Asmussen stated in his experience with colic a horse will generally not eat. Asmussen tr., pg. 28. Blasi stated he has never seen a horse eat all their feed, colic and have to be euthanized within a 2 hour period. Blasi tr., pg. 72.

Blasi stated he received a call from the barn between 4-4:30 a.m. He said Rosen was at the barn when he arrived. When he arrived, Dr. Reed was also present, “running fluids through him.” Blasi tr., pg. 66. They called the van driver to ship Nehro to Rood and Riddle Equine Hospital in Lexington. Nehro was not responding to any treatment. “He never responded to the Banamine, He never responded to the tranquilizer. We couldn’t make him comfortable.” Blasi tr., pg. 66.

Nehro’s behavior was violent and unpredictable. It took several people to load him in the van. “It’s very, very hard to get him to the van because ... he’s just fighting us, very uncomfortable ... thrashing, just violent. I didn’t want anybody to get hurt.” Blasi tr., pg. 68. Once they got Nehro on the van, the van driver called Dr. Reed before they made it out of the gate because Nehro was tearing the trailer apart. Dr. Reed went to the van and gave Nehro more tranquilizer. Reed tr., pg. 13. The van driver pulled out of the gate, and immediately had to pull over and call Dr. Reed again. Dr. Reed and Blasi went to the van. According to Dr. Reed, “he was so crazed you couldn’t possibly get in there with him.” Reed tr., pg. 113. The decision was made to euthanize Nehro immediately so he would not continue to suffer. Blasi tr., pg. 69. His body was transported to the University of Kentucky Veterinary Diagnostic Laboratory for necropsy.

Necropsy diagnoses were as follows: Embolic nephritis, *Actinobacillus equuli*; Acute typhlocolitis, *Actinobacillus equuli*; *Clostridium perfringens* Type A; rib fractures. Dr. Lynne Cassone, DVM,<sup>44</sup> identified the kidney lesions as secondary to the colitis and the result of bacteremia/septicemia. She further stated that the lesions were acute and inconsistent with those seen as a consequence of NSAID toxicity.

When Dr. Reed received the necropsy report, he was surprised to learn there was no torsion. “I was so shocked when we got the autopsy report back on this horse and he didn’t have a torsion ... I didn’t believe it. I called [the lab]. I said you—this is not right. He’s got to have a torsion...” Reed tr., pg. 13. Asmussen stated, given the violent and rapid nature of Nehro’s decline, it is impossible to not think that the horse was poisoned. Asmussen tr., pg. 28. Blasi said Nehro’s behavior was not consistent with colic. Blasi tr., pg. 83.

The March 18 Letter states: “In reference to Nehro’s death, Dr. Cheever wrote, ‘extreme pain and stress can have vascular consequences and thus his painful lameness could have been a contributing factor’ to Nehro’s colic (i.e., gut ischemia), a very painful condition, that resulted in his death.”

Dr. Nat White was contacted for his opinions about equine colitis. In his review of the necropsy report, Dr. White stated he believed the cause of Nehro’s colitis to be infectious in nature and not stress induced, as asserted by Dr. Cheever. Dr. White does not believe that orthopedic disease could precipitate colitis. He firmly disagrees with Dr. Cheever’s statement that “extreme pain and stress can have vascular consequences.” If extreme pain were causative for colic, and specifically colitis, it would be reasonable to expect that colic would develop in a high percentage of cases of laminitis. Rather, the converse is true; horses with colitis are at substantial risk of developing laminitis.

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<sup>44</sup> University of Kentucky Veterinary Diagnostic Laboratory Board Certified Pathologist. Diplomate American College of Veterinary Pathologists.



The chronic or excessive use of NSAIDs has been associated with inflammatory disorders of the gastro-intestinal tract. Dr. Cassone stated that there were no lesions noted on the necropsy that would be attributable to the use of NSAIDs. In addition, Nehro's medical records indicate the horse received 5 NSAID injections in the 30 days prior to his death, 4 flunixin and 1 phenylbutzone. This represents neither chronic nor excessive use of NSAIDs.

During their interviews more than one year after Nehro's death, Blasi, Asmussen and Dr. Reed were all visibly upset revisiting the events<sup>45</sup> and still struggling to understand what happened. They all indicated they had never seen a horse react to colic the way Nehro did.<sup>46</sup> The evidence establishes that Asmussen, Dr. Reed, and Blasi provided ethical and appropriate care to a very sick horse. Dr. White stated that based on the necropsy report he believes that this case of colitis was neither the result of poor management or substandard care, nor was indicative of mistreatment or abuse of the horse.

**K. Nehro generally.** As stated in the March 18 Letter, Dr. Cheever opined that "continuing to demand an athletic performance instead of retiring Nehro as 'pasture sound' was cruel" and that Nehro "suffered abuse at the hands of his owner, trainer, and riders."

Hinton did not agree that Nehro should have been retired. He stated: "If that horse could have made it to the next month, his feet would have got better and better. And if he could have ever trained during the summertime, then he would have had a nice foot." Hinton tr., pg. 76. Dr. Reed stated it was the owner's decision whether to retire a horse or not.<sup>47</sup> With respect to Nehro, Dr. Reed said he "was racing sound, so he could certainly continue to race." Reed tr., pg. 58. Given Nehro's pedigree and racing success, he was a very valuable stallion prospect and likely would have made much more money in the breeding shed than on the racetrack. It simply makes no sense that his connections would have forced Nehro to continue to train for economic reasons.

Reviews of the materials submitted by PETA in support of their allegations by qualified veterinary experts established that Nehro was properly and ethically managed. The horse's general health, and specifically his musculoskeletal and orthopedic health, was carefully monitored by qualified and caring individuals. Injury and illness, to the extent that they occurred, received prompt attention, diagnosis and treatment. There is no evidence to support PETA's assertion that the horse "suffered abuse at the hands of his owner, trainer, and riders." On the contrary, the evidence establishes that Nehro was afforded high quality veterinary care, farrier services, and day-to-day management.<sup>48</sup>

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<sup>45</sup> During the portion of Blasi's interview dealing with the colic incident, Blasi started crying and stated, "I knew I was going to have trouble with this part." Blasi tr., pg. 67.

<sup>46</sup> "I've never seen a horse react to colic like—and I don't understand it." Blasi tr., pg. 69. "Nobody in the world has ever seen a horse rapidly decrease like that." Asmussen tr., pg. 28. Dr. Reed stated Nehro was in more pain than he's seen a horse in 30-35 years. Reed tr., pg. 11.

<sup>47</sup> Dr. Reed stated that he has heard Asmussen tell an owner a horse needs to be retired. Reed tr., pgs. 58-59. Asmussen stated: "I have not been pressured into keeping anything in training that you didn't want to." Asmussen tr., pg. 25.

<sup>48</sup> The evidence establishes that Asmussen and Blasi were not financially constrained in their care of Nehro. For example, not all owners will consent to the added expense of glue-on shoes. According to Hinton: "I did have all the resources ... [Zayat] spent a lot of money on horse hooves." Hinton tr., pgs. 79-80. In her interview, assistant

**2. Teardrop.** The March 18 Letter states: “Even though Blasi called Teardrop the ‘lame gray filly’ and stated that ‘the f—ing b—h is displacing,’ Asmussen and Blasi continued to train and even race Teardrop...”

**A. Lameness.** At the relevant time, Teardrop was a 2-year-old filly, owned by Winchell Thoroughbreds, LLC. The Asmussen-barn considered her to be very talented, but, as Dr. Reed stated, “very, very flighty, very hard to control.” Reed tr., pg. 24. In the March 18 Letter, PETA suggests that Asmussen and Blasi knowingly ran Teardrop lame in the June 22, 2013 Debutante Stakes at Churchill.

Rosen claimed she saw Teardrop “rushing to keep weight off her right front foot” on June 19, 2013, and “tentative about putting weight on her right front foot,” on June 20. Video clips # 20 and #24 attached to the March 18 Letter do not corroborate Rosen’s allegation. To the extent that the gait of the filly featured in the video clips can be assessed, no lameness or gait abnormality can be seen.

Blasi stated that at one point, Teardrop did have a bruised foot, “...but it got better immediately ... we soaked it a couple of days, and she got better.” In video clip #22,<sup>49</sup> Blasi and Rosen are at a restaurant having dinner. He does say something is wrong with Teardrop’s foot. He also clearly states that he is not going to run Teardrop if she is not right. PETA did not include this statement in their allegations.

Given that the filly was regarded as an exceptionally talented athlete and had high residual value as a broodmare, there was no incentive to attempt to run Teardrop lame. InCompass records for the Churchill 2013 spring meet indicate that Asmussen initiated scratches for five horses post-entry. If Asmussen and Blasi believed that Teardrop was unsound, it is highly probable that they would have scratched her.

Regardless of her condition on the days leading up to the race, there is little question about her condition on race day. Multiple KHRC veterinarians independently observed the filly on race day—from the pre-race exam,<sup>50</sup> to monitoring her during saddling, in the post-parade, during the race, returning to be unsaddled, and cooling out in the test barn. At no time was Teardrop observed to be lame, injured, or otherwise unsound. During the 2013 Churchill spring meet, KHRC veterinarians initiated scratches for 20 horses on race day. (KHRC Veterinary Report, Churchill Spring 2013 Meet attached as Exhibit M.) Had Teardrop been determined to be unsound by a KHRC veterinarian, a recommendation would have been made to the Stewards that she be scratched, as is standard practice.

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trainer and exercise rider Jamie Hernandez stated: “I couldn’t probably do anything different than what they had done ... because they did everything, I mean, top of the line that they could do for his feet.” Hernandez tr., pg. 7.

<sup>49</sup> The video clip is not date stamped, but, presumably, it was recorded either June 19 or June 20, 2013 based on the timeline presented in the March 18 Letter.

<sup>50</sup> KHRC pre-race exam protocol includes verification of the horse’s identity through inspection of the lip tattoo; observation and assessment of overall condition, general health, and demeanor; palpation and passive manipulation of both forelimbs; visual inspection of hind limbs, and palpation when warranted; and observation of the horse jogging in hand away from and back towards the examining veterinarian.

Because of her poor racing performance in the Debutante, the Stewards subjected Teardrop to post-race drug testing.<sup>51</sup> A paired (blood and urine) post-race sample was collected. The sample was subjected to full instrumental analysis and results were reconciled against a mass spectral library of over 1,500 substances. Consistent with all post-race tests, the sample was also tested for erythropoietin and darbepoetin. Test results were negative for a regulation violation.

Post-race drug testing detected furosemide in serum at 5.3 ng/ml (a concentration consistent with compliance with 810 KAR 1:018 Section 7) and phenylbutazone in serum at .6 mcg/ml (a concentration consistent with compliance with 810 KAR 1:018 Section 8). No prohibited substances or other therapeutic medications were detected.

The detection of only furosemide and phenylbutazone supports the conclusion that Asmussen and Blasi believed Teardrop to be sound. Additional therapeutic medications are permitted by KHRC regulations—i.e., other NSAIDs, corticosteroids, and muscle relaxants—as long as their concentration in a post-race sample is below the regulatory threshold. Laboratory instrument sensitivity allows these substances to be detected at concentrations well below the regulatory threshold—providing information about the use of therapeutic medications in relative proximity to a race. In Teardrop's post-race sample collected after the Debutante, no other therapeutic medications were detected—at any concentration. Review of post-race samples collected from Teardrop on May 23, 2013, and November 30, 2013 revealed the detection of furosemide and phenylbutazone, consistent with the findings in the June 22, 2013 sample.

**B. Dorsal displacement of the soft palate.** Teardrop's poor racing performance in the Debutante, absent any signs of lameness or unsoundness, justifiably raised questions about her airway function. Medical records indicate that on July 1, 2013, Teardrop underwent a video-endoscopic exam while performing a breeze. The result of that exam was a diagnosis of dorsal displacement of the soft palate.

Dr. Norm Ducharme affirmed that dorsal displacement of the soft palate is a condition that occurs in all horses. It is not a consequence of abuse, poor health, or negligent care. Dorsal displacement of the soft palate becomes a problem only in athletic horses that fail to self-correct, as is normal, during high speed exercise, when the displacement then results in a performance-limiting, partial airway obstruction. Endoscopic exam of the upper airway in a horse post-exercise or at rest may not reliably diagnose this condition.

On July 9, 2013, Teardrop underwent corrective surgery, and was withdrawn from training pending recovery. Diagnostic methodology was appropriate; the surgical procedures well documented and performed by a Board Certified veterinary surgeon; and the filly was rested until recovered, as recommended.

Teardrop was afforded ethical and responsible veterinary care in the diagnosis and resolution of her dorsal displacement.

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<sup>51</sup> Teardrop was the second highest betting favorite and finished seventh out of eleven runners. (See official chart attached as Exhibit N.)

**C. Teardrop generally.** As with Nehro, the evidence established that Teardrop was properly and ethically managed. Her general health was carefully monitored by qualified and caring individuals. Injury and illness, to the extent that they occurred, received prompt attention, diagnosis and treatment. There is no evidence to support PETA's assertion that the filly was maintained in "poor physical condition" or "forced to run at Churchill Downs while in [this] unfit condition."

**3. Other horses.** The March 18 Letter makes general reference to other horses in the care of Asmussen and Blasi as having been "maintained in poor physical condition and forced to run at Churchill Downs while in these unfit conditions." The "other" listed horses are as follows:

|                    |                  |                   |
|--------------------|------------------|-------------------|
| Cage Fighter       | Lemon Drop Dream | Teardrop          |
| Charlie's Phantasy | Primed N Willing | Thunder's Rollin' |
| Del Mar Holiday    | Sir Bond         | Untapable         |
| Gun Roar           | Sky Drama        | Valediction       |
| Hardtap            | Special Jo       | Western Sadler    |

With the exception of Teardrop, no video or photographs were provided of the above horses. The March 18 Letter does not reference the specific nature or extent of the "poor physical condition" attributed to each horse. Rather, the March 18 Letter references the occurrence of exercise induced pulmonary hemorrhage ("EIPH"),<sup>52</sup> as recorded on veterinarians' day sheets, in a horse, and its interval to race following an endoscopic exam in which EIPH was observed. The March 18 Letter is speculative with respect to the actual condition of each horse.

Rosen indicated she never saw an episode of epistaxis<sup>53</sup> while she was employed with Asmussen. Rosen tr., pg. 40. Dr. Reed explained that all of Asmussen's horses are scoped after they work. "That's just his program and has been for as long as I've known him." Reed tr., pg. 38.

All of the above named horses made a race start at Churchill during the spring 2013 race meet. All horses raced after receiving a permitted administration of furosemide four hours prior to their respective races.<sup>54</sup> All horses were subjected to pre-race exams by KHRC veterinarians and determined to be fit to race. All horses were observed by multiple KHRC veterinarians throughout the post-parade warm up, the starting gate load, the race, while returning to be unsaddled and until exiting the race track. All of the horses completed their races. None of the horses were observed to be injured, lame, experiencing epistaxis, or otherwise in distress at any point of contact with KHRC veterinarians; no regulatory veterinary intervention was required. Five of the above horses were identified by the Stewards for post-race testing. There were no medication violations associated with those tests.

KHRC veterinarians stated they have never been approached by anyone with complaints or assertions that horses trained by Asmussen are in poor physical condition, in receipt of inadequate care, maintained in unsanitary conditions, or are subjects of physical abuse or

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<sup>52</sup> According to Dr. Corinne Sweeney, EIPH is bleeding that occurs from the lungs of horses during exercise.

<sup>53</sup> Epistaxis is external bleeding from the nose.

<sup>54</sup> Pursuant to 810 KAR 1:018 Section 6, commission veterinarians administer furosemide on race day.

neglect. Further, none of the KHRC veterinarians have witnessed any of the aforementioned situations or conditions on their race day encounters in the barn. Of the horses named in the March 18 Letter, five were stabled at Churchill Downs during the spring 2014 meet. KHRC veterinarians performed physical assessments on those horses and determined all to be healthy and in good physical condition.

Of the above named horses, a review of InCompass 'List' activity (Stewards/Vets/Other) indicates that none have demonstrated epistaxis during or immediately following their participation in a race in North America.

Several of the above named horses produced published workouts 2-4 days prior to participating in a race. Two of those horses were observed (according to images of documents provided by PETA to the KHRC) on endoscopic exam, to have EIPH scores of 2/5 and 2½/5. Post-race endoscopic exam results for those horses yielded EIPH grades of 1/5 and 0/5 respectively. The EIPH episode occurring several days prior had no impact on the horses' health or athletic capabilities during or following their respective races.

Hardtap, Lemon Drop Dream, Sir Bond, Special Jo, Thunder's Rollin' and Untapable, were placed on the California Bleeder List. Dr. Rick Arthur, California Horse Racing Board Equine Medical Director, advises that trainers may elect to place a horse on the Bleeder List in order to establish eligibility for it to race with furosemide. It is not necessary for a horse to demonstrate hemorrhage (external or internal) to be placed on the California Bleeder List. If a horse were observed to demonstrate epistaxis during or following a race, it would be placed on the Veterinarians' List and assigned a period of ineligibility. None of the above named horses were placed on the California Veterinarians' List.

Untapable, Sky Drama, and Western Sadler were on the New York Racing Association (NYRA) Bleeder List. All three horses were placed on the NYRA Bleeder List on dates corresponding to their first published work at Saratoga, after having left Churchill Downs. New York requires a Bleeder Certificate (verifying that a horse has experienced an episode of EIPH following a race or work) in order for a horse to be eligible to race on furosemide. It was likely Asmussen's intent to establish furosemide eligibility for these horses prior to their racing in New York. Each of these horses had made its previous race start in Kentucky and with race day administered furosemide. Furosemide eligibility in Kentucky is established by a trainer's declaration; proof of hemorrhage is not required.<sup>55</sup> None of the horses were observed to have bled following their races in Kentucky.

The Kentucky Bleeders' Lists, as accessed on the Kentucky Horse Racing Commission (KHRC) web page (<http://khrc.ky.gov/Pages/EquineHealth.aspx>) were reviewed, and reconciled against the list of horses in the March 18 Letter. Only one of the cited horses, Sir Bond, was listed. On 10/9/2011, Sir Bond was observed on endoscopic exam to have experienced an episode of EIPH,<sup>56</sup> and was placed on the KHRC Bleeders' List.<sup>57</sup>

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<sup>55</sup> See 810 KAR 1:018 Section 7.

<sup>56</sup> The bleeding was observed on endoscopic examination, not externally (epistaxis).

<sup>57</sup> A horse that is placed on the Bleeders' List goes on the KHRC Veterinarian's List for fourteen days and is ineligible to race during that time. See 810 KAR 1:018 Section 18(4).

According to Dr. Corinne Sweeney, EIPH occurs in the majority of Thoroughbred and Standardbred race horses and in many other horses subject to strenuous exercise. There is no evidence that EIPH is a consequence of poor health or poor physical condition. There is no evidence of an association between a horse's physical condition and the occurrence of EIPH.

**4. Asmussen-trained horse population analysis.**

In the description of the YouTube video, PETA states that its “undercover investigation” revealed “chronic misuse of drugs, reportedly to enhance horses’ performance and mask their injuries.” However, the evidence does not support this allegation.

As part of its investigation, the KHRC performed a comparative analysis of Asmussen-trained horses and the general Thoroughbred racing population in Kentucky.

**Table 1** provides a temporal review of activity relevant to Asmussen horses in Kentucky. Data was retrieved from the Jockey Club Equine Injury Database (JC-EID), InCompass Solutions, and KHRC records.

**Table 1**

|                                      | 2007 | 2008 | 2009 | 2010           | 2011    | 2012 | 2013  | 2014<br>(through<br>7/3) | Total |
|--------------------------------------|------|------|------|----------------|---------|------|---|--------------------------|-------|
| KY Starts                            | 312  | 258  | 261  | 218            | 230     | 166  | 239   | 86                       | 1770  |
| Racing Fatalities                    | 0    | 1    | 0    | 2              | 0       | 0    | 0   | 0                        | 3     |
| KHRC Vet scratches                   | 0    | 0    | 0    | 0              | 0       | 0    | 0   | 0                        | 0     |
| Post-race (unsoundness/injury/other) | 0    | 0    | 0    | 0              | 0       | 0    | 1 racing accident, non-orthopedic condition | 0                        | 1     |
| Medication Violations (KY)           | 0    | 0    | 0    | Omeprazole (D) | PBZ (C) | 0    | 0   | 0                        | 2     |

**Race-related Fatalities**

From January 1, 2007 through July 3, 2014, Asmussen had 1,770 race starts. Of those, 3 horses sustained fatal conditions in a race. This translates to 1.69 fatalities per 1,000 starts. For the time period 2009-2013, the JC-EID reports an incidence of 1.91 fatalities per 1,000 starts in the North American Flat Racing Population. The JC-EID figure represents a statistical analysis with a p value of <.05. The Asmussen data was not subjected to statistical analysis, but rather represents simple division. It is possible that there would be no statistical difference between the Asmussen and JC-EID numbers if both were subjected to the same analysis.

### **KHRC Veterinarian Scratches**

From January 1, 2007 through July 3, 2014, Asmussen horses made 1,770 starts in Kentucky. No scratches were initiated by KHRC veterinarians.

From January 1, 2012 through December 31, 2013,<sup>58</sup> there were 33,738 Thoroughbred race starts in Kentucky. During that period, KHRC veterinarians scratched 320 horses for injury or unsoundness.

### **Post-race unsoundness/injury/other**

Included in this group are non-fatal musculoskeletal conditions, epistaxis (external evidence of EIPH), post-exertional distress, and wounds (lacerations, abrasions, grabbed quarters, etc.).

From January 1, 2007 through July 3, 2014, 1 Asmussen-trained horse out of 1,770 sustained a non-fatal condition as a result of participating in a race. From January 1, 2007 through December 31, 2013, there were 135,621 Thoroughbred race starts in Kentucky. During that period, there were 651 horses that sustained non-fatal conditions as a consequence of participating in a race.

**Table 2** provides a comprehensive review of all drug testing data, and the detection of any substance at any concentration. This includes therapeutic medications detected at concentrations below KHRC threshold levels. The presence of therapeutic medications at such concentrations is indicative of compliance with KHRC regulations and the legitimate and ethical use of prescription medications outside of the context of a race.

### **Medication Usage**

(Based on post-race drug testing results in Thoroughbreds, January 1, 2012 through December 31, 2013\*)

|                              | Asmussen horses<br>(n=114) | General Kentucky<br>Population<br>(n=6,612) |
|------------------------------|----------------------------|---|
| 0 NSAIDs                     | 4.3% (5)                   | 8.7% (557)                                  |
| 1 NSAID                      | 52.6% (60)                 | 49.7% (3,286)                               |
| 2 NSAIDs                     | 40.4% (46)                 | 37.2% (2,459)                               |
| 3 NSAIDs                     | 2.6% (3)                   | 4.1% (271)                                  |
| Clenbuterol                  | 4.3% (5)                   | 6.1% (405)                                  |
| Corticosteroids              | 7.0% (8)                   | 26.4% (1,745)                               |
| Methocarbamol                | 0.0% (0)                   | 6.0% (398)                                  |
| Avg furosemide concentration | 14.0 ng/ml                 | 15.3 ng/ml                                  |

<sup>58</sup> Scratch data were entered in the JC-EID beginning in 2012. Thus, only the years 2012 and 2013 were examined for the general population with respect to scratches.

**\*Note:** The percentages above represent raw data. Statistical analyses were not performed; it is likely that there is no statistical difference between the Asmussen horses and the General Kentucky Population with respect to 0 NSAIDs, 1 NSAID, 2 NSAIDs, 3 NSAIDs, Clenbuterol and average concentration of furosemide in post-race serum samples. However, the use of corticosteroids and methocarbamol, a muscle relaxant, is substantially lower in the Asmussen-trained horses when compared to the General Kentucky Population.

**Conclusion:** Review of population data (JC-EID) indicates a lower incidence of racing fatalities, race-related non-fatal conditions, and KHRC-initiated scratches in the Asmussen-trained horses when compared to the general population of Thoroughbred horses racing in Kentucky. Review of post-race testing results indicates Asmussen-trained horses carried a substantially lower medication load when compared to the general population of Thoroughbred horses racing in Kentucky.

### **C. ALLEGATION 3. Thyroid hormone supplementation.**

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In the Supplemental Letter, PETA requested an investigation into “the use of thyroxin in light of evidence of KDE Equine’s widespread use of the medication in New York.” Video clip #1 attached to the Supplemental Letter shows Rosen asking Blasi why they give thyroxin to the horses. Blasi responds, “I don’t know why horses’ thyro levels get low. [Inaudible] It kind of keeps their thyro level up, makes them feel good.” In his interview, Asmussen stated that they give thyroxin at the recommendation of their veterinarian. Asmussen tr., pg. 49.

The KHRC consulted with Dr. Nat Messer with respect to thyroid hormone supplementation. Dr. Messer provided historical context for the administration of thyroxin to race horses by referencing a paper from the early 1970’s that recommended supplementation to improve muscle function and stamina. However, it is Dr. Messer’s opinion that supplementation is unnecessary and may pose some risk to the horse. He believes it is unjustifiable, but only unethical if true harm could be proven, i.e., decreasing bone density.

Dr. Reed did not agree with Dr. Messer’s opinions. Dr. Reed stated he recommends Thoroughbred race horses receive thyroid hormone supplementation based on his experience practicing for over 35 years. He stated: “[I]f you run enough bloods on them, you find that most Thoroughbreds run borderline low almost all the time, and some of them will run considerably low ... I’ve used it for 35 years, and it’s the product that I can put them on. And if you watch them in a week or two, their hair coat looks better, and the horse seems to train better and do better.” Reed tr., pg. 45.

With respect to the current research, Dr. Reed stated: “[A]s far as I’m concerned, that guy hasn’t seen near as many horses as I have, and he hasn’t given Thyro-L to as many horses as I have. So I beg to disagree with him.” Reed tr., pg. 47.

The administration of thyroid hormone does not constitute a violation of Kentucky regulations. If the thyroid hormone is prescribed for a specific patient, and the dispensed medication properly labeled, its use is in compliance with KHRC regulations. PETA has provided no evidence of a



rule violation. The KHRC also did not uncover evidence of a rule violation with respect to thyroid hormone supplementation.

#### **D. ALLEGATION 4. Electronic shock devices.**

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In the Supplemental Letter, PETA requests an investigation into the use of electronic shock devices (“buzzers”) by the following individuals: D. Wayne Lukas, Gary Stevens, Calvin Borel, and Ricardo Santana, Jr.

With respect to Lukas and Stevens, Rosen recorded a conversation at a dinner party in someone’s home where Lukas and Stevens are recounting the use of buzzers in the past when they were involved in Quarter Horse racing. The Stewards interviewed Lukas and he said he was talking about something that happened “40 years ago at a Quarter Horse track.” He clearly understood the seriousness of the use of buzzers and did not condone the practice, then or now. The Stewards also interviewed Stevens. He was sincerely embarrassed that his comments made at a dinner party had been made public. Drape quoted Stevens as follows in the Second Drape Article: “It’s extremely embarrassing and humiliating .... Anyone who knows me knows how passionate I am about the sport, and how much I love it. It was campfire talk about something that happened 35 years ago. I was 16 years old at the time.” (See Exhibit E.)

With respect to Calvin Borel, Rosen recorded a conversation with some individuals claiming that Borel uses buzzers in the morning during training, and used a buzzer on Super Saver in the 2010 Derby. The Stewards reviewed video replays of the three Derbies won by Borel: 2007, 2009, and 2010. There was nothing to indicate the use of a buzzer in any of these races. The Stewards interviewed Borel, who denied using a buzzer in the 2010 Derby. He understood the seriousness of the allegation and said he would not risk ending his career by using a buzzer.<sup>59</sup>

With respect to Ricardo Santana, Jr., Rosen recorded Blasi and another individual talking in someone’s home. You cannot hear Blasi saying that Santana is a “good machine rider” as alleged in the Supplemental Letter. Blasi does say: “I tell him, you got the maquina? I got the maquina boss.” The Stewards reviewed 20 races from the 2013 fall Keeneland meeting in which Santana participated. There was no indication that Santana used a buzzer in any of the races reviewed. The Stewards also interviewed Santana, who vigorously denied the allegations and indicated that his father taught him to ride to “use his head and his hands.” He understood the seriousness of the allegations.

The Stewards are charged with watching races with all rules in mind. Stewards take note of any unusual motion or movement by the rider, or reaction of a horse. The clerk of scales and his assistant observe the jockeys as they prepare for the race and leave the jockeys’ quarters. The riders are observed by the Stewards, outriders, starting gate crew, commission veterinarians, and security from the time they enter the track for the post parade, until they return to the jockeys’ quarters after the race. KHRC security randomly screens jockeys with a metal detector prior to

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<sup>59</sup> According to the Second Drape Article: “Jerry Hissam, longtime agent for Borel, said the allegations were ‘ridiculous.’ ‘It’s absolutely untrue,’ Hissam said. ‘Why would a guy who’s broken 43 bones in his body run a horse into a fence at 35 miles per hour.’” (See Exhibit F.)

aces. The Stewards and security also make random, unannounced inspections in the jockeys' quarters.

#### **IV. REGULATIONS.**

Potential rule violations were considered, and it was determined that the investigation produced no evidence of a rule violation. Following are some of the regulations considered.

**A. Trainer Responsibility.**<sup>60</sup> 810 KAR 1:008 Section 3 provides as follows: "A licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against the administration of prohibited drugs or medication of horses in his charge..." 810 KAR 1:018 Section 15 provides as follows: "(1) A trainer shall be responsible for the condition of a horse in his or her care; (2) A trainer shall be responsible for the presence of a prohibited drug, medication, substance, or metabolic derivative, including permitted medication in excess of the maximum-allowable concentration, in horses in his or her care; (3) A trainer shall prevent the administration of a drug, medication, substance, or metabolic derivative that may constitute a violation of this administrative regulation...."

- There is no evidence to support PETA's allegation that "Asmussen and Blasi maintained horses in their care in poor physical condition." On the contrary, the evidence established that Asmussen and Blasi took exceptional care of the horses for which they were responsible. They were not pressured to keep horses in training that were injured, unsound or otherwise not fit to compete, and did not send unsound horses to the track. Data established a lower incidence of racing fatalities, race-related non-fatal conditions, and KHRC-initiated scratches of Asmussen-trained horses compared to the general population of Thoroughbred horses racing in Kentucky. Data established the presence of fewer medications in Asmussen-trained horses compared to the general population of Thoroughbred horses racing in Kentucky. The evidence does not support the contention that they were using medications to mask injury or unsoundness. The evidence established that they were not limited by resources and had the knowledge and expertise to properly maintain the horses in their care.

**B. Abuse and Cruelty to Horses.** 810 KAR 1:025 Section 14(p) grants the KHRC the authority to suspend, revoke or impose a fine on a licensee who has "abandoned, mistreated, abused, neglected, or engaged in an act of cruelty to a horse."

- There is no evidence to support PETA's allegation that Asmussen and Blasi "subjected Nehro to cruel or injurious mistreatment." There is no evidence that Asmussen and Blasi subjected any other horse to abusive or cruel mistreatment. As stated above, the evidence established that Asmussen and Blasi were excellent caretakers of the horses in their charge.

**C. Disorderly conduct.** 810 KAR 1:025 Section 14(1)(x) provides that the KHRC can suspend, revoke or impose a fine on a licensee who "has participated or engaged in any conduct of a

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<sup>60</sup> Pursuant to 810 KAR 1:008 Section 6, an assistant trainer "shall assume the same duties and responsibilities as imposed on the holder of a trainer's license."

disorderly nature on association grounds which includes, but is not limited to ... offensive and profane language.”

- Blasi’s use of profanity in the private discussions between him and Rosen in a bar, restaurant, or other location not under the jurisdiction of the KHRC is not relevant.
- There is no dispute that the videos document Blasi using profane language on the backside. While offensive, it is important to note that the videos show Blasi using profanity as part of his normal conversational style in non-public areas of the track. There is no evidence that he was fighting, arguing, or otherwise being disorderly. In fact, the other people in the video do not appear phased by Blasi’s language. Rosen secretly documented conversations in non-public areas of the race track that did not harm any person or animal or show Blasi being disorderly.
- Profanity is regularly used on the backside of racetracks and heard by representatives of the KHRC. However, the KHRC has never found a regulation violation based on the way profane language was used in this case.

**D. Conduct against the best interest of racing.** 810 KAR 1:025 Section 14(1)(q) provides that the KHRC can suspend, revoke or impose a fine on a licensee who “has engaged in conduct that is against the best interest of racing, or compromises the integrity of operations at a track, training facility, or satellite facility.”

- The courts that have considered this question have tended to uphold regulations that include the phrase “against the best interest of racing” under the particular facts of the case before the respective court.<sup>61</sup> Those facts tend to be fairly egregious and relate directly to the conduct of horse racing such as: race fixing; threatening the use of violence against a racing official; and, possessing a hypodermic syringe and injectables at a track. Importantly, those actions constitute violations in and of themselves. Such facts are not present in this case.<sup>62</sup>

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<sup>61</sup> See *Perez v. Hoblock*, 368 F.3d 166, 175 (2d Cir. 2004) (upholding New York regulation and finding that banging on tables, repeatedly shouting obscenities and threatening to choke a racing official at an official Stewards’ meeting constituted conduct detrimental to the best interests of racing generally); *Daly v. Commonwealth Horse Racing Commission*, 38 Pa.Cmwlth. 77, 391 A.2d 1134 (Pa.Cmwlth. 1978) (holding statute is not vague if person of ordinary intelligence is capable of determining what conduct statute encompasses; statute empowering racing association to exclude from race meetings persons whose presence it considers “detrimental to the best interests of racing” is not so vague that its application to jockey who had been indicted for race fixing violated due process rights); *Burneson v. Ohio State Racing Com’n*, 2004 WL 1405321 (Ohio App. 2004) (rule providing for revocation or suspension of horse trainer license when trainer engages in conduct which is against best interest of horse racing is not void for vagueness when charges against trainer, including that trainer possessed syringe and injectables in horse barn, directly relate to conduct of horse racing).

<sup>62</sup> Under the facts of this case, a similar analysis would apply to the provision providing the KHRC may suspend, revoke or impose a fine on a licensee for: “The public interest, for the purpose of maintaining proper control over horse racing meetings or pari-mutuel wagering, may be adversely affected if the license is issued.” 810 KAR 1:025 Section 14(1)(a).

**A**

EXHIBIT A

Investigative Report

In re Investigation of Allegations made by PETA against Steve Asmussen, Scott Blasi and KDE Equine, LLC.

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Following is the comprehensive report on the investigation into allegations made by People for the Ethical Treatment of Animals (PETA) against Steve Asmussen ("Asmussen") and Scott Blasi ("Blasi"),<sup>1</sup> as well the into the Asmussen stable generally. The specific allegations made in the two letters from PETA are included below in quotations and bold.

**I. "A KDE Equine Employee—Who Was Not Licensed to Practice Veterinary Medicine in Kentucky—Was Apparently Instructed by KDE Equine to Administer a Prescription Drug That Was Not Permitted Under KHRC regulations." March 18 Letter, pg. 2.**

**Video Clip #1**

- Video Clip #1 shows a horse in a stall receiving an oral administration out of an orange bottle. The horse cannot be identified from the video.

**PETA Employee Kerin Rosen**

- Rosen was licensed by the KHRC on April 11, 2013, as a stable employee for the Asmussen stable and worked as a hotwalker. Rosen tr., pg. 6.
- Rosen claimed that she had been instructed to orally administer substances by Blasi, but claimed not be able to remember what those substances were. Rosen tr., pg. 25.
- However, later in her interview, she stated that it was "standard protocol" for all the horses to get omeprazole and Exceed [a multi-purpose supplement] on a daily basis, and for some of the horses to get acepromazine every day. Rosen tr., pg. 33. Additionally, PETA asked the KHRC to investigate the use of thyroid hormone supplementation in the Supplemental Letter.
- Attachments to the Supplemental Letter include photographs and a video of a container of Thyroazine Powder. There are no photographs or videos of any other substances. However, in the YouTube Video, PETA claims its investigation "reveals chronic misuse of drugs."

**Veterinarian Dr. Ken Reed, DVM<sup>2</sup>**

- Dr. Reed stated it appeared from the video that the substance was administered orally and was either acepromazine or dantrolene. He stated he would have prescribed the medication and given instructions about how to administer it. He also said it was

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<sup>1</sup> PETA included KDE Equine, LLC (dba Steve Asmussen Stables) in their allegations. For the sake of clarity and simplicity, the report only refers to Asmussen and Blasi.

<sup>2</sup> Dr. Reed has provided veterinary services for the Asmussen stable in the "neighborhood of 20 years." Reed tr., pg. 4.

## Investigative Report

possible that a horse for which it had not been prescribed could be administered acepromazine or dantrolene. Dr. Reed tr., pgs. 50-51.

- “It’s all about preventing problems ... a lot of the medications you see used that they think is a problem, the dantrium and that’s just the opposite. That’s used to avoid having a problem, to make the horse safer, not make that horse ... you don’t give them ace so they hurt themselves. You give them ace so that they’re more controllable so they train better and do better. You give them dantrium so that they don’t tie up, rather than having to treat them afterwards.” Reed tr., pg. 69.

### Assistant Trainer Scott Blasi

- Blasi stated he could not identify the horse, but believed the video was taken at Churchill and shows an Asmussen employee giving an oral dose of dantrolene. Blasi tr., pg. 4 Dantrolene would be given “early in the morning before ... they would train.” Blasi tr., pg. 7.

### KHRC

- The medical records reviewed by the KHRC indicated that oral formulations of prescription medications were dispensed for horses in Asmussen’s care. However, it is not possible to determine if the substance shown in video clip #1 is properly labeled, if it is being administered to the horse for which it was prescribed, or if it is being administered in accordance with label instructions and in compliance with KHRC withdrawal guidelines.

II. “Asmussen and Blasi Maintained Horses in their Care in Poor Physical Condition.” March 18 Letter, pg. 3.

#### A. General Asmussen-Training Philosophy.

##### Trainer Steve Asmussen

- Grew up on a horse farm. Has been training since 1986. Currently has about 100 head in training. In the past has had as many as 350. He employs approximately one person per horse. Asmussen tr., pg. 3.
- Because he stables at several locations, he has main assistants who are in charge of a particular barn. Those main assistants have the authority to run operations at their barn, including hiring and firing personnel. Asmussen tr., pgs. 4-5.
- Asmussen speaks daily with his main assistants and goes through the charts for each horse every day. “We go through every horse every day.” Asmussen tr., pg. 11. He sets up each horse’s work schedule and decides where they will run. Asmussen tr., pgs. 12-13. He travels weekly to the various locations where his horses are stabled. Asmussen tr., pg. 13.
- Asmussen explained his training philosophy: “You get them there mentally and physically at the same time.” Asmussen tr., pg 7. “[Y]ou are preparing them ... to be

ready for what happens ... I just like it to be a rhythm, not a surprise." Asmussen tr., pg. 6.

- "...Dr. Reed prescribed us with our training regimen..." Asmussen tr., pg. 49. Most of his horses breeze on flunixin and banamine. Asmussen tr., pg. 49.
- "We're not winning any other way other than taking good care of them." Asmussen tr., pg. 59.

#### Veterinarian Dr. Ken Reed, DVM

- With respect to general use of medications in the barn, Dr. Reed stated: "[Asmussen] uses a lot of ace and a lot of dantrium, very little bute or banamine. If it's a bute or banamine, it's usually going to be somebody that I said this horse is sore ... But that's not a very common practice as in other outfits ... [Asmussen] likes those horses to go under control. He doesn't like horses to work fast. He likes them to work nice and slow and just a certain way that he likes them to work. So he uses a lot of ace primarily, I think for that reason, to control the way that they go so they don't go too fast. And he uses a lot of -anything he thinks has a chance of tying up, he'll give them dantrolene." Reed tr., pg. 38.
- "[Asmussen's] a little different than most people. He won't hardly treat a tied-up horse. A lot of trainers, if the horse will tie up, they'll call you to the barn immediately to give them a shot of banamine or a tranquilizer to relax them. Steve doesn't like to do that. He'll either give them more dantrolene and just walk them out." Reed tr., pg. 30.
- "As far as abusing horses, it does not happen in that barn." Reed tr., pg. 68.

#### KHRC

- KHRC veterinarians stated they have never been approached by anyone with complaints that horses trained by Asmussen are in poor physical condition, in receipt of inadequate care, maintained in unsanitary conditions, or are subjects of physical abuse or neglect. To the same extent, none of the KHRC veterinarians have witnessed any of the aforementioned situations/conditions on their race day encounters in the Asmussen barn. Of the horses named by PETA in the March 18 Letter, five were stabled at Churchill Downs during the 2014 meet. KHRC veterinarians performed physical assessments and determined all to be in good physical condition.
- A comparison between data on Asmussen-trained horses and the general population of horses that raced in Kentucky revealed the following: Review of population data indicates a lower incidence of racing fatalities, race-related non-fatal conditions, and KHRC-initiated scratches in Asmussen-trained horses when compared to the general population of Thoroughbred horses racing in Kentucky. Review of post-race testing results indicates the presence of fewer medications in Asmussen-trained horses when compared to the general population of Thoroughbred horses racing in Kentucky.

**B. Nehro. "Nehro was a 5-year-old horse owned by Zayat Stables, LLC, and trained by Asmussen. He began racing in 2010 and placed second in the 2011 Kentucky Derby, but his performance in 2013 suggested that overexertion and stress from constant training and**

racing had taken a toll on his health since he finished fifth in his last race, held on April 13, 2013, at Oaklawn Park Race Track in Hot Springs, Ark. Asmussen and Blasi subjected Nehro to cruel or injurious mistreatment by forcing him to continue training—making him run timed workouts on April 23 and April 30—even *after* PETA’s investigator had heard Blasi acknowledge Nehro’s poor physical condition... Based on the poor physical condition of his feet, an expert has confirmed that Nehro was experiencing ‘severe pain’ and suffering and ‘should have been given strict pasture rest for months—possibly for a year—to permit the healing of his multiple lamenesses’ rather than being forced to run in his condition...” March 18 Letter, pg. 3.

1. “On April 17, PETA’s investigator noticed a considerable amount of filler—used to fill in cracks or holes—on Nehro’s front hooves. The same day, PETA’s investigator heard Jamie Hernandez, an exercise rider, state that Nehro had ‘very bad feet,’ and a farrier, named Dave, state that Nehro did not even have a pulse in the right front leg and only ‘barely’ had one in the left front leg. PETA’s investigator heard Dave state that Nehro’s foot was just ‘a little bitty nub’ and ‘all broke off’ and that Nehro had lost z-bar horseshoes (generally used in therapeutic shoeing for treating hoof problems such as lameness and cracks) on both feet multiple times, ‘until he had bloody holes in the bottom of his feet.’ PETA’s investigator heard Hernandez respond, ‘He really did. At Fair Grounds, every week....” March 18 Letter, pg. 3.

#### Photograph #46/Video Clip #2

- The photograph and Video Clip #2 show the front feet of a horse with glue-on shoes, standing on a magnetic pad. The horse appears to be standing quietly, putting weight equally on both front feet. While it cannot be conclusively determined that the horse is, in fact, Nehro, Nehro did stand on a magnetic pad and did have glue-on shoes on his front feet at the relevant time. The magnetic pad is thought to increase circulation, which would promote hoof growth.

#### Video Clip #3

- Video Clip #3 shows Nehro standing quietly in a stall, putting weight on all four feet. Hinton is in the stall, checking Nehro’s front feet for a pulse. A groom also enters the stall. The horse does not appear stressed, agitated, fearful, or in pain.

The clip shows Hinton updating Blasi on what had occurred with Nehro’s feet prior to NEHRO’s arrival at Churchill Downs. Hinton indicates that Nehro lost shoes several times, which made it challenging to shoe him.

#### PETA Employee Kerin Rosen

- Rosen saw other horses in the barn with “filler,” but PETA did not mention any other horses in its letter. Rosen tr., pg. 12.
- In response to whether “filler” is evidence that the horse was in pain, Rosen responded: “I have no idea. It was just something I saw that was unusual, and I recorded it so that an expert could review it.” Rosen tr., pg. 12.



- Rosen stated she recalled “a few things [Nehro] did that you can see in the footage that made me believe he was in pain, like flinching or pinning his ears back when someone touched his feet.” Rosen tr., pg. 13. However, the video clips supplied to the KHRC do not show Nehro flinching or pinning his ears back as if he were in pain. Video Clip # 4 shows Nehro react when a groom presses on his foot. However, he does not stamp his foot down, or try to get his foot away, as one would expect if he were in pain. On the contrary, the horse stands quietly and does not appear to be agitated or in pain..
- When pointed out that many horses will react when someone presses on their feet, even when there is nothing wrong with their feet, Rosen stated: “I really don’t have a read on what I experienced at the time. From what I’ve read, from what the experts have said, that’s now what I feel. But at the time, I was more concentrating on documenting what I was seeing so that someone else could interpret it. I really wasn’t trying to interpret what was going on with the horse.” Rosen tr., pg. 13. However, note above she says she filmed filler because in her estimation it was “unusual” and observed behavior that made her believe Nehro was in pain.

#### Farrier David Hinton

- Cannot look at feet and identify horse. Hinton tr., pg. 5-6.
- In looking at the horse’s feet, does not see anything to indicate unsoundness, abuse, or mismanagement. Hinton tr., pg. 31.
- The “filler” was Equilox®, commonly used to affix glue-on shoes and fill-in hoof cracks. In Nehro’s case, he would often grab his front shoes off with his hind feet, which causes cracks and breakage in the front hoof wall. If the hoof wall is too thin, it is difficult or impossible to nail on shoes. Hinton explained that glue-ons are used in such cases and can help prevent the horse from grabbing the shoes again. Hinton tr., pgs. 27-31.
- Use of Equilox® is not causing pain or a sign that the horse was in pain or of poor hoof health or unsoundness. Hinton tr., pgs. 42-43.
- Hinton did not agree that Nehro’s feet were “very bad,” stating, “I work on those kind all the time.” Hinton, tr., pg. 7. He felt Nehro’s feet were manageable and that his feet were improving. Hinton tr., pgs. 8, 45.
- With respect to the pulse, Hinton explained: “It’s bad to have a pulse.” It was a good thing that Nehro had no pulse in the right front and barely one in the left front. Hinton tr., pg. 12.
- When asked to explain what he meant when he said Nehro’s foot was a “little bitty nub” and “all broke off,” Hinton explained Nehro had pulled z-bars off his front foot and had a very thin hoof wall. Thus, according to Hinton, “there’s no place to put good nails.” Hinton tr., pg. 12. “[The nails] could be into soft spots that are brittle, not holding much.” Hinton tr., pg. 12. He was explaining why he used glue-on shoes. Hinton tr., pg. 13.
- Hinton does not remember Nehro having “bloody holes in the bottom of his feet.” He explained that Nehro had pulled shoes off previously. Because of his confirmation, Nehro had a tendency to pull his shoes off. Hinton tr., pg. 15. And hoof growth is much slower or non-existent in the winter. Hinton tr., pg. 15. When the nails are ripped out,

it's possible to rip some of the quick, which Hinton described as "like if you cut your fingernail too short." Hinton tr., pg. 9. In that case, Hinton would put something against the quick to keep the glue from touching it. Hinton tr., pg. 9. He also said that when a horse grabs a shoe, "it's going to be grabbed and ripped off" and "if you do it several times, he could have had tissue—you know, just the same as a quarter crack, if you're going to have some tissue down in the bottom of it, it's going to be bloody..." Hinton tr., pgs. 16-17. "But of course I didn't see—there was never any holes or blood—you know, I'm exaggerating the fact." Hinton tr., pg. 17.

- He said he was exaggerating the condition of Nehro's feet to defend his shoeing and use of glue-on shoes. Hinton tr., pg. 17. Hinton stated, "[Blasi] complains every time I put shoes on a horse. No matter what, he comes by and says I got too much glue on the horse. Always says that." Hinton tr., pg. 10. Hinton stated, "I'm exaggerating my part to get him to see things my way, because he hadn't seen the horse." Hinton tr., pg. 12.
- Hinton stated that Blasi is an "over-the-top" caretaker." Hinton tr., pg. 52. "[Blasi's] the new caretaker for this horse now, so he shows up and every horse that comes off that trailer he's looking at them. And as soon as he sees all that glue, then I've got to explain to him the history of all of that." Hinton tr., pg. 53.
- Hinton explained that z-bars were used as a preventative measure to "protect the quarters." Hinton tr., pg. 13. "[Nehro's] confirmation made us want to put bar shoes on him, take pressure off his inside quarters." Hinton tr., pgs. 3-4. Hinton stated there is no increased risk in using a z-bar compared to any other shoe. Hinton tr., pg. 17.
- Hinton explained that he used z-bars at the Fairgrounds, but that Nehro had not had z-bars on since February. From February to the time the video was taken, he was not in z-bars. Hinton tr., pg. 23.

#### **Veterinarian Dr. Ken Reed, DVM**

- When asked if Nehro had foot problems, Dr. Reed stated: "Not that I recall. But you know, that's not usually my department per se unless they're banging their feet. So I really wouldn't be asked to look at them. But if they're starting to glue-on, I would assume he has a shelly<sup>3</sup> foot, so they're having a hard time keeping nails in him. So they would go to the glue-ons." Reed tr., pg. 9. "Not necessarily that he was having foot problems, but that they couldn't—that they had a hard time keeping shoes on him." Reed tr., pg. 10.
- Later, Dr. Reed stated: "I was aware that he had feet problems ... I think they had z-bar shoes on him, and I know they had a hard time keeping shoes on him ... But I never did anything like blocking his feet or injecting his feet or any of that type of thing." Reed tr., pg. 22.
- Dr. Reed agreed that Nehro's feet were managed with corrective shoeing and did not require medical intervention from him. Reed tr., pg. 22.
- With respect to the use of glue-ons, Dr. Reed explained that "when you put polyflex on any foot is the foot can no longer breathe because you have stopped air, and that is living tissues just like your fingernail is...So you have to be very careful how much you

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<sup>3</sup> A "shelly" foot is a foot that is thin, brittle and fragile.

put and how long you leave it on there. And every time you put it on there, you're going to kill a little portion of that foot. So you're—it's a balancing act between how much you can help them by gluing the shoe on and how much you hurt them by having a foot that no longer breathes properly, even though it's in a small area." Reed tr., pgs. 54-55.

- When asked if it is more advisable to give the horse time off to let the foot grow instead of using glue-ons, Dr. Reed stated: "Yeah ... it'd be hard pressed to say that no, that wouldn't be better. But when you're talking about a foot that grows minutely ... it takes a year to grow a whole new foot out. And a lot of times, you grow out the same shelly foot that you had before, and unfortunately, you may be back with the same problem that you had before ... [a]nd the economics of it, you want the horse to race. So unfortunately, you tend to try to do what's best—just try to manage the foot in other words." Reed tr., pg. 55.
- When asked if using the glue-ons was poor management of Nehro's foot issues, Dr. Reed responded, "Oh, I think it's just the opposite. I think it's the optimal, trying to do what's best for the horse...And what you're—what you're watching there is two people really working hard to try to decide what is best for him, you know, and not just oh, well. We'll just slap something on his foot, you know. We'll nail something on there, and he'll be fine." Reed tr., pg. 56.
- The blacksmith is admitting "that he may not have done [the glue-ons] quite perfect and is trying to do it even better. So it's almost just the opposite of what they're trying to say there." Reed tr., pg. 54.

#### **Assistant Trainer/Exercise Rider Jamie Hernandez**

- "[Nehro] was very prone to stepping on his heel and pulling off his shoe, which caused, you know, breakage in the hoof." Hernandez tr., pg. 5.
- "[Nehro's] feet were probably a grade below because he always pulled off his shoes...So there was always an issue with breakage or having the shoe—you know, keeping his shoes on. So that did cause issues." Hernandez tr., pg. 6.
- "[W]e did a lot for [Nehro]. You know, when he went to the track, a lot of times he'd wear bell boots, you know, to try to prevent him from grabbing ... the back of his shoe. He did wear special shoes that were to relieve pressure...If they kept reshoeing him, he wore at times, I believe, glue-on shoes... which are to help where they don't have to put nails in the—in his hoof wall to prevent breakage. So I believe they did numerous—we did numerous things. And he also—I know under my care at Churchill, he was standing on a therapeutic magnetic pad daily." Hernandez tr., pgs. 6-7.
- When asked if money were not an issue, would she have done anything differently, Hernandez replied, "I couldn't probably do anything different than what they had done... Because they did everything, I mean, top of the line, you know, that they could do for his feet." Hernandez tr., pg. 7.

#### **Assistant Trainer Scott Blasi**

- Blasi explained that they routinely stand horses on magnetic pads in cases where they want to increase circulation to promote hoof growth. Blasi tr., pgs. 8-9. He stated a lot of other barns use magnetic pads or magnetic blankets. Blasi tr., pg. 11.
- With respect to the conversation between the farrier and Blasi, Blasi explained, “Well, that situation was that I hadn’t been around Nehro ... I had been in California, and I’d just—just gotten back. And what I was doing is I was basically making David explain to me what had been going on with Nehro and his feet, you know. I obviously didn’t like how he was shod. I didn’t—you know, I was making him explain to me how we had got to this point.” Blasi tr., pgs. 12-13.
- He stated the statement about Nehro’s foot being a “little bitty nub” was “[a] total exaggeration.” Blasi tr., pg. 13.
- “And a little bit that’s Dave and I ... ribbing each other a little bit ... I have a relationship with him where we ... rib each other back and forth. But that’s just from knowing each other 22 years.” Blasi tr. Pg. 13.

#### Trainer Steve Asmussen

- “[W]e worked on [Nehro’s] feet all the time.” Asmussen tr., pg. 15.
- “He didn’t—went from z-bars to glue-ons and stuff like that, trying to grow feet with him and stuff. Feet are something that we are constantly—about all of them. You know, just slow circulation. You’re wanting growth. The winter months don’t get a lot of growth. You’re trying to, you know, get a set of shoes to go 30, 35 days if you can...” Asmussen tr., pg. 15.
- “[W]e were working on growing more feet on Nehro from before the Derby ... [W]e paint all coronet bands every day with [Reducine]. You’re just constantly trying to grow feet. He is a horse that stands ... pretty wide, bruises ... bruises his inside quarters. That’s where he ... we would go to the z-bars on him. It would protect that.” Asmussen tr., pgs. 16-17. “I think it falls under the ounce of prevention, pound of cure thing. You want to try to keep yourself with some room to work ... some foot to work with...” Asmussen tr., pg. 17.
- “I think that at the time ... he got a soft spot underneath where the z-bar ... where it covers. That they were working on at that time. I don’t believe there was a race circled for NEHRO at the time in question.” Asmussen tr., pg. 17.
- Asmussen said generally that Nehro “is a very tight horse when he was scratched from the Fair Grounds handicap for tying up. I think just a high-enzyme horse.” Asmussen tr., pg. 21.
- Asmussen stated: “[A]t this time he was 5. His 4-year-old races weren’t his second in the Derby and the second in the Louisiana—Arkansas Derby he’d just won. But he did have a chip removed after the Belmont. He was fourth in the Belmont, pretty rough—bad track that day and stuff, had a chip removed from his ankle. And he never got back to as fast as he was.” Asmussen tr., pg. 24.
- “[W]e had given him two breaks previously.” Asmussen tr., pg. 25. Asmussen stated that he has told an owner a horse should be retired. “I have not been pressured into keeping anything in training that you didn’t want to.” Asmussen tr., pg. 25.

**Dr. Scott Morrison, DVM**

- When questioned about the absence of a pulse in a horse's foot, Dr. Morrison responded, "That's good; that's what we strive for." He explained the absence of a pulse is indicative of a foot that is not inflamed.
- In his review of photograph numbers 37, 39, 41, 42, and 46, Dr. Morrison did not feel that the foot was a "little bitty nub." He stated that the shoe application looked like a "fairly normal glue-on job." Dr. Morrison did not note any unusual or extreme shoeing measures. Dr. Morrison could not conclude from review of the photos that the horse was lame or that Hinton, Blasi or Asmussen believed the horse to be unsound. While maintaining Nehro's feet in good condition may have represented challenges to the farrier, Dr. Morrison indicated that neither his sheared heels, thin walls, nor quarter crack represented unique challenges, and in the photographs the horse's hooves appeared to be appropriately managed.
- According to Dr. Morrison, there is nothing concerning about the shoe application. He did not believe the amount of Equilox® shown in the photographs was excessive.
- He also did not see evidence of corrective shoeing. Rather, he stated that glue-on shoes are not necessarily indicative of a problem, but may be used to prevent a problem.
- Dr. Morrison stated that the efficacy of magnetic pads is questionable, but they do not cause any harm. He stated that some people think the pads stimulate hoof growth and decrease inflammation. He likened the magnetic pads to magnetic bracelets worn by people.
- With respect to the use of z-bars, Dr. Morrison stated that z-bars are typically used for sheared (or shunted) heels, in order to unload one heel to get it to drop back into the correct position. Sheared heels are secondary to lower limb conformation that results in increased weight bearing on the medial heel.
- According to Dr. Morrison, it is reasonable for a horse to train and race wearing z-bars. In fact, Dr. Morrison recommends keeping the horse in work.
- Dr. Morrison stated there are no potential negative consequences from application of this type of shoe.

2. "Also on April 17, PETA's investigator saw Dave point out a hole in Nehro's left front foot to Blasi, stating, 'Yeah ... poked a hole right in that sore right there.' PETA's investigator saw a groom attempt to clean Nehro's left foot, causing Nehro to flinch and attempt, somewhat vigorously, to pull away, and causing Dave to say, 'Don't touch it again ... he can't take a brush,' apparently meaning Nehro was experiencing such pain in his feet that he could not stand the touch of a brush against his foot. PETA's investigator heard Dave ask Blasi, in reference to Nehro's left front foot, why Blasi didn't try 'healing that up' and that 'it's been like that for three months ... from putting a z-bar over top of it, it rotted.' PETA's investigator heard Blasi reply, 'I know the f---r hurts.'" March 18 Letter, pg. 3.

**Video Clip # 4**

## Investigative Report

- This clip appears to be a continuation from the scene showed in Video Clip #3 and shows Nehro in his stall with Hinton, a groom, and Blasi. The horse continues to stand quietly and allows the groom to lift and examine his left front foot. The video does show the horse react when the groom presses on some area of the frog that cannot be seen, but the horse does not stamp his foot down, or try to get his foot away as one would expect a horse to do if he were injured and in pain. The horse does not flinch when Blasi holds his foot. When Hinton points to the area where he says there is a hole on the foot, Blasi pushes the testers away. The video demonstrates the bantering relationship between Blasi and Hinton—Hinton pinches Blasi with his hoof testers when Blasi pushes the testers away.

### PETA Employee Kerin Rosen

- Started working for Asmussen at Churchill on April 9, 2013. Nehro was euthanized on May 4, 2013. During those 25 days, Rosen indicated that she did walk Nehro, “[o]n occasion. Not very often but on occasion.” When asked if she noted anything about his gait, his demeanor, or anything else that would make him stand out or seem unusual from any of the other horses that she walked, she replied, “[n]o, I don’t remember anything.” Rosen tr., pgs. 13-14. There is no video of Nehro walking, jogging on the road, working on the track or in any setting other than standing in his stall or in the shed row with the vet.

### Farrier David Hinton

- With respect to a hole, Hinton did not know what he was referring to. Hinton tr., pg. 23. However, he stated that a z-bar covers the frog and can rub against the frog, creating a “brush burn” or “blister.” Hinton tr., pg. 18. When the frog is covered up by the z-bar, it can also make treating thrush difficult. “So when you cover [the frog] with a z-bar, it’s harder to get to, hard to get the dirt out of there and stuff like that.” Hinton tr., pg. 26.
- Hinton stated, “It wasn’t sore to the touch like that three months. It wouldn’t take that long to cure that—to heal that up with iodine or this Thrush Busters kills tissue.” Hinton tr., pg. 26.
- Hinton stated that thrush is common. Hinton tr., pg. 41. “It’s something that can come up on any horse, and it’s hard to get rid of.” Hinton tr. Pg. 42.
- Hinton said: “It’s not uncommon for a horse to have sore frogs. I mean, you could find little spots in a lot of them.” Hinton tr., pg. 25.
- Hinton stated “poking at them with the thrush or whatever is like athlete’s feet. You’re going to—if you poke at it, he’s going to flinch. That person might go out there and run just fine until you go poke on it again. So I don’t think it’s an issue.” Hinton tr., pg. 61.
- Hinton said: “The horse is standing there fine, and the frog part is—of those horses that you poke at like that, wouldn’t keep me from going to the racetrack with that.” Hinton tr., pg. 63.

### Veterinarian Dr. Ken Reed, DVM

- Dr. Ken Reed stated that if a horse was lame, Asmussen would call him to examine the horse. "If it's a lame horse, they're generally going to contact me. That would be the norm." Dr. Reed tr., pg., 35.
- After watching the video, Dr. Reed stated, "I thought they were talking about a hole in [Nehro's] sole where apparently they're talking about a hole in his frog, which is much less of a problem than be a hole. If he had a hole in his sole, that would tend to make the horse lame ... and sore ... But they're talking about the frog ... And what he's talking about is the z-bar that goes across the frog because it puts pressure on that frog from the z-bar. And there was often slough there. The frog—the tissue is going to die that's underneath the bar, and it's going to slough up. And when it sloughs up, it makes a little hole up underneath it that you ... need to clean out and keep clean so that it doesn't get thrush under it." Dr. Reed tr., pgs. 51-52.
- Dr. Reed stated that pressure on the frog from a z-bar would not normally cause pain or lameness. Dr. Reed tr., pg. 52.
- Dr. Reed stated that if Nehro were being abused, he would not be standing quietly in the stall. "[H]e'd be running in the back of the stall trying to hide from you." Reed tr., pg. 53.
- Dr. Reed stated that if Nehro had pain in his foot, "he'd be jerking that foot, trying to get it back on the ground. And even if he had a lot of pain in the foot where they're pressing, you would see him constantly jerking that foot ... away from them because they don't like—he'd try to slap that foot back on the ground." Reed tr., pg. 53.
- "What you're watching to me is two people working real hard to try to improve this horse's feet. They're not trying to hurt him. They're trying to do whatever they can to try to figure out what kind of shoe to put on it to get the most comfort out of him and to help him as much as they can." Reed tr., pg. 53.

#### **Assistant Trainer Scott Blasi**

- Blasi stated that Nehro had a tender frog. "It wasn't shedded off like a shed frog. I mean ... he had frog. It was just that a tender area in the frog. It wasn't bloody. It wasn't raw. It was just sensitive." Blasi tr., pg. 17.
- Blasi stated that Nehro was not lame, but that "he just had bad feet ... he didn't grow a lot of foot." Blasi tr., pgs. 18, 21. "I don't work lame horses ... I don't train lame horses." Blasi tr., pg. 21.
- He further explained, "[w]ith training, with racing ... horses' feet grow slower in the winter. When it turns spring, weather warms up, they start growing more foot." "Just the way his feet were made, the way he was built, he just had always put maybe more pressure on his inside quarters. Then we would go to a—sometimes, we'd go to a z-bar to try to get some growth on the inside quarter if he was a little tender just to take a little pressure off that, which is sometimes why the frogs get a little sensitive because of the moisture underneath the z-bar." Blasi tr., pg. 18.
- "I felt like we were always very thorough with Nehro." Blasi tr., pg. 19.

- “And his feet were improving. That was more a conversation of where to go next ... I wanted Dave to explain to me exactly what had gone on ... It was a longer conversation than that.” Blasi tr., pg. 20.
- “He had a spot we were treating ... but he wasn’t lame.” Blasi tr. Pg. 21.
- Blasi explained that Nehro had a tendency to step on his front feet and pull his shoes off. “Because [Nehro] ... used to reach up with his hind—that’s probably one of the reasons he was so good is he would get his hind end so far up underneath him. And sometimes he would reach up and either catch a quarter or catch his shoe. But you had to be careful, you know, with bell boots and everything because he would—he had the tendency to want to step on his front feet.” Blasi tr., pg. 22.
- Blasi said Nehro “was a little bit of a weenie about you messing with him.” Blasi tr, pg. 28.

3. “Also on April 17, PETA’s investigator saw Blasi pickup Nehro’s right front hoof, point to a sore in the middle, and say, ‘this hurts him.’ PETA’s investigator saw a pink and hairless sore in the middle of Nehro’s right front heel, approximately 1 inch wide, with a scab on it. PETA’s investigator heard Dave say that Nehro had the sore ‘before the race’ in which Nehro ran ‘the other day,’ likely a reference to Nehro’s last race, on April 13. PETA’s investigator saw Dave show a hole in Nehro’s left front foot to Blasi, saying, ‘this hole is treacherous.’ PETA’s investigator heard Hernandez say, apparently in reference to this hole, ‘It is bad,’ and Blasi say, ‘I just think we need to paint, get some, get some, uh, don’t think I can just get some blue lotion?’ PETA’s investigator heard Dave say that he previously had put Polyflex on Nehro’s feet, stating, in reference to one of Nehro’s feet, ‘He had nothing here. It was all bruised, and then he had a big ole hole here.’ PETA’s investigator heard Dave state that when Nehro ‘come up lame,’ Asmussen instructed Dave to use Polyflex on Nehro’s hoof rather than a metal shoe, and ‘about three weeks later, he was lame.’” March 18 Letter, pg. 4.

#### Video Clips #5-7

- These clips are a continuation of Blasi’s and Hinton’s examination of Nehro’s feet. Hinton explains to Blasi why he shod him the way he did. It is clear from the discussion that Nehro had grabbed his front shoes off in the past. That coupled with slower hoof growth in the winter, created challenges, which the video demonstrates Blasi and Hinton were trying to manage. The horse continues to stand quietly and does not appear agitated or in pain. When Hinton says the horse is lame in the left front, Blasi says, “he’s not lame.”

#### Photographs of Nehro’s right front foot #39, 42

- These photos purport to show the bottom of Nehro’s right front hoof. There is no evidence of any sore or scab in the photographs, which the date stamp indicates were taken on April 21. The foot appears normal, with no sores, scabs, holes, or any other kind of injury.

#### Photographs of NEHRO’s left front foot #37, 41



- Both photos purport to show the bottom of Nehro's left front hoof. The photos show a quarter crack patch, but no sores, scabs, holes, or any other kind of injury.

#### Farrier David Hinton

- With respect to photographs # 39 and 42, Hinton said the photographs did not show anything unusual. Hinton tr., pg. 34-35.
- Hinton remarked about the condition of the feet in photographs #37 and 41: "It looks great to me ... I'd enter that in a contest." Hinton tr., pg. 32. "I don't see anything there in that picture that warrants concern." Hinton tr., pg. 33. Hinton said it appeared these two pictures were pictures of the same foot.
- Hinton explained that "polyflex" shoes are plastic polyurethane shoes Asmussen and Hinton "were putting on quite a few horses at the time, and for [Nehro's] build, we put those on there." Hinton tr., pg. 4. He stated that polyflex shoes "flex with the foot" and are "kinder to the foot." Hinton tr., pg. 6.
- Hinton said that Nehro had a "seedy toe, like a little spot on his toe." Hinton tr., pgs. 43-44. He explained a "seedy toe" is "like a thrush of the hoof wall ... in the very front." Hinton tr., pg. 45. "But the hole in his seedy toe is nothing unusual." Hinton tr., pg. 44.
- Hinton stated at the time the video was taken that Nehro's feet were progressing nicely. Hinton tr., pg. 46.
- Hinton stated that so long as a horse "can travel sound, you can train them." Hinton tr., pg. 49.
- When asked if exercise was preferable to stall rest to stimulate hoof growth and health, Hinton stated: "I would think they need circulation. They need exercise, yes." Hinton tr., pg. 50.

#### Veterinarian Dr. Ken Reed, DVM

- According to Dr. Reed, "once they begin to lose their wall, they're very hard to deal with because you don't have much to nail onto. And the polyflex or these synthetic glues have come on in the last 10 years ... longer than that—so that there's some other way to do it besides trying to drive a nail through there. But one of the problems that you have when you put polyflex on any foot is the foot can no longer breathe because you have stopped air, and that is a living tissue just like your fingernail is ... it's a balancing act between how much you can help them by gluing the shoe on and how much you hurt them by having a foot that no longer breathes properly, even though it's in a small area." Reed tr., pgs. 54-55.
- When asked if using glue-ons was an indication of poor management of Nehro's feet, Dr. Reed responded: "Oh, I think it's just the opposite. I think it's the optimal, trying to do what's best for the horse." Reed tr., pg. 56.
- "What you're watching there is two people really working hard to try to decide what is best for [Nehro] ... and not just oh, well, we'll just slap something on his foot ... we'll nail something on there, and he'll be fine ... they're talking about it after studying on it, they're trying to figure out what they can do to help him the most. Doing a pretty good job there really." Reed tr., pg. 56.

**Assistant Trainer Scott Blasi**

- Photograph #37. “It looks like a normal foot with some Equilox on it.” Blasi tr., pg. 24. Blasi further stated the back of the foot, “just looks like an old grab.” Blasi tr., pg. 24. The Equilox is used to patch a quarter crack caused by Nehro grabbing his front foot with his hind foot. Blasi tr., pg. 44.
- Photograph #39. “That appears to me like an old grab.” Blasi tr., pg. 25. Blasi thought that the artificial red tint in this photograph looked added because Nehro did not have red on the bottom of his feet. He explained that the old grabs were “completely healed.” Blasi tr., pgs 26-29.
- “That’s a normal foot ... you can still see a little bit of the old grab ... But there’s no red tint to it ... this is what I was trying to have them explain about what happened, but he doesn’t have—he doesn’t have any frog missing. Nehro ... his heels are contracted, which is more kind of what we were discussing because that’s just how his feet grew. But the horse is shod very well. He’s got a lot of width to his foot. He’s got a good-sized shoe on.” Blasi tr., pgs. 27-28.
- “But he was not sore training. He was not sore walking.” Blasi tr., pg. 28.
- With respect to the “treacherous” hole, Blasi stated, “he didn’t have a hole in his foot when I’m training him.” Blasi tr., pg. 32.
- Blasi stated that it likely referred to an old quarter, which Nehro had grabbed and taken his front shoe off. Blasi stated, “they’re talking about something in the past that had been treated.” Blasi tr., pg. 33.
- “Because his feet, which you can even tell by the pictures, were doing much, much better, going the right way.” Blasi tr., pg. 35.
- Blasi explained that he had just gotten to Churchill when these videos were taken. “It’s ... a new group of horses ... I want to know everything that’s going on with everybody ... I go through all the horses myself.” Blasi tr., pg. 35.
- “[Dave] is talking about what happened in the past ... I don’t even see what he’s trying to show me. It’s not there ... it’s just a conversation, a long conversation over days, about the horse. I mean, if anything, I think you can tell how overly concerned, disregarding my foul month, about how concerned we were ... about making sure everything was perfect with that horse.” Blasi tr., pgs. 37-38.
- “Probably overkill on my part, wanting to know everything ... this horse had no protective shoes, nothing, no therapeutic shoe. He was shod normally.” Blasi tr., pg. 39.
- Blasi stated that a sore horse, “wouldn’t go to the racetrack. We would treat the issue ... you treat the problem, whatever the problem may be.” Blasi tr., pg. 41.

**Dr. Scott Morrison, DVM**

- Dr. Morrison saw no evidence of the “pink and hairless sore” referenced in the PETA letter.
- In photo #39, Dr. Morrison observed evidence of healing in the region of the medial heel, probably the result of a grabbed quarter that likely occurred several weeks or

more prior to the date of the photo. Dr. Morrison did not believe that a healing wound, as evidenced in the photograph, would result in lameness or other gait abnormality, nor should it preclude a horse from exercising or racing.

- Thin-walled hooves appear to be genetic as opposed to exercise- or work- related. The condition is very common in Thoroughbreds, whether racing or non-racing.
- The condition is managed by using glue-on shoes, if clients are willing to bear the additional expense. Shoeing can also include the use of z-bars, heart bars, or temporary orthotics to increase ground contact with the frog and stimulate circulation.
- Since thin walls appears to be genetic and breed-related and occurs in pasture managed horses, there is no expectation that pasture turn out would have any impact on thin walls.
- Thin walls can be managed, but if you stop working on them, they will revert.

4. "Also on April 17, PETA's investigator heard Dave tell Hernandez that when Nehro raced at Oaklawn ..., 'he stabbed around there like he's dying,' and he 'come back walking real short.' PETA's investigator heard Hernandez respond that she 'had asked Steve in New Orleans' and that she 'knew his feet were bad.' PETA's investigator heard Dave say that one of Nehro's hooves had a 'quarter crack' and saw Dave examine it to see how the 'quarter crack patch held up in the race,' suggesting that Nehro had the crack before his last race. PETA's investigator heard Dave say, apparently about one of Nehro's hooves, 'We're going to have to heal that up and put something on that if you go to the track ... We've tried super glue in that hole.'" March 18 Letter, pg. 4.

#### Video Clip # 8

- This clip is a continuation of Blasi and Hinton's examination and discussion of Nehro's feet. Blasi and Hinton continue to discuss hoof management, and Nehro continues to stand quietly.

#### Farrier David Hinton

- Hinton explained that a "quarter crack" is a split in the hoof wall. He said it can be painful. "Some horses might go on it and never take a bad step, and others might have something that doesn't look very bad and they don't want to put it down on the ground." Hinton tr., pg. 35.
- He stated that horses can get quarter cracks due to their confirmation. Hinton tr., pg. 35. He also stated dryness can lead to quarter cracks. Hinton tr., pg. 35.
- Hinton stated that the use of z-bars helped prevent Nehro from getting quarter cracks. "And kind of to Steve's credit ... that's why we started putting z-bars on, to keep the pressure off that inside." Hinton tr., pg. 36.
- The purpose of the patch is to stabilize the crack so it doesn't get worse. "Every time he walks on it, [the quarter crack] is going to move. Hinton tr., pg. 36-37. So, whether the horse was turned out, standing in a stall or racing, he would patch a quarter crack so it wouldn't get worse. Hinton tr. Pg. 37.

- Hinton said horses other than racehorses get quarter cracks and that quarter cracks are not indicative of poor management. Hinton tr., pg. 57.

#### **Assistant Trainer Scott Blasi**

- Blasi explained that a quarter crack patch is an “Equilox patch that you would put over the quarter crack. Once it was dried, that would keep it from moving. In order to keep the crack from moving, you put the Equilox there to stabilize it, and then you’ll get growth from the coronet band and down.” Blasi tr., pg. 42.
- “You just put the patch on there to stabilize their hoof. They’re not sore.” Blasi tr., pg. 42.
- “We’ve won races with horses that have had quarter cracks. It is a temporary condition ... we wouldn’t run them if they were sore. But when they grow down and they’re stabilized, it’s perfectly normal.” Blasi tr., pg. 43.
- When asked if running a horse with a quarter crack makes it worse, Blasi replied, “not once its dried out and stabilized.” Blasi tr., pg. 43.
- He stated Nehro did not have a fresh quarter crack. Blasi tr., pg. 43.

#### **Dr. Scott Morrison, DVM**

- Dr. Morrison explained that a quarter crack is a crack that develops in the quarter region. They usually start at the hairline and are usually deep. There may be some bleeding associated with the development of a quarter crack. They usually develop secondary to sheared heels—a consequence of the horse’s conformation. Some quarter cracks can be painful, some are not. Dr. Morrison said he would need to see the horse in motion to make that assessment. Once the crack grows down several millimeters, if the crack caused pain, it usually no longer does. He cannot tell anything about the quarter crack in the photographs because it is covered with a patch.
- Dr. Morrison stated that a crack is stabilized by patching, stitching or a combination of the two. Treatment is also focused on unloading the affected heel and transferring weight to another area of the foot—as with a z-bar.
- It generally takes approximately 6 months for a quarter crack to grow out, but it depends on a variety of factors, such as the horse’s rate of hoof growth, the severity and extent of the crack, and amount and nature of exercise the horse is receiving.
- If the crack is appropriately stabilized, it would not be painful unless there was infection present. If there was infection present, there would be a bounding pulse associated with that foot.
- Dr. Morrison encourages exercise in horses with stabilized quarter cracks. Exercise will stimulate hoof growth and improve the rate of healing.
- Dr. Morrison stated that horses can train and race with quarter cracks.

5. “On April 21, PETA’s investigator saw that the frog ... on Nehro’s left front foot was abnormally flat and apparently worn down and that an unusual dip was present in the frog, which PETA’s investigator had never seen present on any other horse.” March 18 Letter, pg. 4.

### PETA Employee Kerin Rosen

- The March 18 Letter indicates that Rosen “saw that the frog ... on Nehro’s left front foot was abnormally flat and apparently worn down and that an unusual dip was present in the frog, which PETA’s employee had never seen present on any other horse.” However, when explicitly asked during her interview if anything in the photographs concerned her she stated, “I took the photograph so that an expert could review it, as there had been expressed concern about Nehro’s feet already.” Rosen tr., pg. 19.
- When asked if she had an opinion about the health of Nehro’s left front foot as shown in the photographs, she stated, “[a]t the time, no. I was just documenting.” Rosen tr., pg. 19.

### Farrier David Hinton

- With respect to photographs # 37 and 41, Hinton did not agree that the foot was “abnormally flat” or that there was an “unusual dip” in the frog. Hinton tr., pg. 40.

### Assistant Trainer Scott Blasi

- With respect to photograph #37, Blasi stated “it looks like a normal foot with some Equilox on it.” Blasi tr., pg. 24.

6. “Also on April 21, PETA’s investigator saw that the bottom of Nehro’s right front foot was unusually pink.” March 18 Letter, pg. 4.

### Photographs # 39, 42

- The reddish tint is clearly artificial. The hoof in the photograph appears normal.

7. “On April 23, despite Blasi’s awareness of the condition of Nehro’s feet, Asmussen and Blasi made Nehro run a timed workout—Nehro placed 37<sup>th</sup> out of 39 horses.” March 18 Letter, pg. 4.

### Text Message between Justin Zayat and Scott Blasi April 23, 2013, 2:08 pm

- After the horse breezed, Blasi sent a picture of Nehro grazing. Nehro is bearing weight on all four feet and does not look stressed or in pain.
- Just Zayat texted: “That’s my boy. How is his foot Steve says it’s been a problem. Are you saving our problem child.” Blasi responded: “Doing my best. It’s coming our way I hope.”

### April 23, 2013 Workouts

- The official charts show that NEHRO worked 4 furlongs in :52.2. On that same date, five other Asmussen-trained horses worked 4 furlongs producing times ranging from :51.1 to :52.0. Nehro’s time is consistent with the other Asmussen-trained horses that worked that day at that distance.

### Farrier David Hinton

- Hinton has told trainers that a horse doesn't need to go to the track tomorrow. Hinton tr., pgs. 60-62. When asked, "so if you saw something in [Nehro's] feet that said to you, this horse shouldn't go to the track for three or four days, you would have said something?" Hinton: "Yeah. Most of the time I don't have to." Hinton tr., pg. 62.
- "They're not going to sit on the racetrack, you know, limping or—risk further injury to a horse that's got a problem." Hinton tr., pg. 61.

### Trainer Steve Asmussen

- "...[W]e had like 6 or 7 workers ... and all of them were with him that time that he had worked... they all worked about the exact same time." Asmussen tr., pg. 23.
- "Whenever I change surfaces, my first work somewhere is always—I just ask them to go 52... you just want 13, 26, 39, 52. Then you see how you come out of that, and you go from there." Asmussen tr., pg. 24.

8. "Also on April 23, PETA's investigator asked Blasi if Nehro's feet had always been 'this bad'" to which Blasi responded, "'Yes ... They're horrible,' showing Blasi's awareness of Nehro's poor physical condition. When PETA's investigator stated, 'It's amazing that [Nehro]'s done what he's done,' in reference to Nehro's accomplished racing record, Blasi replied, 'It really is.' March 18 Letter, pg. 4.

### Video Clip # 9

- This clip shows Blasi sitting at a desk at a track office with his back to Rosen. He appears to be holding a telephone to his ear, and it is unclear if he is actually speaking to Rosen or speaking to someone on the telephone.

### Farrier David Hinton

- Hinton stated he would not categorize Nehro's feet as "horrible." "Just something to be managed in my view." Hinton tr., pgs. 59-60.
- When asked if Nehro was able to race safely and responsibly, Hinton stated, "sure." Hinton tr., pg. 60.
- On a scale of 1-10, with 10 being the worse, Hinton categorized Nehro's feet as a 7. "I don't know of any worse, but I've worked on exactly the same. It's all the same makeup to me." Hinton tr., pg. 78.
- Hinton felt the issues with Nehro's feet were manageable. Hinton tr., pg. 76.

### Veterinarian Dr. Ken Reed, DVM

- According to Dr. Reed, "[Nehro] was an outstanding 3-year-old." Reed tr., pg. 5.
- When asked generally about Nehro's health, Dr. Reed responded, "his general health was good, but he was a sore horse as a 3-year-old. He had fetlock problems as a 3-year-old, never was particularly lame. But he always had puffy ankles because he was a great big, powerful horse, but he was reasonably sound as a 3-year old." Reed tr., pgs. 5-6.

- When asked what he meant by “sore,” Dr. Reed explained: “He was a horse ... that you had to really take care of because his ankles would tend to fill up. So he took a lot of ice. You know, they’d ice him every day, try to keep his ankles under control. I don’t think I ever injected his ankles prior to the Kentucky Derby ... It’s possible I did, but I don’t recall it.” Reed tr., pg. 6.
- “I’m pretty certain we did no radiographs prior to the Derby in May, and I’m pretty certain we did no interarticular injections on him prior to the Derby.” Reed tr., pg. 7.
- Nehro had surgery on his ankles in August 2011. According to Dr. Reed, “I would assume they took chips out of his ankles or just cleaned his ankles if he had a little debris in his ankles.” Reed tr., pg. 7.
- Dr. Reed explained: “[Nehro] did have ankle problems as his biggest problem as a 3-year-old, which is pretty normal. That’s not unusual at all.” Reed tr., pg. 6.

#### **Assistant Trainer Scott Blasi**

- Blasi confirmed that the video shows him sitting in his office at Churchill Downs. Blasi tr., pg. 47. However, he stated, “my back is to her, and you can see the phone in my hand. I wouldn’t be speaking to her.” Blasi tr., pg. 47.
- He stated, “I think that audio came from something else because I’m talking on the phone, and ... I’m obviously in a conversation ... but I don’t even know she’s in the room. I mean, if I’m sitting there having a conversation with someone, I don’t know. I wouldn’t be having that conversation with her anyway.” Blasi tr., pgs. 48-49.

9. “On April 25, Blasi told PETA’s investigator that ‘the problem’ with Nehro’s feet was that Nehro ‘is a horse who don’t have any foot at all,’ apparently meaning that Nehro’s feet had been worn down to near nubs from racing and training. Blasi also told PETA’s investigator that Nehro had contracted heels, a condition in which the hoof wall shifts, causing the foot to become narrow and creating the potential for a horse to develop an atrophied frog and a concave sole.” March 18 Letter, pg. 5.

#### **Video Clip # 10**

- This clip shows Blasi in the stall, picking out Nehro’s right, front foot. The horse is standing quietly and does not appear to be fearful or in pain or distress.

#### **Farrier David Hinton**

- Hinton stated: “Contracted heels? He’s always been like that ... When the heels are contracted like this, the horse hits the ground, sometimes they flex—they’ll be flexing in instead of out. If you’ve got a nice wide foot that hits the ground it’s going to do like that. If you’ve got it contracted, it will pinch in.” Hinton tr., pg., 65.
- Hinton explained contracted heels are due to a horse’s conformation not an indication of unsoundness. “That’s the way they are built. They’re born that way.” Hinton tr., pg. 65.

#### **Assistant Trainer Scott Blasi**

## Investigative Report

- Blasi stated, “he kind of had chronic bad feet, and you had to give him time, let him get over certain issues and then ... go back. But at no point did we train him sore ... If anything, we gave Nehro a lot of time.” Blasi tr., pg. 49.
- Blasi explained that he checks legs and feet every day on all the horses in his care. Blasi tr., pg. 50.
- He stated he “constantly” checked Nehro’s feet and cleaned his feet. “I spent a lot of time on this horse, spent a lot of time with him. Nobody cared about this horse more than I did.” Blasi tr., pg. 50.
- Blasi stated that Nehro had contracted heels. “It’s a condition in a lot of horses ... you try to shoe them properly and do everything you can for them, but it’s ... just another condition. It’s just how he was made.” Blasi tr., pg. 51.
- Blasi stated it’s a manageable condition and was being managed in Nehro’s case. Blasi tr., pg. 51.

### Dr. Scott Morrison, DVM

- Hinton and Blasi both stated that Nehro had “contracted heels.” According to Dr. Morrison, however, Nehro did not appear to have “contracted heels.”<sup>4</sup> Rather, Hinton and Blasi are likely using the term “contracted heels” to refer to “sheared heels.” Dr. Morrison explained that “sheared heels” are secondary to lower limb conformation that results in increased weight bearing on the medial heel. This is consistent with the condition described by Hinton and Blasi.
- Dr. Morrison explained that z-bars are used on horses with sheared heels as a preventive measure to protect the quarters and more evenly distribute the horse’s weight across the foot.
- Dr. Morrison indicated that sheared heels are not unusual, are not an indication of unsoundness, and can be appropriately managed. He believed the photographs indicated Nehro’s hooves to be appropriately managed.

10. “On April 29, Blasi, while examining Nehro, told PETA’s investigator that Nehro had an ‘osselet’ on his left front ankle—which Blasi described as a ‘hard calcification on the front of your joint’ as well as the result of ‘pressure’ in his ankle.” March 18 PETA Letter, pg. 5.

### Video Clip # 11

- In this clip, Blasi is examining Nehro’s legs. He says, “they’re just hard calcification on the front of the joint capsule.” He says that this condition does not affect how he runs. He does not say the word “osselet” nor does he say that the calcification is caused by pressure in the ankle. He does say, “we’ve got a little bit of pressure in this ankle right here.”

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<sup>4</sup> According to Dr. Morrison, contracted heels are the result of under loading of the heel region of the foot (the weight is shifted away from the heels). For example, contracted heels can develop in horses that have club feet, have undergone extensive stall rest, or worn foot casts. When contracted heels develop, the central sulcus of the frog closes up. Dr. Morrison did not observe this condition in the photographs.



### Assistant Trainer Scott Blasi

- Blasi stated that an osselet is “an old, inflamed joint capsule that gets some calcification on it—on the front of the—it’s not in the joint. It’s on the front.” Blasi tr., pg. 54.
- He explained Nehro’s was old and “set.” An osselet does not go away, but once it is set it does not hurt. Blasi tr., pg. 54.
- Blasi stated that lots of performance horses get osselets and that some horses are prone to them. Blasi tr., pg. 55.
- He stated that a new, soft osselet could be painful, in which case, “you give them time.” Blasi tr., pg. 54.
- With respect to the “pressure” in Nehro’s ankle, Blasi stated, “from me checking his legs every day, it would have been something that I had seen that was different than the day before ... me paying attention.” Blasi tr., pg. 55.

### KHRC

- An osselet is a thickening of the joint capsule that often develops in athletic horses. At the outset, it may be associated with inflammation and discomfort, but after the condition stabilizes, an osselet is associated with neither pain nor limitation of athletic ability. This condition is present in many horses and, in and of itself, does not raise concerns about a horse’s racing soundness.

11. “On April 30, Asmussen and Blasi—who, again, were aware of the painful condition of Nehro’s feet—made Nehro run a timed workout—Nehro placed 16<sup>th</sup> out of 22 horses.” March 18 Letter, pg. 5.

### April 30, 2013 Workouts

- The official charts show that Nehro worked 5 furlongs in 1:02.3. On that same date, six other Asmussen-trained horses worked 5 furlongs producing times ranging from 1:01.3 to 1:03.2. Nehro’s time is consistent with the other Asmussen-trained horses that worked that day at that distance.

### Assistant Trainer Scott Blasi

- Blasi stated there was nothing about NEHRO’s feet or the osselet that would have made breezing painful. Blasi tr., pg. 56. He stated, “he’d worked nice that day, and I had sent Justin ... a text that Nehro ... is doing much better exclamation point.” Blasi tr., pg. 56.
- Blasi stated this text was evidence of how much he “liked how [Nehro] was training.” Blasi tr., pg. 58. Blasi implied that NEHRO had improved since his last breeze on April 23, when he texted Justin Zayat that he was “doing his best.” “And I text doing much better, Nehro exclamation point ... which is a lot different than I’m doing my best ... that’s very unlike me ... for me to put doing much better, NEhro exclamation point, I really liked how he was training.” Blasi tr., pg. 58.
- “I used to take Nehro out and graze him every day. And sometimes I take pictures of the owner’s horses and sent it to them ... the horse physically looked beautiful. I know

there's some harsh language ... but the horse was doing well. He wasn't stressed. His condition—his weight was good." Blasi tr., pg. 56.

- Blasi stated he was very careful about which employees he would let take a horse out to graze. He took Nehro because "that horse was like a barn pet." "I paid so much attention to that horse it wasn't even funny in a good way." Blasi tr., pg. 57.

12. "On May 1, while Blasi and a veterinarian called 'Doc'... Dr. Ken Reed ... were examining Nehro, PETA's investigator heard Blasi say, in reference to Nehro, '[T]his son of a b---h goes bad on the road,' possibly indicating that Nehro moves poorly on paved road. PETA's investigator heard Doc say, in reference to Nehro, 'Yeah, I think we need to do his ankles all right.' PETA's investigator heard Blasi say about Nehro: 'He's got no foot. We had z-bars on him down in New Orleans, and he ripped them off about three times, breezing. And it's just, he's got no foot. There's no wall, there's no wall'—which PETA's investigator understood to be a reference to Nehro's hoof wall—and 'You ought to see this son of a b---h jog on the road,' again suggesting Nehro jogged poorly on the facility's paved road." March 18 Letter, pg. 5.

#### Video Clip # 12

- This clip shows Nehro being examined by Dr. Reed. Nehro is standing quietly in the stall and does not appear to be in pain, agitated or fearful. After examining NEHRO's ankles, Dr. Reed says he thinks Nehro needs to have his ankles "done." Dr. Reed also says it looks like Nehro's feet were trimmed too short. Blasi explains that because Nehro had pulled his shoes off in New Orleans, he has "no foot."

#### Farrier David Hinton

- With respect to jogging a horse on the road, Hinton explained: "I think they want to see the worst way possible they can go. You know, see what's bugging them the most ... If you jog them in the shed row, they wouldn't see. So then they say, oh, he's alright. So they start to find little details of the horse going off so they can work on it, address it." Hinton tr., pg. 67.
- Hinton said Asmussen routinely jogs horses on the road the day after they work. Hinton tr., pg. 67.
- Hinton explained that when Blasi tells Dr. Reed that Nehro has no foot, he is responding to Dr. Reed's comment that it looked like Nehro's feet were trimmed too short. "[Blasi's] probably taking up for me with the vet, and on the one hand ... he's jumping me about too much glue. And on the other hand, he's 'we had to do that or Dave had to do that.'" Hinton tr., pgs. 67-68.

#### Veterinarian Dr. Ken Reed, DVM

- Dr. Reed explained: "[Nehro] did have ankle problems as his biggest problem as a 3-year-old, which is pretty normal. That's not unusual at all." Reed tr., pg. 6.
- With respect to photograph #46 (horse standing on magnetic pad), Dr. Reed stated he could not recognize the horse. However, he stated: "This looks similar to what his

ankles looked like because they were—you know, they'd had surgery, I think, twice at this stage. And they're rounded up like that." Reed tr., pg. 23.

- When asked if there are a lot of horses racing with ankles that look the same, Dr. Reed replied: "Oh sure, absolutely." Reed tr., pg. 23.
- When asked if the enlargement of the ankles indicates physical compromise, unsoundness or a limited athletic ability, Dr. Reed answered: "No, not at all. I mean, these horses run quite well with that ... what happens is when you do surgery ... you do interarticular surgery so you're putting an instrument through that joint capsule, the joint capsule tends to thicken. And as the joint capsule thickens, that's what gives you that roundness to the front of it ... doesn't mean anything as far as whether they're sound or not." Reed tr., pg. 23.

#### **Assistant Trainer Scott Blasi**

- Blasi explained that it is standard protocol in their barn to jog horses on the road before they go to the track to breeze. Blasi explained his statement to Dr. Reed about Nehro not going well on the road meant, "I felt the horse was not jogging on the road as good as he was the day before when I worked him." Blasi tr., pg. 61.
- Blasi stated he was going over the horse and his history with Dr. Reed. Blasi stated, "I have a tendency to maybe exaggerate things for Doc because I want him to pay attention a little more and not just ... come in and zip over one. I want him ... especially this horse, to really pay attention." Blasi tr., pg. 61.

13. "Also on May 1, PETA's investigator heard Blasi say, while pointing to Nehro's heel, '[Nehro] had a raw spot. He had a raw spot on his foot ... I tried to harden that up. See they had them z-bars on him.' PETA's investigator heard Doc say that Nehro's 'heel's ... pretty bad,' which PETA's investigator heard Blasi acknowledge by saying, 'Yeah.' PETA's investigator heard Doc say, 'That's probably what the problem is,' to which Blasi responded, 'Well I don't know if doing him, doing him, is going to make up a difference where—how bad his feet are.' PETA's investigator heard Doc say that Nehro 'had a good bit of pressure in his hocks, too.' ... The same day, PETA's investigator saw Nehro walking and bobbing his head an unusual amount, a possible indication of pain." March 18 Letter, pg. 5.

#### **Video Clip # 13**

- This clip shows Nehro standing outside the stall being examined by Dr. Reed. It appears to be a continuation of the scene showed in clip # 12. Nehro is standing quietly, bearing weight on all four feet. He does not appear agitated or fearful. Dr. Reed examines Nehro's ankles and also notes there is some pressure in his hocks. Blasi explains that NEHRO had a raw spot from where the z bar shoes had been affixed and that he had an old grab on his foot. Blasi questions whether injecting Nehro would accomplish anything given the current challenges with his feet. There is no video of Nehro "walking and bobbing his head an unusual amount."

14. **“Also on May 1, PETA’s investigator heard Blasi say, while on the phone, that ‘the horse is sore all over.’ PETA’s investigator suspected Blasi was referencing Nehro, as he indicated the horse had just been seen by a veterinarian, which Nehro had.”** March 18 Letter, pg. 5.

**Video Clip # 14**

- Blasi does say “the horse is sore all over,” but there is no way to determine which horse he is talking about.

15. **“On May 4, PETA’s investigator learned that Nehro was colicing. Colic, an acute attack of abdominal pain, is commonly gastrointestinal in nature and has numerous direct and indirect causes, including excessive use of nonsteroidal anti-inflammatory drugs and stress and even chronic pain... PETA’s investigator saw Nehro in his stall—with his head hanging low from apparent exhaustion—and then later lying on his side on the gravel outside the barn, where he had apparently fallen. Around 6:50 a.m., PETA’s investigator heard Blasi yell to Asmussen: ‘Nehro is f---ing dead!’ The same day, Alberto, a foreman, told PETA’s investigator that Nehro had gotten colic and had to be euthanized... Also on this day, Asmussen indicated to PETA’s investigator that he wondered whether the commotion of the Kentucky Derby had caused Nehro to contract colic and become ‘violently ill that quick’ and ‘spiral like that,’ stating Nehro ‘hasn’t been the same since the Derby two years ago.’”** March 18 Letter, pg. 5.

**Video Clip # 15**

- This Video Clip shows an Asmussen employee telling Rosen that Nehro had colicked “bad” earlier that morning and had to be euthanized. He appears upset.

**Video Clip # 16**

- This Video Clip shows Asmussen discussing the fact that Nehro apparently died of colic. It appears he is trying to understand how the colic could come on so violently and so suddenly. He indicates his stable hasn’t had a horse die of colic in nine years. He says they give the horses under his care medication for their “insides.”

**PETA Employee Kerin Rosen**

- She indicated in her interview that she understands what colic is and the different causes of colic. Rosen tr., pg. 26.
- She was present the morning Nehro apparently colicked and had to be euthanized. She said she arrived at the barn at approximately 5 a.m. and noted that there were “a lot of obviously concerned people in Nehro’s stall.” Rosen tr., pgs. 26-27.
- In the above -cited allegation, she claimed to have seen Nehro lying on his side outside of the barn. However, in her interview, she stated that she only saw him in his stall. Rosen tr., pg. 27. She said, “I heard that he had fallen, and then I heard he had been put on a trailer.” Rosen tr., pg. 27. She claimed she did not see him leave the stall and load on the trailer. Rosen tr., pg. 27. She stated: “I was passing by for a few moments when he was in his stall and then I believe he left and they took him outside where I

remember it being pitch black. I do remember seeing a trailer there, but I don't—I didn't see him loading as I walked by. Rosen tr., pg. 28.

- She stated she saw Nehro in his stall, standing with his head very low. "Based on my experience, it looked like he had possibly been given a tranquilizer." Rosen tr., pg. 27. However, in above allegation, Rosen said his head was hanging low from apparent exhaustion.
- She said she was walking another horse and did not take any photographs or video footage of Nehro that morning. Rosen tr., pg. 27-28. When asked why, she claimed: "I might have taken footage, but it would have been fairly useless because I was walking laps. So unless I'm standing there watching, there's not much I can capture." Rosen tr., pg. 28.
- She stated Asmussen and Blasi were present that morning and "seemed agitated and concerned ... moving quickly around the shed row, presumably trying to help." Rosen tr., pg. 29.

#### **Farrier David Hinton**

- Hinton said Blasi called him the morning Nehro was euthanized, and asked him to check on another horse. Said Blasi and Asmussen were upset. Blasi told Hinton Nehro colicked and displayed behavior Blasi had never seen before. Hinton tr., pgs. 70-73.

#### **Veterinarian Dr. Ken Reed, DVM**

- Dr. Reed was visibly upset when he recalled the incidents surrounding Nehro's euthanasia.
- Dr. Reed stated that he was called to the barn around 4:15 a.m. He stated Nehro "was in very poor condition, very bad condition, was obviously in real trouble, profuse sweating, extreme pain. I gave everything I could to get to the pain, and ... we put a catheter in him and started running fluids to him as fast as we could. We tried to control his pain, which honestly I could not control the horse's pain ... But it was obvious that he was going to need to go to the hospital for surgery." Reed tr., pg. 11.
- "The most dramatic thing about this horse is he was in more pain than I've seen a horse in 30 years, maybe 35 years, that I could not control." Reed tr., pg. 11.
- Dr. Reed thought Nehro had "a torsion in his gut. He's got to have a gut supply shut-off to be this painful." Reed tr., pg. 12.
- Dr. Reed stated that it took several people to get Nehro out of his stall, down the shed row and onto the trailer. Reed tr., pgs. 12-17. "We couldn't hardly get him out the stall. Liked to have not got him down the shed row. Fell down the shed row, fell down trying to load him in the trailer." Reed tr., pg. 12.
- According to Dr. Reed, once they got Nehro on the trailer, the van driver called him before he got out of the gate because Nehro was tearing the trailer apart. Dr. Reed gave him more tranquilizer and the van pulled out of the gate. The van driver called again, and Dr. Reed called Asmussen and told him they needed to put Nehro down. "And he was so crazed you couldn't possibly get in there with him." Dr. Reed was able to reach in through the van window and euthanize Nehro in the trailer. Reed tr., pg. 13.

- Dr. Reed stated, "I'll remember that my entire life ... I was so shocked when we got the autopsy report back on this horse and he didn't have a torsion. I just—I didn't believe it. I called [the necropsy lab]. I said you—this is not right. He's got to have a torsion ... They said no ... That was, I thought, extremely, extremely unusual." Reed tr., pg. 13. "...I never thought any more about it except how I just cannot believe that the autopsy report didn't show more..." Reed tr., pg. 14.
- Dr. Reed could recall only one time seeing another horse that showed that amount of pain back in 1972 or 1973 in Louisiana. Reed tr., pgs. 13-14.
- Dr. Reed did not know if Rosen was present or not during this time period. He stated: I can't imagine she was there because if she wanted to make racing look bad, that would have been the perfect opportunity because it couldn't have looked any worse..." Reed tr., pg. 16. However, Dr. Reed explained they "did everything humanly possible you could do. It just wasn't what you could do." Reed tr., pgs. 16-17.
- When asked about the finding of "extensive gastric ulceration" in the necropsy report, Dr. Reed replied: "That surprised me because ... they use Gastrogard or omeprazole on every horse practically every day..." Reed tr., pgs. 17-18.

#### **Assistant Trainer Scott Blasi**

- When we started discussing the colic incident, Blasi became visibly upset, started crying and stated, "I knew I was going to have trouble with this part." Blasi tr., pg. 67.
- "I've seen a lot of horses colic over my whole life—not a lot, but when they do, I've never seen a horse act like that." Blasi tr., pg. 66.
- Blasi explained that he got a call from the barn foreman, Alberto, between 4-4:30 a.m. When he arrived at Churchill, Dr. Reed was already there "running fluids through him." He said Nehro was not acting right. Blasi tr., pg. 66.
- "And Nehro never responded to any treatment. He never responded to the banamine. He never responded to the tranquilizer. We couldn't make him comfortable. At that point, Dr. Reed and I ... called the van immediately.
- "It's very, very hard to get him to the van because ... he's just fighting us, very uncomfortable." Nehro was "thrashing, just violent. I didn't want anybody to get hurt." Blasi tr., pg. 68.
- "...He's such a mild-natured horse that it ... is so unusual for him ... he was a lover." Blasi tr., pg. 86.
- Blasi explained that they got Nehro on the van to take him to Rood and Riddle in Lexington, and an Asmussen employee, Juan, was riding in the back with Nehro. Blasi said he told the van driver, "get him to Rood and Riddle as fast as you can. Please just get him to Rood and Riddle." Blasi tr., pg. 68.
- The van driver had to pull over almost as soon as they got off Churchill grounds. "He's just tearing the trailer apart. I mean, he's trying to jump out. He's trying to go through the window. Beating himself up ... he just won't respond to anything we did." Blasi tr., pg. 68-69.
- "... Doc said we're going to have to put him down ... I didn't want him to suffer. You know, enough. But he was so violent. I made Doc, I made everybody get out of the

trailer. And I finally got him to settle just a minute and got his head right up where we could ... get the medicine in. But I've never seen a horse react to colic like—and I don't understand it." Blasi tr., pg. 69.

- Blasi stated that Nehro was fine the day before. Blasi tr., pg. 69
- Blasi stated that they feed at 3:30 a.m. and Nehro ate all his feed the morning of this incident. Blasi tr., pg. 69.
- Blasi said Rosen was at the barn when he got there. Blasi tr., pg. 73.
- Blasi confirmed that Rosen was present in the barn while they were treating Nehro and loading him on the van. "She was at work when we were loading the horse." He said he was surprised there is no video of this incident. Blasi tr., pg. 71.
- Blasi stated, "I don't understand ... If you're going for the wow effect, where's the video of that because that was a bad morning at nobody's fault, just trying to take a horse that was violent and trying to get him to the clinic." Blasi tr., pg. 84.
- Blasi stated he has never seen a horse eat all their feed and then colic and have to be put down within two hours. Blasi tr., pg. 72.
- Blasi stated that Asmussen was at Churchill that morning and was aware of the situation with Nehro. But, Asmussen was at the track, Blasi was taking care of Nehro. Blasi tr., pgs. 75-76.
- After Nehro was euthanized, Blasi returned to the barn and "...started having a discussion with Steve about it. And I got upset, and I got in my truck and I left." Blasi tr., pg. 80. "I'm upset, just upset. I got in my truck, and I left the barn for a while. I just had—called Justin Zayat, was very upset ... I just had to get out of there for a minute." Blasi tr., pg. 77.
- Blasi said everyone in the barn was aware of what was going on and that Nehro had to be euthanized. Blasi tr., pg. 79.
- With respect to video clip #16, Blasi stated: "I know Steve was very upset himself. I think she might have either been cleaning the office or around the office and said something to him, and maybe he was ... just venting a little bit..." Blasi tr., pg. 82.
- "I think that ... anything like that happens, you just try to roll through stuff in your head, and you're trying to get a handle on it ..." Blasi tr., pgs. 82-83.
- Asmussen is "just trying to figure out why. Why'd this happen." Blasi tr., pg. 83.
- "... 18 years, this doesn't happen in our barn ... In 18 years, I've never gotten in my truck and drove off upset like that, I mean, in 18 years. It might be the worst thing ... that I've ever seen happen." Blasi tr., pg. 83.
- Blasi stated Nehro's behavior was not consistent with his experience of colic. Blasi tr., pg. 83.

### Trainer Steve Asmussen

- Asmussen was clearly still trying to understand the circumstances that led to Nehro being euthanized. He stated: “nobody in the world has ever seen a horse rapidly decrease like that ... it’s impossible ... talk about that and not think ... that somebody poisoned that horse is just –it’s beyond—you can’t even imagine.” Asmussen tr., pg. 28.
- He stated in his experience with colic a horse will generally not eat. “Then they want to roll. That kind of seems to be ... want to roll, not go to their feed tub.” Asmussen tr., pg. 28.
- “Somebody’s paid to feed ... We feed at an exact time every morning... I don’t like grooms to feed their own horse. They definitely put the tub in. They do not put the feed in the tubs because I like this one more than I don’t like that one—that one bit me yesterday. No, no, no, no. That ain’t got nothing to do with the feed program.” Asmussen tr., pg. 29.
- “[W]hether it’s them just being excited ... usually afternoon races. Colic in the morning at that hour is freakishly rare, right? I mean ... to begin with, that’s the odd thing... whether you think that you need to give them a little tranquilizer just to calm them, settle them, walk them, see how they do ... after they listen to the gut ... work it out, some of them a little painkiller ... not some horse that just—that ate his breakfast. You show up in the morning ... and he just rapidly just like that. Not a horse whose nerve has run on the Derby ... he’s not that type...” Asmussen tr., pgs. 28-29.

16. “On May 8, Mike Callaham, an exercise rider, told PETA’s investigator that Nehro’s owner, Ahmed Zayat, ‘should have retired [Nehro] a year ago,’ apparently because of Nehro’s health, stating, “[T]hat’s when [Nehro] was done. He was finished then.’ Callaham told PETA’s investigator that ‘Zayat doesn’t have any money. So he runs his horses as long as he can and even longer than he should.’” March 18 Letter, pg. 6.

### Video Clip # 17

- This clip shows Callaham talking to Rosen about Nehro, stating that Nehro should have been retired. Callaham states that the owner of the horse kept the horse in training longer than he should have in order to make money off the horse.

### Farrier David Hinton

- Hinton did not believe Nehro should have been retired. “When we run him at Oaklawn, I thought he was going to just continue on ... I’m sure after the fact everybody’s got an opinion about it. [Asmussen or Blasi] just saw something, you know, he says later, most violent death, whatever. He’s going to be shocked into thinking—you know, having an opinion about something ... I have racehorses. I raise horses. I know that ... you can take a perfectly sound one and things go awry with them. And I’ve seen horses with the same exact problems he’s got continue on and win a lot ... more races.” Hinton tr., pgs. 73-74.



- “If that horse could have made it to the next month, his feet would have got better and better. And if he could have ever trained during the summertime, then he would have had a nice foot.” Hinton tr., pg. 76.
- Hinton said money was never an issue with respect to the care Nehro received. “I did have all the resources.” “[Zayat] spent a lot of money on horse hooves.” Hinton tr., pgs. 79-80.

#### Veterinarian Dr. Ken Reed, DVM

- With respect to whether Nehro should have been retired, Dr. Reed stated: I just don’t know how to answer that. I’m not sure what [Callaham’s] context was, and I don’t know whether he’s talking about because—the fact that he ran second in the Derby and he was a well bred horse, that he could go to stud and be better off than he’d be training ... that could be true, I guess. But the horse was still racing sound, so he could certainly continue to race.” Reed tr., pg. 58.
- When asked if it was a disservice to the horse to keep in training, Dr. Reed responded, “No, it’s not.” It’s the owner’s decision. When asked if he had ever heard Asmussen tell an owner a horse needs to be retired, Dr. Reed stated, “Oh, yes.” Reed tr., pgs. 58-59.
- “As far as what they were showing with the horse’s feet, to me shows exactly the opposite, that they were actually working very hard to help the horse’s feet, not hurt the horse.” Reed tr., pg. 69.

#### Assistant Trainer Scott Blasi

- “[Zayat] knew that Nehro had problems with his feet.” Blasi tr., pg. 19.
- According to Blasi, Callaham had a crush on Rosen. Blasi believed the statement by Callaham was him “popping off.” “Mikey was pretty smitten for” her. Blasi tr., pg. 87.

**17. “On May 23, Blasi told PETA’s investigator that Nehro should have been retired, apparently because of his health, after he ran in the Pimlico Special Stakes race on May 18, 2012. Blasi also told PETA’s investigator that Nehro ‘just got his feet too f---d up in New Orleans.’”** March 18 Letter, pg. 6.

#### Video Clip # 18

- According to the date and time stamp, this clip shows Blasi and Rosen in a bar on May 23, 2013 at 8:49 PM, presumably having drinks. They are talking about whether Nehro should have been retired. When Rosen asks Blasi if Nehro should have been retired after his three-year-old year, Blasi says no, because he came back and was only beaten a head in the Pimlico Special. He does say he should have been retired after the Pimlico Special. When Rosen asked if Nehro should have been retired because he was “done” or because of his foot problems, Blasi says Nehro should have been with him in California because he got all Nehro’s good races out of him. He said that Nehro was doing better at Churchill.

**Farrier David Hinton**

- Hinton said it was obvious that Blasi was, “trying to impress the girl.” Hinton tr., pg. 86.

**Assistant Trainer Scott Blasi**

- Blasi stated he had “obviously had a drink or two. I can tell that by how I’m talking.” He stated he was “trying to impress a girl. That’s the best I can describe it in a social setting, loose talk.” Blasi tr., pg. 87.

**18. Holly Cheever, D.V.M. reviewed “footage of Nehro that had been captured by PETA’s investigator as well as daily log notes maintained by PETA’s investigator.” Based on that information, Dr. Cheever rendered a medical opinion about Nehro. Apparently, Dr. Cheever issued a written medical opinion. The KHRC repeatedly requested a copy of PETA’s investigative file. However, PETA refused to produce the information. The March letter contains the following medical opinions rendered by Dr. Cheever:**

- A. “Nehro had ‘serious foot problems in both forelimbs that [were] severe enough to make his pounding on hard fast tracks excruciatingly painful.’ Dr. Cheever indicated that Nehro’s poor pulse quality and perfusion in one of his forelimbs was ‘possibly caused by injury and wear and tear’ and that ‘a compromised blood supply to the hoof’s sensitive laminae [sic] is disastrous for the hoof’s proper function.” According to Dr. Cheever, Nehro, was so injured and structurally unsound that he was in severe pain and should have been given strict pasture rest for months possibly for a year—to permit the healing of his ... lameness[.]”**  
March 18 Letter, pg. 6.

**Dr. Cheever also opined that “[t]here is no justification for running a horse with a quarter crack [like Nehro] at all: complete retirement till full healing has been achieved is essential for the horse’s future.” “Instead of racing (compelled by the racing trainer’s adage that the horse makes no money standing in his stall), Nehro should have been retired to a prolonged strict rest, hydrotherapy, [NSAIDs], thermal treatment, special shoeing, and possibly antibiotics.... For his quarter crack, he would have done better to have been shod with an egg bar shoe (rather than a Z-bar type) with the hoof wall trimmed away from shoe at the crack’s location.”** March 18 Letter, pgs. 6-7.

**Farrier David Hinton**

- Hinton did not agree that Nehro had “serious foot problems in both forelimbs that were severe enough to make his pounding on hard fast tracks excruciatingly painful.” Hinton tr., pg. 80.
- Hinton did not agree that Nehro’s “poor pulse quality and perfusion in one of his forelimbs was possibly caused by injury and wear and tear and that a compromised blood supply to the hoof’s sensitive laminae [sic] is disastrous for the hoof’s proper function.” Hinton tr., pgs. 80-81. With respect to the pulse, Hinton explained: “It’s bad to have a pulse.” Hinton tr., pg. 12.

- Hinton did not agree that Nehro “was so injured and structurally unsound that he was in severe pain and should have been given strict pasture rest for months possibly for a year to permit the healing of his lameness.” Hinton tr., pg. 81.
- Hinton did not agree with Dr. Cheever’s contention that Nehro should have been shod in an eggbar shoe. “An egg would come back even further and been more likely to grab it. And when you put an egg-bar on there, it tends to push on that frog that’s right over top ... of the quarter crack.” Hinton tr., pg. 39.

#### **Veterinarian Dr. Ken Reed, DVM**

- Dr. Reed did not agree that Nehro was experiencing severe pain and suffering and should have been given strict pasture rest for months. Reed tr., pg. 19.
- Dr. Reed did not agree that Nehro was experiencing overexertion and stress from constant training and racing. Reed tr., pg. 19.
- Dr. Reed stated that Nehro was racing sound. Reed tr., pg. 20.
- Dr. Reed stated that he would advise a trainer if he believed a horse needed time off. He stated that Asmussen is “a very good listener, as most of the better trainers are. And he would listen to [Dr. Reed’s advice]. He might not agree, but he would certainly listen.” Reed tr., pg. 20.
- Dr. Reed stated that Asmussen and Blasi are “excellent caretakers, always have been.” Reed tr., pg. 21.
- Dr. Reed stated: “That’s a ludicrous statement that [Asmussen] would abuse a horse ... Steve particularly is very mild manner, and you know, I mean if you whip one of his horses, he’s going to whip you.” Reed tr., pg. 21.

#### **Dr. Scott Morrison, DVM**

- Dr. Morrison disagreed with Dr. Cheever.
- Dr. Morrison stated that a horse’s soundness cannot be assessed without seeing the horse move. He stated he could not render an opinion on Nehro’s soundness or orthopedic health as there was no video of the horse in motion, and he had no access to the horse for an appropriate examination.
- Without examining Nehro, Dr. Cheever prescribed “strict pasture rest for months” and NSAIDs, among other treatments, for what she diagnosed as “serious foot problems in both forelimbs.” Dr. Morrison stated that exercise is the one element scientifically proven to stimulate hoof growth.
- Dr. Cheever stated that Nehro “should have been shod with an egg bar shoe (rather than a Z-bar type) with the hoof wall trimmed away from the shoe at the crack’s location.” Dr. Morrison disagreed. He stated that an egg bar shoe would be contraindicated for the management of a quarter crack as it would increase stress on the quarters of the foot and make matters worse by delaying healing or causing expansion of the crack. Dr. Morrison declined to make recommendations specific to the management of Nehro since he did not perform a physical examination on the horse.
- Dr. Morrison explained that the absence of a pulse would not be indicative of “poor perfusion,” but rather of a foot that is not inflamed.

- A venogram must be performed to determine if a foot has poor perfusion.<sup>5</sup>
- If one area of the foot were not growing, if a horse is severely laminitic, if there is lots of structural damage (as determined by radiography of the feet), Dr. Morrison would suspect poor perfusion in one or both front feet.

19. "In reference to Nehro's death, Dr. Cheever wrote, 'extreme pain and stress can have vascular consequences and thus his painful lameness could have been a contributing factor' to Nehro's colic (i.e., gut ischemia), a very painful condition, that resulted in his death. Dr. Cheever concluded that 'continuing to demand an athletic performance instead of retiring Nehro as pasture sound was cruel' and that Nehro 'suffered abuse at the hands of his owner, trainer, and riders." March 18 Letter, pg. 7.

#### Dr. Nathaniel White, DVM

- Dr. White does not agree that orthopedic disease could precipitate colic. He firmly disagrees with Dr. Cheever's statement that "extreme pain and stress can have vascular consequences." If extreme pain were causative for colic, and specifically colitis, it would be reasonable to expect that colic would develop in a high percentage of cases of laminitis. Rather, the converse is true; horses with colitis are at a substantial risk of developing laminitis.
- Dr. White stated that based on the necropsy report he believes this case of colitis was neither the result of poor management or substandard care, nor was it indicative of mistreatment or abuse of the horse.
- Dr. White stated that colitis can result in the clinical signs exhibited by Nehro. These signs are not the most typical manifestation of colitis, but he has observed other horses with colitis demonstrate similar signs.

#### KHRC

- The chronic or excessive use of NSAIDs has been associated with inflammatory disorders of the gastro-intestinal tract. Nehro's medical records indicate the horse received 5 NSAID injections in the 30 days prior to his death, 4 flunixin and 1 phenylbutzone. This represents neither chronic nor excessive use of NSAIDs.

C. TEARDROP. "Teardrop, a 2-year-old filly owned by Winchell Thoroughbreds, LLC, and trained by Asmussen, started racing in 2013. Even though Blasi called Teardrop the 'lame gray filly' and stated that 'the [f---ing] [b---h] is displacing' Asmussen and Blasi continued to train and even race Teardrop." March 18 Letter, pg. 7.

1. "On June 18, Blasi told PETA's investigator that he was worried about 'the lame gray filly,' which PETA's investigator understood to mean Teardrop, as Blasi commonly called Teardrop the 'gray filly,' since she was the only gray filly Blasi was training. Blasi told PETA's investigator, in reference to Teardrop, '[N]ow she's lame.' Blasi added: 'It's always when the

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<sup>5</sup> According to Dr. Morrison, a venogram is a procedure in which dye is introduced into the blood supply of the foot, and x-rays are taken to determine the distribution of the dye.

[f---ing] boss is gone. It ain't never [f----ing]—[f---] these horses. These mother[f---ers]. They'll [f----ing] break your [f----ing] heart every [f---ing] day, these [c--]suckers. There's always something wrong with 'em.'" March 18 Letter, pg. 7.

#### **Video Clip # 19**

- This clip shows an obviously frustrated Blasi dealing with some issue with a horse. The horse in question is not identified nor is the issue.

#### **PETA Employee Kerin Rosen**

- "I believe that happened in an afternoon when I came back. Blasi was very agitated, and when I went to talk to him, he told me that Teardrop—he also called her the gray filly—was lame." Rosen tr., pg. 45.
- "Teardrop was a 2-year-old at the time, a filly whom I began concentrating on in terms of documentation when there was concern that she was lame." Rosen tr., pg. 35.
- She said her first indication that the filly was lame was when Blasi said she was lame. "And then the foreman and her groom were obviously giving her individualized attention, soaking her foot, walking her while someone was watching to see signs of lameness, other things that would make me believe she was lame." Rosen tr., pg. 36.

#### **Veterinarian Dr. Ken Reed, DVM**

- Dr. Reed explained that Teardrop was "very, very flighty, very hard to control." Reed tr., pg. 24.
- Dr. Reed did not remember the horse being chronically lame. "Actually, I remember her being pretty sound." Reed tr., pg. 32.
- Dr. Reed stated that if Asmussen or Blasi saw a horse they believed was lame, they would contact him. "If it's a lame horse, they're generally going to contact me. That would be the norm." Reed tr., pg. 35.

#### **Assistant Trainer Scott Blasi**

- This quote was spliced over a different scene in the YouTube video. Blasi confirmed that he made that comment in this scene—"something had happened to some horse, and I'm just frustrated ... I'm not like eff these horses. I hate horses. It's just a bad day..." Blasi tr., pg. 97.
- "That's just me venting about I don't know what horse." Blasi tr., pg. 96.

#### **Trainer Steve Asmussen**

- "I didn't feel like we had a lameness issue on her. I think that ... she's very sensitive ... to palpate anything on her. I mean, she just don't like touch ... she's very sensitive or touchy ... I believe we worked her back after she ran bad in the Debutante with a diagnostic scope on her or the wind deal that Dr. Lambert uses." Asmussen tr., pgs. 38-39.

- "... [T]hey decided to do a tie forward on her ... just with her getting as wound up as she does and stuff. But I think that we did work her even after we had decided we were going to give her some time, just try to get her settled down..." Asmussen tr., pg. 38.
- "She's so aggressive ... she spent a lot of time training with the pony." Asmussen tr., pg. 38.
- Asmussen explained that Teardrop is currently at his family's farm in Texas for "reeducation." "And had a call to talk with Ron and David, and they wanted to send her to Dad to try to get her to following her head. That's kind of the thing that she didn't do. She'd turn her head ... and it not act like it was attached to her body." Asmussen tr., pg. 37.
- When asked why the filly received a tranquilizer to train, Asmussen responded, "just wanted to have very good days, very good days not doing much with her..." Asmussen tr., pg. 36-37.
- Asmussen explained that they padded Teardrop's stall because she "busted her head open" while they were out at the track with other horses. Asmussen tr., pgs. 39-40.

2. "On June 19, PETA's investigator saw Teardrop being walked and noticed that Teardrop was rushing to keep weight off her right front foot or leg... The same day Tyler Peeples, a hot walker, told PETA's investigator, in reference to Teardrop, 'They're looking at her foot ... assuming something's wrong with her foot.' Peeples also told PETA's investigator that Teardrop 'ended up with shins,' apparently meaning Teardrop suffered from bucked shins." March 18 Letter, pg. 7.

#### Video Clip # 20

- This clip shows an unidentified gray horse being walked in the shed row. In the video, the horse does not appear to be "rushing to keep weight off her right front foot or leg."

#### Video Clip # 21

- This clip shows a male identified by Rosen as Tyler Peeples talking to Rosen about an unidentified horse. You cannot see the male's face. The male says they are looking at "her" foot. Rosen actually says that they are also looking at her shins, and the male agrees.

#### PETA Employee Kerin Rosen

- When asked if she felt that it wasn't safe for Teardrop to train or race Rosen: "I did not have any clear reading at the there ... I did the best I could to document the situation and didn't really formulate my own opinion on it." Rosen tr., pg. 38. This statement is not credible because the above allegation states that Rosen saw Teardrop "rushing to keep weight off her right front foot or leg."
- When asked if she reported any concerns about Teardrop to the Commission veterinarians, Rosen replied: "No ... I didn't really have a working concern for her. I heard that people were concerned, and I documented specifically her cannon bones because that seemed to be what their concern was directed at. But I didn't know what

the condition really—what the extent of it was or how problematic it was.” Rosen tr., pg. 39.

#### **Veterinarian Dr. Ken Reed, DVM**

- With respect to the photographs #141, 143, 144, and 145,<sup>6</sup> Dr. Reed stated: “It looks like they had a blister on her shins ... if this is actually [Teardrop], and it’s the right color anyway. It looks like there was some scurf on her shins, which I would assume is probably from a shin buck.” Reed tr., pg. 25. He explained that “scurf” is “like a blister. If you want to think of it as a sun blister, it’d be a severe blister ... that would be on her shin, which is one of the treatments we use for bucked shins, which I assume that’s what she was doing.” Reed tr., pg. 26.
- With respecting to blistering, Dr. Reed explained: “Usually, the trainer would elect to do that. I mean, we might recommend it, but I couldn’t say that I have. I don’t really think blister does much good one way or another, so I would rarely recommend it. But it’s—you know, it’s been done for a hundred years, and it’ll probably keep being done.” Reed tr., pg. 27.
- After consulting his records, Dr. Reed recalled treating Teardrop’s shin with “hemotherapy and Sarapin.” Reed tr., pg. 26. She must have had a shin then.” Reed tr., pg. 26.
- Dr. Reed’s records indicated that he treated Teardrop’s shin on 5/22, the day before she raced. During his interview, Dr. Reed said the date must be incorrect in the records. “We wouldn’t normally do that at all .... I mean, even though maybe technically it’s not a violation, it would be a dumb thing to do, and you wouldn’t do that.” Reed tr., pgs. 27-29. Dr. Reed consulted his records and confirmed the horse was treated on 5/27. He said the mistake in the records was due to a clerical error. Reed tr., pgs. 28-29.

#### **Assistant Trainer Scott Blasi**

- Blasi stated that at one point Teardrop “did have a bruised foot.” Blasi tr., pg. 100.
- “Foot had got better ... she came back out of the Debutant with slight shins, I mean ever so much. It’s not anything that you’d cool out and pinfire or anything like that. She just came back with a little shin after that race.” Blasi tr., pg. 101.

#### **Trainer Steve Asmussen**

- With respect to the photographs, Asmussen could not identify the horse as Teardrop. He did not know what caused the “scurf,” theorized that it could have been a reaction to a poultice. He said gray horses sometimes have sensitive skin. Asmussen tr., pgs. 33-35.
- “Scott said something about a foot of hers on one day but that he felt it had dissipated completely... But it wasn’t a recurring thing ... we didn’t three-quarter a shoe. We didn’t change her shoes or anything like that.” Asmussen tr., pg. 39.

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<sup>6</sup> These photographs were not included with the letter PETA sent to the KHRC. They were included in a letter PETA sent to Louisville Metro Animal Services.

3. "Also on June 19, PETA's investigator asked Blasi what was wrong with Teardrop, to which Blasi replied, 'It hurts.' PETA's investigator asked Blasi what Doc thought was wrong with Teardrop, to which Blasi responded, 'Oh, I don't care. He don't know. She—it's definitely her foot, which is nothing you can do about it. Her foot, if it's a deep bruise, it might take her a week to get over it. You know, it might, you know, something might pop out her coronet band in the morning. She might be fine. You just don't know. Feet are so weird ...' The same day, Blasi told PETA's investigator that when he was at the track that afternoon, he saw that Teardrop was 'limping.'" March 18 Letter, pg. 7.

#### Video Clip # 22

- In this clip Blasi and Rosen appear to be at a restaurant having dinner. Blasi is explaining to Rosen that there is something wrong with Teardrop's foot. He says that there might be an abscess forming, which might pop out fast and go away fast. He says if it's a deep bruise, it might take a week to heal. He says he will not run her if her foot isn't right. When Rosen asks what "Doc" thinks, Blasi responds, "I don't care. He don't know ... It's definitely her foot." In the video clip, Blasi clearly says he will not run her if her foot isn't right. However, PETA did not include this statement in the above allegation.

#### Video Clip # 23

- In this clip, Blasi and Rosen are still at the restaurant. Blasi can be heard saying that Asmussen called and asked how "that filly" went in the morning. Blasi says, she went really well. Blasi can be heard saying he got back in the afternoon, and they took her out of the stall. The rest of the conversation is indiscernible.

#### Assistant Trainer Scott Blasi

- "She had maybe a bruise on her foot, but it got better immediately ... we soaked it a couple of days, and she got better ... if she's not right, I'm not going to run her." Blasi tr., pgs. 102-103.

4. "On June 20, PETA's investigator saw that Teardrop was tentative about putting weight on her right front foot when walking ... The same day, PETA's investigator saw Dave, a farrier, using a hoof tester on Teardrop's right front foot and suspected that the area on the inside of her frog was tender, as she attempted to move her foot away when Dave applied the hoof tester to this area." March 18 Letter, pg. 7.

#### Video Clip # 24

- This clip shows an unidentified gray horse being jogged in the shed row. There does not appear to be a gait abnormality.

#### Video Clip # 25

- This clip shows Hinton examining the right front foot of an unidentified gray horse. It appears that he is using a hoof tester. However, it is difficult to see or hear what is happening in the clip. It is impossible to determine from the clip whether the horse's foot was sore. The horse fidgets a little bit, but generally stands quietly and does not



exhibit signs of pain, like pulling her foot away or slapping her foot down. She does not appear agitated or fearful.

**Farrier David Hinton**

- “Some of them are just sensitive to those hoof testers. Some of them you’ll squeeze real hard, and they don’t move.” Hinton tr., pg. 95. “Some of them will flinch every time, all the time, if you put those big testers on there.” Hinton tr., pg. 96.

**Assistant Trainer Scott Blasi**

- “I had her out, jogging her up and down the shed row, just checking on her ... I do that a lot. I get them out if I think there’s a little something wrong. I always want to make sure. I want to know where I’m at all the time, a little bit obsessive about it...” Blasi tr., pg. 104.

**Trainer Steve Asmussen**

- “[S]he’s very sensitive, and everything you touch on her, she’s going to lift, I mean everything. I know she’s going to move away from you everything you touch on her. She’s just going to lift.” Asmussen tr., pg. 39.

5. “On June 22, Asmussen and Blasi ran Teardrop in a debutante states race at Churchill Downs, in which she finished seventh.” March 18 Letter, pg. 7.

**PETA Employee Kerin Rosen**

- Rosen said she had been present on occasion when the Commission veterinarians performed pre-race exams, but doesn’t remember if she was present when Teardrop was pre-raced. Rosen tr., pg. 36. However, during her interview, Rosen said she “wrote and maintained notes every day of the investigation.” Rosen tr., pg. 10. In fact, she consulted her notes several times during the interview to refresh her memory.
- When asked if she witnessed any conversations the morning of the race about Teardrop being lame, Rosen responded, “I don’t think I witnessed any conversation about it that I can remember.” Rosen tr., pg. 46.

**Trainer Steve Asmussen**

- “[W]e wouldn’t have run Teardrop lame, absolutely not.” Asmussen tr., pg. 39.

**KHRC**

- Multiple KHRC veterinarians independently observed Teardrop on race day—from the pre-race exam to monitoring her during the post parade, during the race, returning to be unsaddled, and cooling out in the test barn. At no time was she observed to be lame, injured, or otherwise unsound.
- Because of her poor racing performance, the Stewards selected Teardrop for post-race testing. Blood and urine were collected and tested for over 1500 substances. Test results were negative.

- The only substances detected were furosemide<sup>7</sup> and phenylbutazone.<sup>8</sup> No other therapeutic substances were detected, and no prohibited substances were detected.
- The detection of furosemide and phenylbutazone supports the conclusion that the filly's connections believed her to be sound. Additional other therapeutic medications are permitted by KHRC 810 KAR 1:018 and 1:040 (i.e., other NSAIDs, corticosteroids, and muscle relaxants) as long as their concentration in a post-race sample is below the regulatory threshold. Laboratory instrument sensitivity allows these substances to be detected at concentrations well below the regulatory threshold—providing intelligence about the use of therapeutic medications in relative proximity to a race. In Teardrop's post-race sample collected on June 22, 2013, no other therapeutic medications were detected—at any concentration. Review of post-race samples collected from Teardrop on May 23, 2013, and November 30, 2013 revealed the detection of furosemide and phenylbutazone, consistent with the findings in the June 22, 2013 sample.
- Given that the filly was regarded as an exceptionally talented athlete (as independently stated by Dr. Reed, Hinton, Blasi and Asmussen), and had high residual value as a broodmare, it is unlikely that there was any incentive to send her to race lame. Injury or poor performance both had the potential to, at a minimum, dramatically reduce the filly's value— as a race horse, and as a prospective broodmare. A risk-benefit analysis for the connections favors protecting the health of the horse.

6. "On June 23, PETA's investigator asked Blasi how Teardrop was doing, to which Blasi responded, 'I think the [f---ing] [b---] is displacing and getting upset and then freaking out.' PETA's investigator suspected Blasi meant that Teardrop had dorsal displacement of the soft palate and was frightened by the condition, which was affecting her running ability. Dorsal displacement of the soft palate is a common condition in racehorses, whereby the epiglottis (a relatively rigid structure in the back of the throat that helps separate the nasal and oral cavities) becomes positioned above the soft palate, which can make it difficult for a race horse to breathe." March 18 PETA Letter, pg. 7.

#### Video Clip # 26

- In this clip, Rosen actually asks Blasi how "she" jogged this morning. Blasi responded, "fine." He goes on to say that he thinks the horse is displacing and getting upset.

#### PETA Employee Kerin Rosen

- Rosen admitted she didn't know much about displacement. Rosen tr., pg. 47. The above allegation includes the following statement: "PETA's investigator suspected Blasi meant that Teardrop had dorsal displacement of the soft palate and was frightened by the condition, which was affecting her running ability." When asked why

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<sup>7</sup> Furosemide was detected in serum at 5.3 ng/ml, indicating an administration in compliance with 810 KAR 1:018 Section 7.

<sup>8</sup> Phenylbutazone was detected in serum at .6 mcg/ml, indicating an administration in compliance with 810 KAR 1:018 Section 8.

she concluded that dorsal displacement could be affecting the horse's running ability, she had no explanation. Rosen tr., pg. 47.

**Veterinarian Dr. Ken Reed, DVM**

- Either Dr. Reed or one of his partners scoped Teardrop after the race on June 22. Reed tr., pg. 30-31. Teardrop's scope was clean. Reed tr., pg. 67.
- Dr. Reed explained that all horses displace. "It's the persistent displacers that bother you." Reed tr., pg. 68.
- Dr. Reed stated that if the filly had displaced, he would have noted that fact in his records. Reed tr., pg. 33. He stated that Blasi's comments were just theorizing on his part. Reed tr., pg. 34.
- Dr. Reed explained that if the filly had come back lame, they more than likely would have called him to look at her. "And you know, if one's lame, he would probably have you look at her, particularly her. They really liked this filly. I mean, they thought this was a very good filly. So I would say yes. If she was lame, they would have said something about it." Reed tr., pg. 31.
- Dr. Reed explained that with a promising and valuable horse like Teardrop, Asmussen or Blasi would have asked him to examine her if she was lame after the race. "I don't mean that to sound ugly, but if it's a \$10 or \$15,000 horse that's got chronic ankles or he's been sore before and he's a claiming type horse and he comes back a little off, they might not call me for that. They may just wait until the next morning because we take them all out the next day and jog them. You know, we may wait until the next morning to look at that particular horse, but if it's a horse that they particularly like and it ran bad, for example, and it comes back lame, they're usually going to get me over there that day to look at it. Now, we probably won't do anything other than say let's wait until ... maybe give it a shot of bute, but normally we don't do that because we really don't want to mask it, and then we'll wait until the next morning and take them out and jog them down the road and see whether there really is something wrong." Reed tr., pg. 36.

**Assistant Trainer Scott Blasi**

- "... Me talking about Teardrop displacing is a totally different issue. She was a very hard filly to train, pretty high strung ... if you watch her races, she was getting out in her races ... I thought she was displacing and locking her soft palate over and maybe panicking, and that's what was causing her to get out." Blasi tr., pg. 105.
- "We did find out that she was locking her soft palate over, and we did a ... tie forward on her as a result. But that was more of a behavioral thing and why she was getting out." Blasi tr., pg. 105-106.

**Dr. Norm Ducharme, DMV**

- Dr. Norm Ducharme affirmed that dorsal displacement of the soft palate is a condition that occurs in all horses. It is not a consequence of abuse, poor health, or negligent care. Dorsal displacement of the soft palate becomes a problem only in athletic horses that

fail to self-correct, as is normal, during high speed exercise, when the displacement then results in a performance-limiting, partial airway obstruction. Endoscopic exam of the upper airway in a horse post-exercise or at rest may not reliably diagnose this condition.

### KHRC

- While Teardrop's previous race at Churchill on May 23, 2013 was not suggestive of airway dysfunction, her poor performance on June 22, 2013 (absent signs of musculoskeletal disease/lameness) justifiably raised questions about her airway function.
- Medical records indicate that subsequent to the June 22<sup>nd</sup> race, on July 1, 2013, Teardrop underwent a video-endoscopic exam while performing a breeze. The result of that exam was a diagnosis of dorsal displacement of the soft palate. Teardrop underwent corrective surgery on July 9, 2013, and was withdrawn from training pending recovery from the surgery. Diagnostic methodology was appropriate; the surgical procedures well documented and performed by a Board Certified veterinary surgeon; and the filly was rested until recovered, as is recommended.

7. "Also on June 23, Peeples told PETA's investigator that Teardrop runs with her head facing toward the right at all times ... Peeples also told PETA's investigator that Teardrop got 'hit up on' during her last race, explaining that her legs got 'a little beat up' and that 'her ankle was a little scraped up.' Peeples told PETA's investigator, in reference to Teardrop, 'She came off the track a little ginger ... not tying up, but she ... was sore. She walked it off a little bit and felt better after she started walking. She looked OK this morning, still a little tender, but she looked rigid coming off the track.'" March 18 Letter, pg. 8.

### Video Clips # 27 and 28

In these clips a male is discussing how a horse ran in a race and came out of the race with Rosen.

### Trainer Steve Asmussen

Asmussen explained that Teardrop is currently at his family's farm in Texas for "reeducation." "And had a call to talk with Ron and David, and they wanted to send her to Dad to try to get her to following her head. That's kind of the thing that she didn't do. She'd turn her head ... and it not act like it was attached to her body." Asmussen tr., pg. 37.

D. Bleeders. "A number of horses 'bled' while under the care of Asmussen and Blasi, and despite this fact, were forced to continue to train and race, some within mere days after having bled. PETA's investigator understood that a horse who had 'bled' had experienced an exercise-induced pulmonary hemorrhage, which is bleeding in the airways of the lung. Exercise-induced pulmonary hemorrhages can impair lung function and even lead to sudden death in horses, if a pulmonary vessel ruptures internally." March 18 Letter, pg. 8.

### Video Clips # 29-39

## Investigative Report

- These video clips show veterinarian's day sheets that contain the results of scoping done on different horses. Clip # 37 is identical to # 29. Clip # 38 is identical to # 31. Clip # 39 is identical to # 34. With the exception of Teardrop, there are no video clips or photographs of any of the named-horses.

### PETA Employee Kerin Rosen

- Rosen indicated she never saw an episode of epistaxis. Rosen tr., pg. 40.

### Veterinarian Dr. Ken Reed, DVM

- All of Asmussen's horses are scoped after they work. Reed tr., pg. 38. "Whether he's got medication or not, he scopes every horse. That's just his program and has been for as long as I've known him ... You know, it's all about control. I mean, so much of what you want done is to prevent things from happening." Reed tr., pg. 39.
- Dr. Reed administers furosemide and other anti-bleeder medications, depending upon the horse, on days the horses work. Reed tr., pg., 39.
- On work days, if a horse is a known bleeder, they "give more Lasix or adjuncts or whatever we think we can give that may or may not help them." Reed tr., pg. 53.
- The video clips show results of post-work endoscopic exams on a scale of 1 to 5 with 5 being epistaxis. Some of the horses showed some degree of hemorrhage post-work and raced less than 10 days after they breezed. Dr. Reed explained: "That goes on all the time. I don't think that's a problem at all. I mean, it tells you that you need to be more aggressive when you—when you race him, but a lot of horses that bleed a small amount, we're not going to not race them. They'll race just as well. If a horse bleeds, say a 2, maybe not a 1 but a 2 or better, we generally put them on antibiotics because that's what you're concerned about, is that these horses will develop an upper respiratory infection from blood laying in their lungs. So in [Asmussen's] barn, or anybody else's barn, they're going to go on and fight with the antibiotic therapy after the race. But as far as racing them, definitely they would race." Reed tr., pg. 40.
- "...That's such a routine thing for a horse to bleed a small amount that a 2 out of 5 would not bother me. If he say, bled a 2 out of 5 and he had a 2 out of 5 mucus or 3 out of 5 mucus with it, now that horse I would probably talk to the trainer about, may ought to not run this horse. And I'd be more concerned with the mucus that I would be with the blood. Or, for example, if the horse had a—maybe he bled 3 out of 5, then I might discuss it with him. Well, maybe we ought to pass this race and—because he might get sick, and we might wait until the next time. But that's usually be a discussion. And again, a lot of time, it would depend on the history of that horse. If he's a horse that bleeds all the time, then it might be different." Reed tr., pg. 42.

### Trainer Steve Asmussen

- With respect to his protocol with bleeding, Asmussen explained: "Generally, we'll tranquilize them to train ... I think the blood pressure and how hard or how much exert themselves ... I think common sense wise makes probability a lot less. Horses work on ...

Lasix ... probably we'll add amicar to it on something that has bled in the past previously." Asmussen tr., pg. 40.

- "I think it gets a little hot and humid at Churchill ... we've went to bedding on peat moss ... Feed them on the ground, on peat moss. All of those things are respiratory. You get here ... the time of year, April and May, the pollen count and just how bad horses can scope. And not just bleeding or anything but just mucus and stuff like that. Everything you can do to get—keep them as clean as possible." Asmussen tr., pg. 40.
- The veterinarian day sheets in the video clips show a list of horses with different medications next to their names, like Lasix and amicar. Those sheets are prepared by the assistant trainers. According to Asmussen, the assistants generally write whatever they worked on the last time. The veterinarian recommends giving the horses the particular medications. Asmussen tr., pgs. 43-44.
- Some of the medications are given orally and do not appear on the day sheets. Asmussen tr., pgs. 43. The oral medications are ace, dantrium, gastrogard, Thyro-L. Asmussen tr., pgs. 45, 48.

### KHRC

- All of the horses named in this section of the March 18 Letter made a race start at Churchill Downs during the spring 2013 race meet. All horses raced after receiving a permitted administration of furosemide four hours prior to their respective races. All horses were subjected to pre-race exams by KHRC veterinarians and determined fit to be raced. All horses were observed by multiple KHRC veterinarians through the post-parade warm up, the starting gate load, the race, while returning to be unsaddled, and until exiting the race track.
- All of the horses completed their races. None of the horses were observed to be injured, lame, experiencing epistaxis, or otherwise in distress at any point of contact with KHRC veterinarians; no regulatory veterinary intervention was required.
- Of the named horses, a review of Incompass 'List' activity (Stewards/Vets/Other) indicates that none have demonstrated epistaxis during or immediately following their participation in a race in North America. Several of these horses produced published workouts 2-4 days prior to participating in a race. According to the veterinary day sheets shown in the video clips, two of the horses were observed on endoscopic exam, to have EIPH scores of 2/5 and 2½/5. Post-race endoscopic exam results for those horses yielded EIPH grades of 1/5 and 0/5 respectively. The EIPH episode occurring several days prior had no impact on the horse's health or athletic capabilities during or following its race.
- Hardtap, Lemon Drop Dream, Sir Bond, Special Jo, Thunder's Rollin' and Untapable, were placed on the California Bleeder List. Dr. Rick Arthur, California Horse Racing Board Equine Medical Director, advises that trainers may elect to place a horse on the Bleeder List in order to establish eligibility for it to race with furosemide. It is not necessary for a horse to demonstrate hemorrhage (external or internal) to be placed on

the California Bleeder List. If a horse were observed to demonstrate epistaxis during or following a race, it would be placed on the Veterinarians' List and assigned a period of ineligibility. None of the above named horses were placed on the California Veterinarians' List.

- Untapable, Sky Drama, and Western Sadler were on the New York Racing Association (NYRA) Bleeder List. All three horses were placed on the NYRA Bleeder List on dates corresponding to their first published work at Saratoga, after having left Churchill Downs. New York requires a Bleeder Certificate (verifying that a horse has experienced an episode of EIPH following a race or work) in order for a horse to be eligible to race on furosemide. It was likely Asmussen's intent to establish furosemide eligibility for these horses prior to their racing in New York. Each of these horses had made its previous race start in Kentucky and with race day administered furosemide. Furosemide eligibility in Kentucky is established by a trainer's declaration; proof of hemorrhage is not required.<sup>9</sup> None of the horses were observed to have bled following their races in Kentucky.
- The Kentucky Bleeders' Lists, as accessed on the KHRC web page (<http://khrc.ky.gov/Pages/EquineHealth.aspx>) were reviewed, and reconciled against the list of horses in the March 18 Letter. Only one of the cited horses, Sir Bond, was listed. On 10/9/2011, Sir Bond was observed on endoscopic exam to have experienced an episode of EIPH, and was placed on the KHRC Bleeders' List.<sup>10</sup>

#### **Dr. Corinne R. Sweeney, DVM**

- "Exercise-induced pulmonary hemorrhage (EIPH) is bleeding that occurs from the lungs of horses during exercise. It occurs in the majority of Thoroughbred and Standardbred racehorses and in many other horses subject to strenuous exercise. There is no evidence that EIPH is a consequence of poor health or poor physical condition. There is no evidence of an association between a horse's physical condition and the occurrence of EIPH.

**III. Use of Thyroxin.** In the Supplemental Letter, PETA "respectfully requests that your agency also investigate the use of thyroxine in light of evidence of KDE Equine's widespread use of the medication in New York." In the letter, PETA cited incidents of the administration of thyroxine to Asmussen-trained horses in New York and stated, "the PETA investigator observed that 'supplements' added to the horse's feed at Churchill Downs were administered in the same or similar manner and frequency to the thyroid medication that was administered in New York, supporting the inference that the supplements used in Kentucky

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<sup>9</sup> See 810 KAR 1:018 Section 7.

<sup>10</sup> A horse that is placed on the Bleeders' List goes on the KHRC Veterinarian's List for fourteen days and is ineligible to race during that time. See 810 KAR 1:018 Section 18(4).

consisted of Thyrozine Powder or a similar medication, and are administered in the same seemingly unwarranted and excessive dosage as in New York.” Supplemental Letter, pg. 1.

### Photographs

- The Supplemental Letter included 4 photographs of a “Thyrozine Powder” container.

### Video Clip #1

- In this clip Rosen asks Blasi why they give the horses Thyrozine. Blasi responds: “I don’t know why horses’ thyro levels get low. [INAUDIBLE] It kind keeps their thyro level up, makes them feel good.”

### Video Clip #2

- In this clip Rosen asks Alberto if they give “this stuff” to the horses at the 3:30 a.m. feed. The label on the container cannot be seen. In response, Alberto indicates they give one scoop at the 3:30 a.m. feed and one scoop at the 5:00 p.m. feed.

### Video Clip #3

- In this clip an unidentified individual says that two particular horses should be given two scoops of “thyro” in the morning and two scoops at night.

### Veterinarian Dr. Ken Reed, DVM

- Dr. Reed stated that he recommends every horse get Thyro-L. “[H]istorically I’ve seen so many horses with low thyroid over the years that don’t seem to do well, and we don’t have a lot of things that we seem to be able to improve the condition of the horse, his hair coat in particular and the way it looks. And I just found that Thyro-L was one of those that really seemed to keep the horses looking well particularly. And if you run enough bloods on them, you find that most—most thoroughbreds run borderline low almost all the time, and some of them will run—be considerably low. And I guess I’ve used it for 35 years, and it’s the product that I can put them on. And if you watch them in a week or two, their hair coat looks better, and the horse seems to train better and do better. So again, just talking about trying not to let them back up. So I recommend they give it every day.” Reed tr., pg. 45.
- Dr. Reed was questioned about research indicating that that supplementation is unnecessary and may pose some risk to the horse. Dr. Reed responded, “I’ve read all that before many times, particularly the thyroid levels aren’t accurate if you see a—because we basically run T4s ... if it’s low, it really doesn’t mean anything. Well, that’s b----t. It does, and I’ve run thousands of them. And I can compare it to the horse. When that horse walks through that stall door, walks off that trailer and his hair coat is that long and he’s underweight and doesn’t look good and I run it, then he’s going to have a thyroid that’s going to be a .6 or .8. And I’ll put him on Thyro-L, and I double the dose for 2 weeks. And when I re-run that, it’s going to be up 1.2, 1.3, and that horse looks like a shiny new dollar ... I’ve done it over and over and over for years and years. So you know, as far as I’m concerned, that guy hasn’t seen near as many horses as I have, and



he hasn't given Thyro-L to as many horses as I have. So I beg to disagree with him ... I totally understand the research because I've actually looked at a lot of it lately myself because I've had that question posed to me ... I don't know what the mechanism is, and I mean that sincerely. I don't know if it's the stress level that the horse is in, if it's the fact that they're confined to a stall because I never saw it in horses running out in pastures and pleasure horses ... But for whatever reason, the thoroughbred—and I honestly didn't see it when I used to do quarter horses ... but I certainly see it in the thoroughbreds and have for years. And I've recommended Thyro-L to horses for 35 years ... because I really think it does a lot of good. And you want to give it to them before that horse's hair turns bad ... we want them to perform the best they can. And I don't want to wait until his T4 is low ... I want to nip it in the bud before it starts, and I've just found that the stables that I've put it in over the years, the horses stay better. They do better, and their thyroid levels stay up." Dr. Reed tr., pgs. 46-47.

#### **Trainer Steve Asmussen**

- When asked why he gives his horses Thyro-L, Asmussen replied: "From running—you try to think of the evolution of how did you get here ... just from all the bloods that you've run previously ... and the horses racing and under stress, being low ... a low thyroid level. And I think Reed was probably the one who ... convinced me that we needed to supplement in that area on these horses." Asmussen tr., pg. 48.
- He said they give Thyro-L at the recommendation of their veterinarian. Asmussen tr., pg. 49.

#### **Dr. Nat T. Messer, DVM**

- Dr. Messer provided historical context for the administration of l-thyroxine to race horses by referencing a paper from the 1970's that recommended supplementation to improve muscle function and stamina.
- According to Dr. Messer, the supplementation of thyroid hormone in clinically normal horses is not a justifiable practice and poses some degree of risk to the horse. It is "only unethical if true harm could be proven, i.e., decreasing bone density."

#### **KHRC**

- The administration of thyroid hormone does not constitute a violation of Kentucky regulations. If the thyroid hormone is prescribed for a specific patient, and the dispensed medication properly labeled, its use is in compliance with KHRC regulations. PETA has provided no evidence of a rule violation. The KHRC also did not uncover evidence of a rule violation with respect to thyroid hormone supplementation.

**IV. Electronic buzzer possession and use.** "The investigator documented a number of conversations ... about the use of electrical shock devices on horses. Although the dates and locations of the incidents are unknown, the trainer and jockeys involved in the conversations—trainer D. Wayne Lukas, jockey Gary Stevens, jockey Calvin Borel, and jockey Ricardo Santana, Jr.—participate in race tracks located in Kentucky and may have

**possessed or used these devices in violation of Kentucky law, or may have knowledge of others who possess or use them in an illegal manner.” Supplemental Letter, pg. 9.**

- The stewards are charged with watching races with all rules in mind. Stewards take note of any unusual motion or movement by the rider, or reaction of a horse. The clerk of scales and his assistant observe the jockeys as they prepare for the race and then leave the jockeys' quarters. The riders are observed by the stewards, outriders, starting gate crew, commission veterinarians and security from the time they enter the track for the post parade, until they return to the jockeys' quarters after the race. KHRC security randomly screens jockeys with a metal detector prior to races. The stewards and security also make random, unannounced inspections in the jockeys' quarters.

#### **Video Clips #4-8**

- In PETA's Supplemental Letter, they request the KHRC to investigate potential use of buzzers based on a conversation that took place at a dinner party Rosen attended. In the Supplemental Letter, PETA states that trainer D. Wayne Lukas and jockey Gary Stevens "told" and "indicated to" Rosen certain incidents about buzzer use. However, Lukas and Stevens are at a dinner party in someone's home, there are empty wine glasses and wine bottles on the table, and they are clearly telling stories to the group about the past. They are both telling stories from when they were involved in Quarter Horse racing some thirty-five to forty years ago.

#### **Stewards**

- The stewards interviewed Lukas and he said he was talking about something that happened "40 years ago at a Quarter Horse track." He clearly understood the seriousness of the use of buzzers and did not condone the practice, then or now. The stewards also interviewed Stevens. He was sincerely embarrassed that his somewhat-exaggerated comments made at a dinner party had been made public. He said he understood the seriousness of the use of buzzers.

#### **Video Clip #9**

- In this clip, some individuals are discussing the use of a buzzer during training hours and in the 2010 Kentucky Derby by Calvin Borel .

#### **Stewards**

- The Stewards reviewed video replays of the three Derbies won by Borel: 2007, 2009, and 2010. There was nothing to indicate the use of a buzzer in any of these races. The Stewards interviewed Borel, who denied using a buzzer in the 2010 Derby. He understood the seriousness of the allegation and said he would not risk ending his career by using a buzzer.

#### **Video Clip #10**

## Investigative Report

- In this clip it appears that Blasi, Rosen and another individual are in someone's home watching television. You cannot hear Blasi saying that jockey Ricardo Santana is a "good machine rider," as indicated in the PETA Supplemental Letter. You can hear Blasi saying, "I tell him, you got the maquina? I got the maquina, boss." Neither Blasi nor the person PETA identifies as Cordero mention Ricardo Santana.

Rosen asks if "they check for those ever." Blasi says, "no," and the Cordero says, "he got lucky..." The video clip cuts off mid-sentence.

### Stewards

- The stewards reviewed 20 races from the 2013 fall Keeneland meeting in which Santana participated. There was no indication that Santana used a buzzer in any of the races reviewed. The stewards also interviewed Santana, who vigorously denied the allegations and indicated that his father taught him to ride to "use his head and his hands." He understood the seriousness of the allegations.

### Veterinarian Dr. Ken Reed, DVM

- "I hear them talk about it all the time. I should say all the time. I mean, that's a frequent mention around there. Have I ever seen one? I haven't seen one since I've been in Kentucky, haven't seen one in 20 years. Reed tr., pg. 59.

### Trainer Steve Asmussen

- He is not aware of a buzzer every being used on one of his horses. Asmussen tr., pg. 54.

### Assistant Trainer Scott Blasi

- Blasi said he is not aware of a rider ever using a buzzer on one of their horses. Blasi tr., pg. 114.
- "It's more like a joke ... It's kind of like a jockey walking into the paddock, asking me if you—did you give them the good stuff ... Yeah, hey, Santana, you packing today ... believe me, that was everybody kind of sitting around, seeing who could tell the biggest tale." Blasi tr., pg. 114
- Blasi stated that Santana "rides like a machine." Blasi stated that Santana is young and he, "give[s] him a hard time. I never—never seen a machine." Blasi tr., pg. 115.

### **V. "Rat" comment by Blasi**

- On the video PETA posted on YouTube, Blasi is overheard in a conversation with another trainer calling a horse that had been claimed by the other trainer a "rat." When asked about that comment, Dr. Reed stated: "[W]hen they're talking about a rat, that's a very common term around the racetrack. He's not talking about that he doesn't like the horse. He's talking about the horse is a rat because he can't run very fast, and trainers don't like horses that can't run very fast. So, they may call them names, but that doesn't mean they're not going to take the best care of them because if you put that rat in the right race, he's going to win ... if a trainer gets a horse claimed off of him, he's

automatically not going to like him very much because he doesn't have it any more. That's just reflex of saying I hate that I lost him, but I don't care if I lost him." Reed tr., pg. 71.

#### **V. PETA Employee Kerin Rosen**

- She stated she had worked for PETA for over 3 years. Rosen tr., pg. 6.
- She was licensed on April 11, 2013 as a stable employee. However, in her interview, she stated her first day of work at Churchill Downs was April 9, 2013. Rosen tr., pg. 2.
- She stated she was hired as a hotwalker and had never worked on the racetrack prior to her employment with Asmussen. "So my primary job was walking horses before and after workouts." Rosen tr., pgs. 4-6.
- "I have been horseback riding since I was about 7 years old, so for about 20 years. I did hunter jumpers competitively, throughout high school and rode on two different college teams. Aside from riding, I've had various jobs with horses—I've done feeding, clean stalls, taught lessons, worked at summer camps, those sort of things." Rosen tr., pg. 5.
- She said she was told to get employment with Asmussen and not any other trainers. Rosen tr., pg. 5.
- "I kept notes. I wrote and maintained notes every day of the investigation." Rosen tr., pg. 10.
- According to Rosen, she would transmit her notes to her supervisor typically on a daily basis. Her supervisor would review her notes and tell her that something may be problematic and ask for more documentation. Rosen tr., pg. 21.
- When asked if she ever reported any concerns to the stewards or other racing officials, she claimed, "I wasn't hearing the interpretation of this evidence. So, I didn't have any idea ... Um, I was never given an explanation of—I'm typically not given explanation of why this needed to be looked into further. I was just asked to get further documentation." Rosen tr., pgs. 20-22. However, she also stated, "I was instructed to document things that I thought might be unusual or problematic. There obviously been a lot of conversation at the stables about Nehro's front feet and concern about them, leading me to document his feet more." Rosen tr., pg. 19.

#### **Veterinarian Dr. Ken Reed, DVM**

- Rosen never expressed any concern about the horses to Dr. Reed. Reed tr., pg. 24. Rosen tr., pg. 20.
- "I don't work for them in the wintertime ... and when I came back to the barn in springtime, I saw [Rosen] walking around the barn. And she stood out like a sore thumb ... I asked [Blasi] where she came from, and he said California. And I said she's awful cute, Scotty, and he grinned, so I figured this was maybe a girlfriend." Reed tr., pgs. 23-24.
- "She told me she was very interested in horses and might be interested in going to vet school. And that's when I talked to her about maybe I could possibly use you in New Orleans as a part-time person ... because we needed another assistant there." Reed tr., pg. 24.

### Assistant Trainer Scott Blasi

- “She approached me in the paddock at Santa Anita. I was getting ready to leave California, and I said well, I don’t need any employees in California. But if you show up to Churchill and would maybe be willing to go to Saratoga, I would give you a job in Kentucky.” Blasi tr., pg. 6.
- “She said she was very interested ... her sister was a veterinarian, that she was thinking about going back to vet school, that she was a teacher, didn’t enjoy the teaching profession, was wanting to go back to vet school and was just wanting some experience ... around the racehorse industry...” Blasi tr., pg. 6. “I’ve hired ... other employees on the same basis ... people wanting to learn about the industry...” Blasi tr., pg. 6.
- “She was a good employee. She treated the horses well. She walked horses. She was qualified to do what I hired her to do ... she’d had experience with hunter-jumpers ... and riding horses and had been around horses ... throughout her life.” Blasi tr., pg. 5. Blasi indicated it was apparent that she had been around horses. Blasi tr., pg. 6.
- Blasi. “We had a sexual relationship ... spent a lot of time hanging out on the lake at Saratoga in a personal venue. She hung around my kid and his friend ... I never envisioned her videoing me or being malicious ... I even kept in contact with her...” Blasi tr., pg. 89.
- Blasi was aware of rumors that, while Rosen worked for Asmussen and was intimate with Blasi, she had been intimate with other men who worked on the backside. Blasi did not believe these rumors. “I kind of feel bad about all that because she wasn’t ... I thought she liked me. Maybe I was just a target obviously.”
- Blasi said he found out Rosen actually worked for PETA when he received a telephone call from reporter Joe Drape. “And I’m just listening and thinking, and then it hit me ... Now I know why she wanted to come back and apologize. Now I know why she felt so bad. Now I know why she called me 2 days ago, hysterical, telling me what a good person I was.” Blasi tr., pg. 115.
- Blasi stated, “Well, I’ve felt pretty threatened ... I’ve lost my job, lost my livelihood, been portrayed as some sort of monster.” Blasi tr., pgs. 116-117.

### Trainer Steve Asmussen

- Rosen never expressed any concern about the health or welfare of any of the horses to him. Asmussen tr., pg. 57.
- When asked if he had any thoughts on why PETA targeted his barn, Asmussen stated: “I do awfully good for a kid from Laredo, Texas ... If anything, I plan on this long-term solidifying that I did it on ability and no other way.” Asmussen tr., pg. 31.
- Asmussen’s attorney, Clark Brewster, stated: “I think it’s pretty obvious from the texts and communication she had with others that knew her that she tried to retreat and tried to not cooperate with PETA for several months. I mean, it did take—from the time she started working in April of 2013 until the time this ever came to light was almost 10 months, 11 months. So there’s a time I think she unhooked and tried to resist ... and the texts that we have suggest that she regretted.” Asmussen tr., pg. 33.

**B**



March 18, 2014

Chris Clark  
Director of Enforcement & Licensing  
Kentucky Horse Racing Commission  
4063 Iron Works Pkwy., Bldg. B  
Lexington, KY 40511

Re: Suspected Violations of Kentucky Thoroughbred Racing Regulations at  
Churchill Downs: Request for Investigation

Dear Mr. Clark:

This letter is to request that your agency investigate Steve Asmussen; his assistant trainer Scott Blasi; KDE Equine, LLC, doing business as Steve Asmussen Racing Stables ("KDE Equine"), a horse-training and racing business of which Asmussen is president; and events that occurred at Churchill Downs, a horse racetrack located at 700 Central Ave., Louisville, KY 40208, and take appropriate action, up to and including suspension of the license to participate in racing in Kentucky of any person found violating the thoroughbred racing regulations.<sup>1</sup> Between April and July 2013,<sup>2</sup> a PETA undercover investigator documented, including on video, that KDE Equine apparently instructed an employee to administer a prescription drug to a horse and that Asmussen and Blasi were maintaining horses who were apparently in poor physical condition. (See "KDE Equine: Investigative Footage for the Kentucky Horse Racing Commission" DVD, at Exhibit 1, and "KDE Equine: Investigative Photographs for the Kentucky Horse Racing Commission" CD, at Exhibit 2.)

All these things may violate Kentucky's thoroughbred racing regulations, 810 KY. ADMIN. REGS. 1:001 *et seq.* PETA's investigator is available at your request and will attest to the accuracy of the facts set out below.

**I. KDE Equine Apparently Instructed a Lay Employee to Administer a Prescription Drug to a Horse, and Asmussen and Blasi Apparently Maintained Horses in Poor Physical Condition, All in Apparent Violation of 810 KY. ADMIN. REGS. 1:018**

**A. 810 KY. ADMIN. REGS. 1:018: Medication; Testing Procedures; Prohibited Practices and 810 KY. ADMIN. REGS. 1:008: Trainers**

810 KY. ADMIN. REGS. 1:018 provides:

<sup>1</sup>See KY. REV. STAT. ANN. § 230.320(1).

<sup>2</sup>All dates herein, unless otherwise noted, are in 2013.

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Section 3. Treatment Restrictions. (1) Except as provided in Section 4 of this administrative regulation,<sup>3</sup> a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not administer a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission. ...

Section 15. Trainer Responsibility.

(1) A trainer shall be responsible for the condition of a horse in his or her care. . . .

(3) A trainer shall prevent the administration of a drug, medication, substance, or metabolic derivative that may constitute a violation of this administrative regulation. . . .

(5) A trainer shall be responsible for ... (c) The proper identity, custody, care, health, condition, and safety of horses in his or her care . . . .

810 KY. ADMIN. REGS. 1:018(1)(2) defines "administer" as "to apply to or cause the introduction of a substance into the body of a horse."

810 KY. ADMIN. REGS. 1:008, Section 3 provides, in relevant part, "A licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against the administration of prohibited drugs or medication of horses in his charge."

Further, 810 KY. ADMIN. REGS. 1:008, Section 6 makes it clear that, as an assistant trainer, Blasi has the same duties and responsibilities to the horses in his care as does Asmussen, providing, in relevant part:

A licensed assistant trainer shall assume the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer shall be jointly responsible with his assistant trainer for all acts and omissions of the assistant trainer involving a racing matter.

**B. A KDE Equine Employee—Who Was Not Licensed to Practice Veterinary Medicine in Kentucky—Was Apparently Instructed by KDE Equine to Administer a Prescription Drug That Was Not Permitted Under Section 4**

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<sup>3</sup>810 KY. ADMIN. REGS. 1:018, Section 4, which covers "Certain Permitted Substances," provides, "[l]iniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission."



On April 21, PETA's investigator saw one of Asmussen's foremen administer Dantrolene, a prescription drug, to Dillinger. To PETA's investigator's knowledge, this foreman was not a veterinarian. (*See Inc. 1, at Ex. 1.*)

### C. Asmussen and Blasi Maintained Horses in Their Care in Poor Physical Condition

Kentucky Thoroughbred Racing regulations place responsibility squarely on the shoulders of trainers, such as Asmussen and Blasi, for the condition and fitness to perform of the horses in their care.<sup>4</sup> The following horses were maintained in poor physical condition, and some of them—including Teardrop, Thunder's Rollin', Untapable, Gun Roar, Sky Drama, Hardtap, Sir Bond, Valediction, Primed N Willing, Del Mar Holiday, Western Sadler, Lemon Drop Dream, Special Jo, Charlie's Phantasy, and Cage Fighter—were forced to run at Churchill Downs while in these unfit conditions.

**Nehro:** Nehro was a 5-year-old horse owned by Zayat Stables, LLC, and trained by Asmussen. He began racing in 2010 and placed second in the 2011 Kentucky Derby, but his performance in 2013 suggested that overexertion and stress from constant training and racing had taken a toll on his health since he finished fifth in his last race, held on April 13, 2013, at Oaklawn Park Race Track in Hot Springs, Ark. Asmussen and Blasi subjected Nehro to cruel or injurious mistreatment by forcing him to continue training—making him run timed workouts on April 23 and April 30—even *after* PETA's investigator had heard Blasi acknowledge Nehro's poor physical condition, as detailed below. Based on the poor condition of his feet, an expert has confirmed that Nehro was experiencing "severe pain" and suffering and "should have been given strict pasture rest for months—possibly for a year—to permit the healing of his multiple lamenesses" rather than being forced to run in his condition, as also detailed in the following timeline of events:

- On April 17, PETA's investigator noticed a considerable amount of filler—used to fill in cracks or holes—on Nehro's front hooves. (*See Inc. 2, at Ex. 1.*) The same day, PETA's investigator heard Jamie Hernandez (also known as "Jamie Radosevich"), an exercise rider, state that Nehro had "very bad feet," and a farrier, named Dave,<sup>5</sup> state that Nehro did not even have a pulse in the right front leg and only "barely" had one in the left front leg. PETA's investigator heard Dave state that Nehro's foot was just "a little bitty nub" and "all broke off" and that Nehro had lost Z-bar horseshoes (generally used in therapeutic shoeing for treating hoof problems such as lameness and cracks) on both feet multiple times, "until he had bloody holes in the bottom of his feet." PETA's investigator heard Hernandez respond, "He really did. At Fair Grounds, every week ...." (*See Inc. 3, at Ex. 1.*)
- Also on April 17, PETA's investigator saw Dave point out a hole in Nehro's left front foot to Blasi, stating, "Yeah ... poked a hole right in that sore right there." PETA's investigator saw a groom attempt to clean Nehro's left foot, causing Nehro to flinch and attempt, somewhat vigorously, to pull away, and causing Dave to say, "Don't touch it again ... he can't take a brush," apparently meaning that Nehro was experiencing such pain in his feet that he could not stand the touch of a brush against his foot. PETA's investigator heard Dave ask Blasi, in reference to Nehro's left front foot, why Blasi didn't try "healing that up" and that "it's been

<sup>4</sup>See 810 KY. ADMIN. REGS. 1:018, Section 15, and 810 KY. ADMIN. REGS. 1:008, Sections 3 and 6.

<sup>5</sup>This individual's surname is not known.

- like that for three months ... from putting a Z-bar over top of it, it rotted.” PETA’s investigator heard Blasi reply, “I know the fucker hurts.” (See Inc. 4, at Ex. 1.)
- Also on April 17, PETA’s investigator saw Blasi pick up Nehro’s right front hoof, point to a sore in the middle, and say, “This hurts him.” PETA’s investigator saw a pink and hairless sore in the middle of Nehro’s right front heel, approximately 1 inch wide, with a scab on it. PETA’s investigator heard Dave say that Nehro had the sore “before the race” in which Nehro ran “the other day,” likely a reference to Nehro’s last race, on April 13.<sup>6</sup> PETA’s investigator saw Dave show a hole in Nehro’s left front foot to Blasi, saying, “This hole is treacherous.” PETA’s investigator heard Hernandez say, apparently in reference to this hole, “It is bad,” and Blasi say, “I just think we need to paint, get some, get some, uh, don’t think I can just get some blue lotion?” PETA’s investigator heard Dave respond, “[W]e done all that,” and go on to describe the flesh in the area of the hole as “soft as butter.” PETA’s investigator saw Nehro flinch when Dave touched his feet, causing Hernandez to say, “Nehro, stop. I know it hurts.” PETA’s investigator heard Dave say that he previously had put Polyflex on Nehro’s feet, stating, in reference to one of Nehro’s feet, “He had nothing here. It was all bruised, and then he had a big ole hole here.” PETA’s investigator heard Dave state that when Nehro “come up lame,” Asmussen instructed Dave to use Polyflex on Nehro’s hoof rather than a metal shoe, and “about three weeks later, he was lame.” (See Inc. 5–7, at Ex. 1.)
  - Also on April 17, PETA’s investigator heard Dave tell Hernandez that when Nehro raced at Oaklawn (Nehro’s last race at Oaklawn Park was on April 13), “He stabbed around there like he’s dying,” and he “come back walking real short.” PETA’s investigator heard Hernandez respond that she “had asked Steve in New Orleans” and that she “knew his feet were bad.” PETA’s investigator heard Dave say that one of Nehro’s hooves had a “quarter crack” and saw Dave examine it to see how the “quarter crack patch held up in the race,” suggesting that Nehro had the crack before his last race. PETA’s investigator heard Dave say, apparently about one of Nehro’s hooves, “We’re gonna have to heal that up and put something on that if you go to the track .... We’ve tried super glue in that hole.” (See Inc. 8, at Ex. 1.)
  - On April 21, PETA’s investigator saw that the frog—the underside of the hoof that touches the ground when a horse is standing—on Nehro’s left front foot was abnormally flat and apparently worn down and that an unusual dip was present in the frog, which PETA’s investigator had never seen present on any other horse. (See Photographs 2013-04-21\_03\_Bottom of Nehro’s left front hoof 1\_IMG\_0037 and 2013-04-21\_07\_Bottom of Nehro’s left front hoof 2\_IMG\_0041, at Exhibit 2.)
  - Also on April 21, PETA’s investigator saw that the bottom of Nehro’s right front foot was unusually pink. (See Photographs 2013-04-21\_05\_Bottom of Nehro’s right front hoof 1\_IMG\_0039 and 2013-04-21\_08\_Bottom of Nehro’s right front hoof 2\_IMG\_0042, at Ex. 2.) The same day, PETA’s investigator saw filler in Nehro’s hooves. (See Photograph 2013-04-21\_12\_Filler in Nehro’s hooves\_IMG\_0046, at Exhibit 2.)
  - On April 23, despite Blasi’s awareness of the condition of Nehro’s feet, Asmussen and Blasi made Nehro run a timed workout—Nehro placed 37th out of 39 horses. (See April 23 Workout Times, at Exhibit 3.)
  - Also on April 23, PETA’s investigator asked Blasi if Nehro’s feet had always been “this bad,” to which Blasi responded, “Yes. ... They’re horrible,” showing Blasi’s awareness of

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<sup>6</sup>According to Equibase, Nehro’s last race was on April 13, 2013, at Oakland Park in Hot Springs, Ark.

Nehro's poor physical condition. When PETA's investigator stated, "It's amazing that [Nehro]'s done what he's done," in reference to Nehro's accomplished racing record, Blasi replied, "It really is." (*See Inc. 9, at Ex. 1.*)

- On April 25, Blasi told PETA's investigator that "the problem" with Nehro's feet was that Nehro "is a horse who don't have any foot at all," apparently meaning that Nehro's feet had been worn down to near nubs from racing and training. Blasi also told PETA's investigator that Nehro had contracted heels, a condition in which the hoof wall shifts, causing the foot to become narrow and creating the potential for a horse to develop an atrophied frog and a concave sole. (*See Inc. 10, at Ex. 1.*)
- On April 29, Blasi, while examining Nehro, told PETA's investigator that Nehro had an "osselet" on his left front ankle—which Blasi described as a "hard calcification on the front of your joint" as well as the result of "pressure in his ankle." (*See Inc. 11, at Ex. 1.*)
- On April 30, Asmussen and Blasi—who, again, were aware of the painful condition of Nehro's feet—made Nehro run a timed workout—Nehro placed 16th out of 22 horses. (*See April 30 Workout Times, at Exhibit 4.*)
- On May 1, while Blasi and a veterinarian called "Doc"—likely Dr. Ken P. Reed of Equine Medicine & Surgery, located in Bossier City, La.—were examining Nehro, PETA's investigator heard Blasi say, in reference to Nehro, "[T]his son of a bitch goes bad on the road," possibly indicating that Nehro moves poorly on paved road. PETA's investigator heard Doc say, in reference to Nehro, "Yeah, I think we need to do his ankles all right." PETA's investigator heard Blasi say about Nehro: "He's got no foot. We had Z-bars on him down in New Orleans, and he ripped them off about three times, breezing.<sup>7</sup> And it's just, he's got no foot. There's no wall, there's no wall"—which PETA's investigator understood to be a reference to Nehro's hoof wall—and "You ought to see this son of a bitch jog on the road," again suggesting Nehro jogged poorly on the facility's paved road. (*See Inc. 12, at Ex. 1.*)
- Also on May 1, PETA's investigator heard Blasi say, while pointing to Nehro's heel, "[Nehro] had a raw spot. He had a raw spot on his foot. ... I tried to harden that up. See they had them Z-bars on him." PETA's investigator heard Doc say that Nehro's "heel's ... pretty bad," which PETA's investigator heard Blasi acknowledge by saying, "Yeah." PETA's investigator heard Doc say, "That's probably what the problem is," to which Blasi responded, "Well I don't know if doing him, doing him, is gonna make up a difference where—how bad his feet are." PETA's investigator heard Doc say that Nehro "had a good bit of pressure in his hocks, too." (*See Inc. 13, at Ex. 1.*) The same day, PETA's investigator saw Nehro walking and bobbing his head an unusual amount, a possible indication of pain.
- Also on May 1, PETA's investigator heard Blasi say, while on the phone, that "the horse is sore all over." PETA's investigator suspected Blasi was referencing Nehro, as he indicated the horse had just been seen by a veterinarian, which Nehro had. (*See Inc. 14, at Ex. 1.*)
- On May 4, PETA's investigator learned that Nehro was colicing. Colic, an acute attack of abdominal pain, is commonly gastrointestinal in nature and has numerous direct and indirect causes, including excessive use of nonsteroidal anti-inflammatory drugs and stress and even chronic pain, as described below.<sup>8</sup> PETA's investigator saw Nehro in his stall—with his head hanging low from apparent exhaustion—and then later lying on his side in the gravel outside the barn, where he had apparently fallen. Around 6:50 a.m., PETA's investigator heard Blasi

<sup>7</sup>According to Equibase, Nehro was last raced in New Orleans on February 25, 2012, at Fair Grounds Race Course.

<sup>8</sup>Joanne Meszoly, *Straight Talk About Colic*, EQUUS, June 2007, at 46–49, available at [http://www.cvm.ncsu.edu/vhc/PDFS/straight\\_talk\\_about\\_colic.pdf](http://www.cvm.ncsu.edu/vhc/PDFS/straight_talk_about_colic.pdf).

yell to Asmussen: "Nehro is fucking dead!" The same day, Alberto, a foreman, told PETA's investigator that Nehro had gotten colic and had to be euthanized. (See Inc. 15, at Ex. 1.) Also on this day, Asmussen indicated to PETA's investigator that he wondered whether the commotion of the Kentucky Derby had caused Nehro to contract colic and become "violently ill that quick" and "spiral like that," stating that Nehro "hasn't been the same since the Derby two years ago." (See Inc. 16, at Ex. 1.)

- On May 8, Mike Callaham, an exercise rider, told PETA's investigator that Nehro's owner, Ahmed Zayat, "should have retired [Nehro] a year ago," apparently because of Nehro's health, stating, "[T]hat's when [Nehro] was done. He was finished then." Callaham told PETA's investigator that "Zayat doesn't have any money. So he runs his horses as long as he can and, and even longer than he should." (See Inc. 17, at Ex. 1.)<sup>9</sup>
- On May 23, Blasi told PETA's investigator that Nehro should have been retired, apparently because of his health, after he ran in the Pimlico Special Stakes race on May 18, 2012. Blasi also told PETA's investigator that Nehro "just got his feet too fucked up in New Orleans." (See Inc. 18, at Ex. 1.)

According to Holly Cheever, D.V.M., who reviewed footage of Nehro that had been captured by PETA's investigator as well as daily log notes maintained by PETA's investigator, Nehro had "serious foot problems in both forelimbs that [were] severe enough to make his pounding on hard fast tracks excruciatingly painful."<sup>10</sup> Dr. Cheever indicated that Nehro's poor pulse quality and perfusion in one of his forelimbs was "possibly caused by injury and wear and tear" and that "a compromised blood supply to the hoof's sensitive laminae is disastrous for the hoof's proper function." According to Dr. Cheever, Nehro "was so injured and structurally unsound that he was in severe pain and should have been given strict pasture rest for months—possibly for a year—to permit the healing of his ... lameness[]." Dr. Cheever wrote:

There is no justification for running a horse with a quarter crack [like Nehro] at all: complete retirement till full healing has been achieved is essential for the horse's future. Tracks have hard and concussive surfaces, and horses carry roughly 2/3 of their weight over their forelimbs: thus, galloping racehorses weighing 1,000 to 1,200 pounds exert the damaging pressure of 3,000 pounds per square inch on the forefeet, resulting in an overwhelming and excruciating force applied to an injured hoof sole and wall .... [A] Thoroughbred in a competitive race with such severe hoof damage and weakness constitutes an unacceptable risk from a fall for Nehro, his rider, and other horses running in a pack, with potentially devastating (even fatal) consequences.

Instead of racing (compelled by the racing trainer's adage that the horse makes no money standing in his stall), Nehro should have been retired to a prolonged strict rest, hydrotherapy, non-steroidal anti-inflammatory drugs (NSAIDs), thermal treatments, special shoeing, and possibly antibiotics. I do not believe his frequent 'magnetic therapy' had any benefits for these types of injuries. For his quarter crack, he would have done better to have been shod with an egg bar shoe (rather

<sup>9</sup>Although the date stamp on this video incorrectly indicates that the video was captured on May 7, the video was actually captured on May 8.

<sup>10</sup>Dr. Cheever's opinion is available upon request.

than a Z-bar type) with the hoof wall trimmed away from shoe at the crack's location.

In reference to Nehro's death, Dr. Cheever wrote, "extreme pain and stress can have vascular consequences and thus his painful lameness could have been a contributing factor" to Nehro's colic (i.e., gut ischemia), a very painful condition, that resulted in his death. Dr. Cheever concluded that "continuing to demand an athletic performance instead of retiring Nehro as 'pasture sound' was cruel" and that Nehro "suffered abuse at the hands of his owner, trainer, and riders."

**Teardrop:** Teardrop, a 2-year-old filly owned by Winchell Thoroughbreds, LLC, and trained by Asmussen, started racing in 2013. Even though Blasi called Teardrop the "lame gray filly" and stated that "the fucking bitch is displacing," Asmussen and Blasi continued to train and even race Teardrop, as the following timeline of events indicates:

- On June 18, Blasi told PETA's investigator that he was worried about "the lame gray filly," which PETA's investigator understood to mean Teardrop, as Blasi commonly called Teardrop "the gray filly," since she was the only gray filly Blasi was training. Blasi told PETA's investigator, in reference to Teardrop, "[N]ow she's lame." Blasi added: "It's always when the fucking boss is gone. It ain't never fucking—fuck these horses. These motherfuckers. They'll fucking break your fucking heart every fucking day, these cock suckers. There's always something wrong with 'em." (See Inc. 19, at Ex. 1.)
- On June 19, PETA's investigator saw Teardrop being walked and noticed that Teardrop was rushing to keep weight off her right front foot or leg. (See Inc. 20, at Ex. 1.) The same day, Tyler Peebles, a hot walker, told PETA's investigator, in reference to Teardrop, "They're looking at her foot ... assuming something's wrong with her foot." Peebles also told PETA's investigator that Teardrop "ended up with shins," apparently meaning Teardrop suffered from bucked shins. (See Inc. 21, at Ex. 1.)
- Also on June 19, PETA's investigator asked Blasi what was wrong with Teardrop, to which Blasi replied, "It hurts." PETA's investigator asked Blasi what Doc thought was wrong with Teardrop, to which Blasi responded, "Oh, I don't care. He don't know. She—it's definitely her foot, which is nothing you can do about it. Her foot, if it's a deep bruise, it might take her a week to get over it. You know, it might, you know, something might pop out her coronet band in the morning. She might be fine. You just don't know. Feet are so weird." (See Inc. 22, at Ex. 1.) The same day, Blasi told PETA's investigator that when he was at the track that afternoon, he saw that Teardrop was "limping." (See Inc. 23, at Ex. 1.)
- On June 20, PETA's investigator saw that Teardrop was tentative about putting weight on her right front foot when walking. (See Inc. 24, at Ex. 1.) The same day, PETA's investigator saw Dave, a farrier, using a hoof tester on Teardrop's right front foot and suspected that the area on the inside of her frog was tender, as she attempted to move her foot away when Dave applied the hoof tester to this area. (See Inc. 25, at Ex. 1.)
- On June 22, Asmussen and Blasi ran Teardrop in a debutante stakes race at Churchill Downs, in which she finished seventh. (See Record of Race, at Exhibit 5.)
- On June 23, PETA's investigator asked Blasi how Teardrop was doing, to which Blasi responded, "I think the fucking bitch is displacing and getting upset and then freaking out." PETA's investigator suspected Blasi meant that Teardrop had dorsal displacement of the soft palate and was frightened by the condition, which was affecting her running ability. Dorsal

displacement of the soft palate is a common condition in racehorses, whereby the epiglottis (a relatively rigid structure in the back of the throat that helps separate the nasal and oral cavities) becomes positioned above the soft palate, which can make it difficult for a horse to breathe. (See Inc. 26, at Ex. 1.)

- Also on June 23, Peeples told PETA's investigator that Teardrop runs with her head facing toward the right at all times. (See Inc. 27, at Ex. 1.) Peeples also told PETA's investigator that Teardrop got "hit up on" during her last race, explaining that her legs got "a little beat up" and that "her ankle was a little scraped up." Peeples told PETA's investigator, in reference to Teardrop, "She came off the track a little ginger ... not tying up, but she ... was sore. She walked it off a little bit and felt better after she started walking. She looked OK this morning, still a little tender, but she looked rigid coming off the track." (See Inc. 28, at Ex. 1.)

A number of horses "bled" while under the care of Asmussen and Blasi and, despite this fact, were forced to continue to train and race, some within mere days after having bled. PETA's investigator understood that a horse who had "bled" had experienced an exercise-induced pulmonary hemorrhage, which is bleeding in the airways of the lung. Exercise-induced pulmonary hemorrhages can impair lung function and even lead to sudden death in horses, if a pulmonary vessel ruptures internally.<sup>11</sup> The following timeline documents the bleeding incidents:

- On April 30, PETA's investigator heard Blasi state that Primed N Willing had bled.
- On May 9, PETA's investigator saw a sheet of paper dated "5-8-2013," on which horse names had been written, along with what appeared to be comments by a Dr. Reed that indicated that Del Mar Holiday "bled" on May 8. (See Inc. 29, at Ex. 1.)<sup>12</sup>
- On May 15, PETA's investigator saw a sheet of paper dated "5-9-2013," on which horse names had been written, along with what appeared to be comments by a Dr. KPR that indicated that Primed N Willing and Conservative both "bled" on May 9. (See Inc. 30, at Ex. 1.)
- On June 4, PETA's investigator heard Hernandez tell Blasi that Western Sadler had "bled." The same day, PETA's investigator saw a sheet of paper dated "6-4-2013," on which horse names had been written, along with what appeared to be comments by a Dr. Reed that indicated that Western Sadler "bled" on June 4. (See Inc. 31, at Ex. 1.)
- On June 13, PETA's investigator saw a sheet of paper dated "6/9," on which Lemon Drop Dream's name had been written, along with what appeared to be a veterinary comment by a veterinarian at Equine Medicine & Surgery that read "EIPH 2/5," which PETA's investigator suspected meant that Lemon Drop Dream suffered an exercise-induced pulmonary hemorrhage and bled from the lungs on June 9. (See Inc. 32, at Ex. 1.)
- On June 17, PETA's investigator saw a sheet of paper on which horse names had been written, along with what appeared to be comments by a Dr. French—likely referring to Dr. Eric French—that indicated that Special Jo "bled." (See Inc. 33, at Ex. 1.)

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<sup>11</sup>A. Kent Allen, D.V.M., *Pulmonary Hemorrhage and Sudden Death in the Horse*, CENTRAL STATES DRESSAGE & EVENTING ASS'N (2009), available at [http://www.csdea.org/content.aspx?page\\_id=22&club\\_id=659362&module\\_id=63080](http://www.csdea.org/content.aspx?page_id=22&club_id=659362&module_id=63080).

<sup>12</sup>Although the date stamp on this video incorrectly indicates that the video was captured on May 8, the video was actually captured on May 9.

- On June 21, PETA’s investigator saw a sheet of paper dated “6-20-13,” on which horse names had been written, along with what appeared to be comments by a Dr. KPR that indicated that Charlie’s Phantasy “bled” on June 20. (See Inc. 34, at Ex. 1.)
- On June 23, PETA’s investigator saw a sheet of paper dated “6-22-13,” on which horse names had been written, along with what appeared to be comments by a Dr. KPR that indicated that Del Mar Holiday “bled” on June 22. (See Inc. 35, at Ex. 1.)
- On June 29, PETA’s investigator saw a sheet of paper dated “6-28-2013,” on which horse names had been written, along with what appeared to be comments by a Dr. KPR that indicated that Cage Fighter “bled” on June 28. (See Inc. 36, at Ex. 1.)

Asmussen and Blasi also raced several of the Asmussen-trained horses at Churchill Downs, just days after the horses had apparently sustained exercise-induced pulmonary hemorrhages and bled from the lungs. Kentucky thoroughbred racing regulations, however, place restrictions on the use of bleeders in races,<sup>13</sup> and the American Association of Equine Practitioners recommends that a horse be declared ineligible to race for at least 10 days after the first incident of an exercise-induced pulmonary hemorrhage.<sup>14</sup> Horses need at least this long to begin healing, as complete recovery after experiencing an exercise-induced pulmonary hemorrhage may take four to six weeks.<sup>15</sup> Asmussen and Blasi, however, raced horses as few as three to nine days after the horses suffered exercise-induced pulmonary hemorrhages, as the following timeline indicates:

- On April 30, PETA’s investigator heard Blasi state that Primed N Willing had bled that day, which PETA’s investigator understood to mean that this horse experienced an exercise-induced pulmonary hemorrhage. Under Asmussen’s and Blasi’s care, Primed N Willing ran

<sup>13</sup>See 810 KY. ADMIN. REGS. 1:018, Section 18, which provides:

(3) The commission veterinarian shall maintain a bleeder list of all horses that have demonstrated external evidence of exercise-induced pulmonary hemorrhage during or after a race or workout as observed by the commission veterinarian.

(4) Every horse that is a confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

- (a) First incident—fourteen (14) days;
- (b) Second incident within a three hundred sixty-five (365) day period—thirty (30) days;
- (c) Third incident within a three hundred sixty-five (365) day period—one hundred eighty (180) days; and
- (d) Fourth incident within a three hundred sixty-five (365) day period—barred from racing for life. ...

See also 810 KY. ADMIN. REGS. 1:012, which provides in relevant part:

Section 5. Bleeders. (1) A horse that bleeds either during or after a race or workout and is not on bleeder medication may race on bleeder medication at the discretion of the commission veterinarian.

(2)(a) A horse that bleeds while on bleeder medication shall be placed on the veterinarian’s list and shall remain on the list until removed by the commission veterinarian after consultation with the practicing veterinarian.

<sup>14</sup>*Common Injuries and Ailments*, THOROUGHBRED OWNERS & BREEDERS ASS’N, <http://www.toba.org/owner-education/common-injuries-and-ailments.aspx> (last visited Jan. 11, 2014).

<sup>15</sup>*Exercise-Induced Pulmonary Hemorrhage*, EQUIMED (Apr. 15, 2009), <http://equimed.com/diseases-and-conditions/reference/exercise-induced-pulmonary-hemorrhage>.

in a maiden claiming race at Churchill Downs on May 9—only nine days after Primed N Willing apparently bled.

- On May 9, PETA's investigator saw a sheet of paper dated "5-8-2013," on which horse names had been written, along with what appeared to be comments by a Dr. Reed—likely referring to Dr. Ken P. Reed—that indicated that Del Mar Holiday "bled" on May 8. (*See Inc. 37, at Ex. 1.*)<sup>16</sup> Under Asmussen's and Blasi's care, Del Mar Holiday ran in a maiden special weight race at Churchill Downs on May 16—only eight days after Del Mar Holiday apparently bled.
- On June 4, PETA's investigator heard Hernandez tell Blasi that Western Sadler had "bled." The same day, PETA's investigator saw a sheet of paper dated "6-4-2013," on which horse names had been written, along with what appeared to be comments by a Dr. Reed that indicated that Western Sadler "bled" on June 4. (*See Inc. 38, at Ex. 1.*) Under Asmussen's and Blasi's care, Western Sadler ran in an allowance race at Churchill Downs on June 7—only three days after Western Sadler apparently bled.
- On June 21, PETA's investigator saw a sheet of paper dated "6-20-13," on which horse names had been written, along with what appeared to be comments by a Dr. KPR—likely referring to Dr. Ken P. Reed—that indicated that Charlie's Phantasy "bled" on June 20. (*See Inc. 39, at Ex. 1.*) Under Asmussen's and Blasi's care, Charlie's Phantasy ran in a claiming race at Churchill Downs on June 29—only nine days after Charlie's Phantasy apparently bled.

## II. Conclusion

PETA's investigator documented, including on video, that KDE Equine apparently instructed an employee to administer a prescription drug to a horse and that Asmussen and Blasi apparently maintained horses in poor physical condition. Both these things may violate Kentucky's thoroughbred racing regulations.

We respectfully request that your agency immediately investigate Asmussen, Blasi, and KDE Equine. PETA's investigator is available for an interview at your request and will testify to these facts. We are available to assist you in your investigation. I can be contacted at 828-734-3851 or [ElizabethOvercash@peta.org](mailto:ElizabethOvercash@peta.org). Thank you for your time and consideration.

Sincerely,

*Elizabeth Overcash*

Elizabeth Overcash  
Evidence Analyst  
Cruelty Investigations Department

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<sup>16</sup>Although the date stamp on this video incorrectly indicates that the video was captured on May 8, the video was actually captured on May 9.





2013-04-21\_03\_Bottom of Nehro's left front hoof 1\_IMG\_0037



2013-04-21\_05\_Bottom of Nehro's right front hoof 1\_IMG\_0039



2013-04-21\_07\_Bottom of Nehro's left front hoof 2\_IMG\_0041



2013-04-21\_08\_Bottom of Nehro's right front hoof 2\_IMG\_0042



2013-04-21\_12\_Filler in Nehro's hooves\_IMG\_0046

# LATEST WORKOUTS

April 23, 2013

## CHURCHILL DOWNS (Dirt) Track Fast

|                         |        |              |                    |        |                 |                 |        |                 |                        |         |                  |                    |         |   |
|-------------------------|--------|--------------|--------------------|--------|-----------------|-----------------|--------|-----------------|------------------------|---------|------------------|--------------------|---------|---|
| <u>(Three Furlongs)</u> |        | Broken Spell | :50.40             | B      | Little Face     | :49.60          | B      | Summon the Rain | :49.80                 | B       | Lemon Drop Dream | 1:04.00            | B       |   |
| Cue E Dee               | :39.00 | B            | City Alert         | :52.00 | B               | Looking Cool    | :49.80 | B               | Sweet Kate             | :49.60  | B                | Mind Me Boys       | 1:01.40 | B |
| Estonia                 | :39.60 | B            | Clear the Clover   | :53.00 | B               | Lori's Store    | :49.60 | B               | Vespato                | :52.80  | B                | Nubin Ridge        | 1:01.40 | B |
| Miss Nightinger         | :37.20 | B            | Common Ground      | :49.40 | B               | Lunar Red       | :49.80 | B               | <u>(Five Furlongs)</u> |         |                  |                    |         |   |
| Play                    | :38.60 | B            | Courting Jennifer  | :50.20 | B               | Mico Margarita  | :51.80 | B               | Arrived Home           | 1:04.60 | B                | Recalling Memories | 1:01.20 | B |
| Rightous Party          | :37.80 | B            | Courtmaster        | :52.20 | B               | •Miracle Run    | :48.00 | B               | Brown Eyes Blue        | 1:02.40 | B                | River Boss         | 1:02.20 | B |
| •Swift Artist           | :36.48 | B            | Determined Yankee  | :52.00 | B               | Nehro           | :52.40 | B               | C P Hath a Way         | 1:02.60 | B                | Screamin Mushroom  | 1:06.60 | B |
| Unbroken Circle         | :37.80 | B            | Dillinger          | :52.00 | B               | Neith           | :48.20 | B               | Chasenthegold          | 1:06.60 | B                | Sky River          | 1:03.80 | B |
| Vinnie                  | :39.00 | B            | Don't Tell Veda    | :48.80 | B               | Pajama Bottom   | :51.00 | B               | Clobber                | 1:02.60 | B                | Spurgess           | 1:03.40 | B |
| Well Lawyered           | :37.80 | B            | Elusive Act        | :49.60 | B               | Rock Art        | :51.80 | B               | Dehere On Tour         | 1:03.80 | B                | Stage Street       | 1:04.00 | B |
| <u>(Four Furlongs)</u>  |        | Fariake      | :50.60             | B      | Runs With Bulls | :49.40          | B      | Dixie Babe      | 1:02.20                | B       | Teller Terri     | 1:03.80            | B       |   |
| Arberville              | :50.20 | B            | Fort Lamed         | :48.80 | B               | Ruthless Empire | :50.00 | B               | Don't Be Mad           | 1:01.40 | B                | •To the Stars      | 1:01.60 | B |
| Archetype               | :49.60 | B            | •Gold Medal Dancer | :48.00 | B               | Sabercat        | :51.20 | B               | Doublefour             | 1:05.40 | B                |                    |         |   |
| Bellodini               | :49.80 | B            | Lady Stonewall     | :48.60 | B               | •Shadow Warrior | :48.00 | B               | Fiddler Blue           | 1:02.00 | B                |                    |         |   |
| Betweenhereandcool      | :51.40 | B            | Lafite             | :52.00 | B               | Sir Bond        | :51.60 | B               | Fiscal Fitness         | 1:02.00 | B                |                    |         |   |
| Brassy and Proud        | :50.60 | B            |                    |        |                 |                 |        | Grand Music     | 1:04.00                | BG      |                  |                    |         |   |
| Bridgetown              | :48.60 | B            |                    |        |                 |                 |        |                 |                        |         |                  |                    |         |   |

April 23, 2013

## CHURCHILL DOWNS (Turf) Track Firm

|                         |        |                        |                       |         |         |               |         |      |
|-------------------------|--------|------------------------|-----------------------|---------|---------|---------------|---------|------|
| <u>(Three Furlongs)</u> |        | <u>(Five Furlongs)</u> |                       | Miz Ida | 1:14.60 | B(D)          |         |      |
| Positively              | :37.20 | B(D)                   | Ocean Berle           | 1:03.00 | B(D)    | The Pizza Man | 1:16.60 | B(D) |
| <u>(Four Furlongs)</u>  |        | Privata Ensign         | 1:02.80               | B(D)    |         |               |         |      |
| Beijoca                 | :52.00 | B(D)                   | Southern Dude         | 1:01.60 | B(D)    |               |         |      |
| Good Deed               | :48.00 | B(D)                   | <u>(Six Furlongs)</u> |         |         |               |         |      |
| Temeraine               | :48.80 | B(D)                   | Kaminari              | 1:15.40 | B(D)    |               |         |      |

# LATEST WORKOUTS

April 30, 2013

## CHURCHILL DOWNS (Dirt) Track Fast

| (Three Furlongs)  |        |   |
|-------------------|--------|---|
| Assets of War     | :37.20 | B |
| Broken Spell      | :35.80 | B |
| Picturesque       | :36.60 | B |
| The Right Bird    | :36.60 | B |
| (Four Furlongs)   |        |   |
| Ali Maccool       | :49.80 | B |
| Bellodini         | :49.80 | B |
| Boss Bamey's Babe | :49.80 | B |
| Defoe Street      | :48.40 | B |
| Distinct Affair   | :50.00 | B |
| Dixie Babe        | :50.60 | B |

|                  |        |    |
|------------------|--------|----|
| Don't Be Mad     | :49.60 | B  |
| Don't Tell Veda  | :49.60 | B  |
| Dream of Bertie  | :48.00 | B  |
| Fanfare          | :47.40 | B  |
| I'm Already Sexy | :49.40 | B  |
| Just the Tap     | :50.80 | BG |
| Lafitte          | :49.80 | B  |
| Little Face      | :48.80 | B  |
| Nub'n Ridge      | :48.60 | B  |
| Primed N Willing | :50.00 | BG |

| Teardrop           | :50.00   | BG |
|--------------------|----------|----|
| The Program        | :50.20   | B  |
| Velvet Cap         | :48.60   | B  |
| Winter's Fury      | :48.00   | B  |
| Zantastical        | :50.80   | BG |
| (Five Furlongs)    |          |    |
| Archetype          | :1:02.00 | B  |
| Betweenhereandcool | :1:02.00 | B  |
| Bronterre (GB)     | :1:02.00 | B  |
| Cairo Six          | :1:00.00 | B  |
| Doublefour         | :1:03.60 | B  |

|                  |          |   |
|------------------|----------|---|
| Duke of Del Rey  | :1:01.60 | B |
| Get Real         | :1:02.40 | B |
| Joyful Victory   | :1:01.00 | B |
| L'Air Du Temps   | :1:01.60 | B |
| Lemon Drop Dream | :1:03.20 | B |
| Linchpin         | :1:00.20 | B |
| Mico Margarita   | :1:02.00 | B |
| Miracle Run      | :1:01.40 | B |
| Moonwalk         | :1:00.80 | B |
| Nehro            | :1:02.60 | B |

|                  |          |   |
|------------------|----------|---|
| For Que          | :1:02.20 | B |
| Rock Art         | :1:02.60 | B |
| Sabercat         | :1:02.60 | B |
| Short Story Long | :1:03.60 | B |
| Sir Bond         | :1:03.20 | B |
| Smart Dancer     | :1:02.60 | B |
| Stage Street     | :1:01.60 | B |

April 30, 2013

## CHURCHILL DOWNS (Turf) Track Firm

| (Three Furlongs) |        |      |
|------------------|--------|------|
| Icon Ike         | :35.60 | B(D) |
| (Four Furlongs)  |        |      |
| Cactus Son       | :50.80 | B(D) |
| Crazy Lucky      | :49.00 | B(D) |
| Marketing Mix    | :51.00 | B(D) |

|                |        |      |
|----------------|--------|------|
| Point of Entry | :50.40 | B(D) |
| Prado Cat      | :49.00 | B(D) |
| Private Ensign | :51.60 | B(D) |
| Southern Dude  | :47.60 | B(D) |

| (Five Furlongs) |          |      |
|-----------------|----------|------|
| Beijoca         | :1:02.00 | B(D) |
| Common Bond     | :1:04.40 | B(D) |
| Crystal Moment  | :1:03.40 | B(D) |
| Daddy Nose Best | :1:03.40 | B(D) |

|                |          |      |
|----------------|----------|------|
| Tenforthemoney | :1:04.20 | B(D) |
| The Pizza Man  | :1:01.80 | B(D) |

April 29, 2013

## CHURCHILL DOWNS (Dirt) Track Fast

| (Three Furlongs)  |        |    |
|-------------------|--------|----|
| Bahnah            | :36.00 | B  |
| Cool Street       | :37.20 | B  |
| Flat in Charge    | :36.80 | B  |
| Gold Medal Dancer | :37.00 | B  |
| Gospel Lesson     | :36.60 | B  |
| Gruenewald        | :38.20 | B  |
| Kenrado           | :37.40 | B  |
| Marine Patrol     | :37.60 | B  |
| Me Commanche      | :39.00 | B  |
| Parktown          | :38.00 | B  |
| She's On Parade   | :37.20 | B  |
| Sheered           | :37.60 | B  |
| Simply Smooth     | :37.80 | BG |
| Temeraine         | :37.00 | B  |
| Will's Wildcat    | :36.80 | B  |
| (Four Furlongs)   |        |    |
| Anahauc           | :49.60 | B  |
| Awesome Bet       | :50.40 | B  |
| Awesome Story     | :49.80 | B  |
| Central Banker    | :50.00 | B  |

|                    |        |    |
|--------------------|--------|----|
| Channel Isle       | :52.60 | B  |
| Claude Monet       | :50.40 | B  |
| Coastal Moon       | :49.60 | B  |
| Common Ground      | :51.00 | B  |
| Conquest Outlaw    | :49.60 | B  |
| Cue E Dea          | :49.20 | B  |
| Dreaming Blue      | :48.80 | B  |
| Fine Linen         | :50.40 | B  |
| Flashy Sunrise     | :50.60 | B  |
| Forgiveness        | :49.80 | BG |
| Fusa Code          | :49.60 | B  |
| Gun Roar           | :49.00 | B  |
| Hero Force         | :49.60 | B  |
| Honchi's'n Ponchis | :49.80 | B  |
| King of Broadway   | :47.20 | B  |
| Laurie's Rocket    | :47.60 | B  |
| Lew and Mike       | :48.60 | B  |
| Limonta            | :47.60 | B  |
| Macho Macho        | :50.00 | B  |

|                  |        |   |
|------------------|--------|---|
| Madly Truly      | :48.60 | B |
| Marchman         | :52.40 | B |
| Mister Lucky Cat | :47.20 | B |
| Mr. Prankster    | :51.40 | B |
| Orb              | :47.60 | B |
| Overwhelming     | :48.60 | B |
| Pass the Dice    | :48.00 | B |
| Pass the Pico    | :50.60 | B |
| Quiet Hour       | :49.60 | B |
| Red Rifle        | :48.40 | B |
| Restricted List  | :53.20 | B |
| Seaneen Girl     | :48.80 | B |
| Sugar Marie      | :49.80 | B |
| Swift Artist     | :51.20 | B |
| Tiz May West     | :49.00 | B |
| Treasure Forever | :49.40 | B |
| Unbridled's Note | :49.80 | B |
| Winning Cause    | :48.20 | B |
| Wolf Whistle     | :49.60 | B |

| (Five Furlongs)    |          |    |
|--------------------|----------|----|
| Z Dager            | :52.60   | B  |
| Au Moon            | :1:01.20 | B  |
| Bridgetown         | :1:00.60 | B  |
| Class Included     | :1:01.40 | B  |
| Doctor Peter       | :1:00.60 | B  |
| Dream Man          | :1:02.80 | B  |
| Farlake            | :1:02.80 | B  |
| Fiddler Blue       | :1:01.40 | B  |
| Finesse            | :1:01.40 | B  |
| Finn's Quest       | :1:03.40 | B  |
| Guy's Reward       | :1:00.40 | B  |
| Hard Aces          | :1:00.80 | B  |
| Inis Orr           | :1:06.60 | B  |
| Julliamarie        | :1:02.20 | B  |
| King Kid           | :1:00.40 | B  |
| Lil Missy          | :1:03.80 | BG |
| Long to Win        | :1:01.60 | B  |
| Looking Cool       | :1:02.00 | B  |
| Look'n Mighty Fast | :1:00.80 | B  |

|                    |          |   |
|--------------------|----------|---|
| Mind Me Boys       | :1:00.80 | B |
| Mucho Macho Uno    | :1:04.00 | B |
| My Friend Jimmy    | :1:02.40 | B |
| Niemi Says No      | :1:05.60 | B |
| Optimizer          | :1:00.20 | B |
| Oxbow              | :59.80   | B |
| Piceance           | :1:02.20 | B |
| Prime Cut          | :1:00.80 | B |
| Python             | :1:01.40 | B |
| Same Cross         | :1:01.60 | B |
| Soonerette         | :1:01.20 | B |
| Special Jo         | :1:02.40 | B |
| Summit County      | :1:01.40 | B |
| To the Stars       | :1:00.60 | B |
| Unanimous Decision | :1:02.20 | B |
| Vespato            | :1:03.00 | B |
| Will Take Charge   | :1:01.00 | B |

April 28, 2013

## CHURCHILL DOWNS (Dirt) Track Fast

| (Three Furlongs) |        |   |
|------------------|--------|---|
| Miss Venezuela   | :37.80 | B |
| Sweets N Treats  | :39.20 | B |
| (Four Furlongs)  |        |   |
| Captain Davrick  | :47.20 | B |
| Close Hatches    | :47.40 | B |
| Downlowncarbrown | :48.00 | B |
| Fed Biz          | :47.40 | B |
| Fiftyshadesofhay | :47.80 | B |

|                |        |    |
|----------------|--------|----|
| Irish Lute     | :50.40 | B  |
| Paid Vacation  | :49.00 | B  |
| Redgrass Cat   | :51.20 | BG |
| River Rocks    | :51.20 | B  |
| Rusla          | :49.80 | B  |
| Seal Beach     | :47.60 | B  |
| Sheila Tequila | :52.20 | B  |

| Sir Celtic Express | :50.00   | B  |
|--------------------|----------|----|
| Suns Out Guns Out  | :49.40   | B  |
| Twin Engine        | :47.60   | B  |
| Unreachable Star   | :47.80   | B  |
| Yes It's a Fact    | :51.20   | BG |
| (Five Furlongs)    |          |    |
| Believe You Can    | :1:00.60 | B  |
| Brooks Beach       | :1:02.40 | B  |

|                   |          |   |
|-------------------|----------|---|
| Code West         | :1:00.40 | B |
| Dancingintheircle | :58.80   | B |
| Expand the Moment | :1:00.80 | B |
| Grand Dame        | :1:01.60 | B |
| Happy Holidays    | :1:02.40 | B |
| Harrods Creek     | :1:00.20 | B |
| Little Jimmy      | :1:01.20 | B |

|                |          |   |
|----------------|----------|---|
| Matamoros      | :1:02.40 | B |
| Midnight Lucky | :59.60   | B |
| Silver Max     | :55.40   | B |
| Slan Abhaile   | :59.20   | B |
| Town Tour      | :1:00.60 | B |
| Tyler T        | :1:01.00 | B |

April 28, 2013

## CHURCHILL DOWNS (Dirt) Track Good

| (Three Furlongs)  |        |    |
|-------------------|--------|----|
| Almost Famous     | :37.40 | B  |
| Brazen Persuasion | :38.40 | B  |
| Deal I'm In       | :36.80 | B  |
| Duval             | :38.40 | B  |
| It's too Easy     | :39.60 | B  |
| Key to Power      | :39.00 | B  |
| No Cross No Crown | :39.60 | B  |
| Take Charge Indy  | :35.60 | B  |
| Tectum            | :39.60 | B  |
| Virage            | :38.00 | B  |
| (Four Furlongs)   |        |    |
| Air Support       | :50.20 | B  |
| Another Affeat    | :50.60 | BG |
| Apropos           | :48.40 | B  |
| Bluegrass Belle   | :49.60 | B  |

|                    |        |    |
|--------------------|--------|----|
| Cape Glory         | :51.80 | B  |
| Conquest Crusader  | :49.40 | B  |
| D'cajun Cat        | :50.80 | B  |
| Dillinger          | :49.80 | B  |
| Dontgothere        | :50.60 | BG |
| Electric Temptress | :47.80 | BG |
| Faimesse           | :49.20 | B  |
| Flattermejim       | :48.60 | B  |
| Interest Free      | :49.60 | B  |
| Itsabeautifulting  | :50.20 | B  |
| Lady Spencer       | :48.60 | B  |
| More Than Beauty   | :47.40 | BG |
| Mr Blackthorn      | :48.20 | B  |
| Night Seeker       | :49.40 | B  |

| Old Brownsboro     | :52.20   | B |
|--------------------|----------|---|
| Order of Magnitude | :49.20   | B |
| Ready Express      | :49.40   | B |
| Rothko             | :50.40   | B |
| Sanctissima        | :48.40   | B |
| Sand Creek Mesa    | :51.20   | B |
| Seven Lively Sins  | :48.60   | B |
| Soft Whlspier      | :46.80   | B |
| Southern Blessing  | :50.80   | B |
| Speedinthethecity  | :50.60   | B |
| Spring Action      | :48.40   | B |
| Wildie             | :49.00   | B |
| (Five Furlongs)    |          |   |
| Ambusher           | :1:01.20 | B |
| Another Gear       | :1:01.60 | B |

|                   |          |   |
|-------------------|----------|---|
| Barksdale         | :1:03.80 | B |
| Bird County       | :1:01.80 | B |
| Cactus Cognac     | :1:01.80 | B |
| Capetown Rebel    | :1:02.20 | B |
| Cherokee Beads    | :1:02.40 | B |
| Delightful Empire | :1:02.40 | B |
| Downey Gap        | :1:01.60 | B |
| Dueling Oaks      | :1:01.60 | B |
| Friendly Dancer   | :1:02.60 | B |
| Hardtap           | :1:01.00 | B |
| Honey Hues        | :1:01.60 | B |
| Kitty Kat Karly   | :1:03.80 | B |
| Larissa's Love    | :1:01.20 | B |
| Love Dove         | :1:01.60 | B |

|                    |          |   |
|--------------------|----------|---|
| Malibu High        | :1:01.00 | B |
| Masaru             | :1:01.00 | B |
| One King's Man     | :1:01.20 | B |
| Pontchartrain      | :1:02.60 | B |
| Quitin Time        | :1:01.20 | B |
| Ricks F Sixteen    | :1:03.00 | B |
| Sammy's Bandit     | :1:00.60 | B |
| Seton Hall         | :1:01.20 | B |
| Thunder's Rollin'  | :1:01.80 | B |
| Tragedy's Triumph  | :1:02.20 | B |
| Transylvania Flash | :1:01.60 | B |

**CHURCHILL DOWNS - June 22, 2013 - Race 7**  
**STAKES Debutante S. - For Thoroughbred Two Year Old Fillies**  
**Six Furlongs On The Dirt Track Record: (Indian Chant - 1:07.55 - July 8, 2007)**

**EQUIBASE**  
 COMPANY

**Purse: \$100,000 Added**  
**Available Money: \$113,400**  
**Value of Race: \$113,400 1st \$66,090, 2nd \$21,320, 3rd \$10,660, 4th \$5,329, 5th \$3,197, 6th \$1,134, 7th \$1,134, 8th \$1,134, 9th \$1,134, 10th \$1,134, 11th \$1,134**

 **Video Race Replay**

**Weather: Cloudy Track: Fast**  
**Off at: 9:05 Start: Good for all except 2,3**

| Last Raced                            | Pgm | Horse Name (Jockey)                     | Wgt | M/E | PP | Start | 1/4                | 1/2                 | Str                 | Fin                  | Odds  | Comments                |
|---------------------------------------|-----|---|-----|-----|----|-------|--------------------|---------------------|---------------------|----------------------|-------|-------------------------|
| 24May13 <sup>1</sup> LS <sup>1</sup>  | 10  | Fiftyshadesofgold (Lanerle, Corey)      | 120 | L   | 10 | 4     | 1 <sup>1/2</sup>   | 2 <sup>6</sup>      | 1 <sup>3</sup> 1/2  | 1 <sup>8</sup>       | 1.30* | vied 3 wide, drew off   |
| 9May13 <sup>3</sup> CD <sup>1</sup>   | 7   | More Than Beauty (Borel, Calvin)        | 120 | L   | 7  | 3     | 2 <sup>1/2</sup>   | 1 <sup>1/2</sup>    | 2 <sup>8</sup>      | 2 <sup>5</sup>       | 4.30  | rail skimming, no match |
| 16May13 <sup>4</sup> CD <sup>1</sup>  | 9   | Del Mar Holiday (Santana, Jr., Ricardo) | 120 | L   | 9  | 6     | 7 <sup>2</sup>     | 4 <sup>2</sup>      | 3 <sup>1</sup> 1/2  | 3 <sup>Nose</sup>    | 24.30 | bid 5w, all out for 3rd |
| 25May13 <sup>1</sup> LS <sup>1</sup>  | 2   | Silver Valley (Bridgmohan, Shaun)       | 120 | L   | 2  | 11    | 8 <sup>1</sup>     | 7 <sup>1/2</sup>    | 4 <sup>1</sup>      | 4 <sup>6</sup> 1/4   | 20.50 | off slow, bumped        |
| 14May13 <sup>2</sup> WRD <sup>1</sup> | 4   | Yokohama Mama (Mena, Miguel)            | 120 | L   | 4  | 10    | 11                 | 10 <sup>1</sup> 1/2 | 6 <sup>3</sup>      | 5 <sup>2</sup> 3/4   | 48.80 | well back, improved     |
| 8Jun13 <sup>1</sup> IND <sup>1</sup>  | 6   | Deliver (Torres, Marcelino)             | 120 | L   | 6  | 2     | 6 <sup>Head</sup>  | 6 <sup>1/2</sup>    | 6 <sup>2</sup> 1/2  | 6 <sup>3</sup> 1/4   | 49.40 | contended 4 w, tired    |
| 23May13 <sup>3</sup> CD <sup>1</sup>  | 8   | Teardrop (Napravnik, Rosie)             | 120 | L   | 8  | 8     | 3 <sup>1</sup>     | 3 <sup>1/2</sup>    | 5 <sup>1</sup> 1/2  | 7 <sup>5</sup>       | 1.70  | steadied 7/16, drifted  |
| 12May13 <sup>8</sup> PIM <sup>1</sup> | 5   | Medalbu (Schneider, Joseph)             | 120 |     | 5  | 9     | 10 <sup>5</sup>    | 9 <sup>4</sup>      | 10 <sup>5</sup> 1/2 | 8 <sup>1</sup> 1/4   | 33.20 | passed tiring rivals    |
| 1Jun13 <sup>1</sup> MTH <sup>1</sup>  | 11  | Sara Bay (Hernandez, Jr., Brian)        | 120 | L   | 11 | 7     | 4 <sup>1</sup> 1/2 | 5 <sup>1</sup>      | 7 <sup>1/2</sup>    | 9 <sup>1</sup> 1/4   | 39.30 | awkward stride, faded   |
| 4Jun13 <sup>4</sup> MNR <sup>1</sup>  | 1   | Mi Perita (Pedroza, Marcelino)          | 120 | L   | 1  | 1     | 5 <sup>1</sup> 1/2 | 8 <sup>2</sup> 1/2  | 9 <sup>Head</sup>   | 10 <sup>12</sup> 3/4 | 66.60 | close up, through early |
| 25May13 <sup>2</sup> AP <sup>1</sup>  | 3   | Richies Sweetheart (Rocco, Jr., Joseph) | 120 | L   | 3  | 5     | 9 <sup>Head</sup>  | 11                  | 11                  | 11                   | 34.90 | bumped start, empty     |

**Fractional Times: 21.37 45.14 57.39 Final Time: 1:10.63**

**Split Times: (23:77) (12:25) (13:24)**

**Run-Up: 180 feet**

**Winner: Fiftyshadesofgold, Gray or Roan Filly, by My Golden Song out of Hadif Cat, by Hadif. Foaled Mar 02, 2011 in Texas.**  
**Breeder: Clarence Scharbauer, Jr. Winning Owner: Clarence Scharbauer, Jr.**

**Total WPS Pool: \$291,311**

| Pgm | Horse             | Win  | Place | Show | Wager Type          | Winning Numbers      | Payoff   | Pool    |
|-----|-------------------|------|-------|------|---------------------|----------------------|----------|---------|
| 10  | Fiftyshadesofgold | 4.60 | 3.20  | 3.00 | \$2.00 Exacta       | 10-7                 | 20.40    | 176,786 |
| 7   | More Than Beauty  |      | 4.00  | 3.80 | \$2.00 Trifecta     | 10-7-9               | 141.80   | 127,475 |
| 9   | Del Mar Holiday   |      |       | 6.60 | \$2.00 Superfecta   | 10-7-9-2             | 856.60   | 75,703  |
|     |                   |      |       |      | \$2.00 Daily Double | 3-10                 | 26.00    | 18,447  |
|     |                   |      |       |      | \$2.00 Pick 3       | 8-3-10 (3 correct)   | 279.00   | 34,965  |
|     |                   |      |       |      | \$2.00 Pick 4       | 7-8-3-10 (4 correct) | 3,442.20 | 63,656  |

**Past Performance Running Line Preview**

| Pgm | Horse Name         | Start | 1/4                  | 1/2                  | Str                  | Fin                  |
|-----|--------------------|-------|----------------------|----------------------|----------------------|----------------------|
| 10  | Fiftyshadesofgold  | 4     | 1 <sup>1/2</sup>     | 2 <sup>1/2</sup>     | 1 <sup>3</sup> 1/2   | 1 <sup>8</sup>       |
| 7   | More Than Beauty   | 3     | 2 <sup>1/2</sup>     | 1 <sup>1/2</sup>     | 2 <sup>3</sup> 1/2   | 2 <sup>8</sup>       |
| 9   | Del Mar Holiday    | 6     | 7 <sup>5</sup>       | 4 <sup>7</sup>       | 3 <sup>11</sup> 1/2  | 3 <sup>13</sup>      |
| 2   | Silver Valley      | 11    | 8 <sup>7</sup>       | 7 <sup>10</sup> 1/2  | 4 <sup>13</sup>      | 4 <sup>13</sup>      |
| 4   | Yokohama Mama      | 10    | 11 <sup>13</sup> 1/4 | 10 <sup>17</sup> 1/2 | 8 <sup>18</sup> 1/2  | 5 <sup>19</sup> 1/4  |
| 6   | Deliver            | 2     | 6 <sup>5</sup>       | 6 <sup>10</sup>      | 6 <sup>15</sup> 1/2  | 6 <sup>22</sup>      |
| 8   | Teardrop           | 8     | 3 <sup>1</sup>       | 3 <sup>6</sup> 1/2   | 5 <sup>14</sup>      | 7 <sup>25</sup> 1/4  |
| 5   | Medalbu            | 9     | 10 <sup>8</sup> 1/4  | 9 <sup>13</sup> 1/2  | 10 <sup>21</sup> 1/2 | 8 <sup>30</sup> 1/4  |
| 11  | Sara Bay           | 7     | 4 <sup>2</sup>       | 5 <sup>8</sup>       | 7 <sup>18</sup>      | 9 <sup>31</sup> 1/2  |
| 1   | Mi Perita          | 1     | 5 <sup>3</sup> 1/2   | 8 <sup>11</sup>      | 9 <sup>21</sup> 1/2  | 10 <sup>32</sup> 3/4 |
| 3   | Richies Sweetheart | 5     | 9 <sup>8</sup>       | 11 <sup>19</sup>     | 11 <sup>28</sup>     | 11 <sup>45</sup> 1/2 |

**Trainers:** 10 - Calhoun, W.; 7 - Borel, Cecil; 9 - Asmussen, Steven; 2 - Moquett, Ron; 4 - Morse, Randy; 6 - Short, Tommy; 8 - Asmussen, Steven; 5 - Meyer, Joseph; 11 - Aristone, Philip; 1 - Castaneda, Marco; 3 - Rivelli, Larry

**Owners:** 10 - Clarence Scharbauer, Jr.; 7 - Clifford J. Grum; 9 - Robison, J. Kirk and Judy; 2 - Bowman Racing LLC; 4 - Amos Thoroughbreds LLC and DMH Thoroughbreds LLC; 6 - Short, Tommy C. and Simcoe, William; 8 - Winchell Thoroughbreds LLC; 5 - Meyer, Joseph A. and Ryan; 11 - Glenview Farm and Bandy, Chris; 1 - Israel Acevedo; 3 - Ravin, Richard, Patricia's Hope LLC and Rivelli, Larry;

**Footnotes**

FIFTYSHADESOFGOLD vied for the lead three wide, shook clear entering the stretch and drew away. MORE THAN BEAUTY set the pressured pace in rail skimming fashion, was unable to match strides with the winner but stayed on to clearly prove the best of the rest. DEL MAR HOLIDAY was allowed to settle, looped up five wide to make a mild bid entering the stretch, failed to seriously menace the top two then was all out to just earn the show. SILVER VALLEY broke slow and was bumped, tucked in to save ground, advanced between horses, came three wide and moved into striking distance but went evenly late. YOKOHAMA MAMA was slow into stride, lagged well back, came four wide and improved position between horses. DELIVER contended between horses four wide to the stretch and wilted. TEARDROP disputed the pace between horses, steadied entering the turn while attempting to drift out, dropped off of the leaders and floated out four wide on the turn, came up empty before going a half, continued to drift outwardly through the lane and retreated. MEDALBU passed the tiring ones. SARA BAY was close up four wide, took an awkward stride or two midway through the turn and gave way readily thereafter. MI PERLITA was forwardly placed along the inside but was through early. RICHIES SWEETHEART bumped with SILVER VALLEY at the start and was never a factor.

**KEENELAND**  3rd Place horse sold through Keeneland Association, Inc.



C



March 18, 2014

Donald Robinson, Assistant Director  
Margaret Brosko, Senior Manager  
Louisville Metro Animal Services  
3705 Manslick Rd.  
Louisville, KY 40215

Re: Cruelty to Horses at Churchill Downs: Request for Investigation

Dear Mr. Robinson and Ms. Brosko:

This is to request that your agency investigate Steve Asmussen; his assistant trainer Scott Blasi; KDE Equine, LLC, doing business as Steve Asmussen Racing Stables ("KDE Equine"), a horse training and racing business of which Asmussen is president; trainer D. Wayne Lukas; jockey Gary Stevens; jockey Calvin Borel; jockey Ricardo Santana Jr.; and events that occurred at Churchill Downs, a horse racetrack located at 700 Central Ave., Louisville, KY 40208, for cruelty to animals and, as appropriate, bring criminal charges against them.

Between April and July 2013,<sup>1</sup> a PETA undercover investigator documented, including on video, that trainers Asmussen and Blasi forced injured and/or suffering horses to train and/or race and "blistered" horses' legs with a caustic chemical, while trainer Lukas, jockey Stevens, jockey Borel, and jockey Santana reportedly electrically shocked horses in attempts to increase their performance on a racetrack. (See "KDE Equine: Investigative Footage for Law-Enforcement Officials" DVD, at Exhibit 1, and "KDE Equine: Investigative Photographs for Law-Enforcement Officials" CD, at Exhibit 2.)

All this appears to violate Kentucky's prohibition against cruelty to animals, KY. REV. STAT. ANN. § 525.130, and/or Louisville's animal-protection ordinances, LOUISVILLE-JEFFERSON CNTY., KY., CODE ch. 91. PETA's investigator is available at your request and will attest to the accuracy of the facts set out below.

**I. Trainers Asmussen and Blasi Intentionally or Wantonly Subjected Horses to Cruel or Injurious Mistreatment and Mutilated Horses in Apparent Violation of KY. REV. STAT. ANN. § 525.130**

**A. KY. REV. STAT. ANN. § 525.130: Cruelty to animals in the second degree; exemptions<sup>2</sup>**

<sup>1</sup>All dates herein, unless otherwise noted, are in 2013.

<sup>2</sup>The facts listed hereunder, if determined not to be intentional or wanton, could also be investigated as violations of LOUISVILLE-JEFFERSON CNTY., KY., CODE § 91.094(A), which provides, "No person shall neglect, beat, cruelly ill-treat or torment any animal .... For the purpose of this section, neglect, cruel, ill-treatment and torment of an animal shall constitute cruelty as defined in § 91.001, and further defined as a failure by a person to adhere to the requirements and provisions of § 91.090."

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KY. REV. STAT. ANN. § 525.130(1) provides, “A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly: (a) Subjects any animal to or causes cruel or injurious mistreatment through ... mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means ....”<sup>3</sup>

KY. REV. STAT. ANN. § 500.080(12) defines “person” as “a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.”

Pursuant to KY. REV. STAT. ANN. § 501.020, a “person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause that result or to engage in that conduct,” and a “person acts wantonly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.”

As the Kentucky Crime Commission commented, the statute does not include a definition of cruelty because a “common sense” understanding of the meaning was preferred.<sup>4</sup> A 1958 opinion from the Kentucky attorney general held that a contest that involves overloading or overdriving horses in order to test their strength would be an unnecessary and cruel use of animals and would violate the cruelty statute.<sup>5</sup> Horse racing is just that—a contest to test the horses’ strength, seen in their speed on the racetrack—and the horses noted below were seemingly overdriven in a cruel and unnecessary manner that violates this statute.

## **B. Trainers Asmussen and Blasi Forced Injured and/or Suffering Horses to Train and/or Race**

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LOUISVILLE-JEFFERSON CNTY., KY., CODE § 91.001 defines “animal” as “[a]ny non-human living creature, domestic or wild, excluding fish, insects, and eggs” and “cruelty” as “creating or allowing unhealthful living conditions, infliction of suffering, injury, or death to an animal by striking, beating, dropping, kicking, dragging, choking, or by the use of an object or weapon; causing pain, injury, or death by means of caustic, flammable, boiling, or heated substances ....”

LOUISVILLE-JEFFERSON CNTY., KY., CODE § 91.090(A) provides, “No owner shall fail to provide his/her animal with ... humane care and treatment. ...”

<sup>3</sup>KY. REV. STAT. ANN. § 525.130(2)(e) provides, “Nothing in this section shall apply to the killing of animals .... For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows ....” None of the conduct set forth herein describes “killings,” and thus, the acts are not exempt from prosecution. Even if the conduct was construed to fall within the term “killings,” it was the result of cruel or injurious mistreatment, rather than legal and widely accepted practices, such as euthanasia for humane purposes, that the exemption encompasses.

<sup>4</sup>KY. REV. STAT. ANN. § 525.130, Editor’s Notes, Kentucky Crime Commission/LRC Commentary (1974).

<sup>5</sup>Opinion of the Kentucky Attorney General, Op. Ky. Att’y Gen. 42222 (1958).

Numerous Asmussen-trained horses suffered from cracked and broken hooves, chipped bones, ulcers, internal bleeding, and/or joint dysfunction, among other injuries. Asmussen and Blasi acknowledged the poor physical conditions of various horses on numerous occasions yet continued to force these horses to train or even race in these conditions, causing the horses pain and suffering and, in some cases, even worsening the horses' conditions, as follows.

**Nehro:** Nehro was a 5-year-old horse owned by Zayat Stables, LLC, and trained by Asmussen. Nehro began racing in 2010 and placed second in the 2011 Kentucky Derby, but his performance in 2013 suggested that overexertion and stress from constant training and racing had taken a toll on his health since he finished fifth in his last race, held on April 13, 2013, at Oaklawn Park in Hot Springs, Ark. Trainers Asmussen and Blasi subjected Nehro to cruel or injurious mistreatment by forcing him to continue training—making him run timed workouts on April 23 and April 30—even *after* PETA's investigator had heard Blasi acknowledge Nehro's poor physical condition, as detailed below. Based on the poor condition of his feet, an expert has confirmed that he was experiencing "severe pain" and suffering and "should have been given strict pasture rest for months—possibly for a year—to permit the healing of his multiple lamenesses," rather than being forced to run in his condition, as detailed in the following timeline of events:

- On April 17, PETA's investigator noticed a considerable amount of filler—used to fill in cracks or holes—on Nehro's front hooves. (*See Inc. 1, at Ex. 1.*) The same day, PETA's investigator heard Jamie Hernandez (also known as "Jamie Radosevich"), an exercise rider, state that Nehro had "very bad feet" and a farrier, named Dave,<sup>6</sup> state that Nehro did not even have a pulse in the right front leg and only "barely" had one in the left front leg. PETA's investigator heard Dave state that Nehro's foot was just "a little bitty nub" and "all broke off" and that Nehro had lost z-bar horseshoes (generally used in therapeutic shoeing for treating hoof problems such as lameness and cracks) on both feet multiple times, "until he had bloody holes in the bottom of his feet." PETA's investigator heard Hernandez respond, "He really did. At Fair Grounds, every week." (*See Inc. 2, at Ex. 1.*)
- Also on April 17, PETA's investigator saw Dave point out a hole in Nehro's left front foot to Blasi, stating, "Yeah ... poked a hole right in that sore right there." PETA's investigator saw a groom attempt to clean Nehro's left foot, causing Nehro to flinch and attempt, somewhat vigorously, to pull away and causing Dave to say, "Don't touch it again ... he can't take a brush," apparently meaning that Nehro was experiencing such pain in his feet that he could not stand the touch of a brush against his foot. PETA's investigator heard Dave ask Blasi, in reference to Nehro's left front foot, why Blasi didn't try "healing that up" and that "it's been like that for three months ... from putting a z-bar over top of it, it rotted." PETA's investigator heard Blasi reply, "I know the fucker hurts." (*See Inc. 3, at Ex. 1.*)
- Also on April 17, PETA's investigator saw Blasi pick up Nehro's right front hoof, point to a sore in the middle, and say, "This hurts him." PETA's investigator saw a pink and hairless sore in the middle of Nehro's right front heel, approximately 1 inch wide, with a scab on it. PETA's investigator heard Dave say that Nehro had the sore "before the race" in which Nehro ran "the other day," likely a reference to Nehro's last race, on April 13.<sup>7</sup> PETA's investigator saw Dave show a hole in Nehro's left front foot to Blasi, saying, "This hole is treacherous." PETA's investigator heard Hernandez say, apparently in reference to this hole,

<sup>6</sup>This individual's surname is not known.

<sup>7</sup>According to Equibase, Nehro's last race was on April 13, 2013, at Oakland Park in Hot Springs, Ark.

“It is bad,” and Blasi say, “I just think we need to paint, get some, get some, uh, don’t think I can just get some blue lotion?” PETA’s investigator heard Dave respond, “[W]e done all that,” and go on to describe the flesh in the area of the hole as “soft as butter.” PETA’s investigator saw Nehro flinch when Dave touched his feet, causing Hernandez to say, “Nehro, stop. I know it hurts.” PETA’s investigator heard Dave say that he previously had put Polyflex on Nehro’s feet, stating, in reference to one of Nehro’s feet, “He had nothing here. It was all bruised, and then he had a big ole hole here.” PETA’s investigator heard Dave state that when Nehro “come up lame,” Asmussen instructed Dave to use Polyflex on Nehro’s hoof rather than a metal shoe, and “about three weeks later, he was lame.” (*See Inc. 4–6, at Ex. 1.*)

- Also on April 17, PETA’s investigator heard Dave tell Hernandez that when Nehro raced at Oaklawn (Nehro’s last race at Oaklawn Park was on April 13), “He stabbed around there like he’s dying,” and he “come back walking real short.” PETA’s investigator heard Hernandez respond that she “had asked Steve in New Orleans” and that she “knew his feet were bad.” PETA’s investigator heard Dave say that one of Nehro’s hooves had a “quarter crack” and saw Dave examine it to see how the “quarter crack patch held up in the race,” suggesting that Nehro had the crack before his last race. PETA’s investigator heard Dave say, apparently about one of Nehro’s hooves, “We’re gonna have to heal that up and put something on that if you go to the track .... We’ve tried super glue in that hole.” (*See Inc. 7, at Ex. 1.*)
- On April 21, PETA’s investigator saw that the frog—the underside of the hoof that touches the ground when a horse is standing—on Nehro’s left front foot was abnormally flat and apparently worn down and that an unusual dip was present in the frog, which PETA’s investigator had never seen present on any other horse. (*See Photographs 2013-04-21\_03\_Bottom of Nehro’s left front hoof 1\_IMG\_0037 and 2013-04-21\_07\_Bottom of Nehro’s left front hoof 2\_IMG\_0041, at Exhibit 2.*)
- Also on April 21, PETA’s investigator saw that the bottom of Nehro’s right front foot was unusually pink. (*See Photographs 2013-04-21\_05\_Bottom of Nehro’s right front hoof 1\_IMG\_0039 and 2013-04-21\_08\_Bottom of Nehro’s right front hoof 2\_IMG\_0042, at Ex. 2.*) The same day, PETA’s investigator saw filler in Nehro’s hooves. (*See Photograph 2013-04-21\_12\_Filler in Nehro’s hooves\_IMG\_0046, at Exhibit 2.*)
- On April 23, despite Blasi’s awareness of the condition of Nehro’s feet, Asmussen and Blasi made Nehro run a timed workout—Nehro placed 37th out of 39 horses. (*See April 23 Workout Times, at Exhibit 3.*)
- Also on April 23, PETA’s investigator asked Blasi if Nehro’s feet had always been “this bad,” to which Blasi responded, “Yes. ... They’re horrible,” showing Blasi’s awareness of Nehro’s poor physical condition. When PETA’s investigator stated, “It’s amazing that [Nehro]’s done what he’s done,” in reference to Nehro’s accomplished racing record, Blasi replied, “It really is.” (*See Inc. 8, at Ex. 1.*)
- On April 25, Blasi told PETA’s investigator that “the problem” with Nehro’s feet was that Nehro “is a horse who don’t have any foot at all,” apparently meaning that Nehro’s feet had been worn down to near nubs from racing and training. Blasi also told PETA’s investigator that Nehro had contracted heels, a condition in which the hoof wall shifts, causing the foot to become narrow and creating the potential for a horse to develop an atrophied frog and a concave sole. (*See Inc. 9, at Ex. 1.*)

- On April 29, Blasi, while examining Nehro, told PETA’s investigator that Nehro had an “osselet” on his left front ankle—which Blasi described as a “hard calcification on the front of your joint” as well as the result of “pressure in his ankle.” (See Inc. 10, at Ex. 1.)
- On April 30, Asmussen and Blasi—who, again, were aware of the painful condition of Nehro’s feet—made Nehro run a timed workout—Nehro placed 16th out of 22 horses. (See April 30 Workout Times, at Exhibit 4.)
- On May 1, while Blasi and a veterinarian called “Doc”—likely Dr. Ken P. Reed of Equine Medicine & Surgery, located in Bossier City, La.—were examining Nehro, PETA’s investigator heard Blasi say, in reference to Nehro, “[T]his son of a bitch goes bad on the road,” possibly indicating that Nehro moves poorly on paved road. PETA’s investigator heard Doc say, in reference to Nehro: “Yeah, I think we need to do his ankles all right.” PETA’s investigator heard Blasi say about Nehro: “He’s got no foot. We had z-bars on him down in New Orleans, and he ripped them off about three times, breezing.<sup>8</sup> And it’s just, he’s got no foot. There’s no wall, there’s no wall”—which PETA’s investigator understood to be a reference to Nehro’s hoof wall—and “You ought to see this son of a bitch jog on the road,” again suggesting Nehro jogged poorly on the facility’s paved road. (See Inc. 11, at Ex. 1.)
- Also on May 1, PETA’s investigator heard Blasi say, while pointing to Nehro’s heel, “[Nehro] had a raw spot. He had a raw spot on his foot. ... I tried to harden that up. See they had them Z-bars on him.” PETA’s investigator heard Doc say that Nehro’s “heel’s ... pretty bad,” which PETA’s investigator heard Blasi acknowledge by saying, “Yeah.” PETA’s investigator heard Doc say, “That’s probably what the problem is,” to which Blasi responded, “Well I don’t know if doing him, doing him, is gonna make up a difference where—how bad his feet are.” PETA’s investigator heard Doc say that Nehro “had a good bit of pressure in his hocks, too.” (See Inc. 12, at Ex. 1.) The same day, PETA’s investigator saw Nehro walking and bobbing his head an unusual amount, a possible indication of pain.
- Also on May 1, PETA’s investigator heard Blasi say, while on the phone, that “the horse is sore all over.” PETA’s investigator suspected Blasi was referencing Nehro, as he indicated the horse had just been seen by a veterinarian, which Nehro had. (See Inc. 13, at Ex. 1.)
- On May 4, PETA’s investigator learned that Nehro was colicing. Colic, an acute attack of abdominal pain, is commonly gastrointestinal in nature and has numerous direct and indirect causes, including excessive use of nonsteroidal anti-inflammatory drugs and stress and even chronic pain, as described below.<sup>9</sup> PETA’s investigator saw Nehro in his stall—with his head hanging low from apparent exhaustion—and then later lying on his side in the gravel outside the barn, where he had apparently fallen. Around 6:50 a.m., PETA’s investigator heard Blasi yell to Asmussen, “Nehro is fucking dead!” The same day, Alberto, a foreman, told PETA’s investigator that Nehro had gotten colic and had to be euthanized. (See Inc. 14, at Ex. 1.) Also on this day, Asmussen indicated to PETA’s investigator that he wondered whether the commotion of the Kentucky Derby had caused Nehro to contract colic and become “violently ill that quick” and “spiral like that,” stating that Nehro “hasn’t been the same since the Derby two years ago.” (See Inc. 15, at Ex. 1.)
- On May 8, Mike Callaham, an exercise rider, told PETA’s investigator that Nehro’s owner, Ahmed Zayat, “should have retired [Nehro] a year ago,” apparently because of Nehro’s health, stating, “[T]hat’s when [Nehro] was done. He was finished then.” Callaham told

<sup>8</sup>According to Equibase, Nehro was last raced in New Orleans on February 25, 2012, at Fair Grounds Race Course.

<sup>9</sup>Joanne Meszoly, *Straight Talk About Colic*, EQUUS, June 2007, at 46–49, available at [http://www.cvm.ncsu.edu/vhc/PDFS/straight\\_talk\\_about\\_colic.pdf](http://www.cvm.ncsu.edu/vhc/PDFS/straight_talk_about_colic.pdf).

PETA's investigator that "Zayat doesn't have any money. So he runs his horses as long as he can and, and even longer than he should." (See Inc. 16, at Ex. 1.)<sup>10</sup>

- On May 23, Blasi told PETA's investigator that Nehro should have been retired, apparently because of his health, after he ran in the Pimlico Special Stakes race on May 18, 2012. Blasi also told PETA's investigator that Nehro "just got his feet too fucked up in New Orleans." (See Inc. 17, at Ex. 1.)

According to Holly Cheever, D.V.M., who reviewed footage of Nehro that had been captured by PETA's investigator as well as daily log notes maintained by PETA's investigator, Nehro had "serious foot problems in both forelimbs that [were] severe enough to make his pounding on hard fast tracks excruciatingly painful."<sup>11</sup> Dr. Cheever indicated that Nehro's poor pulse quality and perfusion in one of his forelimbs was "possibly caused by injury and wear and tear" and that "a compromised blood supply to the hoof's sensitive laminae is disastrous for the hoof's proper function." According to Dr. Cheever, Nehro "was so injured and structurally unsound that he was in severe pain and should have been given strict pasture rest for months—possibly for a year—to permit the healing of his ... lameness[]." Dr. Cheever wrote:

There is no justification for running a horse with a quarter crack [like Nehro] at all: complete retirement till full healing has been achieved is essential for the horse's future. Tracks have hard and concussive surfaces, and horses carry roughly 2/3 of their weight over their forelimbs: thus, galloping racehorses weighing 1,000 to 1,200 pounds exert the damaging pressure of 3,000 pounds per square inch on the forefoot, resulting in an overwhelming and excruciating force applied to an injured hoof sole and wall .... [A] Thoroughbred in a competitive race with such severe hoof damage and weakness constitutes an unacceptable risk from a fall for Nehro, his rider, and other horses running in a pack, with potentially devastating (even fatal) consequences.

Instead of racing (compelled by the racing trainer's adage that the horse makes no money standing in his stall), Nehro should have been retired to a prolonged strict rest, hydrotherapy, non-steroidal anti-inflammatory drugs (NSAIDs), thermal treatments, special shoeing, and possibly antibiotics. I do not believe his frequent 'magnetic therapy' had any benefits for these types of injuries. For his quarter crack, he would have done better to have been shod with an egg bar shoe (rather than a z-bar type) with the hoof wall trimmed away from shoe at the crack's location.

In reference to Nehro's death, Dr. Cheever wrote, "extreme pain and stress can have vascular consequences and thus his painful lameness could have been a contributing factor" to Nehro's colic (i.e., gut ischemia), a very painful condition, that resulted in his death. Dr. Cheever concluded that "continuing to demand an athletic performance instead of retiring Nehro as 'pasture sound' was cruel" and that Nehro "suffered abuse at the hands of his owner, trainer, and riders."

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<sup>10</sup>Although the date stamp on this video incorrectly indicates that the video was captured on May 7, the video was actually captured on May 8.

<sup>11</sup>Dr. Cheever's opinion is available upon request.

**Teardrop:** Teardrop, a 2-year-old filly owned by Winchell Thoroughbreds, LLC, and trained by Asmussen, started racing in 2013. Even though Blasi called Teardrop the “lame gray filly” and stated that “the fucking bitch is displacing”—apparently meaning that Teardrop was experiencing dorsal displacement of the soft palate, “a disease of racehorses” that obstructs a horse’s airway, making it difficult for a horse to breathe and causing poor performance and a “choking” noise when the horse is exercising<sup>12</sup>—and despite the possibility that Teardrop had bucked shins, a painful condition that could require weeks to recover from, and Blasi’s assertion that her foot “hurts,” Asmussen and Blasi continued to train and even race Teardrop, as the following timeline of events indicates:

- On June 18, Blasi told PETA’s investigator that he was worried about “the lame gray filly,” which PETA’s investigator understood to mean Teardrop, as Blasi commonly called Teardrop “the gray filly,” since she was the only gray filly Blasi was training. Blasi told PETA’s investigator, in reference to Teardrop, “[N]ow she’s lame.” Blasi added: “It’s always when the fucking boss is gone. It ain’t never fucking—fuck these horses. These motherfuckers. They’ll fucking break your fucking heart every fucking day, these cock suckers. There’s always something wrong with ’em.” (See Inc. 18, at Ex. 1.)
- On June 19, PETA’s investigator saw Teardrop being walked and noticed that Teardrop was rushing to keep weight off her right front foot or leg. (See Inc. 19, at Ex. 1.) The same day, Tyler Peebles, a hot walker, told PETA’s investigator, in reference to Teardrop, “They’re looking at her foot ... assuming something’s wrong with her foot.” Peebles also told PETA’s investigator that Teardrop “ended up with shins,” apparently meaning Teardrop suffered from bucked shins—a common condition among racehorses in which the front of one or more cannon bones becomes inflamed and the connective tissue between the muscle and the bone tears away because of high-strain, repetitive motion, such as racing and race training.<sup>13</sup> (See Inc. 20, at Ex. 1.)
- Also on June 19, PETA’s investigator asked Blasi what was wrong with Teardrop, to which Blasi replied, “It hurts.” PETA’s investigator asked Blasi what Doc thought was wrong with Teardrop, to which Blasi responded, “Oh, I don’t care. He don’t know. She—it’s definitely her foot, which is nothing you can do about it. Her foot, if it’s a deep bruise, it might take her a week to get over it. You know, it might, you know, something might pop out her coronet band in the morning. She might be fine. You just don’t know. Feet are so weird.” (See Inc. 21, at Ex. 1.) The same day, Blasi told PETA’s investigator that when he was at the track that afternoon, he saw that Teardrop was “limping.” (See Inc. 22, at Ex. 1.)
- On June 20, PETA’s investigator saw that Teardrop was tentative about putting weight on her right front foot when walking. (See Inc. 23, at Ex. 1.) The same day, PETA’s investigator saw Dave, a farrier, using a hoof tester on Teardrop’s right front foot and suspected that the area on the inside of her frog was tender, as she attempted to move her foot away when Dave applied the hoof tester to this area. (See Inc. 24, at Ex. 1.)

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<sup>12</sup>See Daniel J. Burba, D.V.M., Diplomate ACVS 1, *The Dilemma of Bucked Shins in the Racehorse*, at 2, available at <http://equine.vetmed.lsu.edu/bucked%20shins.pdf> (last visited Jan. 12, 2014); Christina S. Cable, D.V.M., Diplomate ACVS, *Dorsal Displacement of the Soft Palate: Winning With Air*, HORSE (Nov. 1, 2003), available at <http://www.thehorse.com/articles/14186/dorsal-displacement-of-the-soft-palate-winning-with-air>.

<sup>13</sup>See Burba, *supra* note 12, at 1; Annette McCoy, DVM, *Splints and Bucked Shins*, UNIV. OF MINN. EXTENSION, available at <http://www.extension.umn.edu/Agriculture/horse/health/splints-and-bucked-shins/> (last visited Jan. 12, 2014).



- On June 22, just three days after Peeples indicated that Teardrop had bucked shins and just one day after PETA's investigator saw indications of possible injury in Teardrop's right front foot, Asmussen and Blasi ran Teardrop in a debutante stakes race at Churchill Downs, in which she finished seventh. (See Record of Race, at Exhibit 5.) According to Daniel J. Burba, D.V.M., Diplomate ACVS 1, if appropriate treatment measures are not immediately taken and a horse with bucked shins continues to train, it may take "four to six weeks before the pain and swelling subsides" and "some horses go on to develop stress or saucer fractures in the cannon bone even up to a year after bucking their shins."<sup>14</sup>
- On June 23, PETA's investigator asked Blasi how Teardrop was doing, to which Blasi responded, "I think the fucking bitch is displacing and getting upset and then freaking out." PETA's investigator suspected that Blasi meant that Teardrop had dorsal displacement of the soft palate and was frightened by the condition, as this condition can make it difficult for a horse to breathe,<sup>15</sup> which was affecting her running ability. Dorsal displacement of the soft palate is a common condition in racehorses, whereby the epiglottis (a relatively rigid structure in the back of the throat that helps separate the nasal and oral cavities) becomes positioned above the soft palate, which can make it difficult for a horse to breathe. (See Inc. 25, at Ex. 1.)
- Also on June 23, Peeples told PETA's investigator that Teardrop runs with her head facing toward the right at all times. (See Inc. 26, at Ex. 1.) Peeples also told PETA's investigator that Teardrop got "hit up on" during her last race, explaining that her legs got "a little beat up" and that "her ankle was a little scraped up." Peeples told PETA's investigator, in reference to Teardrop, "She came off the track a little ginger ... not tying up, but she ... was sore. She walked it off a little bit and felt better after she started walking. She looked OK this morning, still a little tender, but she looked rigid coming off the track." Peeples' comments suggested that Teardrop might still be suffering from the effects of bucked shins and/or lameness in her limbs. (See Inc. 27, at Ex. 1.)

**Other horses were possibly overdriven to the point of injury.** PETA's investigator collected extensive additional evidence on injuries sustained by numerous horses in Asmussen's and Blasi's care, including two horses with ulcers on their soft palates, three horses with dorsal displacement of the soft palate, two horses with "bucked shins," and one horse with osteochondral fragments or "chips" (i.e., when pieces of bone and cartilage chip away from the bone—these fragments are often caused by repetitive cyclic trauma to normal bone, usually associated with fast exercise, such as race training, and can cause pain, lameness, and poor performance).<sup>16</sup> PETA's investigator also found that at least five horses had fluid in their joints that veterinarians withdrew with syringes; these horses generally received injections of Hyvisc, Hyalovet, or Adequan—used to treat joint dysfunction—into their joints as well, indicating possible dysfunction of their joints. Further, PETA's investigator found that at least eight horses "bled" while under the care of Asmussen and Blasi, meaning that these horses experienced an

<sup>14</sup>Burba, *supra* note 12, at 2.

<sup>15</sup>Colin Mitchell, D.V.M., and Neely Heidorn, Ph.D., *Dorsal Displacement of the Soft Palate in Horses*, LSU AGCENTER, available at [http://text.lsuagcenter.com/en/crops\\_livestock/livestock/animal\\_health/horses/Dorsal-Displacement-of-the-Soft-Palate-in-Horses.htm](http://text.lsuagcenter.com/en/crops_livestock/livestock/animal_health/horses/Dorsal-Displacement-of-the-Soft-Palate-in-Horses.htm) (last updated Oct. 15, 2013).

<sup>16</sup>*Disorders of the Carpus and Metacarpus in Horses*, MERCK MANUAL FOR PET HEALTH (July 2011), available at [http://www.merckmanuals.com/pethealth/horse\\_disorders\\_and\\_diseases/bone\\_joint\\_and\\_muscle\\_disorders\\_in\\_horses/disorders\\_of\\_the\\_carpus\\_and\\_metacarpus\\_in\\_horses.html](http://www.merckmanuals.com/pethealth/horse_disorders_and_diseases/bone_joint_and_muscle_disorders_in_horses/disorders_of_the_carpus_and_metacarpus_in_horses.html); Les Sellnow, *Bone Chips in Joints*, HORSE (Sept. 1, 2009), available at <http://www.thehorse.com/articles/24125/bone-chips-in-joints>.

exercise-induced pulmonary hemorrhage, which is bleeding in the airways of the lung. Exercise-induced pulmonary hemorrhages can impair lung function and even lead to sudden death in horses if a pulmonary vessel ruptures internally.<sup>17</sup>

All this additional evidence is available upon request.

### C. Blasi Painted “Leg Paint,” Including McKathan’s Original, on Horses’ Legs to Cause Blisters and Make Their Legs Swell

Blistering and pin or freeze firing are both controversial procedures that some veterinarians consider to be “barbaric.”<sup>18</sup> Blistering is painful, and the acute pain from blistering may last for six to 24 hours.<sup>19</sup> “[M]any experts believe that the procedure [of blistering] shouldn’t be used at all.”<sup>20</sup> Blistering causes “significant irritation” and “swelling” of the affected area, and the blistered horse is left in “severe pain.”<sup>21</sup>

Similarly, pin or freeze firing “is probably the most controversial form of treatment for lameness, and some people consider it unnecessary and cruel mutilation.”<sup>22</sup> Furthermore, “[i]n some parts of the world, pin-firing is banned outright as inhumane.”<sup>23</sup> Pin or freeze firing literally burns the skin on an injured area of a horse’s leg,<sup>24</sup> causing the horse “tremendous pain.”<sup>25</sup> Albert A. Gabel, head of the Equine Section in the Department of Clinical Sciences at Ohio State University, called firing “completely irrational,” and authors who conducted a research program at Bristol University stated, “It is high time we acknowledged that ‘firing’ is a deforming, painful and superfluous operation for which there is no modern justification.”<sup>26</sup> A five-year study conducted under the leadership of Professor Ian Silver of Bristol University found that “firing of the skin above limb tendons did not improve tendon healing” and that thermocautery “either failed to accelerate the rate of healing, or retarded it.”<sup>27</sup> An overall conclusion of this study was that firing “does not improve tendon healing and, if it has any effect, tends to be deleterious.”

**Teardrop:** Teardrop, as noted above, exhibited signs of lameness and/or injury that PETA’s investigator documented in May and June. During this same period of time, Teardrop’s legs were “blistered”—i.e., painted with a caustic chemical, apparently so that the shins would become inflamed and help the surrounding injury heal. This is a painful procedure that significantly irritates the flesh and causes painful blisters and swelling, causing cruel or injurious mistreatment as defined by the statute and as detailed in the following timeline of events:

<sup>17</sup>A. Kent Allen, D.V.M., *Pulmonary Hemorrhage and Sudden Death in the Horse*, CENTRAL STATES DRESSAGE & EVENTING ASS’N (2009), available at

[http://www.csdea.org/content.aspx?page\\_id=22&club\\_id=659362&module\\_id=63080](http://www.csdea.org/content.aspx?page_id=22&club_id=659362&module_id=63080).

<sup>18</sup>EQUINE WELFARE § 11.7 (C. Wayne McIlwraith and Bernard E. Rollin, eds., 2011).

<sup>19</sup>THE WHOLE HORSE CATALOG 128 (Steven D. Price, et al., eds., 1998).

<sup>20</sup>*Id.*

<sup>21</sup>Linda B. Schultz, D.V.M., Ph.D., HOWELL EQUINE HANDBOOK OF TENDON AND LIGAMENT INJURIES 53 (2004).

<sup>22</sup>*Id.*

<sup>23</sup>EQUINE WELFARE, *supra* note 18.

<sup>24</sup>*Id.*

<sup>25</sup>Schultz, *supra* note 21, at 53.

<sup>26</sup>Michael Hayward and David Adams, THE FIRING OF HORSES: A REVIEW FOR THE ANIMAL WELFARE ADVISORY COMMITTEE OF THE AUSTRALIAN VETERINARY ASSOCIATION 7 (2001).

<sup>27</sup>*Id.* at 10.

- On May 28, PETA's investigator saw that the front of the flesh covering Teardrop's front cannon bones appeared to be red, raw, and irritated, apparently indicating that Teardrop's front cannon bones had just been blistered while she had been in Kentucky. (*See Inc. 28, at Ex. 1.*)
- On June 12, Blasi confirmed to PETA's investigator that the flesh covering Teardrop's cannon bones was red because of a chemical put on her legs in order to make them blister. Blasi further told PETA's investigator that his workers are no longer blistering Teardrop because her bucked shins seemed to improve more when "left alone."
- On June 14, PETA's investigator saw Teardrop appear to be in pain when a groom ran a sponge over the flesh covering her front cannon bones, bending her legs back, apparently to avoid being touched. PETA's investigator saw that the flesh or hair covering Teardrop's front cannon bones was gray and had a yellowish tint. PETA's investigator saw Blasi observe Teardrop and heard him say, "I'm afraid all that fucking hair is gonna fall off," which PETA's investigator understood to mean that Blasi was worried that the hair on the flesh covering Teardrop's front cannon bones might fall off as a result of the chemicals that were previously put on her flesh to make it blister. (*See Inc. 29, at Ex. 1.*)
- On June 19, PETA's investigator saw that the area of flesh covering Teardrop's right front cannon bone that had previously been red had several patches of pink skin, which PETA's investigator suspected were areas where Teardrop's hair had either fallen off or been picked off. (*See Photographs 2013-06-19\_12\_Teardrop's cannon bones\_IMG\_0141 and 2013-06-19\_14\_Teardrop's cannon bones 2\_IMG\_0143, at Ex. 2.*)
- On June 20, PETA's investigator saw that the hair on the flesh covering one of Teardrop's front cannon bones was noticeably thinner than the hair on the rest of the leg and that the flesh appeared pink and had what appeared to be several lines of scabbing on it, which PETA's investigator suspected to be from the paint or blistering chemicals that had been applied to Teardrop's legs. (*See Photographs 2013-06-20\_1\_Teardrop's cannon bone 1\_IMG\_0144 and 2013-06-20\_2\_Teardrop's cannon bone 2\_IMG\_0145, at Ex. 2.*)

Other horses also apparently had their legs "blistered," as the following timeline documents:

- On April 17, PETA's investigator heard Hernandez ask Blasi if he wanted to "blister" a horse, to which Blasi responded, "Yeah, I need to get a glove." PETA's investigator asked how long it takes to get a blister after applying "the blister," and Hernandez told her: "Actually, like one time. Like tomorrow you'll see, um, I'll show you the horse's legs. It's—her legs are gonna be like"—and Hernandez held her hands approximately a foot apart from each other, apparently indicating the extent to which the horse's legs would swell when blistered. She continued, "After like this first time it starts to blister." PETA's investigator did not see whether Blasi applied this product to any horses' legs that day. (*See Inc. 30, at Ex. 1.*)
- On April 18, PETA's investigator saw Blasi painting liquid from a McKathan's Original bottle onto one or both of Macho Macho's front legs. Blasi admitted to PETA's investigator that he was using McKathan's on Macho Macho's legs, which he said that he paints on the legs to create "a working blister." (*See Inc. 31, at Ex. 1.*)
- On May 25, Blasi told PETA's investigator that he was going to "blister" Unbridled's Note.

PETA's investigator also saw signs of freeze or pin firing (also called thermocautery), in which a horse's legs are burnt, frozen, and/or doused with acid or caustic chemicals, on four horses.

PETA does not know in what jurisdiction these horses underwent pin firing or who subjected them to this process. Additional evidence of these animals' conditions is available upon request.

#### **D. Horses Were Subjected to Painful Electrical Shocks During Races**

Although some of the following facts are not related to events at Churchill Downs, the horse trainer and jockeys whose involvement is indicated in these prohibited activities—trainer Lukas, jockey Stevens, jockey Borel, and jockey Santana—participate in races at Churchill Downs and may be conducting similar activities within your department's jurisdiction. PETA asks that your agency's investigation include an examination of these statements, a determination of the extent to which this conduct occurs at Churchill Downs, and, accordingly, the filing of charges as appropriate.<sup>28</sup>

- On April 26, Stevens told PETA's investigator that, when riding a horse named Rocky Bandit during a race, he concealed an electronic device—sometimes called a “buzzer”—on his person that delivered an electric shock to Rocky Bandit. Stevens indicated to PETA's investigator that his brother, Scott, instructed him to hide the device and put it on the horse when he was behind the starting gate, then remove the device once he crossed the finish line. Stevens told PETA's investigator that when he took the device off of the horse at the end of the race, he “shock[ed] the shit out of [him]self.” (See Inc. 32, at Ex. 1.)
- Also on April 26, Lukas indicated to PETA's investigator that he knew of a jockey who hid an electric shock device under the blinkers on the horse he was riding. (See Inc. 33, at Ex. 1.) The same day, Blasi indicated to PETA's investigator that Roman Chapa, a jockey suspended from racing in 1993 after having been caught with a buzzer, concealed a buzzer in either his or his horse's mouth in order to hide it from race officials. (See Inc. 34, at Ex. 1.)
- Also on April 26, Stevens told PETA's investigator that his brother, Scott, used to fix people's “machines,” meaning electric shock devices or buzzers. (See Inc. 35, at Ex. 1.) Lukas indicated to PETA's investigator that such devices were commonly used, saying, “Well, we used to go behind the gate at Ruidoso. And it was just like it was, uh, uh, a full blown orchestra. Zzz. Zzz. Zzz. Zzz. Everybody had one. Everybody had one.” (See Inc. 36, at Ex. 1.)
- On July 3, PETA's investigator heard Peeples and a foreman/hot walker called Hub talk about Borel's use of electric-shock devices on horses. PETA's investigator heard Hub say that during training, Borel runs horses into the track railing—puts “their shoulder into the fucking rail”—and then shocks them. Peeples then told PETA's investigator that Borel “does it more than anybody.” PETA's investigator heard Hub continue, “And he does that ... you do it in the mornings, you do that two times, so that whenever you come into the race, and he comes around, has 'em switch leads, puts 'em, puts 'em into the rail, they're fucking .... They think, ‘Oh shit, that's fucking coming.’ ... Dude, Super Saver, after the Derby, I saw

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<sup>28</sup>The acts described herein may also violate Kentucky's thoroughbred racing regulations, including 810 KY. ADMIN. REGS. 1:012, Section 11(8), which provides: “Any goading device, chain, spurs, electrical or mechanical device, or appliance, except for a riding crop, that may be used to alter the speed of a horse shall not be used on a horse in a race or workout”; 810 KY. ADMIN. REGS. 1:016, Section 15(3), which provides: “An electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than a riding crop approved by the stewards, pursuant to 810 KAR 1:012 shall not be possessed by anyone, or applied by anyone to a horse at any time, on the grounds of the association during a race meeting, whether during a race or otherwise”; and 810 KY. ADMIN. REGS. 1:016, Section 16, which provides, in relevant part: “An electrical or mechanical appliance, other than a riding crop, shall not be used to affect the speed of a horse in a race or workout.”

him before the Preakness. After the fucking Derby, there's a perfect strip of hide off his shoulder on his inside. He fucking—on Super Saver, yeah. Just fucking cranked him all the way over. Rubbed the hide off on the rail. Perfect rail height—straight line down the fucking horse." Borel rode Super Saver in the Kentucky Derby at Churchill Downs on May 1, 2010, which is apparently the race to which Hub was referring. (See Inc. 37, at Ex. 1.) On August 13, PETA's investigator heard Blasi tell former jockey Angel Cordero Jr. that jockey Santana "is a good machine rider." PETA's investigator had previously heard electric shock devices referred to as machines and understood this to mean that Santana used a shocking device on some or all of the Asmussen-trained horses he rides. PETA's investigator then heard Blasi say, in reference to Santana, "I'd tell him, 'You got the *máquina*?' " *Máquina* is Spanish for "machine" and was apparently a reference to an electric-shock device. PETA's investigator heard Blasi state that Santana would respond, "Boss, I got the *máquina*." PETA's investigator asked Blasi, "Do they check for those at—ever?" Blasi told PETA's investigator, "No." (See Inc. 38, at Ex. 1.)

## II. Conclusion

PETA's investigator documented—including with video footage—evidence suggesting that trainers Asmussen and Blasi, trainer Lukas, jockey Stevens, jockey Borel, and jockey Santana routinely subjected horses to mistreatment that was cruel or injurious, as prohibited by Kentucky's cruelty-to-animals and/or Louisville's animal-protection ordinances.

We respectfully request that your agency immediately investigate Asmussen, Blasi, and KDE Equine and, as appropriate, bring criminal charges. PETA's investigator is available for an interview at your request and will testify to these facts. We are available to assist you in your investigation. I can be contacted at 828-734-3851 or [ElizabethOvercash@peta.org](mailto:ElizabethOvercash@peta.org). Thank you for your time and consideration.

Sincerely,



Elizabeth Overcash  
Evidence Analyst  
Cruelty Investigations Department

cc: Chris Clark, Director of Enforcement and Licensing, Kentucky Horse Racing Commission, 4063 Iron Works Pkwy., Bldg. B, Lexington, KY 40511



2013-04-21\_03\_Bottom of Nehro's left front hoof 1\_IMG\_0037



2013-04-21\_05\_Bottom of Nehro's right front hoof 1\_IMG\_0039



2013-04-21\_07\_Bottom of Nehro's left front hoof2\_IMG\_0041

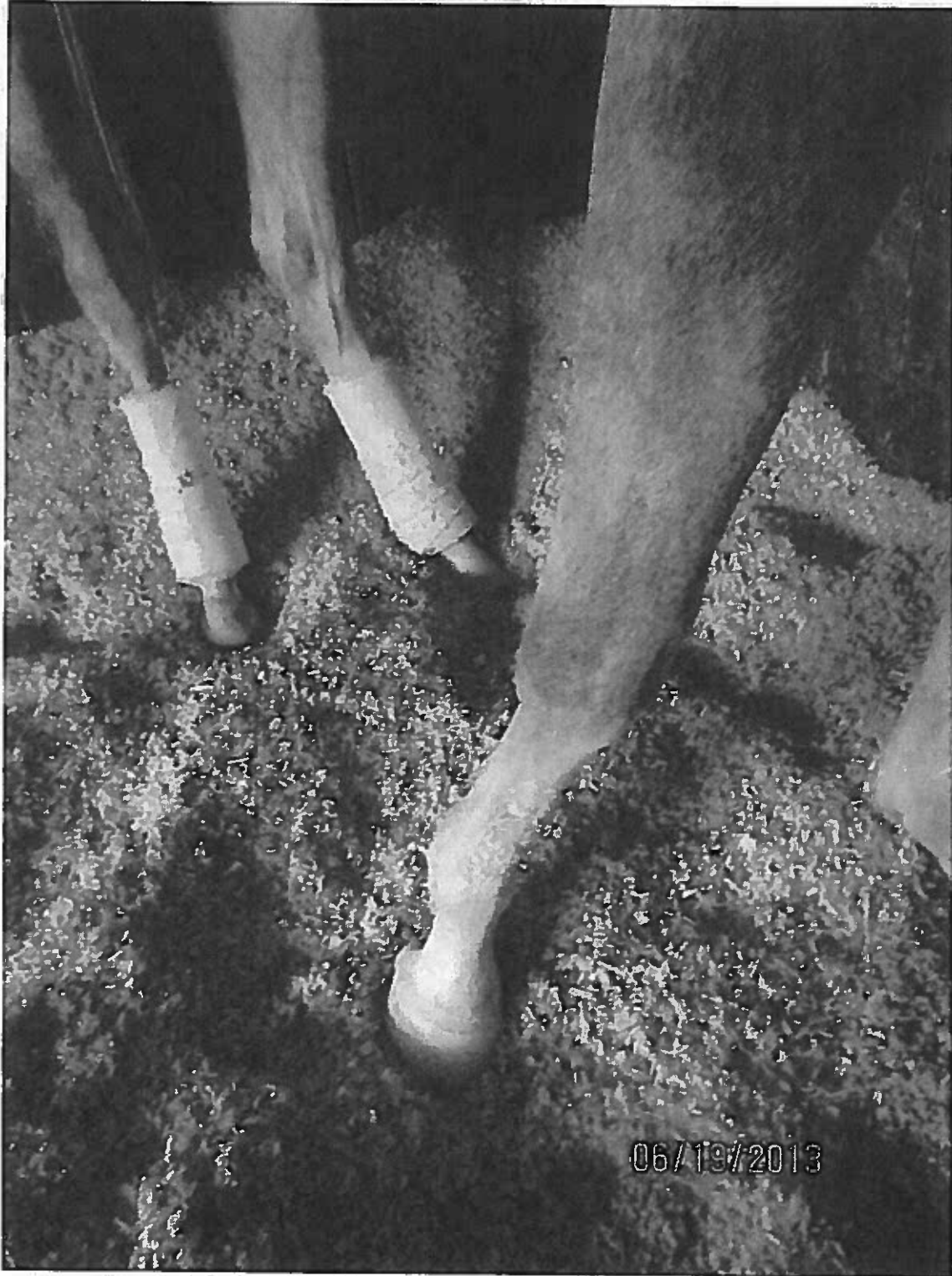




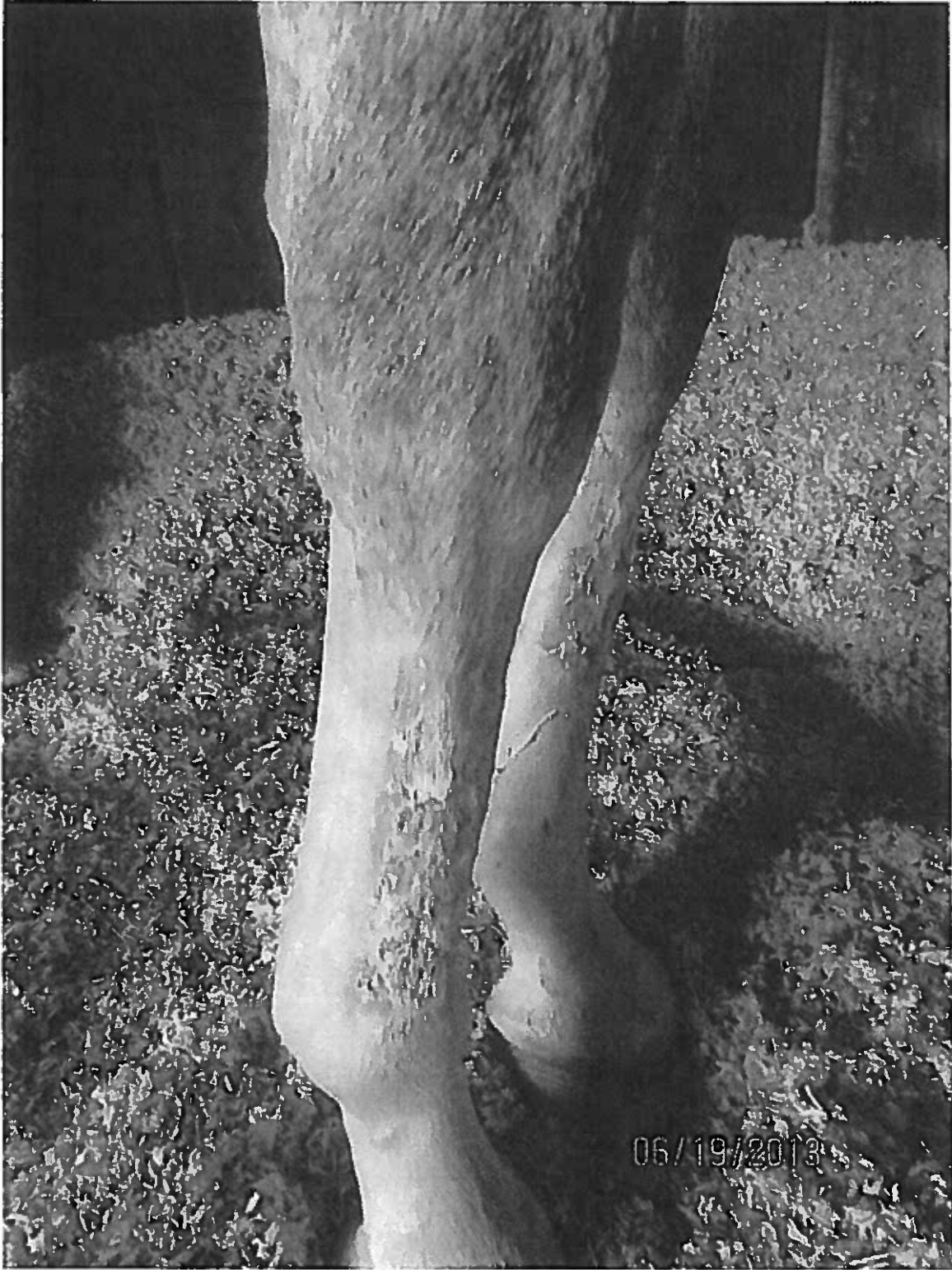
2013-04-21\_08\_Bottom of Nehro's right front hoof 2\_IMG\_0042



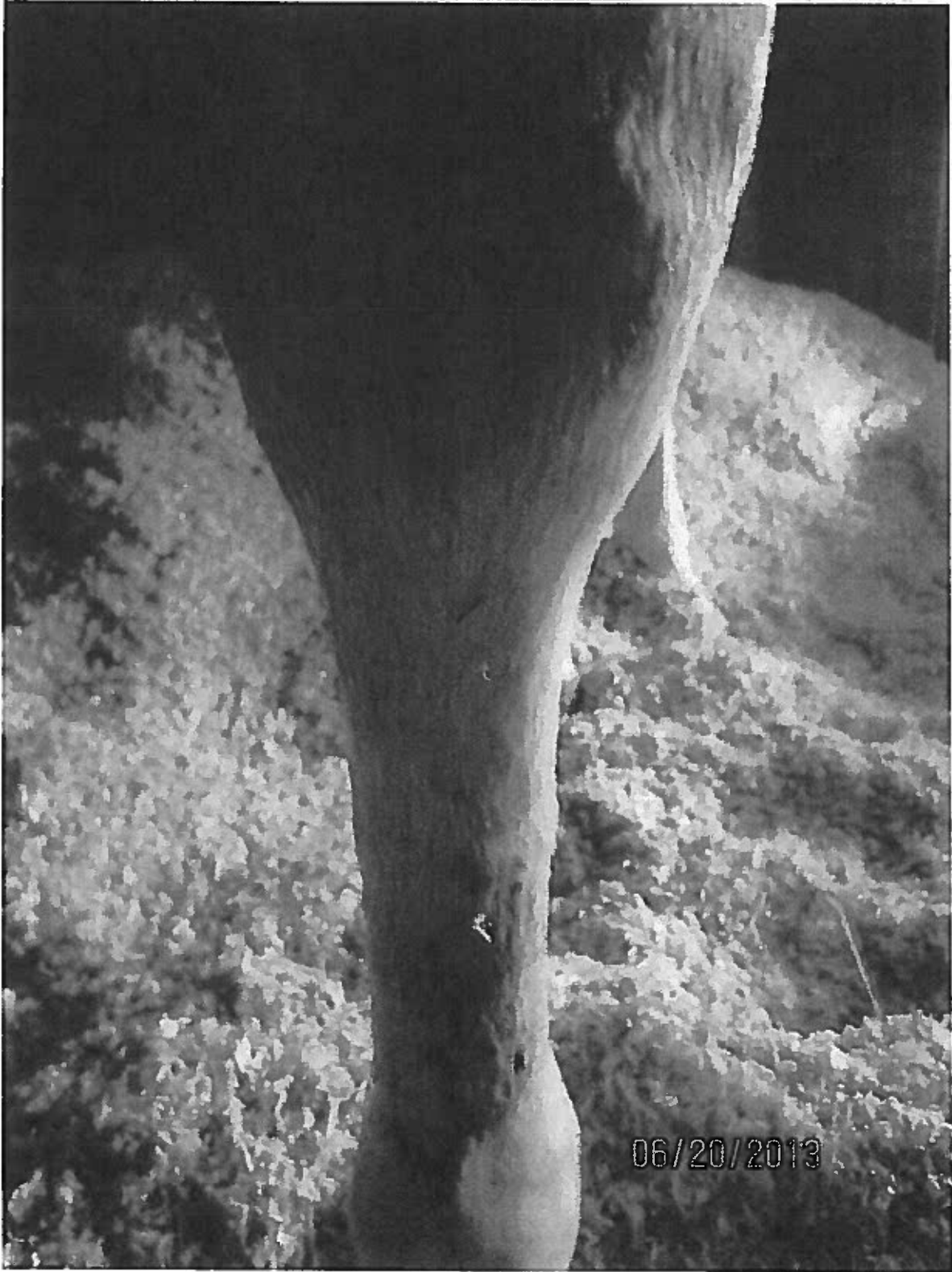
2013-04-21\_12\_Filler in Nehro's hooves\_IMG\_0046



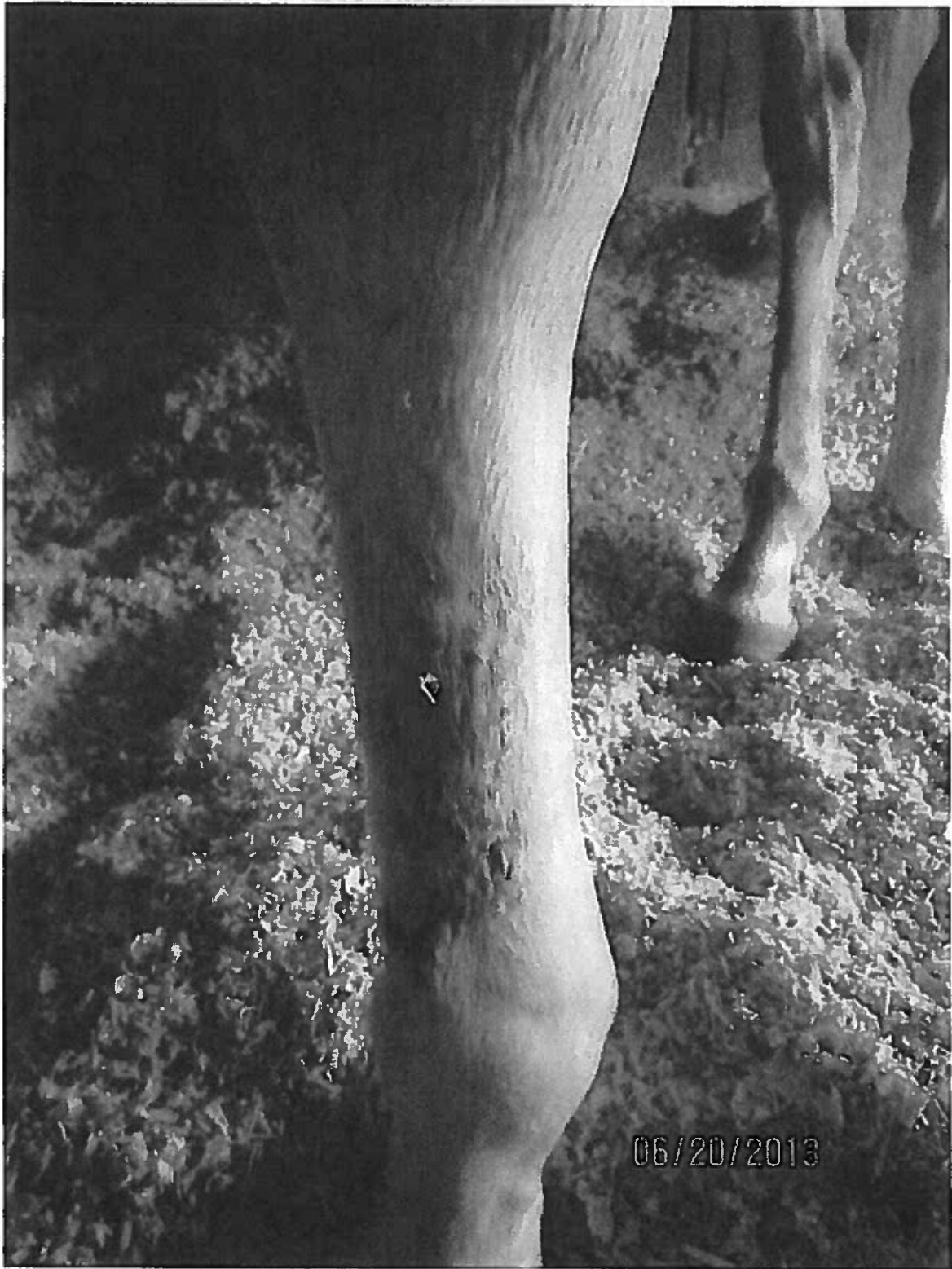
2013-06-19\_12\_Teardrop's cannon bones\_IMG\_0141



2013-06-19\_14\_Teardrop's cannon bones 2\_IMG\_0143



2013-06-20\_1\_Teardrop's cannon bone 1\_IMG\_0144



2013-06-20\_2\_Teardrop's cannon bone 2\_IMG\_0145

# LATEST WORKOUTS

April 23, 2013

## CHURCHILL DOWNS (Dirt) Track Fast

|                         |        |                    |        |   |                 |        |   |                        |         |              |                    |         |                |               |         |   |
|-------------------------|--------|--------------------|--------|---|-----------------|--------|---|------------------------|---------|--------------|--------------------|---------|----------------|---------------|---------|---|
| <b>(Three Furlongs)</b> |        | Broken Spell       | :50.40 | B | Little Face     | :49.60 | B | Summon the Rain        | :48.80  | B            | Lemon Drop Dream   | 1:04.00 | B              |               |         |   |
| Cue E Dee               | :39.00 | City Alert         | :52.00 | B | Looking Cool    | :48.80 | B | Sweet Kate             | :49.60  | B            | Mind Me Boys       | 1:01.40 | B              |               |         |   |
| Estonia                 | :39.60 | Clear the Clover   | :53.00 | B | Lon's Store     | :49.60 | B | Vespato                | :52.80  | B            | Nubin Ridge        | 1:01.40 | B              |               |         |   |
| Miss Nightlinger        | :37.20 | Common Ground      | :49.40 | B | Lunar Red       | :49.80 | B | <b>(Five Furlongs)</b> |         | Arrived Home | 1:04.60            | B       | Quixote's Lady | 1:04.00       | BG      |   |
| Play                    | :38.60 | Courting Jennifer  | :50.20 | B | Mico Margarita  | :51.80 | B | Brown Eyes Blue        | 1:02.40 | B            | Recalling Memories | 1:01.20 | B              | River Boss    | 1:02.20 | B |
| Rightous Party          | :37.80 | Courtmaster        | :52.20 | B | •Miracle Run    | :48.00 | B | C P Hath a Way         | 1:02.60 | B            | Screamin Mushroom  | 1:06.60 | B              | Sky River     | 1:03.80 | B |
| •Swift Artist           | :36.40 | Determined Yankee  | :52.00 | B | Nehro           | :52.40 | B | Chasenthegold          | 1:06.60 | B            | Splurgess          | 1:03.40 | B              | Stiage Street | 1:04.00 | B |
| Unbroken Circle         | :37.80 | Dillinger          | :52.00 | B | Neih            | :48.20 | B | Clobber                | 1:02.60 | B            | Teller Terri       | 1:03.80 | B              | •To the Stars | 1:01.00 | B |
| Vinnie                  | :39.00 | Don't Tell Veda    | :49.80 | B | Pajama Bottom   | :51.00 | B | Dehere On Tour         | 1:03.80 | B            |                    |         |                |               |         |   |
| Well Lawyered           | :37.80 | Elusive Act        | :49.60 | B | Rock Art        | :49.40 | B | Dixie Babe             | 1:02.20 | B            |                    |         |                |               |         |   |
| <b>(Four Furlongs)</b>  |        | Farlake            | :50.60 | B | Runs With Bulls | :50.00 | B | Don't Be Mad           | 1:01.40 | B            |                    |         |                |               |         |   |
| Arborville              | :50.20 | Fort Lamed         | :48.80 | B | Ruthless Empire | :51.20 | B | Doublefour             | 1:05.40 | B            |                    |         |                |               |         |   |
| Archetype               | :49.80 | •Gold Medal Dancer | :48.00 | B | Shadow Warrior  | :48.00 | B | Fiddler Blue           | 1:02.80 | B            |                    |         |                |               |         |   |
| Bellodini               | :49.80 | Lady Stonewall     | :48.60 | B | Sir Bond        | :51.60 | B | Fiscal Fitness         | 1:02.80 | B            |                    |         |                |               |         |   |
| Betweenhereandcool      | :51.40 | Lafite             | :52.00 | B |                 |        |   | Grand Music            | 1:04.00 | BG           |                    |         |                |               |         |   |
| Brassy and Proud        | :50.60 |                    |        |   |                 |        |   |                        |         |              |                    |         |                |               |         |   |
| Bridgetown              | :48.60 |                    |        |   |                 |        |   |                        |         |              |                    |         |                |               |         |   |

April 23, 2013

## CHURCHILL DOWNS (Turf) Track Firm

|                         |        |                        |         |               |         |      |
|-------------------------|--------|------------------------|---------|---------------|---------|------|
| <b>(Three Furlongs)</b> |        | <b>(Five Furlongs)</b> |         | Miz Ida       | 1:14.60 | B(D) |
| Positively              | :37.20 | Ocean Berle            | 1:03.00 | The Pizza Man | 1:16.60 | B(D) |
| <b>(Four Furlongs)</b>  |        | Private Ensign         | 1:02.80 |               |         |      |
| Bejoca                  | :52.00 | Southern Dude          | 1:01.60 |               |         |      |
| Good Deed               | :48.00 | <b>(Six Furlongs)</b>  |         |               |         |      |
| Temerane                | :48.60 | Kaminari               | 1:15.40 |               |         |      |





**CHURCHILL DOWNS - June 22, 2013 - Race 7**  
**STAKES Debutante S. - For Thoroughbred Two Year Old Fillies**  
**Six Furlongs On The Dirt Track Record: (Indian Chant - 1:07.55 - July 8, 2007)**



**Purse: \$100,000 Added**  
**Available Money: \$113,400**

**Value of Race: \$113,400 1st \$66,090, 2nd \$21,320, 3rd \$10,660, 4th \$5,329, 5th \$3,197, 6th \$1,134, 7th \$1,134, 8th \$1,134, 9th \$1,134, 10th \$1,134, 11th \$1,134**



**Weather: Cloudy Track: Fast**  
**Off at: 9:05 Start: Good for all except 2,3**

| Last Raced                            | Pgm | Horse Name (Jockey)                       | Wgt | M/E | PP | Start | 1/4               | 1/2                 | Str                | Fin                 | Odds                 | Comments                |                         |
|---------------------------------------|-----|---|-----|-----|----|-------|-------------------|---------------------|--------------------|---------------------|----------------------|-------------------------|-------------------------|
| 24May13 <sup>1</sup> LS <sup>1</sup>  | 10  | Fiftyshadesofgold (Lanerie, Corey)        | 120 | L   | 10 | 4     | 1 <sup>1/2</sup>  | 2 <sup>6</sup>      | 1 <sup>3 1/2</sup> | 1 <sup>8</sup>      | 1.30*                | vied 3 wide, draw off   |                         |
| 9May13 <sup>3</sup> CD <sup>1</sup>   | 7   | More Than Beauty (Borel, Calvin)          | 120 | L   | 7  | 3     | 2 <sup>1/2</sup>  | 1 <sup>1/2</sup>    | 2 <sup>8</sup>     | 2 <sup>5</sup>      | 4.30                 | rail skimming, no match |                         |
| 16May13 <sup>4</sup> CD <sup>1</sup>  | 9   | Del Mar Holiday (Santana, Jr., Ricardo) → | 120 | L   | 9  | 6     | 7 <sup>2</sup>    | 4 <sup>2</sup>      | 3 <sup>1 1/2</sup> | 3 <sup>Nose</sup>   | 24.30                | bid 5w, all out for 3rd |                         |
| 25May13 <sup>1</sup> LS <sup>1</sup>  | 2   | Silver Valley (Bridgmohan, Shaun)         | 120 | L   | 2  | 11    | 8 <sup>1</sup>    | 7 <sup>1/2</sup>    | 4 <sup>1</sup>     | 4 <sup>6 1/4</sup>  | 20.50                | off slow, bumped        |                         |
| 14May13 <sup>2</sup> WRD <sup>1</sup> | 4   | Yokohama Mama (Mena, Miguel)              | 120 | L   | bf | 4     | 10                | 10 <sup>1 1/2</sup> | 8 <sup>3</sup>     | 5 <sup>2 3/4</sup>  | 48.80                | well back, improved     |                         |
| 8Jun13 <sup>1</sup> IND <sup>1</sup>  | 6   | Deliver (Torres, Marcelino)               | 120 | L   |    | 2     | 6 <sup>Head</sup> | 6 <sup>1/2</sup>    | 6 <sup>2 1/2</sup> | 6 <sup>3 1/4</sup>  | 49.40                | contended 4 w, tired    |                         |
| 23May13 <sup>3</sup> CD <sup>1</sup>  | 8   | Teardrop (Napravnik, Rosie)               | 120 | L   |    | 8     | 8                 | 3 <sup>1</sup>      | 3 <sup>1/2</sup>   | 5 <sup>1 1/2</sup>  | 1.70                 | steadied 7/16, drifted  |                         |
| 12May13 <sup>8</sup> PIM <sup>1</sup> | 5   | Medalbu (Schneider, Joseph)               | 120 |     |    | 5     | 9                 | 10 <sup>5</sup>     | 9 <sup>4</sup>     | 10 <sup>6 1/2</sup> | 8 <sup>1 1/4</sup>   | 33.20                   | passed tiring rivals    |
| 1Jun13 <sup>1</sup> MTH <sup>1</sup>  | 11  | Sara Bay (Hernandez, Jr., Brian)          | 120 | L   | b  | 11    | 7                 | 4 <sup>1 1/2</sup>  | 5 <sup>1</sup>     | 7 <sup>1/2</sup>    | 9 <sup>1 1/4</sup>   | 39.30                   | awkward stride, faded   |
| 4Jun13 <sup>4</sup> MNR <sup>1</sup>  | 1   | Mi Perlita (Pedroza, Marcelino)           | 120 | L   | f  | 1     | 1                 | 5 <sup>1 1/2</sup>  | 8 <sup>2 1/2</sup> | 9 <sup>Head</sup>   | 10 <sup>12 3/4</sup> | 66.60                   | close up, through early |
| 25May13 <sup>2</sup> AP <sup>1</sup>  | 3   | Richies Sweetheart (Rocco, Jr., Joseph)   | 120 | L   | b  | 3     | 5                 | g <sup>Head</sup>   | 11                 | 11                  | 34.90                | bumped start, empty     |                         |

**Fractional Times: 21.37 45.14 57.39 Final Time: 1:10.63**

**Split Times: (23:77) (12:25) (13:24)**

**Run-Up: 180 feet**

**Winner: Fiftyshadesofgold, Gray or Roan Filly, by My Golden Song out of Hadif Cat, by Hadif. Foaled Mar 02, 2011 in Texas.**  
**Breeder: Clarence Scharbauer Jr. Winning Owner: Clarence Scharbauer, Jr.**

**Total WPS Pool: \$291,311**

| Pgm | Horse             | Win  | Place | Show | Wager Type          | Winning Numbers      | Payoff   | Pool    |
|-----|-------------------|------|-------|------|---------------------|----------------------|----------|---------|
| 10  | Fiftyshadesofgold | 4.60 | 3.20  | 3.00 | \$2.00 Exacta       | 10-7                 | 20.40    | 176,786 |
| 7   | More Than Beauty  |      | 4.00  | 3.80 | \$2.00 Trifecta     | 10-7-9               | 141.80   | 127,475 |
| 9   | Del Mar Holiday   |      |       | 6.60 | \$2.00 Superfecta   | 10-7-9-2             | 856.60   | 75,703  |
|     |                   |      |       |      | \$2.00 Daily Double | 3-10                 | 26.00    | 18,447  |
|     |                   |      |       |      | \$2.00 Pick 3       | 8-3-10 (3 correct)   | 279.00   | 34,966  |
|     |                   |      |       |      | \$2.00 Pick 4       | 7-8-3-10 (4 correct) | 3,442.20 | 63,656  |

**Past Performance Running Line Preview**

| Pgm | Horse Name         | Start | 1/4                  | 1/2                  | Str                  | Fin                  |
|-----|--------------------|-------|----------------------|----------------------|----------------------|----------------------|
| 10  | Fiftyshadesofgold  | 4     | 1 <sup>1/2</sup>     | 2 <sup>1/2</sup>     | 1 <sup>3 1/2</sup>   | 1 <sup>8</sup>       |
| 7   | More Than Beauty   | 3     | 2 <sup>1/2</sup>     | 1 <sup>1/2</sup>     | 2 <sup>3 1/2</sup>   | 2 <sup>8</sup>       |
| 9   | Del Mar Holiday    | 6     | 7 <sup>5</sup>       | 4 <sup>7</sup>       | 3 <sup>11 1/2</sup>  | 3 <sup>13</sup>      |
| 2   | Silver Valley      | 11    | 8 <sup>7</sup>       | 7 <sup>10 1/2</sup>  | 4 <sup>13</sup>      | 4 <sup>13</sup>      |
| 4   | Yokohama Mama      | 10    | 11 <sup>13 1/4</sup> | 10 <sup>17 1/2</sup> | 8 <sup>18 1/2</sup>  | 5 <sup>19 1/4</sup>  |
| 6   | Deliver            | 2     | 6 <sup>5</sup>       | 6 <sup>10</sup>      | 6 <sup>15 1/2</sup>  | 6 <sup>22</sup>      |
| 8   | Teardrop           | 8     | 3 <sup>1</sup>       | 3 <sup>6 1/2</sup>   | 5 <sup>14</sup>      | 7 <sup>25 1/4</sup>  |
| 5   | Medalbu            | 9     | 10 <sup>8 1/4</sup>  | 9 <sup>13 1/2</sup>  | 10 <sup>21 1/2</sup> | 8 <sup>30 1/4</sup>  |
| 11  | Sara Bay           | 7     | 4 <sup>2</sup>       | 5 <sup>9</sup>       | 7 <sup>18</sup>      | 9 <sup>31 1/2</sup>  |
| 1   | Mi Perlita         | 1     | 5 <sup>3 1/2</sup>   | 8 <sup>11</sup>      | 9 <sup>21 1/2</sup>  | 10 <sup>32 3/4</sup> |
| 3   | Richies Sweetheart | 5     | 9 <sup>8</sup>       | 11 <sup>19</sup>     | 11 <sup>28</sup>     | 11 <sup>45 1/2</sup> |

**Trainers: 10 - Calhoun, W.; 7 - Borel, Cecil; 9 - Asmussen, Steven; 2 - Moquett, Ron; 4 - Morse, Randy; 6 - Short, Tommy; 8 - Asmussen, Steven; 5 - Meyer, Joseph; 11 - Aristone, Philip; 1 - Castaneda, Marco; 3 - Rivelli, Larry**

**Owners: 10 - Clarence Scharbauer, Jr.; 7 - Clifford J. Grum; 9 - Robison, J. Kirk and Judy; 2 - Bowman Racing LLC; 4 - Amos Thoroughbreds LLC and DMH Thoroughbreds LLC; 6 - Short, Tommy C. and Simcoe, William; 8 - Winchell Thoroughbreds LLC; 5 - Meyer, Joseph A. and Ryan; 11 - Glenview Farm and Bandy, Chris; 1 - Israel Acevedo; 3 - Ravin, Richard, Patricia's Hope LLC and Rivelli, Larry;**

**Footnotes**

FIFTYSHADESOFGOLD vied for the lead three wide, shook clear entering the stretch and drew away. MORE THAN BEAUTY set the pressured pace in rail skimming fashion, was unable to match strides with the winner but stayed on to clearly prove the best of the rest. DEL MAR HOLIDAY was allowed to settle, looped up five wide to make a mild bid entering the stretch, failed to seriously menace the top two then was all out to just earn the show. SILVER VALLEY broke slow and was bumped, tucked in to save ground, advanced between horses, came three wide and moved into striking distance but went evenly late. YOKOHAMA MAMA was slow into stride, lagged well back, came four wide and improved position between horses. DELIVER contended between horses four wide to the stretch and wilted. TEARDROP disputed the pace between horses, steadied entering the turn while attempting to drift out, dropped off of the leaders and floated out four wide on the turn, came up empty before going a half, continued to drift outwardly through the lane and retreated. MEDALBU passed the tiring ones. SARA BAY was close up four wide, took an awkward stride or two midway through the turn and gave way readily thereafter. MI PERLITA was forwardly placed along the inside but was through early. RICHIES SWEETHEART bumped with SILVER VALLEY at the start and was never a factor.

**KEENELAND** 3rd Place horse sold through Keeneland Association, Inc.

**D**

May 27, 2014

Chris Clark  
 Director of Enforcement & Licensing  
 Kentucky Horse Racing Commission  
 4063 Iron Works Pkwy., Bldg. B  
 Lexington, KY 40511  
[chris.clark@ky.gov](mailto:chris.clark@ky.gov)

Via First-Class Mail (with exhibits) and E-mail (without exhibits)

**Re: Supplement to PETA's March 18 request for an investigation**

Dear Mr. Clark:

I am writing to supplement PETA's March 18, 2014, request for an investigation of Steve Asmussen; his former assistant trainer Scott Blasi; and KDE Equine, LLC, doing business as Steve Asmussen Racing Stables ("KDE Equine"). PETA respectfully requests that your agency also investigate the use of thyroxine in light of evidence of KDE Equine's widespread use of the medication in New York. PETA further requests that the Commission investigate statements by Blasi and others about the possible possession and use of prohibited electrical shock devices in order to determine the extent to which these devices were used, and possibly continue to be used, in Kentucky.

As you may know, on May 12 the California Horse Racing Board (CHRB) took an important step to address what it recognizes as "the apparent indiscriminate use of thyroxine in horse racing and training."<sup>1</sup> Specifically, CHRB has made clear that thyroxine, or any other thyroid hormone or thyroid hormone analogue, may only be prescribed by a veterinarian for a specific horse, based on a specific diagnosis, and for a specific period of time.<sup>2</sup> Further, the veterinarian must report the identity of the horse and the other information noted above to the CHRB Official Veterinarian, and must ensure that all medications are properly labeled.<sup>3</sup> Medications that are not properly labeled with the name of the specific horse and the specific dosage and duration of treatment will be confiscated as contraband.<sup>4</sup> The CHRB also makes clear that trainers must report all administration of these drugs to the CHRB Official Veterinarian.<sup>5</sup>

<sup>1</sup> California Horse Racing Board, Advisory on Thyroxine and Instructions Pursuant to California Horse Racing Board Rules 1840, 1842, 1843(c), 1843.3(g), 1864, 1890, 1891 and 1855 Medication Procedures and Related Instructions, available at [http://www.chrb.ca.gov/veterinary\\_reports/thyroxine\\_advisory.pdf](http://www.chrb.ca.gov/veterinary_reports/thyroxine_advisory.pdf).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

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- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

In addition to any disciplinary action that may be warranted against Asmussen and Blasi, PETA respectfully requests that the Kentucky Horse Racing Commission consider additional regulatory restrictions similar to those imposed in California. As evidenced by the information contained in this letter, such action is warranted and clearly in the best interests of the industry, and the horses on whose backs the industry profits.

**I. KDE Equine's Routine Use of Thyroid Medication in New York**

**A. Overview of Thyroxine and Evidence of its Widespread Use by KDE Equine**

Thyroxine is the generic term for synthetic thyroid hormones, the medical use of which is to treat hypothyroidism, an extremely rare condition in adult horses;<sup>6</sup> however, racehorse owners and trainers believe that the use of synthetic thyroid hormones is beneficial to performance on the track<sup>7</sup> and, as a result, misuse of the medication is commonplace.<sup>8</sup> KDE Equine is no exception, as evidenced by Blasi's comment to the PETA investigator that thyroxine "Makes [horses] feel good."<sup>9</sup>

The indiscriminate use of thyroxine as a performance enhancer, as appears to be rule of thumb in Asmussen's barns, creates at least two dangers for the horse. First, it suppresses the natural production of thyroid hormone by the horse's thyroid and, ironically, the animal then becomes dependent on the daily administration of the correct dose of synthetic thyroid hormone.<sup>10</sup> Second, without blood tests to monitor the level of the hormone in each horse and the subsequent adjustments to dosage, it is likely that many horses receive too much synthetic hormone and suffer from chronic hyperthyroidism, which can lead to increased heart rates, heart disease, irritability, and other conditions associated with an abnormally high basal metabolic rate.<sup>11</sup>

In July and August 2013, PETA's investigator established that between 15 and 20 cc of Thyrozine Powder was administered to many, if not all, of the horses in Asmussen's barns at Saratoga Race Course on a daily basis, with the possible exception of horses who were scheduled to race on that same day and perhaps the day before.<sup>12</sup> According to Dorothee Bienzle, DVM, a professor of veterinary pathology at the University of Guelph and a renown expert on the misuse of drugs and other substances in the horse racing industry, hypothyroidism is "extremely rare" in adult horses,<sup>13</sup> and thus a medically-indicated need to administer synthetic thyroid hormone is extremely rare

<sup>6</sup> See Expert Opinion of Dorothee Bienzle, DVM. Ex. 1.

<sup>7</sup> Id.

<sup>8</sup> See, e.g., Joe Drape, A Sport's Beauty Clashes with the Stain of a Scandal, N.Y. Times, May 2, 2014, available at <http://www.nytimes.com/2014/05/03/sports/scandal-casts-shadow-over-grandeur-of-kentucky-derby.html>.

<sup>9</sup> See KDE Equine: Supplemental Investigative Footage for KY Horse Racing Commission DVD. Inc. 1, Ex. 2.

<sup>10</sup> Bienzle Opinion, Ex. 1.

<sup>11</sup> Id.

<sup>12</sup> New York law prohibits the administration of thyroxine within 48 hours of a horse's posted race time. N.Y. COMP. CODES R. & REGS. tit. 9, § 4043.2.

<sup>13</sup> Bienzle Opinion, Ex. 1.

The evidence also indicates that the thyroxine was administered without proper veterinary diagnoses and supervision. Specifically, PETA's investigator documented that the label on the Thyrozine Powder did not indicate that the medication had been prescribed for any specific horse and further, it failed to specify the dosage or length of the treatment period. There was no indication which, if any, veterinarian had prescribed the medication, and PETA's investigator was unaware of any blood tests performed to either diagnose the need for medication or to determine the appropriate amount of thyroid hormone supplement to be administered to each horse. In fact, each horse appeared to receive the same dosage of Thyrozine Powder each day—15 to 20 cc—which could be four times “as much as some horses should get, and insufficient for some other horses” according to Dr. Bienzle.<sup>14</sup>

Just two months ago, Finesse, an Asmussen-trained horse, tested positive for thyroid medication (as well as Lasix and clenbuteral) after she broke down and died at the end of a race at Oaklawn Park in Hot Springs, Arkansas.<sup>15</sup> When questioned on HBO's “Real Sports with Bryant Gumbel” about the tragedy and the potential link to the indiscriminate use of these substances, Asmussen admitted that KDE Equine feeds thyroxine to its horses.<sup>16</sup>

PETA's evidence of the administration of thyroxine to Asmussen-trained horses in New York follows:<sup>17</sup>

- On July 4 and 5, Bartolo,<sup>18</sup> a KDE Equine foreman, instructed PETA's investigator to put one 5-cc scoop of Thyrozine into each Asmussen-trained horse's feed bucket during the morning feeding, which occurred around 11 a.m.
- On July 7, PETA's investigator saw Blasi carrying a container labeled “Thyrozine” and putting one 5-cc scoop of the substance into each Asmussen-trained horse's feed tub during the morning feeding. The same day, PETA's investigator asked Blasi what the purpose of the Thyrozine was, and Blasi stated that “it kinda keeps their thyro level up. Makes 'em feel good.” (See Inc. 1, at Ex. 2.)
- On July 9, PETA's investigator photographed a container of Thyrozine kept in Asmussen's barn. The label on the container read, “Thyrozine Powder,” “A Palatable Supplement for the Correction of Conditions Associated with Hypothyroidism in Horses and Ponies,” and “COMPOSITION: Each pound (453.6 g) contains Levothyroxine Sodium USP ... 0.22% ....” (See Photograph 2013-07-09\_1\_Thyrozine Powder\_IMG\_0161, at Ex. 3.)
- On July 12, PETA's investigator saw Tyler Peeples, a KDE Equine foreman and hot walker, adding two 5-cc scoops of Thyrozine to each Asmussen-trained horse's feed tub during the evening feeding, which occurred around 5 p.m. PETA's investigator asked Peeples if the horses received Thyrozine in the morning and at night, and Peeples nodded in affirmation. This affirmation, along with the above-described instructions provided to PETA's investigator on the mornings of July 4 and 5, led the investigator to understand that each

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<sup>14</sup> Bienzle Opinion, Ex. 1.

<sup>15</sup> See, statement of race track veterinarian, HBO's Real Sports with Bryant Gumbel, “Death at the Track” (May 20, 2014).

<sup>16</sup> See, statement of Steve Asmussen, HBO's Real Sports with Bryant Gumbel, Death at the Track” (May 20, 2014).

<sup>17</sup> See “KDE Equine: Supplemental Investigative Footage for the Kentucky Horse Racing Commission” DVD, Ex. 2, and “KDE Equine: Supplemental Investigative Photographs for the Kentucky Horse Racing Commission” CD, Ex. 3.

<sup>18</sup> Bartolo may go by the name Bartolo Uscanga, Bartolo Uscanga Lara, Bartolo Usanga, or Jose Alfonso.

- Asmussen-trained horse received at least three scoops, or 15 cc, of Thyrozine each day—one scoop in the morning feeding and two scoops in the evening feeding—and that the horses may receive four scoops, or 20 cc, if they were given a scoop in the early morning feeding, which occurred around 3:30 a.m., before the morning feeding.
- On July 14, PETA's investigator photographed the label on a Thyrozine container in Asmussen's barn. PETA's investigator saw that there were warnings on the container's label reading, "Administer with caution to animals with clinically significant heart disease, hypertension or other complications for which a sharply increased metabolic rate might prove hazardous. Use in pregnant mares has not been evaluated" and "Federal law restricts this drug to use by or on the order of a licensed veterinarian." (See Photographs 2013-07-14\_1\_Thyrozine powder container\_IMG\_0181 and 2013-07-14\_2\_Thyrozine powder container 2\_IMG\_0182, at Ex. 3.)
  - On July 17, PETA's investigator photographed a container of Thyrozine in Asmussen's barn. PETA's investigator saw that the label read in part, "INDICATIONS: For use in horses and ponies for correction of conditions associated with low circulating thyroid hormone (hypothyroidism)" and "DOSAGE: Doses should be individualized and animals should be monitored daily for clinical signs of hyperthyroidism or hypersensitivity. Suggested initial doses are 1–10 mg levothyroxine sodium (T<sub>4</sub>)/100 lb. body weight (2–20 mg/100 kg) once per day or in divided doses. Response to the administration of Thyrozine Powder should be evaluated clinically every week until an adequate maintenance dose is established. In most horses, this is usually in the range of 35 to 100 mg total daily dose of T<sub>4</sub> (1–3 level tablespoonfuls Thyrozine Powder)." (See Photograph 2013-07-17\_16\_Thyrozine Label\_IMG\_0203, at Ex. 3.)
  - On August 5, PETA's investigator saw Bartolo and Alberto,<sup>19</sup> a KDE Equine foreman, giving the Asmussen-trained horses thyroxine during the morning feeding. Bartolo and Alberto told PETA's investigator that the horses receive one 5-cc scoop of thyroxine at each feeding. (See Inc. 2 at Ex. 2.) PETA's investigator knew from working in Asmussen's barn that there were three feedings per day, meaning that each of the Asmussen-trained horses would receive at least 15 cc—and 20 cc, if Peeples' July 12 administration of 10 cc to each horse at the evening feeding was the rule—of thyroxine daily.

The widespread use of synthetic thyroid hormones in New York creates the likelihood that this is standard practice in KDE Equine's barns, including those within the jurisdiction of the Commission such as Churchill Downs. In fact, the PETA investigator observed that "supplements" added to the horses' feed at Churchill Downs were administered in the same or similar manner and frequency to the thyroid medication that was administered in New York,<sup>20</sup> supporting the inference that the supplements used in Kentucky consisted of Thyrozine Powder or a similar medication, and are administered in the same seemingly unwarranted and excessive dosage as in New York.

The totality of the evidence discussed above demands—for the sake of the industry and the horses—a swift and thorough investigation of the use of thyroxine by Asmussen and KDE Equine in Kentucky.

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<sup>19</sup> PETA was unable to determine this man's surname.

<sup>20</sup> Telephone conversation between Lindsay Waskey, Esq., PETA Foundation, and PETA's Investigator, May 2014.

## B. Kentucky Law Governing the Administration of Thyroid Medications

The Kentucky Horse Racing Commission's regulations set forth a number of restrictions on the use of medications such as thyroxine, and the evidence provided above calls into question whether KDE Equine conducts its business in compliance with these regulations.

### 1. Asmussen and KDE Equine may violate Kentucky's prohibition against racing horses with excess thyroid medication in their bodies

810 KY. ADMIN. REGS. 1:018, Section 2(2) provides, in relevant part:

[W]hen participating in a race, a horse shall not carry in its body any drug, medication, substance, or metabolic derivative, that: ... [c]ould stimulate...or affect the circulatory, respiratory, cardiovascular, musculoskeletal, or central nervous system of a horse.

According to Dr. Bienzle, the administration of a synthetic thyroid medication in the absence of periodic blood tests to monitor hormone levels and the necessary adjustments to dosage — as it appears is standard practice in Asmussen's barns—is likely to result in a horse who suffers from chronic *hyperthyroidism*.<sup>21</sup> Chronic hyperthyroidism can lead to an increased metabolic rate, which is the basis for the industry's belief that the medication enhances performance, but it can also lead to heart disease, irritability, and other abnormalities that can affect a horse's health,<sup>22</sup> and which also have the potential to run afoul of Section 2(2).

The routine use of thyroid medication by KDE Equine in New York coupled with the apparent lack of proper veterinary diagnoses and supervision, creates the likelihood that excess thyroid medication were present in these horses' systems when they were raced in Kentucky, and that violations may be on-going.

In order to determine whether violations have occurred, PETA suggests that the Commission use its subpoena power, pursuant to KY. REV. STAT. ANN. § 230.260(12), to demand the production of records from KDE Equine and its veterinarians, including invoices submitted by KDE Equine or its veterinarian(s) to the horses' owners; KDE Equine's veterinary care records and invoices; KDE Equine's pharmacy orders and invoices; KDE Equine's medication lists; and necropsy reports, including toxicology reports, for all Asmussen-trained horses who have not survived the dangers of training and racing.<sup>23</sup>

### 2. Asmussen and KDE Equine may violate Kentucky's prohibition on horses having a concentration of hormones that exceeds that which occurs naturally if it affects the performance of the horse

<sup>21</sup> See Bienzle Opinion, Ex. 1

<sup>22</sup> *Id.*

<sup>23</sup> See 810 KY. ADMIN. REGS. 1:018, Section 15(5)(i) (requiring a trainer to maintain "a medication record and medication status of horses in his or her care); *see also*, 810 KY. ADMIN. REGS. 1:018 § 16 (7) (requiring a veterinarian to "maintain records of all horses treated and of all medications sold or dispensed.")

810 KY. ADMIN. REGS. 1:018, Section 2(4) provides, in relevant part: "A substance shall not be present in a horse in excess of a concentration at which the substance could occur naturally if it affects the performance of a horse."

As discussed above the evidence indicates, and Dr. Bienzle's opinion supports, the inference that many of KDE Equine's horses are likely to test positive for an excess concentration of thyroid hormone, due to the indiscriminate use of the synthetic hormone as a supplement in the horses' feed. In fact, Dr. Bienzle concludes that many of these horses are likely to suffer from *chronic hyperthyroidism*.<sup>24</sup>

An excess concentration of thyroid hormone carries with it a host of problems, as discussed above, which are likely to affect a horse's performance on the track. The effect can be positive or negative, depending on one's perspective. For example, the industry commonly views the use of thyroid medication in a positive light<sup>25</sup> – as a means to increase the speed of a horse and thus increase the chance of a purse. Blasi's statement to the PETA investigator that thyroid medication "Makes [horses] feel good" seems to suggest that he believes that thyroid medication "affects the performance of a horse" in a way that is beneficial to KDE Equine.

Undoubtedly, this misuse of thyroxine to gain an advantage on the track was of primary concern to the Commission when it promulgated Section 2(4), yet misuse can also impact the health of a horse in ways that *compromise* his or her performance on the track, even with catastrophic results. For example, Dr. Bienzle remarks that chronic hyperthyroidism carries with it the risk of sudden heart failure.<sup>26</sup>

Careful examination of the records listed above is required in the attempt to determine whether the amounts of thyroid medication present in Asmussen-trained horses exceed that which would occur naturally in the horses. For example, Asmussen's and Blasi's records may further document how often and in what dosage thyroid medication is administered, as may the records of the veterinarians who prescribed the medication. The veterinary medical records may also document whether a veterinarian diagnosed hypothyroidism in any of the horses or monitored the hormone levels of the horses who received the medication, as it can be presumed that a veterinarian would document and charge KDE Equine or the horses' owners for these services.<sup>27</sup>

3. **Asmussen and KDE Equine may violate Kentucky's prohibition against possessing or using a drug, medication, or substance that may endanger the health and welfare of the horse or safety of the rider**

810 KY. ADMIN. REGS. 1:018, Section 20, provides in relevant part

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<sup>24</sup> Bienzle Opinion, Ex. 1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> All records in the Commission's possession pursuant to 810 KY. ADMIN. REGS. 1:018, Section 17, and related to the administration of thyroid medication should also be examined.



(1) A drug, medication, or substance shall not be possessed or used by a licensee, or his designee or agent, to a horse within a nonpublic area at a location under the jurisdiction of the commission:

(a) The use of which may endanger the health and welfare of the horse; or

(b) The use of which may endanger the safety of the rider. ...

As discussed above, without proper veterinary diagnosis, periodic blood tests to monitor hormone levels, and the necessary adjustments to dosages, many horses are likely to receive too much thyroxine and, as a result, may suffer from chronic hyperthyroidism. Because this condition carries with it a number of health concerns, all of which endanger the health and welfare of the horse, and possibly the safety of the rider—as would be the case with the risk of sudden heart failure—KDE Equine’s indiscriminate use of thyroxine appears to be at odds with this regulation.

For the same reasons set forth previously, an examination of the records in the possession of KDE Equine and its veterinarians is critical to a determination of whether there have been violations of 810 KY. ADMIN. REGS. 1:018, Section 20.

**4. Asmussen and KDE Equine may violate Kentucky’s prohibition on non-veterinarians administering thyroid medications**

810 KY. ADMIN. REGS. 1:018, Section 3(1) provides:

Except as provided in Section 4 of this administrative regulation,<sup>28</sup> a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall not administer a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission.

In New York, employees of KDE Equine who were not veterinarians, such as Blasi, Tyler Peoples, Bartolo, and Alberto, administered Thyroxine Powder to horses in their feed and, further, the PETA investigator never observed a veterinarian administer the medication. This creates the likelihood that lay persons were also instructed by KDE Equine or its veterinarian to administer thyroid medications in Kentucky, as was the standard practice in New York. This

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<sup>28</sup>810 KY. ADMIN. REGS. 1:018, Section 4 titled “Certain Permitted Substances” provides:

Liniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission.

assumption is supported by the fact that on April 23, the PETA investigator heard an employee of KDE Equine at Churchill Downs state to Alberto, a foreman, "Alberto, 23 and 24, Macho and Unbridled, they need two scoops of thyro in the morning and two scoops at night." (See Inc. 3, at Ex. 2.)

Once again, the records listed above are likely to reveal whether a veterinarian, as opposed lay persons as was the case in New York, administer thyroid medication to KDE Equine's horses in Kentucky. For example, Kentucky law requires veterinarians to maintain records for all patients, as well as records of all medications that are sold or dispensed by the veterinarian.<sup>29</sup> Further, it can be assumed that a veterinarian would charge to administer the medication, and thus invoices would document this service.

**5. Asmussen, KDE Equine, and their veterinarian may violate Kentucky's requirement that prescription drugs are validly prescribed and have labels that provide specific information about the prescription**

The containers that held the Thyrozine Powder administered to KDE Equine horses in New York failed to indicate who prescribed the medication for which horse, as well as other critical information that would be required under Kentucky law.

810 Ky. Admin. Regs. 1:018, Section 14 provides in relevant part:

(2) A drug or medication which, by federal or state law, requires a prescription shall not be used or kept on association grounds unless validly prescribed by a duly-licensed veterinarian.

(3) A drug or medication shall bear a prescription label which is securely attached and clearly ascribed to show the following:

(a) The name of the product;

(b) The name, address, and telephone number of the veterinarian prescribing or dispensing the product;

(c) The name of the horse for which the product is intended or prescribed;

(d) The dosage, duration of treatment, and expiration date of the prescribed or dispensed product; and

(e) The name of the trainer to whom the product was dispensed.

In New York, the PETA investigator observed and documented that the label on the Thyrozine Powder did not indicate that the medication had been prescribed by a

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<sup>29</sup> 810 KY. ADMIN. REGS. 1:018 § 16 (7).

veterinarian, much less which veterinarian.<sup>30</sup> Nor did the label include most of the information that would be required by Subsection 3 of the Kentucky regulation. Specifically, the label did not identify the name, address, and telephone number of the veterinarian prescribing or dispensing the product; the name of the horse for which the product is intended or prescribed; the dosage or duration of treatment; or the name of the trainer to whom the product was dispensed.<sup>31</sup>

### **C. Asmussen's and Blasi's Responsibilities under Kentucky Law as Trainer and Assistant Trainer**

Kentucky law makes clear that both Asmussen and Blasi must be held responsible if horses received thyroid medication in violation of the regulations cited herein.

810 KY. ADMIN. REGS. 1:008, Subsections 15(2) and (3) specify that a trainer bears responsibility "for the presence of a prohibited drug, medication, substance...including permitted medication in excess of the maximum-allowable concentration, in his care," and that a trainer must "prevent the administration of a...substance...that may constitute a violation of [the regulations]." Further, 810 KY. ADMIN. REGS. 1:008, Section 3, provides, in relevant part, that "A licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against the administration of prohibited drugs or medication of horses in his charge."

Blasi as former assistant trainer, would also bear responsibility for any violations, pursuant to 810 KY. ADMIN. REGS. 1:008, Section 6, which imposes the same duties and responsibilities on assistant trainers as trainers. Further, Asmussen is jointly responsible for all acts and omissions of Blasi under this same section.<sup>32</sup>

## **II. Request to Investigate Electrical Buzzer Possession and Use**

The investigator documented a number of conversations set forth below about the use electrical shock devices on horses. Although the dates and locations of the incidents are unknown, the trainer and jockeys involved in the conversations—trainer D. Wayne Lukas, jockey Gary Stevens, jockey Calvin Borel, and jockey Ricardo Santana, Jr.—participate in races at tracks located in Kentucky and may have possessed or used these devices in violation of Kentucky law, or may have knowledge of others who possess or use them in an illegal manner.

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<sup>30</sup> See KDE Equine: Supplemental Investigative Photographs for the Kentucky Horse Racing Commission" CD, at Exhibit 3.)

<sup>31</sup> *Id.*

<sup>32</sup> The role of all veterinarians must be investigated for possible violations of 810 Ky. Admin. Regs. 1:018, Section 17(6) which provides:

A veterinarian having knowledge or reason to believe that a horse entered in a race has received a drug, medication, or substance prohibited under this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as set forth in Section 20 of this administrative regulation shall report this fact immediately to the commission veterinarian or to the stewards.

810 KY. ADMIN. REGS. 1:012, Section 11(8) provides: “Any goading device, chain, spurs, electrical or mechanical device, or appliance, except for a riding crop, that may be used to alter the speed of a horse shall not be used on a horse in a race or workout.”

810 KY. ADMIN. REGS 1:016, Section 16 provides in relevant part: “An electrical or mechanical appliance, other than a riding crop, shall not be used to affect the speed of a horse in a race.”

810 KY. ADMIN. REGS. 1:016, Section 15(3) provides: “An electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than a riding crop approved by the stewards, pursuant to 810 KAR 1:012 shall not be possessed by anyone, or applied by anyone to a horse at any time, on the grounds of the association during a race meeting, whether during a race or otherwise.”

Moreover, the possession or use of such devices, or the failure to report such conduct—even if one did not possess or use the device one’s self—is contrary to the qualifications required for licensure as a trainer or jockey. 810 KY. ADMIN. REGS. 1:025, Subsections 14(s),(q), allow the Commission to deny, revoke or suspend a license if, among other grounds:

The licensee or applicant has possessed on association grounds, without written permission from the commission or the chief state steward any appliance or device, other than an ordinary whip, which could be used to alter the speed of a horse in a race or workout; [or] ... The licensee or applicant has engaged in conduct that is against the best interest of horse racing, or compromises the integrity of operations at a track, training facility, or satellite facility.”

PETA’s evidence of the illegal use of electrical shock devices follows:

- On April 26, Stevens told PETA’s investigator that, when riding a horse named Rocky Bandit during a race, apparently in California, he concealed an electronic device—sometimes called a “buzzer”—on his person that apparently delivered an electric shock to Rocky Bandit. Stevens indicated to PETA’s investigator that his brother, Scott, instructed him to hide the device and put it on the horse when he was behind the starting gate, then remove the device once he crossed the finish line. Stevens told PETA’s investigator that when he took the device off of the horse at the end of the race, he “shock[ed] the shit out of [him]self” and dropped it. He told the investigator that after the race his brother said, “Man, good job” and then said “[w]here’s my equipment?” (See Inc. 4, at Ex. 2.) The investigator understood this conversation to mean that Stevens had delivered an electrical shock to this horse.
- Also on April 26, Lukas indicated to PETA’s investigator that he knew of a jockey who hid an electric shock device under the blinkers on the horse the jockey was riding. (See Inc. 5, at Ex. 2.) The same day, Blasi indicated to PETA’s investigator that Roman Chapa, a jockey suspended from racing in 1993 after having been caught with a buzzer, concealed a buzzer in his mouth in order to hide it from race officials. (See Inc. 6, at Ex. 2.)
- Also on April 26, Stevens told PETA’s investigator that his brother, Scott, used to fix people’s “machines,” meaning electric shock devices or buzzers. (See Inc. 7, at Ex. 2.) Lukas indicated to PETA’s investigator that such devices were commonly used, saying, “Well, we

- used to go behind the gate at Ruidoso. And it was just like it was, uh, uh, a full blown orchestra. Zzz. Zzz. Zzz. Zzz. Everybody had one. Everybody had one.” (See Inc. 8, at Ex. 2.)
- On July 3, PETA’s investigator heard Peebles and Harry Hubbard “Hub” Johnson, Jr., a foreman/hot walker, talk about Borel’s use of electric-shock devices on horses. PETA’s investigator heard Johnson say that during training, Borel runs horses into the track railing—puts “their shoulder into the fucking rail”—and then shocks them or “plugs ’em in.” Peebles then told PETA’s investigator that Borel “does it more than anybody.” PETA’s investigator heard Johnson continue, “And he does that ... you do it in the mornings, you do that two times, so that whenever you come into the race, and he comes around, has ’em switch leads, puts ’em, puts ’em into the rail, they’re fucking .... They think, ‘Oh shit, that’s fucking coming.’ ... Dude, Super Saver, after the Derby, I saw him before the Preakness. After the fucking Derby, there’s a perfect strip of hide off his shoulder on his inside. He fucking—on Super Saver, yeah. Just fucking cranked him all the way over. Rubbed the hide off on the rail. Perfect rail height—straight line down the fucking horse.” Borel rode Super Saver in the Kentucky Derby at Churchill Downs on May 1, 2010, which is apparently the race to which Johnson was referring. (See Inc. 9, at Ex. 2.) The investigator understood this conversation to mean that jockey Borel uses an electro-shock device to train horses and, specifically, that he uses the device in a manner that keeps the horses close to the track rail. As a result, in an actual race, the horses fear that they will be shocked again if they hesitate or veer from the rail, and thus the horses are conditioned to maintain or even pick up their speed without any additional use of the device.
  - On August 13, PETA’s investigator heard Blasi tell former jockey Angel Cordero Jr. that jockey Santana “is a good machine rider.” PETA’s investigator had previously heard electric shock devices referred to as machines and understood this to mean that Santana used a shocking device on some or all of the Asmussen-trained horses he rides. PETA’s investigator then heard Blasi say, in reference to Santana, “I’d tell him, ‘You got the *máquina*?’” *Máquina* is Spanish for “machine” and was apparently a reference to an electric-shock device. PETA’s investigator heard Blasi state that Santana would respond, “Boss, I got the *máquina*.” PETA’s investigator asked Blasi, “Do they check for those at—ever?” Blasi told PETA’s investigator, “No.” (See Inc. 10, at Ex. 2.) The investigator understood this to mean that Ricardo Santana, Jr.—the only jockey named Santana who rides for Asmussen—uses or used an electro-shock device on Asmussen-trained horses. Santana’s young age, just 21 years old, suggests that the events described above happened recently.

### III. Conclusion

Asmussen and KDE Equine participate in races at Churchill Downs and other locations in Kentucky and may be engaged in the same or similar conduct that was documented by PETA’s investigator in New York, in violation of the Kentucky Horse Racing Commission’s regulations. Accordingly, PETA requests that the Commission conduct a thorough investigation of KDE Equine’s use of thyroxine as well as evidence of the use of electrical shock devices, both by KDE Equine employees and others. Further, PETA strongly urges the Commission to consider regulatory restrictions similar to those imposed in California that would greatly reduce the ability of trainers to engage in the indiscriminate use of thyroxine.

PETA remains willing to fully cooperate in your investigation. Thank you for your consideration of this matter.

Very truly yours,



Lori Kettler  
Deputy General Counsel, Regulatory Affairs

cc: Jeffrey S. Kerr, Esq., PETA Foundation, General Counsel  
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November 28, 2013

To Whom It May Concern:

I have been asked by People for the Ethical Treatment of Animals (PETA) to review investigation footage and documentation, and to provide a professional opinion regarding the use and dosage of thyroid hormone in racehorses.

Thyroid hormone regulates the basal metabolism in animals and people. Thyroid hormone is normally produced only by the thyroid gland, and its production is tightly regulated to supply sufficient but not excess hormone for the normal metabolic rate. Hypothyroidism, a condition whereby the thyroid gland produces insufficient thyroid hormone, results in a low basal metabolic rate, cold sensitivity, skin thickening, depression and possible weight gain. Complete lack of thyroid hormone is incompatible with life. Hyperthyroidism is a condition where there is too much thyroid hormone in the body either as a result of overproduction from an abnormal thyroid gland or because of excess administration of synthetic thyroid hormone. Chronic hyperthyroidism leads to weight loss, heart enlargement, increased heart rate, irritability, roughened hair coat and other abnormalities.

Hypothyroidism is extremely rare in adult horses. Hypothyroidism is diagnosed by measuring the amount of thyroid hormone in blood, and usually more than one blood test is required.<sup>1</sup> Nevertheless, horse owners, and in particular racehorse trainers, such as those cited in PETA's investigation materials, appear to believe that supplementing horses with synthetic thyroid hormone (levothyroxine, T4, tradename "Thyrozine" and others) in feed is beneficial to performance. Scientific evidence regarding long-term benefits of thyroid hormone administration in horses is lacking. Furthermore, there are at least two detrimental consequences of regularly giving a horse synthetic thyroid hormone:

1. It suppresses production of thyroid hormone by the horse's own thyroid gland. In essence, the thyroid gland perceives that there is abundant thyroid hormone in the body (from administration of synthetic hormone), and stops producing more. Within weeks to months of giving synthetic thyroid hormone, the thyroid gland atrophies (shrivels) and is no longer able to produce normal amounts of thyroid hormone. The animal is then dependent on daily administration of the correct dose of synthetic thyroid hormone. The thyroid gland can recover if synthetic hormone is not longer provided, but the horse goes through a period with insufficient thyroid hormone (hypothyroidism).

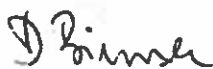
2. It is difficult to give the appropriate amount of hormone. Since horses are generally not "diagnosed as hypothyroid" from blood tests, they are given empirical amounts of synthetic hormone in feed in the scientifically unsupported belief that it will improve their racing performance. Personnel putting hormone into feed of racehorses as a standard operating procedure, such as what is documented in PETA's investigation, appear not always trained in what powerful and deleterious effects too much thyroid hormone may have. Specifically, the horses documented in PETA's investigation appear to have been given the same dosage of synthetic thyroid hormone in their feed multiple times per day (5cc scoops, three times a day: 15cc total per day for all horses) indicating that the administration of this medication was not individualized to the particular need of each horse. For example, Thoroughbred and Standardbred horses weigh between 450 and 500 kg (990-1100 lbs). If a horse had no thyroid gland at all it would need between 2 and 20 mg/100 kg = 9 to 90 mg of thyroxine per day to have an adequate blood concentration of thyroid hormone. Thus, this is a 10fold variation in what may be "normal" for different horses since they differ in how much thyroid hormone is needed for daily life with rest and exercise periods. A typical formulation of synthetic thyroid hormone powder available through veterinarians is "Thyrozone Powder", which comes in a 1 lb. format containing 0.22% or 1 g of levothyroxine. A graduated US tablespoon of 15 mL (= 15 cc) of this powder contains 36 mg of hormone. One such tablespoon would be 4x as much as some horses should get, and insufficient for some other horses (assuming they don't produce any hormone of their own).

If a horse were deemed to be hypothyroid from several blood tests, and synthetic hormone were given for treatment, multiple blood tests should be performed over the subsequent weeks to determine the amount of synthetic hormone that results in normal blood levels. Without these blood tests and dose adjustments, it is quite likely that many horses receive too much synthetic hormone and are chronically hyperthyroid. As mentioned above, chronic hyperthyroidism leads to high heart rates, heart disease, irritability and many other changes associated with an abnormally high basal metabolic rate. Chronic hyperthyroidism renders high performing athletes at risk of sudden heart failure.

In summary, medically indicated need for treating horses with thyroid hormone supplementation is extremely rare. Treating horses with thyroid hormone without regular monitoring of blood concentrations readily leads to hyperthyroidism, which may result in long-term organ damage.

<sup>1</sup>Breuhaus BA. Disorders of the equine thyroid gland. Vet Clin North Am Equine Pract. 2011 Apr;27(1):115-28.

Sincerely,



D. Bienzle



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**The New York Times** <http://nyti.ms/1glnm6h>



SPORTS

## PETA Accuses Two Trainers of Cruelty to Horses

By JOE DRAPE MARCH 19, 2014

Over a 26-year career, the trainer Steve Asmussen has built one of horse racing's largest and most successful operations. He ranks second in career victories, with more than 6,700; has earned more than \$214 million in purses, the fifth most in thoroughbred racing; and was recently included on the National Museum of Racing's Hall of Fame ballot.

But People for the Ethical Treatment of Animals, after conducting an undercover investigation, has accused Asmussen and his top assistant trainer, Scott Blasi, of subjecting their horses to cruel and injurious treatments, administering drugs to them for nontherapeutic purposes, and having one of their jockeys use an electrical device to shock horses into running faster. As a result of its findings, PETA filed complaints with federal and state agencies in Kentucky and New York on Tuesday, saying Asmussen "forced injured and/or suffering horses to race and train."

The undercover inquiry was conducted by a PETA investigator who worked for Asmussen for four months in the spring and summer of 2013 at Churchill Downs in Louisville, Ky., and Saratoga Race Course in Saratoga Springs, N.Y.

The investigator used a hidden camera to record more than seven hours of video that showed mistreatment of the horses to be widespread and cavalier. In addition, PETA produced a 285-page report about Asmussen's operations that consisted of the investigator's notes, medical documents and reports from veterinarians who reviewed the videotape.

"It is certainly a surprise to Mr. Asmussen and Mr. Blasi that anyone would deceptively get a job and keep surveillance and their notes on their conduct for the agenda of others," Clark Brewster, a lawyer for the two men, said Wednesday.

“They will reserve comment with regard to any accusations until they have had the opportunity to fully review them. Then they will respond factually.”

The New York Times reviewed the video and documents, along with the legal complaints, and interviewed the investigator and others involved in the operation, but played no role in the investigation. PETA shared the material on the condition that The Times not publish the investigator’s name.

Video clips and the report depicted the Asmussen barn and the backsides of two of the United States’ most storied racetracks as places where horses were treated as commodities and given numerous joint injections as well as tranquilizers, painkillers and supplements.

Over the past 30 years, PETA has aggressively assailed corporations for the way they treat animals and has run undercover investigations. But the Asmussen investigation was PETA’s first significant step into advocacy in the horse racing world. The organization said the treatment of racehorses would become a priority for the group.

“We wanted to know exactly what happens to thoroughbreds in a top racing stable,” Kathy Guillermo, the senior vice president for PETA, said. “It was devastating to see sore, exhausted, drugged horses every single day. Some were in so much pain it hurt them even to stand, yet they were trained and run anyway.”

PETA has also accused Asmussen of employing undocumented workers, requiring them to use false names on Internal Revenue Service forms, and conspiring with Blasi to produce false identification documents, according to the complaints filed with state and federal agencies. Asmussen also paid the PETA investigator \$5.95 an hour — less than minimum wage — and did not pay proper overtime wages, according to complaints filed with the labor departments of Kentucky and New York.

Blasi was recorded discussing injured horses, as well as how one of his jockeys, Ricardo Santana Jr., 21, used a buzzer to shock horses, a practice that is banned in racing.

Santana’s agent, Ruben Muñoz, said the rider had never used an electrical device. “He’s a good, hardworking kid,” Muñoz said of Santana. “I’d put my neck out that he has no part of this.”

The allegations come as horse racing continues to wrestle publicly with a drug culture that its officials concede has badly damaged the sport. A New York Times

investigation in 2012 showed how a pervasive drug culture, encouraged by trainers and aided by veterinarians, put horses and riders at risk. The Times found that 24 horses a week died at American tracks, a rate greater than in countries where drug use was severely restricted.

Congress has held multiple hearings and proposed legislation that would create stricter rules and give the United States Anti-Doping Agency authority to enforce them.

Asmussen, who has a current Kentucky Derby contender in Tapiture, has run afoul of regulators before. In 2006, he served a six-month suspension after a filly he trained tested 750 times over the legal limit in Louisiana for the local anesthetic mepivacaine, which can deaden pain in a horse's legs. Instead of losing his livelihood, Asmussen turned his horses over to Blasi, who won another 198 races as the stable finished the year with more than \$14 million in earnings.

On the tapes, Blasi was a profane narrator to the murky goings-on at American racetracks and was often heard bemoaning the lame horses in his barn. At Churchill Downs, in the days before the Debutante Stakes last June, Blasi was frustrated that the 2-year-old filly Teardrop appeared to be injured.

"There's always something wrong with 'em," he said at the end of a profanity-laced lament.

Four days later, however, Teardrop ran in the \$100,000 Debutante, finishing seventh as the second favorite at odds of 8 to 5.

Blasi also discussed in detail the chronic foot problems of Nehro, the 2011 Kentucky Derby runner-up, shedding light on why the son of Mineshaft never lived up to the potential he flashed at Churchill Downs that day. Nehro had hole-ridden hooves that were held together with filler and even strong glue, according to the investigation.

On April 17, 2013, only four days after Nehro finished fifth in an Arkansas race, Blasi and his blacksmith, along with other members of the Asmussen staff, discussed the horse's tender feet and their efforts to keep them on the racetrack. In the video, the blacksmith pointed to Nehro's right leg and said that it did not have a pulse and that one barely registered in his left.

The horse was clearly uncomfortable as they poked at what they described as "a hole right through that sore right there."

“His foot is a little bitty nub,” said the blacksmith, who was identified as “Dave” in the investigation.

On the recording, Blasi acknowledged how much Nehro hurt. Still, the horse continued to train. On the morning of last year’s Kentucky Derby, Nehro got sick on the backside of Churchill Downs. Asmussen later said that the horse died from colic in a van on the way to the hospital.

In a separate conversation, recorded on Aug. 13, Blasi described Santana as a good “machine rider,” referring to an electrical device to shock horses into running faster.

Blasi recounted a conversation he said he had with Santana. “You got the máquina?” Blasi said he asked, referring to the Spanish word for machine. “Boss, I got the máquina,” was Santana’s reply, according to Blasi.

The video and the report show how multiple drugs are given daily to racehorses — whether they need them or not — by grooms and employees so they can pass veterinarians’ visual inspections, make it to the racetrack or perform at a higher level.

At another point in the video, Dr. James Hunt Jr., a prominent New York veterinarian, was shown giving a horse furosemide, a diuretic sold as Lasix that helps prevent exercise-induced pulmonary bleeding. The drug’s long-term effects have been a matter of public debate. It is prohibited in most countries but is legal in the United States despite widespread efforts to ban it.

Hunt acknowledged to the investigator that many horses who received furosemide did not need it. He did not respond to several messages seeking comment.

“It’s a performance-enhancer,” he said in a conversation recorded on camera. “It makes them lighter.”

A version of this article appears in print on March 20, 2014, on page B13 of the New York edition with the headline: PETA Accuses 2 Trainers of Cruelty to Horses.

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**The New York Times** <http://nyti.ms/1mwQr8u>

SPORTS

## Seamy Side of a Sport: Prodding Horses With Shocks

By JOE DRAPE MARCH 27, 2014

It is called a buzzer, a battery or a machine: It is a device the size of a lighter that conducts electrical current and shocks a racehorse into running faster. It is prohibited at American racetracks but has long been a part of the sport's seamier lore.

Last week it was brought out of the shadows when the People for the Ethical Treatment of Animals filed multiple complaints to state and federal authorities accusing a prominent thoroughbred trainer, Steve Asmussen, and his top assistant, Scott Blasi, of subjecting their horses to cruel and injurious treatments, including having one of their jockeys use a buzzer on their horses.

Asmussen, who ranks second in career victories (6,729) and has won \$214.8 million in purses, and Blasi declined to comment through their lawyer, Clark Brewster.

Asmussen's name was removed from the Hall of Fame ballot on March 21, a day before he fired Blasi, his assistant of 18 years.

The animal rights group also named three of thoroughbred racing's biggest stars in the complaints and posted videotape of two of them — jockey Gary Stevens and the trainer D. Wayne Lukas — laughing and exchanging stories about their experiences with electrical devices earlier in their careers.

At that same dinner in Louisville in the week before the 2013 Kentucky Derby, Blasi discussed how Roman Chapa, another jockey the Asmussen barn has used frequently over the years, hid the buzzer in his mouth.

To authorities, it provided another clip — viewed by The New York Times — of two Asmussen employees speaking about how the Hall of Fame jockey Calvin Borel frequently employs a buzzer to work out horses and to condition them to run close to the rail, including the 2010 Kentucky Derby winner, Super Saver.

Jerry Hissam, the longtime agent for Borel, said the allegations were “ridiculous.”

“It’s absolutely untrue,” Hissam said. “Why would a guy who’s broken 43 bones in his body run a horse into a fence at 35 miles per hour?”

On the videotape, Stevens, 51, discussed using buzzers years ago, and talked about how he managed to shock himself while riding a quarter horse named Rocky Bandit as a teenager.

“It’s extremely embarrassing and humiliating,” Stevens said Wednesday. “Anyone who knows me knows how passionate I am about the sport, and how much I love it. It was campfire talk about something that happened 35 years ago. I was 16 years old at the time.”

The use of electrical devices in horse racing has been well documented, and since 1974 there have been nearly 300 instances in which racing commissions have investigated and taken action against jockeys, trainers, grooms or escort riders for infractions involving the devices, according to documents obtained from the Association of Racing Commissioners International.

In the 2000s alone, there have been 53 buzzer cases at racetracks ranging from Lone Star Park in Texas and Suffolk Downs in Massachusetts to Delaware Park in Delaware and Penn National in Pennsylvania.

On the PETA video, Lukas told of watching an unidentified jockey hiding an electrical device in the blinkers — or eyewear — of a horse before being searched. He also said that the use of the devices at Ruidoso Downs in New Mexico was so common that it often sounded “like a full-blown orchestra” behind the starting gate.

Lukas did not respond to messages seeking comment.

The winner of a record 14 Triple Crown races, Lukas is also a commissioner on the Kentucky Horse Racing Commission, which is investigating PETA’s allegations. The commission has the power to suspend or revoke a license to work in the state.



PETA's accusations do not represent the first time Asmussen's name has come up in a buzzer investigation.

On Feb. 17, 2007, Roman Chapa was caught with an electrical device after the sixth race at Sunland Park in New Mexico. Asmussen trained the horse, Right Place N Time, and was a co-owner. In 1993, Chapa had been suspended 19 months for using a buzzer in Texas.

Since 2000, Chapa has ridden 961 races for Asmussen, winning 244 of them and earning more than \$4.8 million in purses. Chapa won a race for Asmussen last month at Sam Houston Race Park. He is scheduled to ride another horse trained by Asmussen on Saturday at the Fairgrounds in New Orleans.

Asmussen was not accused of being complicit. Chapa did not respond to messages and could not be reached for comment.

Last fall, the New York Gaming Commission cleared jockey Luis Saez of using a buzzer when riding Will Take Charge to victory in the 2013 Travers Stakes at Saratoga Race Course. Eric Guillot, the trainer of runner-up Moreno, had accused Saez of shocking the colt to the win. Lukas trained Will Take Charge.

After Stevens and Thunder Gulch won the 1995 Kentucky Derby, stewards reviewed the race when viewers said they thought they had seen equipment change hands when Pat Day, on Timber Country, reached out to Stevens. Officials found no evidence of an electrical device changing hands.

In 1999, however, Billy Patin was barred from the sport for five years for using a buzzer to win the Arkansas Derby — an important prep race for the Kentucky Derby — aboard the colt Valhol.

Now, PETA has accused the current leading rider in Arkansas, Ricardo Santana Jr., of using an electrical device. In a conversation, recorded Aug. 13, Blasi described Santana as a good "machine rider."

Blasi recounted a conversation he said he had had with Santana. "You got the máquina?" Blasi said he asked, referring to the Spanish word for machine. "Boss, I got the máquina," was Santana's reply, according to Blasi.

Santana has denied the allegation through his agent.

Stevens said he had not yet been contacted by racing authorities in Kentucky and New York who have opened investigations into the allegations against Asmussen and Blasi. But he said he intended to cooperate fully with any and all probes.

**“I have nothing to hide,” he said.**

A version of this article appears in print on March 28, 2014, on page B16 of the New York edition with the headline: Seamy Side of a Sport: Prodding Horses With Shocks.

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**G**

**KENTUCKY HORSE RACING COMMISSION**

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Lexington, Kentucky 40511

Toll free 1-877-4KY-RACE (1-877-459-7223)

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WEBSITE: [khrc.ky.gov](http://khrc.ky.gov)

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| Last Name<br><u>Rosen</u>                      | First Name Mr <u>          </u> Mrs <u>          </u> Ms <u>          </u> Other <u>          </u> | M.I.<br><u>B</u>                    | Social Security #<br><u>                    </u> | Date of Birth<br><u>                    </u> | Place of Birth<br><u>Ny</u> |
| Mailing Address<br><u>                    </u> |  | City<br><u>                    </u> | State<br><u>                    </u>             | Zip Code<br><u>                    </u>      |                             |

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| Home Phone<br>( ) <u>                    </u> | Work Phone<br>( ) <u>                    </u> | Cell Phone<br><u>                    </u> | Sex<br><u>F</u> | Height<br><u>5'8</u> | Weight<br><u>130</u> | Hair<br><u>B</u> | Eyes<br><u>bl</u> | Marital Status<br><u>Single</u> |
|---|---|---|-----------------|----------------------|----------------------|------------------|-------------------|---------------------------------|

|  |  |   |
|--|--|---|
| Trainer<br><u>STEVE ROSEN</u>  | Email Address<br><u>                    </u> | Occupation/Duties<br><u>hca walker</u>      |
| Person to notify in case of emergency<br><u>                    </u> |  | Phone number<br><u>                    </u> |

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- Have you been arrested or charged with a crime, other than a traffic violation, in the last 15 years? Yes            No  If yes, explain
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- Have you or your spouse, a member of your immediate family, or other person in a similar relationship to you ever had a license denied, revoked, suspended, or have a complaint pending in any jurisdiction? Yes            No  If yes, explain
- Have you ever been ruled off, ejected, or excluded from racing association grounds? Yes            No  If yes, explain
- Have you ever been issued a license under another name? Yes            No  If yes, provide other names

PLEASE COMPLETE BACK PORTION OF THE FORM

**H**

**Speckert, Susan (PPC)**

---

**From:** Jeff Kerr <jeffk@petaf.org>  
**Sent:** Friday, May 16, 2014 2:47 PM  
**To:** Speckert, Susan (PPC)  
**Cc:** pjhirschkop@aol.com; hirschkoplaw@aol.com  
**Subject:** PETA's Complaint to the KHRC

Dear Ms. Speckert:

As discussed during our call last week, this email confirms that all relevant information pertaining to the matters set forth in PETA's March 18, 2014, complaint to the KHRC concerning KDE Equine, LLC, Steve Asmussen, and Scott Blasi, was provided with that complaint. If you wish to interview PETA's investigator, please contact Mr. Hirschkop directly at the email addresses indicated above or by phone at (703) 550-7445. Please let me know if you have any questions and we look forward to cooperating with the KHRC in what we hope will be a thorough and independent investigation.

Very truly yours,

***Jeffrey S. Kerr***

General Counsel and  
Senior Vice President of Corporate Affairs  
PETA Foundation  
1536 16th Street, N.W.  
Washington, DC 20036  
(202) 540-2171 (Office)  
(757) 573-7382 (Mobile)  
(202) 540-2208 (Facsimile)  
[JeffK@PETAF.org](mailto:JeffK@PETAF.org)

THIS MESSAGE MAY BE PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE AND/OR THE ATTORNEY WORK PRODUCT DOCTRINE. IF YOU BELIEVE YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE REPLY TO THE SENDER THAT IT HAS BEEN SENT IN ERROR AND DELETE THE MESSAGE. THANK YOU.



# Frontline Plus



## PETA Remains Mum on Release of 'Evidence'

by Tom LaMarra

Date Posted: 4/30/2014 3:22:23 PM

Last Updated: 5/1/2014 8:36:27 AM

People for the Ethical Treatment of Animals said April 30 it has far more evidence gleaned from an undercover investigator in trainer Steve Asmussen's barn in 2013, but gave no indication when it intends to make it public.

To date the animal rights' organization hasn't announced any activities that would coincide with the May 3 Kentucky Derby Presented by Yum! Brands (gr. I) at Churchill Downs. A video taken secretly in the Asmussen barn was first released to the New York *Times* in late March.

PETA senior vice president Kathy Guillermo in a statement said "the entirety of the video"—allegedly there are seven hours of tape—was given to the New York State Gaming Commission, and that PETA "is arranging to do so" for the Kentucky Horse Racing Commission.

"Recent statements from prominent members of the racing industry have implied or stated outright that the 9 1/2-minute video that PETA released was not an accurate reflection of what occurred in the Asmussen barn," Guillermo said. "If anything, the video is not as negative as it could be."

PETA said it has more "evidence" of injured horses, injections, horses with sore legs, photographs of drug records, racing of sore horses, mismanagement of pharmaceuticals, immigration violations, and about 300 pages of notes said to describe "chronic soreness, injury, drugging, and suffering of horses." The statement provided no update on the status of the investigations in New York and Kentucky.

"We and the rest of the world are waiting to see if the U.S. racing industry will talk, argue, and do nothing or if it will take meaningful steps to purge itself of the cruelty that is now its hallmark," Guillermo said.

The initial video, since published on the PETA website, offered nothing definitive to support allegations of illegal medication use in horses.

In a follow-up email, Guillermo said: "Definitive evidence is outlined in legal complaints."

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**J**

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\*CLARK O. BREWSTER  
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RYAN A. McDONALD

\*LICENSED IN OKLAHOMA AND TEXAS

April 18, 2014

Via Express Mail

859-246-2040

Ms. Susan Speckert  
General Counsel  
Kentucky Horse Racing Commission  
4063 Iron Works Parkway  
Building B  
Lexington, KY 40511

Re: *PETA Complaint vs. Asmussen and Blasi*

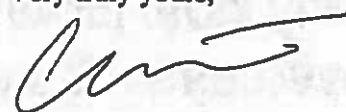
Ms. Speckert:

At your request I have enclosed herein a booklet of all phone messaging between Scott Blasi and PETA's agent, Kerrin Beth Rosen. I have also enclosed a two-page phone messaging exchange between Scott Blasi and Justin Zayat. Page one of the Zayat message contains a photo of Nehro dated April 23, 2013. That photo is after the PETA video of him on April 17, 2013.

I also included the messaging stream occurring around the time of the April 23, 2013 photo of Nehro. Page two of the Zayat communication has the photo removed to allow the relevant texts to display on a single page.

Please feel free to contact me any time in connection with your investigation.

Very truly yours,



Clark O. Brewster

COB/rcc  
Enclosures

# New iMessage

Cancel

To: Zayat Justin

Apr 23, 2013, 2:08 PM

That's great. Can't wait.

Sent as Text Message



Nehro

Sent as Text Message

That's my boy. How is his foot Steve says it's been a problem. Are you saving our problem child

Doing my best. It's coming



iMessage

Send

## New iMessage

Cancel

To: Zayat Justin

That's my boy. How is his foot Steve says it's been a problem. Are you saving our problem child

Doing my best. It's coming our way I hope

Great. Keep up the good work. We have some beautiful babies coming your way

We really need them. Thank you

Don't worry we know who our team is. My dad **LOVES** you guys. So do I



iMessage

Send

# **PETA COMPLAINT**

## **vs. STEVE ASMUSSEN vs. SCOTT BLASI**

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**Text Messages Scott Blasi – Beth Rosen  
08/ 2013 – 03/18/2014**

---

**Blasi Content – Colored in Blue (IM)  
Colored in Green (Text)**

**Rosen Content – Colored in Gray Shade**

**BREWSTER & DE ANGELIS, P.L.L.C.  
Clark O. Brewster  
2617 East 21<sup>st</sup> Street  
Tulsa, OK 74114  
(918) 742-2021  
Email: [cbrewster@brewsterlaw.com](mailto:cbrewster@brewsterlaw.com)**

# New iMessage

Cancel

To: Rosen Beth

iMessage

Thu, Aug 15, 8:22 PM

Come in. Be quiet

Fri, Aug 16, 4:38 AM

Mike catch u

No he asked a lot I  
questions though I him I  
went out for sushi with a  
friend

Fri, Aug 16, 10:40 AM



iMessage

Send

**New iMessage** Cancel

To: Rosen Beth

Leaving this is my car with some crown still in it is the equivalent of me leaving my earrings at your house

Lol. That's awesome

Oops

It's okay made me laugh when I saw it

Fri, Aug 16, 1:01 PM

I'm coming

K

Fri, Aug 16, 3:25 PM



iMessage

Send

New iMessage

Cancel

To: Rosen Beth

Fri, Aug 16, 3:25 PM

Will you be coming back to the barn soon

I'm dropping on one in this race and coming back

That felt decently shitty saying goodbye to you

I would definitely agree. I didn't like that at all

Sent as Text Message

Shouldn't have done it at the barn

I agree



iMessage

Send



New iMessage Cancel

To: Rosen Beth

I agree

I'm sorry

Text Message

For what babe

iMessage

Just am, I like you and think that you're a great person

Well i like u too and I don't plan on this being good bye so we will see :)

Sent as Text Message

It felt bad



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

It felt bad

Sent as Text Message

I hope not, and yes it really did I got teary in the car and I'm usually an emotionless type

Sat, Aug 17, 9:14 AM

Well u were definitely missed lol.

Hope you got to sleep in

Mikey told me he walking a horse, so I figured. Glad you put those lazy asses to work

Couldn't sleep if course



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Made them lazy fucks all walk one

Those lazy fucks. Nice English huh ?

I'd worry about you if you called them something else

Mike is going for a walk in the park with meggin. They should be back together by Monday

Of course. I did what I could. By the way you told me that if I got them to break up I'd get a trophy. Still waiting



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Lol. You can come back for it

Sat, Aug 17, 7:40 PM

Not any easier for me

Was just thinking of texting you. Been on my mind

Your on mine always

I was stupid when I was up there

Your smarter now lol

I'm watching football. You'd be proud



iMessage

**Send**

# New iMessage

Cancel

To: Rosen Beth

Good take notes. I watch a lot. Pre season doesn't count

Sun, Aug 18, 5:08 PM

Sorry couldn't really talk. I wouldn't mind hanging out with you right now

. Sounded tense. I'm going to have a drink:)

Drinks that is

I wouldn't expect anything less

Sun, Aug 18, 7:32 PM



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Sun, Aug 18, 7:32 PM



Polished this off. Thank you :)

Good for u

Nice garden. Is that home

Parents house yeah

Mon, Aug 19, 9:57 PM



iMessage

**Send**

# New iMessage

Cancel

To: Rosen Beth

I can do four pull ups. You were right

Tue, Aug 20, 4:58 AM

Odd thing to be doing at 11 at night. Hope your work went well

Tue, Aug 20, 10:12 PM

Hi

Don't forget me

Wed, Aug 21, 7:05 AM

Yeah right

Well nice to hear your alive



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Good morning

Good morning. How are things? Is Steve leaving this week?

Things are good. Yes he leaves tomorrow night after the races

Are you acquiring a niño?

No. Taking him home

I picked a bad time to leave

Yes u did



iMessage

Send



# New iMessage

Cancel

To: Rosen Beth

You doing okay though?

Not bad. Steady

I miss hanging out with you

Me too babe

Wed, Aug 21, 7:20 PM

Thinking about you

I wish you were here

You're throwing me for a loop honestly. Part of me wants to say fuck it and come back and be honest



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

If I were to visit, what weekend out if the next three would work for you?

How about next weekend.

Steve doesnt come back till thur

The 31st ish?

Yes

Does that work

I'm really tired tonight. Going to bed. Miss u

Possibly I hope so



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Text Message

I thought you don't go to bed befor 10

iMessage

Thu, Aug 22, 4:34 AM

I did last night. I was cooked. Slept all night so I feel good.

Text Message

Thu, Aug 22, 10:46 AM

I would have you come in this weekend but between mike and jack I would have to lock you in the house j

iMessage

Thu, Aug 22, 2:52 PM



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

iMessage  
Thu, Aug 22, 2:52 PM

Yes mike will be...upset.  
Not sure I can come this  
weekend though. Next  
weekend is no good? I  
might be of the do a  
midweek thing at some  
point

Ok

Next weekend is fine.  
That's would be excellent  
if you can. Your call only u  
know your schedule babe

Are you sad that z dager. Is  
gone



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

God no

Sat, Aug 24, 8:02 AM

Happy birthday old man

I've got your old man.  
Thanks:)

I had a funny dream with  
you in it last night. Will  
have to tell you about it at  
some point

Wow u must be getting  
horny

Not that kind, really.



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Disappointing :). Have a good day

Well maybe a little

You could send over a birthday pic or something

Sat, Aug 24, 11:02 AM



Well right now I'm with grandma Rosen. Maybe later :)



iMessage

**Send**

# New iMessage

Cancel

To: Rosen Beth

That will work for now.  
Later sounds good

Sat, Aug 24, 5:51 PM



Freddie excepting the  
trophy for the travers

Sat, Aug 24, 6:51 PM

**WHAT THE FUCK**

Lol. No veggie burger  
tonight



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

What? You BBQing?

Yes

Sucks without you. They brought me a skinny hamburger and I thought it was yours

It better suck without me.

I hate it

Mikey is angry with me I you can't tell

He's nuts

Try's to talk to me about it



iMessage

Send



# New iMessage

Cancel

To: Rosen Beth

He said u told him u loved him

I did in a jokey friend way

He took it jokey you want to have his babies

Fuck fuck

Tell him to shut up. You're kind of an inappropriate person to talk to about Thea

\*that

Yeah I'm not sure i can say that at this point



iMessage

Send

New iMessage Cancel

To: Rosen Beth

?

You matter to me

I'm waiting on u

It's all I can do not to say  
I'm fucking Beth. Shut up  
you little fuck

And she likes fucking Me

But I don't

I hope you can keep  
waiting for a little and  
don't forget about me

Sun, Aug 25, 3:12 PM



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Sun, Aug 20, 8:12 AM

I'm not going to forget about u and I'm waiting patiently :)

Wed, Aug 28, 5:04 PM

How are u sexy

Hey you. How's saratoga?

It's good. Busy weekend coming up

Is that your way of hinting that this weekend isn't good for visiting? I'm actually in culpepper right now and am not sure if ill be back



iMessage

Send

New iMessage Cancel

To: Rosen Beth

I'm not hinting anything.  
I'm excited about running  
some nice horses

Hope all is well with you  
and u like your job

I do like it. I'm in Saratoga  
that I think this was the  
right choice for at least a  
little while. I can't keep  
working with them now  
after this two month stint

I miss Saratoga. Stupid  
auto correct

That's great



iMessage

Send

New iMessage

Cancel

To: Rosen Beth

Not that I can tell much from a text message conversation, but is everything okay with you? You seem...off

I'm not off baby. Just thinking of u is all

I'm still a mess and not worth thinking about honestly

Now that's off

I can't believe they wrote an article about the twins. What a joke



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Democrats are the only people that own papers anymore

Hey now :)

Mon, Sep 2, 5:48 AM

Good morning. Do u remember what silks we turned in

Mon, Sep 2, 7:33 AM

Hey there. Busy right now but will go through entry list from early days and let you know

Mon, Sep 2, 5:06 PM



iMessage

Send

New iMessage Cancel

To: Rosen Beth

you know

Mon, Sep 2, 5:06 PM

We dropped em off for brazen persuasion, insighting, mike Langford, Durante, Steve , and Padua. Aaron's orients silks were shipped directly to the office, not sure if they're ours

Ok thanks

They all went to bel anyway so I'm not that worried about it.

I'm at the airport flying back to Lou tonight.



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And she likes fucking Me

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iMessage

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Ok thanks

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I'm at the airport flying back to Lou tonight.



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Had a nice meet. Thanks for all your help

Fuck sorry I didn't get up there. Ill call you soon I still want to come back

Ok

Mon, Sep 2, 6:34 PM

You ok?

Just landed in Baltimore. Just beat up and tired. Long meet

You need a vacation

Yes



iMessage

**Send**



# New iMessage

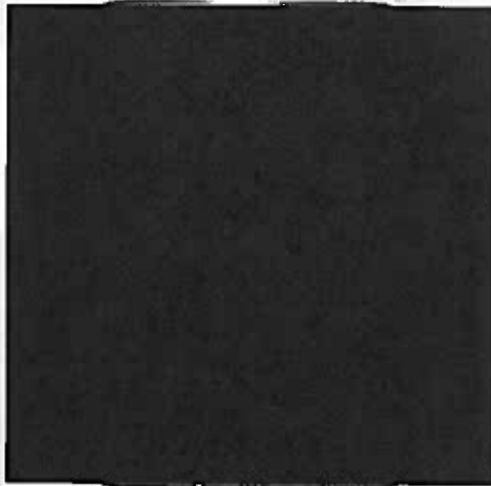
Cancel

To: Rosen Beth

Thu, Sep 12, 4:45 PM

Hey there. I'm in the car with my boss at the moment. How are you?

I'm good. Just checking on u



Blaynes game last week. Very fun. Won 18-14 last 26 sec



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Going back tomorrow

:) how is he? How was the trip? You look like you lost even more weight

I promise to call you soon

He's great. Trip was uneventful. I had the best time.

Uneventful is good

Wed, Sep 25, 10:55 AM

... out of the window right now and make some very happy.

Oprah shrugged her shoulders and replied, "I could throw ten \$100 bills out of the window and make ten people very happy."

Michelle added, "That being the case, I could throw one hundred \$10 bills out of the window and make a hundred people very happy."

Heating their exchange, the pilot rolled his eyes and said to his co-pilot, "Such big shots back there. I could



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

Wed, Sep 25, 10:55 AM

... out of the window right now and make some very happy.

Oprah shrugged her shoulders and replied, "I could throw ten \$100 bills out of the window and make ten people very happy."

Michelle added, "That being the case, I could throw one hundred \$10 bills out of the window and make a hundred people very happy."

Hearing their exchange, the pilot rolled his eyes and said to his co-pilot, "Such big shots back there. I could throw all three of them out of the window and make 256 million people very happy."

Wed, Sep 25, 12:50 PM



Text Message  
Mon, Oct 14, 8:28 PM

You bored yet



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Yes

Probably going to New Orleans this winter

I needed some time. Wasn't too thrilled with how things were going personally for me please. I think I will be finished here in a month or so though.

Been there. Hope your well.

Thanks you

You miss me at all lol



iMessage

**Send**

New iMessage

Cancel

To: Rosen Beth

Yes i do

Mon, Dec 2, 7:38 PM

Hi Beth

Hey scott

Anything I need to know

I'm an ass

Oh really

Why is that?

I am. I'm sorry. I handled things horribly



iMessage

Send

New iMessage

Cancel

To: Rosen Beth

things horribly

I didn't think so

Did you get engaged or something :)

No, just freaked out. I'm really sorry

Why are you freaked out?

I did before. I wasn't happy with me, as dumb as that sounds, what I turned into. That wasn't me

I got to see you



iMessage

Send

# New iMessage

Cancel

To: Rosen Beth

You weren't fake around me.

Should I leave you alone ?

I wasn't at all

You okay? Happy?

I'm okay. Happy lol. What is that exactly.

Just checking on you

You should come try me out on the up and up

Wed, Feb 26, 7:49 AM



iMessage

Send

**New iMessage**

**Cancel**

To: Rosen Beth

Wed, Feb 26, 7:49 AM

You alive girl?

Yea I'll call you in a few days

Mon, Mar 17, 5:48 PM

I hope your ok

Tue, Mar 18, 4:24 AM

You're a good person

I try

Miss u

Tue, Mar 18, 9:58 PM



iMessage

**Send**



**K**

## AVAR Vice-President Holly Cheever, D.V.M., Provides Testimony to Israel's Supreme Court

by Nina Natelson, Director, CHAI



Animal Aid UK

Large animal veterinarian, AVAR board member and Vice President Holly Cheever, D.V.M., is the lead expert witness in a case submitted to Israel's Supreme Court by Concern for Helping Animals in Israel (CHAI). CHAI petitioned the court to prevent the building of two large race tracks in Israel, the government's attempt to bring this cruel industry there in anticipation of huge profits. CHAI's appeal was filed on the grounds that the government failed to take animal welfare concerns into account, as required by law. Until now, gambling has been illegal in Israel, apart from the national lottery and national soccer pool.

Dr. Cheever's expert statement pointed out the cruelties inherent in the horse-racing industry:

"The horse-racing industry systematically allows economic incentives to override the basic moral prohibition of cruelty against horses and against animals in general – very large numbers of foals must be produced annually in order to generate a few fast ones who are selected to compete. This leaves hundreds and even thousands of horses who are not eligible to race, and who must consequently be 'disposed of.' Then, when horses used for racing have

finished their career, usually at a very early age, before they are fully mature, they, again, must be 'disposed of,' since their numbers exceed by far the number of humane retirement facilities...the horse-racing industry causes thousands of horses to be born only to be slaughtered or abandoned to an existence of neglect, starvation, and suffering.

"To compete in the races with the largest purses – horses must be trained and raced at too young an age before their bones' growth plates have matured. This causes many lower limb ailments and injuries, including fractures, pulled ligaments, and strained tendons. Such injuries are common in horse racing. The unnatural stresses inherent in competing so aggressively and at such a young age also engender problems such as gastric ulceration and pulmonary (lung field) bleeding, not observed in horses worked at reasonable levels. These health and injury problems necessitate – economically – the use of drugs to maintain the horse's racing value (but not well-being).

"Once the owners decide that the horse does not have or has exhausted his race-winning potential, they sell the horse to an equine auction, from where horses are either sent to a slaughterhouse that

ships horse meat to the European and Japanese markets, or into a downward spiral of abuse at the hands of new owners who may think they would like a retired racehorse, but forget about horses' longevity and the expense necessary to maintain them properly.

"This distressing fate of the thousands of abused, neglected and abandoned horses in the United States is recognized by the American Association of Equine Practitioners – the world's premiere equine veterinary organization – as its primary and most pressing problem."

Of 20 cases submitted to the court the day CHAI filed its petition, the court agreed to hear only this one. The first hearing will be in June. Abuse and neglect of horses is a widespread problem in Israel. "Israel can't protect horses now," says CHAI's Director Nina Natelson. "If thousands of horses are imported into the country every year and disposed of when they aren't fast enough, the level of suffering will increase enormously."

CHAI is working to make annual licensing and inspections by equine veterinarians a requirement to help prevent abuse and has called for a ban on cart horses. These animals, who haul fruits and vegetables to market in summer, are starved, beaten, overworked, provided with no veterinary care, and abandoned at the end of the season. CHAI has repeatedly exposed abuse of these horses, and has rescued and rehabilitated some of them. The organization was given land on which to construct a horse sanctuary and education center and is raising funds for that purpose.

To sign CHAI's petition against allowing the horse racing industry to gain a foothold in Israel, go to: [www.thepetitionsite.com/takeaction/398531952](http://www.thepetitionsite.com/takeaction/398531952) and click on "sign the petition," or go directly to [www.chai-online.org](http://www.chai-online.org).



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Horse Racing Forum > Holly Cheever, DVM-"Cruelty inherent part of the horse racing"

## Holly Cheever, DVM-"Cruelty inherent part of the horse racing"

Posted in the Horse Racing Forum

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 Track Replies



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Searching for Holly Cheever, DVM-"Cruelty inherent part of the horse

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### COMMENTS

1 - 4 of 4 Comments | Last updated Jun 5, 2008

**eightbelles**

*Jersey City, NJ*

#1 | Jun 4, 2008

Holly Cheever, DVM

Cruelty is an inherent part of the horse racing industry. Thousands of horses are produced annually, from which a few racers are chosen, the rest blown away like chaff in the wind. The big money is in racing the 2 and 3 year olds, for whom training begins at 1½, before their bodies are fully developed and their growth plates have closed. Unnatural weight is put on their backs, concussive stress on their bones, and they are forced to submit to an overly strict training regimen.

Nightmarish injuries like on-the-track fractures leave them finished by the age of

4-6, when they are barely mature. Decisions about their fate are made in the interest of the bottom line dollar, not their health. Injured animals are loaded up on drugs to run one more race.

"The unnatural stresses inherent in competing so aggressively and at such a young age also engender problems such as gastric ulceration and pulmonary (lung field) bleeding, not observed in horses worked at reasonable levels. These health and injury problems once again necessitate — economically — the use of drugs to maintain the horse's racing value (but not well-being.)

"Some horse-owners are either unwilling or unable to provide expensive veterinary care for a horse who may not be successful enough to earn his or her keep. Even when they provide veterinary care, they typically do not allow the horse sufficient time for recovery. Instead, they the send horse out to train or race on still-unhealed limbs. This purely economic motivation stands behind the racetrack saying 'A horse makes no money just standing in his stall.' Once they decide that the horse does not have, or had exhausted, his race-winning potential, they sell the horse to an equine auction, from where horses are either sent to a slaughterhouse that ships horsemeat to the European and Japanese market, or into a downward spiral of abuse at the hands of new owners who may think they would like a retired racehorse, but forget about horses' longevity and the expense necessary to maintain them properly.

continued...

Judge it! Report Abuse Reply »

**eightbelles**

Jersey City, NJ

#2 | Jun 4, 2008

"Experience in the U.S. shows that the most expensive horses and the wealthiest owners race their horses at the most expensive racecourses, while less wealthy owners with less expensive horses race at marginal courses. The profit margin at these marginal venues, where the 'has-been's' or the ones who never made it to the top are raced, is lower. At these places, where owners have fewer funds and the prizes are smaller, horse care is compromised even more and the cruelty is even more damaging and prevalent.

"The undeniable and inescapable problem with the thoroughbred industry is that thousands of foals must be produced in order to develop a few dozen good racers. The excess often meet with inhumane ends and similarly, when race horses are no longer money-earning winners, they too often end up neglected, abandoned, and starving at the hands of uncaring owners, with their final end being the slaughterhouse. For instance, a Kentucky Derby winner was slaughtered in Japan in 2004, despite his spectacular win a decade earlier. The distressing fate of the thousands of abused, neglected and abandoned horses in the United States is recognized by the American Association of Equine Practitioners — the world's premiere equine veterinary organization — as its primary and most pressing problem.

"United States legislators, both state and federal, have attempted to constrain the industry's economically-driven incentives and proven cruelty against horses through an elaborate set of statutes and regulations. Unfortunately, these attempts have largely failed. The industry continues to operate at the status quo, which includes drugging and other unacceptable practices. How will the Israeli people feel if the specter of numerous starved and abandoned horses — the result of unfettered greed — becomes a major blot on the nation's honor? No moral country should allow this cruel industry to gain a foothold."

\*\*\*\*\*

Dr. Holly Cheever was a Summa Cum Laude graduate of Harvard University, and she was first in her 1980 graduating class at Cornell University Veterinary School.

Dr. Cheever wrote two chapters in the book Shelter Medicine for Veterinarians and Staff, published by Blackwell Press. The chapters include a guide to investigating animal abuse, especially equine abuse. She was a contributing author to How to Investigate Animal Cruelty in NY State — A Manual of Procedures.

She has won awards from the ASPCA and the HSUS (largest humane organizations in the U.S.) and from the New York State Troopers (New York State Police) for her work in cruelty investigations, prosecutions, and humane education. Dr. Cheever was voted Veterinarian of the Year by the New York State Humane Association, and she currently serves as their Vice President. Dr. Cheever teaches a course to New York State law officers (police, state troopers, animal control officers, and others) four times a year on how to investigate animal abuse. She has been around horses all her life, including race horses.

Judge it! Report Abuse Reply »

**anti\_killbuyer**

Houston TX

#3 | Jun 5, 2008

May 25, 2008

Irresponsible Breeders--

We propose that American horse slaughter becomes an ugly chapter in our history. We propose that Europeans butcher their own horses, not ours.

Two states have already tried to bring the kill houses back and the bills were shut down before the ink was dry. The vast majority of Americans don't want horse slaughter. The asset was the horse when he was racing, providing community service or being a companion before he got old and lame.

BTW-old and lame horses are not the horses going to slaughter.(The meat men want healthy horses with meat on their bones.)

Sorry, but many of us ARE involved in the situation. The responsible owners

have provided for their horses. How about setting aside money the horse has earned to provide for their retirement?

\*\*\*\*\*

The Breed and Dump Cycle--

How about educating owners and breeders on responsibility? Don't breed more than you can afford to take care of. Don't buy another horse if you can't afford to care for the horses you have.

The folks whining the loudest are those that want an outlet for their mistakes. They breed and breed and when the foals don't meet the grade, ship 'em off to slaughter. They are causing the problem and they need to figure out how to fix it. Slaughter isn't the answer.

It hasn't been the answer in over 20 years because slaughter pays them to be irresponsible.

(\*Slaughter perpetuates the breed and dump cycle.)

-Anonymous-

[http //www.horsetalk.co.nz/features/horseslau ...](http://www.horsetalk.co.nz/features/horseslau...)

[Judge it!](#) [Report Abuse](#) [Reply »](#)

**bad john**

*Longmont, CO*

#4 | Jun 5, 2008

don't forget to tell folks who pays holly oh it can't be PETA and hsus. funny i think ingrid was seen taking her out on town-is holly hte vet that trains the PETA DEATH SQUADS? probably

[Judge it!](#) [Report Abuse](#) [Reply »](#)

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Enter Comments

**L**

# CHURCHILL DOWNS WORKOUT TAB (April 23, 2013)

## Dirt - Fast

|                    |          |                    |           |                    |             |
|--------------------|----------|--------------------|-----------|--------------------|-------------|
| <b>3F</b>          |          | <b>4F</b>          |           | <b>5F</b>          |             |
| Cue E Dee          | :39.00 B | Farlake            | :50.60 B  | C P Hath a Way     | 1:02.60 B   |
| Estonia            | :39.60 B | Fort Larned        | :48.80 B  | Chasenthegold      | 1:06.60 B   |
| Miss Nightlinger   | :37.20 B | •Gold Medal Dancer | :48.00 B  | Clobber            | 1:02.60 B   |
| Play               | :38.60 B | Lady Stonewall     | :48.60 B  | Dehere On Tour     | 1:03.80 B   |
| Rightous Party     | :37.80 B | Lafitte            | :52.00 B  | Dixie Babe         | 1:02.20 B   |
| •Swift Artist      | :36.40 B | Little Face        | :49.60 B  | Don't Be Mad       | 1:01.40 B   |
| Unbroken Circle    | :37.80 B | Looking Cool       | :48.80 B  | Doublefour         | 1:05.40 B   |
| Vinnie             | :39.00 B | Lori's Store       | :49.60 B  | Fiddler Blue       | 1:02.00 B   |
| Well Lawyered      | :37.80 B | Lunar Red          | :49.80 B  | Fiscal Fitness     | 1:02.00 B   |
| <b>4F</b>          |          | Mico Margarita     | :51.80 B  | Grand Music        | 1:04.00 B G |
| Arborville         | :50.20 B | •Miracle Run       | :48.00 B  | Lemon Drop Dream   | 1:04.00 B   |
| Archetype          | :49.80 B | Nehro              | :52.40 B  | Mind Me Boys       | 1:01.40 B   |
| Bellodini          | :49.80 B | Neith              | :48.20 B  | Nubin Ridge        | 1:01.40 B   |
| Betweenhereandcool | :51.40 B | Pajama Bottom      | :51.00 B  | Quixote's Lady     | 1:04.00 B G |
| Brassy and Proud   | :50.60 B | Rock Art           | :51.80 B  | Recalling Memories | 1:01.20 B   |
| Bridgetown         | :48.60 B | Runs With Bulls    | :49.40 B  | River Boss         | 1:02.20 B   |
| Broken Spell       | :50.40 B | Ruthless Empire    | :50.00 B  | Screamin Mushroom  | 1:06.60 B   |
| City Alert         | :52.00 B | Sabercat           | :51.20 B  | Sky River          | 1:03.80 B   |
| Clear the Clover   | :53.00 B | •Shadow Warrior    | :48.00 B  | Splurgess          | 1:03.40 B   |
| Common Ground      | :49.40 B | Sir Bond           | :51.60 B  | Stage Street       | 1:04.00 B   |
| Courting Jennifer  | :50.20 B | Summon the Rain    | :48.80 B  | Teller Terri       | 1:03.80 B   |
| Courtmaster        | :52.20 B | Sweet Kate         | :49.60 B  | •To the Stars      | 1:01.00 B   |
| Determined Yankee  | :52.00 B | Vespato            | :52.80 B  |                    |             |
| Dillinger          | :52.00 B | <b>5F</b>          |           |                    |             |
| Don't Tell Veda    | :49.80 B | Arrived Home       | 1:04.60 B |                    |             |
| Elusive Act        | :49.60 B | Brown Eyes Blue    | 1:02.40 B |                    |             |

• - Denotes Fastest work  
 \*\*\* Denotes Horse On List  
 % (dam name) - Denotes Unnamed Horse

## Summary Dirt - Fast

| Distance   | # Of Horses | Fastest Time | Slowest Time | Average Time |
|------------|-------------|--------------|--------------|--------------|
| 3 Furlongs | 9           | :36.40       | :39.60       | :38.13       |
| 4 Furlongs | 39          | :48.00       | :53.00       | :50.29       |
| 5 Furlongs | 24          | 1:01.00      | 1:06.60      | 1:03.18      |



# CHURCHILL DOWNS WORKOUT TAB (April 30, 2013)

## Dirt - Fast

|                    |            |                    |            |                  |           |
|--------------------|------------|--------------------|------------|------------------|-----------|
| <b>3F</b>          |            | <b>4F</b>          |            | <b>5F</b>        |           |
| Assets of War      | :37.20 B   | Little Face        | :48.80 B   | Lemon Drop Dream | 1:03.20 B |
| •Broken Spell      | :35.80 B   | Nubin Ridge        | :48.60 B   | Linchpin         | 1:00.20 B |
| Picturesque        | :36.60 B   | Primed N Willing   | :50.00 B G | Mico Margarita   | 1:02.00 B |
| The Right Bird     | :36.60 B   | Teardrop           | :50.00 B G | Miracle Run      | 1:01.40 B |
| <b>4F</b>          |            | The Program        | :50.20 B   | Moonwalk         | 1:00.80 B |
| Ali Maccool        | :48.80 B   | Velvet Cap         | :48.60 B   | Nehro            | 1:02.60 B |
| Bellodini          | :49.80 B   | Winter's Fury      | :48.00 B   | Por Que          | 1:02.20 B |
| Boss Barney's Babe | :49.80 B   | Zantastical        | :50.80 B G | Rock Art         | 1:02.00 B |
| Defoe Street       | :48.40 B   | <b>5F</b>          |            | Sabercat         | 1:02.60 B |
| Distinct Affair    | :50.00 B   | Archetype          | 1:02.00 B  | Short Story Long | 1:03.60 B |
| Dixie Babe         | :50.60 B   | Betweenhereandcool | 1:02.00 B  | Sir Bond         | 1:03.20 B |
| Don't Be Mad       | :48.60 B   | Bronterre (GB)     | 1:02.00 B  | Smart Dancer     | 1:02.80 B |
| Don't Tell Veda    | :49.80 B   | •Cairo Six         | 1:00.00 B  | Stage Street     | 1:01.60 B |
| Dream of Bertie    | :48.00 B   | Doublefour         | 1:03.60 B  |                  |           |
| •Fanfare           | :47.40 B   | Duke of Del Rey    | 1:01.60 B  |                  |           |
| I'm Already Sexy   | :49.40 B   | Get Real           | 1:02.40 B  |                  |           |
| Just the Tap       | :50.80 B G | Joyful Victory     | 1:01.00 B  |                  |           |
| Lafitte            | :48.80 B   | L'Air Du Temps     | 1:01.60 B  |                  |           |

• - Denotes Fastest work  
 \*\*\* Denotes Horse On List  
 %(dam name) - Denotes Unnamed Horse

### Summary Dirt - Fast

| Distance   | # Of Horses | Fastest Time | Slowest Time | Average Time |
|------------|-------------|--------------|--------------|--------------|
| 3 Furlongs | 4           | :35.80       | :37.20       | :36.55       |
| 4 Furlongs | 21          | :47.40       | :50.80       | :49.29       |
| 5 Furlongs | 22          | 1:00.00      | 1:03.60      | 1:02.01      |

**M**

**KHRC Veterinary Report**  
**Churchill Spring 2013 Meet**

|                     |             |
|---------------------|-------------|
| <b>Total Starts</b> | <b>3094</b> |
| <hr/>               |             |
| Post Race Samples   | 844         |
| tCO <sub>2</sub>    | 714         |
| <hr/>               |             |

|                             |           |
|-----------------------------|-----------|
| <b>Veterinary Scratches</b> | <b>20</b> |
| <hr/>                       |           |
| Pre-Race                    | 6         |
| On-Track                    | 14        |
| <hr/>                       |           |

|                             |           |
|-----------------------------|-----------|
| <b>KHRC Veterinary List</b> | <b>49</b> |
| <hr/>                       |           |
| Scratches                   | 20        |
| Race Injuries               | 5         |
| Post-Race Lameness          | 11        |
| Heat Stress/Exhaustion      | 9         |
| EIPH                        | 2         |
| Rhabdomyolysis (tied-up)    | 2         |
| <hr/>                       |           |

|                       |           |
|-----------------------|-----------|
| <b>Ambulance Runs</b> | <b>10</b> |
| <hr/>                 |           |

|                          |          |
|--------------------------|----------|
| <b>Racing Fatalities</b> | <b>3</b> |
| <hr/>                    |          |

|                            |          |
|----------------------------|----------|
| <b>Training Fatalities</b> | <b>3</b> |
| <hr/>                      |          |

**N**

# Debutante S.

Purse: \$100,000 Added

7th Race CHURCHILL DOWNS - Saturday, June 22, 2013

Stakes Track Condition: Fast

FOR FILLIES, TWO YEARS OLD. By subscription of \$100 each, which should accompany the nomination or by Supplementary Nomination of \$3,000 at time of entry. \$500 to pass the entry box; \$500 additional to start with \$100,000 added. After payment of 1% to all owners of horses finishing sixth through last, 62% of the remaining purse shall be paid to the owner of the winner, 20% to second, 10% to third, 5% to fourth and 3% to fifth. Weight: 122 lbs. Non-winners of a race other than maiden or claiming, allowed 2 lbs.; a race other than claiming, 4 lbs. The maximum number of starters for the Debutante will be limited to fourteen (14). If more than fourteen (14) entries pass the entry box preference will be given to highweights. Any horse excluded from running because of the aforementioned preference shall be refunded the entry fee and supplementary nomination fee if applicable. Starters to be named through the entry box at the usual time of closing. All supplementary nominations will be required to pay entry and starting fees if they participate. Trophy to winning owner. Closed Saturday, June 8, 2013 with 24 nominations. 6 Furlongs (Run Up 180 Feet)

Available Money: \$113,400

Value of Race: \$113,400 1st \$66,090, 10th \$1,134, 11th \$1,134, 2nd \$21,320, 3rd \$10,660, 4th \$5,329, 5th \$3,197, 6th \$1,134, 7th \$1,134, 8th \$1,134, 9th \$1,134

| Pgm | Horse Name (Earned)          | Last Race      | S/A | Wgt | Med | Eqp | Odds  | PP | ST | 1/4   | 1/2     | Str     | Fin     | Jockey               |
|-----|------------------------------|----------------|-----|-----|-----|-----|-------|----|----|-------|---------|---------|---------|----------------------|
| 10  | Fiftyshadesofgold (\$66,090) | 24May13 LS 1   | f 2 | 120 | L   |     | *1.30 | 10 | 4  | 1 1/2 | 26      | 13 1/2  | 18      | Corey Lanerie        |
| 7   | More Than Beauty (\$21,320)  | 09May13 CD 3   | f 2 | 120 | L   |     | 4.30  | 7  | 3  | 2 1/2 | 1 1/2   | 28      | 25      | Calvin Borel         |
| 9   | Del Mar Holiday (\$10,660)   | 16May13 CD 4   | f 2 | 120 | L   |     | 24.30 | 9  | 6  | 7 2   | 4 2     | 31 1/2  | 3ns     | Ricardo Santana, Jr. |
| 2   | Silver Valley (\$5,329)      | 25May13 LS 1   | f 2 | 120 | L   |     | 20.50 | 2  | 11 | 8 1   | 7 1/2   | 4 1     | 46 1/2  | Shaun Bridgmohan     |
| 4   | Yokohama Mama (\$3,197)      | 14May13 Wrld 2 | f 2 | 120 | L   | bf  | 48.80 | 4  | 10 | 11    | 10 1/2  | 8 3     | 52 1/2  | Miguel Mena          |
| 6   | Deliver (\$1,134)            | 08Jun13 Ind 1  | f 2 | 120 | L   |     | 49.40 | 6  | 2  | 6hd   | 6 1/2   | 62 1/2  | 63 1/2  | Marcelino Torres     |
| 8   | Teardrop (\$1,134)           | 23May13 CD 3   | f 2 | 120 | L   |     | 1.70  | 8  | 8  | 3 1   | 3 1/2   | 5 1/2   | 75      | Rosie Napravnik      |
| 5   | Medalbu (\$1,134)            | 12May13 Pim 8  | f 2 | 120 |     | bf  | 33.20 | 5  | 9  | 10 5  | 9 4     | 106 1/2 | 81 1/2  | Joseph Schneider     |
| 11  | Sara Bay (\$1,134)           | 01Jun13 Mth 1  | f 2 | 120 | L   | b   | 39.30 | 11 | 7  | 4 1/2 | 5 1     | 7 1/2   | 91 1/2  | Brian Hernandez, Jr. |
| 1   | Mi Perlita (\$1,134)         | 04Jun13 Mnr 4  | f 2 | 120 | L   | f   | 66.60 | 1  | 1  | 5 1/2 | 8 2 1/2 | 9hd     | 101 1/2 | Marcelino Pedroza    |
| 3   | Richies Sweetheart (\$1,134) | 25May13 AP 2   | f 2 | 120 | L   | b   | 34.90 | 3  | 5  | 9hd   | 11      | 11      | 11      | Joseph Rocco, Jr.    |

Off Time: 9:05

Fractional Times: :21.37 :45.14 :57.39 1:10.63

Start: 2,3

Track: Fast

Weather: Cloudy

### Mutuel Payoffs

|                           |                   |      |      |      |                           |            |             |           |
|---------------------------|-------------------|------|------|------|---------------------------|------------|-------------|-----------|
| 10                        | Fiftyshadesofgold | 4.60 | 3.20 | 3.00 | \$2 Pick 3 (8-3-10)       | \$279.00   | Total Pool: | \$34,966  |
| 7                         | More Than Beauty  | 4.00 | 3.80 |      | \$2 Pick 4 (7-8-3-10)     | \$3,442.20 | Total Pool: | \$63,656  |
| 9                         | Del Mar Holiday   |      | 6.60 |      | \$2 Daily Double (3-10)   | \$26.00    | Total Pool: | \$18,447  |
| Total WPS Pool: \$291,311 |                   |      |      |      | \$2 Exacta (10-7)         | \$20.40    | Total Pool: | \$176,786 |
|                           |                   |      |      |      | \$2 Superfecta (10-7-9-2) | \$856.60   | Total Pool: | \$75,703  |
|                           |                   |      |      |      | \$2 Trifecta (10-7-9)     | \$141.80   | Total Pool: | \$127,475 |

Winner: Fiftyshadesofgold, Gray or Roan Filly by My Golden Song - Hadif Cat Bred in Texas

FIFTYSHADESOFGOLD vied for lead, 3 wide, shook clear entering stretch, widened MORE THAN BEAUTY speed, inside, unable to match winner, continued on well DEL MAR HOLIDAY allowed to settle, circled 5 w, mild bid, all out to earn show SILVER VALLEY off slow, bumped, saved ground, split horses, bid, flattened YOKOHAMA MAMA slow into stride, came 4 wide, improved position between horses DELIVER contended, between horses, 4 w, weakened entering stretch, faded TEARDROP disputed pace between horses, steadied 7/16, drifted out, faded MEDALBU allowed to settle, 4 wide, passed tiring rivals SARA BAY close up, 4 wide, took awkward stride 5/16, dropped out MI PERLITA forwardly placed inside, through early RICHIES SWEETHEART bumped start, showed little

Owners: (10) Clarence Scharbauer, Jr.; (7) Clifford J. Grum; (9) Robison, J. Kirk and Judy; (2) Bowman Racing LLC; (4) Amos Thoroughbreds LLC and DMH Thoroughbreds LLC; (6) Short, Tommy C. and Simcoe, William; (8) Winchell Thoroughbreds LLC; (5) Meyer, Joseph A. and Ryan; (11) Glenview Farm and Bandy, Chris; (1) Israel Acevedo; (3) Ravin, Richard, Patricia's Hope LLC and Rivelli, Larry

Trainers: (10) W. Calhoun; (7) Cecil Borel; (9) Steven Asmussen; (2) Ron Moquett; (4) Randy Morse; (6) Tommy Short; (8) Steven Asmussen; (5) Joseph Meyer; (11) Philip Aristone; (1) Marco Castaneda; (3) Larry Rivelli