

**COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION 3  
CIVIL ACTION 09-CI-5292**

<b>AMERICAN SADDLEBRED HORSE</b>	)
<b>ASSOCIATION, INC.</b>	)
	)
<b>PLAINTIFF</b>	)
	)
<b>v.</b>	)
	)
<b>EDWARD R. BENNETT,</b>	)
	)
<b>CARL T. FISCHER, JR.,</b>	)
	)
<b>KRIS KNIGHT,</b>	)
	)
<b>TOM FERREBEE,</b>	)
	)
<b>SIMON FREDRICKS, M.D.</b>	)
	)
<b>AND</b>	)
	)
<b>LYNN W. VIA</b>	)
	)
<b>DEFENDANTS</b>	)
	)
_____	)

**DEFENDANTS ANSWER TO COMPLAINT  
FOR DECLARATORY JUDGMENT AND COUNTERCLAIM**

Edward R. Bennett (“Mr. Bennett”), Carl T. Fischer, Jr. (“Mr. Fischer”), Kris Knight (“Ms. Knight”), Tom Ferree (“Mr. Ferree”), Simon Fredricks, M.D. (“Dr. Fredricks”), and Lynn Via (“Ms. Via”) (collectively the “Defendants” or “Counter-Plaintiffs”) state the following in response to the complaint filed by the American Saddlebred Horse Association, Inc. (“ASHA”) and in support of the Counter-Plaintiffs’ counterclaim against the ASHA.

## PARTIES

1. The Plaintiff, AMERICAN SADDLEBRED HORSE ASSOCIATION, INC. (“ASHA”), is a Kentucky nonprofit corporation having its principal place of business located at 4083 Iron Works Parkway, Lexington, Kentucky 40511.

**ANSWER:** Admit.

2. The Defendant, EDWARD R. BENNETT, is an individual resident of the Commonwealth of Kentucky, whose residence is located at 1600 Zaring Mill Road, Shelbyville, Kentucky 40565.

**ANSWER:** Defendants deny that Edward R. Bennett’s address is located in zip code 40565 and further state that Mr. Bennett’s correct zip code is 40065. Defendants admit the remaining allegations contained in paragraph 2.

3. The Defendant, CARL T. FISCHER, JR. is an individual resident of the Commonwealth of Kentucky, whose residence is located at 1041 Alta Vista Road, Louisville, Kentucky 40205.

**ANSWER:** Admit.

4. The Defendant, KRIS KNIGHT, is an individual resident of the Commonwealth of Kentucky, whose residence is located at 10201 Shelbyville Road, Simpsonville, Kentucky 40067.

**ANSWER:** Admit.

5. The Defendant, TOM FERREBEE, is an individual resident of Ohio, whose residence is located at 9250 Friendsville Road, Box 540, Westfield Center, Ohio 44251.

**ANSWER:** Admit.

6. The Defendant, SIMON FREDRICKS, is an individual resident of Texas, whose residence is located at 101 Westcott, #1002, Houston, Texas 77007.

**ANSWER:** Admit.

7. The Defendant, LYNN W. VIA, is an individual resident of Virginia, whose residence is located at 3358 Peakwood Drive, Roanoke, Virginia 24014.

**ANSWER:** Admit.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the parties. ASHA is a Kentucky nonprofit corporation with its principal place of business in Kentucky and, accordingly, is deemed a resident of the Commonwealth of Kentucky. Defendants, Edward R. Bennett, Carl T. Fischer, Jr., and Kris Knight, each reside in the Commonwealth of Kentucky, are members of ASHA, and regularly engage in ASHA membership activities. The remaining Defendants, Tom Ferree, Dr. Simon Fredricks, and Lynn W. Via, are nonresidents, but are subject to the jurisdiction of this Court pursuant to KRS 454.210 in that said Defendants are members of ASHA, which is located in the Commonwealth of Kentucky, and regularly engage in ASHA membership activities.

**ANSWER:** The allegations contained in paragraph 8 contain statements of legal conclusion to which no response is required.

9. This Court has jurisdiction over the subject matter of this action pursuant to KRS 418.040 and KRS 418.045, as this is an action involving an actual controversy seeking a declaration of rights affected by statute.

**ANSWER:** The allegations contained in paragraph 9 contain statements of legal conclusion to which no response is required.

10. Venue is appropriate in this Court pursuant to KRS 418.040, as an action for declaratory relief may be brought in any court of general jurisdiction in this Commonwealth. Venue is proper in this Court because the documents which are the subject matter of this declaratory judgment action, and which give rise to same, are kept in the ordinary course of business at ASHA's principal place of business, 4081 Iron Works Parkway, Lexington, Fayette County, Kentucky 40511.

**ANSWER:** The allegations contained in paragraph 10 contain statements of legal conclusion to which no response is required.

11. Declaratory relief is appropriate in this case under KRS 418.065 since the requested declaration of rights will terminate the uncertainty and controversy that exists in this situation.

**ANSWER:** The allegations contained in paragraph 11 contain statements of legal conclusion to which no response is required.

12. This action is filed pursuant to KRS 418.040 et seq., and CR 57.

**ANSWER:** The allegation contained in paragraph 12 is a statement of legal conclusion to which no response is required.

#### **STATEMENT OF FACTS**

13. In a letter dated April 20, 2009 addressed to the Board of Directors and Officers of ASHA, certain of the named Defendants, including Carl T. Fischer, Jr., Kris Knight, Tom Ferrebee, Dr. Simon Fredricks, and Lynn W. Via, acting on their own behalf as members of ASHA, and asserting to be acting as representatives of other members, proffered a written request for information signed by them. A copy of that letter is attached hereto as Exhibit ("Ex.") A and incorporated herein by reference.

**ANSWER:** The letter dated April 20, 2009 speaks for itself. To the extent the allegations contained in paragraph 13 conflict with the contents of the letter, Defendants deny the allegations.

14. In a letter dated April 29, 2009 addressed to the Defendants identified in Paragraph 13 and other concerned ASHA members, the President of ASHA (jointly with the President of the American Saddlebred Registry, Inc.), responded, inviting the ASHA members, and any other concerned members, to meet with the directors at a director's meeting scheduled for July 6, 2009. A copy of that letter is attached as Ex. B and incorporated herein by reference.

**ANSWER:** The letter dated April 29, 2009 speaks for itself. To the extent the allegations contained in paragraph 14 conflict with the contents of the letter, Defendants deny the allegations.

15. In a letter dated May 4, 2009 addressed to the President of ASHA and the American Saddlebred Registry, Inc., Dr. Simon Fredricks, on behalf of the concerned ASHA members, refused ASHA's offer of attending the July 6, 2009 meeting and requested that ASHA make requested documents available for inspection by an agent of the concerned ASHA members. A copy of that letter is attached as Ex. C and incorporated herein by reference.

**ANSWER:** The letter dated May 4, 2009 speaks for itself. To the extent the allegations contained in paragraph 15 conflict with the contents of the letter, Defendants deny the allegations.

16. In a letter dated May 12, 2009 addressed to the Presidents of ASHA and the American Saddlebred Registry, Inc., counsel for the concerned ASHA members, Stephen A. Houston ("Mr. Houston"), reiterated the April 20, 2009 request for certain documents and

asserted that "Members of ASHA are entitled to the information requested without further delay". A copy of that letter is attached as Ex. D and incorporated herein by reference.

**ANSWER:** The letter dated May 12, 2009 speaks for itself. To the extent the allegations contained in paragraph 16 conflict with the contents of the letter, Defendants deny the allegations.

17. In a letter dated May 15, 2009 addressed to Mr. Houston, Jefferson K. Streepey ("Mr. Streepey"), corporate counsel for ASHA, responded, agreeing to provide some documentation and offering a schedule for inspection. Mr. Streepey also noted certain categories of information which ASHA believes to be confidential and/or not subject to inspection. A copy of that letter is attached as Ex. E and incorporated herein by reference.

**ANSWER:** The letter dated May 15, 2009 speaks for itself. To the extent the allegations contained in paragraph 17 conflict with the contents of the letter, Defendants deny the allegations.

18. In a letter dated May 20, 2009 addressed to Mr. Streepey, Mr. Houston asserted that KRS 273.233 gave the ASHA members the right to inspect all of the documents requested. A copy of that letter is attached as Ex. F and incorporated herein by reference.

**ANSWER:** The letter dated May 20, 2009 speaks for itself. To the extent the allegations contained in paragraph 18 conflict with the contents of the letter, Defendants deny the allegations.

19. On or about June 15, 2009, by pre-arranged appointment, Mr. Houston and Walter Newell appeared at ASHA's offices as representatives of the concerned ASHA members, including Defendants, to conduct the inspection of documents. As previously explained by Mr. Streepey, some requested documents were produced for inspection while others were withheld.

The representatives of the concerned ASHA members were not provided photocopies of the documents requested.

**ANSWER:** For their response to the allegations contained in paragraph 19, Defendants state that representatives of Mr. Fischer, Ms. Knight, Mr. Ferree, Dr. Fredricks and Ms. Via made an appointment and reviewed some documents at the ASHA office on June 15, 2009, that the ASHA refused to produce all of the documents requested, and that the ASHA refused to allow the representatives to obtain copies of the documents that were produced. Defendants deny the remaining allegations contained in paragraph 19.

20. In a letter dated June 26, 2009 addressed to Mr. Streepey, Mr. Houston described the events of June 15, reiterated his position that KRS 273.233 grants the ASHA members the right to inspect all documents, and asserted that KRS 273.233 includes a right to photocopies. Mr. Houston also reiterated the documents that concerned ASHA members wished to inspect. A copy of that letter is attached as Ex. G and incorporated herein by reference.

**ANSWER:** The letter dated June 26, 2009 speaks for itself. To the extent the allegations contained in paragraph 20 conflict with the contents of the letter, Defendants deny the allegations.

21. On or about July 6, 2009, the ASHA Board of Directors at its regularly scheduled meeting adopted new internal policies regarding inspection of ASHA books and records. Specifically, the policy designated the third Tuesday of each month as an opportunity for members, upon advance written notice, to inspect ASHA books and records at ASHA's offices, consistent with the scope of KRS 273.233. The policy further dictated that personnel information and private, confidential or privileged documents would not be subject to review if determined to be inappropriate for disclosure. A copy of a press release, dated July 13, 2009,

describing the Board's adoption of this policy is attached as Ex. H and incorporated herein by reference.

**ANSWER:** Defendants are without sufficient information to form a belief as to the portion of the allegations contained in paragraph 21 relating to the July 6, 2009 meeting of the ASHA Board of Directors, and therefore deny the allegations. Defendants deny that the purported policy adopted by the ASHA Board of Directors is consistent with KRS 273.233. Finally, Defendants state that the defined press release speaks for itself.

22. In a letter dated July 13, 2009 addressed to Mr. Houston, Mr. Streepey challenged Mr. Houston's characterizations of the events of June 15 and reasserted ASHA's position that KRS 273.233 does not support the expansive interpretation that the concerned ASHA members were asserting. Mr. Streepey also reported that the Boards had, nevertheless, agreed to permit inspection of the documents requested by Mr. Houston in his June 26 letter, and further advised him of the Board's adoption of the internal policy regarding document disclosure. A copy of that letter is attached as Ex. I and incorporated herein by reference.

**ANSWER:** The letter dated July 13, 2009 speaks for itself. Defendants deny that the letter dated July 13, 2009 is accurate. Also, to the extent the allegations contained in paragraph 22 conflict with the contents of the letter, Defendants deny the allegations.

23. In a letter dated July 22, 2009 addressed to Mr. Streepey, Mr. Houston reiterated the concerned ASHA members' expansive interpretation of KRS 273.233, outlined a request for additional documents, and agreed to a date on which to inspect those documents ASHA had agreed to produce. A copy of that letter is attached as Ex. J and incorporated herein by reference.



**ANSWER:** The letter dated July 22, 2009 speaks for itself. To the extent the allegations contained in paragraph 23 conflict with the contents of the letter, Defendants deny the allegations.

24. On or about July 29, 2009, by pre-arranged appointment, Mr. Houston, Mr. Newell and Mr. Houston's paralegal appeared at ASHA's offices as representatives of the Defendants and other concerned ASHA members to inspect certain requested documents. At this time, ASHA provided photocopies of certain documents requested by the representatives, for which a nominal copy fee was assessed.

**ANSWER:** For their response to the allegations contained in paragraph 24, Defendants state that representatives of Mr. Fischer, Ms. Knight, Mr. Ferree, Dr. Fredricks and Ms. Via made an appointment and reviewed some documents at the ASHA office on July 29, 2009, that the ASHA refused to produce all of the documents requested, that the ASHA refused to allow the representatives to obtain copies of some of the documents that were produced and that a copy fee was assessed for documents copied. Defendants deny the remaining allegations contained in paragraph 24.

25. On or about August 12, 2009, ASHA's Executive Secretary, Alan F. Balch, posted a message on an Internet forum on behalf of ASHA which stated in part:

The small group of concerned members should avail themselves of the opportunity offered to them to sit down with the board as a whole and **\*\*talk\*\*** about their concerns, determine what they are with precision, and inspect or review whatever they want.

Approximately an hour later, Defendant, Dr. Simon Fredricks, replied on the same forum, stating:

Thank you for your offer we ACCEPT and ask for a date as soon as possible.

A copy of those postings is attached as Ex. K and incorporated herein by reference.

**ANSWER:** The communications by Mr. Balch and Dr. Fredricks cited in paragraph 25 speak for themselves. To the extent the allegations contained in paragraph 25 conflict with the cited communications, Defendants deny the allegations.

26. In an email dated August 12, 2009 addressed to Mr. Streepey, Mr. Houston confirmed the ASHA members' acceptance of Mr. Balch's posted offer. A copy of that email is attached as Ex. L and incorporated herein by reference.

**ANSWER:** The e-mail dated August 12, 2009 speaks for itself. To the extent the allegations contained in paragraph 26 conflict with the contents of the e-mail, Defendants deny the allegations.

27. In a letter dated August 18, 2009 addressed to Defendants, Carl T. Fischer, Jr., Kris Knight, Tom Ferrebee, Dr. Simon Fredricks, and Lynn W. Via, and other concerned ASHA members, the President of ASHA (jointly with the President of the American Saddlebred Registry, Inc.), specified that the date of the agreed-to meeting and inspection would be Monday, October 5, 2009. The letter specifically asked that the concerned ASHA members identify, on or prior to September 21, 2009, the individuals who would be in attendance on that date to inspect the documents. A copy of that letter is attached as Ex. M and incorporated herein by reference.

**ANSWER:** The letter dated August 18, 2009 speaks for itself. To the extent the allegations contained in paragraph 27 conflict with the contents of the letter, Defendants deny the allegations.

28. In a letter dated August 25, 2009 addressed to Mr. Streepey, Mr. Houston again reiterated the concerned ASHA members' expansive interpretation of KRS 273.233 and alleged that Mr. Balch's August 12 offer confirmed this view. Mr. Houston also requested that certain

documents be produced for inspection prior to the agreed October 5, 2009 meeting date. A copy of that letter is attached as Ex. N and incorporated herein by reference.

**ANSWER:** The letter dated August 25, 2009 speaks for itself. To the extent the allegations contained in paragraph 28 conflict with the contents of the letter, Defendants deny the allegations.

29. In a letter dated September 4, 2009 addressed to Mr. Houston, Mr. Streepey responded that the offer and acceptance clearly contemplate that documents would be made available at the regularly scheduled third Tuesday in September pursuant to the adopted guidelines. A copy of that letter is attached as Ex. O and incorporated herein by reference.

**ANSWER:** The letter dated September 4, 2009 speaks for itself. To the extent the allegations contained in paragraph 29 conflict with the contents of the letter, Defendants deny the allegations.

30. In an email dated September 10, 2009 addressed to Mr. Streepey, Mr. Houston again reiterated the concerned ASHA members' expansive interpretation of KRS 273.233 and specifically threatened litigation should ASHA fail to produce all of the requested documents. A copy of that email is attached as Ex. P and incorporated herein by reference.

**ANSWER:** The e-mail dated September 10, 2009 speaks for itself. To the extent the allegations contained in paragraph 30 conflict with the contents of the e-mail, Defendants deny the allegations.

31. On or about September 18, 2009, Mr. Houston again appeared at ASHA's offices to inspect requested documents.

**ANSWER:** For their response to the allegations contained in paragraph 31, Defendants state that a representative of Mr. Fischer, Ms. Knight, Mr. Ferrebee, Dr. Fredricks and Ms. Via

reviewed some documents at the ASHA office on September 18, 2009, that the ASHA refused to produce all of the documents requested, and that the ASHA refused to allow the representative to obtain copies of the documents that were produced.

32. In an email dated September 25, 2009, addressed to Mr. Streepey, Mr. Houston finally responded to the Presidents' August 18, 2009 request that they identify the individuals who would be in attendance on October 5, 2009. Mr. Houston identified seventeen (17) people by name, including Defendants, Edward R. Bennett, Kris Knight, Tom Ferrebee, Dr. Simon Fredricks (by telephone), and Lynn W. Via, and further indicated that the other ASHA members may attend as well. A copy of that email is attached as Ex. Q and incorporated herein by reference.

**ANSWER:** The e-mail dated September 25, 2009 speaks for itself. To the extent the allegations contained in paragraph 32 conflict with the contents of the e-mail, Defendants deny the allegations.

33. Defendants, Edward R. Bennett, Kris Knight, and Lynn W. Via, did in fact attend the meeting of October 5, 2009. Upon information and belief, Dr. Simon Fredricks listened to the meeting of October 5, 2009 via telephone.

**ANSWER:** For their response to the allegations contained in paragraph 33, Defendants state that Mr. Bennett, Ms. Knight and Ms. Via attended the meeting on October 5, 2009, and Dr. Fredricks attempted to listen to the meeting on October 5, 2009 by telephone.

34. The entire Board of Directors for the ASHA and the American Saddlebred Registry appeared at the meeting of October 5, 2009 and produced for inspection ten (10) boxes of documents previously provided to the concerned ASHA members. Mr. Houston once again asked the Board of Directors of ASHA and the American Saddlebred Registry on behalf of the

Defendants and other concerned ASHA members to identify the documents withheld by ASHA. The Board reiterated that the 10 boxes contain all materials and documents responsive to the original April 20, 2009 request except for: (1) personnel files and salary information of ASHA employees and (2) email communications between ASHA Board directors and officers discussing personnel issues, prospective and current Board members, and other personal, confidential information that was exchanged with a reasonable expectation of privacy. When the Board asked Mr. Houston to identify any other documents that the ASHA members in attendance at the October 5, 2009 meeting believed should be produced, he refused to respond and restated that KRS 273.233 entitles ASHA members to inspect and photocopy all documents.

**ANSWER:** Defendants are without sufficient information to form a belief as to the accuracy of the allegation contained in paragraph 34 that all of the board members of the ASHA attended the meeting on October 5, 2009. Defendants also state that the ASHA refused to produce all requested documents on October 5, 2009 despite previously agreeing to allow the Defendants to inspect or review whatever they want. The Defendants deny the remaining allegations contained in paragraph 34.

#### **REQUEST FOR DECLARATORY JUDGMENT**

35. KRS 273.233 provides in its entirety as follows:

273.233           **Books and records**

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

**ANSWER:** KRS 273.233 speaks for itself.

36. It is Plaintiff's position that the language of KRS 273.233 does not support the expansive interpretation of "[a]ll books and records of a corporation" alleged by certain ASHA members, but rather has a much narrower scope. Specifically, the use of the term "all books and records of a corporation" in the second sentence of the statute is clarified by the first sentence to mean, and be limited to, "books and records of account", "minutes of the proceedings of its members, board of directors and committees" and "records of the names and addresses of its members entitled to vote". It is further the position of the Plaintiff that comparative statutes and caselaw support this limited scope.

**ANSWER:** The allegations contained in paragraph 36 are statements of legal conclusion to which no response is required. To the extent paragraph 36 contains factual allegations that require a response, Defendants deny the allegations.

37. It is Plaintiff's position that KRS 273.233 does not require that it provide photocopies of "books and records" to ASHA members.

**ANSWER:** The allegation contained in paragraph 37 is a statement of legal conclusion to which no response is required.

38. Accordingly, Plaintiff has fully and completely complied with KRS 273.233 by permitting the Defendants and all other concerned ASHA members to inspect the books and records of account as set forth in the statute. Plaintiff has denied further requests to photocopy these materials.

**ANSWER:** For their response to the allegations contained in paragraph 38, Defendants state that the ASHA has failed to allow representatives of ASHA members to obtain photocopies of

ASHA records and that the ASHA has not complied with KRS 273.333. Defendants deny any remaining allegations contained in paragraph 38.

39. Plaintiff has withheld personnel files and salary information of individual ASHA employees from inspection. These materials are replete with confidential information, including health-related records and other personal identifying data, that Plaintiff is not authorized to produce to ASHA members, nor required to disclose for inspection under KRS 273.233.

**ANSWER:** For their response to the allegations contained in paragraph 39, Defendants state that the ASHA has failed to produce documents it is required to produce including, among other items, books and records of account relating to its employees, including without limitation salary information relating to ASHA employees. Defendants are without information sufficient for them to form a belief as to the accuracy of the remaining allegations contained in paragraph 39 and therefore deny the allegations.

40. In addition, Plaintiff has not permitted the Defendants and other ASHA members to inspect email correspondence between Board directors and officers on the grounds that these individual communications are not “books and records of account” as contemplated under KRS 273.233. The ASHA directors and officers exchanged such candid and private email correspondence under a reasonable expectation that such information would be kept strictly confidential.

**ANSWER:** For their response to the allegations contained in paragraph 40, Defendants state that the ASHA has refused to allow Defendants to inspect e-mail correspondence between ASHA Board directors and officers. Defendants deny the remaining allegations contained in paragraph 40.

41. Pursuant to KRS 418.045, an actual controversy exists as to the scope of the right of inspection set forth in KRS 273.233, evidenced by the fact that certain ASHA members, including the named Defendants, have threatened litigation over disclosure of documents referenced herein, and also based upon the fact that Plaintiff, as a nonprofit corporation to whom requests for inspection have been made, is an interested party who may obtain a declaration of rights pursuant to KRS 418.045 and declaratory judgment pursuant to CR 57.

**ANSWER:** The allegations contained in paragraph 41 contain statements of legal conclusion to which no response is required.

#### **AFFIRMATIVE DEFENSES**

1. Defendants affirmatively state and allege that ASHA's claims may be barred, in whole or in part, by estoppel, laches, release, waiver and breach of contract.

2. Defendants reserve the right to amend their Answer if so warranted and plead all affirmative and equitable defenses for which discovery may provide a good faith basis.

#### **Defendants' and Counter-Plaintiffs' State the Following for their Counterclaim Against the ASHA**

1. The American Saddlebred Horse Association, Inc. ("ASHA") is a Kentucky nonprofit corporation having its principal place of business located at 4083 Iron Works Parkway, Lexington, Kentucky 40511.

2. Dr. Simon Fredricks is a member of the ASHA and in good standing.

3. Ms. Kris Knight is a member of the ASHA and in good standing.

4. Ms. Lynn Via is a member of the ASHA and in good standing.

5. Mr. Carl Fischer is a member of the ASHA and in good standing.

6. Mr. Edward Bennett is a member of the ASHA and in good standing.



7. Dr. Simon Fredricks, Ms. Kris Knight, Ms. Lynn Via, Mr. Carl Fischer and Mr. Edward Bennett shall be referred to collectively as “Counter-Plaintiffs” for purposes of these counterclaims.

8. By letter dated February 10, 2009, a Certified Public Accountant identified “significant deficiencies” in the accounting policies of the ASHA. A copy of the letter dated February 10, 2009 is attached as Ex. 1.

9. By letter dated April 20, 2009 addressed to the ASHA, members of the Counter-Plaintiffs requested certain information relating to ASHA records and the members of the Counter-Plaintiffs identified their purpose for seeking that information. A copy of the April 20, 2009 letter is attached as Ex. 2.

10. By letter dated May 15, 2009, ASHA denied having a legal obligation to allow ASHA members to inspect the ASHA records. A copy of the May 15, 2009 letter is attached as Ex. 3.

11. By letter dated May 20, 2009 addressed to ASHA, representatives of the Counter-Plaintiffs cited KRS §273.233 which authorizes the Counter-Plaintiffs to inspect ASHA books and records, and the representative of the Counter-Plaintiffs reiterated their request to inspect books and records of ASHA. A copy of the May 20, 2009 letter is attached as Ex. 4.

12. On or about June 15, 2009 ASHA refused to allow representatives of the Counter-Plaintiffs to inspect records of ASHA.

13. On or about June 15, 2009 ASHA refused to allow representatives of the Counter-Plaintiffs to obtain copies of records of ASHA.

14. By letter dated June 26, 2009 addressed to ASHA, a representative of the Counter-Plaintiffs appealed to ASHA to comply with KRS §273.233 and requested, once again,

to inspect ASHA records. In the same letter, the representative of the Counter-Plaintiffs noted that, in an audit of ASHA dated February 10, 2009, a Certified Public Accountant expressed concerns about the lack of segregation of duties within ASHA's accounting department. A copy of the June 26, 2009 letter is attached as Ex. 5.

15. Upon information and belief, on or about July, 2009, a member of the board of directors of the ASHA resigned from the finance committee of the ASHA.

16. By letter dated July 13, 2009, the ASHA denied that KRS §273.233 authorized ASHA members to inspect ASHA records, and ASHA stated that it would continue to refuse to allow the representative of the Counter-Plaintiffs to inspect the records previously requested. A copy of the July 13, 2009 letter is attached as Ex. 6.

17. On or about July 29, 2009, ASHA refused to allow representatives of the Counter-Plaintiffs to inspect books and records of ASHA.

18. On or about July 29, 2009, ASHA refused to allow representatives of the Counter-Plaintiffs to obtain copies of books and records of ASHA.

19. On or about August 12, 2009, ASHA offered to allow the Counter-Plaintiffs to "inspect or review whatever they want." A copy of the offer is attached to Ex. 7.

21. By electronic mail dated August 12, 2009 addressed to ASHA, a representative of the Counter-Plaintiffs accepted ASHA's offer to allow the Counter-Plaintiffs to inspect or review whatever they want. A copy of the August 12, 2009 e-mail is attached as Ex. 7.

22. By electronic mail dated August 14, 2009, ASHA confirmed the agreement to allow the Counter-Plaintiffs to inspect or review whatever they want. A copy of the August 14, 2009 e-mail is attached as Ex. 8.

23. By letter dated August 18, 2009, ASHA designated October 5, 2009 as the day on which the Counter-Plaintiffs could meet with ASHA and inspect ASHA books and records. A copy of the letter dated August 18, 2009 is attached as Ex. 9.

24. By letter dated August 25, 2009, addressed to ASHA, a representative of the Counter-Plaintiffs asked to inspect the books and records of ASHA before the meeting scheduled for October 5, 2009. A copy of the August 25, 2009 is attached as Ex. 10.

25. On September 18, 2009, ASHA refused to allow a representative of the Counter-Plaintiffs to inspect books and records of ASHA.

26. On September 18, 2009, ASHA refused to allow a representative of the Counter-Plaintiffs to copy books and records of ASHA.

27. On October 5, 2009, the Counter-Plaintiffs traveled to Lexington, Kentucky to inspect the records of the ASHA, but ASHA refused to allow the Counter-Plaintiffs to inspect the books and records of ASHA.

### **Count I – DECLARATORY JUDGMENT**

28. The Counter-Plaintiffs restate the allegations contained in paragraphs 1 through 27 as if set forth in full.

29. KRS §273.233 provides:

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

30. ASHA denies that KRS §273.233 authorizes members of ASHA to inspect all of the books and records maintained by ASHA.

31. ASHA contends that it is entitled to preclude members of ASHA, such as Counter-Plaintiffs, from reviewing certain books and records of the corporation.

32. ASHA concedes that members are entitled, under KRS §273.233, at the least, to inspect books and records of account (as narrowly defined by ASHA) and minutes of proceedings of the Board of Directors and committees. However, ASHA has failed to produce even all of those documents to Counter-Plaintiffs.

33. ASHA denies that the Counter-Plaintiffs are entitled to make copies of ASHA books and records.

34. Pursuant to KRS §418.045 and CR 57, the Counter-Plaintiffs are entitled to a declaration that KRS §273.233 authorizes the Counter-Plaintiffs to inspect all books and records of ASHA.

35. Pursuant to KRS §418.045 and CR 57, the Counter-Plaintiffs are entitled to a declaration that KRS §273.233 authorizes the Counter-Plaintiffs to copy any and all of the records they are entitled to inspect.

### **Count II – BREACH OF CONTRACT**

36. The Counter-Plaintiffs restate the allegations contained in paragraphs 1 through 35 as if set forth in full.

37. ASHA offered to allow Counter-Plaintiffs to inspect or review “whatever they want.” Counter-Plaintiffs accepted ASHA’s offer. As a result, a contract existed between the parties for the inspection of whatever documents requested for inspection by the Counter-Plaintiffs.

38. ASHA breached the contract by refusing to allow the Counter-Plaintiffs to inspect the documents requested for inspection and that breach damaged the Counter-Plaintiffs.

**Count III – PROMISSORY ESTOPPEL**

39. The Counter-Plaintiffs restate the allegations contained in paragraphs 1 through 38 as if set forth in full.

40. ASHA promised to allow the Counter-Plaintiffs to “inspect or review whatever they want.” ASHA designated October 5, 2009 as the time for the Counter-Plaintiffs to inspect books and records of ASHA, and ASHA designated the Kentucky Horse Park, located in Lexington, Kentucky, as the venue for the inspection.

41. The Counter-Plaintiffs detrimentally relied upon the ASHA’s promise.

42. ASHA failed to allow Counter-Plaintiffs to inspect or review documents as promised.

43. The Counter-Plaintiffs have been damaged as a result of ASHA’s failure to fulfill the promise it made to the Counter-Plaintiffs.

**DEMAND FOR RELIEF**

Wherefore, the Defendants / Counter-Plaintiffs demand judgment and relief as follows:

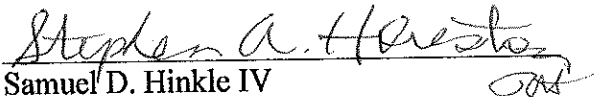
1. That the Court declare that KRS §273.233 authorizes the Counter-Plaintiffs to inspect and copy all books and records of ASHA;

2. That the Court order ASHA to perform specifically and allow Counter-Plaintiffs to inspect and copy books and records of ASHA;

3. That the Court award the Counter-Plaintiffs damages in an amount to be determined;

4. That the Court award the Counter-Plaintiffs costs, including reasonable attorneys' fees; and
5. All other relief to which the Counter-Plaintiffs appear entitled.

Respectfully submitted,



Samuel D. Hinkle IV

Adam T. Goebel

Thomas E. Rutledge

Stephen A. Houston

STOLL KEENON OGDEN PLLC

2000 PNC Plaza

500 West Jefferson Street

Louisville, Kentucky 40202-2828

(502) 333-6000

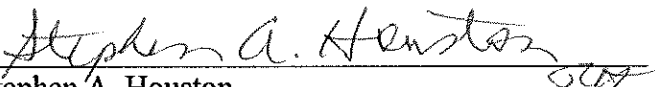
Counsel for Defendants / Counter – Plaintiffs

**CERTIFICATE OF SERVICE**

I certify that on October 27, 2009, Defendants Answer to Complaint for Declaratory Judgment and Counterclaim was filed with the clerk of the court, and served by first class mail upon the following:

Edward H. Stopher  
Jefferson K. Streepey  
Earl L. Martin III  
Boehl Stopher & Graves, LLP  
AEGON Center, Suite 2300  
400 West Market Street  
Louisville, Kentucky 40202  
Phone: (502) 589-5980  
Fax: (502) 561-9400

James B. Cooper  
Boehl Stopher & Graves, LLP  
444 West Second Street  
Lexington, Kentucky 40507  
Phone: (859) 252-6721/Fax: (859) 235-1445  
*Counsel for Plaintiff, American Saddlebred  
Horse Association, Inc.*

  
\_\_\_\_\_  
Stephen A. Houston  
Counsel for Defendants / Counter-Plaintiffs

106586.133594/599181.1

**BENNETT & COMPANY, CPAs**  
*Accountants and Advisors*

February 10, 2009

Board of Directors  
American Saddlebred Horse Assn., Inc.  
4083 Iron Works Parkway  
Lexington, KY 40511

In planning and performing my audit of the financial statements of American Saddlebred Horse Assn., Inc. as of and for the year ended December 31, 2008, in accordance with auditing standards generally accepted in the United States of America, I considered its internal control over financial reporting (internal control) as a basis for designing my auditing procedures for the purpose of expressing my opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Association's internal control. Accordingly, I do not express an opinion on the effectiveness of the Association's internal control.

My consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, as discussed below, I identified certain deficiencies in internal control that I consider to be significant deficiencies as of December 31, 2008.

A significant deficiency is a control deficiency or combination of control deficiencies that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. I consider the following deficiencies to be significant deficiencies in internal control as of December 31, 2008:

1. The Association does not have sufficient personnel to be able to segregate duties properly. Cash, accounts receivable, and accounts payable should be segregated such that entering invoices, entering deposits, and writing checks are performed by employees who are independent of signing checks and reconciling bank statements. Consider hiring additional personnel for further segregation of duties.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control. I did not identify any deficiencies in internal control that I consider to be material weaknesses, as defined above as of December 31, 2008.

104 Daventry Lane • Louisville, Kentucky 40223 • Phone (502) 425-3030 • Fax 429-0271

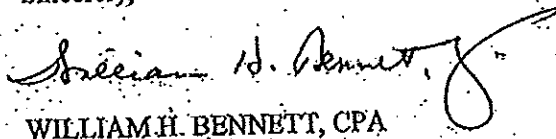
*Member of the American Institute of CPAs and the Kentucky Society of CPAs*

**DEFENDANT'S  
EXHIBIT**



This communication is intended solely for the information and use of the board of directors, management, those charged with governance and others within the organization and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,

Handwritten signature of William H. Bennett in cursive script.

WILLIAM H. BENNETT, CPA

WHB:rh

April 20, 2009

American Saddlebred Horse Association, Inc.  
4083 Iron Works Parkway  
Lexington, KY 40511

Ms. Judy Werner  
President, ASHA  
Redwing Farm  
Waterloo, IL 62298

Ms. Victoria Gillenwater  
1<sup>st</sup> Vice President, ASHA  
900 Vista Oaks Lane  
Knoxville, TN 37919

Ms. Barbara Molland  
2<sup>nd</sup> Vice President, ASHA  
5000 Carroll Road  
Petaluma, CA 94952

Mr. Paul Treiber  
Secretary, ASHA  
Pine Meadows Farm  
2220 Lakewood Court  
Hartland, WI 53029

Mr. Jim Ruwoldt  
Treasurer, ASHA  
3004 Village Lane  
Roswell, GA 30075

Mr. Scott Matton,  
Bd. of Dir., ASHA  
2800 Oakwood Rd.  
Hartland, WI 53029

Ms. Mary Ann Pardieck  
Bd. of Dir., ASHA  
4181 South Summit Lane  
Columbus, IN 47201

Dr. Alan Raun  
Bd. of Dir., ASHA  
Reedannland Farm  
2291 50<sup>th</sup> Avenue  
Cumming, IA 50061

Mr. Jimmy Robertson  
Bd. of Dir., ASHA  
P.O. Box 616  
Simpsonville, KY 40067

Mr. Carl Holden  
Bd. of Dir., ASHA  
8007 Westover Dr.  
Prospect, KY 40059

Dr. Margaret McNeese  
Bd. of Dir., ASHA  
2719 Ferndale  
Houston, TX 77098

Mr. Art Zubrod  
Bd. of Dir., ASHA  
Fair Island Farm  
1590 Pisgah Pike  
Versailles, KY 40383

Ms. Betsy Boone  
Bd. of Dir., ASHA  
8651 Boone Farm Road  
Concord, NC 28027

Ms. Louise Gilliland  
Bd. of Dir., ASHA  
Winsdown Farms  
Route 6  
Box 166A  
McAlester, OK 74501

Mr. Nelson Green  
Bd. of Dir., ASHA  
1242 Catnip Hill Road  
Nicholasville, KY 40356



Mrs. Germaine Johnson  
Bd. of Dir., ASHA  
4025 Peppertree Drive  
Lexington, KY 40513

Mr. William Whitley  
Bd. of Dir., ASHA  
913 Queensferry Rd.  
Cary, NC 27511

**American Saddlebred Horse Association, Inc.**

Dear ASHA Directors:

We are senior members in good standing of the American Saddlebred Horse Association, Inc. ("ASHA"). We have become increasingly concerned about the decline in popularity of the American Saddlebred horse in recent years. Since 2005, there has been a steady decrease in the total number of registered Saddlebred horses. The erosion of popularity of our breed is further evidenced by steadily declining attendance over the past decade at the World's Championship, our industry's signature event.

As you know, one of the primary purposes of the ASHA is to stimulate and promote interest with respect to the history, breeding, exhibiting, and improvement of the American Saddlebred. As concerned members of the ASHA, we want to be sure that the ASHA is utilizing its assets in a prudent manner, and in furtherance of the purposes of the ASHA.

After request, the ASHA provided copies of tax returns and certain related financial reports of the ASHA for calendar years 2006 and 2007. After our initial review, these reports seem to indicate that the ASHA has expended significant sums on items for which we are unable to determine what benefit, if any, the ASHA received in return. Those expenditures range from a few thousand dollars to more than \$400,000. Furthermore, none of the financial reports identify the recipients of these disbursements. We believe it is important for the members of the ASHA to be provided with more detailed information about the expenditures of the ASHA, and we are therefore enclosing a list of questions related to certain expenses as to which we would appreciate receiving additional information.


Included in the enclosed list is our request for a copy of the "employment agreement and deferred compensation package" for Alan Balch, the Executive Secretary of the ASHA. According to the ASHA Financial Statements prepared by Bennett & Company CPAs for the year ended December 31, 2007 ("2007 Statements"), the ASHA approved "an employment agreement and deferred compensation package" with Alan F. Balch on October 31, 2007. The 2007 Statements indicate that the compensation agreement with Mr. Balch was given retroactive effect beginning November 1, 2006. The IRS Form 990 filed on behalf of the ASHA for the year 2007 indicates that Mr. Balch's base salary increased to \$100,000, but the financial records we received fail to disclose the additional benefits that Mr. Balch is entitled to receive, in addition to his salary, as part of his "deferred compensation package." As members of the ASHA, we respectfully request a copy of Mr. Balch's "employment agreement and deferred compensation package" so that we may determine the total compensation and benefits that Mr. Balch is entitled to receive from the ASHA while key barometers of the Saddlebred industry are falling. We also want to determine if any deferred compensation owed to Mr. Balch poses a substantial off-balance sheet expense which will become due for payment in future years. In today's

challenging economic environment, and in light of the particular decline in our industry, we want to be certain that the ASHA has not entered into any agreements that might not be in the best interest of the ASHA.

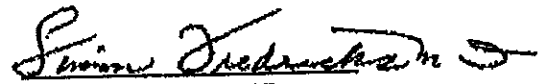
We are confident that you respect the fiduciary responsibilities that you, as Directors, have to the ASHA and its members, including your oversight of the budget and expenditures of the ASHA. We look forward to receiving the information we have requested from you at your earliest convenience. Please provide your response to us by delivering the same to Stoll Keenon Ogden, PLLC, c/o Stephen A. Houston, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202.

This request is being submitted by the signatories to this letter, indicated below, as well as the individuals listed on the next page who have authorized us to include their names in this request.

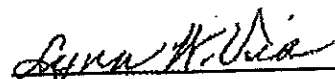
Sincerely,

  
Tom Ferrebee

  
Carl T. Fischer, Jr.

  
Simon Fredericks M.D.

  
Kris Knight

  
Lynn W. Via

Enclosure



**BOEHL STOPHER & GRAVES LLP**

AEGON CENTER · SUITE 2300  
400 WEST MARKET STREET · LOUISVILLE, KENTUCKY 40202-3354

TELEPHONE: 502-589-5880  
FACSIMILE: 502-561-9400

JEFFERSON K. STREEPEY  
PARTNER  
EXTENSION 234  
JSTREEPEY@BSC-LAW.COM

May 15, 2009

**BY FACSIMILE AND U. S. MAIL**

Mr. Stephen A. Houston  
STOLL KRENON & PARK LLP  
2000 PNC Plaza  
500 West Jefferson  
Louisville, KY 40202-2828

Re: American Saddlebred Horse Association  
American Saddlebred Registry

Dear Mr. Houston:

We represent the American Saddlebred Horse Association and American Saddlebred Registry. This responds to your letter of May 12, 2009 addressed to the Presidents of these entities and also responds to the May 4, 2009 letter sent by Dr. Simon Fredricks on behalf of your clients.

Although the ASHA and the Registry have no legal obligation to do so, they will provide documentation on terms as follows:

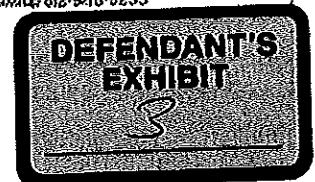
- Portions of the ASHA and Registry general ledgers itemizing the account detail covering the requested information for calendar years 2006 and 2007 will be available for review by your representative at the ASHA office in Lexington on June 15, 2009 between the hours of 8:30 a.m. and 4:30 p.m. You will need to identify your representative and his/her profession at least three days prior to the inspection date, so the office will know whom to expect.

444 WEST SECOND STREET  
LEXINGTON, KENTUCKY 40507-0440  
TELEPHONE: 859-252-0721  
FACSIMILE: 859-353-4443

40 BROADWAY  
PADUCAH, KENTUCKY 42001  
TELEPHONE: 270-442-4389  
FACSIMILE: 270-442-4589

137 MAIN STREET, SUITE 200  
PIKEVILLE, KENTUCKY 41502  
TELEPHONE: 606-432-0670  
FACSIMILE: 606-432-0680

ELSBY EAST · SUITE 204, 400 PEARL STREET  
NEW ALBANY, INDIANA 47150  
TELEPHONE: 812-948-3053  
FACSIMILE: 812-948-0233



## BOEHL STOPHER &amp; GRAVES LLP

Mr. Stephen A. Houston  
May 15, 2009  
Page 2

2. Joan Jones, the ASHA controller, will be available during those hours to answer questions your representative may have concerning the account detail. Obviously, Ms. Jones is not in a position to discuss matters of policy or to make discretionary decisions; she can only provide information regarding the contents of the account detail.

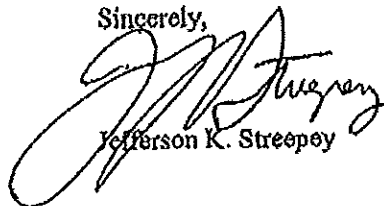
3. Except with respect to Alan Balch the compensation of any individual employee will not be disclosed. We believe our employees are entitled to privacy on compensation issues. Mr. Balch has consented to disclosure of his compensation, and his employment contract and deferred compensation agreement will be available for your representative's review. You may be sure Mr. Balch's total compensation is as reflected in these agreements; he has received no bonuses, commission, royalties, or other forms of compensation and has in fact during the contract term voluntarily foregone significant salary and expense reimbursement to which he was entitled under his contract. Both Mr. Balch's employment contract and deferred compensation agreements were unanimously approved by the directors in attendance at the ASHA board meeting where they were discussed in detail and referred to the Executive Committee for approval of a final form incorporating the approved terms. All duly elected directors were at that board meeting except Mr. Heiman, who did not attend. Minutes of the meeting have been available on the ASHA Web site for over a year.

4. Your representative's review will be in lieu of the meeting we previously suggested between your group and the ASHA and Registry boards during their regular July meeting.

We will provide you copies of the ASHA and Registry Form 990 for 2008 after they are completed.

Please direct all future communications to me and not to the ASHA or Registry officers and directors.

Sincerely,



Jefferson K. Streepey

JKS:mfk

cc: Judith Werner  
Barbara Molland



STOLL · KEENON · OGDEN  
P L L C

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202-2828  
MAIN: (502) 333-6000  
FAX: (502) 333-6099  
www.skofirm.com

STEPHEN A. HOUSTON  
DIRECT DIAL: (502) 568-5768  
DIRECT FAX: (502) 333-6099  
stephen.houston@skofirm.com

May 20, 2009

By Electronic Mail  
lstreepey@hsg-law.com

Jefferson K. Streepey, Esq.  
Boehl Stopher & Graves LLP  
Aegon Center, Suite 2300  
400 W. Market Street  
Louisville, KY 40202-3354

ASHA and Registry

Dear Mr. Streepey:

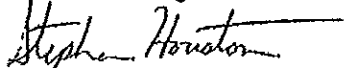
By letter dated May 12, 2009, on behalf of a group of senior members, I requested that the American Saddlebred Horse Association, Inc. ("ASHA") and the American Saddlebred Registry, Inc. ("Registry") produce certain documents or, in the alternative, provide an opportunity for an accountant and other representatives of the senior members to review and copy the documents.

By letter dated May 15, 2009, you responded on behalf of the ASHA and Registry agreeing to produce some, but not all, of the documents requested. In that letter, the ASHA and Registry contend that they "have no legal obligation" to produce the documents. That is not correct. For example, in Kentucky, "all books and records of a [nonprofit] corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time." See KRS §273.233. Accordingly, the ASHA and Registry should provide access to all of the documents previously requested.

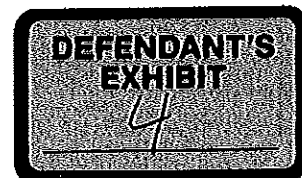
Although we remain troubled by the ASHA and Registry's response and the delay in making the existing documents available, we look forward to the opportunity to review and copy the documents on June 15, 2009. As you requested, we will provide a list of the individuals who will attend the document production at the ASHA office in Lexington.

Sincerely

Stoll Keenon Ogden PLLC

  
Stephen A. Houston

LEXINGTON + LOUISVILLE + FRANKFORT + HENDERSON





STOLL · KEENON · OGDEN  
P.L.L.C.

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202-2828  
MAIN: (502) 333-6000  
FAX: (502) 333-6099  
www.skofirm.com

STEPHEN A. HOUSTON  
DIRECT DIAL: (502) 568-5768  
DIRECT FAX: (502) 333-6099  
stephen.houston@skofirm.com

June 26, 2009

By Electronic Mail  
istreepey@bsg-law.com

Jefferson K. Streepey, Esq.  
Boehl Stopher & Graves LLP  
Aegon Center, Suite 2300  
400 W. Market Street  
Louisville, KY 40202-3354

American Saddlebred Horse Association, Inc.

Dear Mr. Streepey:

The American Saddlebred Horse Association, Inc. ("ASHA") is a Kentucky non-profit organization. KRS §273.233 entitles members of a Kentucky non-profit organization, and their representatives, to have access to "all books and records" maintained by the non-profit organization. By letter dated April 20, 2009, certain members of the ASHA asked it to produce documents relating to its financial expenditures. The ASHA agreed to produce some, but not all, of the responsive documents at its office in Lexington on June 15, 2009.

Mr. Walter Newell, CPA, and I appeared at the ASHA office on June 15, 2009 as representatives of certain members of the ASHA. You and the ASHA's controller, Ms. Joan Jones met with us on behalf of the ASHA. Notwithstanding the clear language in KRS §273.233, you confirmed that the ASHA refused to produce all of the records previously requested. Furthermore, the ASHA refused to allow us to retain photocopies of the select documents it was willing to let us see. You stated that you were following instructions provided to you by Mr. Alan Balch. You also stated that it was your understanding that Mr. Balch conferred with some of the Officers or some of the Executive Committee, but not the full Board of Directors, regarding the decision to withhold documents.

Pursuant to KRS §273.233, we continue to demand to inspect and copy all of the books and records previously requested. If possible, we wish to avoid petitioning a court to allow members of this non-profit organization to have access to its books and records. As you and I discussed, please present this issue to the ASHA's Board of Directors for consideration. It is our hope that the ASHA will comply with the law and make its records available to its members.

LEXINGTON + LOUISVILLE + FRANKFORT + HENDERSON





Jefferson K. Streepey, Esq.  
June 26, 2009  
Page 2

You permitted me to ask the ASHA controller, Ms. Joan Jones, questions about some of the ASHA's financial expenditures. Ms. Jones stated that the ASHA pays commissions to some of its employees, but it does not have a formal written policy regarding commissions, including the eligibility of ASHA employees and the amounts available to be earned. Please confirm that the ASHA has no formal written policy regarding commissions. If a written policy regarding commissions exists, please produce a copy of it.

Similarly, Ms. Jones stated that the ASHA has also paid bonuses to some of its employees, but it does not have a formal written policy regarding the payment of bonuses. Please confirm that the ASHA has no formal written policy regarding bonuses. If a formal written policy regarding bonuses does exist, please produce a copy of it.

When asked about a financial expenditure identified as a "draw" of approximately \$6,000, Ms. Jones stated that it was an advance payment to William Wood for potential fundraising commissions. Ms. Jones stated that she did not believe the ASHA memorialized that agreement in writing. Ms. Jones also stated that Mr. Wood was told that he would not need to return the advanced money even if he never earned the commission by raising the necessary amount of funds for the ASHA. Please confirm that the agreement with Mr. Wood was not memorialized in writing. If an agreement was memorialized in writing, please provide a copy of the written agreement.

The letter to the board of directors dated February 10, 2009 from Bennett & Company, CPAs indicates that there is a concern about "segregation of duties" in the ASHA's accounting department. Please provide documents indicating whether this matter is a "control deficiency," "significant deficiency" or a "material weakness" as defined by SAS 112 *Communicating Internal Control Matters Identified in an Audit*. Also, please provide documents indicating the ASHA's investigation into this issue and its efforts to resolve the issue.

Based upon our review of the documents that were produced on June 15, it is apparent that the ASHA should also produce for inspection and copying, without limitation, the 22 categories of invoices and other specific documents discussed below:

1. Please produce documents indicating where the \$20,000 related to Mr. Balch's annual deferred compensation is accrued in the December 31, 2007 audited financial statements.
2. Expenditures identified as "Meetings and Conferences" totaled \$222,166 in 2007. Please provide all of the invoices supporting those expenditures including, without limitation, the following:
  - \$29,522 Kentucky State Fair
    - Saddlebred Daily \$2,970
    - Monday \$593

Jefferson K. Streepey, Esq.  
June 26, 2009  
Page 3

- Tuesday \$1,317
- Wednesday \$1,317
- Thursday \$1,317
- Friday \$830
- Saturday \$1,264
- Sunday \$1416
- Contract Labor \$2,500
- 06 Ring 1,250
- KSF Results Commission \$2,043
- \$29,010 Youth Conference Expense.
  - Printing cost of \$724
  - Embassy Suites of \$6,525
- \$26,502 Lordosis
- \$40,838 annual meeting expense
  - Embassy Suites \$18,791
  - Convention Sponsors of \$2,070
- \$28,171 Fundraiser Auction
  - Rocking Horse \$2,000
  - Saddle \$1,200
  - Derby Tickets
  - Executive West \$8,293

3. Meetings and Conferences totaled \$159,865 in 2006. Please provide all of the invoices supporting those expenditures including, without limitation, the following:

- \$22,000 American Saddlebred Ball
  - \$12,536
  - \$2,468
- \$35,091 Annual Meeting Expense
  - \$12,418
  - \$7,723

Jefferson K. Streepey, Esq.  
June 26, 2009  
Page 4

- \$50,211 Kentucky State Fair Expense
  - \$5,775
  - Online Payment \$5,221
  - Online Payment \$2,500
  - L. Weatherman \$2,904

4. Printing expenditures totaled \$200,796 in 2007. Please provide all of the invoices supporting those expenditures including, without limitation, the following:

- \$21,691
- \$12,932
- \$15,751
- \$14,893
- \$45,297
- Susanna Thurston \$15,180
- Susanna Thurston \$6,225
- Marcia Carothers \$5,652

5. Printing expenses totaled \$180,497 in 2006. Please provide all of the invoices supporting those expenditures including, without limitation, the following:

- \$11,015
- \$39,531
- \$19,880
- \$12,442
- \$14,009
- \$13,858
- \$10,458

6. Contract fees totaled \$9,600 in 2007. Please provide invoices supporting those expenditures. Also, please provide a copy of any agreements with Mac Condon and Brenda Newell.

7. Contract fees totaled \$78,442 in 2006. Please provide invoices supporting those expenditures.

8. Advertising/Promotion totaled \$13,523 in 2007. Please provide all of the invoices supporting those expenditures including, without limitation, the following:

- Primea \$1,732
- Advertising \$1,000

9. Advertising/Promotion totaled \$63,287 in 2006. Please provide all of the invoices supporting those expenditures including, without limitation, the following:

- Primedia \$1,648
- Derby Tickets \$2,300
- \$2,173 World Equestrian Games

10. Bank fees totaled \$19,442 in 2007.

- Please provide copies of bank statements for the months of January 2007 through December 31, 2007.

11. Bank fees totaled \$13,442 in 2006.

- Please provide copies of bank statements for the months of January 2006 through December 31, 2006.
- Please provide the invoice supporting the "APS Settlement" charge of \$1,119.

12. Interest expenses totaled \$26,179 and \$32,949 for 2007 and 2006, respectively. Please provide a copy of the lease agreement and respective amortization schedule that indicates the necessity of these expenditures.

13. Market Research totaled \$12,796 in 2007.

- Please provide all documents supporting those expenditures, including the name and address of all payees.
- Please provide a copy of all agreements and contracts to perform work relating to market research.

14. Market Research totaled \$38,721 in 2006.

- Please provide all documents supporting those expenditures, including the name and address of all payees.

- Please provide a copy of all agreements and contracts to perform work relating to market research.
15. Web page/email totaled \$20,136 in 2007.
- Please provide all documents supporting those expenditures, including the name and address of all payees.
  - Please provide a copy of all agreements and contracts to perform work relating to web page / email expenditures.
16. Web page/email totaled \$4,267 in 2006.
- Please provide all documents supporting those expenditures, including the name and address of all payees.
  - Please provide a copy of all agreements and contracts to perform work relating to web page / email expenditures.
17. Salaries for fiscal years 2006, 2007 and 2008
- Please provide invoices and other documents that support these amounts for "administration," "Comm. And Publications" and "advancement."
  - Please provide documents indicating all commissions paid
  - Please provide documents indicating all bonuses paid
  - Please provide all job descriptions, employment agreements and other documents indicating the ASHA and Registry employees responsible for selling advertisements in magazines or other ASHA productions.
18. Benefits for fiscal years 2006, 2007 and 2008
- Please provide invoices and other documents that support these amounts for "administration," "Comm. And Publications" and "advancement."
19. Executive compensation for the Registry totaled \$81,687 \$74,737 in 2007 and 2006, respectively. Please provide all invoices supporting those expenditures, including any such invoices for contract labor.
20. Please provide documents indicating all written requests by Alan Balch to participate in "outside activities" as stated in his employment agreement. Please provide all written responses to those requests.

Jefferson K. Streepey, Esq.  
June 26, 2009  
Page 7


21. Please provide a copy of all documents and communications that indicate that the ASHA's audits for fiscal years 2006, 2007 and 2008 comply with *Statement on Auditing Standards (SAS) No. 114, "The Auditors Communication With Those Charged with Governance."*

22. Please provide documents indicating that the organization has adopted FIN 48 accounting for income taxes to ensure that it does not have any tax positions that could jeopardize its tax exempt status.

Please let me know at your earliest convenience, but no later than July 13, 2009, if the ASHA will produce all of the documents requested. Of course, please let me know if you have questions.

Sincerely

Stoll Keenon Ogden PLLC



Stephen A. Houston



BOEHL STOPHER & GRAVES LLP

AEGON CENTER · SUITE 2300  
400 WEST MARKET STREET · LOUISVILLE, KENTUCKY 40202-3354

TELEPHONE: 502-589-5980  
FACSIMILE: 502-561-9400

JEFFERSON K. STREEPEY  
PARTNER  
EXTENSION 234  
JSTREEPEY@BSG-LAW.COM

July 13, 2009

Mr. Stephen A. Houston  
STOLL KEBNON OGDEN, PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202-2828

Re: American Saddlebred Horse Association

Dear Mr. Houston:

This responds to your June 26, 2009 letter. Your letter contains misstatements concerning events of June 15, 2009. You assert I advised you I was following instructions provided me by Mr. Balch in refusing photocopies. That is wrong. I clearly recall our exchange. You asked me on whose authority I refused photocopies. I specifically told you "not Mr. Balch," but rather the officers of the Association and Registry to whom responsibility was delegated by both boards. I believe you have mischaracterized Ms. Jones' statements to you concerning commissions, bonuses, and draws. She did not state ASHA had no written policies pertaining to these matters; she said she did not know whether written policies exist.

We continue to disagree on the applicability of KRS 273.233 to your clients' request for documents. We do not believe the request is covered by the statute. At its July 6, 2009 meeting the ASHA Board adopted a bylaw amendment covering document inspection, a copy of which is enclosed.

The ASHA Board reviewed your June 26 letter at its July 6, 2009 meeting. Even though not obligated to do so, the Board authorized the production for inspection of the additional documents requested in that letter.

444 WEST SECOND STREET  
LEXINGTON, KENTUCKY 40507-1040  
TELEPHONE: 859-252-6721  
FACSIMILE: 859-253-1445

410 BROADWAY  
PADUCAH, KENTUCKY 42001  
TELEPHONE: 270-442-4369  
FACSIMILE: 270-442-4689

137 MAIN STREET, SUITE 200  
PIKEVILLE, KENTUCKY 41502  
TELEPHONE: 606-432-0670  
FACSIMILE: 606-432-0680

ELSBY EAST · SUITE 204, 400 PEARL STREET  
NEW ALBANY, INDIANA 47150



BOEHL STOPHER & GRAVES LLP

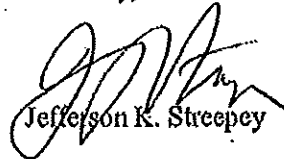
Stephen A. Houston  
July 13, 2009  
Page 2

The documents will be available for inspection at the ASHA office in Lexington, Kentucky between 10 a.m. and 4 p.m. on July 29, 2009. Your clients are invited to attend or to send their representatives, or bring their representatives with them. Please let me know by July 22, 2009 who will be attending for your clients.

Except with respect to Mr. Balch, the compensation of any individual employee of ASHA will not be disclosed by name. ASHA continues to believe its staff members are entitled to privacy with respect to their individual compensation.

You should know that effective August 1, 2009 ASHA will designate the third Tuesday of each month, until the annual convention in February 2010, beginning at 10 a.m. as regular monthly office hours for any member to come to the ASHA office to inspect ASHA records, provided that requests are made at least five business days in advance for those materials described in the above-referenced bylaw amendment, and ten business days in advance for other materials such member wishes to review. This is an internal operating policy which will be reevaluated at the time of the annual convention and may be modified or discontinued. It is not part of the new bylaw. Personnel matters, compensation of individual staff members by name, except for the current executive secretary, information furnished to ASHA on a confidential basis, and other records legally privileged or determined by the executive secretary with advice of counsel to be inappropriate for disclosure will not be disclosed during these monthly sessions.

Sincerely,



Jefferson K. Streepey

JKS:mfk  
Enclosure





Houston, Stephen

From: Houston, Stephen  
Sent: Wednesday, August 12, 2009 2:42 PM  
To: 'jstreepey@bsg-law.com'  
Subject: ASHA and Registry

Dear Jeff,

As we discussed, here is a copy of the offer made today by Mr. Balch on behalf of the ASHA and Registry. We accept the ASHA and Registry's offer to allow concerned members to meet with the full boards and "review whatever they want." I look forward to scheduling the meeting at the boards' earliest convenience.

Regards,  
Stephen

Stephen A. Houston  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202  
(502) 333-6000  
[www.skofirm.com](http://www.skofirm.com)

*This message, and any documents or previous e-mails attached to it, may contain confidential information protected by the attorney-client privilege. If it was sent to you in error, do not read it. Please inform the sender that you received it and then delete it. Thank you.*

Today, 12:27 PM

Alan Balch ●  
Junior Member

Join Date: Nov 2007  
Posts: 13

### Win/Win

I haven't had the time to look at this thread for a few days, and it took me a while to catch up through all the . . . . er, well, let's just say it took me a while to sort through it. Interesting that some very vocal people aren't even ASHA members!

Someone asked for a win/win solution. I think I already offered one a long ways back in this thread, and the boards of directors offered essentially the same one early on:

**The small group of concerned members should avail themselves of the opportunity offered to them to sit down with the board as a whole and \*\*talk\*\* about their concerns, determine what they are with precision, and inspect or review whatever they want.**

People of good faith -- all of whom are purportedly interested in the same thing, the welfare and improvement and sustainability of the breed -- should **\*\*talk through their concerns\*\***,

10/27/2009

together, not indirectly through representatives, surrogates, and lawyers . . . and not (with all due respect) on an Internet message board!

As I said before, I'm quite confident that even the most private compensation questions can be handled in this manner. We can certainly figure out a way that will answer any legitimate question and also preserve the privacy of the staff members concerned. It's just not that hard to envision.

If there are really other policy or management concerns, not personally directed at any particular staff member, then such a meeting would also be valuable to air out any of those differing perspectives.

Let's view this problem as an opportunity -- difficult as that may seem -- and **\*\*all\*\*** the members could then be confident that **\*\*their\*\*** financial resources and staff time are not being diverted from the really important problems facing our breed and all horses.

Alan

**Houston, Stephen**

---

**From:** Jeff Streepey [JStreepey@BSG-Law.com]  
**Sent:** Friday, August 14, 2009 3:23 PM  
**To:** Houston, Stephen  
**Subject:** RE: ASHA and Registry

Stephen,

The ASHA office is working on a date.

Jefferson K. Streepey  
400 W. Market St. Ste 2300  
Louisville, Ky. 40202  
502-589-5980  
Fax 502-561-9400

Because the extensive disclosures required by IRS Circular 230 in tax communications to clients are not contained in this document, you may not rely on any tax advice contained in this e-mail (or attachments) to avoid tax penalties.

-----Original Message-----

**From:** Houston, Stephen [mailto:Stephen.Houston@skofirm.com]  
**Sent:** Wednesday, August 12, 2009 2:42 PM  
**To:** Jeff Streepey  
**Subject:** ASHA and Registry

Dear Jeff,

As we discussed, here is a copy of the offer made today by Mr. Balch on behalf of the ASHA and Registry. accept the ASHA and Registry's offer to allow concerned members to meet with the full boards and "review whatever they want." I look forward to scheduling the meeting at the boards' earliest convenience.

Regards,  
Stephen

Stephen A. Houston  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202  
(502) 333-6000  
[www.skofirm.com](http://www.skofirm.com)

*This message, and any documents or previous e-mails attached to it, may contain confidential information protected by the attorney-client privilege. If it was sent to you in error, do not read it. Please inform the sender that you received it and then delete it. Thank you.*

---

Today, 12:27 PM

Alan Balch ●

10/27/2009



Junior Member

Posts: 13

**Win/Win**

I haven't had the time to look at this thread for a few days, and it took me a while to catch through all the . . . . er, well, let's just say it took me a while to sort through it. Interesting some very vocal people aren't even ASHA members!

Someone asked for a win/win solution. I think I already offered one a long ways back in the thread, and the boards of directors offered essentially the same one early on:

**The small group of concerned members should avail themselves of the opportunity offered to them to sit down with the board as a whole and \*\*talk\*\* about their concerns, determine what they are with precision, and inspect or review whatever want.**

People of good faith -- all of whom are purportedly interested in the same thing, the welfare and improvement and sustainability of the breed -- should **\*\*talk through their concerns\*\*** together, not indirectly through representatives, surrogates, and lawyers . . . and not (with due respect) on an Internet message board!

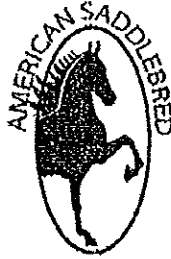
As I said before, I'm quite confident that even the most private compensation questions can be handled in this manner. We can certainly figure out a way that will answer any legitimate question and also preserve the privacy of the staff members concerned. It's just not that I envision.

If there are really other policy or management concerns, not personally directed at any particular staff member, then such a meeting would also be valuable to air out any of those differing perspectives.

Let's view this problem as an opportunity -- difficult as that may seem -- and **\*\*all\*\*** the members could then be confident that **\*\*their\*\*** financial resources and staff time are not being diverted from the really important problems facing our breed and all horses.

Alan

American Saddlebred  
Horse Association, Inc.



American Saddlebred  
Registry, Inc.

4083 Iron Works Parkway, Lexington, KY 40511

August 18, 2009

Mr. Tom Ferree, Post Office Box 540, Westfield Center, Ohio 44251  
Mr. Carl T. Fischer, Jr., 1041 Alta Vista Road, Louisville, Kentucky 40205  
Dr. Simon Fredricks, 101 Westcott, #1002, Houston, Texas 77007  
Ms. Kris Knight, Post Office Box 114, Simpsonville, Kentucky 40067  
Ms. Lynn W. Via, 3358 Peakwood Drive, Roanoke, Virginia 24014

Dear ladies and gentlemen,

Last week, Dr. Fredricks publicly accepted our invitation for you to meet with our directors and discuss any concerns you may have.

After polling the boards of the Association and Registry, we will be noticing our Fall meeting for Monday, October 5, in Lexington, Kentucky, and will be hoping to see you at 1:30 p.m. Eastern Time. We will be meeting at the Hospitality Tower of the Johnson Outdoor Stadium, located at the Kentucky Horse Park.

Please let us know on or before Monday, September 21, which of you will be attending, and if there are any subjects beyond those covered in your previous correspondence you would like us to address.

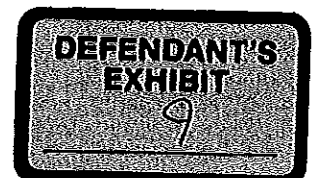
Sincerely yours,

Barbara Molland, President  
American Saddlebred Registry

Judith Werner, President  
American Saddlebred Horse Association

copy: Moe Anson  
Matthew Helman, Esq.  
John Jones  
Billy Knight  
Betty Moore  
Ron Moore  
James Nichols  
Randy Stoess  
Allison Walker

Directors, American Saddlebred Horse Association  
American Saddlebred Registry





S T O L L · K E E N O N · O G D E N  
P L L C

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202-2828  
MAIN: (502) 333-6000  
FAX: (502) 333-6099  
www.skofirm.com

STEPHEN A. HOUSTON  
DIRECT DIAL: (502) 568-5768  
DIRECT FAX: (502) 333-6099  
stephen.houston@skofirm.com

August 25, 2009

**By Electronic Mail**  
**istreepey@bsg-law.com**

Jefferson K. Streepey, Esq.  
Boehl Stopher & Graves LLP  
Aegon Center, Suite 2300  
400 W. Market Street  
Louisville, KY 40202-3354

**ASHA and Registry**

Dear Jeff:

As you are aware, our clients are senior members of the American Saddlebred Horse Association, Inc. ("ASHA"), a Kentucky non-profit organization. KRS §273.233 entitles members of a Kentucky non-profit organization, and their representatives, to have access to "all books and records" maintained by the non-profit organization. Accordingly, our clients have requested to review certain documents maintained by the ASHA and the American Saddlebred Registry ("Registry"). Unfortunately, the ASHA and Registry refused to produce pertinent documents. That decision to not comply with the law, which requires complete transparency for its members, was deeply troubling. It resulted in unnecessary delays and increased costs for our clients.

Nonetheless, after four months of delay and obfuscation, the ASHA and Registry apparently reconsidered their positions and agreed to produce all of the documents we requested. Specifically, on August 12 the ASHA and Registry agreed to allow our clients to "inspect or review whatever they want." In addition, the ASHA and Registry agreed to allow us to meet with the full boards of the ASHA and Registry to present questions and discuss our concerns. We accepted both offers that same day.

By letter dated August 18, the ASHA and Registry proposed to meet with us on October 5 in Lexington, Kentucky. However, the ASHA and Registry failed to offer us a date to review the documents it has thus far withheld. Of course, it is imperative that we have an opportunity to

LEXINGTON ♦ LOUISVILLE ♦ FRANKFORT ♦ HENDERSON



Jefferson K. Streepey, Esq.  
August 25, 2009  
Page 2 of 4

review all of the pertinent documents before meeting with the boards of the ASHA and Registry. Accordingly, please produce the following documents on or before September 4, 2009.

1. Please produce copies of all documents reflecting the ASHA's and Registry's internal control policies and procedures with respect to financial receipts, expenditures and accounts.
2. Please produce a copy of Mr. Balch's employment contract.
3. Please produce a copy of Mr. Balch's deferred compensation agreement.
4. Please produce a copy of documents indicating Mr. Balch's time spent at work, on vacation, and absent due to illness from January 1, 2007 through today.
5. Please produce copies of all documents reflecting any employment agreements and compensation arrangements for all ASHA and Registry employees from January 1, 2007 through today.
6. Please produce all documents reflecting the amount and nature of work performed by any ASHA and Registry full-time employees, including without limitation Mr. Balch, on behalf of the United States Equestrian Trust, Inc. ("USET"), the United State Equestrian Federation ("USEF") and any other entity or individual other than the ASHA and Registry.
7. Please produce copies of documents reflecting all of the commissions paid to ASHA and Registry employees for the period January 1, 2007 through today.
8. Please produce copies of documents reflecting all of the bonuses paid to ASHA and Registry employees from January 1, 2007 through today.
9. Please produce a copy of all contracts between Marcia Carothers and either the ASHA or Registry.
10. Please produce copies of all contracts between Mae Condon and either the ASHA or Registry.
11. Please produce copies of all documents reflecting the business purpose for all of the Kentucky Derby tickets purchased or sold by the ASHA and Registry.
12. Please produce all documents reflecting the ASHA and Registry's actions, if any, in response to the letter dated February 10, 2009 in which the ASHA's independent auditor identified "significant deficiencies" in the ASHA's internal control.
13. Please produce all documents, including without limitation all electronic mail, reflecting correspondence between Alan Balch and former finance committee member Carl Holden between January 1, 2009 and today.

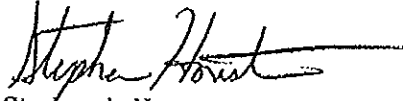
Jefferson K. Streepey, Esq.  
August 25, 2009  
Page 3 of 4

14. Please produce all documents, including without limitation all electronic mail, reflecting correspondence between Alan Balch and members of the executive committee between January 1, 2008 and today.

In the alternative to producing all of the above documents, please confirm that the ASHA and Registry will not honor their offer, dated August 12, 2009, to allow our clients to "inspect or review whatever they want."

Sincerely,

Stoll Keenon Ogden PLLC

A handwritten signature in black ink, appearing to read "Stephen A. Houston", with a long horizontal flourish extending to the right.

Stephen A. Houston

cc: Dr. Simon Fredricks (By Electronic Mail)  
Mr. Tom Ferrebee (By Electronic Mail)  
Mr. Carl Fischer Jr. (By Electronic Mail)  
Ms. Kris Knight (By Electronic Mail)  
Ms. Lynn W. Via (By Electronic Mail)