

NO. 09-CI-5292

FAYETTE CIRCUIT COURT
DIVISION 3
HONORABLE JAMES D. ISHMAEL

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

APR 15 2010

PLAINTIFF

**AMERICAN SADDLEBRED HORSE ASSOCIATION'S MOTION
FOR SUMMARY JUDGMENT**

v.

EDWARD R. BENNETT, CARL T.
FISCHER, JR., KRIS KNIGHT, TOM
FERREBEE, SIMON FREDRICKS,
M.D. AND LYNN W. VIA

DEFENDANTS

TO: Stephen A. Houston
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Counsel for Defendants

NOTICE

PLEASE TAKE NOTICE that the undersigned will on Friday, May 7, 2010, at 8:30 a.m., local prevailing time, in the courtroom of the above Court, make the following Motion and request the Court schedule a hearing on the above Motion at a time mutually convenient for the parties and the Court, as set forth in this Court's February 24, 2010 Order.

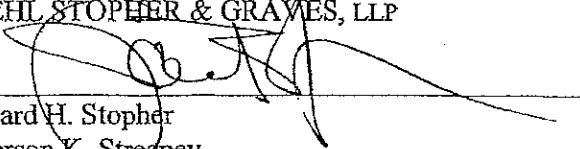
CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was served via first class mail on this 15th day of April, 2010 to the persons and addresses listed above.

MOTION FOR SUMMARY JUDGMENT

Comes Plaintiff, American Saddlebred Horse Association, Inc. (“ASHA”), by counsel, and pursuant to CR 56, respectfully requests this Court to enter an Order granting Plaintiff summary judgment on its action for declaratory relief. Specifically, ASHA requests that this Court enter summary judgment declaring that the scope of the right of inspection of nonprofit “books and records” set forth in KRS 273.233 is limited to those classes of records identified in the statute, specifically “books and records of account”, “minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors”, and “a record of the names and addresses of its members entitled to vote.” ASHA further requests a finding by the Court that the documents already produced by ASHA satisfies the requirements of KRS 273.233, and that the Defendants are not entitled to any further documentary production. And finally, ASHA requests that the Court find that ASHA is only required to permit inspection of books and records under KRS 273.233. In further support of this Motion, ASHA relies upon the attached Memorandum of Law.

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AMERICAN SADDLEBRED HORSE
ASSOCIATION, INC.

PLAINTIFF

**ASHA'S MEMORANDUM IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

v.

EDWARD R. BENNETT, CARL T.
FISCHER, JR., KRIS KNIGHT, TOM
FERREBEE, SIMON FREDRICKS,
M.D. AND LYNN W. VIA

DEFENDANTS

* * * * *

Comes Plaintiff, American Saddlebred Horse Association, Inc. ("ASHA"), by counsel, and submits the following Memorandum in Support of its Motion for Summary Judgment:

I. INTRODUCTION

This declaratory judgment action arises out of a dispute between the American Saddlebred Horse Association ("ASHA") and a small group of its large and diverse membership. ASHA is a Kentucky nonprofit corporation, an association of over 8,000 individual members formed with the mission of promoting the breed of American Saddlebred horse. The Defendants consist of a group of six of ASHA's members¹ who made certain requests for inspection and copies of ASHA documents. ASHA has already made many documents available for inspection by the Defendants, but the Defendants continue to insist that all of ASHA's documents must be produced.

¹ While the group of six Defendants named in ASHA's Complaint for Declaratory Judgment included members who were signatories to written requests submitted to ASHA in April, 2009 (as well as Edward R. Bennett), only five of the Defendants have joined as "Counter-Plaintiffs" to assert counterclaims in this action, with the exception being Mr. Tom Ferree.

ASHA filed this declaratory judgment action to construe the scope of KRS 273.233, the statute relating to nonprofit corporations and their members' right to inspect books and records. Defendants contend that the right is plenary – that they are, by dint of their status as members of a nonprofit association, entitled to access and copy every shred of documentary information in the possession of that association. ASHA's position is that the scope of the right is more reasonably limited than Defendants assert, and that in any case, the documents already produced to the Defendants more than satisfy the requirements of KRS 273.233. Furthermore, Defendants have asserted a right to receive copies of inspected documents, but ASHA has taken the position that KRS 273.233 only entitles members to inspect the documents. As the scope of KRS 273.233 has never been construed in Kentucky (and frankly, the scope of a nonprofit member's right of inspection has been the subject of very little detailed analysis in any parallel jurisdiction), careful treatment of the issues involved is warranted. For these reasons, ASHA turns to the Court for a declaration of the respective rights of the parties under the statute.

II. STATEMENT OF FACTUAL BACKGROUND

A. ASHA Membership

For over a century, ASHA has been advancing the interests of the American Saddlebred, and today it serves a membership of over 8,000 individuals involved or interested in the American Saddlebred industry.² Members of ASHA include owners, breeders, trainers, and general enthusiasts of the American Saddlebred horse breed, and membership is open to the public with payment of an annual membership fee, based upon tiers of membership. The benefits of a standard membership include a subscription to American Saddlebred magazine, a copy of the American Saddlebred Reference Directory, unlimited access to member areas of the

² See ASHA's website: <<http://www.asha.net/ASHA-Overview>>

ASHA website, one copy of an extended pedigree or horse's show record, and eligibility to attend and vote at ASHA's annual meeting.³

B. Summary of Defendants' Document Requests and Inspections

While this Motion for Summary Judgment is premised solely upon a question of law – namely the specific scope of documents and information required to be made available for inspection and the right to copies pursuant to KRS 273.233 – that analysis does depend in part upon the nature of the requests made by the members and the documents actually produced by the association. Thus, a summary of correspondence between the parties, independent of any issues of material factual dispute, will provide the backdrop for discussion of the scope of the legal requirements of KRS 273.233.

In or about March, 2009, certain members of ASHA requested from ASHA's Board of Directors, and were provided, copies of ASHA's tax returns and annual financial reports. After review of those records, in a letter dated April 20, 2009, five of the Defendants signed a letter to the ASHA Board enclosing a list of twenty-nine requests for information from ASHA,⁴ composed of (1) a single request for a copy of the employment agreement and deferred compensation package of Alan F. Balch, ASHA's Executive Secretary, (2) two requests of who voted for and against the agreement, and (3) twenty-six other requests that ASHA identify individuals and entities who were recipients of 2006 and 2007 expenditures and the purpose of each such expenditure.

³ See ASHA's membership application: <http://www.asha.net/files/membership_application.pdf>

⁴ See Complaint for Declaratory Judgment ("Complaint"), Exhibit ("Ex.") I and corresponding Ex. "A". Nine additional members were also listed in an attachment to Ex. A as joining in the request. While the correspondence was also addressed to the American Saddlebred Registry, Inc., the Registry has no members and thus only the Association is involved in this matter.

On or about April 29, 2009, ASHA's president responded, offering to address the requests and make information available at ASHA's board meeting scheduled for July 6, 2009.⁵ Defendant Simon Fredricks replied by letter dated May 4, 2009, rejecting the offer to attend the scheduled meeting and demanding that the requested documentation be "promptly" made available for inspection by the members.⁶ That demand was reiterated approximately one week later in a second letter from counsel for Defendants, Stephen A. Houston, dated May 12, 2009.⁷

By letter dated May 15, 2009, counsel for ASHA, Jefferson K. Streepey, responded and advised generally that ASHA was under no legal obligation to respond to the additional document requests and that ASHA would not disclose individual employees' confidential employment information due to privacy concerns. However, in an effort to accommodate the requesting members, Mr. Streepey offered to make portions of the ASHA and Registry general ledgers itemizing the account entries for 2006 and 2007 expenditures as well as Balch's employment agreement and deferred compensation agreement available for review in ASHA's Lexington office on June 15, 2009. ASHA's controller was also made available on this date to answer any questions about the documents.⁸ Mr. Streepey further advised the requesting members that Balch's employment and deferred compensation agreements were unanimously approved by the Board and that the minutes reflecting that approval were already available for member review on ASHA's website.⁹

Mr. Houston replied in a letter dated May 20, 2009, suggesting that ASHA agreed to produce "some, but not all" of the requested documents and stating that KRS 273.233 required

⁵ Complaint, Ex. B.

⁶ Complaint, Ex. C.

⁷ Complaint, Ex. D.

⁸ Complaint, Ex. E.

⁹ See ASHA's website: <<http://www.asha.net/html/files/MINSAAssnBofD25Oct06.pdf>>

the production of all requested documents.¹⁰ He failed to elaborate on which documents the requesting members believed ASHA was refusing to produce or should be producing in response to their twenty-nine requests, but he nonetheless accepted the invitation to review and copy the documents provided at ASHA's office on the proposed June 15 date.

Mr. Houston and a certified public accountant appeared at the June 15 meeting on behalf of the requesting members. ASHA provided several documents responsive to the requests, as outlined in Mr. Streepey's letter dated May 15, 2009 described above. Mr. Houston followed this meeting with a letter dated June 26, 2009, again stating without particularity that ASHA had not produced all previously requested documents, citing KRS 273.233 again, and adding twenty-two new specific requests for information.¹¹

Mr. Streepey responded by letter dated July 13, 2009, disputing some of Mr. Houston's characterizations as to the events of the June 15, 2009 meeting and his position as to the scope of KRS 273.233, but stating that ASHA's Board had agreed to produce the further requested information for inspection on July 29, 2009.¹² Mr. Streepey again reiterated that personal and confidential information would not be disclosed¹³ and advised Mr. Houston that the ASHA Board had approved new internal operating procedures for the regular inspection of records by members.¹⁴ These procedures were adopted in large part to address the disruptive and burdensome nature of the Defendants' widening campaign of requests by establishing a fixed schedule for administering member requests.

¹⁰ Complaint, Ex. F.

¹¹ Complaint, Ex. G.

¹² Complaint, Ex. I.

¹³ While ASHA disclosed as part of its financial records salary expenditures, it withheld any individually-identifying information for personnel other than Mr. Balch, who had consented to the disclosure of his individual information.

¹⁴ A July 13, 2009 press release concerning these administrative changes is attached to the Complaint as Ex. H.

Mr. Houston responded on July 22, 2009, asserting his position that KRS 273.233 applied to all of the nonprofit entity's documents, agreeing to meet on July 29, 2009, and making yet another additional request for correspondence involving one of ASHA's Directors.¹⁵

On July 29, 2009, Mr. Houston, Mr. Houston's paralegal, and a certified public accountant appeared at ASHA's offices on behalf of the Defendants. ASHA provided approximately eight bankers boxes of documents for their review.¹⁶ They inspected the documents and afterward requested, and were provided, photocopies of approximately 200 pages.¹⁷ As the Defendants were still not satisfied, however, Mr. Balch on August 12, 2009, posted on an online forum an invitation for the members "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" (emphasis in original).¹⁸ Defendant Simon Fredricks on the same forum replied, indicating his group's acceptance of these terms and asking for a date.¹⁹ A date of October 5 was set for the prospective meeting.²⁰

By letter dated August 25, 2009, Mr. Houston demanded that documents be produced prior to the October 5 meeting and set forth a list of yet an additional fourteen requests for documents and information (many of which had already been provided).²¹ Mr. Streepey responded on September 4, 2009, pointing out that the offer accepted by the Defendants was not conditioned upon any further advance production of documents, but that documents were

¹⁵ Complaint, Ex. J.

¹⁶ See Affidavit of Alan Balch, attached hereto as Ex. 4.

¹⁷ ASHA maintains that a non-profit association is not required to provide copies under KRS 273.233; members are only entitled to inspect the documents. Nevertheless, in an effort to accommodate its members as best it could, ASHA produced copies of certain documents to Defendants.

¹⁸ Complaint, Ex. L.

¹⁹ Complaint, Ex. K.

²⁰ Complaint, Ex. M.

²¹ Complaint, Ex. N.

available for review according to ASHA's newly adopted guidelines for regular member inspection.²²

On October 5, 2009, Defendants Edward R. Bennett, Kris Knight, and Lynn W. Via appeared in Lexington, Kentucky for the scheduled meeting, with Simon Fredricks attending by telephone. The ASHA Board again produced the eight boxes of documents which had previously been produced and informed Mr. Houston that all documents had been produced except for (1) personnel and salary information of ASHA employees and (2) email communications between ASHA 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. Asked what other information they believed ASHA was failing to disclose, the Defendants and Mr. Houston refused to respond or engage in any discussion as to their purported concerns. The meeting concluded without the Defendants having discussed any issues or reviewed any documents.

As the Defendants repeatedly buffeted ASHA with demands for additional documents and threatened litigation based upon their asserted claims as to the unlimited scope of KRS 273.233,²³ ASHA had no choice but to institute this action requesting a declaration of rights from the Court. While Defendants have never clearly stated what types of documents they believe satisfies their requests, it is ASHA's understanding that they regard the internal emails, personnel information, and confidential communications, which have been withheld to date, to be included within the scope of "books and records" under the statute.

²² Complaint, Ex. O. Upon information and belief, Mr. Houston did appear at ASHA's offices for the regularly scheduled inspection date but did not review any documents.

²³ See Complaint, Exs. G and P.

C. Written Discovery and Deposition Proceedings

After filing a responsive pleading and counterclaim to ASHA's complaint for declaratory judgment, Defendants served interrogatories, requests for production of documents and requests for admission seeking precisely the same information and/or documentation giving rise to this declaratory judgment action. ASHA objected to this discovery on the grounds that providing answers and responses to Defendants' written discovery would effectively deny the association its right to be heard on the merits of the declaratory judgment action. Further, in light of the prior inspections and copies of documents provided to Defendants, ASHA objected to the extent the Defendants were requesting documents already in their possession, custody and control.

After hearing Defendants' motion to compel the production of all ASHA documents on February 2, 2010, this Court stayed written discovery pending a ruling on ASHA's request for declaratory relief under KRS 273.233. The Court then inquired as to whether the parties were ready to proceed immediately to the declaratory judgment issue. ASHA was inclined to proceed, but counsel for Defendants balked, insisting on the need to take the depositions of Beth Blanton, Carl Holden, Joan Jones, Jennifer Wasserzug, and Alan F. Balch prior to the Court's adjudication of ASHA's declaratory judgment action in order to develop the record for dispositive motions.

The Court permitted this limited discovery to go forward,²⁴ but it bears mentioning that the depositions have, in fact, involved matters having little-to-nothing to do with the dispositive issue before the Court. Counsel's examinations during these depositions have paid almost no attention to the Defendants' document requests and the inspections that occurred as described above. Instead, Defendants appear to be using these depositions to harass and intimidate ASHA and its board members, officers and current and former employees. For example, during the deposition of ASHA's bookkeeper, Joan Jones, counsel for Defendants spent significant time

²⁴ As of the date of filing ASHA's motion, the parties are still attempting to schedule Balch's deposition.

asking Ms. Jones to justify specific expenditures of ASHA, many of which she simply administers as part of her ministerial duties:

Q What are the largest invoices relating to the printing expenses that you're aware of?

A Probably Publishers Press. That's the magazine.

Q How many magazines would the ASHA order, generally?

A It would depend. I think I've seen them order as much as 6,000 to 8,000. Now, I – you know, I don't do the ordering, I pay the bills and they approve them, but I believe I've seen that many ordered. They go to each member, and then a couple of extra, you know, will be passed out.

Q You said you pay the bills and they approve them. What did you mean by that?

A Well, whoever in the magazine department, you know, they talk to the printers and agree to do how many issues and how many copies, and I don't pay an invoice unless I get an approval that this is what we agreed to pay or what was to be paid.²⁵

...

Q And how many years of experience have you been working in accounting?

A Probably thirty, maybe thereabouts.

Q What's the annual budget for the ASHA and registry combined?

A Well, now, you're asking me a tough question. I would say it's going to be close to \$2 million in income. We're looking for a tougher year. Probably close to the same in expenses. It's going to be an even year. I'm guessing now. I use my worksheets for everything.

²⁵ Deposition of Joan Jones, March 17, 2010, pp. 12-13, attached hereto as Ex. 2.

Q And are you familiar with the audit report relating to the ASHA which identified significant deficiencies in the financial oversight?

A Yes, sir.

Q What is your understanding of those significant deficiencies?

A It's my understanding that that is something that the CPAs have to put in when you're a small organization. We don't have the personnel to segregate duties in the exact way that would be acceptable -- or not so much -- well, acceptable, and that you would want to have them separated. I think it's a GAP policy.²⁶

Ms. Jones was also asked questions about the circumstances surrounding the resignation of former Executive Secretary, Alan Balch, and the hiring of his successor, which again is a topic that Ms. Jones knows little-to-nothing about and that has no relevance to the Court's interpretation of KRS 273.233.

Q Are you aware of a dispute between Mr. Balch and Carl Holden this past year?

A Yes, I am.

Q What's your understanding of that dispute?

A Well, Mr. Holden called me one time and asked me if Allen (sic) had taken a reduction in salary, which he offered to do, and he had not. And he asked me another question about long-term care, and I answered him. And then I told Allen that he called. Now, I don't know who emailed first, but an email was sent, and I don't know if Allen did the first email or Mr. Holden, but in the course of the emails, they had a disagreement, and the end result was that Mr. Holden resigned from the finance committee.

....

²⁶ Id. at pp. 44-45.

- Q Who's performing the duties of the executive secretary at this time?
- A No one right now. We get in touch with our president, and get approvals with the president of both the registry and the association, and with our treasurer.
- Q Do you have a timetable for when you expect to have a new executive secretary?
- A There is a search committee handling that, and I don't know what their timetable is.
- Q Do you know who the next executive secretary is going to be?
- A No, sir.²⁷

Likewise, in the deposition of Carl Holden, a member of the ASHA Board of Directors, counsel for Defendants asked questions about the sale and purchase of a Saddlebred horse named "Mother Mary"²⁸; the ensuing investigation of the former Executive Secretary, Alan Balch; specific ASHA expenditures; and other non-profit governance issues that are wholly unrelated to the dispositive issue of the scope of inspections rights afforded to members of a non-profit association.²⁹ It bears further mentioning that, while Defendants' counsel's line of questioning harped upon alleged improprieties with respect to the disputed "Mother Mary" transaction, Carl Holden testified that it resulted in no harm to anyone, and Jennifer Wasserzug testified that she understood the disputed delay in documenting this particular horse transaction prior to the horse

²⁷ *Id.* at pp. 18 and 21.

²⁸ This Saddlebred horse transfer involved a horse named "Mother Mary" that was sold by Platinum Stock Farm to another Saddlebred owner prior to the annual horse show at the 2008 Kentucky State Fair. The sale occurred on August 1, 2008, and the new owners wanted to be listed as owners of "Mother Mary" at the state fair horse show some three weeks later. However, due to an illness in the sellers' family, the paperwork required to record the transfer under the American Saddlebred Registry rules was not completed. Nonetheless, the new owners were recognized as owning "Mother Mary" without the submission of all required paperwork, but the Registry received all necessary forms documenting the transfer within a few days after the Kentucky State Fair Show.

²⁹ See Ex. 3, Deposition of Carl Holden, March 11, 2010, pp. 32-35.

show to be “caused by an illness or perhaps even a death of a parent in [the sellers’] family,” not the result of non-profit corruption or mismanagement as Defendants are apparently suggesting.³⁰

The only portions of depositions remotely relevant to this Court’s construction of KRS 273.233 are those in which Carl Holden and Joan Jones verify that ASHA has produced all documents requested by Defendants except for private personnel records, internal emails, and other confidential information. For instance, Joan Jones testified as follows:

Q When the ASHA received requests from concerned members to produce certain books and records of the ASHA and registry, how did the ASHA and registry determine what records to produce?

A We produced, I believe, what was requested.

Q Who made the decision to redact certain documents?

A Now, what do you mean redact certain documents?

Q Are you familiar with the term redaction?

A Uh-huh (AFFIRMATIVE). I thought we pretty much -- I thought the association provided everything you requested except for personnel and emails.

Q So you don't know who marked out certain paragraphs, words?

A Oh, you mean the redacted information. In some I did, for Social Security numbers and things that -- you know, we tried to -- we let some go out. You know, you had some with Social Security numbers, but on the personnel files, any payroll information, it was tried to be redacted. Anything that, you know, they felt was personal was to be redacted.

Q And when you said they, who are you referring to?

A Well, I mean Allen [Alan Balch] and me. I mean, we would try to redact what we could on that. And credit card numbers, we tried to redact that.³¹

³⁰ See Ex. 3, Deposition of Carl Holden, p. 33-34; Ex. 7, Deposition of Jennifer Wasserzug, April 8, 2010, pp. 21-23.

³¹ Ex. 2, Deposition of Joan Jones, March 17, 2010, pp. 38, 40-41.

Carl Holden also confirmed his understanding that all information required of a nonprofit association had been provided, and that it specifically included all financial records:

Q Did you agree with the ASHA's decision to withhold financial documents from its members?

MR. STOPHER: Objection.

A It's my understanding that the financial records and books of accounts were not withheld; that those were provided.

...

Q The ASHA decided to file a lawsuit without determining if the financial records were indeed disclosed?

A To my knowledge, those financial records were presented....

...

Q Who made the decision to produce certain documents and withhold certain other documents?

MR. STOPHER: Objection.

A I'm not aware of any documents that were rejected or not submitted.

Q Are you aware that this litigation is to address whether or not members are entitled to documents that were not produced?

A When I say "documents," I'm referring to basically the books of accounts which as my understanding of the statute, that's what is supposed to be made available to the members. All records and books of accounts of a financial nature. And it's my understanding that that's what was produced.³²

Furthermore, Mr. Holden confirmed that despite repeated requests to identify what documents they felt were not being disclosed, the Defendants never provided anything other than vague assertions:

³² Ex. 3, Deposition of Carl Holden, March 11, 2010, pp. 41-44.

A To my knowledge, those financial records were presented. Let me make one comment. I was aware of numerous occasions the members were asked what documents have you not seen and I never recall seeing the response that these documents were not available.

Q Do you recall seeing a list of documents that were requested by the concerned members?

A Numerous times.

Q And do you recall seeing follow-ups from those members stating that those particular documents, certain particular documents had not been provided?

A My recollection that it was all in a kind of generic response that all documents have not been produced. I've never seen a report that said the financial reports for November of 2004 were not included or the balance sheet for January 2006 was not included or that this specific line item was not included. I never saw any kind of detail like that. It was all a very generic response that all the documents were not produced. And when you're dealing with something of that mass, that's hard to get your arms around.³³

Thus, contrary to representations made by Defendants' counsel, the depositions have been used more to harass and intimidate ASHA directors, officers, and former and current employees than to develop the record for motions on the merits of the declaratory judgment action. Having said this, the undisputed record shows that the only documents that were redacted or withheld by ASHA are those containing confidential information (such as individual social security numbers and credit card account numbers), communications made with an expectation of privacy, and private personnel and individually identifying payroll files and information. Defendants insist on their right to inspect and copy these records, as well as any and all other documents in the possession of ASHA, without limitation.

³³ Id. at pp. 42-43.

IV. ARGUMENT

A. KRS 273.233 Provides the Sole Authority For A Nonprofit Member's Right of Inspection

The right of a member to inspect the “books and records” of a nonprofit association is a statutory adaptation of the common law rules governing the relationship between for-profit corporations and their shareholders. At common law, a shareholder of a for-profit corporation was granted the right to inspect the corporation’s documents because of his property interest – a shareholder was deemed to be the actual owner of all the assets of the corporation, with his ownership percentage being represented in his holding of stock.³⁴ Therefore, inspection simply was an extension of ownership, and it served the purpose of providing the shareholder, who may have no role in the day-to-day management of corporate affairs, with information necessary to allow him to monitor and safeguard his personal financial interest.³⁵ The common law right of inspection for shareholders of for-profit corporations was incorporated into the statutory law of the various states, which generally provides fairly specific parameters of inspection.³⁶

As state laws began to allow for the formation of nonstock, nonprofit corporations, the statutory framework incorporated requirements that the nonprofit entity maintain on hand certain

³⁴ William Coale Development Co. v. Kennedy, 121 Ohio St. 582, 170 N.E. 434, 435 (Ohio 1930) (“The real owners of all the net assets of any corporation are the stockholders.... If the corporation abandons the purposes of its creation and dissolves the corporation, the net assets on hand must be distributed to the stockholders according to their holdings of stock, for the plain and very simple reason that the stockholders are the owners of all the net assets of the corporation, and for the further reason that outstanding stock is always a liability of the corporation, so that the stockholders are its creditors as well. Can anything be plainer than the fact that the owner of property has a clear right to inspect his own property?”). Notably, the same rationale does not hold in the context of a nonprofit association, which, upon dissolution, must transfer its assets to another entity having a like nonprofit purpose. KRS 273.303(3) & 26 CFR 1.501(c)(3)-1(b)(4). Thus, the shareholder-member analogy does not hold in this context.

³⁵ State ex rel. Kennedy v. Continental Boiler Works, Inc., 807 S.W.2d 164, 166 (Mo.Ct.App. 1991) (“The right of a stockholder to inspect the books and records of the corporation ... is based upon his interest in the assets and business of the company.... He has a right to know how the affairs of the company are conducted, and whether the capital of which he has contributed a share is being prudently and profitably employed. Such a right is necessary for the stockholder's protection.”).

³⁶ See, e.g., KRS 271B.16-010 *et seq.*

books and records and that members of the nonprofit be entitled to inspect such records. In Kentucky, that right is set forth in KRS 273.233, which 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.

The statute provides no definitions for the terms used, nor has any Kentucky court construed the requirements of this statute.

The issue before the Court is the meaning and intended scope of the phrase “books and records” contained in the second sentence of the statute. Common sense dictates that there must be some reasonable limitation as to the meaning and scope of this phrase, for even the shareholder of a for-profit corporation is not entitled to all of the documents in the company’s possession.³⁷ In fact, a member’s interest in a nonprofit association is even less direct than a stockholder’s property interest. A stockholder owns stock and seeks to derive financial gain from his capital investment in the for-profit corporation. In the nonprofit context of this case, however, a member owns no stock, and instead participates as a member in the association toward a charitable purpose through the payment of the annual membership fee.³⁸

³⁷ See KRS 271B.16-020. Prior to enactment of the statutory limitations, older case law indicates that a for-profit stockholder’s rights may have been somewhat broader at common law, but even there it was recognized that “the right of inspection [of a stockholder] rests upon the fact of ownership.” Otis-Hidden Co. v. Scheirich, 187 Ky. 423, 219 S.W. 191, 193 (1920).

³⁸ See generally Affidavit of Conley Salyer, an expert in non-profit governance, as to member inspection rights under KRS 273.233, attached hereto as Ex. 5.

B. Standards of Statutory Construction Hold that KRS 273.233 Limits the Right of Inspection to the Specific Classes of Documents Listed

The for-profit corporation statute requires the corporation to maintain certain specific corporate records listed in KRS 271B.010, and the shareholder is, pursuant to KRS 271B.020, permitted to inspect only those records specifically set forth in the statute, including excerpts of minutes and records of action, accounting records, and the record of shareholders.³⁹ The statute governing records for a nonprofit corporation follows a similar structure. In its first sentence, KRS 273.233 requires that the nonprofit corporation maintain “correct and complete books and records of account”, “minutes of proceedings”, and “a record of the names and addresses of its members entitled to vote.” The second sentence then follows with the statement that “[a]ll books and records may be inspected by any member”.

While Defendants insist that the second sentence is independent of the first, and that “all books and records” means all documents of whatever nature in the custody or control of the nonprofit association, the correct interpretation is to read the first and second sentence of KRS 273.233 together. When the two sentences are read together, it becomes clear that the reference to “books and records” in the second sentence necessarily refers back to the classes of documents enumerated in the first sentence. Thus, “books and records” actually means “books and records of account” (i.e. accounting and financial records), minutes, and the membership list, not every shred of paper in ASHA’s possession as Defendants suggest.

Where there is any question as to the intended scope of a statute, the Court must give effect to its plain meaning as derived from the language chosen by the General Assembly.⁴⁰ With respect to the plain meaning of “books and records” employed in KRS 273.233, it is appropriate for the Court to refer to established guidelines in construing the language of statutes.

³⁹ KRS 271B.16-020(1) & (2).

⁴⁰ Bowling v. Kentucky Dept. of Corrections, 301 S.W.3d 478, 490-491 (Ky. 2009).

Here, the intended scope of KRS 273.233 can be gleaned from the fact that the statute consists of two sentences, the first containing specific references to classes of documents while the second refers only to a general term. The General Assembly enacted the two sentences together and, according to the plain meaning of the language used, intended that these sentences be construed together.⁴¹ Furthermore, it is a longstanding rule of statutory construction that general terms associated with specific terms shall be construed as being limited to the specific meaning:

[W]here, in a statute, general words follow or precede a designation of particular subjects or classes of persons, the meaning of the general words ordinarily will be presumed to be restricted by the particular designation, and to include only things or persons of the same kind, class, or nature as those specifically enumerated, unless there is a clear manifestation of a contrary purpose.⁴²

Finally, it is a “general rule of statutory construction that enumeration of particular items excludes other items which are not specifically mentioned.”⁴³ Here, where KRS 273.233, entitled “Books and Records”, clearly sets forth in its first sentence an enumerated list of documents, the natural reading of the statute, and the standards by which the Court construes such statutes, suggests that the use of the term “books and records” in the second sentence was intended to refer to (and be limited to) those same specific classes of documents, specifically “books and records of account”, minutes, and the list of voting members enumerated in the preceding sentence.

C. KRS 273.233’s Limited Scope Also Reflects the Scope of A Nonprofit Member’s Interests

In addition to the foregoing, the purposes of KRS 273.233 are furthered and fully satisfied by such a reading. A member in a nonprofit association has an interest in ensuring that

⁴¹ Id. at 491 (“We presume, in a case such as this one of related statutes, that the General Assembly intended for the statutes to be construed together and for both to have meaning”).

⁴² Steinfeld v. Jefferson County Fiscal Court, 312 Ky. 614, 229 S.W.2d 319, 320 (1950).

⁴³ Bd. of Educ. Of Rockcastle County v. Kirby, 926 S.W.2d 455, 457 (Ky. 1996).

the association is pursuing the charitable mission for which it was established,⁴⁴ and the member is empowered to appeal to other members entitled to vote if there is some matter of concern subject to member influence.⁴⁵ Therefore, financial and transactional information (“books and records of account”) is subject to disclosure, as are records of action by members, the board, or committees having board authority (“minutes of the proceedings”), and the member is entitled to a list of names and addresses of all members eligible to vote for the purpose of facilitating contact and fostering discussion or organization among members entitled to vote as to proposed member action. Those three categories are sufficient to protect the member’s interest in ensuring that the nonprofit is furthering its mission and to allow the member to communicate with the broader voting membership. One must keep in mind that, unlike a for-profit corporation and its shareholders, a nonprofit association is not working to earn a profit for its members but rather is serving a charitable mission. It is because members agree with that mission that they subscribe and lend their support through contribution of membership fees. But that does not make the member an owner or manager, and the member should not be entitled, by mere dint of his payment of an annual membership fee, to assert some individualized interest that warrants enhanced protection.

D. Authority of Other Jurisdictions Reflects a Policy of Limiting the Scope of A Nonprofit Member’s Right of Inspection

While the subject of a member’s right to inspect nonprofit records has not been addressed in Kentucky case law, it has been the subject of opinions from other jurisdictions. Most of this extra-jurisdictional case authority is somewhat limited in providing assistance to this Court’s

⁴⁴ Bill Reno, Inc. v. Rocky Mountain Ford Dealers’ Adv. Ass’n, 378 P.2d 206, 207 (Col. 1963) (“A member of a nonprofit corporation is entitled to be informed concerning the business activities conducted by the corporation”).

⁴⁵ KQED, Inc. v. Hall, 185 Cal.Rptr. 630, 633 (Cal.App. 1982) (“The inspection statutes are concerned with providing a method by which members of nonprofit corporations may communicate with other members on matters relating to their interests as members. As noted above, the basic method provided for accomplishment of this goal is a right to membership lists”).

construction of the scope of KRS 273.233, however. This is due in part to the variety of language or requirements contained in the statutes of other states⁴⁶ and the dearth of cases involving similar statutes that raise the same questions of the scope of requests.⁴⁷ In addition, most disputes over inspection relate to another requirement of inspection, which is also found in KRS 273.233, i.e., that the member's request be for a "proper purpose". While ASHA does have concerns about the "purposes" underlying the Defendants' repeated requests,⁴⁸ ASHA has not raised this issue in its declaratory judgment action. Even so, cases dealing with questions of purpose do further indicate that inspection should be limited to those records germane to the stated purpose.⁴⁹ And the bulk of cases involve requests by members to review only records relating to financial transactions, leading to the presumption that "books and records" is generally accepted to mean financial records.⁵⁰

Beyond the issue of "proper purpose", however, the inherent scope of the right of inspection is one which does find limits in the case law of other jurisdictions, particularly where there is a delineation in the statute of records required to be maintained by the nonprofit:

The records which a voting member is entitled to examine are limited to records of members' and directors' meetings, lists of

⁴⁶ Many states have adopted more recent versions of the Revised Model Nonprofit Corporation Act, which more explicitly state that the right of inspection is limited to listed classes of documents. For a history of the Model Act, see Elizabeth A. Moody, "Revising the Model Nonprofit Corporation Act: Plus ça change, plus c'est la même chose", 41 Ga. L. Rev. 1335, 1346 (2007) (noting critically that the older Model Nonprofit Corporation Acts "almost slavishly followed" the Model Business Corporation Act).

⁴⁷ For example, Lang v. Western Providers Physician Org., 688 N.W.2d 403 (S.D. 2004) involved a statute similar to KRS 273.233, but the court noted specifically that the issue of the scope of the phrase "all books and records" had not been preserved on appeal and was not being addressed.

⁴⁸ The Defendants' initial letter stated only that "[W]e want to be sure that the ASHA is utilizing its assets in a prudent manner, and in furtherance of the purposes of the ASHA". See Complaint, Ex. A. Subsequent oral requests as to their purpose elicited only the simple response "Oversight".

⁴⁹ Wells v. League of American Theatres and Produces, Inc., 706 N.Y.S.2d 599, 604 (N.Y. Sup. Ct. 2000) ("It is in the Court's discretion to exercise its authority to limit or expand the scope of members' inspection of corporate records to the material necessary to protect their interest in the corporation") (holding that minutes of meetings and a member list were subject to disclosure).

⁵⁰ Shaw v. Hurst, 582 A.2d 87 (Pa. Cmwlth. 1990) (granting the member was entitled to inspect "certain corporate records", where the request was made for "checkbooks, ledgers and other book and records").

members, records of assets, liabilities and financial transactions, and records of trust funds.⁵¹

Here, KRS 273.233 similarly delineates specific classes of “books and records” to be maintained by the association, and the right of members to inspect “all books and records” should be limited to those books and records actually specified in the statute.⁵²

In one of the few cases to delve into the issues raised in this declaratory judgment action, i.e., the precise scope of a nonprofit member’s right of inspection and the right of the nonprofit to withhold documents, the Pennsylvania Supreme Court noted that the right of inspection afforded a member was not unlimited:

[A] member’s access is more limited than that of a director who is performing his or her fiduciary duties. The plain meaning of the phrase [“records of proceedings”], therefore, could permit a member’s access to duly authorized minutes of official action of the board of directors of a nonprofit corporation but could, for example, exclude access to a variety of documents, such as correspondence and draft documents.⁵³

The court went on to find that “[t]he scope of records to which a member has access is further limited by considerations of privacy, privilege and confidentiality.”⁵⁴ In a concurring opinion, one justice wrote

Limiting the scope of records of proceedings subject to inspection is consistent with the historical development of the shareholder’s right of inspection....

Absent throughout the development of the shareholder’s right of inspection is any precedent that would support Appellees’ expansive interpretation of such right. In the context of both

⁵¹ Bourgeois v. Landrum, 396 So.2d 1275, 1277 (La. 1981); also see Billiot v. New Orleans and Baton Rouge Steamship Pilots Ass’n, 840 So.2d 1291, 1294 (La.App. 2003) (“The plaintiffs seek narrative billing records that include personal matters and information regarding the investigation into two of the plaintiffs. This information is not contemplated by and is beyond the scope of R.S. 12:223”).

⁵² Nor should Defendants suggest that “books and records of account” be interpreted broadly. Phoenix Gen. Hosp. v. Sup. Ct. of Maricopa Cty., 402 P.2d 233, 235 (Ariz.App. 1965) (finding that a statutory limitation to “books of account” was “more restrictive” than the plaintiffs’ request to see all “books and records”).

⁵³ Lewis v. Pennsylvania Bar Ass’n, 701 A.2d 551, 554 (Penn. 1997).

⁵⁴ Id. (finding that documents provided to the nonprofit with an expectation of privacy should remain private).

business and nonprofit corporations, the courts have recognized that a shareholder or member is entitled to inspect documents such as membership lists, financial records, audit reports and minutes of meetings.⁵⁵

And the Court of Appeals of Ohio found proper members' requests which were limited to a "copy of a current membership list, minutes of meetings of both the board of trustees and the membership, and all financial statements and reports".⁵⁶ The Ohio statute, Ohio Rev. Code §1702.15, is very similar to KRS 273.233:

1702.15 Corporation to keep books and records of account and minutes of proceedings.

Each corporation shall keep correct and complete books and records of account, together with minutes of the proceedings of its incorporators, members, directors, and committees of the directors or members. Subject to limitations prescribed in the articles or the regulations upon the right of members of a corporation to examine the books and records, all books and records of a corporation, including the membership records prescribed by section 1702.13 of the Revised Code, may be examined by any member or director or the agent or attorney of either, for any reasonable and proper purpose and at any reasonable time.

The court, in construing this statute, observed that the documents to which the member was entitled were those specifically listed in the statute:

Members of a nonprofit corporation are entitled to seek information concerning the business activities conducted by the corporation. As discussed above, all books and records of account are to be kept by the corporation and may be examined by any member for reasonable and proper purpose.⁵⁷

Here, of course, the Defendants have not similarly limited their requests to financial reports and accounting records, minutes, and membership lists. Rather, they contend that they are entitled to unfettered access to all documents in ASHA's possession, including private

⁵⁵ Id. at 556 (J. Zappala, concurring).

⁵⁶ Carlson v. Rabkin, 789 N.E.2d 1122, 1130 (Ohio App. 2003).

⁵⁷ Id.

personnel information and correspondence.⁵⁸ It is relevant to point out that the Defendants' dispute with ASHA has been the subject of much public discussion in the American Saddlebred community and on the internet, and in this day and age, widespread dissemination of information is just a click away. For instance, copies of transcripts from the depositions of Joan Jones, Carl Holden, and Jennifer Wasserzug have already appeared on a Yahoo! group website for Saddlebred enthusiasts.⁵⁹ Therefore, it is appropriate for an association such as ASHA to exercise caution in disclosing information that may wind up being publicly posted in an online forum for the entire world to see – both association members and non-members.

In summary, it is appropriate from both a legal and policy perspective that the requirements of KRS 273.233 be more limited than the Defendants' expansive claims. ASHA has provided Defendants opportunities to inspect eight boxes of documents and information already, which more than satisfies the requirements of KRS 273.233 and is more than sufficient for the members to address any concerns they may have with respect to ASHA expenditures and ASHA's fulfillment of its nonprofit purpose. It is difficult to follow the logic underlying the Defendants' position that the statutory phrase "all books and records" should be divorced from its antecedent, which clearly specifies more limited classes of records. If the Defendants' expansive interpretation is correct, then a member of a nonprofit would enjoy a far more sweeping right under KRS 273.233 to dig into the affairs of the nonprofit corporation than a stockholder would have under KRS 271B.16-020 to pursue information from the for-profit corporation. Stockholders enjoy a property interest and positions as owners and creditors of a private corporation that are more significant than the interest members of a nonprofit assume by dint of payment of a nominal membership fee. The stockholder has a personal financial stake to

⁵⁸ See Affidavit of Conley Salyer, attached hereto as Ex. 5.

⁵⁹ See excerpts from Yahoo! group "americansaddlebred" website attached hereto as Ex. 6.

protect. A member's interest is limited to ensuring that the nonprofit's charitable mission is being pursued.

E. KRS 273.233 Does Not Compel the Nonprofit to Produce Photocopies

In addition to the foregoing, the Defendants have asserted that KRS 273.233 gives them a right to obtain from ASHA photocopies of records they are entitled to inspect. ASHA has provided to the Defendants photocopies of some documents requested by the Defendants; however it is ASHA's position that KRS 273.233 does not give Defendants the right to compel ASHA to make photocopies and/or allow photocopies to be made. Members of a non-profit are only entitled to "inspect" the books and records of a non-profit association "for any proper purpose at any reasonable time." Certainly ASHA has provided Defendants an opportunity (in fact, multiple opportunities) to inspect the documents at issue in this case.

Furthermore, in the context of a for-profit corporation, KRS 271B.16-020 provides specifically that "[a] shareholder of a corporation shall be entitled to inspect and copy" specified records, and KRS 271B.16-030(2) provides that "[t]he right to copy records under KRS 271B.16-020 shall include, if reasonable, the right to receive copies made by photographic, xerographic, or other means", for which the corporation may assess a reasonable charge. There is no parallel provision in the nonprofit statutes. KRS 273.233 merely provides that books and records "may be inspected" by members, without any mention of copies. If the General Assembly intended to provide an additional entitlement for members to copy documents, it would have included such language in the statute. This omission speaks volumes and confirms that ASHA is only required to allow members to inspect the books and records of the association.

CONCLUSION

WHEREFORE, ASHA requests that this Court enter summary judgment declaring that the scope of the right of inspection of nonprofit "books and records" set forth in KRS 273.233 is limited to those classes of records identified in the statute, specifically "books and records of account", "minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors", and "a record of the names and addresses of its members entitled to vote." ASHA further requests a finding by the Court that the documents already produced by ASHA satisfies the requirements of KRS 273.233, and that the Defendants are not entitled to any further documentary production. And finally, ASHA requests that the Court find that ASHA is only required to permit inspection of books and records under KRS 273.233.

Respectfully submitted,

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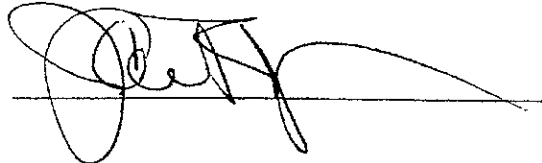
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CERTIFICATE OF SERVICE

It is hereby certified this 15th day April, 2010, that a copy of the foregoing was served
via first class mail to the following:

Stephen A. Houston
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828

A handwritten signature in black ink, appearing to be "S. A. Houston", written over a horizontal line.

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

AMERICAN SADDLEBRED HORSE
ASSOCIATION, INC.
4083 Iron Works Parkway
Lexington, Kentucky 40511

PLAINTIFF

v.

EDWARD R. BENNETT
1600 Zaring Mill Road
Shelbyville, KY 40565

CARL T. FISCHER, JR.
1041 Alta Vista Road
Louisville, Kentucky 40205

KRIS KNIGHT
10201 Shelbyville Road
Simpsonville, Kentucky 40067

TOM FERREBEE
9250 Friendsville Road, Box 540
Westfield Center, Ohio 44251

SIMON FREDRICKS
101 Westcott, #1002
Houston, Texas 77007

LYNN W. VIA
3358 Peakwood Drive
Roanoke, Virginia 24014

DEFENDANTS

09/08/2009

COMPLAINT FOR DECLARATORY JUDGMENT

Comes the Plaintiff, American Saddlebred Horse Association, Inc., by counsel, and for its

Complaint for Declaratory Judgment states as follows:



2/10/09 on docket

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.

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.

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.

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

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.

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

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

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 Ferrebee, 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.

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.

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, 4083 Iron Works Parkway, Lexington, Fayette County, Kentucky 40511.

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.

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

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.

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.

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.

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.

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.

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.

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.

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 the concerned ASHA members wished to inspect. A copy of that letter is attached as Ex. G and incorporated herein by reference.

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.

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.

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.

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.

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.

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.

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.

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.

29. In a letter dated September 4, 2009 addressed to Mr. Houston, Mr. Streepey responded that the offer and acceptance clearly contemplated that documents would be made available on October 5, 2009, but further advised that the 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.

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.

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

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 other ASHA members may attend as well. A copy of that email is attached as Ex. Q and incorporated herein by reference.

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.

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.

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.

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 "record 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.

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

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.

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.

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.

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.

WHEREFORE, the Plaintiff, American Saddlebred Horse Association, Inc., by counsel, prays as follows:

1. That the Court enter a Declaratory Judgment pursuant to KRS 418.040 finding that the scope of the right of inspection set forth in KRS 273.233 does not include the right to have photocopies provided by the nonprofit corporation;

2. That the Court enter a Declaratory Judgment pursuant to KRS 418.040 finding that the scope of the right of inspection set forth in KRS 273.233 is limited to those "books and records of account", "minutes of the proceedings of its members, board of directors and committees" and "record of the names and addresses of its members entitled to vote" as set forth in the statute, and specifically that the scope of the right of inspection does not include all papers and documents as the Defendants and other ASHA members have asserted;

3. That the Court enter a Declaratory Judgment pursuant to KRS 418.040 declaring the rights of the parties hereto; and

4. That the Court grant the Plaintiff its costs expended in this action, reasonable attorney fees, and for any other just and proper relief to which it may appear entitled.

BOEHL STOPHER & GRAVES, LLP

James B. Cooper by Amanda Tamber

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

-- and --

James B. Cooper
Boehl Stopher & Graves, LLP
444 West Second Street
Lexington, Kentucky 40507
Phone: (859) 252-6721 / Fax: (859) 253-1445
COUNSEL FOR PLAINTIFF,
AMERICAN SADDLEBRED HORSE
ASSOCIATION, INC.

270852.1

AOC-105 Rev. 1-07 Page 1 of 1
Doc. Code: CI 09/21/2009 01:08 pm Ver. 1.02
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 4.02; CR Official Form 1



CIVIL SUMMONS

Case No. 09 CE 5292
Court Circuit District
County Fayette

PLAINTIFF

COPY

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

VS.

DEFENDANT

Lynn W. Via
3358 Peakwood Drive
Roanoke, VA 24014

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: 11/13/09, 2

WILMA E. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
100 N. LIMESTONE STREET C103
LEXINGTON, KENTUCKY 40507

[Signature] Clerk
D.C.

Proof of Service
This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:

this _____ day of _____, 2_____.
Served by: _____
_____ Title

AOC-105
Rev. 1-07
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 4.02; CR Official Form 1

Doc. Code: CI
09/21/2009 01:08 pm
Ver. 1.02



CIVIL SUMMONS

Case No. 09 CI 5292

Court Circuit District

County Fayette

PLAINTIFF

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

COPY

VS.

DEFENDANT

Simon Fredricks
101 Westcott, #1002
Houston, TX 77007

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: , 20

WILMA E. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
120 N. LESTONE STREET C103
LEXINGTON, KENTUCKY 40507

[Handwritten Signature]

Clerk
D.C.

Proof of Service	
This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:	
_____	_____
this _____ day of _____, 20_____.	Served by: _____
	_____ Title

AOC-105 Rev. 1-07 Page 1 of 1
Doc. Code: CI 09/21/2009 01:08 pm Ver. 1.02
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 4.02; CR Official Form 1



CIVIL SUMMONS

Case No. 09 CI 5292
Court Circuit District
County Fayette

PLAINTIFF

COPY

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

VS.

DEFENDANT

Tom Ferrebee
9250 Friendsville Road, Box 540
Westfield Center, OH 44251

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: 11/19/09, 2

WELMA F. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
129 N. LIMESYONE STREET C103
LEXINGTON, KENTUCKY 40507

J. Kalifert

Clerk
D.C.

Proof of Service
This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:
this _____ day of _____, 2_____.
Served by: _____
_____ Title

AOC-105
Rev. 1-07
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 4.02; CR Official Form 1

Doc. Code: CI
09/21/2009 01:08 pm
Ver. 1.02



CIVIL SUMMONS

Case No. 09 CI 5292
Court Circuit District
County Fayette

PLAINTIFF

COPY

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

VS.

DEFENDANT

Kris Knight
10201 Shelbyville Road
Simpsonville, KY 40067

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: 09/21/09, 2

WILMA F. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
120 N. LIMESTONE STREET C103
LEXINGTON, KENTUCKY 40507

T. Kalifut Clerk
D.C.

Proof of Service

This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:

this _____ day of _____, 2_____.

Served by: _____

Title

AOC-105 Doc. Code: CI
Rev. 1-07 09/21/2009 01:08 pm
Page 1 of 1 Ver. 1.02
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 4.02; CR Official Form 1



CIVIL SUMMONS

Case No. 09 CE 5292
Court Circuit District
County Fayette

PLAINTIFF

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

COPY

VS.

DEFENDANT

Carl T. Fischer, Jr.
1041 Alta Vista Road
Louisville, KY 40205

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: 11/11/09, 2

WILMA E. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
100 N. LIMESTONE STREET C103
LEXINGTON, KENTUCKY 40507

Wilma E. Lynch
Clerk
D.C.

Proof of Service

This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:

this _____ day of _____, 20_____

Served by: _____

Title _____

AOC-105 Rev. 1-07 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.courts.ky.gov CR 4.02; CR Official Form 1

Doc. Code: CI 10/6/2009 09:20 am Ver. 1.02



CIVIL SUMMONS

Case No. 09 CI 5292

Court Circuit District

County Fayette

PLAINTIFF

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

COPY

VS.

DEFENDANT

Edward R. Bennett
1600 Zaring Mill Road
Shelbyville, KY 40565

Service of Process Agent for Defendant:

THE COMMONWEALTH OF KENTUCKY
TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within 20 days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached Complaint.

The name(s) and address(es) of the party or parties demanding relief against you are shown on the document delivered to you with this Summons.

Date: Aug 2, 2009

WILMA F. LYNCH
FAYETTE CIRCUIT COURT
FAYETTE COUNTY
120 N. LEXINGTON STREET C103
LEXINGTON, KENTUCKY 40507

Wilma F. Lynch
Clerk D.C.

Proof of Service
This Summons was served by delivering a true copy and the Complaint (or other initiating document) to:
this ___ day of _____, 20__.
Served by: _____ Title _____

Commonwealth of Kentucky
Fayette County
Wilma F. Lynch
Circuit Court Clerk



Receipt Number: 05-0023635-A

DATE: 10/07/2009

TIME: 03:27 PM

*** (M) CIVIL-OTHER ***

CASE NO: 09-CI-05292

RECEIVED FROM: BOEHL

ACCOUNT OF: S

1 Postage/Cert. Mail MCFO(K(H))	11.82
TOTAL:	\$11.82
CHECK:	\$11.82
***DIFF:	0.00

*** Check Number: 4197

Prepared By: Wilma Lynch/tdk

** MCFO=Money Collected for Others

** CS=Charge for Services

Payer

Page 1 of 1

Commonwealth of Kentucky
Fayette County
Wilma F. Lynch
Circuit Court Clerk

Receipt Number: 05-0023596-A

DATE: 10/06/2009

TIME: 04:24 PM

*** (E) CIRCUIT CIVIL- FILING ***

CASE NO: 09-CI-05292

RECEIVED FROM: BOEHL

ACCOUNT OF: S

1 Civil Filing Fee (Q)	115.00
2 ATJ Fee (I)	20.00
3 Court Technology MCFO(K(CT))	10.00
4 Att Tax Fee MCFO(K(Q))	5.00
5 Court Facilities Fee (J)	25.00
5 Library Fee (L)	1.00
7 Postage/Cert. Mail MCFO(K(H))	60.24
TOTAL:	\$236.24
CHECK:	\$236.24
***DIFF:	0.00

*** Check Number: 4196

Prepared By: Wilma Lynch/tdk

** MCFO=Money Collected for Others

** CS=Charge for Services

Payer

Page 1 of 1

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
1st Vice President, ASHA
900 Vista Oaks Lane
Knoxville, TN 37919

Ms. Barbara Molland
2nd 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 Rurwoldt
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 Ramm
Bd. of Dir., ASHA
Reedannland Farm
2291 50th 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

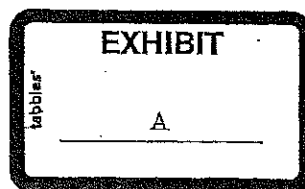
Mr. Art Zubrod
Bd. of Dir., ASHA
Fair Island Farm
1590 Pisgah Pike
Versailles, KY 40383

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

REC'D APR 22 2009



Mrs. Gemaine 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.

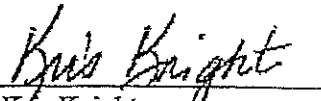
This request is being submitted by the signatories to this letter, indicated below, as well as the individuals listed on the next page who have authorized us to include their names in this request.

Sincerely,


Tom Ferree


Carl T. Fischer, Jr.


Simon Fredericks M.D.


Kris Knight


Lynn W. Via

Enclosure

Additional Individuals Joining In This Request

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

AMERICAN SADDLEBRED HORSE ASSOCIATION, INC.

1. Provide a copy of the employment agreement and deferred compensation package entered on October 31, 2007 between ASHA, Inc. and Alan F. Balch, as identified in the Financial Statements prepared by Bennett & Company CPAs for the year ended December 31, 2007 ("2007 Financial Statements").
2. Identify the individuals who voted to approve the agreement and deferred compensation package described in number 1 above.
3. Identify the individuals who voted against the agreement and deferred compensation package described in number 1 above.
4. Identify each individual and entity who received any portion of the "professional fees" totaling \$16,400 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
5. Identify each individual and entity who received any portion of the "professional fees" totaling \$15,650 in 2006 listed in the Financial Statements prepared by Bennett & Company CPAs for the year ended December 31, 2006 ("2006 Financial Statements"), and identify the specific purpose for those expenditures.
6. Identify each individual and entity who received any portion of the expenditures for "meetings/conferences" totaling \$222,166 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
7. Identify each individual and entity who received any portion of the expenditures for "meetings/conferences" totaling \$159,865 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
8. Identify each individual and entity who received any portion of the expenditures for "printing" totaling \$200,796 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
9. Identify each individual and entity who received any portion of the expenditures for "printing" totaling \$180,497 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
10. Identify each individual and entity who received any portion of the expenditures for "commissions" totaling \$29,369 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
11. Identify each individual and entity who received any portion of the expenditures for "commissions" totaling \$26,105 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.

12. Identify each individual and entity who received any portion of the expenditures for "contract fee" totaling \$9,600 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
13. Identify each individual and entity who received any portion of the expenditures for "contract fee" totaling \$78,443 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
14. Identify each individual and entity who received any portion of the expenditures for "advertising/promotion" totaling \$13,523 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
15. Identify each individual and entity who received any portion of the expenditures for "advertising/promotion" totaling \$63,287 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
16. Identify each individual and entity who received any portion of the expenditures for "bank fees" totaling \$19,442 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
17. Identify each individual and entity who received any portion of the expenditures for "bank fees" totaling \$13,214 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
18. Identify each individual and entity who received any portion of the expenditures for "interest expense" totaling \$26,179 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
19. Identify each individual and entity who received any portion of the expenditures for "interest expense" totaling \$32,949 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
20. Identify each individual and entity who received any portion of the expenditures for "Market Research" performed in 2007 for a total cost of \$12,796 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures. Provide a copy of any document indicating the results of that research.
21. Identify each individual and entity who received any portion of the expenditures for "Market Research" performed in 2006 for a total cost of \$38,721 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures. Provide a copy of any document indicating the results of that research.
22. Identify each individual and entity who received any portion of the expenditures for "web page/email" totaling \$20,136 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.

23. Identify each individual and entity who received any portion of the expenditures for "web page/email" totaling \$4,267 in 2006 listed in the 2006 Financial Statements, and identify the specific purpose for those expenditures.
24. Identify each individual and entity who received any portion of the expenditures for the "Comm. and Publications" portion of "salaries" in 2007 totaling \$90,157 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
25. Identify each individual and entity who received any portion of the expenditures for the "advancement" portion of the "salaries" totaling \$77,428 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
26. Identify each individual and entity who received any portion of the expenditures for the "administration" portion of the "salaries" totaling \$413,691 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
27. Identify each individual and entity who received any portion of the expenditures for the "Comm. and Publications" portion of "benefits" in 2007 totaling \$12,530 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
28. Identify each individual and entity who received any portion of the expenditures for the "advancement" portion of the "benefits" totaling \$9,758 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.
29. Identify each individual and entity who received any portion of the expenditures for the "administration" portion of the "benefits" totaling \$66,990 in 2007 listed in the 2007 Financial Statements, and identify the specific purpose for those expenditures.

American Saddlebred
Horse Association, Inc.



American Saddlebred
Registry, Inc.

4083 Iron Works Parkway, Lexington, KY 40511

April 29, 2009

Mr. Tom Ferrebee, 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,

This confirms that all the directors of the American Saddlebred Horse Association and American Saddlebred Registry have received your April 20, 2009 letters.

We note that each year beginning in 2005 at the annual convention we have opened virtually all committee meetings to the entire membership, including the Finance Committee meeting, and encouraged questions from ASHA members and discussion with our leadership. These open meetings have been noticed in advance in writing to the members. We make our independent auditor available for questions at that meeting and at the open meeting of members. Copies of our audited financials are available at the annual meeting for any member who wants them. Abridged financials and other statistical information are published in the March/April issue of the *American Saddlebred* magazine.

We invite each of you who signed the April 20, 2009 letters, and the members named in the letters' attachments, requesting information in addition to that regularly furnished, to attend a meeting with directors of both the ASHA and Registry on Monday, July 6, in Lexington. We will advise you of the time and place as soon as it is established. At the meeting, we will respond to the questions in your letters.

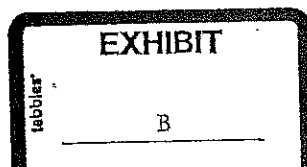
Sincerely yours,

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



SIMON FREDRICKS, M.D.

May 4, 2009

Ms. Barbara Molland & Ms. Judith Werner
American Saddlebred Registry & American Saddlebred Horse Association
4083 Iron Works Parkway
Lexington, Ky 40511

Dear Ladies:

Your letter of April 29, 2009 is duly noted. Your invitation to attend a meeting with the directors of both organizations on Monday, July 6, in Lexington was I am sure well intentioned. However, it would serve no useful purpose, until we have an opportunity to review the documentation we have requested. The review should precede any discussion of our concerns.

Therefore be advised that we will not be attending the proposed meeting in Lexington some two months from now. Surely, it should not take that long to gather the material we have requested.

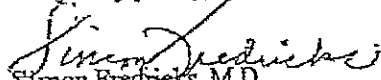
I have been advised by many members of your respective boards that they are in favor of transparency and acknowledge that as members in good standing are entitled to review the documentation requested.

The expense to the organizations should be only the time and effort of the employed personal to gather together the requested documentation. Have them available in the Library Conference Room during regular business hours. Your bookkeeper could be present for the security of the material and to respond to any questions. The documents should speak for themselves. I do not understand your need for the expense of your auditor since the documents are already created previously.

We intend to send a professional to review the material as our agent and report the findings back to us.

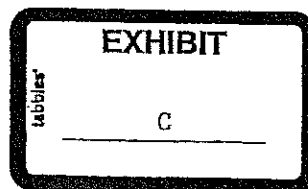
All that remains is for you to designate the time and day for the review to promptly begin. I see no reason why this can not be accomplished in a spirit of friendly cooperation. That would serve the best interests of all concerned and the societies.

Very truly yours,


Simon Fredricks, M.D.
Past Vice President ASHA
Past President ASHM

RECEIVED MAY 07 2009

101 Wescott, Apt 1002, Houston, Texas 77007-Ph(713)863-1178-Fax(713)869-6509





STOLL · KEENON · OGDEN

PLLC

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 12, 2009

Ms. Barbara Molland, President
American Saddlebred Registry
5000 Carroll Road
Petaluma, CA 94952

Ms. Judith Werner, President
American Saddlebred Horse Association
Redwing Farm
Waterloo, IL 62298

Dear Ms. Molland and Ms. Werner:

On March 9, 2009, we requested the annual financial reports of the ASHA and Registry for the three most recent years. Senior members of the ASHA reviewed those records and are concerned that the reports list significant expenditures without indicating to whom the payments were made or what, if any, benefit the ASHA and Registry received in return. Accordingly, by letter dated April 20, 2009, a group of senior members of the ASHA requested certain information regarding the financial records of the ASHA and Registry for fiscal years 2006 and 2007.

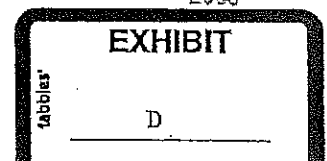
As presidents of the ASHA and Registry, you responded by joint letter dated April 29, 2009. In that letter, you state that ASHA Financial Committee meetings are open to the members. Several Senior members disagree with this statement. In their experience, such meetings are, in fact, usually closed. You also state that the audited financial reports are available to the membership. However, the audit reports that were provided on March 9 do not contain sufficient detail to indicate the recipients of large amounts of money and what, if any, benefit the ASHA or Registry received in return.

While the statements made in your joint letter are troubling, the larger issue is the fact that the directors of the ASHA and Registry have not provided the information requested. Instead, you invited the members to travel to Lexington, at great expense and inconvenience, to meet at a future date months away without any promise that the information requested would be provided.

Your response is gravely disappointing. It increases concerns about the financial expenditures of the ASHA and Registry. Members of the ASHA are entitled to the

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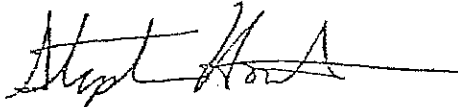


information requested without further delay. On or before May 18, please provide us with the documents containing the information requested in the April 20, 2009 letters. In addition, please provide copies of the IRS Form 990 for the ASHA and Registry for the year 2008.

In the alternative, please identify a day on or before May 21, on which an accountant and other representatives of senior members may review and copy all of the financial documents requested.

Sincerely,

STOLL KEENON OGDEN PLLC



Stephen A. Houston

cc:

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

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

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

Mr. Brian Reimer
ASR Bd. of Dir.
P.O. Box 69
Turin, GA 30289

Ms. Lisa Duncan
ASR Bd. of Dir.
Westwood Farm
3860 Carleton Dr.
Lexington, KY 40510

Dr. Margaret McNeese
ASR Secretary
2719 Ferndale
Houston, TX 77098

Ms. Mary Anne Cronan
ASR Bd. of Dir.
3200 Canterbury Lane
Louisville, KY 40207

Mr. Chuck Herbert
ASR Bd. of Dir.
Cedarwood Farms, Inc.
12201 Old State Rd.
Evansville, IN 47725

Mr. Robert Ruxer
ASR Bd. of Dir.
Alvin C. Ruxer Farms
P.O. Box 670
Jasper, IN 47547

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

RECEIVED MAY 14 2009

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MAY 14 2004



BOEHL STOPHER & GRAVES LLP

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

TELEPHONE: 502-589-5980
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JEFFERSON K. STREEPEY
PARTNER
EXTENSION 234
JSTREEPEY@BSG-LAW.COM

May 15, 2009

BY FACSIMILE AND U. S. MAIL

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

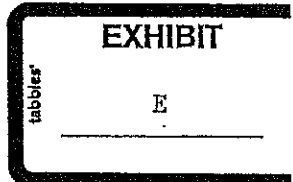
Re: American Saddlebred Horse Association
American Saddlebred Registry

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:

1. 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: 859-252-6721
FACSIMILE: 859-253-4445

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

137 MAIN STREET, SUITE 200
PIKEVILLE, KENTUCKY 41502
TELEPHONE: 606-432-9670
FACSIMILE: 606-432-9680

ELSBY EAST - SUITE 204, 400 PEARL STREET
NEW ALBANY, INDIANA 47150
TELEPHONE: 812-948-5053
FACSIMILE: 812-948-9233

BOEHL STOPHER & 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.

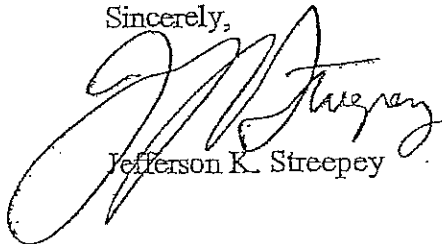
3. Except with respect to Alan Balch the compensation of any individual employee will not be disclosed. We believe our employees are entitled to privacy on compensation issues. Mr. Balch has consented to disclosure of his compensation, and his employment contract and deferred compensation agreement will 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



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May 20, 2009

By Electronic Mail
jstreepey@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 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.

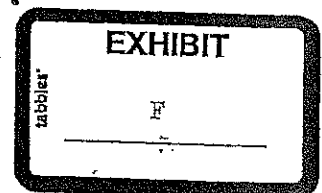
By letter dated May 15, 2009, you responded on behalf of the ASHA and Registry agreeing to produce some, but not all, of the documents requested. In that letter, the ASHA and Registry contend that they "have no legal obligation" to produce the documents. That is not correct. For example, in Kentucky, "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





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P L L C

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stephen.houston@stollfirm.com

June 26, 2009

By Electronic Mail
lstreepey@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.

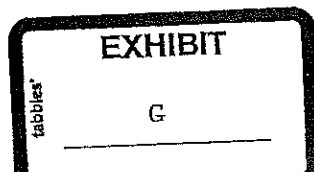
Dear Mr. Streepey:

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.

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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

- Tuesday \$1,317
- Wednesday \$1,317
- Thursday \$1,317
- Friday \$830
- Saturday \$1,264
- Sunday \$1,416
- 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 Mae 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.

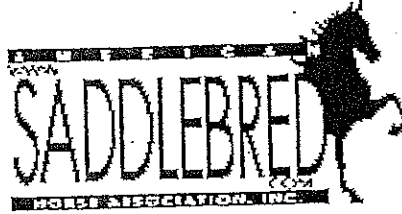
Sincerely

Stoll Keenon Ogden PLLC



Stephen A. Houston


7/29/2009

ASHA - American Saddlebred Hors...



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For Immediate Release
Monday, July 13, 2009
Contact: [Brice Carr](#), Marketing & Communications Manager

Saddlebred Association Enacts New Governance Policies, Releases Documents

Lexington, Kentucky - At its regularly scheduled meeting of the directors of the American Saddlebred Horse Association (ASHA), held Monday, July 6, in Lexington, Kentucky, the board formally adopted several new policies, continuing its commitment to increasingly open governance and inclusion begun in 2005.

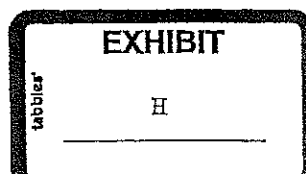
For the last five years, the Association's annual convention in February has featured committee meetings which are open to all members. In particular, the Finance Committee's meeting which begins the convention each year has been open, and attended by the Association's independent auditor; financial statements of the Association and the American Saddlebred Registry (ASR) are discussed in detail. Further, the schedule each year has included an open members' forum, as well as the formal Annual Meeting of members, where the volunteer leadership, staff, legal counsel, and auditor are all available for questioning, and the independent audits are made available to Association members upon request.

The Association's magazine, *American Saddlebred*, which is mailed to all senior members, has historically featured an annual report in its March/April issue, which has been formalized and expanded in recent years. Its web site, www.saddlebred.com, in its Governance tabs and elsewhere, provides a window into the Association's governance, through video streaming of the annual meeting, special events, and publication of the organic documents of the Association and Registry, as well as minutes of directors' meetings once approved.

This month, with the Internal Revenue Service having released a new and lengthy tax return for all charitable and non-profit organizations to file each year (Form 990, available to the public upon request from any such organization once filed), the Association's directors adopted a policy of reviewing the annual return line-by-line before filing. The Registry's board did the same. In addition, each of the two boards adopted formal, written policies on Document Retention, Employee Protection, and elaborated upon their previously enacted Conflict of Interest policies, consistent with questions in the new Form 990.

The directors also formally considered a series of letters received over the last several months from a group of Association members demanding financial, personnel, and other documents. The boards voted to disclose to the general membership of the Association all such correspondence including its responses on the member-secure area of its Internet web site, [here](#). Further correspondence with this group of members will be posted in this area as well, along with materials (such as general ledger detail) produced for those members inquiring about financial data and other documents. Certain documents not available on the web site, relating to personnel or private matters, will be subject to inspection at the Association's offices only on written request. Information furnished to ASHA on a confidential basis, and other records legally privileged or determined upon advice of legal counsel to be inappropriate for disclosure, will not be released.

saddlebred.com/asha/news.php?f...



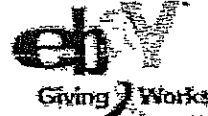
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ASHA - American Saddlebred Hors...

The Association's directors also approved new bylaws relating to Litigation and Inspection of Records. In addition, the Association's staff suggested and the directors approved a new policy enabling any member, upon providing appropriate notice to ASHA, to visit the offices on the third Tuesday of each month beginning at 10 a.m. on August 18, to inspect financial documents of the Association. This policy will be in place from August until the Association's annual convention in February 2010, so that all members will be permitted to review material they're interested in, as well as documents produced for other inquiring members. Senior members are also invited to attend a document production scheduled for Wednesday, July 29, beginning at 10 a.m. at the Association's offices in the Kentucky Horse Park, per correspondence released today. Any member wishing to attend must provide ASHA written notice by the close of business on Wednesday, July 22.

Please address any questions or comments to Saddlebred@asha.net.

Bid now to support the Saddlebred!
[Click Here for Details](#)

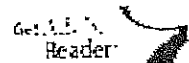


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JEFFERSON K. STREEPEY
PARTNER
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JSTREEPEY@BSG-LAW.COM

July 13, 2009

Mr. Stephen A. Houston
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500 West Jefferson Street
Louisville, KY 40202-2828

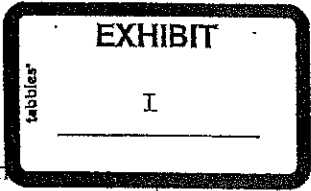
Re: American Saddlebred Horse Association

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: 859-253-4445

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

137 MAIN STREET
PIKEVILLE, KENTUCKY 41502
TELEPHONE: 606-432-9670
FACSIMILE: 606-432-9680

SUITE 204, 400 PEARL STREET
NEW ALBANY, INDIANA 47150
TELEPHONE: 812-948-5053
FACSIMILE: 812-948-9233

BOEHL STOPHER & GRAVES LLP

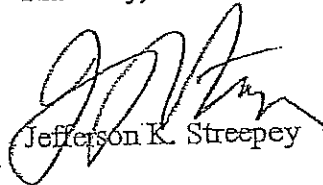
Stephen A. Houston
July 13, 2009
Page 2

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



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

July 22, 2009

By Electronic Mail
jsstreepey@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.

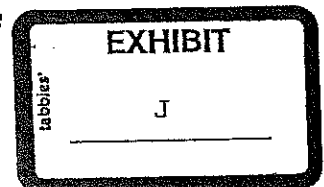
Dear Mr. Streepey:

As you are aware, we represent certain senior members of the American Saddlebred Horse Association, Inc. ("ASHA"). Our clients are concerned about significant expenditures incurred by the ASHA and the American Saddlebred Registry ("Registry") in recent years that remain largely unexplained. On April 20, 2009, our clients asked the ASHA and the Registry to produce documents that indicate the specific purposes for those expenditures as well as the recipients of the money. Unfortunately, the ASHA and the Registry have failed to produce a single invoice in support of those expenditures, which expenditures total several hundred thousand dollars per year. It has now been over three months since senior members of the ASHA first approached the ASHA about these issues.

Your letter dated July 13, 2009, on behalf of the ASHA and the Registry, was mostly non-responsive to the issues raised in my letter to you dated June 26, 2009. In addition, you continue to dispute the plain language of KRS § 273.233 that provides all members of non-profit organizations with access to all records maintained by the non-profit entity. Once again, you failed to cite any authority for your position. Finally, you failed to address the questions raised by the ASHA's auditor about the ASHA's accounting policies and governance.

Nonetheless, after much resistance and delay, your letter states that the ASHA and the Registry have finally agreed to produce the documents we have sought for over three months. Accordingly, Walter Newell, CPA, Ms. Maria Combs and I will arrive at 10 a.m. on July 29 at the ASHA Office in Lexington to review the documents.

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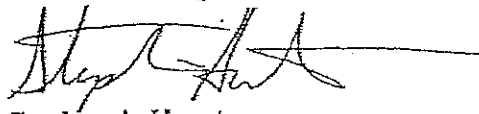


Jefferson K. Streepey, Esq.
July 22, 2009
Page 2

It is our understanding that Mr. Carl Holden recently resigned from his position on the ASHA Finance Committee. In addition to the documents previously requested, please produce all records including, without limitation, all correspondence between Mr. Holden and any ASHA member or employee, including Mr. Alan Balch, relating to Mr. Holden's position on the Finance Committee from April 20, 2009 through July 22, 2009.

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

A whole lot of ASHA employee time has been spent on these issues. As they seem to be far more important to some, than to others, that would seem to be a bit unfair to the balance of senior members, don't you think?

"When someone shows you who they are- BELIEVE them" Maya Angelou.

Yes, that IS a windmill I am filling at

www.americansaddlebredsporthorse.com



Today, 12:27 PM

#103

Join Date: Nov 2007
Posts: 13

Alan Balch
Junior Member

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**, 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



#104

Join Date: Dec 2007
Posts: 41

Today, 01:25 PM

Simon Fredricks
Member

Mr. Balch:
Thank you for your offer we ACCEPT and ask for a date as soon as possible.
Simon Fredricks



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- You may not post new threads
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Smilies are On
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Forum Jump

HTML code is Off

General Equine Topics

All times are GMT -5. The time now is 01:48 PM.

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Ad Management by RedTyger

Jeff Streepey

From: Houston, Stephen [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. 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.

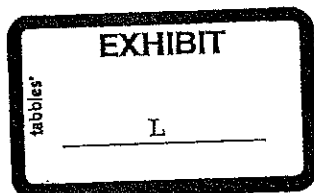
Regards,
Stephen

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

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!

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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 Ferrebee, 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

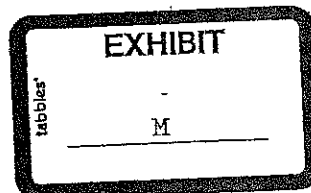
Barbara Molland, President
American Saddlebred Registry

Judith Werner

Judith Werner, President
American Saddlebred Horse Association

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

Directors, American Saddlebred Horse Association
American Saddlebred Registry





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

August 25, 2009

By Electronic Mail
jstreepey@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

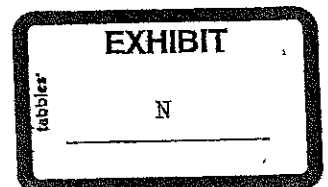
Dear Jeff:

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

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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)



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

September 4, 2009

BY E-MAIL

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

Re: American Saddlebred Horse Association and American Saddlebred Registry

Dear Mr. Houston:

We have your August 25, 2009 letter.

The Association and Registry made an offer in the form of a posting by the Executive Secretary/Registrar on tro.org to arrange a meeting between the directors of the ASHA and Registry with your clients. That proposal provided 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 [underline added] inspect or review whatever they want." That offer was accepted by Simon Fredricks on behalf of your clients, also by a posting on tro.org in which Dr. Fredricks said "thank you for your offer we ACCEPT and ask for a date as soon as possible." Your August 12, 2009 e-mail to me stated "we accept the ASHA and Registry 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." Neither your e-mail nor Dr. Fredricks' posting contained any conditions on acceptance, nor did either suggest an additional document production prior to the meeting. The offer certainly did not contemplate yet a third document production prior to the

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LEXINGTON, KENTUCKY 40507-1040

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FACSIMILE: 859-253-1445

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PADUCAH, KENTUCKY 42001

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ELSBYE EAST - SUITE 204, 400 PEARL STREET
NEW ALBANY, INDIANA 47150

TELEPHONE: 812-948-5053
FACSIMILE: 812-948-9233

EXHIBIT

0

BOEHL STOPHER & GRAVES LLP

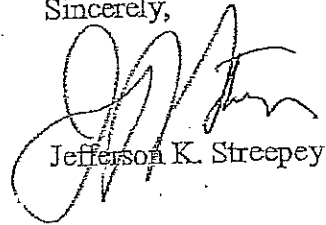
Stephen A. Houston
September 4, 2009
Page 2

meeting. In short we have an agreement that does not contemplate yet another document production prior to the October 5 meeting.

Nevertheless, pursuant to ASHA's previously announced guidelines for the availability of document inspection by its members upon written request, ASHA will make documents you requested in your August 25 letter available for inspection by all the members on the third Tuesday of this month, September 15, 2009, at 10 a.m. at the Association offices in accordance with those guidelines. Many of the documents you have requested have already been provided, but will be made available once again. The only exception will be any documents which the full Association Board has not yet had an opportunity to discuss. Please let me know by September 10 who will be attending the document production on September 15 for your clients.

The ASHA and Registry directors have rearranged their fall meeting schedule in order to meet with some or all of your clients on October 5. The directors look forward to meeting with them at that time.

Sincerely,



Jefferson K. Streepey

JKS:mfk

cc: Alan Balch
Judy Werner
Barbara Molland

Message

Jeff Streepey

From: Houston, Stephen [Stephen.Houston@skofirm.com]
Sent: Thursday, September 10, 2009 5:48 PM
To: Jeff Streepey
Subject: RE: ASHA

Jeff:

I will attend the ASHA document production along with Maria Combs and Dub Newell. Of course, we reiterate our position that the ASHA, a Kentucky non-profit entity, should allow us to inspect all of the documents we have requested. KRS 273.233 provides clear authority for ASHA members and their representatives to inspect "all records" maintained by the ASHA, and the statute makes no exception. We will seek relief from a court if the ASHA fails, once again, to allow its members to inspect "all records."

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

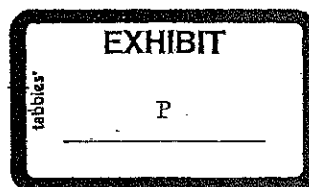
From: Jeff Streepey [mailto:JStreepey@BSG-Law.com]
Sent: Friday, September 04, 2009 11:00 AM
To: Houston, Stephen
Cc: Alan Balch (alan@asha.net); Barbara Molland; Judy Werner (redwingfarm.werner@gmail.com)
Subject: ASHA

Stephen,

See attached.

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.



9/21/2009

Subject: FW: ASHA

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

From: Houston, Stephen [mailto:Stephen.Houston@skofirm.com]
Sent: Friday, September 25, 2009 3:56 PM
To: Jeff Streepey
Subject: ASHA

Dear Jeff:

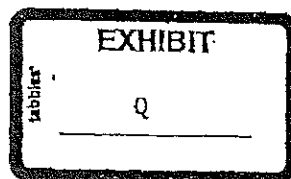
If the ASHA will confirm that it will produce all of the corporate records previously requested by its members, without exception, on October 5, 2009, the following people plan to attend the proposed meeting on October 5:

Thomas Rutledge
Stephen Houston
Walter Newell
Kris Knight (Pleasantview Farm)
Bill Knight (Pleasantview Farm)
Matthew Helman
Edward Bennett (Undulata)
Lynn Via (Fox Grape)
Anne Neil (Blythewood)
Marion Hutcheson (Happy Valley Stables)
Nancy Leigh Fisher
Tom Ferrebee (Tom Ferrebee Stables)
Mozelle Anson
Dr. Simon Fredricks (by telephone)
C. Thomas Galbreath
Victoria Reed
Candi Covino Aversenti

Please understand that the above list is not exhaustive. Other members may plan to attend.

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



COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
THIRD DIVISION
CASE NO. 09-CI-5292

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

PLAINTIFF

v.

EDWARD R. BENNETT, et al.

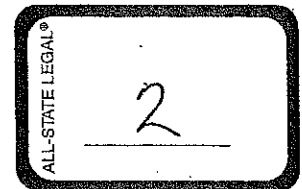
DEFENDANTS

* * * * *

The deposition of JOAN JONES was taken before Shannon L. Wheeler, Court Reporter and Notary Public in and for the State of Kentucky at Large, at the offices of Stoll Keenon Ogden, PLLC, 300 West Vine Street, Suite 2100, Lexington, Kentucky, on March 17, 2010, commencing at the approximate hour of 9:00 a.m. Said deposition was taken pursuant to Notice, heretofore filed, for any and all purposes permitted under the Kentucky Rules of Civil Procedure.

* * * * *

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.
SHANNON L. WHEELER, COURT REPORTER



APPEARANCES:

Edward H. Stopher, Esq.
BOEHL, STOPHER & GRAVES, LLP
444 West Second Street
Lexington, KY 40507
COUNSEL FOR PLAINTIFF

Stephen A. Houston, Esq.
STOLL KEENON OGDEN, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
COUNSEL FOR DEFENDANTS

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.
SHANNON L. WHEELER, COURT REPORTER

I N D E X

WITNESS: Joan Jones

EXAMINATION

By Mr. Houston.Page 4 - 51

REPORTER'S CERTIFICATE. 52

* * * * *

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.

SHANNON L. WHEELER, COURT REPORTER

1 reporting of rules violations?

2 A You know, I don't know. I would say, if
3 there was a violation, they might. I can't
4 honestly say.

5 Q Who would know that?

6 A Either the assistant registrar or the
7 executive secretary or the registrar of the
8 registry.

9 Q What records do you maintain relating to
10 printing expenses?

11 A I maintain the invoices. That's about what I
12 would maintain, the invoices. I pay the
13 bills.

14 Q What other records are maintained by the ASHA
15 or registry relating to printing?

16 A I don't know. I mean, I don't know what you
17 mean exactly. I guess I just don't know what
18 you mean, what other records. I mean, we pay
19 the invoices. Now, that would be it. I just
20 can't tell you.

21 Q What are the largest invoices relating to the
22 printing expenses that you're aware of?

23 A Probably Publishers Press. That's the
24 magazine.

25 Q How many magazines would the ASHA order,

1 generally?

2 A It would depend. I think I've seen them
3 order as much as 6,000 to 8,000. Now, I --
4 you know, I don't do the ordering, I pay the
5 bills and they approve them, but I believe
6 I've seen that many ordered. They go to each
7 member, and then a couple of extra, you know,
8 will be passed out.

9 Q You said you pay the bills and they approve
10 them. What did you mean by that?

11 A Well, whoever in the magazine department, you
12 know, they talk to the printers and agree to
13 do how many issues and how many copies, and I
14 don't pay an invoice unless I get an approval
15 that this is what we agreed to pay or what
16 was to be paid.

17 Q It might be a good time for you to explain to
18 me then the process for approving all
19 expenditures.

20 A Okay. When the mail comes in, of course
21 there's invoices, and they are given to me.
22 If it's a telephone bill or something that's
23 an every-month expense, and there's no
24 changes on it, I look over it and I set it up
25 for payment. Anything other than that, if

1 just said a breach of contract. He didn't
2 really discuss why he left. It was a shock.

3 Q A breach of contract by whom?

4 A Well, I'm assuming the ASHA.

5 Q Did he say what that breach was?

6 A No, sir.

7 Q Are you aware of a dispute between Mr. Balch
8 and Carl Holden this past year?

9 A Yes, I am.

10 Q What's your understanding of that dispute?

11 A Well, Mr. Holden called me one time and asked
12 me if Allen had taken a reduction in salary,
13 which he offered to do, and he had not. And
14 he asked me another question about long-term
15 care, and I answered him. And then I told
16 Allen that he called. Now, I don't know who
17 emailed first, but an email was sent, and I
18 don't know if Allen did the first email or
19 Mr. Holden, but in the course of the emails,
20 they had a disagreement, and the end result
21 was that Mr. Holden resigned from the finance
22 committee.

23 Q Have you seen those emails?

24 A I was copied on the emails.

25 Q What was the dispute?

1 against the ASHA for breach of contract?

2 A I don't know.

3 Q Who's performing the duties of the executive
4 secretary at this time?

5 A No one right now. We get in touch with our
6 president, and get approvals with the
7 president of both the registry and the
8 association, and with our treasurer.

9 Q Do you have a timetable for when you expect
10 to have a new executive secretary?

11 A There is a search committee handling that,
12 and I don't know what their timetable is.

13 Q Do you know who the next executive secretary
14 is going to be?

15 A No, sir.

16 Q Do you know if there's a list of individuals
17 who are being considered?

18 A The applications went to -- there was a firm
19 in Louisville that the search committee -- or
20 a person that the search committee contacted
21 to handle that. A few resumes came to our
22 office and they were forwarded on, and so
23 from there, everything went to the search
24 committee and whoever handles that.

25 Q Who is responsible for hiring employees at

1 A Yes.

2 Q Why?

3 A Well, the work was just not there, you know,
4 and we were trying to save money. Reduction
5 in force.

6 Q When did the work slow down for Ms. Hill?

7 A I don't know exactly how the workflow went
8 for her. Her fifty percent of the trust,
9 I -- you know, I don't know what she did
10 there. She did work on the registry, and
11 whatever she would get ready for board
12 meetings and things, you know, well, with no
13 executive secretary, we might not have that
14 now, you know, for a while. I mean, you know
15 what I'm saying. So I don't really know what
16 all she did do out there, but I know that we
17 felt that we could do without her.

18 Q Who made that decision?

19 A Judy Werner, I believe.

20 Q When the ASHA received requests from
21 concerned members to produce certain books
22 and records of the ASHA and registry, how did
23 the ASHA and registry determine what records
24 to produce?

25 A We produced, I believe, what was requested.

1 but I don't know that he reviewed each
2 document.

3 Q Who made the decision to redact certain
4 documents?

5 A Now, what do you mean redact certain
6 documents?

7 Q Are you familiar with the term redaction?

8 A Uh-huh (AFFIRMATIVE). I thought we pretty
9 much -- I thought the association provided
10 everything you requested except for personnel
11 and emails.

12 Q So you don't know who marked out certain
13 paragraphs, words?

14 A Oh, you mean the redacted information. In
15 some I did, for Social Security numbers and
16 things that -- you know, we tried to -- we
17 let some go out. You know, you had some with
18 Social Security numbers, but on the personnel
19 files, any payroll information, it was tried
20 to be redacted. Anything that, you know,
21 they felt was personal was to be redacted.

22 Q And when you said they, who are you referring
23 to?

24 A Well, I mean Allen and me. I mean, we would
25 try to redact what we could on that. And

1 credit card numbers, we tried to redact that.

2 Q Before filing this lawsuit, did anybody else
3 review those documents that were produced to
4 the concerned members?

5 A Who would you mean?

6 Q Just anybody.

7 A No. They were in our office. They were on
8 the Internet, some of them, on the web page,
9 so I guess I would have to say yes, some
10 people would have reviewed them on the
11 Internet, you know, on our web page.

12 Q So some of them were placed on the Internet?

13 A Some. Whatever was placed on the web page
14 would have been subject to review by lots of
15 people.

16 Q Did anybody review the entire compilation of
17 documents that was produced to the concerned
18 members other than you and Allen?

19 A I would say I don't think so. You mean
20 within the office or anybody coming into the
21 office? I don't think so.

22 Q Were you aware that the concerned members
23 continued to ask for documents that were not
24 provided to them?

25 A Yes. We provided the basics, but when the

1 background?

2 A I have a high school education, and I've
3 taken some accounting courses at colleges. I
4 have about -- it's either eight or twelve
5 credit hours in accounting.

6 Q And how many years of experience have you
7 been working in accounting?

8 A Probably thirty, maybe thereabouts.

9 Q What's the annual budget for the ASHA and
10 registry combined?

11 A Well, now, you're asking me a tough question.
12 I would say it's going to be close to
13 \$2 million in income. We're looking for a
14 tougher year. Probably close to the same in
15 expenses. It's going to be an even year.
16 I'm guessing now. I use my worksheets for
17 everything.

18 Q And are you familiar with the audit report
19 relating to the ASHA which identified
20 significant deficiencies in the financial
21 oversight?

22 A Yes, sir.

23 Q What is your understanding of those
24 significant deficiencies?

25 A It's my understanding that that is something

1 that the CPAs have to put in when you're a
2 small organization. We don't have the
3 personnel to segregate duties in the exact
4 way that would be acceptable -- or not so
5 much -- well, acceptable, and that you would
6 want to have them separated. I think it's a
7 GAP policy.

8 Q And what do you mean by segregation of
9 duties?

10 A Well, you probably wouldn't want to have one
11 person deposit all the money, write all the
12 checks, reconcile all the bank accounts. You
13 need to have different people do things like
14 that. I mean, that's just kind of quick and
15 dirty. You want to have more than one person
16 involved in handling the funds in and funds
17 out.

18 Q Are you familiar with the list of
19 recommendations that have been issued by
20 Kentucky's auditor, Crit Luallen, relating to
21 the oversight of nonprofit entities?

22 A I did see that. I read over that briefly, I
23 think last summer, in the summer of '09.

24 Q And does the ASHA comply with those
25 recommendations?

1 STATE OF KENTUCKY)
)
2 COUNTY OF JESSAMINE)
3
4

5 I, SHANNON LYNN WHEELER, the undersigned
6 Notary Public in and for the State of Kentucky at Large,
7 certify that the facts stated in the caption hereto are
8 true; that at the time and place stated in said caption
9 hereto personally appeared before me, and after being by
10 me duly sworn, was examined by counsel for the parties;
11 that said testimony was taken down in stenotype by me and
12 later reduced to computer transcription under my
13 direction, and the foregoing is a true record of the
14 testimony given by said witness.

15 No party to said action nor counsel for said
16 parties requested in writing that said deposition be
17 signed by the testifying witness.

18 My commission expires: March 23, 2010

19 IN TESTIMONY WHEREOF, I have hereunto set
20 my hand and seal of office on this the 6th day of
21 April, 2010.

22
23
24
25

SHANNON LYNN WHEELER,
NOTARY PUBLIC, STATE-AT-LARGE

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
22nd JUDICIAL CIRCUIT
DIVISION 3
CIVIL ACTION NO. 09-CI-05292

AMERICAN SADDLEBRED)	DEPOSITION TAKEN ON
HORSE ASSOCIATION, INC.,)	BEHALF OF DEFENDANTS
)	BY: NOTICE
PLAINTIFF)	
vs.)	
)	
EDWARD R. BENNETT,)	
CARL T. FISCHER, JR.,)	
KRIS KNIGHT, TOM FERREBEE,)	
SIMON FREDERICKS, M.D.,)	
and LYNN W. VIA,)	WITNESS:
)	
DEFENDANTS)	CARL HOLDEN

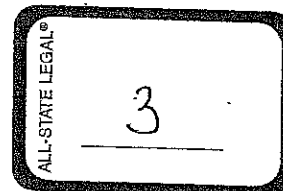
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The deposition of CARL HOLDEN was taken before Ann E. Chastang, Court Reporter and Notary Public in and for the State of Kentucky at Large, at the law offices of STOLL, KEENON, OGDEN, PLLC, 300 West Vine Street, Suite 2100, Lexington, Kentucky, on Thursday, March 11, 2010, commencing at the approximate hour of 9:00 a.m. Said deposition was taken pursuant to Notice, heretofore filed, to be read and used on behalf of the Defendants at the trial in the above-captioned action and all other purposes as permitted by the Kentucky Rules of Civil Procedure.

* * * *

* * * *



1 APPEARANCES:

2

3

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BOEHL, STOPHER, & GRAVES, LLP

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Louisville, Kentucky 40202

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COUNSEL FOR THE PLAINTIFF

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I N D E X

WITNESS: CARL HOLDEN

CROSS-EXAMINATION

By Mr. Houston..... 4 - 51

REPORTER'S CERTIFICATE 52

1 Q. What led to Mr. Balch resigning from the
2 ASHA?

3 A. I don't know specifically. As I understand
4 it, there was some feeling by Mr. Balch that
5 the board -- certain board members in doing
6 an investigation of some registry data
7 conducted an investigation as to whether
8 procedures were followed and that Mr. Balch
9 felt that the board and those members
10 intruded on his responsibility of managing
11 the association, and as a result he resigned.
12 And, again, that's to the best of my
13 knowledge. I don't have a lot of detail on
14 why Alan left.

15 Q. What did that investigation involve?

16 A. The investigation involved interviewing I
17 believe one or two staff members as to the
18 process of the registry of a certain American
19 saddlebred horse.

20 Q. Which horse?

21 A. I believe the horse was a five harness mare
22 named Mother Mary.

23 Q. Which employees were interviewed?

24 A. I don't recall. I don't recall the
25 employees' names.

1 Q. Which board members were involved in the
2 investigation?

3 A. I believe there were three individuals
4 involved. I believe it was Dr. Margaret
5 McNeace from Texas, Ms. Barbara Molland from
6 California as well as Chuck Herbert from
7 Indiana. I believe those were the three
8 individuals that did the investigation.

9 Q. Is the investigation complete?

10 A. To my knowledge it is.

11 Q. What was the result?

12 A. The result to my knowledge was that the
13 specific procedures were not followed in the
14 registry but that there was no beneficial
15 result to anyone involved for those
16 procedures not being followed. And I asked
17 that question specifically. As a result of
18 not following the procedures, did anyone
19 benefit or was anyone hurt. And the response
20 I got from our president was negative; that
21 nobody -- that there was no negative
22 repercussions to any individual as a result
23 of not following those procedures. And it
24 really had to do with -- there was no
25 impropriety in terms of the sale or purchase

1 of the horse. As I understand it, the
2 procedures that are in place at the registry
3 is that certain documents have to be in hand
4 before a transfer is done. And in this
5 particular instance some of those documents
6 were not in hand at the time of the registry
7 or the time the transfer was completed.

8 Q. What led to the violations?

9 A. I don't know.

10 Q. Are there typically fines or penalties for
11 violating the rules?

12 A. It would depend on the severity of it. If
13 there was a serious outcome where somebody --
14 an individual member was harmed, there would
15 be, but if there was no -- it's kind of like
16 in basketball, no harm, no foul. Then there
17 would be no repercussions.

18 Q. How did this come to the attention of the
19 board?

20 A. One of the staff called a board member and
21 indicated that in her opinion that rules --
22 procedures were not followed and it was a
23 concern to her.

24 Q. Which staff member?

25 A. I don't recall.

- 1 Q. Would the investigation have been documented?
- 2 A. Yes.
- 3 Q. How was it documented?
- 4 A. I'm sure a report was -- I say that. I
5 assume that a report was prepared by the
6 three board members who did the
7 investigation.
- 8 Q. Have you seen a report?
- 9 A. Have not. But it was reviewed at the
10 February board meeting.
- 11 Q. Were you at the February board meeting?
- 12 A. Yes, I was.
- 13 Q. Who would have reviewed it?
- 14 A. The individuals who did the review would have
15 discussed it with the board.
- 16 Q. They didn't share it with the other board
17 members -- the report, I mean?
- 18 A. I did not see a written report but it was
19 discussed.
- 20 Q. Does the ASHA or the registry maintain
21 records relating to reports of rules
22 violations?
- 23 A. I'm not aware of those if they are but --
- 24 Q. Who would know?
- 25 A. I would assume that the president and/or the

1 Q. Did you agree with the ASHA's decision to
2 withhold financial documents from its
3 members?

4 MR. STOPHER: Objection.

5 A. It's my understanding that the financial
6 records and books of accounts were not
7 withheld; that those were provided.

8 Q. Do you know if the monthly reports that the
9 finance committee reviews were provided to
10 the members?

11 A. If they were provided with all the minutes,
12 then they should have been provided. I don't
13 know specifics.

14 Q. But you believe those should have been
15 provided?

16 A. The minutes of the meetings, yes.

17 Q. What about the monthly report that was
18 provided to the finance committee members?

19 A. It's my understanding that those monthly
20 reports were provided to the members.

21 Q. Who told you that?

22 A. The executive secretary as well as -- the
23 executive secretary reported that all
24 financial records were presented and were
25 prepared and presented for review. And I

1 personally witnessed eight boxes of data that
2 were available for review.

3 Q. Did you look through those eight boxes?

4 A. I did not.

5 Q. Did anybody look through those boxes to
6 determine if indeed all of the financial
7 records were provided to the members?

8 A. I don't know.

9 Q. The ASHA decided to file a lawsuit without
10 determining if the financial records were
11 indeed disclosed?

12 A. To my knowledge, those financial records were
13 presented. Let me make one comment. I was
14 aware of numerous occasions the members were
15 asked what documents have you not seen and I
16 never recall seeing the response that these
17 documents were not available.

18 Q. Do you recall seeing a list of documents that
19 were requested by the concerned members?

20 A. Numerous times.

21 Q. And do you recall seeing follow-ups from
22 those members stating that those particular
23 documents, certain particular documents had
24 not been provided?

25 A. My recollection that it was all in a kind of

1 generic response that all documents have not
2 been produced. I've never seen a report that
3 said the financial reports for November of
4 2004 were not included or the balance sheet
5 for January 2006 was not included or that
6 this specific line item was not included. I
7 never saw any kind of detail like that. It
8 was all a very generic response that all the
9 documents were not produced. And when you're
10 dealing with something of that mass, that's
11 hard to get your arms around.

12 Q. Do you think that it made sense for the
13 concerned members to accept the ASHA's offer
14 to come review whatever they wanted and
15 discuss it with the board?

16 A. Yes.

17 Q. Who made the decision to produce certain
18 documents and withhold certain other
19 documents?

20 MR. STOPHER: Objection.

21 A. I'm not aware of any documents that were
22 rejected or not submitted.

23 Q. Are you aware that this litigation is to
24 address whether or not members are entitled
25 to documents that were not produced?

1 A. When I say "documents," I'm referring to
2 basically the books of accounts which as my
3 understanding of the statute, that's what is
4 supposed to be made available to the members.
5 All records and books of accounts of a
6 financial nature. And it's my understanding
7 that that's what was produced.

8 Q. If you were to learn that all records and
9 books of accounts of a financial nature were
10 not provided to the concerned members, would
11 that surprise you?

12 A. If I were provided a list of the -- a detail
13 of the documents that were requested that
14 were not produced, then that would surprise
15 me.

16 Q. Who is in the best position to identify a
17 list of all of the financial books and
18 records that exist?

19 A. The executive secretary.

20 Q. In the absence of the executive secretary,
21 who would know that information?

22 A. Joan Jones.

23 Q. Do you have any reason to believe that
24 members of the ASHA who were not on the board
25 would have access to a list of all the

1 STATE OF KENTUCKY)
COUNTY OF FAYETTE)

2

I, ANN E. CHASTANG, the undersigned Notary
3 Public in and for the State of Kentucky at Large,
certify that the facts stated in the caption hereto are
4 true; that at the time and place stated in said caption
the witness named in the caption hereto personally
5 appeared before me, and after being by me duly sworn,
6 was examined by counsel for the parties; that said
7 testimony was taken down in stenotype by me and later
8 reduced to computer transcription by me, and the
9 foregoing is a true record of the testimony given by
10 said witness.

11 My commission expires: May 12, 2011.

12 IN TESTIMONY WHEREOF, I have hereunto set my
13 hand and seal of office on this the 16th day of
14 March, 2010.

15

16

17

ANN E. CHASTANG,
NOTARY PUBLIC, STATE-AT-LARGE
K E N T U C K Y

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AMERICAN SADDLEBRED HORSE
ASSOCIATION, INC.

PLAINTIFF

v.

AFFIDAVIT OF ALAN F. BALCH.

EDWARD R. BENNETT, CARL T.
FISCHER, JR., KRIS KNIGHT, TOM
FERREBEE, SIMON FREDRICKS,
M.D. AND LYNN W. VIA

DEFENDANTS

* * * * *

Comes ALAN F. BALCH, being duly sworn, and states as follows:

1. I am the Executive Secretary of the American Saddlebred Horse Association, Inc.

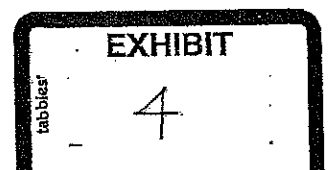
2. I have reviewed the defendants' request for production of documents.

3. Except as described in the following paragraphs, to the best of my knowledge the documents requested were produced to counsel for the defendants for review prior to the filing of this declaratory judgment action. Many of the subject documents were posted on the plaintiff's Website after review by defendants' counsel where they are available to all members of the American Saddlebred Horse Association including the defendants.

4. The following documents, if existing, were not produced for inspection:

a. Compensation records of individual employees and staff of the American Saddlebred Horse Association were not produced for inspection, although total annual payroll figures were produced.

b. Contracts between ASHA and individual staff members were not produced, although the employment contract and deferred compensation agreement of Alan F. Balch were produced.



c. Documents, including electronic mail, reflecting correspondence between officers, including Alan F. Balch, and members of the Executive Committee and directors of ASHA.

d. E-mails between Alan F. Balch and former finance committee member and director Carl Holden.

e. Documents relating to information received by Ms. Werner relative to the September 18, 2009 Executive Committee meeting.

f. Documents reflecting, regarding, or relating to potential violations of ASHA and Registry rules by ASHA and Registry employees and board members.

5. The following documents, if existing, were produced to the defendants, but photocopies were not furnished:

a. The employment agreement and deferred compensation agreement between ASHA and Alan F. Balch.

b. All documents reflecting, regarding or relating to the ASHA's Registry internal control policies and procedures with respect to finance receipts, expenditures, and accounts.

c. All documents reflecting, regarding or relating to the date upon which the internal control policies and procedures were adopted and implemented.

d. Documents reflecting Mr. Balch's time spent at work, on vacation, and absent due to illness.

e. Documents related to work performed by ASHA employees including Mr. Balch on behalf of the USA Equestrian Trust and the USEF and any other individual except ASHA and Registry.

Alan F. Balch
Alan F. Balch

Subscribed and sworn to before me by ALAN F. BALCH this January 29,

2010.

My commissions expires: March 27 2011

Aun C. Hill
Notary Public, State at Large, KY.

AMERICAN SADDLEBRED HORSE
ASSOCIATION, INC.

PLAINTIFF

v.

AFFIDAVIT

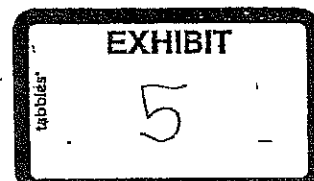
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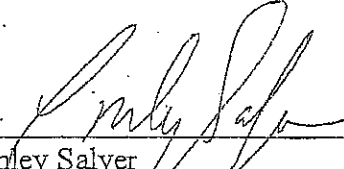
* * * * *

Comes CONLEY SALYER, an attorney licensed to practice in Kentucky, being duly sworn states as follows:

1. I am an attorney licensed to practice in Kentucky with an office in Lexington, Kentucky.
2. My practice is limited to nonprofit organizations and foundations.
3. I have taught as adjunct faculty at the University of Kentucky School of Law.
4. I have been retained as an expert witness in the captioned matter by the plaintiff, American Saddlebred Horse Association, Inc.
5. In my opinion intra office memoranda of the American Saddlebred Horse Association, Inc. are protected by law and are not required to be disclosed under KRS 273.233.
6. In my opinion communications among officers and directors of the American Saddlebred Horse Association are protected by law and not required to be disclosed under KRS 273.233.



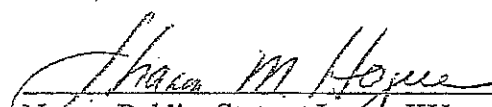
7. In my opinion personnel records of employees and staff of the plaintiff related to medical and other confidential matters are protected by law and not required to be disclosed under KRS 273.233.



Conley Salyer

Subscribed and sworn to before me by CONLEY SALYER this January 27,
2010.

My commissions expires: March 12, 2012



Notary Public, State at Large, KY.

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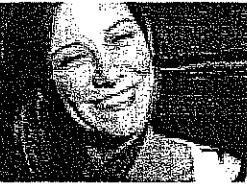
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Seems all of those that Alan Balch threatened to sue (include me) a couple of years ago were RIGHT! He would not have had a leg to stand on and he knew it...

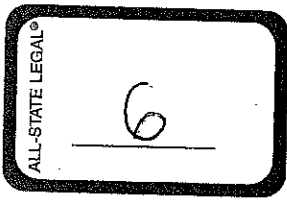
These two depositions confirm each other... Draw you own conclusions as to responsibility...

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COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
THIRD DIVISION
CASE NO. 09-CI-5292

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

PLAINTIFF

v.

EDWARD R. BENNETT, et al.

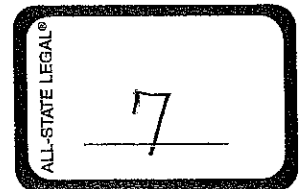
DEFENDANTS

* * * * *

The deposition of JENNIFER WASSERZUG was taken before Shannon L. Wheeler, Court Reporter and Notary Public in and for the State of Kentucky at Large, at the offices of Stoll Keenon Ogden, PLLC, 300 West Vine Street, Suite 2100, Lexington, Kentucky, on April 8, 2010, commencing at the approximate hour of 10:00 a.m. Said deposition was taken pursuant to Notice, heretofore filed, for any and all purposes permitted under the Kentucky Rules of Civil Procedure.

* * * * *

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.
SHANNON L. WHEELER, COURT REPORTER



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AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.
SHANNON L. WHEELER, COURT REPORTER

I N D E X

WITNESS: Jennifer Wasserzug

EXAMINATION

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E X H I B I T S

Plaintiff's 1 8/20/08 Letter Page 23

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.

SHANNON L. WHEELER, COURT REPORTER

1 going to pass over to you, which is dated
2 August 20, 2008, from Lora Johnstone,
3 Platinum Stock Farm, to -- I think it must be
4 addressed to the World Championship show, but
5 let me ask you to take a look at that.

6 A Yes, I have seen this document.

7 MR. HOUSTON: Excuse me, Ed. Did you have a
8 copy for me to look at, Ed?

9 MR. STOPHER: No, that's the only one I
10 brought. It's only one sentence.

11 BY MR. STOPHER:

12 Q This document states, "I'm writing this
13 letter to inform you that Mother Mary was
14 sold August 1, 2008 to Anita and Richard
15 Simpson. I have the original papers and will
16 be transferring them immediately. In the
17 event Mary gets a ribbon at the horse show,
18 which I am sure she will, please announce the
19 Simpsons as the owner and not Platinum Stock
20 Farm. I have had an illness in my family and
21 have been preoccupied. Mercer Springs Farm
22 had nothing to do with the delay. It is all
23 my fault and I apologize. If you have any
24 questions, please call me." Do you have any
25 reason to believe that the statements made in

1 this letter are not accurate?

2 A I have no knowledge of any inaccuracy in
3 that, no.

4 Q As a matter of fact, within a few days after
5 the transfer was announced at the Kentucky
6 State Fair Horse Show, and Anita and Richard
7 Simpson were announced as the owners of that
8 horse, did you receive the proper
9 documentation?

10 A Yes, sir.

11 Q And when all was said and done, was this
12 transfer entirely appropriate and proper?

13 MR. HOUSTON: Objection to form.

14 A I don't dispute that it was Lora Johnstone's
15 intention to show that the horse had been
16 sold, and I don't believe that she had any
17 objection to the horse being shown in the new
18 owners' name. I believe that she was
19 attempting to provide us with the information
20 required so that an affidavit, USEF Affidavit
21 for Show affidavit, could be completed at the
22 horse show to allow for that new ownership to
23 be read.

24 Q In other words, there was no
25 misrepresentation of any fact when Anita and

1 Richard Simpson were announced at the
2 Kentucky State Fair Horse Show as the owners
3 of this horse?

4 A No misrepresentation as far as fact.

5 Q And what occurred was, apparently the horse
6 had been sold on August 1, and Lora
7 Johnstone, as the seller, had failed to
8 provide the documentation to the registry so
9 that the transfer could be completed before
10 the horse show?

11 A Correct.

12 Q And the delay apparently was caused by an
13 illness or perhaps even a death of a parent
14 in her family; is that your understanding as
15 to what occurred?

16 A That is my understanding.

17 MR. STOPHER: Thank you, Ms. Wasserzug.
18 Those are all the questions I have, and this
19 is our Exhibit 1.

20 (REPORTER MARKS PLAINTIFF'S EXHIBIT 1 FOR THE
21 PURPOSES OF IDENTIFICATION, AND THE SAME IS
22 ATTACHED HERETO AND FILED HEREWITH.)

23 REEXAMINATION

24 BY MR. HOUSTON:

25 Q I have just a few follow-up questions. Has

1 STATE OF KENTUCKY)
)

2 COUNTY OF JESSAMINE)

3
4

5 I, SHANNON LYNN WHEELER, the undersigned
6 Notary Public in and for the State of Kentucky at Large,
7 certify that the facts stated in the caption hereto are
8 true; that at the time and place stated in said caption
9 hereto personally appeared before me, and after being by
10 me duly sworn, was examined by counsel for the parties;
11 that said testimony was taken down in stenotype by me and
12 later reduced to computer transcription under my
13 direction, and the foregoing is a true record of the
14 testimony given by said witness.

15 No party to said action nor counsel for said
16 parties requested in writing that said deposition be
17 signed by the testifying witness.

18 My commission expires: March 23, 2014

19 IN TESTIMONY WHEREOF, I have hereunto set
20 my hand and seal of office on this the 11th day of
21 April, 2010.

22
23

24 _____
SHANNON LYNN WHEELER,
NOTARY PUBLIC, STATE-AT-LARGE
25 NOTARY ID 415547