

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
22nd JUDICIAL CIRCUIT
DIVISION 3

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.,

Plaintiff

v.

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

Defendants

Case No. 09-CI-05292

**DEFENDANTS' MOTION FOR
THE COURT TO ORDER
PLAINTIFF TO APPEAR AND
SHOW CAUSE WHY IT
SHOULD NOT BE HELD IN
CONTEMPT OF COURT**

NOTICE

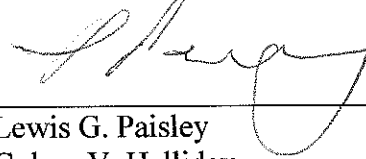
The parties will please take notice that the Defendants shall present the following motion to be heard before the Fayette Circuit Court on Friday, July 22, 2011, at 8:30 a.m. or as soon thereafter as counsel may be heard.

MOTION

Defendants Edward R. Bennett, Carl T. Fischer, Jr., Kris Knight, Tom Ferreebe, Simon Fredericks, M.D. and Lynn W. Via, move this Court to enter an Order (1) compelling ASHA to appear and show cause why it should not be held in contempt, (2) compelling ASHA to produce for inspection within three days, in their ordinary course of business at its headquarters located in the Kentucky Horse Park, all books and records requested by the Members and (3) sanctioning

ASHA and awarding costs to the Members. A memorandum in support of this motion is attached.

Respectfully submitted,



Lewis G. Paisley
Culver V. Halliday
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Counsel for Defendants

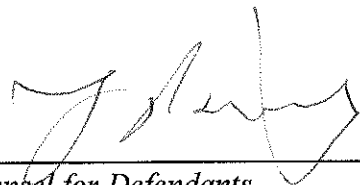
CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Motion For The Court to Order Plaintiff to Appear and Show Cause Why It Should Not Be Held In Contempt of Court was served via first class United States Mail, postage prepaid, to the following on the 14th day of July, 2011:

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and

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Counsel for Defendants

**COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
22ND JUDICIAL CIRCUIT
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**AMERICAN SADDLEBRED
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Plaintiff

v.

**EDWARD R. BENNETT,
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SIMON FREDRICKS, M.D.,
and LYNN W. VIA,**

Defendants

Case No. 09-CI-05292

**Memorandum In Support of Defendants'
Motion For The Court to Order Plaintiff to
Appear and Show Cause Why It Should Not
Be Held In Contempt of Court**

I. Introduction

In two orders dated December 2, 2010 and January 6, 2011, this Court directed the American Saddlebred Horse Association (“ASHA”) to comply with KRS § 273.233 and held that ASHA must produce “all books and records” of the corporation for inspection by the Defendant members of ASHA (“Members”). The December 2, 2010 Order is attached as Exhibit A. The January 6, 2011 Order is attached as Exhibit B. However, despite repeated requests by the Members, ASHA has failed to comply. Accordingly, the Members request that this Court enter an order (1) compelling ASHA to appear and show cause why it should not be held in contempt, (2) compelling ASHA to produce for inspection within three days, in their ordinary course of business at its headquarters located in the Kentucky Horse Park, all books and records requested by the Members and (3) sanctioning ASHA and awarding costs to the Members.

II. Procedural History

ASHA, a non-profit corporation, initiated the underlying litigation against the Members almost two years ago. ASHA sought an order allowing it to prevent its members from inspecting ASHA's corporate records. The Members' countered that KRS § 273.233 authorizes any member of ASHA to inspect all of its corporate records. The parties briefed their respective motions for summary judgment and presented oral arguments to the Court. On December 2, 2010, the Court issued its Opinion, Order and Judgment ("Order") confirming that the Members are entitled to inspect all books and records maintained by ASHA. As the Court explained,

the fact that the legislature . . . included the all-inclusive description of "**all books and records**" is a clear indication to this Court that it was the intent of the legislature to do exactly what the language of the statute, in its plain and ordinary every day meaning, expressly set forth, i.e. that "**All** books and records of a corporation may be inspected by any member, or his agent, for any proper purpose at any reasonable time."

Id. at 5-6 (emphasis in original).

On February 3, 2011, ASHA filed its Notice of Appeal. On February 7, 2011, ASHA moved this Court to stay enforcement of the Order pending appeal. The Court denied that motion on February 28, 2011. The Court of Appeals denied a similar motion by ASHA on May 18, 2011. The deadline for ASHA to seek relief from the Kentucky Supreme Court has expired. Accordingly, the Order requiring "all books and records" of ASHA be made available for inspection by the Members is valid and enforceable. Unfortunately, ASHA continues to withhold records from the Members in violation of the Order.

III. ASHA'S Failure To Comply With The Order

On June 2, 2011, Counsel for the Members wrote to counsel for ASHA to arrange a time to inspect "all of the books and records of the ASHA necessary to perform a complete review and audit of the ASHA's finances, assets and management." (June 2, 2011 Letter to Jefferson K.

Streepey, attached as Exhibit C.) ASHA responded by phone and indicated that it would not produce all of the records sought for inspection by the Members. The Members objected to ASHA's improper response and asked ASHA to reconsider its position. These conversations were memorialized in a letter dated June 3, 2011 from counsel for the Members to counsel for ASHA, which is attached as Exhibit D.

On June 9, 2011, ASHA sent a letter to counsel for the Members, attached as Exhibit E, stating that ASHA would make certain, but not all, books and records available for inspection and copying on June 15, 2011. Specifically, ASHA stated that it would only produce for inspection portions of records that it considered to be responsive to discovery requests served during the underlying litigation. In that letter, ASHA also stated that “[w]e advise you that documents produced for the inspection on June 15 will be redacted prior to your arrival. . . .” Counsel for the Members sent a response letter, attached as Exhibit F, that same day restating that the Members expected ASHA to comply with KRS § 273.233 and this Court's Order and to produce all books and records for inspection on June 15, 2011.

The Members' inspection team, including counsel and accountants, traveled to ASHA's headquarters on June 15, 2011 to inspect “all books and records.” However, ASHA failed to produce large categories of records for inspection by the Members. For example, ASHA failed to produce records relating to its most recent three accounting years. ASHA also failed to produce a copy of a settlement agreement between ASHA and its former Executive Secretary who resigned during the underlying litigation. Furthermore, many of the documents that were made available were redacted and produced in a disorganized manner, making review extremely difficult and time-consuming. That same day, the Members explained to ASHA, in detail, the deficiencies in ASHA's production and requested that ASHA produce all of the records for

inspection. In response, a member of ASHA's Board of Directors who was present for the production indicated that ASHA had the capability to produce all of the requested documents, including electronic documents in their native format, within 24 hours. The Members requested that ASHA produce its records accordingly, and ASHA said it would respond to that request in the next few days. Unfortunately, ASHA failed to do so.

The Members were forced to send a follow-up letter to ASHA on June 24, 2011 detailing the numerous deficiencies in ASHA's production and requesting that it complete the production of records for inspection. A copy of that letter is attached as Exhibit G. ASHA responded by letters dated June 25 and July 1, 2011, and, once again, argued that the Order does not require ASHA to produce large categories of records sought by the Members.¹ Despite the clear language of KRS § 273.233 and this Court's Order requiring ASHA to produce all books and records for inspection by the Members, ASHA continues to withhold records. The June 25 and July 1, 2011 letters from ASHA are attached, respectively, as Exhibits H and I.

ASHA's conduct constitutes willful disobedience of the express language and the spirit of this Court's Order as well as KRS § 273.233. ASHA has wasted its resources, the resources of the Members and this Court's resources by refusing to comply with the statute and the Order. The Members should not be forced to waste additional resources "negotiating" with ASHA regarding the records that it is required to produce. The Members request that this Court order ASHA to appear and show cause why it should not be held in contempt by this Court for its willful disobedience of this Court's orders.

¹ A video of a statement by ASHA's counsel posted on ASHA's website confirms that, from the beginning of the dispute between the parties, the Members sought to enforce their rights to inspect "all documents in the possession of the Association." <http://www.asha.net/stophervid>. In response, ASHA filed this lawsuit and asked the Court to limit the Members' right to inspect ASHA's records. However, this Court confirmed that the law requires ASHA to produce all of its books and records for inspection by its membership. It is disingenuous for ASHA to argue now that this Court's Order does not apply to all documents in the possession of ASHA.

IV. The Court Has The Authority To Hold ASHA In Contempt

“[C]ourts have inherent power to impose a sanction for a civil contempt to enforce compliance with their lawful orders.” *Crowder v. Rearden*, 296 S.W.3d 445, 450 (Ky. App. 2009) (affirming the circuit court’s order of contempt) (citing *Blakeman v. Schneider*, 864 S.W.2d 903, 906 (Ky. 1993)). ASHA’s conduct is analogous to the conduct of the defendants in *Crook v. Schumann*, 167 S.W.2d 836 (Ky. 1943). In *Crook*, the plaintiffs were stock holders in a corporation that the defendants purported to control. The plaintiffs served the defendants with a *subpoena duces tecum* to produce all stock and minute books of the corporation. The defendants objected to producing the documents, but the court denied such objections and ordered the defendants to produce the documents at their depositions. Despite repeated requests for the documents by the plaintiffs, the defendants refused to produce all of the documents. In reviewing the trial court’s order holding the defendants and their attorney in contempt of court, Kentucky’s highest court commented, “We know of scarcely more flagrant contempts of court than this record displays.” *Id.* at 839. The same is true here. KRS § 273.233 and this Court’s Order are crystal clear. ASHA must produce for inspection by its members any and all of its books and records. ASHA’s willful refusal to produce certain records, and its redaction of others, are flagrant violations of this Court’s Order. ASHA’s conduct is a continued waste of its own resources, the time and resources of the Members and the time and resources of this Court.

V. The Members Are Entitled to Damages Due to ASHA’s Violation Of The Order

Where a party refuses to comply with a court’s order, the court may award compensatory damages or a fine, plus costs and attorney fees, to the injured party. *Louisville Metro Dept. of Corrections v. King*, 258 S.W.3d 419, 422 (Ky. App. 2007) (awarding compensatory damages to the defendant for the plaintiff’s failure to comply with the Court’s orders) (citing *White v. Sullivan*, 667 S.W.2d 385, 387 (Ky. App. 1983)). Indeed, “[a] trial court has inherent power to

punish individuals for contempt and nearly unfettered discretion in issuing contempt citations.” *Crowder*, 296 S.W.3d at 450 (citation omitted).

Here, the Members have incurred substantial expenses as a result of ASHA’s unfounded and deliberate refusal to abide by this Court’s Order requiring production of “any and all books and records.” Recent Kentucky cases make clear that such costs are recoverable from an opposing party under a contempt order. For example, in *Kentucky Retirement Systems v. Foster*, No. 2009-CA-001369-MR, 2010 WL 2867920 (Ky. App. July 23, 2010),² the Kentucky Employees Retirement Systems (“KERS”) failed to comply with a court order requiring it to permit Barbara Foster to “buy time” toward her retirement. The Court of Appeals affirmed the circuit court’s order finding KERS in contempt of court. Moreover, the Court of Appeals affirmed the circuit court’s award of attorneys’ fees incurred not only in bringing the contempt motion, but also in obtaining the underlying order. The Court of Appeals held that “[i]n the context of contempt proceedings the circuit court had both the discretion and the inherent legal authority to impose attorney’s fees against KERS.” *Id.* at *12. Such fees were designed “to compel KERS to comply with [the court’s] September 19, 2006 order and to compensate Foster for litigating this matter.” *Id.* at *10.

Here, the relief requested is well within the confines of this Court’s “nearly unfettered discretion in issuing contempt citations.” *Crowder*, 296 S.W.3d at 450 (citation omitted). ASHA has delayed complying with the law for over two years, and is now avoiding complying with this Court’s Order. As a non-profit organization, ASHA should not be permitted to continue to avoid oversight by its membership. This is especially true considering what has transpired since the Members first requested to inspect ASHA’s financial and management

² The Kentucky Supreme Court denied discretionary review on June 8, 2011, and the case was made final and slated for publication on June 15, 2011.

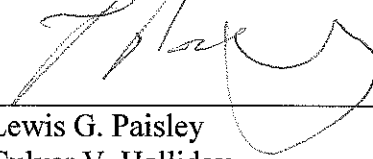
records. First, ASHA refused to produce its records for inspection, and it opted to initiate costly litigation against its own members. Then, ASHA's Executive Secretary resigned, moved to California, failed to appear for his scheduled deposition and ultimately entered into a settlement agreement with ASHA.³ The Members efforts to provide oversight may have led to important revelations by ASHA, and hopefully improvements, and ASHA's membership is entitled to know what happened. ASHA's conduct can be seen as nothing less than an effort to increase the costs and burden on the Members in the hope that they will eventually forego their right to provide oversight of this non-profit organization. The relief requested is squarely designed to compel ASHA finally to comply with the law and this Court's Order or face additional sanctions. The Members request an opportunity to submit an affidavit regarding their expenses incurred in enforcing KRS § 273.233 and this Court's Order.

CONCLUSION

For the reasons set forth above, the Members respectfully request an order (1) compelling ASHA to appear and show cause why it should not be held in contempt, (2) compelling ASHA to produce for inspection within three days, in their ordinary course of business at its headquarters located in the Kentucky Horse Park, all books and records requested by the Members and (3) sanctioning ASHA and awarding costs to the Members.

³ The Members have asked for a copy of the settlement agreement, but ASHA has failed to produce it for inspection.

Respectfully submitted,



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Counsel for Defendants

July 14, 2011

737687.2

EXHIBIT A

FAYETTE CIRCUIT COURT
CIVIL BRANCH
THIRD DIVISION
CIVIL ACTION NO. 09-CI-5292

FILED AND ENTERED
ATTEST, WILMA F. LYNCH, CLERK
DEC - 2 2010
FAYETTE CIRCUIT CLERK
BY *WFL* DEPUTY

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

PLAINTIFF

V

OPINION, ORDER AND JUDGMENT

EDWARD R. BENNETT, ET AL

DEFENDANTS

This matter is before the Court on Joint Motions for Summary Judgment by the Plaintiff, American Saddlebred Horse Association, Inc. (hereinafter "ASHA"), and the Defendants, Edward R. Bennet, Carl T. Fischer, Jr., Kris Knight, Tom Ferree, Simon Fredricks, MD and Lynn W. Via (hereinafter "Defendants" or the "Members") on ASHA's Complaint and the Members' Counter-Claim. Both parties are seeking Declaratory Relief by way of an adjudication as to the interpretation of KRS 273.233. The Court has had the benefit of excellent Memoranda of Law from both parties and has considered equally excellent Oral Arguments on the pending Motions. The Court has taken the matter under advisement and now renders its Opinion, Order and Judgment.

FACTUAL BACKGROUND AND CHRONOLOGY OF EVENTS

The ASHA is a non-profit corporation established to promote the American Saddlebred breed of horse and to promote the American Saddlebred industry. The Defendants are Members of the ASHA. By letter dated February 10, 2009, a CPA firm identified "significant deficiencies" in the accounting policies of the ASHA. By letter dated April 20, 2009, the Defendants-Members requested books and records containing certain information indicating reasons for

concern and articulated reasons supporting their request for information, documents, books and requests from the ASHA. There followed an exchange of correspondence between the parties and Counsel relative to that request of the Members to ASHA. On June 15, 2009, the ASHA allowed representatives of the Members to inspect portions of the books and records of the corporation but refused to permit inspection of other books, records and documents. The ASHA also refused to allow the representatives of the Members to copy any of the materials produced. This was followed by another exchange of correspondence between the Members and the ASHA.

On or about July 7, 2009 the ASHA amended its bylaws to identify, with specificity, the limited categories of documents that it deemed appropriate for inspection by its members. The Amended Bylaw, effective July 7, 2009, provided in part as follows:

“...[A] member of the Association in good standing may be permitted to inspect the articles of incorporation, bylaws, financial statements, minutes, the record of executive compensation, as disclosed on IRS Form 990, and list of the names and addresses of members of the Association during regular business hours, upon at least five (5) business days prior written notice of his or her request stating the purpose of the inspection.”

A limited production of documents transpired on July 29, 2009 which the Members felt were not responsive to their request. Copying of the documents produced were limited by the ASHA. Thereafter, there followed continued correspondence and communications between the ASHA and the Members and their respective representatives and Counsel. Following any agreement between the parties as to resolution of the dispute, the ASHA filed this Declaratory Judgment which drew the Counter-Claim of the Members also seeking Declaratory relief from the Court.

OPINION AND ANALYSIS OF ISSUE PRESENTED

Both Motions for Summary Judgment and Declaratory Relief center around the statutory interpretation of KRS 273.233 which is found in the chapter applicable to "Nonstock, Nonprofit Corporations and provides:

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principle 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 of attorney, for any proper purpose at any reasonable time.¹

That amendment to KRS 273.233 was effective July 15, 2010.

The ASHA argues that the first and second sentences of the 2009 language of KRS 273.233 be read together. Reading them together, argues the ASHA, the reference to "books and records" in the second sentence refers back to the classes of documents enumerated in the first sentence. Thus, argues the ASHA, "books and records" actually means "books and records of account" (i.e., accounting and financial records, minutes, and the membership list) but does not include every document or piece of paper in ASHA's possession.

On the other hand, the Members argue that the first sentence of the statute identifies records that non-profit corporations are required to maintain whereas the second sentence of the statute provides to the members of a non-profit corporation a right to inspect "all books and

¹This was the language of the statute in 2009 when this dispute arose. The statute has been amended by the 2010 General Assembly to explicitly provide that the books and records inspected by a member may be copied by said member. The amendment in 2010 also expressly provided that the member's right of inspection shall not be abolished or limited by the corporation's articles of incorporation or bylaws.

records.” These are separate and distinct duties, responsibilities and rights mandated by the legislature as to both the non-profit corporation and its Members say the Members.

It is axiomatic and well-settled law that in the interpretation of a statute, the Court must give effect to its plain and ordinary meaning as derived from the language chosen by the General Assembly. The ASHA argues that general terms in a statute associated with specific terms should be construed as being limited to the specific terms and meaning. *Steinfeld v Jefferson County Fiscal Court*, 229 S.W.2d 319 (Ky. 1950). Also, argues the ASHA, a general rule of statutory construction is that enumeration of particular items excludes other items which are not specifically mentioned. *Board of Education of Rockcastle County v Kirby*, 926 S.W.2d 455 (Ky. 1996). On the other hand, the Members argue that statutes granting the right of inspection must be construed liberally. 88 ALR 3d 663 ¶ 2[a] and cases cited at footnote 28 of the Members’ Memorandum. Further, argues the Members, “books and records” should be given a broad construction so as to extend to all records, contracts, paper and correspondence to which the common law right of inspection of a stock holder might properly apply. 18 A. Am.Jur. 2d *Corporations* § 330 and cases cited at footnotes 29 and 30 of the Members’ Memorandum.

Taking all of these statutory construction principles to heart and looking at the “four corners” of the statutory language applicable in 2009 as set out above, this Court is of the Opinion and Judgment that the General Assembly “said what it meant and meant what it said.” Looking at the plain and ordinary everyday language of the referenced statute, it appears to this Court that there are separate and distinct rights, responsibilities and duties of first, the non-profit corporation, and secondly, its members.

If, the General Assembly meant that only the “books and records” set out in the first

sentence of the statute could be inspected by any member, the legislative branch could have certainly worded the second sentence of the statute accordingly. It would not take a Constitutional lawyer to draft language to that effect had the legislature intended to limit the inspection rights of the members of a non-profit corporation to just the enumerated items found in the first sentence of the statute. By way of example only and not meant as an intrusion into the legislative purgative or discretion, if the legislature had intended for the members of a non-profit corporation to only be able to inspect the enumerated items in the first sentence of the statute, it could have spelled out in the second sentence something like:

All such books and records of a corporation specifically set out and enumerated in the first sentence of this statute may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

This is but one example imagined by this Court that would have expressly limited the right of inspection of a member of a non-profit corporation as is argued by the ASHA. Clearly, the legislature did not include any such language or any other language to that affect in the statute effective in 2009. Rather, and significantly to this Court, the legislative language set out that:

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. (emphasis added)

In the Court's mind, had the legislature intended to limit the rights of inspection of a member of a non-profit corporation to only the enumerated items set out in the first sentence of the statute as argued by the ASHA, it could have certainly done so as suggested by the Court in the language above or similar language. On the other hand, the fact that the legislature did not include that language and rather included the all-inclusive description of "all books and

records” is a clear indication to this Court that it was the intent of the legislature to do exactly what the language of the statute, in its plain and ordinary every day meaning, expressly set forth, i.e., that “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.” (emphasis added)

While there is no Kentucky case interpreting this statute, sister states support this Court’s interpretation of a similar statute interpreting the scope of the inspection rights granted to members of a non-profit corporation. South Dakota law is identical to the language of this Kentucky statute. In 2004, the Supreme Court of South Dakota held that “as a long as a member has stated a proper purpose, which is presumed, the member may inspect all books and records necessary to make an intelligent and searching investigation” *Lang v W.Providers Physician Org.*, 688 N.W. 2d 403, 407 - 08 (S.D. 2004) (citing *Patel v Illinois State Medical Society*, 698 N.E. 2d 588 (Ill. App. Ct. 1998).

The Illinois statute on the right of inspection differs only in that the right to inspection is afforded to only those members entitled to vote. The Appellate Court of Illinois held in *Patel v Illinois State Medical Society*, *supra* as follows:

The right to examine records may even extend to records for which a proper purpose has not been directly shown, so long as one has been shown for some records: “the shareholder is not required to establish a proper purpose for each record he requests. Once that purpose has been established, the shareholder’s right to inspect extends to all books and records necessary to make an intelligent and searching investigation and from which he can derive any information that will enable him to better protect his interest.”

Further, this Court does adopt the argument that inspection statutes are to be construed liberally. While this is not an “Open Records” case, the same general principle is applicable that

the right of a member of the general public or, in the case at bar, the right of a member of a non-profit corporation, should be inclusive as to the material sought and should be construed liberally in favor of inspection. See also *Bill Reno, Inc. v Rocky Mountain Ford Dealer's Advertising Association*, 378 P2d 206 (Colo. 1963); *Saio v McKesson HBOC, Inc.*, 806 A.2d 113 (Del. 2002). Simply put, members of either a for-profit corporation or a non-profit corporation are entitled to information relative to the business activities conducted by the corporation. This Court feels that the requested items enumerated by the Members in the case at bar fit squarely within that principle and parameters.


The 2010 Amendment to KRS 273.233 affects two issues in this case. There was some dispute about whether or not the "right to inspect" included only the opportunity to review certain documents or whether the "right to inspect" also included the right to copy the documents. The legislature has now set forth explicitly in the 2010 Amendment that not only may all books and records of a non-profit corporation be inspected by any member but that the said documents may also be copied by the member. Further, the July 2009 Amendment to the Bylaws attempting to limit the right of inspection to only certain documents or items has been negated by the last sentence of the 2010 Amendment to the statute. This Court holds and determines that the Bylaw Amendment of the ASHA is invalid and carries no force or affect as it is in direct violation of the statute, as amended.

ACCORDINGLY, it is the Opinion, Order and Judgment of this Court that the Defendants' Members set out above are entitled to inspect and copy any and all books and records of the ASHA and make copies thereof at a reasonable expense pursuant to their enumerated written request previously submitted. This right of inspection and copying is not

limited to the enumerated items set out in the first sentence of KRS 273.233 but shall include each and every item, document or record of any description responsive to the written requests of the Members. The purported 2009 Bylaw Amendment of the ASHA is ruled to be invalid and unenforceable in this regard.

IT IS THEREFORE ORDERED AND ADJUDGED that the Plaintiff's Motion for Summary Judgment is OVERRULED and the Defendants-Members' Motion for Summary Judgment is GRANTED pursuant to this Opinion, Order and Judgment.

Dated this 30 day of November, 2010.


HON. JAMES D. ISHMAEL, JR.

This is to certify that a true and correct copy of the foregoing Opinion, Order and Judgment was served upon the following parties, via First Class Mail, this 2nd day of November, 2010:

December

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COUNSEL FOR PLAINTIFF

COUNSEL FOR DEFENDANTS

WILMA F. LYNCH, C.F.C.C.
BY: W. F. Lynch d.c.

EXHIBIT B

JAN 03 2011

FAYETTE CIRCUIT COURT
CIVIL BRANCH
THIRD DIVISION
CIVIL ACTION NO. 09-CI-5292

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

PLAINTIFF

VS.

FINAL JUDGMENT AND ORDER

EDWARD R. BENNETT, ET AL

DEFENDANTS

This matter came before the Court on Joint Motions for Summary Judgment by the Plaintiff, American Saddlebred Horse Association, Inc. (hereinafter "ASHA") and the Defendants, Edward R. Bennett, Carl T. Fischer, Jr., Kris Knight, Tom Ferrebee, Simon Fredricks, MD and Lynn W. Via (hereinafter "Defendants" or the "Members") on the ASHA's Complaint and the Members' Counter-Claim. On December 2, 2010, the Court entered an Opinion, Order and Judgment denying the ASHA's Motion and granting the Members' Motion. On December 10, 2010, the ASHA moved this Court for entry of a final judgment and appealable order. On December 15, 2010, the Members' filed a Response to ASHA's Motion.

ACCORDINGLY, IT IS HEREBY ORDERED AND ADJUDGED that:

- (1) The Opinion, Order and Judgment of December 2, 2010 is incorporated by reference as if set out at length herein;
- (2) Counts II (Breach of Contract) and III (Promissory Estoppel) of the Members' Counter-Claims are dismissed without prejudice; and

(3) This Court retains jurisdiction to enforce this Final Judgment and Order.

This Order is FINAL AND APPEALABLE, there being no just cause for delay.

Entered this 6th day of January, 2011



JUDGE, FAYETTE CIRCUIT COURT

This is to certify that a true and correct copy of the foregoing Final Judgment and Order was served upon the following parties, via First Class Mail, this 6th day of January, 2011:

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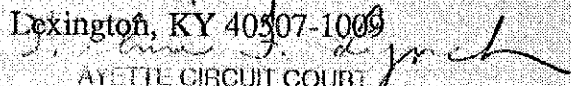
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FAYETTE CIRCUIT COURT
WILMA F. LYNCH, C.F.C.C.
BY: W. Lynch D.C.

EXHIBIT C



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stephen.houston@skofirm.com

June 2, 2011

BY ELECTRONIC MAIL

jstreepey@bsg-law.com

Jefferson K. Streepey
Boehl, Stopher & Graves LLP
400 West Market Street, Suite 2300
Louisville, Kentucky 40202-3354

American Saddlebred Horse Association, Inc.

Dear Jeff:

I am writing to you on behalf of the following members of The American Saddlebred Horse Association, Inc. ("ASHA"): Edward R. Bennett, Simon Fredricks, MD, Lynn Via, Tom Ferrebee, Kris Knight and Carl T. Fischer ("Members"). The Members are concerned about the declining 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 in the industry with respect to the breeding and exhibiting of the American Saddlebred. The ASHA has an annual budget of approximately \$2 million to further its mission. However, by letter dated February 10, 2009, an accounting firm identified "significant deficiencies" in the accounting policies of the ASHA. The Members are concerned about the management of the ASHA, including the oversight of its finances and other assets. To protect their interests in the ASHA, and the Saddlebred industry, the Members, pursuant to KRS § 273.233, request to inspect all of the books and records of the ASHA necessary to perform a complete review and audit of the ASHA's finances, assets and management. As you are aware, the Fayette Circuit Court issued an order stating that the Members "are entitled to inspect and copy any and all books and records of the ASHA and make copies thereof at a reasonable expense"

We propose to begin our inspection and copying of ASHA's records on Tuesday, June 14, 2011 beginning at 9:00 a.m. in ASHA's offices located at 4093 Iron Works Parkway,

Jefferson K. Streepey
June 2, 2011
Page 2

Lexington, KY 40511. If that date and time is not convenient for the ASHA, please provide an alternate day and time that we may begin our inspection that same week. Please contact me at your earliest convenience to discuss the logistics of our inspection so that we may proceed in an efficient and effective manner and minimize any inconvenience to the ASHA.

Sincerely,

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

Stephen A. Houston

730985.1

EXHIBIT D



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June 3, 2011

BY ELECTRONIC MAIL

jadamson@bsg-law.com

Jeff W. Adamson, Esq.
Boehl, Stopher & Graves LLP
400 West Market Street, Suite 2300
Louisville, Kentucky 40202-3354

American Saddlebred Horse Association, Inc.

Dear Jeff:

By Orders dated December 2, 2010 and January 6, 2011, the Fayette Circuit Court ruled that, because ASHA is a non-profit corporation, its members are entitled to inspect "any and all books and records of the ASHA . . ." (hereinafter the "Judgment"). ASHA appealed the Judgment to the Court of Appeals. ASHA also moved the Fayette Circuit Court to enter a stay preventing the Members from inspecting ASHA's records pending the completion of the appeal. The Court denied ASHA's request. ASHA then moved the Court of Appeals to prevent the Members from inspecting ASHA's records pending the completion of the appeal. On May 18, 2011, a panel of three appellate judges denied ASHA's request. The deadline for ASHA to seek extraordinary relief in the Kentucky Supreme Court has now expired. Accordingly, the Members are entitled to inspect any and all of ASHA's books and records including, without limitation, all financial records.

By letter dated June 2, 2011, the Members requested to begin their inspection of ASHA's records on June 14, 2011 at ASHA's headquarters in Lexington. That same day, you telephoned me about this issue. You stated that ASHA's board of directors ("Board") instructed you to inform me that ASHA is in the process of copying a large number of boxes of records that it believes the Members have asked to inspect. You informed me that ASHA would send those boxes to me along with a list of the records that ASHA plans to continue to withhold. You stated that ASHA would expect the Members to pay for all of the copies. In response, I explained to you that the Members are entitled to inspect all of ASHA's records and select the records they wish to copy. I also told you that the proposal you relayed to me does not satisfy ASHA's obligations under the law and the Judgment. At that time, you said that the Members would not be allowed to inspect the records at the headquarters of ASHA because it would be too burdensome and disruptive to ASHA's

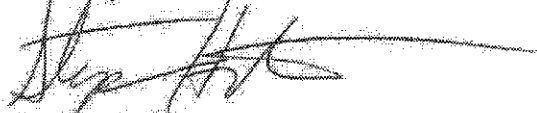
Jeff W. Adamson, Esq.
June 3, 2011
Page 2

operation. You concluded by stating that you would confer with your client and call me back later that same day.

When you called me later that afternoon, Jeff Streepey joined in the conversation on your end. You said that you had spoken with "Paula," and that she had authorized you to make a new offer to the Members. Specifically, you informed me that a portion of ASHA's records would be shipped to Louisville for inspection by the Members. You said that the Members could inspect those records, as compiled by ASHA, and identify which, if any, the Members wished to copy. Further, you dictated that the Members would not be allowed to make follow up requests for records that were not produced for inspection by ASHA. As I told you that day, neither the law nor the Judgment limits the inspection rights of the Members in that fashion. At that point, the discussion ended because you had another meeting to attend. You proposed meeting in person on Monday, June 6, 2011, at 2:30 to discuss this dispute.

Upon further reflection, there is no need for a meeting. A meeting will only waste time and money. As stated in my letter to Mr. Streepey dated June 2, 2011, the Members are prepared to begin their inspection of ASHA's records on June 14, 2011 at ASHA's headquarters in Lexington. Please confirm, in writing, that ASHA will comply with the law and the Judgment and allow the inspection to move forward on that date and at ASHA's headquarters. If the date we propose is not convenient, please propose other dates that same week.

Sincerely,



Stephen A. Houston

EXHIBIT E



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JEFFERSON K. STREEPEY
PARTNER
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June 9, 2011

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

Re: American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.

Dear Stephen:

We are in receipt of your letters dated June 2, 2011 and June 3, 2011. Pursuant to the Fayette Circuit Court Opinion, Order and Judgment of December 2, 2010, and the Final Judgment entered on January 6, 2011, we invite your clients to inspect the books and records that are responsive to the enumerated written discovery requests you previously submitted in this litigation and make copies thereof at the offices of the American Saddlebred Horse Association, 4083 Iron Works Parkway, Lexington, KY 40511, on June 15, 2011, commencing at 10:00 a.m. If this date is not convenient, please advise as soon as possible. Also, please advise who will be accompanying you to the document inspection no later than June 13, 2011, so that we may make appropriate arrangements.

We advise you that documents produced for the inspection on June 15 will be redacted prior to your arrival to prevent disclosure of attorney-client and work-product privileged information, personal identifying information, and bank account information protected under the rules of civil procedure and other applicable law.

We further advise you that any copies made of ASHA's documents and taken from ASHA's corporate offices on June 15 must be held with strict confidence and shall not be disclosed to any person not a party to this litigation on the grounds that these documents remain subject to an ongoing appeal. ASHA reserves its right to seek any and all relief available to the association and its membership if ASHA is harmed by any unauthorized disclosures and the trial court's judgment is ultimately reversed on appeal.

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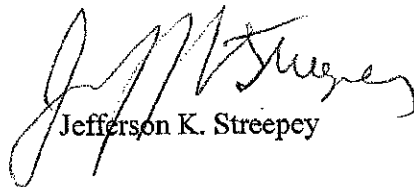
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Mr. Stephen A. Houston
June 9, 2011
Page 2

BOEHL STOPHER & GRAVES LLP

Sincerely,



Jefferson K. Streepy

JKS:mfk

EXHIBIT F



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June 9, 2011

BY ELECTRONIC MAIL

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Jefferson K. Streepey
Boehl, Stopher & Graves LLP
400 West Market Street, Suite 2300
Louisville, Kentucky 40202-3354

American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.

Dear Jeff:

We agree to begin our inspection of American Saddlebred Horse Association, Inc.'s ("ASHA") books and records on June 15, 2011. We anticipate that our inspection team will include five or fewer persons, and we will provide a more precise number on or before the close of business June 13, 2011.

Your letter to me dated June 9, 2011 purports to place improper restrictions on our inspection of ASHA's books and records. The law and the Fayette Circuit Court's judgment make it clear that all members of ASHA may inspect and copy any and all books and records of the non-profit corporation. Accordingly, our inspection will not be limited to the records responsive to our written requests submitted to the ASHA nearly two years ago. For example, in addition to other records, we expect to be permitted to inspect and copy all financial records, reports, contracts and other agreements created since this dispute began. Further, the Fayette Circuit Court rejected ASHA's argument that it should be allowed to withhold or redact records.

We hope that ASHA will comply with the law and not attempt to impose restrictions that violate the express language and the spirit of the judgment entered by the Fayette Circuit Court.

Sincerely,

Stephen A. Houston

EXHIBIT G



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June 24, 2011

BY ELECTRONIC MAIL

jadamson@bsg-law.com

Jeff W. Adamson, Esq.
Boehl, Stopher & Graves LLP
400 West Market Street, Suite 2300
Louisville, Kentucky 40202-3354

American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.

Dear Jeff:

The Fayette Circuit Court issued an order stating that American Saddlebred Horse Association, Inc. ("ASHA") members "are entitled to inspect any and all books and records of the ASHA and make copies thereof at a reasonable expense. . . ." By letter dated June 2, 2011, we wrote to you on behalf of ASHA members Edward R. Bennett, Simon Fredricks, MD, Lynn Via, Tom Ferrebee, Kris Knight and Carl T. Fischer ("Members"). We requested an opportunity to inspect all of the books and records of the ASHA necessary to perform a complete review and audit of the ASHA's finances, assets and management. ASHA agreed to allow the Members' inspection of ASHA's records to begin on June 15, 2011.

We appeared at ASHA's offices in Lexington, as agreed, on June 15, 2011, for the inspection of records. You advised us that ASHA had decided, unilaterally, to withhold large categories of records, and that ASHA would not be producing records in their native format. For example, ASHA withheld all records relating to ASHA's two most recent accounting years. The Fayette Circuit Court's judgment does not authorize ASHA to withhold those records from inspection by its members. ASHA also failed to produce all of the records relating to the accounting years that ASHA purported to produce. By way of example only, below is a list of specific deficiencies in ASHA's production based upon the limited access to records that ASHA provided to us on June 15.

1. Portions of the records were redacted to hide salary and other payment information.
2. The financial records failed to include all payroll reports.

3. ASHA failed to produce reports or "packets" provided to board members on a routine basis.
4. The journal entries were disorganized and failed to include supporting documentation in many instances. If there is no supporting documentation, please let us know.
5. ASHA failed to produce all correspondence, reports, board communications and records reflecting agreements or payments relating to the termination of Alan Balch's employment with the ASHA. You stated that ASHA may take the position that those records reflect a confidential agreement between the ASHA and Mr. Balch. You also said ASHA may decide that it will not produce those records for inspection. That position would not be consistent with the law. Please advise us immediately of ASHA's position.
6. ASHA failed to produce all of its electronic mail sought for inspection.
7. ASHA failed to produce attachments to electronic mail.
8. ASHA failed to produce the terms of Paula Johnson's employment and any communications or other agreements relating to Ms. Johnson's hiring and employment with the ASHA.
9. ASHA failed to produce a copy of any report or communication from any consulting agency regarding potential candidates, including Paula Johnson, for employment at ASHA as Executive Director or Executive Secretary.
10. ASHA failed to produce reports and communications regarding potential violations of ASHA and USEF rules by ASHA board members and employees.
11. ASHA failed to produce records indicating any financial or business relationship between ASHA employees and ASHA board members, executive committee members, officers or their families.
12. ASHA failed to produce the audit report for ASHA for its 2010 accounting year.
13. ASHA failed to produce the audit report for the American Saddlebred Registry for its 2010 accounting year.
14. ASHA failed to produce the general ledgers, journal entries and supporting documentation for its two most recent accounting years.
15. ASHA failed to produce communications of board members, officers and employees during ASHA's two most recent accounting years.

16. ASHA failed to produce records indicating the amount spent by ASHA relating to the litigation ASHA initiated in Fayette Circuit Court styled *American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.*, case number 09-CI-05292 and ASHA's appeal of the decision rendered by the Fayette Circuit Court.

When we discussed with you ASHA's failure to produce all of the records for inspection on June 15, it became apparent that ASHA had the ability to produce a complete set of most of the records in their native electronic format. Specifically, ASHA has the ability to produce its accounting information and electronic mail in their native formats. Producing those records in native format would result in substantial savings of time and money for ASHA and the Members. Mr. Carl Holden, the representative of ASHA's board of directors who attended the document production on June 15, confirmed that ASHA could produce those categories of records in their native format on compact disks as soon as the next morning. However, you stated that you would need to obtain authorization from others before ASHA would agree to produce its records in native format. We have not heard from you since that time. Please let us know if ASHA will produce those records in their native format.

Mr. Holden also confirmed with ASHA employees on June 15, 2011 that ASHA could provide all of the records sought by the Members in twenty-four hours or less. If ASHA produces all of the records described above, and in their native format as outlined by Mr. Holden, the Members' may have few, if any, follow up requests of ASHA. Please let us know immediately if ASHA will comply with the law, and the Fayette Circuit Court's judgment, and produce all of the records sought for inspection by the Members.

Sincerely,



Stephen A. Houston

cc: Jefferson K. Streepey, Esq.

EXHIBIT H



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JEFF W. ADAMSON
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June 25, 2011

VIA ELECTRONIC MAIL AND U.S. MAIL

Mr. Stephen A. Houston, Esq.
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202
Stephen.Houston@skofirm.com

Re: American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.

Dear Stephen:

We appreciate the opportunity to meet with you and party representative of the Appellee Members, Edward R. Bennett, during the document inspection on June 15, 2011. As a follow up to our late afternoon meeting on June 15, you made several supplemental and additional document requests for "financial records." We **mutually agreed** that ASHA would outline these requests as we understand them and to advise of ASHA's position on responding to each and every one in a subsequent letter. ASHA representatives and counsel have worked diligently over the last week to honor this agreement as is clearly evident from the enumerated response to each of your requests below.

We further understood you and your representatives were not able to review all of the ASHA documents provided for inspection and copied for your convenience on June 15. We agreed to make the documents previously produced available for a continued inspection at ASHA's corporate offices upon a mutually agreeable date and time.

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BOEHL STOPHER & GRAVES, LLP

Stephen A. Houston, Esq.
June 25, 2011
Page 2

We are now in receipt of your correspondence received yesterday, June 24, 2011, which frankly is unexpected and grossly misrepresents the discussion we had at the June 15 meeting. This letter under your signature contains numerous misstatements and errors of fact and purposely omits any reference to the mutual understanding we reached at the end of the day on June 15. Your letter is written to inflame the matter rather than to further the Appellee Members' stated purpose for their inspection of ASHA's books and records. ASHA will address and correct each of these errors and omissions directly in a subsequent letter to you early next week.

With regard to the response below, we have categorized your requests made in the late afternoon of the June 15 document inspection as either a "supplemental" or an "additional" request. A "supplemental request" is one which derives from the previously enumerated requests served upon ASHA in the pending litigation and ordered produced under the Opinion, Order and Judgment of the Fayette Circuit Court entered on December 2, 2010 or the Court's Final Judgment and Order of January 6, 2011 ("Fayette Circuit Court orders"). An "additional request" is a request that was never made in the pending litigation and is therefore outside the scope and relevant time period of the Fayette Circuit Court orders. ASHA will consider additional requests for books and records only upon a written demand which states with particularity the documents sought to be examined and a proper purpose for each request pursuant to KRS §273.233.

1. A copy of the most current independent audit of ASHA.

ASHA has in the past made available to its members the most current audited financials either by publication in its magazine or by placing the information on its website. Consistent with its past practice, ASHA will again publish its financials audited by Dean, Dorton, Allen, Ford, PLLC.

In response to the request herein, we are enclosing the Audit Report and related Financial Statements of ASHA for the years ended Dec. 31, 2010 and 2009 as Exhibit ("Ex.") A, bates-labeled ASHA 024049-024065, to this correspondence. Please note with particular attention the "Independent Auditors Report" as prepared by Dean, Dorton, Allen, Ford, PLLC. Dean, Dorton, Allen, Ford, PLLC began auditing the financial results of ASHA in 2010. ASHA changed audit firms last year in conformity with the generally accepted practice of rotating auditors on a periodic basis. Dean, Dorton, Allen, Ford, PLLC is a significantly larger audit firm than previously used by ASHA, with offices in Lexington and Louisville, and has several horse-related and nonprofit organizations as audit clients.

We also call your attention to the specific language in the "Independent Auditor's Report" section of the audit. The report states that "[o]ur responsibility is to express an opinion on these financial statements based on our audit." The report further states:

BOEHL STOPHER & GRAVES, LLP

Stephen A. Houston, Esq.

June 25, 2011

Page 3

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement... We believe that our audit provides a reasonable basis for our opinion.

The report concludes with “[i]n our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of American Saddlebred Horse Association, Inc. as of December 31, 2010 and the results of its operation and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.”

We believe the Audit Report and related “unqualified opinion” by the independent auditors helps confirm for the entire membership of ASHA that the association is managed properly and addresses the “oversight questions” put forth by the Appellee Members as the stated purpose for their document inspection.

2. **A copy of minutes from the ASHA Board of Directors meetings from January 1, 2006 to the present.**

Copies of minutes from the ASHA Board of Directors meetings are available to all ASHA members in downloadable and printable format from ASHA’s website, www.asha.net, and are equally available to the Appellee Members. ASHA stands ready to assist the Appellee Members if they encounter any problems obtaining these records on their own.

3. **E-mail correspondence between the former ASHA Executive Director, Alan Balch, and members of the ASHA Executive Committee.**

ASHA produced these records at the June 15 inspection. ASHA will conduct a second search of Mr. Balch’s e-mails to the best of its ability in order to confirm all such documents have been produced. If any additional e-mail correspondence is discovered, ASHA will make copies available at the continued inspection.

4. **Any employment contracts with the current ASHA employees and staff.**

ASHA will provide copies of such employment contracts, if any, for the relevant time period at the agreed upon date and time for the continued inspection.

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Stephen A. Houston, Esq.
June 25, 2011
Page 4

5. Attachments to the e-mails reflecting, regarding and relating to correspondence among members of the ASHA executive committee between January 1, 2006 and today.

ASHA will conduct a search for the attachments to e-mails previously produced at the June 15 document inspection and will make them available for the continued inspection at ASHA's corporate offices upon a date and time mutually agreed upon by the parties.

6. An electronic download of the ASHA "financial records" from January 1, 2006 to present.

Members of ASHA's financial management and technology staff spent two full business days attempting to comply with this request. Upon review of the downloaded files, however, ASHA must object to the production of all financial records in this "native" format for numerous reasons. First, it is ultimately more costly and cumbersome to redact personal identifying data, such as social security numbers, and bank account numbers during the process of generating the data in this format than it is to print the documents from the system and perform the redactions manually.

Second, the downloaded file or files will not contain many of the supporting documentation, e.g., invoices, cancelled checks, and the like, that the Appellee Members have been requesting. Thus, the statement in your June 24, 2011, letter that "[i]f ASHA produces all of the records in their native format...the Members' may have few, if any, follow up requests of ASHA" cannot be relied upon. ASHA will ultimately be faced with yet more demands from you and your clients for additional records to support the data provided in the "native" format.

Third, ASHA is obligated to produce books and records that are true and accurate copies of the original documents. ASHA cannot ensure the ongoing integrity of the data after it is produced in this format. ASHA will produce financial records in hard copy format in compliance with the Fayette Circuit Court orders and pursuant to a member's written request supported by a proper purpose, but ASHA simply cannot produce books and records in a format that is not secure.

Lastly, with respect to producing downloaded financial data from January 1, 2008 to present, this request constitutes an "additional request" not contemplated under the Fayette Circuit Court orders. The Fayette Circuit Court order of December 2, 2010, provides that the Appellee Members "are entitled to inspect and copy any and all books and records of the ASHA and make copies thereof at a reasonable expense pursuant to their enumerated written request (sic) previously submitted." See Opinion, Order and Judgment, entered December 2, 2010, at page 7. Your clients' request for financial data from January 1, 2008 to present in its native format was not included in the "enumerated written request (sic) previously submitted."

BOEHL STOPHER & GRAVES, LLP

Stephen A. Houston, Esq.
June 25, 2011
Page 5

ASHA personnel and members of the Board of Directors have spent countless hours preparing to meet the requests of the Appellee Members at the document inspections held prior to this litigation and on June 15, 2011. All financial records from years 2006 and 2007 were reviewed, redacted and produced in hard copy at the June 15 inspection as requested by the Appellee Members in the pending litigation and pursuant to the Fayette Circuit Court orders. Please understand your request for the same data in yet another format, as well as your additional request for years 2008 to present outlined above, requires ASHA to take more time away from serving the entire ASHA membership and preparing for the most important showcase for the Saddlebred breed, the 2011 World Championship Horse Show, August 21 through 27, 2011.

Accordingly, so as not to be taken further away from its charitable and educational purpose, ASHA must now inquire on behalf of its entire membership whether the Appellee Members have been provided enough financial data and other records to confirm the association is being operated in a manner consistent with its educational and charitable purpose. Specifically, ASHA requests that the Appellee Members set forth a proper purpose for this additional request for three more years worth of data for which the most current 2010 audited financials have been provided and to explain why the two years of data, from 2006 to 2007, already provided does not allow the Appellee Members enough information to confirm that ASHA is managed properly. KRS §273.233; See also, Nozik v. Mentor Lagoons Yacht Club, 678 N.E.2d 948 (Ohio Ct. App. 1996) (member of a non-profit corporation did not meet the prerequisite requiring the non-profit corporation to turn over the book and records of the club); Towle v. Robinson Springs Corporation, 719 A.2d 880 (Vt. 1998) (the Court held under a statute containing a proper purpose provision that a purpose based upon claims of mismanagement must be supported by evidence and cannot be used as a means of harassment).

7. "Payroll reports" from January 1, 2006 to present.

ASHA attempted to comply with the Appellee Members' requests and the Fayette Circuit Court orders by providing annual payroll records by individual for the years in question. The Appellee Members now request bi-weekly payroll records, time cards and tracking of vacation and other time of all ASHA employees. This is a supplemental request that will take ASHA staff substantial time to assemble. Nevertheless, in an effort to comply with the Fayette Circuit Court orders and to accommodate the Appellee Members' request for "financial records," ASHA will provide such "payroll reports" at an agreed upon date and time for the continued inspection.

With regard to "payroll reports" from January 1, 2008 to present, ASHA requests that the Appellee Members set forth a proper purpose as mandated under KRS §273.233 to warrant taking ASHA and its employees away from the association's charitable and educational purpose to comply with this additional request.

BOEHL STOPHER & GRAVES, LLP

Stephen A. Houston, Esq.

June 25, 2011

Page 6

8. Employee attendance and vacation records of the ASHA employees.

ASHA will produce copies of employee attendance and vacation records "pursuant to [the] enumerated written request (sic) previously submitted." ASHA objects to this request generally on the grounds that it is not limited in time or scope. Accordingly, to the extent the Appellee Members' request for employee attendance and vacation records exceeds the scope and relevant time period of the Fayette Circuit Court orders, ASHA requests that the Appellee Members set forth a proper purpose, as mandated by KRS §273.233.

9. ASHA "financial records" from January 1, 2008 through January 1, 2011.

The Appellee Members' request for "financial records" from January 1, 2008 through January 1, 2011, are additional requests not contemplated under the Fayette Circuit Court orders to produce ASHA books and records "pursuant to [the] enumerated written request[s] previously submitted." Accordingly, ASHA requests that the Appellee Members set forth a proper purpose for the additional request for all "financial records" from January 1, 2008 through January 1, 2011, as required under KRS §273.233.

10. "Board packets" provided to the Directors of ASHA prior to meetings of the ASHA Board of Directors from January 1, 2006 to present.

ASHA will produce portions of the ASHA "Board packets" from January 1, 2006 to January 1, 2008, which contain information not previously provided under the auspices of other requests. ASHA considers this to be a supplemental request and it will be met at the agreed upon date and time for the continued inspection.

With regard to "Board packets" distributed prior to meetings of the ASHA Board of Directors from January 1, 2008 to present, this request constitutes an additional request not contemplated under Fayette Circuit Court orders. Your clients' request for "Board packets" distributed prior to meetings of the ASHA Board of Directors from January 1, 2008 to present was not impliedly or expressly included in the "enumerated written request (sic) previously submitted."

Again, in order to allow ASHA, its Board of Directors and personnel to focus on its charitable and educational purpose, ASHA must inquire on behalf of its entire membership whether the Appellee Members have been provided enough financial data and other records, including the most current independent audit, to determine if the association is being operated in a manner consistent with its educational and charitable purpose. Please set forth a proper purpose for the additional request for "Board packets" distributed prior to meetings of the Board of Directors from January 1, 2008 to present as required under KRS §273.233.

BOEHL STOPHER & GRAVES, LLP

Stephen A. Houston, Esq.
June 25, 2011
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11. All agreements between ASHA and its employees which permit the employee to work outside the Association.

ASHA will provide the employment contracts, if any, at an agreed upon date and time for the continued inspection. For your convenience, attached as Ex. B, bates-labeled ASHA024046-024048, is a copy of the contract between ASHA and USA Equestrian Trust, Inc., (the "Trust"), wherein the Trust agreed to reimburse ASHA for a shared staffperson and for use of shared office space, equipment, supplies and materials.

12. A copy of the resignation of former Executive Director of ASHA, Alan Balch, and any Settlement Agreement reached with him after his resignation.

These documents are outside the scope of the Fayette Circuit Court orders and are the subject of an additional request for which the Appellee Members must state a proper purpose under KRS §273.233.

13. A copy of e-mail correspondence regarding the "Mother Mary" transfer and any e-mail correspondence containing allegations of wrongdoing by members of the ASHA Board of Directors, including potential violations of ASHA and USEF rules by ASHA board members and employees.

ASHA produced e-mail communications exchanged between and among members of the ASHA Board of Directors at the June 15 document inspection. To the extent this request is seeking disclosure of the same documents again, ASHA objects on the grounds that any such response would be duplicative, cumulative and unduly burdensome on ASHA and its membership. With regard to any allegation of wrongdoing by members of the ASHA's Board of Directors, ASHA encourages the Appellee Members to review the sworn testimony of Ms. Jennifer Wasserzug. During this deposition, counsel for the Appellee Members was given ample time to examine Ms. Wasserzug on the "Mother Mary" transfer (referenced by Mr. Bennett at the June 15 document inspection as an example of "violations" of ASHA and USEF rules) and her testimony under oath and penalty of perjury clearly indicates this particular transfer was appropriate and proper under the exigent circumstances. See Deposition of Jennifer Wasserzug, dated April 8, 2010, pp. 20-23.

To the extent this request seeks production of American Saddlebred Registry, Inc. ("Registry") records, ASHA will not produce Registry records at the continued inspection on the grounds that the Registry is not a party to the pending litigation and is therefore not subject to the Fayette Circuit Court orders. As was stated to you and Mr. Bennett at the June 15 inspection, the Registry is a separate and distinct 501(c)(5) non-profit corporation and is governed by its own Board of Directors. The Registry has no members and is not subject to the mandates of KRS

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Stephen A. Houston, Esq.
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§273.233. Further, the Registry Board of Directors has not otherwise authorized ASHA to permit its membership access to the Registry records. Stated simply, ASHA does not have the authority to produce these records and the Court could not have compelled the Registry to do so as it was not afforded an opportunity to be heard when the declaratory judgment action was briefed and argued before the Court.

14. All Registry records, including a copy of the "Mother Mary" registry file.

As stated above, ASHA will not produce Registry records at the continued inspection on the grounds that the Registry is not a party to the pending litigation and is therefore not subject to the Fayette Circuit Court orders.

15. The Page One invoice for cost of copies made for inspection by the Appellee Members.

The Appellee Members' request for a copy of "The Page One" invoice is outside the scope of the Fayette Circuit Court order to produce ASHA books and records "pursuant to [the] enumerated written request[s] previously submitted." Accordingly, ASHA requests that the Appellee Members set forth a proper purpose for the additional request for this document, as mandated by KRS §273.233.

16. A copy of the litigation hold letter sent to the ASHA directors, officers, and employees at the outset of this litigation.

This is an additional request and not subject to the Fayette Circuit Court orders. Without waiving this objection, and subject to this objection, ASHA did not issue a litigation hold letter. Rather, counsel for ASHA advised the directors, officers, managers, and employees of the association to preserve all relevant documents for purposes of this litigation.

ASHA has provided, or will provide at the continued inspection, all of the financial records necessary for the Appellee Members to conduct their oversight of the Association's business practices and activities. We look forward to completing the continued inspection of documents previously produced and to meet the supplemental requests outlined above. Please advise on dates when you and your clients are available to continue the document inspection at ASHA's corporate offices. Also, we look forward to your response to ASHA's request for a statement of proper purpose for each and every additional document request outlined above.

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Yours very truly,

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

Jeff W. Adamson

JWA/jaa

cc: The Honorable Lewis G. Paisley, lewis.paisley@skofirm.com

EXHIBIT I



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JEFF W. ADAMSON
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July 1, 2011

Via e-mail and U.S. Mail

Mr. Stephen A. Houston
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

Re: American Saddlebred Horse Association, Inc. v. Edward R. Bennett, et al.

Dear Stephen:

As a follow up to our letter to you, dated June 25, 2011, we write to correct statements contained in your June 24 correspondence regarding what was produced and not produced at the document inspection of June 15, 2011, and to provide ASHA's response to the additional requests raised in your June 24 letter.

Your letter erroneously states that ASHA "decided, unilaterally, to withhold large categories of records." This is not true. ASHA declined to produce only those documents falling outside the scope and relevant time period of the Opinion, Order and Judgment of the Fayette Circuit Court entered on December 2, 2010 or the Court's Final Judgment and Order of January 6, 2011 ("Fayette Circuit Court orders"). ASHA produced, or will produce in response to supplemental requests at the next scheduled inspection, copies of all books and records "pursuant to [the Appellee Members] enumerated written request (sic) previously submitted." See Opinion, Order and Judgment, entered December 2, 2010, at page 7.

For instance, ASHA did not produce books and records from the 2008, 2009, and 2010 accounting years because they were not included among the enumerated document requests served upon ASHA in the pending litigation and therefore not subject to the Fayette Circuit

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Court orders. The Appellee Members' request for three additional years of "books and records" will further detract the ASHA directors and personnel from serving the entire membership and promoting the Saddlebred breed. ASHA is therefore obligated, both to its entire membership and under KRS §273.233, to request that the Appellee Members set forth a **proper purpose** for production of these additional documents.

The other set of documents not produced belongs to the American Saddlebred Registry, Inc. ("Registry"). As you were advised at the June 15 inspection and in our June 25 correspondence, ASHA cannot produce Registry records for a number of reasons. First, ASHA does not own or control Registry records. The Registry is a separate and distinct 501(c)(5) non-profit corporation and is governed by its own Board of Directors. Second, the Registry is not a party to the pending litigation and is therefore not subject to the Fayette Circuit Court orders. Lastly, the Registry has no members and is therefore not subject to the mandates of KRS §273.233.

Your letter then proceeds to list sixteen "examples" of "specific deficiencies" in ASHA's document production on June 15, 2011, but references documents which were in fact never requested during the June 15 meeting or were requested for the first time during the afternoon meeting that day. ASHA addresses each of these requests below.

Request Nos. 1, 2, 4, 6, and 12: These requests contain significant errors of fact as evidenced by copious notes taken by ASHA representatives during the June 15 meeting. ASHA did not "hide salary and other payment information" or fail to include payroll reports, journal entries, electronic mail, and the audit report for the 2010 accounting year. As you were advised by letter dated June 9, 2011, ASHA was required to withhold or redact attorney-client and work-product protected information, all personal identifying information, and bank account information prior to the June 15 document inspection in order to protect ASHA's confidences with counsel and to prevent identity theft of ASHA and its members. However, ASHA did not conceal any salary or payment information. The Appellee Members were provided copies of all payroll summaries, including W-3 forms, for the relevant time period; all journal entries with supporting documentation for the relevant time period; and all e-mail communications requested for the relevant time period.

With regard to electronic mail, in its June 25 letter, ASHA agreed to conduct a second search of Mr. Balch's e-mails to the best of its ability to confirm all e-mail communications in its possession falling under the scope and relevant time period of Fayette Circuit Court orders were produced to the Appellee Members. In addition, we understood that you and your representatives were not able to review all of the documents ASHA provided for inspection and copied for your convenience on June 15. ASHA has therefore agreed to make the documents previously produced, as well as documents existing and responsive to the Appellee Members' supplemental requests, available for a second day of document inspection and copying. Perhaps

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the documents alleged to be "hidden" or "withheld" are contained in the materials that were produced on June 15, but which you have not yet reviewed.

As for the audit report for ASHA's 2010 accounting year referenced in Request No. 12, you were advised during the June 15 inspection that the audit was not yet final on that date. ASHA advised you and Mr. Bennett on June 15 that a copy of the audit would be produced as soon as it became available. ASHA has since honored this agreement by attaching a copy of the 2010 audit to the letter you received a few days ago. Thus, it is incorrect to suggest in your June 24 letter that ASHA "withheld" documents it in fact agreed to produce.

Lastly, to the extent the above requests seek production of documents not subject to the Fayette Circuit Court orders, ASHA reiterates its request that the Appellee Members set forth a **proper purpose** for requesting inspection of these additional documents pursuant to KRS §273.233.

Request Nos. 9, 11, 15, and 16: The misstatements contained in Request Nos. 9, 11, 15, and 16 are troublesome. Therein, you suggest that ASHA "failed to produce" the following documents:

- a copy of any report or communication from any consulting agency regarding potential candidates for employment at ASHA as Executive Director or Executive Secretary;
- records indicating any financial or business relationship between ASHA employees and ASHA board members, executive committee members, officers or their families;
- "communications" of board members, officers and employees during ASHA's two most recent accounting years; and
- records indicating amounts spent by ASHA in this litigation.

These documents were requested for the very first time in your June 24 letter. It is disingenuous to suggest that ASHA "failed to produce" documents at the June 15 inspection when, in fact, the documents were never before requested.

As for Request Nos. 9, 11, 15, and 16 generally, these requests seek inspection of documents falling outside the scope and relevant time period of the Fayette Circuit Court orders and are the subject of an additional request for which the Appellee Members must state a **proper purpose** under KRS §273.233. However, to the extent it assists the Appellee Members in completing their inspection, ASHA does not possess documents responsive to Request Nos. 9

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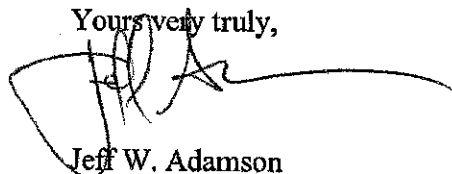
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and 11. With regard to Request No. 16 for records indicating amounts spent by ASHA for the rendition of legal services in this litigation, ASHA objects to the extent these documents contain correspondence and description of services protected by the attorney-client privilege and work-product doctrine. ASHA will not produce any attorney-client and work-product protected information to the Appellee Members.

Request Nos. 3, 5, 7, 8, 10, 13, and 14: The remainder of the requests and the general request for all books and records in "native" format were addressed in our June 25 letter. (See responses to Nos. 4, 5, 9, 10, 12, 13 and 14 contained in our letter to you, dated June 25, 2011). To the extent these requests are supplemental to the enumerated requests served upon ASHA in the pending litigation and ordered produced by the Court, ASHA will make existing and responsive documents available at the continued inspection. With regard to the additional requests raised in Request Nos. 3, 5, 7, 8, 10, 13, and 14, ASHA must demand that the Appellee Members set forth a proper purpose as mandated under KRS §273.233 to warrant further diversion of ASHA directors and personnel from the charitable and educational obligations owed to the entire ASHA membership.

As stated in our June 25 letter to you, ASHA has provided, or will provide at the continued inspection, all of the financial records necessary for the Appellee Members to confirm ASHA is managed in accordance with its charitable and education purpose. We will make all documents previously produced and any documents existing and responsive to the Appellee Members' supplemental requests outlined above and in our June 25 letter available at the offices of the American Saddlebred Horse Association, 4083 Iron Works Parkway, Lexington, KY 40511, on **Tuesday, July 19, 2011**, commencing at 10:00 a.m. Please advise who will be accompanying you to the continued document inspection **no later than Friday, July 15, 2011**, so that we may make appropriate arrangements. Also, we look forward to your response to ASHA's request for a statement of proper purpose for each and every additional document request outlined above and in our June 25 letter.

Yours very truly,



Jeff W. Adamson

JWA/jaa
cc: Hon. Lewis G. Paisley