

**INVESTIGATION OF EVENTS
SURROUNDING
THE BREEDERS' CUP LADIES' CLASSIC
NOVEMBER 5, 2010**



Report Issued March 10, 2011

KENTUCKY HORSE RACING COMMISSION

**INVESTIGATION OF EVENTS SURROUNDING THE BREEDERS'
CUP LADIES' CLASSIC, NOVEMBER 5, 2010**

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SUMMARY AND RECOMMENDATIONS

TO: KENTUCKY HORSE RACING COMMISSION (KHRC)
FROM: STAFF OF KHRC
DATE: March 10, 2011
RE: 2010 BREEDERS' CUP LADIES' CLASSIC

I. BACKGROUND.

While this report is directed to the KHRC, it is hoped that the transparency reflected in the report and the recommendations presented will be reviewed by other racing jurisdictions and industry stakeholders to foster a collaborative effort to make improvements regarding the safety and integrity of horse racing.

This Executive Summary and accompanying documents are to be used by the KHRC in making its initial determination of whether any violations occurred in connection with the 2010 Breeders' Cup Ladies' Classic (Ladies' Classic) at Churchill Downs on November 5, 2010. Life At Ten (LAT) was the second favorite in the Ladies' Classic. She ran poorly, was never in contact with the field and finished last.

In making this initial determination, the KHRC is being asked to determine if there is "probable cause" to support charging an individual with a violation. This initial determination does not include making any final findings or considering a penalty.

The KHRC should consider all of the enclosed information. Should the KHRC decide to move forward with a charge against an individual, the KHRC will issue a Notice of Violation and set the matter for a hearing. Any individual charged has the right to an administrative hearing where he can present evidence and witnesses. The individual charged may also waive the right to a hearing.

The KHRC should consider the statutes and regulations on point to determine if there were any rules violations. A copy of the statutes and regulations is attached as Appendix A.

The first purpose of the investigation was to determine whether the various people involved - the participants - acted in the best interest of racing.

In some instances there was not a specific rule violation, but rather a failure of common sense to prevail. One of the concepts to contemplate is whether everything should be regulated or should some things be left to common sense. The report will reveal that in some instances there is a conflicting memory or view of the facts. The

report will also reveal that there were some errors in judgment; some people could have done some things better. This summary will address the following basic questions related to the first purpose:

1. Was there any evidence of intentional wrongdoing or nefarious or fraudulent activity?
2. Should LAT have been scratched? What was the condition of the horse? Was she unfit to race? Were there communication issues?
3. Should a post-race sample have been collected from LAT?
4. Were any regulations violated?

The second purpose of the investigation was to make recommendations to the industry so that an event such as this does not happen in the future.

Last, this report will discuss recommendations being made as a result of this investigation that are not directly tied to an analysis of whether there were rule violations in the LAT situation.

II. SCOPE OF THE INVESTIGATION.

The mission from the beginning was to conduct a thorough and comprehensive investigation. By interviewing 90 people, reviewing documentation and talking to consultants from around the country, we identified some errors that were made as well as some opportunities for improvement. The thorough, in-depth review allowed the KHRC staff to: 1. identify some of the mistakes made; 2. have the opportunity to set the record straight on several misperceptions; 3. provide the transparency that is deserved in a matter of this significance; and 4. have the opportunity to thoughtfully reflect on recommendations.

Different witnesses had different perspectives based on their location on the track, their experience, their responsibilities, and their relationship to the other participants (financial or otherwise).

The investigation of the events surrounding the Ladies' Classic began immediately after the race. To ensure impartiality, the investigation was transferred to the KHRC and led by Patrick Adams (Adams), KHRC Director of Enforcement. The Report of Investigation is attached as Appendix B.

Some investigative actions were directed to be taken on the Saturday and Sunday after the Ladies' Classic. Investigative meetings were held the Monday, Tuesday and Wednesday following the Breeders' Cup. Initially, the KHRC determined to take the actions as outlined below.

The pre-race blood taken from every horse trained by Todd Pletcher (Pletcher), as well as the syringes collected for race day anti-bleeder medication administration of a Pletcher horse, would be tested.

Investigators were told to collect: 1. veterinarians' treatment sheets for all Pletcher horses for both days; 2. the pre-race examination cards used by the veterinarians for LAT; 3. veterinary records maintained by the practicing veterinarians for LAT; 4. daily training records for the prior 6 months; 5. track video feed for the Ladies' Classic; 6. a wagering analysis by Thoroughbred Racing Protective Bureau (TRPB), Bet Fair and KHRC; and 7. copies of the videotapes of the broadcast from ESPN.

Interviews were to be conducted of the following people directly involved in the Ladies' Classic: 1. Jockey Johnny Velazquez (Velazquez); 2. Pletcher; 3. ESPN assistant producer Amy Zimmerman (Zimmerman); 4. assistant starter for LAT Mike Edwards; 5. pony person for LAT Betty Harless; 6. Jefferson County Sheriff Deputies assigned to LAT's barn; 7. private security personnel assigned to LAT's barn; 8. American Association of Equine Practitioners (AAEP) On Call veterinarian Dr. Larry Bramlage (Dr. Bramlage); 9. Chief State Steward John Veitch (Veitch); 10. Association Steward Butch Becraft (Becraft); 11. Association Steward Rick Leigh (Leigh); 12. all of the KHRC and Breeders' Cup panel veterinarians on duty; 13. LAT's private veterinarians involved in the Breeders' Cup; and 14. any TRBP agents with knowledge.

It was also decided early in the process that since the Stewards' activities would be analyzed as part of the investigation it would be appropriate for an outside, independent party to conduct the portion of the investigation relating to the Stewards. Several resources were contemplated and ultimately it was determined that the Office of Inspector General of the Transportation Cabinet (OIG) would provide a valuable resource in this area and there would be no conflict in their involvement. A copy of the OIG report is attached as Appendix C.

KHRC also decided early in the process that a detailed report, including recommendations, would be prepared and provided to the public.

KHRC Chairman Bob Beck and Executive Director Lisa Underwood (Underwood) met with Breeders' Cup President and CEO Greg Avioli, Breeders' Cup COO and CFO Matt Lutz and Breeders' Cup attorney Bob Watt on November 18, 2010 to discuss the scope of the investigation. The Breeders' Cup executives and attorney agreed with the KHRC Chairman and Executive Director that it was in the best interest of the industry to conduct a comprehensive investigation. As a result of that meeting the scope of the interviews was expanded to include people such as all of the trainers and jockeys involved in the race, all assistant starters, all pony people, and the tractor driver. The thought was if you don't ask the questions you don't know what you might have missed.

III. WAS THERE ANY EVIDENCE OF INTENTIONAL WRONGDOING OR NEFARIOUS OR FRAUDULENT ACTIVITY?

A. WHAT THE INVESTIGATION REVEALED REGARDING THE VARIOUS PARTICIPANTS' ACTIONS.

- The KHRC Director of Enforcement uncovered no evidence of wrongdoing.
- Wagering analyses conducted by the TRPB, Bet Fair and by the KHRC Supervisor of Pari-mutuel Wagering uncovered no evidence of irregular wagering patterns. Summary of analyses attached as Appendix D.
- The Office of Inspector General of the Transportation Cabinet uncovered no evidence of wrongdoing.
- The pre-race blood drawn for TCO₂ testing on every Pletcher horse entered in the Breeder's Cup was tested; no prohibited substances were detected. Because LAT was not sent to the test barn, urine was not collected. Therefore, no analysis was performed to detect substances that can only be detected in the urine.
- The syringes collected from Pletcher horses were tested; no prohibited substances were detected.

IV. SHOULD LAT HAVE BEEN SCRATCHED? WHAT WAS THE CONDITION OF THE HORSE? WERE THERE COMMUNICATION ISSUES?

A. JOCKEY.

WHAT THE INVESTIGATION REVEALED REGARDING THE JOCKEY.

- See Appendix E for the ESPN transcript.
- The following dialogue occurred approximately 5 minutes 30 seconds before LAT was loaded into the gate. When asked the following by Jerry Bailey, "*Johnny, your filly has never run on this racetrack. Can you tell anything by warming up if she likes it, doesn't like it, what's the story?*" Velazquez responded, "*Right now I'm not sure, Jerry, to tell you the truth. She's not warming up the way she normally does.*" Jerry Bailey then asked Velazquez "*is she being a little reluctant for you at this point?*" Velazquez responded, "*Yes, she is.*"
- Jerry Bailey and Velazquez then continued to talk about strategy for the race.
- Later between 1 minute and 15 seconds and 1 minute and 30 seconds prior to LAT being loaded in the starting gate, Jerry Bailey asked

- Velazquez, *“Is she getting any better?”* Johnny responded, *“not really.”* Jerry Bailey asked, *“could it be the lights or is mostly physical with her?”* Velazquez responded, *“I don’t know, Jerry, just---I’m not sure.”*
- Velazquez could not hear the ESPN commentary. The pony person wore the microphone and a speaker on her arm. The speaker was only turned on when a commentator asked Velazquez a question.
 - According to a statement provided by Dr. Bryce Peckham (Dr. Peckham) after the race, Dr. Peckham approached Velazquez as he was pulling off the tack. Dr. Peckham asked, *“what have you got?”* Velazquez said, *“she just wouldn’t put out any effort.”* Dr. Peckham asked how she felt and Velazquez said *“she felt OK.”*
 - On December 21, 2010, KHRC investigators conducted an in-person interview with Velazquez. During his interview, Velazquez stated he did not believe LAT would have been scratched even if he had brought her to the KHRC veterinarians to be examined. *“How was (sic) they going to scratch her? She’s not lame. I mean. She’s not limping. What were they going to say, she’s too quiet to run?”* He further stated, *“I’ve ridden horses that warm up really bad and run really good.”*
 - During the December 21, 2010 interview Velazquez stated, *“She just didn’t run. I mean, she didn’t run at all and she looks like she was fine, but she just didn’t show any interest...She showed no interest. That’s it.”*
 - In an interview with KHRC investigators, Michael McCarthy (assistant trainer to Pletcher) stated he went to the horse after the race while Velazquez was unsaddling LAT. Velazquez said, *“I knew it. I knew it, you know. I should’ve scratched her.”* When asked about this statement in a subsequent interview on January 7, 2011, Velazquez stated, *“We say that every time the horse runs so bad.”*
 - McCarthy said, after the race, LAT walked back to the barn fine and did not appear to be lame. McCarthy said he believed LAT was sound. *“She just had a wide look in her eye, like kind of a look of fear, you know?”* He further stated, when they returned to the barn, *“I thought she made a— a fairly normal turn in the shed row, and as time when on, she progressively shortened strides.”* But, after LAT was given a bath she began to show signs of *“tying up.”*

B. STEWARDS.

WHAT THE INVESTIGATION REVEALED REGARDING THE STEWARDS.

This portion of the investigation was conducted by the OIG. The full OIG report is attached as Appendix C. Veitch is the Chief State Steward for the Commonwealth of Kentucky and is employed by the KHRC. Becraft and Leigh are both employees of Churchill and are approved as stewards by the KHRC. All three Stewards are accredited by the Racing Officials Accreditation Program.

The OIG report reveals that the Stewards received information from Zimmerman, a producer at ESPN, that Velazquez was concerned LAT “*was not warming up the way she normally does*” approximately 5 minutes and 30 seconds prior to her entering the starting gate. The Stewards did not call the KHRC veterinarians to inform them of the Velazquez conversation on ESPN. Becraft said he observed something physically wrong with LAT. Leigh said he thought LAT looked choppy, but he also said he did not see anything out of the ordinary with her. In hindsight, Becraft and Leigh believe they should have contacted the veterinarians. Veitch believed Velazquez should have taken LAT to Dr. Peckham.

Becraft said he mentioned to the other Stewards that the veterinarians should be called about LAT. Becraft said that Veitch responded “*if we do that we might as well scratch the horse.*” Veitch denies hearing these comments from Becraft, but acknowledges Becraft might have said it. Veitch denies responding, “*if we do that we might as well scratch the horse.*” Leigh recalls Becraft saying the horse should be looked at by a veterinarian, but thought this occurred about the time LAT was entering the starting gate. After the call from Zimmerman the Stewards discontinued watching the broadcast. So they did not hear: 1. LAT’s trainer, Pletcher, say LAT was not herself in the paddock; 2. a second interview with Velazquez who reported LAT had not improved; and 3. an update from Dr. Bramlage who said none of the veterinarians on the ground had been made aware of the situation.

According to statements given to the OIG, the Stewards do not like to listen to ESPN or other coverage of races because there is a time lag and there could be confusion about the actual status of live racing at the event for which they are responsible. Broadcasts often show replays of other races. The Stewards are concerned about either: 1. missing the start of the actual race and not pushing the button to lock the betting windows; or 2. seeing tape of a prior race and locking the windows too early.

The OIG report indicated there is confusion among the Stewards regarding the chain of command. There was no clear understanding regarding the authority of each individual Steward vis a vis the Chief State Steward.

The Stewards’ report is attached as Appendix F.

C. VETERINARIANS.

WHAT THE INVESTIGATION REVEALED REGARDING THE VARIOUS VETERINARIANS.

1. ROLES AND RESPONSIBILITIES

- There were multiple veterinarians with different roles and responsibilities during the Breeders' Cup.
- The KHRC veterinarians are the official regulatory veterinarians and are responsible for making any recommendations to the Stewards regarding the scratch of a horse.
- The Breeders' Cup panel veterinarians are hired by the Breeders' Cup and are from different racing jurisdictions. Their role is to assist the KHRC regulatory veterinarians during Breeders' Cup week and on race days. They report to the KHRC veterinarians.
- The AAEP On Call veterinarians are on site to assist the media. The AAEP On Call veterinarians provide requested information to the media in the event a horse is injured and on an "as needed" basis should any media representatives have questions regarding the health or treatment of a horse. One of the primary purposes of the AAEP On Call veterinarian program is to allow KHRC veterinarians to care for injured horses in a timely manner while providing the media with accurate information about a horse's condition as quickly as possible. There were two AAEP On Call veterinarians on duty during the Breeders' Cup—one on the front side and one on the backside.
- LAT has her own private veterinarians who provide regular and ongoing veterinary care to her.

2. STANDARDS TO BE USED

- 810 KAR 1:012 Section 9(1) provides that a horse shall not be raced that is not in serviceable, sound racing condition. The Stewards may at any time cause a horse on association grounds to be examined by a qualified person.
- 810 KAR 1:024 Section 4 provides that the KHRC veterinarian shall have the authority to determine if a horse is unfit to race and if such a determination is made to recommend to the Stewards that the horse be excused.
- The Breeders' Cup manual provides that "*on race day, each horse shall be examined by a KHRC veterinarian for racing soundness and health at some time during the morning. This examination will include observing the horse move at a trot. The Stewards may exclude the horse from racing if the State Veterinarian finds the horse is not serviceable for racing.*"
- The Breeders' Cup Manual provides that the official veterinarian shall examine each horse immediately prior to the race at the Race Day Assembly Chute. The manual further provides, "*No horse shall be eligible*

to start in a race and shall be declared by the Stewards if it is found unfit to race, not properly identified, or improperly shod.”

3. PRE-RACE EXAMINATIONS

- It is standard practice for KHRC veterinarians to perform a pre-race examination on the morning prior to a race on every horse entered to race that day. The purpose of the pre-race exam is to determine if a horse is fit to race. The criteria for fitness to race include racing soundness, overall physical condition, and general health.
- All Breeders’ Cup horses were observed on track and examined in their barns throughout the week. The KHRC veterinarians and Breeders’ Cup veterinarians met daily to discuss the results of their examinations. Horses were re-inspected as warranted based on the group’s discussions. No reservations were expressed regarding the condition of LAT.
- The pre-race examination was performed on LAT by KHRC veterinarian Dr. Brad Bentz (Dr. Bentz) and Breeders’ Cup panel veterinarian Dr. Kathy Picciano (Dr. Picciano). Dr. Picciano noted in her written statement that, *“I was with Dr. Bentz when he examined her the morning of the race. I didn’t examine her legs but I saw her jog in the shed row and she jogged fine.”*
- Dr. Bentz noted and recorded a subtle abnormality in LAT’s gait. Dr. Will Farmer (Dr. Farmer), a KHRC veterinarian, reported that Dr. Bentz observation was discussed by the group after the initial round of pre-race exams was performed. The group determined it was not necessary to re-examine LAT. Dr. Bentz did not update the record after the veterinarian group discussed the morning rounds.
- KHRC veterinarian Dr. Michael Hardy (Dr. Hardy) observed the horses immediately prior to the race at the Race Day Assembly Chute. Dr. Hardy stated in his report that, *“Life at Ten did not display any clinically significant findings while walking to the paddock.”*
- During the pre-race examination and the time prior to the race, nothing came to the attention of the Breeders’ Cup veterinarians (other than Dr. Jill Bailey (Dr. Bailey)) or the KHRC veterinarians to indicate there was a question regarding whether LAT was: 1. sound and healthy for racing; 2. fit; or 3. serviceable for racing.

4. LOCATION OF VETERINARIANS

- A copy of the placement of the KHRC and Breeders’ Cup panel veterinarians on the race track is attached as Appendix G.
- There were no KHRC or Breeders’ Cup panel veterinarians at the 3/8 pole. There was, however, an ESPN camera. The television audience and commentators saw some of LAT’s warm-up that the KHRC and Breeders’ Cup panel veterinarians could not see.
- There were a total of six KHRC veterinarians and five Breeders’ Cup veterinarians on the race track immediately prior to and during the running of the Ladies’ Classic.

5. **OBSERVATION OF PRE-RACE WARM-UP, RUNNING OF THE RACE AND POST RACE**

a. **AAEP ON CALL VETERINARIANS:**

- Dr. Bramlage served as the front-side AAEP On Call veterinarian. Dr. Bramlage is not a KHRC employee. In his written statement, Dr. Bramlage said Jeannine Edwards (Ms. Edwards) told him Velazquez had told Jerry Bailey on the air that the #1 horse, LAT, was not warming up well. Dr. Bramlage called Dr. Peckham on the radio, but did not inform Dr. Peckham of the specific horse Ms. Edwards mentioned to him. Rather, Dr. Bramlage asked Dr. Peckham if any of the jockeys had said anything to him. Dr. Peckham said they had not. According to Dr. Bramlage, he did not name the specific horse because when he made the call to Dr. Peckham there were reporters and spectators standing around him. None of the veterinarians on the track, other than Dr. Bailey, knew the identity of the specific horse.
- Prior to the race, Ms. Edwards reported, *“Well, guys, I’m here with our On Call vet, Dr. Larry Bramlage, who tells me he’s been speaking with **his** veterinarians on the track near the scene, and he says as of right now, Johnny Velazquez has not said anything to the vets yet about scratching this horse. As they get closer to the gate, they may take a look at her, but right now Dr. Bramlage has informed me that the vets on the ground have not been made aware of the situation”* (emphasis added). When interviewed by the OIG investigators, Ms. Edwards stated she assumed the veterinarians on the ground had been made aware of the situation by Dr. Bramlage. She stated she was *“watching what’s happening on my TV monitor and I did not see any vet or anybody on the ground walk up to the horse and look at that horse, or talk to John Velazquez, and that kind of floored me.... And when they put her in the gate, I...I mean, I was stunned.”*
- Dr. Foster Northrop (Dr. Northrop), the back-side AAEP On Call veterinarian on duty, and a member of the KHRC, was watching the Churchill video feed, which did not include the ESPN coverage. Approximately one minute to post, Dr. Northrop was called by Dr. Ross Russell (Dr. Russell), his assistant, who was watching the ESPN feed off site. Dr. Russell told Dr. Northrop that Velazquez was talking about how poorly his horse was doing on ESPN and then Dr. Russell said she looked tied up, watching her on television. Dr. Northrop tried to reach Dr. Bramlage by phone, but was unsuccessful. Dr. Northrop did not call the KHRC veterinarians. As he watched the race, Dr. Northrop said he noticed the jockey never asked LAT to run at all. After the race, Dr. Northrop observed LAT coming off the track and walked with her back to her barn. Dr. Northrop observed, *“she did not look distressed or uncomfortable or lame.” “She looked like a normal horse walking to me.”* Dr. Northrop said after the race, *“she looked comfortable. She wasn’t*

blowing. She wasn't sweaty. She wasn't, at all, uncomfortable at –at that point.”

b. BREEDERS' CUP PANEL VETERINARIANS:

- California Horse Racing Board veterinarian, Dr. Bailey, was serving on the Breeders' Cup veterinary panel and was located at the ¼ pole at the horse ambulance. Dr. Bailey received a text message when the horses were on their way down to the gate in the stretch. According to a statement prepared by Dr. Bailey the text message informed her, *“Johnny was making negative comments to TV; my reply was that it seemed to be OK down on the track.”* Dr. Bailey did not tell any of the other veterinarians on the track about the text message. Dr. Bailey said, *“I did not notice any horses in that field appearing to have any problems at all.”* Dr. Bailey stated the horses were a long way from her and nearing the gate when she received the text. She received the text after Dr. Peckham responded to Dr. Bramlage that everything seemed to be good. *“And, so I didn't feel that it was my position to step in.”*
- Dr. Robin White (Dr. White) was stationed at the starting gate prior to the start of the race. One of the KHRC veterinarians approached Dr. Peckham and a brief discussion took place about the “rumor” of a horse not warming up well. In his written statement Dr. White noted, *“I can categorically say with confidence that Dr. Peckham, nor indeed any other veterinarian, had been given any specific information about which horse it was (if indeed it was any horse). In view of this lack of information, and also that no horse raised any veterinary concern at the gate, all horses were loaded and raced.”*
- The written statements and interviews provided by the other Breeders' Cup panel veterinarians indicated they did not observe anything that suggested LAT was unfit to race.

c. KHRC VETERINARIANS:

- The KHRC veterinarians were not notified by the Stewards, Pletcher, Velazquez, the AAEP On Call veterinarians, or the Breeders' Cup panel veterinarians on site that Velazquez was concerned LAT *“was not warming up the way she normally does.”* Nor were the KHRC veterinarians informed about any of the commentary on ESPN.
- While horses are on the race track prior to a race, the KHRC veterinarians are also on the race track directly observing horses, and they are not watching television.
- Dr. Peckham stated in his report, *“there were four KHRC and two BC veterinarians positioned so they could observe the field during the warm-up and none of us saw anything unusual with the mare. Two KHRC and one BC veterinarian observed her walk off the track and saw nothing to report.”* Dr. Peckham stated, *“in hindsight, had we known a jockey was concerned with an individual horse, one of us would have gone to the jockey to inquire.”* Dr. Peckham further noted if, *“Velazquez had brought*

- his reported concerns about LAT to any of the KHRC veterinarians, we would have recommended to the Stewards she be scratched from the race.”*
- Dr. Farmer said Dr. Bramlage’s call came over the Breeders’ Cup radio approximately two or three minutes prior to post. See AAEP On Call veterinarians above. Dr. Farmer approached various veterinarians on the track and told them there was “rumor” that one of the jockeys was concerned about how his horse was warming up and asked if anyone had brought a horse to the veterinarians. They each replied no. Dr. Farmer provided the following in a written statement, *“As LAT was beginning to be walked off the track, I jumped out of the chase truck to observe her status and speak with asst. trainer Mr. Michael McCarthy (sic). The horse appeared to be walking ok, she did appear tired with her head not fully erect. Her ears were up and she appeared to be aware of her surroundings. In speaking with Mr. McCarthy (sic) he stated that LAT had run at Hollywood Park once before under the lights and performed very poorly. At that point I walked with them until they made the turn at the top of the chute (sic) and headed towards their barn. At which point we also met up with Dr. Michael Hardy, Dr. Brent Cassady (sic), and a Breeders’ Cup panel veterinarian. At that point Dr. Hardy and Dr. Cassady (sic) walked with the horse off the track.”*
 - Dr. Brent Cassady (Dr. Cassady) walked with LAT back to her barn. He did not detect any signs of lameness or overt distress during that time post-race.
 - Dr. Michael Hardy (Dr. Hardy) said LAT was the first horse to walk back to the barnyard after the finish. In Dr. Hardy’s written statement he noted, *“LAT did show some mild signs of post-exertional exhaustion, however, within normal limits as compared to other horses routinely evaluated after racing. At no point during my evaluation of LAT before, during and after racing were there any clinically significant findings indicating the horse was under physiological distress.”*
 - Dr. Bentz was asked by Dr. Farmer prior to the race if he heard the rumor of a jockey concerned about how his horse was warming up. Dr. Bentz was located at the ¼ pole. No one had brought Dr. Bentz a horse. Dr. Bentz watched each horse canter/gallop out from the post parade and did not detect any horse that exhibited a gait deficit of any kind. He also did not detect a gait problem in the return of the field from the clubhouse turn during the warm up.
 - Dr. Liz Santschi (Dr. Santschi) was in the ambulance at the ¼ pole at the top of the stretch. She did not specifically observe LAT during the warm up. She heard the call from Dr. Bramlage when she was standing in the door of the ambulance. The horses were circling in front of her and she looked to see if any jockeys were attempting to contact a veterinarian. None were.

d. PRACTICING VETERINARIANS FOR LAT:

- LAT has several private veterinarians hired by Pletcher to provide ongoing and regular veterinary care and services. Among those private veterinarians are Dr. Steve Allday (Dr. Allday) and Dr. Ken Reed (Dr. Reed). They were interviewed by KHRC investigators. In his interview, Dr. Allday noted that he was watching the ESPN coverage off site, and he thought LAT was tying up before the race.
- During his interview, Dr. Reed stated that he treated LAT the week leading up to the race. *“She was a very sound filly so we didn’t do anything.”* Dr. Reed watched the ESPN coverage off site. He stated, during the warm up, *“I certainly thought she was walking short.”* Dr. Reed stated he went directly to LAT’s barn after the race. He treated her with fluids, a muscle relaxer and a tranquilizer because *“she was obviously in great distress, and obviously dried out. I mean, she was obviously in muscle cramps.”* He stated that he took her temperature that night, which was normal. He also indicated that he took blood the next day as well. Based on the results of the blood test, he stated that, *“she was probably sick going into the race and we didn’t realize it, and that’s what I told Todd. “She probably had a little something going on even before, like I said a virus or a bacteria, and then we gave her the Lasix and we knocked her electrolyte count out and then it just snowballed.”* After the race, Dr. Reed stated that he continued to treat LAT for several days until she returned to normal. He stated that she was doing fine by the time she shipped out of Churchill.
- Dr. Mary Scollay (Dr. Scollay), KHRC Equine Medical Director, conducted an analysis of LAT veterinary records. The Analysis is attached as Appendix H.

D. TRAINER.

WHAT THE INVESTIGATION REVEALED REGARDING THE TRAINER.

- After the call from Zimmerman to the Stewards and before the race, Pletcher said on ESPN, *“the filly was very quiet in the paddock, and you know, I told Johnny, make sure and warm her up good. She’s acting a little—a little unusual, you know, just really, really quiet. So I don’t know what Johnny’s feeling out there.”*
- After the race, Pletcher said to Jay Privman, *“I told him when we left the paddock that I was concerned about the way she saddled. She was—she was abnormally quiet, you know, almost sedated like and – you know, so I told him make sure and warm her up well. And, unfortunately, you know she’s either had some sort of allergic reaction to her Lasix treatment or she just had some severe cramps or tied up or something before she ever went out there. ...She was moving soundly, but she clearly should’ve probably*

not run, you know. And, it's just—it's unfortunate—because I don't think—you know, of all the horses we brought over today, none were doing better than her—just, you know and the last—last minute, something went wrong.”

- Pletcher was interviewed in person by KHRC investigators on December 10, 2010. During his interview, Pletcher stated that LAT had a normal temperature the morning of the race. He also stated that he had trained LAT under the lights in the mornings to acclimate her to them. He stated that LAT was being quiet in the paddock, and he told Velazquez *“to make sure he loosened her up good and warmed her up and got her on her toes.”* However, he also stated that, *“she was walking soundly and she seemed ... fine.”* He did not think there was any reason to go to the veterinarians because, other than being quiet, he did not believe there was anything wrong with her. *“I would never send one out there that I didn't think was sound to run. So, you know, at that point, if something goes amiss then I would assume that the veterinarians and Johnny are going to have to make that decision.”* He said he felt that once the horse leaves the paddock, *“It's out of my hands....”*

During the interview, Pletcher watched the ESPN coverage for the first time. He stated that he did not agree with the pre-race analysis given by the commentators. He stated that at no point before or during the race was LAT unsound. *“It's not an unsoundness issue, she just cramped up.”* He said it was not apparent that she was cramping up, or tying up, until after the race. He stated Velazquez did everything he could do and rode the horse out. Based on the ESPN coverage, he stated, *“I can't tell you that I saw enough that suggested she needed to be scratched... she did have a moment there where she appeared tight and then she seemed to get better. So, it would have been really hard to say that. .. You know, obviously Johnny felt comfortable enough the way she was moving that he felt like she deserved the opportunity to run. And I'm sure he's ridden horses before that he was concerned about the way they warmed up, and they ran better than he expected.”*

After the race, Pletcher said he went back to the barn and met Dr. Reed. Pletcher stated LAT appeared to be *“tied up.”* *“She couldn't walk freely in the stall.”* Pletcher indicated that they did not take LAT's temperature or draw blood until early the next morning.

E. OWNER.

WHAT THE INVESTIGATION REVEALED REGARDING THE OWNER.

- 810 KAR 1:016 Section 14 requires the stewards to take cognizance of any marked reversal of form of a horse and conduct inquiries of the licensed owner, licensed trainer and all other persons connected with the horse.
- The owner of the horse was Candy DeBartolo.
- Several days after the race, the racing manager for the DeBartolo's, David Vance (Vance), complained to Underwood that the horse was not scratched. If LAT had been scratched by the Stewards on the recommendation of the KHRC veterinarians the DeBartolo's would have received a refund in the amount of \$60,000 from the Breeders' Cup. Vance noted that he was upset with comments Veitch made that were included in a Courier-Journal article.
- In addition to the communications between Vance and Underwood, Vance was interviewed several times by KHRC investigators. The first interview was conducted on November 22, 2010, and the last was conducted on January 20, 2011. Vance has worked for the DeBartolo family in some capacity for over twenty years. He was told by the DeBartolos that they were interested in purchasing a race horse, and Vance contacted Pletcher to identify a horse to purchase. Pletcher learned of LAT and thought she would be a good choice. She was purchased in a private sale after her first race. She has been owned by the DeBartolos ever since.

Vance stated, *"two days before the race Todd said that she had never been better."* On the morning of the race, no one in Pletcher's stable told Vance that LAT seemed more quiet than usual or might be reacting to the cold weather. Vance was present in the paddock before the race and thought that LAT looked *"calm,"* but attributed her calmness to her experience. He said she appeared calm to him the other times he had seen her race live.

After the race, Vance spoke briefly with Pletcher. Pletcher said he did not know what happened to LAT, but theorized that she may have had a reaction to Lasix.

Vance did not go to Pletcher's barn after the race, but did go early the next morning. While he was at the barn, Dr. Reed arrived to treat LAT. Vance was told that LAT's temperature was 103 degrees and that her white blood cell count was elevated and her enzymes *"were off the chart."* He did not know what these symptoms indicated and was never told by Dr. Reed, Pletcher or anyone in Pletcher's stable that LAT *"tied up."* He indicated

that he and Pletcher never discussed whether or not LAT should have been scratched.

Vance acknowledged during his interview that he was familiar with racing from the business side. He also acknowledged he is not qualified to determine whether a horse was lame.

- Mrs. DeBartolo was interviewed on December 28, 2010. She stated that LAT is the first race horse she has owned. She stated that she had never seen LAT race live prior to the Breeders' Cup due to personal and business matters. She stated that Vance managed all aspects of the horse's training and care, and she never received any written reports on LAT. She stated she was very excited that LAT was running in the Breeders' Cup and brought several friends to Churchill to watch the race. Based on her past performances, Mrs. DeBartolo expected LAT to run well. At no time before the race did anyone tell her anything about the condition of LAT.

She watched the race from near the winner's circle and was "aghast" at LAT's performance. She stated her primary concern was for the welfare of LAT, but that no one has ever told her what the veterinary findings were or what was wrong with LAT. From reading blogs, she wondered if LAT should have been scratched. She expressed great concern that LAT was not tested after the race.

F. MEDIA.

WHAT THE INVESTIGATION REVEALED REGARDING THE MEDIA.

1. THE ESPN COMMENTATORS REPORTED SOME INCORRECT INFORMATION.

- ESPN commentator, Randy Moss (Moss) reported, "*we now understand that the Stewards are now asking the vets to actually take a look at Life at Ten when she gets to the starting gate.*" However, the Stewards did not ask the veterinarians to look at LAT. After hearing the pre-race commentary, Zimmerman, stated that she contacted the Stewards on the drop down line approximately five minutes and thirty seconds prior to the horses entering the starting gate. Based on her conversation with the Stewards, she assumed they were going to contact the veterinarians. In an interview with the OIG, Zimmerman took responsibility for creating that confusion.
- ESPN did not correct this incorrect information during their follow up the next day.

- Jerry Bailey reported, “*And it –it is—it is partly Johnny’s responsibility to bring it to the attention of the vet, but the attending veterinarian is supposed to come over there...and—and, say, is this horse okay?*”
- Moss then stated “*I mean that’s what the veterinarian is at the starting gate for, to protect the public, to protect the horses, to protect the riders in situations like that.*”
- Jerry Bailey then stated “*He is hired by the state for that exact reason, and he needed to at least pose a question to Johnny, is she all right?*”
- Moss then noted “*Do you—do you—should –should we run her? I mean, should she go into the gate, but...*”
- This dialogue implied that the veterinarians have the duty to pro-actively approach a jockey prior to the horse loading to inquire if he is satisfied with the condition of his mount, even if the veterinarians have not noticed a problem with the horse. However, the state veterinarians have no such duty.
- Had the ESPN commentators understood the role of the KHRC veterinarians, they could have accurately reported on the veterinarians’ duties.

G. OTHER INFORMATION GATHERED DURING THE INVESTIGATION.

- During the interview with jockey Garret Gomez, he stated he had ridden LAT in November 2009 at Hollywood Park under the lights. He stated she did not warm up well and was sweating and washed out prior to the race. However, she went on to finish third.
- McCarthy, an assistant trainer for Pletcher, also mentioned that LAT had “*a hard time under the lights at Hollywood Park.*”
- After the race, Dr. Picciano asked McCarthy if the horse was OK, and he replied, “*maybe the lights bothered her.*”
- In her statement, Dr. Picciano stated that after the race, LAT “*appeared to be walking normally and wasn’t in any apparent distress at that point. She was led off the track with no problem.*”
- The pony person for LAT, Betty Harless (Harless) stated, LAT “*was distressed, like she had tied up. She was tying up. She was distressing for some reason.*” Harless also stated she assumed Velazquez did not think the horse was in danger because he didn’t take the horse to a veterinarian. “*She didn’t feel right. She was not herself. But he did not say specifically, let’s go to the gate and have the vet look at her.*” In a second interview, Harless noted that she had not been a pony person for LAT prior to the Ladies’ Classic.
- Jerry Mealing, the pony person for Malibu Prayer, who was also in the Ladies’ Classic, said that LAT “*started out bound up and stayed bound up.*”

She was bound up when –when she came out of the paddock and she never loosened up.”

- The other pony people on the track for the Ladies Classic did not notice anything out of the ordinary with LAT.
- Patty Krotenko (Krotenko), an exercise rider for LAT, said she observed LAT during the race and said she did not believe LAT tied up. With regard to tying up, Krotenko stated in her interview, *“It’s something very noticeable, whether you’re sitting on them or watching them.”*
- According to Horatio Depaz (Depaz), the foreman and an exercise rider for LAT, LAT had a normal temperature on the morning of November 5th and had a temperature of 102 or 103 that evening. Depaz thought after the race she *“went to tying up, kind of nervous reaction to what had gone on. Her—basically, her muscles were just tightening up on her just from not being able to relax and then (sic) the stress.”*

H. OBSERVATIONS REGARDING WHETHER LAT SHOULD HAVE BEEN SCRATCHED.

- There are conflicting opinions on whether LAT should have been scratched.
- Velazquez did not present LAT to the KHRC veterinarians for evaluation. Had he done so, according to Dr. Peckham, Dr. Scollay and Veitch, the KHRC veterinarians would have recommended to the Stewards that LAT be scratched. This policy had been established prior to the Breeders’ Cup.
- LAT would have been scratched if either: (a) Velazquez had brought LAT to the veterinarians; or (b) the KHRC veterinarians determined the horse was not fit to race.
- The KHRC veterinarians did not observe anything, nor did they receive any information, that caused them to question LAT’s fitness to race.
- In his December 21st interview, Velazquez indicated he did not believe LAT would have been scratched had he brought her to the KHRC veterinarians to be examined and said he had ridden horses that warm up badly, but run well.
- Immediately after the race Velazquez told McCarthy, the assistant trainer, she should have been scratched. Velazquez later stated that he always makes these kinds of comments when a horse runs badly.
- After watching the ESPN coverage, Pletcher stated he saw no reason to scratch the horse.

I. OBSERVATIONS REGARDING THE CONDITION OF LAT, AND WHETHER SHE WAS UNFIT TO RACE.

- There are conflicting opinions on whether LAT was in distress prior to the race. Persons on the scene and watching television formed different opinions based on their locations and expertise.
- There was, however, consensus that immediately after the race, LAT seemed fine until sometime after she returned to the barn.

J. OBSERVATIONS REGARDING COMMUNICATION ISSUES.

- Many of the participants seemed to be waiting for someone else to take action.
- The Stewards did not call Dr. Peckham, and inform him that Velazquez had said LAT was not warming up the way she normally does. They did not instruct Dr. Peckham to contact the jockey.
- The Stewards did not individually or collectively make a decision on whether to contact Dr. Peckham after receiving the call from Zimmerman.
- Velazquez did not present LAT to the KHRC veterinarians for evaluation.
- Pletcher did not voice his concerns regarding the condition of LAT to the Stewards.
- Dr. Bramlage did not identify to Dr. Peckham the jockey or horse in question.
- Dr. Bailey, Breeders' Cup panel veterinarian, did not notify Dr. Peckham or any of the other KHRC veterinarians of the text message she received.
- ESPN commentators made some incorrect on-air statements.
- Regarding communication, there were several pre-event meetings held among personnel from Breeders' Cup, KHRC and Churchill Downs on logistics. KHRC also met with TRPB to discuss roles and responsibilities. KHRC veterinarians and Breeders' Cup panel veterinarians worked together the week prior to the Breeders' Cup to review the horses and conducted a daily meeting after morning rounds. ESPN conducted a pre-production meeting but did not invite Veitch or Underwood or any member of the KHRC staff. There was not an "all hands" meeting.

K. RECOMMENDATIONS.

- The roles, responsibilities and authority of the Chief Steward and the associate Stewards should be clarified and a determination should be made regarding the protocols for decision making.
- KHRC should consider requiring the Stewards to monitor television coverage prior to a race.

- KHRC Equine Medical Director and Chief Veterinarian should clarify roles and responsibilities of veterinarians assisting the KHRC at a racing event.
- KHRC Equine Medical Director and Chief Veterinarian should review distribution of veterinary staff on-track during races.
- On Call veterinarian, provided by the AAEP to assist the media, has an obligation to promptly inform the KHRC Chief Veterinarian of any information relevant to the health or safety of horses in a race.
- Industry groups such as RCI, Jockeys' Guild, The Jockey Club, TOBA, HBPA and AAEP may consider discussing the following:
 - Formulation of a jockey responsibility rule.
 - Weighing benefits of post parade jockey interview versus the duty of the KHRC to protect the safety and integrity of the sport.
 - Consider a recommendation that the Jockeys' Guild provide media training to its members.
 - Consider the impact of post parade jockey interviews on wagering integrity.
 - Consider the role of owners and trainers in deciding whether to allow their jockeys to grant a pre-race interview.
 - If recommendation is made that jockeys should not be permitted to speak to the media after they leave the jockey's room, 810 KAR 1:009 Section 11(2) will need to be amended. See Appendix A.
- KHRC to improve existing KHRC radio system. Radio communications should have central command post from which all transmissions are monitored. All agencies providing support to the KHRC should be issued KHRC radios and assigned designated frequencies.
- Improve organization between KHRC and outside groups providing support. Coordinate an "all-hands" pre-event meeting.
- Educate owners, trainers, the media, and the public on the responsibilities of the regulatory veterinarians. Consider a request to the AAEP to expand its media guide to include the different roles filled by veterinarians at the racetrack.
- Consider improved technology for locking betting windows at the start of a race.

V. SHOULD A POST-RACE SAMPLE HAVE BEEN COLLECTED FROM LAT?

A. WHAT THE INVESTIGATION REVEALED REGARDING THE VARIOUS PARTICIPANTS' ACTIONS.

- In their respective interviews, the Stewards stated they did not send LAT to the test barn for the following reasons:

- They (all 3) believed TOBA protocol required them to test the top four finishers.
- They (Veitch) did not believe the test barn could accommodate extra horses.
- They (Becraft) were concerned the horse might require veterinary care.
- Communication came over the radio after the race that LAT was fine.
- The Stewards did not contact the test barn to determine if the barn was full.
- Dr. Peckham said that there is occasionally a crowded test barn area if there are multiple graded stakes, one after another, on the same card and four horses from each race are sampled. In that instance, both space and personnel issues come into play which are addressed by simply walking a horse or horses in the shed row until there is sufficient space and personnel to collect the necessary samples. In such cases, the stewards are notified of what is going on. Dr. Scollay also stated that they would never decline to sample a horse due to overcrowding in the test barn.
- All three Stewards regretted their lack of action in this matter.

B. OBSERVATIONS.

- LAT should have been tested post-race.
- Arrangements could have been made in the test barn for LAT to be tested.
- The Graded Stakes Committee and TOBA do not require the top four finishers to be tested. Nonetheless, this has been the custom in Kentucky for at least the last seven years.
- The Breeders' Cup, however, does require that the first four finishers be tested. The Breeders' Cup also authorizes the Stewards to test additional horses.

C. RECOMMENDATIONS.

- In early 2010, the KHRC began revising the post-race sampling procedure. The revised procedure addresses the above issue. The new regulation (810 KAR 1:130) was filed in September 2010 and went into effect on February 4, 2011. Under this new regulation, in graded stakes races, the top three finishers will be sampled along with one or more additional horses selected for sampling based on guidelines set forth in the regulation. Under the sampling criteria, LAT's poor performance would have resulted in her being selected for testing.

VI. WERE ANY REGULATIONS VIOLATED?

- After reviewing the investigative material, the Commission will decide if any violations occurred. The following relevant regulations have been identified. For text of relevant statutes and regulations cited below, see Appendix A.

A. JOCKEY.

- 810 KAR 1:025 Section 14 (1)(q).

B. STEWARDS.

- 810 KAR 1:004 Section 3.
- 810 KAR 1:012 Section 9.
- 810 KAR 1:016 Section 14.
- 810 KAR 1:018 Section 11.

C. TRAINER.

- 810 KAR 1:008 Section 3.
- 810 KAR 1:018 Section 15.

D. DISCIPLINARY MEASURES.

- 810 KAR 1:028 Section 10.

VII. OTHER RECOMMENDATIONS.

The investigation raised other areas where improvement is recommended as follows:

- Improved backside security, including documentation of persons accessing the barn area.
- Racetrack veterinarians' record keeping should be upgraded to meet the standards of the Kentucky Board of Veterinary Examiners.
- Amend 810 KAR 1:004 (Stewards) so the Stewards are not required to be in the paddock for every race. This provision is not necessary since there are other racing officials required to be in the paddock who can contact the Stewards if necessary.
- Improved Stewards recordkeeping and accountability.
- Improved KHRC veterinary record keeping.