

MINUTES

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

September 17, 1993
Room 526-S -- Statehouse

Members Present

Representative Clyde Graeber, Chairperson
Representative Lisa Benlon, Vice-Chairperson
Representative Kathleen Sebelius, Ranking Minority Member
Representative Garry Boston
Representative Darlene Cornfield
Representative Ray L. Cox
Representative Cindy Empson
Representative Ruby Gilbert
Representative Phill Kline
Representative Robert Krehbiel
Representative Richard Lahti
Representative Al Lane
Representative Eloise Lynch
Representative Don Myers
Representative Blaise Plummer
Representative Thomas A. Robinett, Jr.
Representative Rand Rock
Representative L. Candy Ruff
Representative Don Smith
Representative Sabrina Standifer
Representative Carolyn Weinhold
Representative Steve Wiard
Representative Kenny A. Wilk

Staff Present

Mary Galligan, Kansas Legislative Research Department
Lynne Holt, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
June Evans, Secretary

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Legislative
Administrative Services

September 17, 1993
Morning Session

The Chairperson called the meeting to order and stated the purpose of this meeting is to present background information on S.B. 380, which is currently in this Committee. All the correspondence and phone call inquiries received in regard to the bill made many members feel it would be a good idea to have an opportunity to discuss the bill, ask questions, and gain a better understanding of how this piece of legislation came about.

The Chairperson recognized Janet Chubb, Executive Director of the Kansas Racing Commission. Ms. Chubb stated that the Kansas Racing Commission is currently involved in litigation of the issue that led to introduction of S.B. 380. Due to the ongoing litigation, Ms. Chubb said that her comments would be limited but that she would answer members' questions. Ms. Chubb presented the Committee with a compilation of documents that describe development of the controversy over distribution of money from the Horse Breeding Development Fund (see Attachment 1).

The Chairperson asked how monies in the Horse Breeding Development Fund were distributed before simulcasting became legal.

Ms. Chubb stated that monies were remitted to the Kansas Racing Commission which passed those receipts to the State Treasurer to be credited to the Kansas Horse Racing Development Fund. A provision in the Racing Act provides for those monies to be apportioned according to the breeds of horses participating in races conducted by organization licensees. As an example, if 70 percent of horses that won live races were thoroughbreds, 70 percent of those funds would be allocated to winning thoroughbred horses. If 30 percent of winners were quarter horses, then 30 percent of the Fund would be paid to quarterhorse winners. Very roughly, those were the percentages of those breeds participating in live racing in Kansas in 1992.

In January, 1993, the Racing Commission became aware there was a dispute about how the revenue to the Horse Breeding Development Fund from simulcast races would be paid. As a result, an opinion was requested from the Attorney General (see Attachment 1 - 12 Tab D).

The Chairperson asked whether the simulcast legislation addressed the manner in which revenue to the Fund was to be distributed and, if so, whether it was different than the law in place for live racing.

Ms. Chubb replied, there were two or three sections that referred to simulcast breakage and unclaimed winnings (outs). Breakage and outs go to the same fund and the same formula applies to them. If the simulcasting licensee has a license to conduct live horse races, breakage and outs must be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, the statutes which govern distribution of those funds from live racing.

A member asked whether there are one or two funds. Ms. Chubb responded that there is only one Horse Breeding Development Fund into which monies are placed from either live or simulcast racing.

Ms. Chubb told the Committee that she would provide information about funds generated in FY 1993. Since most simulcast races are thoroughbred races, the interpretation of these provisions that has been urged by the Kansas thoroughbred owners is that 99 percent of the breed

monies should be paid to them. This reading would result in 1992 simulcasting breakage distributions to thoroughbreds in the amount of \$107,487, to quarterhorses in the amount of \$564, to appaloosas in the amount of \$223, and to arabians in the amount of \$20.

If the law is interpreted to require that simulcast monies be paid in accordance with various breeds participation in the Kansas bred program during a year, the distribution would be very different. The distribution of 1992 live race breakage was \$67,405 (approximately 70 percent) to thoroughbreds and \$24,764 to quarterhorses. The disparity in effect of the two interpretations is apparent. Simulcast funds are not being distributed by the Commission at this time because of the ongoing controversy about the law.

Ms. Chubb said the Racing Commission is neutral and will implement the Legislature's decision on S.B. 380.

A member asked how many quarterhorse races are simulcast outside Kansas. Ms. Chubb stated, no races are simulcast out of Kansas.

Mr. Bruce Rimbo, Executive Director, Woodlands (race track), stated there is quarterhorse simulcast racing in California, but those races start at 7:30 p.m., so are not used here. His experience is that the public prefers thoroughbred racing.

Ms. Chubb stated arabians and appaloosas are run more at the county fairs.

A member asked where the Commissioners are today, and why they are not in attendance.

The Chairperson stated this was a meeting to gather background information. They are in currently in litigation.

Ms. Chubb stated she was at the meeting to bring information to the Committee.

Dan Fick, Senior Director of Racing, American Quarter Horse Association, testified in opposition of S.B. 380 stating that the bill would have a detrimental effect on the breeding of racing American quarter horses in the State of Kansas.

Quarterhorse racing has declined significantly since the introduction of parimutuel wagering in 1988 due to the competition from greyhound and thoroughbred racing. There were more quarterhorse races and race starters in Kansas in 1987 than in 1992. The passage of S.B. 380 will further reduce incentives to breed and race American quarterhorses in the state of Kansas (see Attachment 2).

Russell Potter, Kansas Quarter Horse Racing Association, testified in opposition to S.B. 380, stating that the bill would award thoroughbred horses 99 percent of the available breed funds generated from the simulcast of horse races into Kansas (see Attachment 3).

Greg Simon, Kansas Appaloosa Racing Association, opposed S.B. 380 and the change in present simulcast legislation to provide for only the thoroughbred horse owners to benefit from the established Kansas Bred program. The appaloosa owners want to race, but are not asked to race in Kansas (see Attachment 4).

A member asked whether tracks determine which breeds race.

Mr. Simon, stated, yes, for the most part, but every breed should be run at every track.

A member asked whether there are enough appaloosas in Kansas to run at the Woodlands.

Mr. Simon stated that the Association is interested in running a futurity and that horses could come in from other states. The Association would like horses from out of state to come into Kansas and our horses go out of state.

A Committee member stated that it appears the vast majority of the public wants to see the thoroughbreds race. Mr. Simon said other breeds cannot become popular if they are not seen.

Mike McCarty, McCarty Ranch, representing quarterhorse owners, testified in opposition to S.B. 380. Mr. McCarty stated a change would simply dictate the type of horses raised in Kansas and would be devastating to Kansas residents raising and racing quarterhorses (see Attachment 5).

A member stated that there are no proponents for S.B. 380 at this meeting so this appears to be an easy call. Why are we considering it?

The Chairperson stated that public notice of this meeting included the purpose which was to gain background on this particular bill. The Chair cannot answer why no proponents are in attendance.

A member asked Mr. Rimbo whether the Woodlands could survive without quarterhorse racing.

Mr. Rimbo stated that the Woodlands' races include approximately 70 percent thoroughbreds and 30 percent quarterhorses. There is nothing in the law that requires that ratio, but the track responds to the public demand. There is a shortage of horses today and breeds are divided.

A member asked if a motion would be appropriate.

The Chairperson stated, no, because no proponents were present. The reason for this meeting was to respond to Committee members who were unclear about the history and impact of the bill. A case is pending in District Court and that is probably why proponents did not attend.

A member stated that it is important to hear from the other side before the Committee makes a decision.

Jeff Rutland, Rutland Quarter Horse Ranch, Independence, Kansas, provided testimony opposing S.B. 380 (see Attachment 6).

H. M. and Patricia E. Weelborg, Route 1, Canton, Kansas, provided testimony opposing S.B. 380 (see Attachment 7).

Afternoon Session

The Chairperson called the meeting to order and recognized Mary Torrence, Assistant Revisor of Statutes, to review a draft bill requested at the last meeting. The bill draft was requested as a result of testimony by Kyle Smith, Kansas Bureau of Investigation, who stated that Kansas statutes regarding video game machines that might be used for gambling are difficult to enforce.

Ms. Torrence reviewed 3 RS 1398. Ms. Torrence pointed out to the Committee a typographical error on line 14 of page 3 of the bill draft.

A member asked, whether the bill would make illegal under Kansas law something that is currently illegal under the federal law. Staff responded, yes. Ms. Torrence, replied that under current Kansas law you must show that a machine was used for illegal gambling.

A member asked Mr. Smith whether it would be better for the bill to become effective upon publication in the *Kansas Register*. Mr. Smith responded that was a policy decision for the Legislature, but that an early effective date would not cause any problems that he was aware of.

Representative Sebelius made and Representative Lahti seconded a motion to introduce 3 RS 1398 as a Committee bill with an amendment to make it effective upon publication in the *Kansas Register* and to correct a typographical error in Section 1(4)(b), line 14. The motion carried.

Representative Sebelius made and Representative Kline seconded a motion that the minutes of the July 15-16, 1993 meeting be approved. The motion carried.

The meeting adjourned at 1:45 p.m.

Prepared by June Evans
Edited by Mary Galligan

Approved by Committee on:

November 29, 1993
(Date)

Date: 9/17/93

GUEST REGISTER

| NAME | ORGANIZATION | ADDRESS |
|-----------------------|----------------------|-----------------------------------|
| Albert Hogenson | Kansas Quarter Horse | El Dorado, Ks. |
| Jerry M. Guy | KQHA ^R - | 15310 E. 95th St. Meriden, Ks. |
| Sharon J. Guy | KQHA ^R | " |
| Al Becker | KQHRA | Kansas City, Ks. |
| Karen Tolle | KQHRA | Overland Park, Ks. |
| Greg & Linn | KHRA | Colwich Kansas |
| Mike McCarty | | Wamego Kansas |
| Russell W. Butler | KQHRA | KC Ks |
| Jim Allen | Camp Town | Topoka |
| Jim & Sonia Yount | K-Q-H-R-A | Topoka |
| R. K. Teichgraber | KQHRA | Enoch |
| Helene P. Teichgraber | ✓ | ✓ |
| Bill & Donna Liebert | ✓ | KC Ks |
| Galen Werlen | Stat Rep | 49th Dr |
| Jim B... | Sunflower | Topoka |

Date:

GUEST REGISTER

[illegible]

**CHRONOLOGY OF SENATE BILL 380
AND KANSAS RACING COMMISSION ACTION
CONCERNING DISTRIBUTION OF MONIES FROM THE
HORSE BREEDING DEVELOPMENT FUND**

| | |
|-------------------|---|
| January 12, 1993 | Kansas Racing Commission (KRC) requests an Attorney General Opinion concerning K.S.A. 74-8829 (horse breeding development fund). |
| January 28, 1993 | Attorney General Opinion 93-12 issued, which states: "...horses participating in a simulcast race do not participate in 'races conducted by the organization licensees.' Those horses are therefore not to be considered in determining the categories under K.S.A. 74-8829(b) or the categories' contribution to the fund." EXHIBIT A. |
| April 19, 1993 | KRC enters a preliminary finding that the method for distribution of the 1992 simulcast proceeds should be in the manner outlined in Attorney General Opinion 93-12. |
| February 22, 1993 | Senate Bill 380 (SB 380) is introduced into the Senate by Senator Al Ramirez. |
| February 23, 1993 | SB 380 is referred to Senate Federal and State Affairs committee. |
| March 25, 1993 | SB 380, as amended, is passed by the Senate Federal and State Affairs committee. |
| March 26, 1993 | SB 380 passes the full senate as amended by the Senate Federal and State Affairs committee with a vote of 30-yes and 8-no. |
| March 26, 1993 | Orion Stables, a thoroughbred organization, files a petition for judicial review against the KRC in Wyandotte County, Kansas. |
| March 29, 1993 | SB 380 is received and introduced in the House. |
| March 30, 1993 | SB 380 is referred to the House Federal and State Affairs committee. |
| April 5, 1993 | Letter to Senate Federal and State Affairs committee from Executive Director Janet A. Chubb clarifying the commission's position regarding SB 380. EXHIBIT B. |
| April 21, 1993 | Kansas Quarter Horse Racing Association (KQHRA) files a motion to intervene with the district court of Wyandotte County, Kansas. |
| April 21, 1993 | KRC files a motion to dismiss the petition for judicial review in the district court of Wyandotte County, Kansas. |
| April 28, 1993 | Orion Stables files a notice of dismissal of the petition for judicial review in Wyandotte County, Kansas, district court. The suit is dismissed. |
| May 4, 1993 | Attorney General Robert Stephan meets with four thoroughbred parties-- John McCoy; Jim McCoy; Ralph Lilja; Dr. Bob Herndon. The Attorney General agrees to reconsider Opinion 93-12. |

Attachment 1

House Federal
& State Affairs
Sept. 17, 1993

Atch # 1

| | |
|--------------------|---|
| May 5, 1993 | Attorney General issues a letter to John McCoy reaffirming Attorney General Opinion 93-12. EXHIBIT C. |
| May 6, 1993 | KRC holds a show cause hearing. Notice is sent to all interested parties who took exception to the commission's preliminary finding on April 19, 1993. |
| May 17, 1993 | KRC issues a final administrative order stating "the simulcast breakage and unclaimed winning ticket proceeds in the Kansas Horse Breeding Development fund will be distributed in accordance with Attorney General Opinion 93-12." |
| June 9, 1993 | A petition for stay of the final administrative order is received by the KRC from Orion Stables. |
| June 14, 1993 | The KQHRA submits a response to the petition for stay of the final administrative order requesting the commission to deny the stay. |
| June 15, 1993 | Orion Stables and 23 thoroughbred owners (plaintiffs) file a petition for judicial review against the KRC (defendants), in the district court of Shawnee County, Kansas. EXHIBIT D. |
| June 17, 1993 | KRC denies the request for stay of the final administrative order. |
| July 1, 1993 | KQHRA files a motion to intervene in the district court of Shawnee County, Kansas. EXHIBIT E. |
| July 7, 1993 | KRC files an answer to the petition for judicial review. EXHIBIT F. |
| August 8, 1993 | Plaintiffs request an extension of time to file their brief. This request is granted by the district court. EXHIBIT G. |
| August 13, 1993 | Plaintiffs file trial brief. EXHIBIT H. |
| September 7, 1993 | KRC files judicial review brief. EXHIBIT I. |
| September 7, 1993 | KRC files a letter with the district court of Shawnee County, Kansas informing the judge that the KRC does not oppose the KQHRA motion to intervene. EXHIBIT J. |
| September 10, 1993 | Order granting KQHRA's motion to intervene is signed by KRC and plaintiffs. To date, this order has not been ruled upon by the court. EXHIBIT K. |
| TO DATE: | Oral arguments by the parties to the court have been requested. The court has advised that a date will be set sometime after October 1, 1993. |

SB380/pc/dpb



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

January 28, 1993

ATTORNEY GENERAL OPINION NO. 93- 12

Robert Londerholm
Chairman
Kansas Racing Commission
3400 Van Buren
Topeka, Kansas 66611-2228

Re: State Boards, Commissions and Authorities--
Parimutuel Racing--Horse Breeding Development Fund;
Apportionment of Breakage on Simulcast Races

Synopsis: Moneys credited to the Kansas horse breeding development fund are to be apportioned into categories corresponding with the various breeds of horses participating in races conducted by Kansas, organization licensees and used to benefit Kansas-bred horses, certain Kansas-registered stallions and mares, and further equine research. Since Kansas organization licensees do not "conduct" the simulcast races they display at their tracks, horses participating in the simulcast races will not be considered in determining the categories to be created under K.S.A. 74-8829(b) and should not be considered when allocating breakage proceeds. Cited herein: K.S.A. 74-8802; 74-8821; 74-8829; 74-8836.

* * *

Dear Mr. Londerholm:

On behalf of the Kansas racing commission, our opinion has been requested with regard to the apportionment of breakage proceeds from simulcast horse races. Specifically the board

Robert Londerholm

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questions whether breakage proceeds should be apportioned according to each breed's participation in all races or according to each breed's participation in only live races conducted in Kansas.

"Breakage" is defined as:

"[T]he odd cents by which the amount payable on each dollar wagered exceeds:

"(1) A multiple of \$.10, for parimutuel pools from races conducted in this state; and

"(2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combined wagering pools." K.S.A. 74-8802(a). But see K.S.A. 74-8821(a).

K.S.A. 74-8821 sets forth how breakage proceeds are to be distributed. Subsection (d) of K.S.A. 74-8821 states as follows:

"All breakage proceeds from parimutuel wagering conducted by a simulcast licensee on simulcast races displayed by the licensee shall be distributed as provided by K.S.A. 74-8836."

In turn, K.S.A. 74-8836 provides in part as follows:

"(h) Except as provided by subsection (j)

"(1) If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races.

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"(4) If a simulcasting licensee has a license to conduct live racing of only

Robert Londerholm
Page 3

greyhounds and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races.

"[(j)](4) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h)." (Emphasis added.)

Thus all breakage proceeds from simulcast horse races displayed in this state are to be remitted by the organization licensee to the commission, which must then remit such proceeds to the state treasurer for deposit in the state treasury credited to the horse breeding development fund. K.S.A. 74-8821(b). K.S.A. 74-8829 provides for the allocation of moneys credited to the horse breeding development fund:

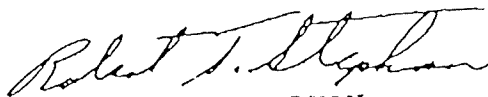
"(b) Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund and shall be used in each category to provide:"

Simulcast races displayed by a Kansas organization licensee are not "conducted" by that licensee; they are conducted by the operator or owner of the track at which they are actually being run. Thus horses participating in a simulcast race do not participate in "races conducted by organization licensees." Those horses are therefore not to be considered in determining the categories under K.S.A. 74-8829(b) or the categories' contributions to the fund. In our opinion this is

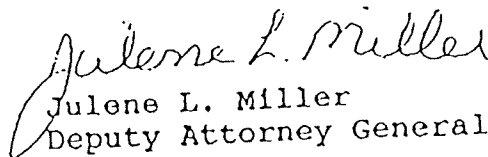
Robert Londerholm
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the plain reading of the statute and in addition it serves the purpose of the statute which is to benefit Kansas-bred horses that race in this state and certain Kansas-registered stallions and mares the offspring of which participate in races conducted in this state.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas

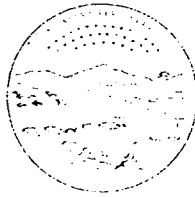


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

STATE OF KANSAS

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KANSAS RACING COMMISSION

3400 Van Buren
Topeka, Kansas 66611-2228
(913) 296-5800
FAX (913) 296-0900

April 5, 1993

Senator Lana Oleen
Chairperson
Senate Federal and State Affairs Committee
State Capitol
Topeka, KS 66612

RE: Senate bill 380

Dear Senator Oleen:

This letter is to clarify the Kansas Racing Commission's position regarding senate bill 380. When the simulcasting bill was presented in 1992, the commission was of the opinion that all breeds would benefit from distribution of the breakage and unclaimed winning tickets. The Kansas Racing Commission has taken the position that senate bill 380, sponsored by the Kansas Thoroughbred Association, as well as house bill 2290, sponsored by the American quarter horse association, both involve major policy questions. The commission felt that such policy questions should be fully reviewed by the legislature before the commission took any action or position regarding these bills.

The Kansas Racing Commission has tried to be impartial. However, the commission does not want to be misrepresented or misconstrued in its position on senate bill 380. The commission has not authorized anyone to speak on its behalf or exemplify its opinion. At no time has the commission taken the position that funds from simulcasting breakage and outs should be distributed according to the breeds participating in the simulcasting. The commission feels this point needs to be clarified in order that statements made before senate and house committee members will not cause such members to believe that the commission has ever taken such a position.

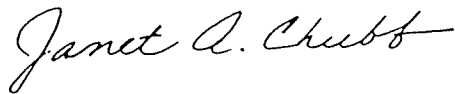
The commission does still take a neutral stand on senate bill 380. However, it has always been the understanding of the commission that all breeds of Kansas horses would benefit from distribution of simulcasting breakage and outs. The commission believes, and always has believed, the purpose of the simulcasting statute was to benefit Kansas-bred horses that race

Senator Lana Oleen
March 5, 1993
Page 2

in this state and certain Kansas-registered stallions and mares,
the off-spring of which participate in races conducted in this
state.

Hopefully this clarifies the commission's position on senate
bill 380. I would be happy to answer any further questions
which you or any other member of the legislature may have.

Respectfully,



Janet A. Chubb
Executive Director

93JAC64-dpb



COPY

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

May 5, 1993

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION 296-3751
TELECOPIER 296-6296

John McCoy
Orion Fitting, Inc.
613 N. 5th Street
P.O. Box 17-1580
Kansas City, Kansas 66117

Dear Mr. McCoy:

Subsequent to our meeting yesterday, May 4, 1993, I have reviewed the information you presented with my staff and offer the following response to your concerns.

The copy of the testimony to be given by Mr. Dana Nelson at the Racing Commission's May 6, 1993 show cause hearing sets forth his recollection and understanding of 1992 Senate Bill No. 383, the bill that authorized simulcasting in the state of Kansas. With regard to Attorney General Opinion No. 93-12, Mr. Nelson states:

"I believe that opinion to be flawed, as it did not consider legislative intent nor did attorney's for the Attorney General interview those people involved on the legislation and working out agreements on the language in the bill, or legislators who carried the legislation on the floor of the Senate and the House, respectively. Nor did the Attorney General's office review the working files by myself at that time or the Kansas Racing Commission."

There are two reasons that legislative history was not mentioned in Attorney General Opinion No. 93-12. The first is due to the court's cardinal rule of statutory construction that where a statute is plain and unambiguous, courts must give effect to the intention of the legislature as expressed. Johnston v. Tony's Pizza Service, 232 Kan. 848 (1983). Only when the language is ambiguous may the courts look to extrinsic evidence for aid in construction.

State v. Haug, 237 Kan. 390, 391 (1985). In the opinion we state that the plain language of the act's provisions require the conclusion we reached and there was no ability to look beyond the language of the statute to reach a contrary conclusion.

The second reason legislative history is not mentioned is that the recorded history sheds no light on the issue being considered. Statements of legislators regarding the intent of legislation made after passage of the legislation are not valid legislative history. Hall v. State Farm Mutual Auto. Ins. Co., 8 Kan.App.2d 475 (1983). The files of the Racing Commission and individuals following the legislation also are not probative unless it can be shown through recorded history that such files were used by the legislature in passing the legislation. The only references to the distribution of breakage in the recorded minutes were statements that the breakage for simulcast races should be handled the same as for live races. See Minutes, Senate Committee on Federal and State Affairs, March 26, 1991, attachment 1; Minutes, Senate Committee on Federal and State Affairs, April 9, 1991, attachment 3; Minutes, House Committee on Federal and State Affairs, January 27, 1992, attachments 1 and 2. Handling simulcast breakage in the same manner as is done for live races would require apportioning the fund into categories corresponding with the breeds that participate in live races in Kansas. See K.S.A. 1992 Supp. 74-8829(b). (K.S.A. 74-8829 was not amended by Senate Bill 383.) Thus, even if we could look to legislative history to interpret the pertinent statutes, there is not any recorded history available that would alter the conclusion reached.

Finally, the fact that one branch of the legislature passed an amendment to change the way breakage is handled, thus "clarifying their intent," does not alter the construction of the statutes as they now exist. "No matter what the legislature may have really intended to do, if it did not in fact do it, under any reasonable interpretation of the language used, the defect is one which the legislature alone can correct." (Emphasis in original.) Colorado Interstate Gas Co. v. Board of Morton County Commissioners, 247 Kan. 654, 662 (1990), quoting Harris v. Shanahan, 192 Kan. 183, 196 (1963) and Russell v. Cogswell, 151 Kan. 793, 795 (1940). Correction of such a defect requires passage by both houses and the governor's approval.

In conclusion, the information you have provided with your request that we reconsider the issue addressed in Attorney General Opinion No. 93-12 does not convince me that the

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conclusion originally reached was in error. I therefore decline to withdraw or revise that opinion.

Very truly yours,

Robert T. Stephan
Attorney General of Kansas

RTS:jlmm

KS DISTRICT COURT
2ND JUDICIAL DISTRICT

JUN 15 11 15 AM '93

TOPEKA KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

ORION STABLES, a partnership

and

DUANE J. SNOOK

and

ALBERT and JOAN FREEMAN

and

JACK and DONNA FOSTER

and

LARRY D. and CAROL SUE WILKERSON

and

FRED J. and FRANCES SCHIFFNER

and

ROBERT J. and JEAN LANTIS

and

NED SWINGLE

and

RALPH LILJA

and

DR. ROBERT HERNDON

Case No. 93CV681
K.S.A. Chapter 60
Division No. 7

TAB D

and

JEROLD JOHNSON
and

DONNIE J. and SANDRA KAY MOLDER

and

GARY and CHERYL SMITH

and

JOHN SUTHERLAND

and

ROLAND JORDAN

and

GEORGE SMITH

and

RUSSELL ROTHGEB

Plaintiffs,

vs.

THE KANSAS RACING COMMISSION,
(Serve at: c/o Chairman
Robert Londerholm
3400 Van Buren
Topeka, KS 66612;
The Attorney General
of the State of Kansas
By Certified Mail
Kansas Attorney General
2nd Floor, Kansas Judicial Center
301 W. 10th
Topeka, KS 66612;
The Secretary of State of
the State of Kansas
2nd Floor, Captial
300 S.W. 10th Street
Topeka, KS 66612)

and

PEGGY CODER, in her official capacity
as a member of the Kansas Racing Commission
(Serve at: 301 Crestview Drive
Independence, KS 67301)

and

DR. DENISE E. KOBUSZEWSKI, in her official capacity as a member of the Kansas Racing Commission

(Serve at: Route 2, Box ;79
Valley Falls, KS 66088)

and

ROBERT C. LONDERHOLM, SR., in his official capacity as a member of the Kansas Racing Commission

(Serve at: 10910 West 175th Street
Olathe, KS 66062)

and

H. PHILIP MARTIN, in his official capacity as a member of the Kansas Racing Commission

(Serve at: Martin & Gatterman
Attorneys at Law
702 Broadway, P.O. Box D
Larned, KS 67550)

and

OSCAR H. PELTZER, in his official capacity as a member of the Kansas Racing Commission

(Serve at: 2515 Collidge
Wichita, KS 67204)

Defendants.

PETITION FOR JUDICIAL REVIEW

COME NOW the plaintiffs, by and through their attorney, Luis Mata of Evans & Mullinix, P.A., and for their cause of action against the defendants, allege and state that:

1. The Plaintiff, Orion Stables, is a Kansas partnership, in good standing, with business offices located at 613 N. 5th Street, Kansas City, Wyandotte County, Kansas. The plaintiff has 52 Kansas registered thoroughbred horses which are stabled and raced in

Kansas.

2. Plaintiff, Duane J. Snook, an owner of Registered Kansas Thoroughbred Horses, resides in Johnson, Stanton County, Kansas.

3. Plaintiffs, Albert and Joan Freeman, owners of Registered Kansas Thoroughbred Horses, reside in Liberal, Seward County, Kansas.

4. Plaintiffs, Jack and Donna Foster, owners of Registered Kansas Thoroughbred Horses, reside in Bonner Springs, Wyandotte County, Kansas.

5. Plaintiffs, Larry D. and Carol Sue Wilkerson, owners of Registered Kansas Thoroughbred Horses, reside in Oxford, Sumner County, Kansas.

6. Plaintiffs, Fred and Frances Schiffner, owners of Registered Kansas Thoroughbred Horses, reside in Inman, McPherson County, Kansas.

7. Plaintiffs, Robert J. and Jean Lantis, owners of Registered Kansas Thoroughbred Horses, reside in Dodge City, Ford County, Kansas.

8. Plaintiff, Ned E. Swingle, an owner of Registered Kansas Thoroughbred Horses, resides in Zenda, Kingman County, Kansas.

9. Plaintiff, Ralph Lilja, an owner of Registered Kansas Thoroughbred Horses, resides in Zenda, Kingman County, Kansas.

10. Plaintiff, Dr. Robert Herndon, an owner of Registered Kansas Thoroughbred Horses, resides in Wichita, Sedgwick County, Kansas.

11. Plaintiff, Jerold Johnson, an owner of Registered Kansas

Thoroughbred Horses, resides in Olathe, Johnson County, Kansas.

12. Plaintiffs, Donnie J. and Sandra Kay Molder, owners of Registered Kansas Thoroughbred Horses, reside in Bonner Springs, Wyandotte County, Kansas.

13. Plaintiffs, Gary and Cheryl Smith, owners of Registered Kansas Thoroughbred Horses, reside in Olathe, Johnson County, Kansas.

14. Plaintiff, John Sutherland, an owner of Registered Kansas Thoroughbred Horses, resides in Kansas City, Jackson County, Missouri.

15. Plaintiff, Roland Jordan, an owner of Registered Kansas Thoroughbred Horses, resides in Grenola, Elk County, Kansas.

16. Plaintiff, George Smith, an owner of Registered Kansas Thoroughbred Horses, resides in Medicine Lodge, Barber County, Kansas.

17. Plaintiff, Russell Rothgeb, an owner of Registered Kansas Thoroughbred Horses, resides in Longton, Elk County, Kansas.

18. The Kansas Racing Commission, an Administrative Agency, hereinafter referred to as "KRC", may be served with process by serving Robert Londerholm, Chairman of the KRC, at 3400 Van Buren, Topeka, Kansas and by serving by Certified Mail the Kansas Attorney General, at 2nd Floor, Kansas Judicial Center 301 W. 10th, Topeka, KS 66612 and by serving the Kansas Secretary of State at 2nd Floor Capital, 300 S.W. 10th, Topeka, Kansas 66612-1594.

19. Defendant Peggy Coder, a member of the KRC may be served at 301 Crestview Drive, Independence, Kansas.

20. Defendant Dr. Denise E. Kobuszewski, a member of the KRC, may be served at Route 2 - Box 79, Valley Falls, Kansas.

21. Defendant Robert C. Londerholm Sr., a member of the KRC, may be served at 10910 West 175th Street, Olathe, Kansas.

22. Defendant H. Philip Martin, a member of the KRC, may be served at 702 Broadway, P.O. Box D, Larned, Kansas.

23. Defendant Oscar H. Peltzer, a member of the KRC, may be served at 2515 Coolidge, Wichita, Kansas.

24. The individual members of the KRC are being sued in their official capacity.

25. Venue in the District Court of Shawnee County is proper in that, among other requirements, the business offices of the KRC are located in Shawnee County, Kansas.

26. On November 4, 1986, the people of the State of Kansas voted upon and approved an amendment to Article 15, Section 3b, of the Kansas Constitution, thereby permitting parimutuel wagering on horse and greyhound racing.

27. As a consequence of said vote, the Kansas legislature in 1987 approved the Kansas Parimutuel Racing Act, K.S.A. 74-8801 et seq., and subsequent amendments to govern and regulate parimutuel wagering in the State of Kansas.

28. As part of the Kansas Parimutuel Racing Act, hereinafter referred to as "Racing Act", it was provided in K.S.A. 74-8821(b) that breakage monies, of "odd cents" payable on each wagering dollars, are to be ultimately paid into the Kansas horse breeding development fund, created by K.S.A. 1987 Supp. 74-8829. Herein-

after, the Kansas horse breeding development fund shall be referred to as the "Fund".

29. Similarly, pursuant to K.S.A. 74-8822(c), all unclaimed ticket proceeds from parimutuel wagering on horses are also ultimately paid into the Fund.

30. Distributions from the Fund are governed by K.S.A. 74-8829(b), which states that "(b) Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund..."

31. In 1992, the Kansas legislature approved Kansas racetrack displaying and wagering on simulcast horse races. K.S.A. 74-8836.

32. Approximately 99% of the horse races simulcast into Kansas racetracks are thoroughbred races, and therefore it is the plaintiff's contention that approximately 99% of the breakage monies and unclaimed tickets paid out by the Fund should be paid to owners of thoroughbred horses.

33. On January 12, 1993, the KRC, by and through Janet A. Chubb, Assistant Attorney General, requested an opinion from Kansas Attorney General Robert T. Stephan concerning distribution of breakage from simulcast horse races. A copy of this letter is attached hereto as Exhibit A.

34. In said letter of January 12, 1993, Ms. Chubb stated that depending upon Mr. Stephan's legal reading of the breakage provis-

ions, the KRC could propose new language for breakage distribution.

35. On January 28, 1993, Mr. Stephan issued Attorney General Opinion No. 93-12, wherein he stated that breakage proceeds from simulcast horse races displayed in Kansas did not have to be distributed in direct proportion to the categories of horses participating in the simulcast horse races. A copy of this Attorney General's Opinion is attached hereto as Exhibit B.

36. Subsequent to the receipt of the said Attorney General's Opinion, the KRC held a meeting on Friday, March 12, 1993, and announced a ruling to the effect that Kansas simulcast breakage proceeds and unclaimed tickets would be distributed in proportion to the breed of horses which participated in live Kansas races, and not in accordance to the breed of horses which participated in the simulcast horse races.

37. On May 6, 1993 the KRC held a Kansas Administrative Procedure Act Show Cause Hearing, at which the members of the KRC presided.

38. On May 17, the KRC issued a Final Order in the matter of the distribution of 1992 simulcast breakage and unclaimed winning tickets, authorizing payment of the proceeds in accordance with above mentioned Attorney General's opinion 93-12. A copy of the Final Order is attached hereto as Exhibit C.

39. This ruling by the KRC was not issued in accordance with the required rules, regulations, and notifications necessary for the proper issuance and implementation of administrative agency rulings.

40. This ruling by the KRC will deprive plaintiff of expected

breakage and unclaimed tickets proceeds which plaintiffs is needing in order to continue to breed and develop Kansas thoroughbred horses.

41. A correct reading of the Racing Act, and its legislative history, will demonstrate that the opinion issued by Attorney General Robert T. Stephan is legally erroneous, and that the rulings issued by the KRC on March 12, 1993 and May 17, 1993 concerning distribution of simulcast breakage proceeds and unclaimed tickets are likewise legally erroneous and in violation of the Racing Act.

42. Plaintiffs will suffer irreparable harm unless the rulings and actions of the KRC are enjoined and declared to be invalid, and plaintiffs have no adequate remedy at law which would allow them to redress the damages which they will suffer as a result of the KRC's rulings and actions.

43. Pursuant to K.S.A. 77-607 and K.S.A. 77-608, plaintiffs have the requisite standing to seek judicial review of the KRC's rulings and actions in that said rulings and actions are either final agency actions or nonfinal agency actions from which the plaintiffs will suffer irreparable harm.

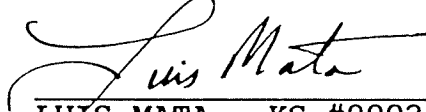
44. Plaintiffs request that the court review the KRC's rulings and actions concerning the distribution of simulcast breakage and unclaimed tickets proceeds and find that the KRC has erroneously interpreted or applied the law and that KRC denied plaintiffs the opportunity to a fair administrative hearing on the issues and that the KRC's actions are unreasonable, arbitrary and capricious, and, in addition, for the court to find that the issuance of the KRC's

rulings and actions concerning distribution of simulcast breakage, and unclaimed ticket proceeds were not done in compliance with the required administrative rules and regulations for the issuance and implementation of administrative agency actions.

45. Plaintiffs further request that the court grant such other and declaratory and injunctive relief, temporary and permanent, as needed to stop the KRC's rulings and actions and to protect the rights and interests of the plaintiffs.

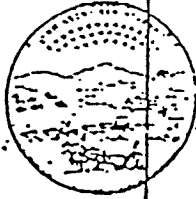
WHEREFORE, plaintiffs request that the court issue declaratory relief, temporary restraining order, preliminary injunction, permanent injunction, and such other legal and equitable relief, including attorney's fees and costs, as the court may deem just and proper.

EVANS & MULLINIX, P.A.



LUIS MATA - KS #9003
1314 N. 38th Street
Kansas City, KS 66102-2293
(913) 621-1200
(913) 621-1263 (FAX)
Attorney for Plaintiffs

STATE OF KANSAS



KANSAS RACING COMMISSION

3400 Van Buren
Topeka, Kansas 66611-2228
(913) 296-5800
FAX (913) 296-0900

January 12, 1993

The Honorable Robert T. Stephan
Attorney General
State of Kansas
Judicial Building
Second Floor
Topeka, KS 66612-1597

Re: Opinion request concerning distribution of breakage from
simulcast horse races

Dear Mr. Stephan:

The Kansas Racing Commission is in the process of authorizing distribution of breakage monies from horse races that were simulcast into Kansas racetracks in 1992. It is also drafting proposed amendments to the parimutuel racing act for the upcoming legislative session. Commissioners have asked me to request an attorney general's opinion on the provisions of the racing act that address payment of breakage monies, because, depending on your legal reading of the breakage provisions, the commission may propose new language for that distribution.

The breakage, or "odd cents" payable on each wagering dollar, for live horse races conducted in Kansas is ultimately paid into the Kansas horse breeding development fund. Distributions from that fund are governed by K.S.A. 74-8829(b). That section states:

"(b) Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund

and shall be used in each category to provide:

(1) Purse supplements to owners of Kansas-bred horses;

(2) stakes and awards to be paid to the owners of the winning Kansas-bred horses in certain races as determined by the commission;

(3) a stallion award to each owner of a Kansas-registered stallion which is the sire of a Kansas-bred horse if such horse wins or wins, places or shows in any race conducted at a Kansas race meeting, but no such award shall be paid to the owner of a Kansas stallion that served outside Kansas at any time during the calendar year in which the winning Kansas-bred horse was conceived;

(4) a breeder's award to each owner of a Kansas-registered mare which is the dam of a Kansas-bred horse if such horse wins or wins, places or shows in any race conducted at a Kansas race meeting; and

(5) moneys for equine research through institutions of higher education under the state board of regents.

If a racetrack displays simulcast horse races, the breakage likewise is paid into the Kansas horse breeding development fund. L. 1992, ch. 27, sec. (h)(1) and (4). Since approximately 99% of the horse races simulcast into Kansas racetracks are thoroughbred races, the reading of these provisions that has been urged by the Kansas thoroughbred owners is that 99% of the breed monies should be paid to them. This reading would result in 1992 simulcasting breakage distributions to thoroughbreds in the amount of \$107,486.63, to quarter horses in the amount of \$563.85, to Appaloosas in the amount of \$222.55 and to Arabians in the amount of \$19.72.

Another reading is that these simulcast monies should be paid pro rata to the Kansas breeds in accordance with their participation in the Kansas-bred program for that year, as specifically described in K.S.A. 74-8829(b)(1)-(4). This reading would tie the distribution to the live-race performance of the Kansas-bred horses for the year, not on the televised performance of foreign horses in races written by racetrack management. The 1992 live-race breakage distribution is \$67,404.52 to thoroughbreds and \$24,764.07 to quarter horses.

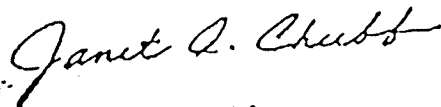
Memorandum
January 12, 1993
Page 3

The disparity in the live-race and simulcasting distributions is apparent.

The racing commission would like to take action on the distribution of simulcast breakage monies and, if necessary, on the drafting of a proposed amendment to the racing act at its next regular meeting January 29, 1993. If it is possible, the commission would like to receive your opinion concerning the reading of the breakage provisions before that time.

Thank you for your consideration of these issues. Please advise if I may be of assistance or if there is any question about the commission's request.

Respectfully,



Janet A. Chubb
Assistant Attorney General

cc: Kansas Racing Commissioners
~~Adrianne Thompson~~



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

January 28, 1993

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOMER: 296-6296

ATTORNEY GENERAL OPINION NO. 93- 12

Robert Londerholm
Chairman
Kansas Racing Commission
3400 Van Buren
Topeka, Kansas 66611-2228

Re: State Boards, Commissions and Authorities--
Parimutuel Racing--Horse Breeding Development Fund;
Apportionment of Breakage on Simulcast Races

Synopsis: Moneys credited to the Kansas horse breeding development fund are to be apportioned into categories corresponding with the various breeds of horses participating in races conducted by Kansas, organization licensees and used to benefit Kansas-bred horses, certain Kansas-registered stallions and mares, and further equine research. Since Kansas organization licensees do not "conduct" the simulcast races they ~~display~~ at their tracks, horses participating in the simulcast races will not be considered in determining the categories to be created under K.S.A. 74-8829(b) and should not be considered when allocating breakage proceeds. Cited herein: K.S.A. 74-8802; 74-8821; 74-8829; 74-8836.

*

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Dear Mr. Londerholm:

On behalf of the Kansas racing commission, our opinion has been requested with regard to the apportionment of breakage proceeds from simulcast horse races. Specifically the board

Robert Londerholm

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questions whether breakage proceeds should be apportioned according to each breed's participation in all races or according to each breed's participation in only live races conducted in Kansas.

"Breakage" is defined as:

"[T]he odd cents by which the amount payable on each dollar wagered exceeds:

"(1) A multiple of \$.10, for parimutuel pools from races conducted in this state; and

"(2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combined wagering pools." K.S.A. 74-8802(a). But see K.S.A. 74-8821(a).

K.S.A. 74-8821 sets forth how breakage proceeds are to be distributed. Subsection (d) of K.S.A. 74-8821 states as follows:

"All breakage proceeds from parimutuel wagering conducted by a simulcast licensee on simulcast races displayed by the licensee shall be distributed as provided by K.S.A. 74-8836."

In turn, K.S.A. 74-8836 provides in part as follows:

"(h) Except as provided by subsection (j):

"(1) If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races.

.....

"(4) If a simulcasting licensee has a license to conduct live racing of only

Robert Londerholm

Page 3

greyhounds and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races.

.
"[(j)](4) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h)." (Emphasis added.)

Thus all breakage proceeds from simulcast horse races displayed in this state are to be remitted by the organization licensee to the commission, which must then remit such proceeds to the state treasurer for deposit in the state treasury credited to the horse breeding development fund. K.S.A. 74-8821(b). K.S.A. 74-8829 provides for the allocation of moneys credited to the horse breeding development fund:

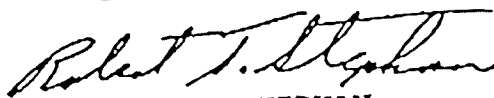
"(b) Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund and shall be used in each category to provide:"

Simulcast races displayed by a Kansas organization licensee are not "conducted" by that licensee; they are conducted by the operator or owner of the track at which they are actually being run. Thus horses participating in a simulcast race do not participate in "races conducted by organization licensees." Those horses are therefore not to be considered in determining the categories under K.S.A. 74-8829(b) or the categories' contributions to the fund. In our opinion this is

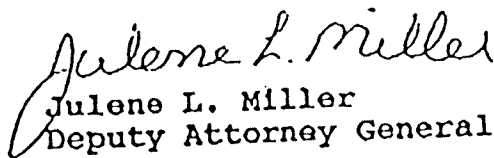
Robert Londerholm
Page 4

the plain reading of the statute and in addition it serves the purpose of the statute which is to benefit Kansas-bred horses that race in this state and certain Kansas-registered stallions and mares the offspring of which participate in races conducted in this state.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

PROCEED

BEFORE THE RACING COMMISSION MAY 17 9 AM '93

OF THE STATE OF KANSAS

KANSAS RACING
COMMISSION

In the matter of:

The Distribution of 1992
Simulcast Breakage and
Unclaimed Winning Ticket Proceeds

Case No. 93 - 000050

FINAL ORDER

TO:

Orion Stables
613 N. 5th Street
Kansas City, Kansas 66101

Mr. Gary J. Smith, President
Kansas Thoroughbred Association
234 N. Chestnut
Olathe, KS 66061

Ms. Joyce Billings
Kansas Horsemen's Association
420 East 6th, Suite 34
Topeka, KS 66607

Mr. Ralph Lilja
Route 1, Box 10
Zenda, KS 67159

Mr. Harold R. Smith
110 S. Butler Street
Erie, Kansas 66733-1351

Mr. David E. Breitstein
11840 Woodland Road
Olathe, KS 66061

Mr. Luis Mata
Attorney for Orion Stables
Midland Bank of Kansas
1314 N. 38th Street
Kansas City, Kansas 66102

Mr. George L. Smith
Executive Director, KTA
Rt. 1, Box 29
Medicine Lodge, KS 67104

Mr. Albert Hogoboom
President, KQHRA
Rt. 1
El Dorado, KS 67042

Mr. Gene Ralston
Attorney for KQHRA
2913 SW Maupin Lane
Topeka, KS 66614

On Thursday, May 6, 1993, the Kansas Racing Commission (commission) held a Kansas Administrative Procedure Act (KAPA) show cause hearing at 8:30 a.m. at the Woodlands' Turf Club, Kansas City, Kansas. The five-member Kansas Racing Commission sat as presiding officers.

The events which lead to the show cause hearing were as follows:

On Monday, April 19, 1993, the commission made a preliminary finding that the method for distribution of 1992 simulcast breakage and unclaimed winning ticket proceeds should be in the manner outlined in Attorney General Opinion 93-12. Attorney General Opinion 93-12 directs that breakage proceeds from simulcast races are to be distributed in the same manner as live horse races.

On the 20th day of April, 1993, a Notice of Show Cause Hearing was sent by certified mail, return receipt requested to all interested parties. The Notice of Show Cause Hearing was also served by regular mail with the Notice of Meeting to all individuals indicated in exhibit A and attached to the Notice of Show Cause Hearing.

The commission has authority to request and hold this hearing pursuant to K.S.A. 74-8801 et seq.; K.S.A. 74-8836 and K.S.A. 77-501 et seq. The presiding officers have reviewed the exhibits of evidence and the testimony of witnesses and make the following findings.

FINDINGS OF FACT

- 1) That the form of the request for hearing, the notice of designation of presiding officers, the notice of time and place of formal hearing, and services upon the interested

parties have been completed and are in accordance with all requirements of law.

- 2) That the commission has jurisdiction and authority pursuant to K.S.A. 74-8801 et seq.; K.S.A. 74-8836 and K.S.A. 77-501 et seq. to consider the exhibits, comments and any other evidence or witnesses introduced by interested parties at this hearing.
- 3) The issue addressed at the show cause hearing was why the 1992 simulcast breakage and unclaimed winning ticket proceeds should not be distributed according to Attorney General Opinion 93-12. Interested parties asserting that the 1992 simulcast breakage and unclaimed winning ticket proceeds should be distributed in a manner other than outlined in Attorney General Opinion 93-12 appeared before the commission and presented their arguments or papers at the May 6, 1993, show cause hearing. Other parties appeared in support of the commission following the Attorney General Opinion and presented their arguments or papers.
- 4) The presiding officers have heard oral arguments, accepted written briefs containing legal arguments, and accepted written papers and letters as to why the 1992 simulcast breakage and unclaimed winning ticket proceeds should or should not be distributed according to Attorney General Opinion 93-12. Some parties who would be considered 'interested' in that they also would be affected by the interpretation of Attorney General Opinion 93-12 were not

present at the hearing. However, all interested parties were given notice and the opportunity to present written papers, briefs, and letters to the commission, as well as to appear before the commission in person.

CONCLUSIONS OF LAW

- 1) Any finding of fact set out in paragraphs 1 through 4 above which also may be considered a conclusion of law is herein incorporated as though fully recited.

- 2) K.S.A. 74-8836(h)(1) states:

"If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races."

- 3) On January 12, 1993, the commission requested an opinion from Kansas Attorney General Robert T. Stephan concerning the distribution of 1992 breakage monies from simulcast horse races. The commission requested the Attorney General's opinion because it was commencing the process of authorizing the distribution of breakage monies and unclaimed winning tickets from the horse races that were simulcast into Kansas racetracks in 1992. The racing act directs that unclaimed winning ticket proceeds be distributed in the same manner as breakage proceeds. Attorney General Opinion 93-12 directed that the clear

meaning of the racing act was that the 1992 simulcast breakage monies be distributed in the same manner as in live horse racing; that is in accordance with the same percentage of breed contribution to live parimutuel races in Kansas, irrespective of the breed of the horses involved in the races simulcast into Kansas.

- 4) The commission finds Attorney General Opinion 93-12 to be advisory in nature.
- 5) Having heard arguments and testimony by interested parties and their attorneys, as well as written briefs, papers, and letters, the commission was not able to find legal cause why distribution of 1992 simulcast breakage and unclaimed winning ticket proceeds should not be in accordance with Attorney General Opinion 93-12.

FINAL ORDER

Based upon the foregoing findings of fact and conclusions of law, the Kansas Racing Commission hereby orders that the 1992 simulcast breakage and unclaimed winning ticket proceeds be distributed in accordance with Attorney General Opinion 93-12 subject to further review by the commission if the Attorney General should hereafter revise his opinion.

PETITION FOR STAY

Pursuant to K.S.A. 77-528, a petition for stay of effectiveness of a final order may be submitted to the presiding officers or agency head until the time at which a Petition for Judicial Review would no longer be timely.

RECONSIDERATION

Pursuant to K.S.A. 77-529, any party may file a Petition for Reconsideration with the agency head within 15 days after service of a Final Order.

PETITION FOR JUDICIAL REVIEW

Pursuant to K.S.A. 77-601 et seq. a Petition for Judicial Review of an agency's Final Order may be filed within 30 days after service of the Order.

IT IS SO ORDERED, this 17th day of May, 1993.

Robert C. Londerholm, Sr.
Robert C. Londerholm, Sr.
Chairman/Presiding Officer
Kansas Racing Commission

CERTIFICATE OF MAILING

This is to certify that a copy of the attached Final Order was served by depositing the same in the United States mail, certified mail, return receipt requested, first class postage prepaid, as follows; and by regular mail as listed on Attachment A this 17th day of May, 1993:

Orion Stables
613 N. 5th Street
Kansas City, Kansas 66101

Certified Mail No. P 207 734 782

Mr. Luis Mata
Attorney for Orion Stables
Midland Bank of Kansas
1314 N. 38th Street
Kansas City, Kansas 66102

Certified Mail No. P 207 734 783

Mr. Gary J. Smith, President
Kansas Thoroughbred Association
234 N. Chestnut
Olathe, KS 66061

Certified Mail No. P 207 734 784

Mr. George L. Smith
Executive Director, KTA
Rt. 1, Box 29
Medicine Lodge, KS 67104

Certified Mail No. P 207 734 795

Ms. Joyce Billings
Kansas Horsemen's Association
420 East 6th, Suite 34
Topeka, KS 66607

Certified Mail No. P 207 734 797

Mr. Albert Hogoboom
President, KQHRA
Rt. 1
El Dorado, KS 67042

Certified Mail No. P 207 734 798

Mr. Ralph Lilja
Route 1, Box 10
Zenda, KS 67159

Certified Mail No. P 207 734 799

Mr. David E. Breitstein
11840 Woodland Rd.
Olathe, KS 66061

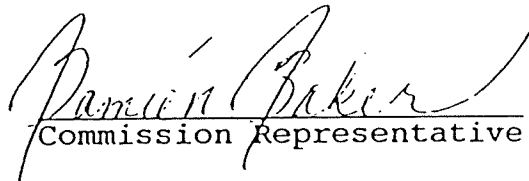
Certified Mail No. P 207 734 800

Mr. Harold R. Smith
110 S. Butler Street
Erie, Kansas 66733-1351

Certified Mail No. P 207 734 801

Mr. Gene Ralston
Attorney for KQHRA
2913 SW Maupin Lane
Topeka, KS 66614

Certified Mail No. P 207 734 802


Commission Representative

93DDC19-nsw

PROCESSED
MAY 17 9 AM '93

BEFORE THE RACING COMMISSION
OF THE STATE OF KANSAS

ANSA
COMM. NO.

In the matter of:

The Distribution of 1992
Simulcast Breakage and
Unclaimed Winning Ticket Proceeds

Case No. 93 - 000050

STATEMENT IN CONCURRENCE WITH FINAL ORDER

While the undersigned concurs in the Final Order announced above by the commission, I wish to add the following statement so as to explain my own individual reasoning in reaching that conclusion. In so doing, I do not purport to speak for any other commissioner.

I believe that the commission is under a strong obligation to follow the opinions of the Attorney General, as chief legal officer of the state, unless strong reasons exist not to do so. Particularly is this true in the case of the Racing Commission, where the Legislature has specifically assigned Assistant Attorneys General to provide legal counsel to assist the commission.

In the particular situation involved here, the statutory language which prescribes how breakage and unclaimed winning ticket (i.e., "outs") monies from races simulcast into Kansas is to be allocated among the various breeds to assist the breed development programs has been construed and interpreted by Attorney General Opinion 93-12. The key statutory phrase

involved, that breakage and "outs" from simulcasting be distributed "in the manner provided" for distributing breakage and "outs" from live parimutuel racing conducted in Kansas, is, in my opinion, capable of two possible interpretations, if not more, over which interpretations reasonable minds may differ. The opinion concludes that the commission is to first determine the percentages for allocation to breeds of the breakage and outs from live racing in Kansas, then simply apply those same percentages to simulcast breakage and outs without regard to the horse breeds actually involved in the races simulcasted into Kansas.

The alternative interpretation would be to say that the phrase -- "in the manner provided" -- would mean that the percentages of simulcasted races first would be determined and allocated by the breed involved in the races and the simulcast breakage and outs monies be distributed accordingly, thus satisfying the "in the manner provided" language of the statute, since the "manner" followed in allocating these monies to the various breeds would be to follow the identical procedure or mode in each case (i.e., for live and simulcast races), even though the actual percentages would be different. The word, "manner", is defined to mean a "mode" or "method" of "acting" or "procedure" -- "rules of conduct." Webster's New Collegiate Dictionary, G & C Merriam Co., p. 700.

As noted, the Attorney General Opinion follows the first interpretation described above. For the reasons stated at the beginning of this statement, I therefore concur in the action

of the commission in adhering to that Opinion. I note in passing that some evidence was presented to the commission, and not contradicted, that there were some simulcasted Paint or Appaloosa races brought into Kansas last year, but no live races in Kansas, with the result under the Opinion that no simulcast breakage or outs monies from those races would be distributed to those particular breeds.

Robert C. Londerholm, Sr.
Robert C. Londerholm, Sr.
Chairman/Presiding Officer
Kansas Racing Commission

93DDC19-nsw

CERTIFICATE OF MAILING

This is to certify that a copy of the attached Statement In Concurrence With Final Order was served by depositing the same in the United States mail, certified mail, return receipt requested, first class postage prepaid, as follows; and by regular mail as listed on Attachment A this 17th day of May, 1993:

Orion Stables
613 N. 5th Street
Kansas City, Kansas 66101

Certified Mail No. P 207 734 782

Mr. Luis Mata
Attorney for Orion Stables
Midland Bank of Kansas
1314 N. 38th Street
Kansas City, Kansas 66102

Certified Mail No. P 207 734 783

Mr. Gary J. Smith, President
Kansas Thoroughbred Association
234 N. Chestnut
Olathe, KS 66061

Certified Mail No. P 207 734 784

Mr. George L. Smith
Executive Director, KTA
Rt. 1, Box 29
Medicine Lodge, KS 67104

Certified Mail No. P 207 734 795

Ms. Joyce Billings
Kansas Horsemen's Association
420 East 6th, Suite 34
Topeka, KS 66607

Certified Mail No. P 207 734 797

Mr. Albert Hogoboom
President, KQHRA
Rt. 1
El Dorado, KS 67042

Certified Mail No. P 207 734 798

Mr. Ralph Lilja
Route 1, Box 10
Zenda, KS 67159

Certified Mail No. P 207 734 799

Mr. David E. Breitstein
11840 Woodland Rd.
Olathe, KS 66061

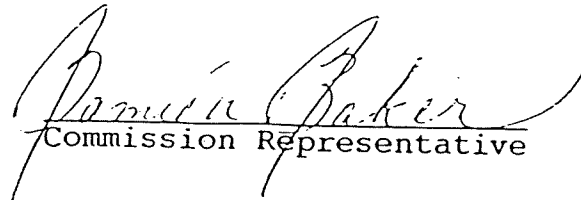
Certified Mail No. P 207 734 800

Mr. Harold R. Smith
110 S. Butler Street
Erie, Kansas 66733-1351

Certified Mail No. P 207 734 801

Mr. Gene Ralston
Attorney for KQHRA
2913 SW Maupin Lane
Topeka, KS 66614

Certified Mail No. P 207 734 802


Commission Representative

93DDC19-nsw

PROCESSED

MAY 17 9 -- AM '93

BEFORE THE RACING COMMISSION
OF THE STATE OF KANSAS

KANSAS
COMMISSION

In the matter of:

The Distribution of 1992
Simulcast Breakage and
Unclaimed Winning Ticket Proceeds

Case No. 93-000050

INDEX OF EXHIBITS

| <u>Exhibit Number</u> | <u>Description of Exhibit</u> |
|-----------------------|---|
| 1 | Memorandum in support of commission's decision to follow attorney general's recommendation on breakage and outs from simulcast -- Eugene Ralston. |
| 2 | Letter addressed to commission dated April 27, 1993 from Dwight and Dolores Daniels. |
| 3 | Letter addressed to commission dated April 26, 1993 from Richaleen Turpin. |
| 4 | Letter addressed to commission dated April 26, 1993 from Ned E. Swingle. |
| 5 | Letter addressed to commission dated April 27, 1993 from R. J. Lantis. |
| 6 | Motion to dismiss without prejudice regarding lawsuit filed by Orion Stables. |
| 7 | Written remarks from Luis Mata, attorney, Orion Stables. |
| 8 | Letter addressed to commission dated April 30, 1993 from Dan Fick, AQHA. |

- 9 Testimony of Dana L. Nelson for
the show cause hearing of the
Kansas racing commission of May
6, 1993, case number 93-000050.
- 10 Materials presented by Gary
Smith dated May 3, 1993 with
article attached from the
"Blood Horse."
- 11 Memorandum of law as presented
in notebook form by Karen
Wittman.
- 12 Testimony for Senator Ben
Vidricksen, Senate Bill 383,
simulcasting.
- 13 Letter dated May 6, 1993 in
support of attorney general
opinion 93-12 from H. R. Smith.

93DPB22-dpb

CERTIFICATE OF MAILING

This is to certify that a copy of the attached Index of Exhibits was served by depositing the same in the United States mail, certified mail, return receipt requested, first class postage prepaid, as follows; and by regular mail as listed on Attachment A this 17th day of May, 1993:

Orion Stables
613 N. 5th Street
Kansas City, Kansas 66101

Certified Mail No. P 207 734 782

Mr. Luis Mata
Attorney for Orion Stables
Midland Bank of Kansas
1314 N. 38th Street
Kansas City, Kansas 66102

Certified Mail No. P 207 734 783

Mr. Gary J. Smith, President
Kansas Thoroughbred Association
234 N. Chestnut
Olathe, KS 66061

Certified Mail No. P 207 734 784

Mr. George L. Smith
Executive Director, KTA
Rt. 1, Box 29
Medicine Lodge, KS 67104

Certified Mail No. P 207 734 795

Ms. Joyce Billings
Kansas Horsemen's Association
420 East 6th, Suite 34
Topeka, KS 66607

Certified Mail No. P 207 734 797

Mr. Albert Hogoboom
President, KQHRA
Rt. 1
El Dorado, KS 67042

Certified Mail No. P 207 734 798

Mr. Ralph Lilja
Route 1, Box 10
Zenda, KS 67159

Certified Mail No. P 207 734 799

Mr. David E. Breitstein
11840 Woodland Rd.
Olathe, KS 66061

Certified Mail No. P 207 734 800

Mr. Harold R. Smith
110 S. Butler Street
Erie, Kansas 66733-1351

Certified Mail No. P 207 734 801

Mr. Gene Ralston
Attorney for KQHRA
2913 SW Maupin Lane
Topeka, KS 66614

Certified Mail No. P 207 734 802


Commission Representative

93DDC19-nsw

6/29/93
bkc
Eugene B. Ralston #06405
RALSTON, BUCK & ASSOCIATES
2913 S.W. Maupin Lane
Topeka, KS 66614
(913) 273-8002

Filed in
Dist CRT
July 1st, 1993

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

ORION STABLES, a parntership, et al

Plaintiffs,

vs.

Case No. 93 CV 681
Division Seven

THE KANSAS RACING COMMISSION, et al


MOTION TO INTERVENE

COMES NOW The Kansas Quarter Horse Racing Association (KQHRA) and moves the Court to allow KQHRA to intervene in the action filed herein.

In support hereof, this movant advises the Court that plaintiff in this action is attempting to obtain relief concerning the Kansas Racing Commission and Simulcast wagering funds which funds are the result of breakage and outs to be distributed to horse breeds.

That the Petition of Plaintiff directly impacts this movant and its membership economically to their detriment. That plaintiff's claims involve a determination of issues that will directly affect KQHRA and its membership as a practical matter. Such a determination may substantially impair movant and its membership unless movant is allowed to intervene to protect their interest.

WHEREFORE AND BY REASON OF THE ABOVE AND FOREGOING, movant
prays that they be allowed to intervene herein.



Eugene B. Ralston S.Ct. #06405
RALSTON, BUCK & ASSOCIATES

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above
and foregoing Motion to Intervene was deposited in the United
States mail, postage prepaid, on this 30 day of June, 1993,
addressed to:

Luis Mata
Midland Bank of Kansas
1314 North 38th St.
Kansas City, KS 66102-2293

Janet Chub
Assisant Attorney General
Kansas Racing Commission
3400 Van Buren
Topeka, KS


Eugene B. Ralston S.Ct. #06405
RALSTON, BUCK & ASSOCIATES

interstate combined wagering pools. K.S.A. 74-8821(b) states: all breakage proceeds from parimutuel wagering conducted by the organization licensee on live horse races conducted by the licensee shall be remitted by the licensee to the commission not later than the 15th day of the month following the race from which the breakage is derived. The commission shall promptly remit any such proceeds received to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the Kansas horse breeding development fund created by K.S.A. 74-8829 and amendments thereto. The commission further answers this statute does not confer authority for simulcast breakage to be received into the fund.

6. The commission admits in part and denies in part paragraph 29. K.S.A. 74-8822(c) states: All unclaimed ticket proceeds from parimutuel wagering conducted by the organization licensee on live horse race meetings conducted by the licensee shall be remitted by the licensee to the commission on the 61st day after the close of each race meeting. The commission shall promptly remit any such proceeds received to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the Kansas horse breeding development fund created by K.S.A. 74-8829 and amendments thereto. The commission further answers this statute does not confer authority for simulcast unclaimed winning ticket proceeds to be received into the fund.

7. The commission admits in part and denies in paragraph 30. K.S.A. 74-8829(b) states: moneys credited to the Kansas

horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund..." The plaintiff's petition added language not in the statute.

8. Further answering, the commission admits paragraph 31.

9. The commission admits in part and denies in part paragraph 32. Approximately 99% of the horse races simulcasted into Kansas racetracks are thoroughbred races but the commission denies that K.S.A. 74-8829(b) requires the breakage monies and unclaimed ticket proceeds to be paid out of the Kansas horse breeding development fund in that proportion.

10. Commission admits to paragraph 33.

11. Commission admits in part and denies in part paragraph 34. The commission admits to the entire content of the letter written by Janet Chubb to the attorney general dated January 12, 1993. The commission denies the paraphrasing of plaintiff to its' content.

12. The commission admits in part and denies in part paragraph 35. The commission admits to the entire content of Attorney General Opinion 93-12 but denies the paraphrasing of plaintiff to its' content.

13. The commission denies paragraph 36. The commission did not issue a ruling on March 12, 1993 to the effect that Kansas simulcast breakage proceeds and unclaimed winning tickets would be distributed in proportion to the breed of horses which

participated in live Kansas races. The minutes of the March 12, 1993 meeting reflect that payout of the breed fund cannot occur until the formula for distribution is established. The formula was not established on March 12, 1993 and no action was taken at that time. A copy of the March 12, 1993 Kansas Racing Commission meeting is attached and is marked Exhibit A.

14. Commission admits to paragraph 37; a show cause hearing was held on May 6, 1993. A copy of the May 6, 1993 Kansas Racing Commission meeting is attached and is marked Exhibit B.

15. Commission admits to paragraph 38.

16. The commission neither admits or denies paragraph 39. The allegation is not specific and is too vague to answer in any detail. The commission did issue a final order in the matter of the distribution of 1992 simulcast breakage and unclaimed winning tickets. It came to the commission's attention on May 5, 1993 that representatives of Orion Stables had had a meeting with Attorney General Robert Stephan. This meeting occurred on May 4, 1993, two day prior to the scheduled show cause KAPA hearing. Mr. Stephan stated to Orion Stables representatives that he would review his opinion. The commission reserved the right in their final order to review their decision if the Attorney General should revise his opinion. Mr. Stephan on May 5, 1993 issued a letter to a representative of Orion Stables. This letter was received by the commission on approximately May 12, 1993. The letter upheld and confirmed Attorney General opinion 93-12. A copy of the letter is attached and marked

Exhibit C. This was reviewed by the commission and the final order stands.

17. The commission has insufficient knowledge to either admit or deny paragraph 40. However, a copy of the actual payout for the money in question, according to the formula adopted by the commission, to the named plaintiffs are attached and marked Exhibit D.

18. The commission denies paragraph 41. In further answering, (1) the commission denies a ruling issued on March 12, 1993, (2) the legislative history is not inconsistent with the commission's ruling (3) the commission's ruling is not in violation of the racing act and likewise not legally erroneous.

19. The commission has insufficient knowledge to either admit or deny paragraph 42.

20. Commission admits in part and denies in part paragraph 43. Pursuant to K.S.A. 77-607, the commission admits that plaintiffs have standing to seek judicial review. The commission denies that K.S.A. 77-608 applies due to the fact that the commission's order was a final agency action and does not fit the definition of nonfinal agency action.

21. The commission denies paragraph 44. In further answering, (1) the commission did not erroneously interpreted the law, (2) did not deny plaintiffs opportunity to a fair administrative hearing, (3) commission's actions were not unreasonable, arbitrary and capricious (4) commission's rulings were done in compliance with the required administrative rules.

22. The commission has insufficient knowledge to either admit or deny paragraph 45. The commission is uncertain what specific relief is requested.

WHEREFORE the Kansas Racing Commission respectfully requests that the Court deny Orion Stables et. al petition for judicial review and grant such other relief as it deems just and equitable.

Respectfully submitted,



KAREN C. WITTMAN #15059
Assistant Attorney General
Kansas Racing Commission
3400 Van Buren
Topeka, Kansas 66611-2228
(913) 296-5800

93KCW13a-nsw

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached entry of appearance was served upon the following by depositing a true copy thereof in the United States mail, first class postage prepaid, this _____ day of July, 1993, addressed to the following:

Mr. Luis Mata
Midland Bank of Kansas
1314 N 38th Street
Kansas City, KS 66102

ATTORNEY FOR ORION STABLES

Mr. Eugene B. Ralston
Ralston, Buck and Associates
2913 S.W. Maupin Lane
Topeka, KS 66614

ATTORNEY FOR KANSAS QUARTER HORSE RACING ASSOCIATION

Commission Representative

93KCW13a-nw

Kansas Racing Commission

March 12, 1993

Minutes

CALL TO ORDER: Chairman Londerholm called the March 12, 1993 commission meeting to order at 8:36 a.m. at the Kansas Racing Commission office located at 3400 SW Van Buren, Topeka, Kansas. All commissioners were present, except Commissioner Kobuszewski who arrived later in the morning. Executive Director Janet A. Chubb, Assistant Attorneys General Deborah D. Cox and Karen C. Wittman, Recording Secretary Damien Baker and additional staff were also present.

AGENDA APPROVAL: Commissioner Martin (Coder) moved to approve the agenda for the March 12, 1993 commission meeting as amended. The motion passed unanimously.

MINUTES APPROVAL: Commissioner Coder (Martin) moved to approve the minutes for the March 4, 1993 commission meeting as submitted. The motion passed unanimously.

GREYHOUND RESEARCH FUNDS: Mrs. Chubb advised the commission that the legislature may be considering using greyhound research funds for other purposes.

GREYHOUND RESEARCH FUNDS MOTION: Commissioner Peltzer (Coder) moved that the commission direct Mrs. Chubb to address the legislature in writing advising them of the commission's support for the use of these funds for the prevention of diseases and injuries to racing greyhounds.

FIVE SECOND DELAY TEST FOR THE CANCELLATION OF MUTUEL TICKETS: Mrs. Chubb informed the commission that the judges at Wichita Greyhound Park (WGP) are requesting a live test at WGP of the five second delay procedure for the cancellation of mutuel tickets.

FIVE SECOND DELAY
TEST FOR THE
CANCELATION OF
MUTUEL TICKETS
MOTION:

Commissioner Peltzer (Martin) moved to approve the request from the judges at WGP to perform a live test at WGP of the five second delay procedure for the cancelation of mutuel tickets, and directed Mrs. Chubb to draft a written order for commission review and approval authorizing this test. The motion passed unanimously. (Commissioner Kobuszewski now in attendance.)

APPOINT HEARING
OFFICERS FOR
CASE NUMBER
93-000036, JAVIER
MARTINEZ, JR.:

Mrs. Kit Bostrom, licensing supervisor, requested the commission appoint the judges at WGP as hearing officers in the matter of Javier Martinez, Jr., case number 93-000036.

APPOINT HEARING
OFFICER FOR
CASE NUMBER
93-000036, JAVIER
MARTINEZ, JR.
MOTION:

Commissioner Coder (Kobuszewski) moved to appoint the judges at WGP as hearing officers in the matter of Javier Martinez, Jr., case number 93-000036. The motion passed unanimously.

LICENSE BADGE
REPLACEMENT FEE:

Mrs. Kit Bostrom, office specialist, requested the commission approve a fee of \$10 for the issuance of license badges for the replacement of worn out badges or badges reissued due to a change of name.

LICENSE BADGE
REPLACEMENT FEE
MOTION:

Commissioner Peltzer (Kobuszewski) moved to approve a \$10 fee for the issuance of license badges for the replacement of worn out badges or for badges reissued due to a change of name. The motion passed unanimously.

COMMISSION

DIRECTION:

*As amended
at Apr 19, 1993
commission meeting.*

Commissioner Kobuszewski instructed that the Kansas Racing Commission (KRC) offices will not receive any further requests from WGP WGC that are not dated.

RECESS:

dph

The commission recessed at 9:40 a.m.

RECONVENE:

The commission reconvened at 10:00 a.m. with all members present as previously stated.

KTA SIMULCASTING

QUESTIONS:

Mrs. Cox responded to questions regarding simulcasting which were asked by Mr. Gary Smith, president, Kansas Thoroughbred Association (KTA), in his letter addressed to Mrs. Chubb dated February 26, 1993. The commission directed Mrs. Cox to reduce her answers to writing in a letter addressed to Mr. Gary Smith.

KHA REQUEST FOR
FORMULA ON
DISTRIBUTION:

Mrs. Chubb advised the commission that the Kansas Horsemen's Association is requesting confirmation of the formula to be used in allocations to equine research, mare and stallion awards and purse supplements and stakes. The commission deferred action on this request until the March 26, 1993 commission meeting.

CONSIDERATION OF
REQUEST FOR
APPROVAL OF
CONSULTANTS AND
AMENDMENT OF
FINANCING
PROVISIONS --
CGRI:

Mr. John Williamson, acting general manager, Camptown Greyhound Racing, Inc. (CGRI), informed the commission that Columbian Securities, Inc. has ceased its operations and CGRI is, therefore, requesting the commission approve its use of Chapman Securities, Inc. as a financial consultant.

RECESS:

The commission recessed at 11:15 a.m.

RECONVENE:

The commission reconvened at 11:25 a.m. with all members present as previously stated.

EXECUTIVE SESSION
MOTION:

Commissioner Coder (Martin) moved to recess into executive session at 11:25 a.m. until 11:45 a.m. for the purpose of consulting with General Counsel Carol Bonebrake concerning matters that would be deemed privileged in the attorney client relationship dealing with Camptown Greyhound Racing, Inc. No action is to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion passed unanimously.

RECONVENE
EXECUTIVE SESSION:

The commission returned from executive session at 11:46 a.m. with all members present as previously stated.

CONSIDERATION OF
REQUEST FOR
APPROVAL OF
CONSULTANTS AND
AMENDMENT OF
FINANCING
PROVISIONS --
CGRI MOTION:

Commissioner Martin (Peltzer) moved to approve the request from CGRI for the use of Chapman Securities, Inc. as a financial consultant, conditioned upon the agreement that Mr. William Spillman not be involved in any way with this project and that Chapman Securities, Inc. respond to any inquiry by the KBI as directed by the commission and its executive director. The motion passed unanimously.

CGRI/TRAK SOUTHEAST
MOTION TO CURE
MOTION:

Commissioner Martin (Coder) moved to direct general counsel to draft and serve upon CGRI and TRAK Southeast a notice to cure, which would allow the licensees 30 days to cure their lack of financing due to the closing of Columbian Securities, Inc., and that this motion to cure be independent of CGRI's May 1 deadline to complete its financial package as outlined in its final order. The motion passed unanimously.

Minutes of the Kansas Racing Commission
March 12, 1993
Page 5

RECESS: The commission recessed at 12:10 p.m. for lunch.

RECONVENE: The commission reconvened at 1:35 p.m. with all members and staff present as previously stated, except Assistant Attorney General Karen C. Wittman.

PUBLIC COMMENTS:

FUNDS FOR
BREAKAGE PROCEEDS
AND OUTS GENERATED
AT EUREKA DOWNS:

Mr. Gary Smith, president, Kansas Thoroughbred Association, asked questions of the commission concerning money for breakage proceeds and outs which had been generated at Eureka Downs.

The commission directed legal staff to research how this money was distributed.

DISTRIBUTION
OF BREED MONEY:

Mr. Gary Smith, president, Kansas Thoroughbred Association, asked for the status of the distribution of breed money.

Mrs. Chubb advised that the commission authorized the live pay-out after the February 12, 1993 commission meeting, but distribution cannot occur until the formula for distribution is established at the March 26, 1993 commission meeting. The distribution will then occur the following week.

CONCERNS REGARDING
STAKES RACE
PROGRAM:

Mr. Gary Smith, president, Kansas Thoroughbred Association, addressed concerns he had regarding an advertised stakes race program, which appeared in the Kansas Thoroughbred Journal, and whether it is in violation of the Kansas Horsemen's Association's contract.

Mrs. Patti Weelborg, president, Kansas Horsemen's Association (KHA), advised that the stakes program has been generated to increase the awareness and the participation in the Kansas-bred program and to increase the opportunity of funding to the KHA as it

deals directly with funds generated by the Kansas-bred program.

The commission requested legal staff to review this matter to see if there is a violation of the KHA contract.

FUNDING FOR QAP
PROGRAM:

Commissioner Kobuszewski reported on the subcommittee meeting regarding funding for the Quality Assurance Program (QAP), which she attended March 6 - 7, 1993.

UPDATE ON
EUREKA DOWNS:

Mr. R. Lewis Hull, Greenwood County Fair Association, updated the commission on the status of its application for a county fair meet at Eureka Downs. He also reported that the proposed fair meeting for 1993 has been reduced from 14 to seven days. The commission requested that continued updates be given regarding this matter.

RECESS:

The commission recessed at 3:13 p.m.

RECONVENE:

The commission reconvened at 3:34 p.m. with all members present as previously stated.

UPDATE ON
COUNTY FAIR
CIRCUIT ANALYSIS:

Mr. Lester Arvin, attorney, Arvin and Arvin, presented to the commission a proposed analysis study of county fair associations, and the possibility of a fair meeting circuit which would be monitored by the commission.

COMMISSION/STAFF
WORK SESSION:

Mrs. Kit Bostrom, office specialist, requested the commission determine who should perform the background investigation on United Tote and how extensive this investigation should be. Mrs. Chubb recommended this investigation be performed by the KBI. The commission directed that a discussion be held between commission staff and the KBI to discuss this matter.

EXECUTIVE SESSION
MOTION:

Commissioner Coder (Kobuszewski) moved to recess into executive session at 4:22 p.m. until 4:45 p.m. for the purpose of consulting with legal counsel concerning

specific personnel matters that would be deemed privileged in the attorney client relationship. No action is to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion passed unanimously.

RECONVENE

EXECUTIVE SESSION: The commission returned from executive session at 4:45 p.m. with all members present as previously stated.

EXECUTIVE SESSION
MOTION:

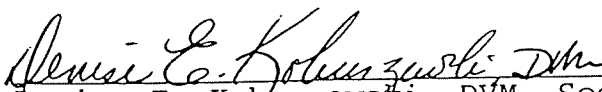
Commissioner Kobuszewski (Martin) moved to recess into executive session at 4:46 p.m. until 5:10 p.m. for the purpose of consulting with legal counsel concerning specific personnel matters that would be deemed privileged in the attorney client relationship. No action is to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion passed unanimously.

RECONVENE

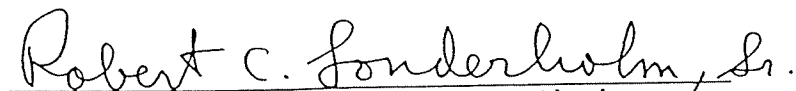
EXECUTIVE SESSION: The commission returned from executive session at 5:05 p.m. with all members present as previously stated.

ADJOURNMENT: The commission adjourned at 5:05 p.m.

Submitted By:


Denise E. Kobuszewski, DVM, Secretary

Approved By:


Robert C. Londerholm, Sr., Chairman

ATTENDANCE RECORD
COMMISSION MEETING

DATE:

March 12, 1993

| NAME | TOWN | ORGANIZATION |
|-----------------------|---------------|--------------|
| 1. Roy Barker | Wichita | WCP |
| 2. Richard L. Murphy | Wichita | WCE |
| 3. Rick Henson | KC | SUNFLOWER |
| 4. Karen Telle | Overland Park | KQHRA |
| 5. J. Bieley | Topeka | KHH |
| 6. D. Weelberg | Canton | K.H.A. |
| 7. Gary Smith | Clathre | KTA |
| 8. Paul Williamson | Pittsburg | Campdown |
| 9. Bob Oakeson | LeCompton | KTA |
| 10. Is Allen | Wichita | |
| 11. K. Allen | | |
| 12. LEWIS HULL | WICHITA | EUREKA DOWNS |
| 13. R. H. D. H. H. H. | Eureka | " " |
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Kansas Racing Commission

May 6, 1993

Minutes

CALL TO ORDER:

Chairman Londerholm called the May 6, 1993 commission meeting to order at 8:36 a.m. at the Woodlands' Turf Club, 99th and Leavenworth Road, Kansas City, Kansas. All commissioners were present. Executive Director Janet A. Chubb, Assistant Attorneys General Deborah D. Cox and Karen C. Wittman, Recording Secretary Damien Baker and other commission staff were also present. A court reporter from Hostetler and Associates transcribed the portion of this meeting dealing with the KAPA hearing on the distribution of simulcasting breakage and outs monies.

AGENDA APPROVAL:

Commissioner Peltzer (Kobuszewski) moved to approve the agenda for the May 6, 1993 commission meeting as amended.

KAPA SHOW CAUSE
HEARING:

The commission conducted a show cause hearing concerning the distribution of simulcasting breakage and outs monies. Notice of hearing was mailed with the May 6, 1993 regular meeting notice and published in the Kansas City Star.

WRITTEN COMMENTS:

Mrs. Chubb identified the briefs and other papers that have been filed in this show cause hearing.

KAPA SHOW CAUSE
HEARING BRIEF
OVERVIEW:

Mrs. Cox presented a brief overview for the commission concerning this hearing.

EXECUTIVE SESSION
MOTION:

Commissioner Coder (Kobuszewski) moved to recess into executive session at 8:45 a.m. until 9:15 a.m. for the purpose of consulting with legal counsel concerning a matter that would be deemed privileged in the attorney client relationship. No action is to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing Commission. At the conclusion of the

executive session, the meeting is to be continued in open session. The motion passed unanimously.

RECONVENE
EXECUTIVE SESSION: The commission returned from executive session at 9:16 a.m. with all members and staff present as previously stated.

OPENING
STATEMENTS: Chairman Londerholm made opening statements regarding this hearing and admitted the written materials marked as exhibits 1-11 into the official record.

OPPONENT
SPEAKERS: Mr. Gary Smith, president, Kansas Thoroughbred Association; Mr. Merle Parks, attorney, appearing on behalf of Mr. Luis Mata, attorney for Orion Stables; and Mr. John McCoy, thoroughbred owner and breeder.

RECESS: The commission recessed at 10:25 a.m.

RECONVENE: The commission reconvened at 10:45 a.m. with all members and staff present as previously stated.

OPPONENT
SPEAKERS
CONTINUED: Mr. Dana Nelson, lobbyist, submitted written legislative testimony by Senator Ben Vidricksen, which was marked as exhibit 12; and Mr. Jerry Johnson, thoroughbred owner, who stated he also represented Dr. Radke.

PROPONENT
SPEAKERS: Mr. Gene Ralston, representing the Kansas Quarter Horse Racing Association (KQHRA).

COMMISSION
DELIBERATION: The commission agreed to take the matter under advisement and to deliberate later in the day.

REPORT ON
EQUINE SURVEY: Mrs. Patti Weelborg, president, Kansas Horsemen's Association (KHA), introduced Mr. Sam Brownback, secretary, state board of agriculture; Mr. Bud Newell, task force chairman, state board of agriculture; and Dr. Randel Raub, Ph.D., assistant professor, equine teaching and research programs,

department of animal sciences, Kansas State University, who requested the commission consider providing seed money for an equine survey directed by the Kansas board of agriculture and modeled after a New York report.

RECESS: The commission recessed at 12:35 p.m. for lunch.

RECONVENE: The commission reconvened at 1:53 p.m. with all members and staff present as previously stated.

KAPA SHOW CAUSE
HEARING COMMISSION
DELIBERATIONS:

An additional written comment was marked as exhibit 13 and admitted to the record. After commission deliberations, Commissioner Martin (Peltzer) moved that the simulcasting breakage and outs monies should be distributed in accordance with attorney general opinion 93-12 as soon as the appeal period expires, unless the attorney general changes his opinion. In that case, the commission should reconsider this matter as soon as possible. Mrs. Cox will prepare a final order for the chairman's review and approval.

ROLL CALL VOTE:

| | |
|-------------------|---------------|
| Martin - Aye | Peltzer - Aye |
| Kobuszewski - Aye | Coder - Aye |
| Londerholm - Aye | |

MINUTES APPROVAL: Commissioner Peltzer (Kobuszewski) moved to approve the minutes of the April 19, 1993 commission meeting as submitted. The motion passed unanimously.

CAMPTOWN GREYHOUND
RACING, INC.
FINANCING:

The commission reviewed preliminary financing materials provided by Camptown Greyhound Racing, Inc. (CGRI) and directed legal staff to review the commitment letter provided for legal sufficiency. The commission further directed the executive director to transmit a written request for background investigation to the Kansas Bureau of Investigation (KBI). Legal staff and the KBI are requested to report any

preliminary considerations about the investigation at the next commission meeting, and the executive director is to call the licensee about these procedures.

KBI BACKGROUND

REQUESTED -

CONSULTANT TO

ASSIST COMMISSION: The commission determined it would request a KBI background, a statement of fee certain and a resume for a consultant to assist the commission with the director of racing position.

APPOINT WOODLANDS'

JUDGES AS HEARING

OFFICERS IN THE

MATTER OF CHAD

PETTY, CASE NO.

93-000058:

Mrs. Kit Bostrom, licensing supervisor, requested the commission appoint the judges at the Woodlands as hearing officers in the matter of Mr. Chad Petty, case number 93-000058.

APPOINT WOODLANDS'

JUDGES AS HEARING

OFFICERS IN THE

MATTER OF CHAD

PETTY, CASE NO.

93-000058 MOTION:

Commissioner Coder (Kobuszewski) moved to appoint the judges at the Woodlands as hearing officers in the matter of Mr. Chad Petty, case number 93-000058. The motion passed unanimously.

RECESS:

The commission recessed at 3:05 p.m.

RECONVENE:

The commission reconvened at 3:25 p.m. with all members and staff present as previously stated.

TERMINATION OF

PLACE PICK 11

WAGER:

Mr. Rick Henson, general manager, the Woodlands requested the commission approve the termination of the place pick 11 wager effective May 18, 1993.

TERMINATION OF
PLACE PICK 11
WAGER MOTION:

Commissioner Coder (Kobuszewski) moved to approve the Woodlands' request to terminate the place pick 11 wager effective May 18, 1993. The motion passed unanimously.

VIEWING OF
VIDEO TAPE:

A video tape, produced by TRAK East, was shown to commissioners showing recipients of 1993 charitable funds distributed by TRAK East.

EXECUTIVE SESSION
MOTION:

Commissioner Kobuszewski (Coder) moved to recess into executive session at 3:38 p.m. until 4:05 p.m. for the purpose of consulting with legal counsel concerning a matter that would be deemed privileged in the attorney client relationship. No action is to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion passed unanimously.

RECONVENE
EXECUTIVE SESSION:

The commission returned from executive session at 4:18 p.m. with all members and staff present as previously stated.

COMMISSION
DISCUSSION --
SALARIES OF
WOODLANDS'
JUDGES:

The commission received materials and comments from the Kansas City racing judges concerning an adjustment to their salaries.

COMMISSION
DISCUSSION --
SALARIES OF
WOODLANDS'
JUDGES MOTION:

Commissioner Peltzer (Coder) moved that the commission request assistance from the division of personnel services to create a comprehensive salary package that would

address all Kansas-employed stewards and racing judges. The motion passed unanimously.

POLICY ON
EMPLOYMENT OF
STEWARDS AND
RACING JUDGES:

Mrs. Chubb requested that the commission review and consider approval of a drafted policy concerning the employment of stewards and racing judges.

POLICY ON
EMPLOYMENT OF
STEWARDS AND
RACING JUDGES
MOTION:

Commissioner Peltzer (Coder) moved to approve the drafted policy concerning the employment of stewards and racing judges as amended and identified as policy number KRCPOL9300005. The motion passed unanimously.

POLICY ON
FINGERPRINT
RECIPROCITY:

Mrs. Chubb requested that the commission review and consider approval of a drafted policy concerning fingerprint reciprocity.

POLICY ON
FINGERPRINT
RECIPROCITY
MOTION:

Commissioner Peltzer (Martin) moved to approve the drafted policy concerning fingerprint reciprocity as amended and identified as policy number KRCPOL9300004. The motion passed unanimously.

COMMISSION/KBI
MEMORANDUM OF
UNDERSTANDING:

Mrs. Cox informed the commission that its proposed changes to the commission/KBI memorandum of understanding were made and requested commission approval.

COMMISSION/KBI
MEMORANDUM OF
UNDERSTANDING
MOTION:

Commissioner Kobuszewski (Coder) moved to approve the drafted commission/KBI memorandum of understanding as presented. The motion passed unanimously.

ADJOURNMENT:

The commission adjourned at 5:35 p.m.

Minutes of the Kansas Racing Commission
May 6, 1993
Page 7

Submitted By:

Denise E. Kobuszekowski, DVM
Denise E. Kobuszekowski, DVM, Secretary

Approved By:

Robert C. Londerholm, Sr.
Robert C. Londerholm, Sr., Chairman

KANSAS RACING COMMISSION
ATTENDANCE RECORD
Woodlands' Turf Club
May 6, 1993

| | NAME | TOWN | ORGANIZATION |
|-----|-------------------|----------------|--------------|
| 1. | Jack Jester | Bonner Springs | KTA |
| 2. | Harry Sullivan | Ox-Ford | KTA |
| 3. | Sam Davis | Wamego | KTA |
| 4. | Bud Moran | Bonner Sp | KTA |
| 5. | DANA NELSON | KC | Self |
| 6. | RICK HENSEN | WOODLANDS - KC | |
| 7. | Jim Allen | Tapoka | Campfire |
| 8. | Jerry Grew | Desha | KHKA |
| 9. | Al Becker | K.C. KS | KQHRA |
| 10. | Donnie Molder | Bonner Sp, Mo | KTA |
| 11. | Karl W. Lutz | Zenda | KHBFH |
| 12. | John F. McLean | Bonner Spr | KTA |
| 13. | Karen Toller | Overland Park | KQHRA |
| 14. | DAVID BREITSTEIN | OLATHE | KQHRA |
| 15. | Bob Oleson | Leawards | KTA |
| 16. | Gary Smith | Clarks | KTA |
| 17. | Steve Dwyer | Kansas City | Woodlands |
| 18. | Harold R. Smith | Prin KS | 2HA |
| 19. | Wald F. Harris | OLATHE KS | KTA |
| 20. | Jenny Burgess | Tapoka | Sunflower |
| 21. | Bruce Kimbo | Woodlands Ki | " |
| 22. | Dick Bouapha | | " |
| 23. | Albert Stoyaborn | Chawla KS | KQHRA |
| 24. | Gandel Reub | Manhattan KS | KSU |
| 25. | Richard L. Munyan | Wichita | WGC 1-76 |

KANSAS RACING COMMISSION
ATTENDANCE RECORD
Woodlands' Turf Club
May 6, 1993

| | NAME | TOWN | ORGANIZATION |
|-----|------------------|----------------|-----------------|
| 26. | Bill Apple | Wichita | WGP |
| 27. | Robert [unclear] | K.C. [unclear] | Frank [unclear] |
| 28. | Bill [unclear] | Sioux | KOHA |
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COPY

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

May 5, 1993

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

John McCoy
Orion Fitting, Inc.
613 N. 5th Street
P.O. Box 17-1580
Kansas City, Kansas 66117

Dear Mr. McCoy:

Subsequent to our meeting yesterday, May 4, 1993, I have reviewed the information you presented with my staff and offer the following response to your concerns.

The copy of the testimony to be given by Mr. Dana Nelson at the Racing Commission's May 6, 1993 show cause hearing sets forth his recollection and understanding of 1992 Senate Bill No. 383, the bill that authorized simulcasting in the state of Kansas. With regard to Attorney General Opinion No. 93-12, Mr. Nelson states:

"I believe that opinion to be flawed, as it did not consider legislative intent nor did attorney's for the Attorney General interview those people involved on the legislation and working out agreements on the language in the bill, or legislators who carried the legislation on the floor of the Senate and the House, respectively. Nor did the Attorney General's office review the working files by myself at that time or the Kansas Racing Commission."

There are two reasons that legislative history was not mentioned in Attorney General Opinion No. 93-12. The first is due to the court's cardinal rule of statutory construction that where a statute is plain and unambiguous, courts must give effect to the intention of the legislature as expressed. Johnston v. Tony's Pizza Service, 232 Kan. 848 (1983). Only when the language is ambiguous may the courts look to extrinsic evidence for aid in construction.

State v. Haug, 237 Kan. 390, 391 (1985). In the opinion we state that the plain language of the act's provisions require the conclusion we reached and there was no ability to look beyond the language of the statute to reach a contrary conclusion.

The second reason legislative history is not mentioned is that the recorded history sheds no light on the issue being considered. Statements of legislators regarding the intent of legislation made after passage of the legislation are not valid legislative history. Hall v. State Farm Mutual Auto. Ins. Co., 8 Kan.App.2d 475 (1983). The files of the Racing Commission and individuals following the legislation also are not probative unless it can be shown through recorded history that such files were used by the legislature in passing the legislation. The only references to the distribution of breakage in the recorded minutes were statements that the breakage for simulcast races should be handled the same as for live races. See Minutes, Senate Committee on Federal and State Affairs, March 26, 1991, attachment 1; Minutes, Senate Committee on Federal and State Affairs, April 9, 1991, attachment 3; Minutes, House Committee on Federal and State Affairs, January 27, 1992, attachments 1 and 2. Handling simulcast breakage in the same manner as is done for live races would require apportioning the fund into categories corresponding with the breeds that participate in live races in Kansas. See K.S.A. 1992 Supp. 74-8829(b). (K.S.A. 74-8829 was not amended by Senate Bill 383.) Thus, even if we could look to legislative history to interpret the pertinent statutes, there is not any recorded history available that would alter the conclusion reached.

Finally, the fact that one branch of the legislature passed an amendment to change the way breakage is handled, thus "clarifying their intent," does not alter the construction of the statutes as they now exist. "No matter what the legislature may have really intended to do, if it did not in fact do it, under any reasonable interpretation of the language used, the defect is one which the legislature alone can correct." (Emphasis in original.) Colorado Interstate Gas Co. v. Board of Morton County Commissioners, 247 Kan. 654, 662 (1990), quoting Harris v. Shanahan, 192 Kan. 183, 196 (1963) and Russell v. Cogswell, 151 Kan. 793, 795 (1940). Correction of such a defect requires passage by both houses and the governor's approval.

In conclusion, the information you have provided with your request that we reconsider the issue addressed in Attorney General Opinion No. 93-12 does not convince me that the

conclusion originally reached was in error. I therefore decline to withdraw or revise that opinion.

Very truly yours,

Robert T. Stephan
Attorney General of Kansas

RTS:jlmm

| Name of Plaintiff | Registered in Kansas Breed Fund | To Receive Payout for 1992 |
|---|---------------------------------|----------------------------|
| Orion Stables | X | 10,793.25 |
| Duane J. Snook | X | None |
| Albert & Joan Freeman | X | 3,454.92 |
| Jack & Donna Foster | X | 2,112.78 |
| Larry & Carol Wilkerson | X | None |
| Fred & Frances Schiffner | X | 448.28 |
| Robert & Jean Lantis | X | 1,344.42 |
| Ned Swingle [or Ralph Lilja] | X | 767.52 [416.26] |
| Ralph Lilja [or Ned Swingle] | X | 1,391.13 [416.26] |
| Dr. Robert Herndon | X | 479.70 |
| Jerold Johnson | X | None |
| Donnie & Sandra Molder | X | 1,391.13 |
| Gary & Cheryl Smith | (As of June 1993) | None |
| John Southerland | X | 47.97 |
| Roland Jordon | X | 1,487.07 |
| George Smith [G. L. Smith] (KTA c/o G. Smith) | X | 527.67 [191.88] (464.29) |
| Russel Rothgeb | X | 2,110.68 |

EXHIBIT

D

FILED DC.
8-4-93

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT OF KANSAS
SHAWNEE COUNTY, CIVIL DEPARTMENT KANSAS

ORION STABLES, ET AL.,
Plaintiffs,

vs.

No. 93CV681
Division 7

KANSAS RACING COMMISSION, ET AL.,
Defendants.

ORDER FOR EXTENSION
OF TIME TO FILE TRIAL BRIEF

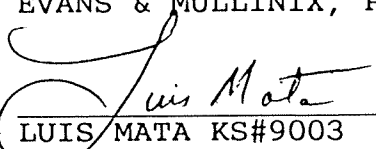
NOW on this ____ day of _____, 1993 comes on for hearing the motion of the plaintiffs for an additional seven (7) days in which to file plaintiffs' trial brief.

IT IS SO ORDERED, for good cause shown, that the plaintiffs' motion is sustained, and the plaintiffs are hereby granted an additional seven (7) days in which to file the plaintiffs' trial brief. Plaintiffs' trial brief shall be filed on or before August 12, 1993.

Hon. Franklin R. Theis, Div. 7

SUBMITTED BY:

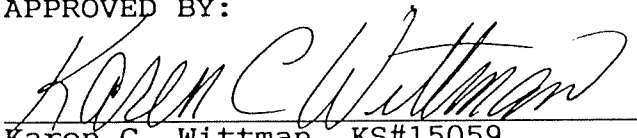
EVANS & MULLINIX, P.A.



LUIS MATA KS#9003

1314 North 38th Street
Kansas City, Kansas 66102-2293
(913) 621-1200
FAX: (913) 621-1263
Attorney for Plaintiffs

APPROVED BY:



Karen C. Wittman KS#15059

Assistant Attorney General
Kansas Racing Commission
3400 Van Buren
Topeka, KS 66611-2228
(913) 296-5800
Attorney for Kansas Racing Commission

APPROCESSED

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RECEIVED
KANSAS RACING
COMMISSION

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT OF KANSAS
CIVIL COURT DEPARTMENT

ORION STABLES, et al.,
Plaintiffs.

vs.

No. 93CV681
Division 7

KANSAS RACING COMMISSION, et al.,
Defendants.

PLAINTIFFS' TRIAL BRIEF

COMES NOW the Plaintiffs, by and through their attorney, Luis Mata, of Evans & Mullinix, P.A., and present their trial brief.

PRELIMINARY STATEMENT

The plaintiffs consist of a group of Thoroughbred horse owners. All of the plaintiffs own horses that are bred and stabled in the State of Kansas solely for the purpose of racing and, as such, are registered with the Kansas Breed Registry. The Thoroughbreds that are registered with the Kansas Breed Registry are known as "Kansas Thoroughbreds".

Defendant, the Kansas Racing Commission (hereinafter referred to as "KRC"), is an administrative agency formed by K.S.A. § 74-8803 for the purpose of overseeing parimutuel racing in the State of Kansas. The council consists of five (5) members

appointed by the Governor for a term of three (3) years. The individual defendants named in Plaintiff's Petition for Judicial Review are the active members of the KRC as of June 15, 1993.

The plaintiffs are seeking judicial review of the defendants' decision on the procedure for distributing the proceeds from 1992 simulcast horse racing breakage and unclaimed winnings. (Distribution under this current ruling would wrongfully deny Thoroughbred horse owners valuable breed money contributed to the Kansas Horse Breeders' Fund by Thoroughbred horses; and force the Kansas Thoroughbred industry to subsidize the Quarterhorse industry at its own expense.)

STATEMENT OF FACTS

1. On November 4, 1986, the people of the State of Kansas voted upon and approved an amendment to Article 15, Section 3b, of the Kansas Constitution, thereby permitting parimutuel wagering on horse and greyhound racing. In conjunction with the above vote, in 1987 the Kansas Legislature approved the Kansas Parimutuel Racing Act, K.S.A. §74-8801 et seq., and subsequent amendments, to govern and regulate parimutuel wagering within the State of Kansas.

2. As part of the Kansas Parimutuel Racing Act (hereinafter referred to as "Parimutuel Act"), K.S.A. §74-8821(b) provided that breakage monies and unclaimed winnings, as defined in K.S.A. §74-8802, are to be ultimately paid into the Kansas Horse Breeding Development Fund by the KRC, created by K.S.A. §74-8829.

Hereinafter, the Kansas Horse Breeding Development Fund shall be referred to as the "Fund".

3. It is the purpose of the Fund to provide: (1) purse supplements for Kansas Thoroughbreds and owners; (2) stakes and awards in certain races to Kansas Thoroughbreds and owners; (3) stallion awards to Kansas owners for each stallion that is the sire of a Kansas-bred horse, if such horse shall win, place or show in a Kansas race; (4) breeders awards to Kansas owners for each mare that is the dam of a Kansas-bred horse, if such horse shall win, place or show in a Kansas race; and (5) moneys for equine research. K.S.A. §74-8829(b).

4. All distributions from the Fund are governed by K.S.A. 74-8829(b), which states that "Moneys credited to the Kansas Horse Breeding Development Fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the Fund..."

5. In 1992, to supplement the Racing Act, the Kansas Legislature approved the displaying of and wagering on simulcast horse and dog races at licensed facilities that conduct more than 150 days of live racing per year (or at county fairs that conduct more than 22 days of live racing per year).

6. K.S.A. §74-8836 (hereinafter referred to as the "Simulcast Act") authorizes the payment of breakage and unclaimed winnings ticket proceeds from simulcast horse racing into the

Breeders Fund using the direct contribution formula of K.S.A. §74-8829(b).

7. Approximately 99% of the horse races simulcast into Kansas racetracks in 1992 were Thoroughbred races.

8. Karen Tolle of the Kansas Quarterhorse Racing Association addressed Dana Nelson, the Executive Director of the KRC concerning the lack of Quarterhorse contributions to the Fund, and, therefore the disparity in the final distribution of the Fund. Transcript of KRC Show Cause Hearing, pp. 80-81.

9. On January 12, 1993 the KRC, by and through Janet A. Chubb, Assistant Attorney General, requested an opinion from Kansas Attorney General Robert T. Stephan concerning alternative distribution of the Fund from simulcast horse races. In said letter, Ms. Chubb stated that depending upon Mr. Stephan's legal reading of the breakage provisions, the KRC could propose new language for distribution of the Fund. Letter from Janet Chubb to Attorney General Bob Stephan (January 12, 1993) (requesting opinion 93-12).

10. Subsequent to Ms. Chubb's request, on January 28, 1993, Mr. Stephan issued Attorney General Opinion No. 93-12, wherein he stated that breakage proceeds from simulcast horse races displayed in Kansas did not have to be distributed in direct proportion to the categories of horses participating in the simulcast horse races, but instead could be distributed in the same proportion as proceeds from live Kansas horse races. Attorney General Opinion 93-12.

11. Upon receipt of said Attorney General's Opinion, the KRC held a meeting on Friday, March 12, 1993 in which the distribution of the Fund was discussed and a decision deferred until a later date.

12. On April 19, 1993, the KRC announced its decision in the matter to the effect that Kansas simulcast breakage proceeds and unclaimed tickets would be distributed in proportion to the breed of horses which participated in live Kansas races, and not in accordance with the breed of horses which participated in the simulcast horse races.

13. After the issuance of the preliminary decision on the distribution of the simulcast portion of the Fund, the KRC held a Kansas Administrative Procedure Act Show Cause Hearing on May 6, 1993 at the Woodlands Race Track in Kansas City, Kansas. The members of the KRC presided. The purpose of the hearing was to give parties the opportunity to speak against the KRC's previously announced decision on the distribution of simulcast breakage and unclaimed winnings reports. Notice of Show Cause Hearing, p. 2-3.

14. Following the Show Cause Hearing, on May 17, the KRC issued a Final Order in the matter of the distribution of 1992 simulcast breakage and unclaimed winning tickets, authorizing payment of the proceeds in accordance with the above mentioned Attorney General's opinion 93-12.

15. In an effort to comply with the requirement for exhaustion of administrative remedies, on June 8, 1993,

plaintiff, Orion Stables, filed a Petition for Stay of Final Order with the KRC for the distribution of the 1992 simulcast proceeds in the Fund. This order was denied by the KRC on June 15, 1992 at a regularly scheduled KRC meeting.

SCOPE OF REVIEW

The Kansas Judicial Review Act ("KJRA"), at K.S.A. §77-601 et. seq., allows for review of agency actions and specifies the requirements necessary for the invalidation of such actions. The scope of review of an administrative agency action is governed by the KJRA. "The district court: (1) is restricted to considering the grounds for relief set forth in K.S.A. §77-621(c); (2) must presume the agency's findings valid; (3) may not set aside an agency order merely because the court would have reached a different conclusion if it had been the trier of fact; (4) may set aside the agency's finding when the finding is not supported by substantial complete evidence." Peck v. University Residence Committee of Kansas State Univ., 248 Kan. 450, 456 (1991). It is the party seeking change of an order that has the burden of showing the district court that an agency's order is invalid for one of the reasons listed in K.S.A. §77-621(c). Southwest Kan. Royalty Owners Ass'n v. Kansas Corporation Comm'n, 244 Kan. 157, 164 (1989).

ARGUMENTS AND AUTHORITIES

The plaintiffs assert that the final ruling of the KRC concerning the distribution of the 1992 simulcast breakage and unclaimed winnings proceeds is an erroneous interpretation of the law made using unlawful procedures. Therefore, the plaintiffs should be granted judicial relief from said ruling and the court should interpret the statute to provide for distribution of the simulcast proceeds in direct proportion to each breed's contribution.

THE INVALID AGENCY PROCEDURE UTILIZED BY THE KRC IN THE INSTANT CASE DENIED PLAINTIFFS THEIR RIGHT TO DUE PROCESS

The Kansas Legislature adopted the Kansas Administrative Procedure Act and the Kansas Judicial Review Act to ensure a consistent method of resolving disputes within administrative agencies. The failure of an agency to closely follow the procedures outlined in the KAPA deny parties from receiving the due process afforded them by the Legislature and result in unlawful decisions.

K.S.A. §77-621(c)(6) allows the Court to grant relief from an administrative action if the persons taking the action were subject to disqualification. The Final Order issued in the Show Cause Hearing should be considered null and void due to the April preliminary ruling of the KRC in the matter. The Kansas Administrative Procedure Act, at K.S.A. §77-514(b), calls for the presiding officer or officers at any formal administrative

hearing, such as the Show Cause Hearing held by the KRC, to be free of bias or prejudice as well as a non-interested party to the proceedings. Any presiding officers not able to meet this standard are subject to disqualification.

The April 19, 1993 preliminary ruling of the KRC in the matter of distribution of the simulcast breakage and unclaimed ticket proceeds, before the commencement of the Show Cause Hearing, clearly demonstrates that the Commission members were biased in their decision-making abilities concerning the distribution of the Fund. The members of the KRC publicly announced their intention to distribute the simulcast proceeds based only on the proportion of live racing participation before the hearing. In further demonstrating their inability to conduct the hearing in an unbiased manner, the Notice of Show Cause Hearing provided by the KRC allows only for those parties taking exception to their ruling to present oral arguments and briefs. The KRC's presiding officers made no attempt to solicit opinions from all interested parties and did not allow for the presentation of evidence and cross-examination by the parties as required by K.S.A. §77-523(b). This predisposed bias left the members of the KRC unable to effectively act as presiding officers and hear arguments from all sides of the issue before rendering a fair decision.

In addition, K.S.A. §77-621(c)(5) calls for relief from an agency action if "[T]he agency has engaged in an unlawful procedure or has failed to follow prescribed procedure." In

calling the Formal Show Cause Hearing for the matter of the distribution of 1992 simulcast proceeds, the KRC stated in its notice: "All interested parties may take exception to the Commission's preliminary finding at the Show Cause Hearing to be conducted pursuant to the Kansas Administrative Procedures Act." Notice of Show Cause Hearing, p. 2.

K.S.A. §77-523 authorizes the procedure for hearings held under the KAPA. Section (b) of K.S.A. §77-523 specifically states:

To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

In the case at bar, the KRC failed to meet these hearing criteria. In the Notice of Show Cause Hearing, the KRC specifically limited the interested parties to present evidence only against the preliminary finding, thus preventing parties from their right to cross-examination of other parties and the presentation of rebuttal evidence. Additionally, the KRC limited the type of evidence that could be presented to Oral Arguments of no more than 10 to 15 minutes in length and legal briefs and papers submitted only to the Commission. There was no opportunity to question witnesses and present evidence as called for in K.S.A. §77-523. In addition, by labeling the proceedings as a Show Cause Hearing, the KRC placed an undue burden on the plaintiffs since a show cause hearing infers that the agency

action is correct, and places the burden of overcoming the presumption of validity upon the parties in opposition to the agency action. This undue burden was unfair to the plaintiffs, and it constituted an additional violation of their due process rights.

It is also the plaintiffs position that the KRC's failure to follow the prescribed procedure in K.S.A. §77-523 led to an unfair and biased decision after the hearing, based on incomplete and unsubstantial evidence. Therefore, plaintiffs should be granted judicial relief in that the KRC has failed to follow the proper procedures for an administrative hearing, and thus issued an erroneous decision.

K.S.A. §77-8829(b) IS AN AMBIGUOUS STATUTE WHICH
REQUIRES JUDICIAL INTERPRETATION

In an attempt to simplify the differences in regulating simulcast and live racing, many of the procedures in the Simulcast Act specify that they will operate the same as live racing. The payment of simulcast breakage and unclaimed tickets falls into this category. K.S.A. §74-8836(h)(1) states that breakage and unclaimed ticket winnings from simulcast races shall be distributed in accordance with the procedure for live racing. Under K.S.A. §§74-8821 and 8822 all breakage and unclaimed winnings proceeds from simulcast and live horse racing are deposited with the State Treasurer and credited to the Kansas Horse Breeding Fund to be distributed in accordance with 74-8829.

K.S.A. §74-8829(b) states that "Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization licensees in direct proportion to each category's contribution to the fund"

The cardinal rule of statutory construction states that where a statute is plain and unambiguous, courts must give effect to the intention of the Legislature as expressed. Johnston v. Tony's Pizza Service, 232 Kan. 848, 850 (1983). When the Legislature's language is clear and unambiguous, the Court may not interfere with the operation of the statute. Extrinsic evidence may only be examined to aid in interpretation when the language is determined as ambiguous and in need of clarification by the Court. State v. Haug, 237 Kan. 390, 391 (1985).

However, when the question of ambiguity in statutory language arises, it is traditionally reserved for the Court. "Interpretation of a statute is a question of law and it is the function of a court to interpret a statute to give it the effect intended by the Legislature." NCAA v. Kansas Dept. of Revenue, 245 Kan. 553, 557 (1989), quoting State, ex rel., v. Unified School District, 218 Kan. 47, 49 (1975). When there is ambiguity in the language of a statute, the Court may look to extrinsic evidence for aid in construction. State v. Haug, 237 Kan. 390, 391 (1985).

In the case at bar, the KRC claims that the language of K.S.A. §74-8829(b) is unambiguous concerning the payout of simulcast breakage and unclaimed winnings. However, this particular interpretation for the method of payment was announced only after a disparity between the amounts that each breed contributed to the Fund became apparent. Until such time as the question of the disparity was first raised by the Kansas Quarterhorse Association, the KRC operated under the assumption that the Fund distribution would be based on the contribution of each breed and records were kept accordingly. Transcript of Show Cause Hearing, pp. 80-81.

It was at this time that Assistant Attorney General Janet Chubb brought the current controversy into existence when she asked for an interpretation of the statute with an alternative reading. Letter from Janet Chubb to Attorney General Bob Stephan (January 12, 1993) (requesting opinion 93-12).

Attorney General Bob Stephan issued opinion 93-12, upon Ms. Chubb's request, stating that the simulcast portion of the Fund should be paid in accordance with the proportions of live racing's breed contributions. In his opinion, the Attorney General states that the plain language of K.S.A. §74-8829(b) speaks only to those races actually run in Kansas for determination of the breed fund contribution; and therefore those are the proportions that must be used to determine the simulcast proceeds as well. Attorney General Opinion 93-12, pp. 2-3.

In focusing specifically on K.S.A. §74-8829(b)'s language "racas conducted by the licensee," and not considering the simulcast and parimutuel acts as a whole, the Attorney General has wrongly interpreted the statute. K.S.A. §§74-8836 and 8829(b) can be plainly read to construe two different meanings. The plaintiffs contend that K.S.A. §77-8829(b) is unambiguous in its construction that all moneys credited to the Fund shall be paid in direct proportion to the contribution by each breed. The Legislature intended for the payout procedure to remain the same for both simulcast and live racing, when it so stated in K.S.A. §74-8836. In simplifying the act to use the same procedure for determining the distribution of the fund, the Legislature intended for the key language of the statute to be "in direct proportion to each breed's contribution to the fund" as it is construed with K.S.A. §74-8836. Under the plaintiffs' contention, the reading of the statute, in context within the entire Parimutuel Act, is that both the live racing and the simulcast portions of the Fund pay off in direct proportion to each breed's contribution.

The defendants would ask for an alternative reading of the statute, such that only live racing proportions are used to determine the distribution of the Fund. The defendants rely on Attorney General Opinion 93-12 as the basis of their argument. In Opinion 93-12, the Attorney General describes another reading of the statute that the Fund should be paid only on the basis of

live racing contributions by focusing on the language "aces
conducted by the organization licensee...."

These two alternative readings of the statute suggest the ambiguity of the language. Additionally, the actions of the KRC and the Executive Director interpreting the statute one way until the request of Ms. Chubb that there be an alternative reading suggests ambiguity in the reading. The actions of the Attorney General, combined with those of the KRC, indicate that the statutory provisions governing the distribution of simulcast proceeds are ambiguous and in need of judicial interpretation.

A fundamental rule of statutory construction is that when the intent of the Legislature can be ascertained, such intent governs the interpretation of a statute. Steele v. City of Wichita, 250 Kan. 524, 529 (1992). When looking to the language of a statute for interpretation, the courts must interpret statutes in such a manner that, "In construing statutes, legislative intent is to be determined from a general consideration of the entire act...as far as practicable to reconcile the different provisions to make them consistent, harmonious, and sensible." Id., at 529. In the context of interpreting legislative intent, the courts are given wide leverage in the materials used to determine the intent. In Read v. Miller, 247 Kan. 557, 561-62 (1990), the Court states:

"We recognize that, in determining legislative intent, the literal meaning of the words used is not always controlling and that courts are not limited to consideration of the language used in the statute, but may look to the historical background of the enactment, the

circumstances attending its passage, the purpose to be accomplished, and the effect the statute may have under the various constructions suggested."

The Read and Steele decisions give the Court wide latitude in their authority to look beyond the literal wording of a statute and look to the historical background and purpose for the act for the best interpretation. The courts may look not only to testimony of members of the Legislature, but to other sources of information to determine the legislative intent. Attorney General Opinion 93-12 fails to take into consideration all the factors mentioned in the Read and Steele decisions and, as such, has wrongly interpreted the statutory provisions for the distribution of the simulcast proceeds.

The Simulcast Act was a controversial bill when first introduced to the Legislature in that it would allow "off-track" wagering against the Kansas Constitution. The Simulcast Act that did pass the Legislature allowed for very limited use of the technology, only at licensed facilities with live racing.

Testimony of Senator Ben Vidricksen Before the Kansas State

Senate, Senate Bill 383, p. 3. In drafting the simulcast legislation, the original Senate Bill 383 specified the new language for the simulcast provisions as "...a part of and supplemental to the existing Kansas Pari-Mutuel Racing Act."

Id., at p. 7. The testimony of Senator Ben Vidricksen before the Senate reveals that the original drafting of Senate Bill 383 provides for Simulcast proceeds to be distributed in the same manner as for live racing. Id., at p. 5.

Senate Bill 383 did pass the Senate, when presented at the 1991 session, but differences amongst the members of the racing industry slowed down the bill before the House State and Federal Affairs Committee. In an attempt to settle the differences among the racing community and facilitate the adoption of the Simulcast Act in the House, the KRC's Executive Director agreed to hold a series of meetings with an ad hoc committee consisting of members of the various groups. The purpose of the meetings was to aid in the drafting of amendments of the Simulcast Act for presentment to the House State and Federal Affairs Committee. Five meetings were held for this purpose in the fall and winter of 1991.

Transcript of KRC Show Cause Hearing, p. 77.

In his testimony before the Kansas Racing Commission Show Cause Hearing, Dana Nelson testified that the issue of the distribution of the simulcast proceeds was never a controversial topic among the different racing groups. At one of the meetings, Jerry Johnson, of the Kansas Thoroughbred Association, a regular attendant of the committee meetings, addressed his concerns about the distribution of the simulcast proceeds. Dana Nelson addressed these concerns by informing Mr. Johnson and the rest of the committee, "that [simulcast] breakage and unclaimed money for the breed fund would track with the breed of horse that generated the dollars, consistent with the way we handle breakage and unclaimed money for live racing." Id., at 78. Mr. Nelson further testified that no other questions were addressed

concerning the distribution of the Fund, indicating full agreement by all members of the committee.

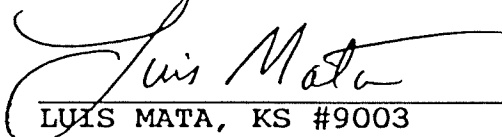
It was from these committee meetings, and with the help of Dana Nelson, that the House State and Federal Affairs Committee drafted the final amendments to the Simulcast Act as passed by the House. Taking into consideration the historical background and the Ad Hoc Committee's agreement and understanding of the procedure for the payment of simulcast proceeds from the fund, it is apparent that the Legislature intended for the distribution of the simulcast proceeds to follow the procedure for live racing and pay out in proportion to each breed's contribution.

CONCLUSION

The KRC's decision concerning the distribution of the 1992 simulcast breakage and unclaimed winnings proceeds is in error and such should be overruled by the court. The KRC failed to follow the standard KAPA procedure for deciding the issue and as such reached an erroneous decision. Additionally, the statutory provisions governing the payout are ambiguous in their construction. In their attempt to simplify the procedures for the administration of live and simulcasting racing, the Legislature directed that many procedures in the Simulcast Act should be handled in the same manner as live racing. The lack of specificity for certain simulcast procedures combined with the failure to adequately amend the live racing procedures has left parts of the act ambiguous and in need of judicial clarification.

The plaintiffs pray that the court grant their petition for judicial review for the above and foregoing reasons, and find the proper interpretation of the statutory provisions to indicate distribution of the simulcast proceeds in direct proportion to each breed's contribution to the Fund. Plaintiffs further request that the court issue such further declaratory and injunctive relief as may be required to protect the rights and interests of the plaintiffs and of Thoroughbred owners in the State of Kansas.

RESPECTFULLY SUBMITTED BY:

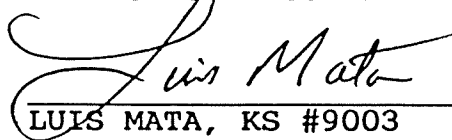


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Attorney for Plaintiffs

REQUEST FOR EVIDENTIARY HEARING

The plaintiffs hereby request that the court grant the plaintiffs an evidentiary hearing so that the plaintiffs may present live testimony, and for the court to allow the plaintiffs the opportunity to present oral arguments in support of this petition for review.

RESPECTFULLY SUBMITTED BY:



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CERTIFICATE OF MAILING

I hereby certify that a copy of the attached Plaintiffs' Trial Brief was mailed, first class postage prepaid, as follows this 12th day of August, 1993 to:

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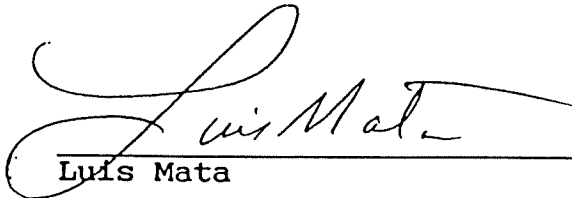
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Luis Mata

I

DISTRICT COURT
1ST DISTRICT
SEP 7 3 03 PM '93

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT OF KANSAS
SHAWNEE COUNTY, CIVIL DEPARTMENT, KANSAS

ORION STABLES, et al.,)
Plaintiffs,)
vs.) No. 93CV681
KANSAS RACING COMMISSION, et al.,) Division 7
Defendants.)

JUDICIAL REVIEW BRIEF OF DEFENDANTS'

Orion Stables, et al., seeks judicial review of an agency action wherein the Kansas Racing Commission (commission) approved the distribution of breakage and unclaimed winning ticket proceeds generated from simulcasting of horse races in accordance with Attorney General's opinion 93-12. The commission is the agency charged generally with the regulation of horse and greyhound racing and wagering in Kansas. Judicial review of commission action is governed by the Kansas act for judicial review and civil enforcement of agency actions (KJRA), K.S.A. 77-601 et seq.

Factual background--racing.

The commission is a five-member agency charged with regulating all aspects of parimutuel horse racing in Kansas. Kansas parimutuel racing act (act), K.S.A. 74-8801 et seq., particularly at K.S.A. 74-8804. There are two permanent racing facilities operating year round in the state of Kansas. The Woodlands is a dual racing facility located in Kansas City, Kansas. It operates both live greyhound and live horse racing during the year. Wichita Greyhound Park is located just north

of Wichita at Valley Center, Kansas. It operates live greyhound racing year round. Each racing facility has two Kansas corporations licensed by the commission to operate. The corporation that constructs and owns the racing facility is called the facility owner licensee while the corporation that is responsible for the day-to-day operations at the race track is called the organization licensee.

Pursuant to K.S.A. 74-8836, any organization licensee that conducts at least 150 days of live racing during a calendar year "...may apply to the commission for a simulcasting license to display simulcast horse or greyhound races and to conduct simulcast wagering thereon." Simulcasting means a live audio-visual broadcast of an actual horse or greyhound race at the time it is run. K.S.A. 74-8802(dd). Both racing organization licensees in the state of Kansas were granted a simulcasting license.

The Kansas horse breeding development fund (fund) was created to promote the breeding of horses in Kansas. K.S.A. 74-8829. All breakage proceeds from parimutuel wagering conducted by the organization licensee on live horse races conducted by the licensee shall be credited to the fund. K.S.A. 74-8821(b). Breakage is defined as the odd cents by which the amount payable on each dollar wagered exceeds: (1) a multiple of \$0.10, for parimutuel pools from races conducted in this state; and (2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combine wagering pools. K.S.A. 74-8802(a).

All unclaimed ticket proceeds from parimutuel wagering conducted by the organization licensee of live horse race meetings shall be credited to the fund. K.S.A. 74-8822. The common adage for unclaimed ticket proceeds is "outs."

K.S.A. 77-8836(h)(1) creates authority to credit breakage and unclaimed winning tickets from simulcasting parimutuel wagering to the fund. K.S.A. 74-8829 provides that monies credited to the fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by the organization licensees in direct proportion to each category's contribution to the fund. After the monies are apportioned into the categories, then they are used to provide: purse supplements and stakes, mare and stallion breeder awards, and monies for equine research.

Factual background--commission action concerning
the Kansas Bred Fund

In January of 1993, the commission was in the process of authorizing distribution of breakage and "outs" monies from horse races that were generated from simulcasting. A question arose as to the interpretation of the statute concerning the distribution specifically 74-8829(b).

K.S.A. 74-8829(b) states:

Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization

licensees in direct proportion to each category's contribution to the fund and shall be used in each category to provide:

- 1) purse supplements to owners of Kansas-bred horses;
- 2) stakes and awards to be paid to the owners of the winning Kansas-bred horses in certain races as determined by the commission;
- 3) a stallion award to each owner of a Kansas-registered stallion which is the sire of a Kansas-bred horse if such horse wins or wins, places or shows in any race conducted at a Kansas race meeting, but no such award shall be paid to the owner of a Kansas stallion that served outside Kansas at any time during the calendar year in which the winning Kansas-bred horse was conceived;
- 4) a breeder's award to each owner of a Kansas-registered mare which is the dam of a Kansas-bred horse if such horse wins or wins, places or shows in any race conducted at a Kansas race meeting; and
- 5) moneys for equine research through institutions of higher education under the state board of regents.

At the request of the commission, Janet Chubb, at that time legal counsel for the commission, drafted a letter to Robert Stephan, Attorney General, requesting an Attorney General's

opinion on the provisions of the racing act that address payment of breakage monies. (Vol. I, pgs. 1-3).

On January 28, 1993, Attorney General opinion 93-12 was received by the commission. The Attorney General Opinion determined the plain reading of the statute revealed "Since Kansas organization licensees do not "conduct" the simulcast races they display at their tracks, horses participating in the simulcast races will not be considered in determining the categories to be created under K.S.A. 74-8829(b) and should not be considered when allocating breakage proceeds. (Vol. I, pgs. 4-7).

On April 19, 1993, the commission made a preliminary finding that the method for distribution of 1992 simulcast breakage and unclaimed winning ticket proceeds should be in the manner outlined in Attorney General Opinion 93-12. (Vol. I, pg. 8). The commission invited all interested parties who took exception to its preliminary finding to participate in a Show Cause Hearing. On May 6, 1993, the commission conducted its show cause hearing pursuant to the Kansas Administrative Procedures Act (K.S.A. 77-501 et seq.) at the turf club in the horse facility at the Woodlands Racetrack in Kansas City, Kansas. (Vol. I, pg. 9). On April 20, 1993, notice was sent to all regular recipients of the commissions regular meeting mailing list along with plaintiffs attorney. (Vol. I, pgs. 11-12).

During the show cause hearing, the five-member commission sat as presiding officers. Oral evidence was received from six (6) persons (Vol. III, pg. 2). and thirteen (13) exhibits were

received. (Vol. II, pgs. 1-258). During the hearing it was reported by Deborah Cox, legal counsel for the commission, a meeting was held with Attorney General Robert Stephan at the request of Mr. Bruce Rimbo, executive vice president of The Woodlands. Those in attendance at that meeting were Robert Stephan and four thoroughbred parties, John McCoy, Jim McCoy (both with Orion Stables), Ralph Lilja and Dr. Bob Herndon. The meeting took place on May 4, 1993; two days prior to the show cause hearing. At that meeting the four thoroughbred parties asked the Attorney General to reconsider his Opinion 93-12, in light of some additional information that they gave him. The Attorney General agreed to do so and advised the four thoroughbred parties that he would respond in writing after he had an opportunity to review their materials. Julene Miller, deputy attorney general, was assigned to review the materials. (Vol. III, pg. 10).

At the time of the show cause hearing the commission did not have materials that were being reviewed by the Attorney General or know when the response would be forthcoming. (Vol. III, pg. 10-11) After receiving legal advice, the commission proceeded with the show cause hearing on the basis that at that point in time the Attorney General's opinion as originally written was still in effect. Attorney General Opinion 93-12 had not been changed or reversed. (Vol. III, pg. 13).

After evidence was received by the commission, a motion was made to issue a final order for ~~distribution~~ of the 1992 simulcast breakage and unclaimed winning ticket proceeds

consistent with the Attorney General Opinion 93-12 subject to further consideration in the event that the Attorney General should modify, amend or repeal Attorney General Opinion 93-12 in light of the Attorney General's meeting with representatives of the thoroughbred industry or association. (Vol. III, pgs. 157-158). The motion carried unanimously. (Vol. III, pg. 172).

A final order was issued on May 17, 1993. (Vol. I, pgs. 13-20). The commission's order stated that the 1992 simulcast breakage and unclaimed winning ticket proceeds be distributed in accordance with Attorney General Opinion 93-12 subject to further review by the commission if the Attorney General should later revise his opinion. (Vol. I, pg. 16). Chairman Londerholm prepared a statement in concurrence with the final order which was attached to the final order. (Vol. I, pgs. 21-25). On May 5, 1993, Attorney General Stephan issued a letter to a representative of Orion Stables. This letter was received by the commission on approximately May 12, 1993. The letter upheld and confirmed Attorney General opinion 93-12. (Vol. I, pgs. 50-52).

On June 9, 1993 a petition for stay of the final order was received by the commission from Orion Stables by and through their attorney Luis Mata. (Vol. I, pgs. 53-55). On June 14, 1993, a request was filed by the Kansas Quarter Horse Racing Association (KQHRA) asking for denial of the petition for stay. (Vol. I, pgs. 56-57). After the commission reviewed these materials, the commission issued an order denying the stay of the final order. (Vol. I, pgs. 58-61).

On June 15, 1993 Orion Stables along with 23 thoroughbred owners filed a petition for review of the commission's final order in the district court of Shawnee County, Kansas.

I.

**THE SHOW CAUSE HEARING WAS NOT AN UNLAWFUL AGENCY
PROCEDURE AND DID PROVIDE DUE PROCESS TO THE PLAINTIFF**

The commission can adopt rules and regulations, within the scope of its authority without the requirement of any hearing.

The Kansas Administrative Procedure Act does not require a show cause hearing before an agency issues an order. K.S.A. 77-512(b). The commission was not required by law nor prohibited by law, to have a show cause hearing. Pursuant to K.S.A. 74-8829(a), payouts from the fund must be approved by the chairperson of the commission or a person designated by the chairperson. The commission had authority to approve the payouts of the fund without a hearing.

The definition of a show cause order or "order nisi" is contained in Blacks Law Dictionary 1047 (6th ed. 1990): the adjudication spoken of is one which is to stand as valid and operative unless the party affected by it shall appear and show cause against it, or take some other appropriate step to avoid it or procure its revocation.

On April 19, 1993, the commission made an "order nisi" stating that the method for distribution of 1992 simulcast breakage and unclaimed winning ticket proceeds should be in the manner outlined in Attorney General Opinion 93-12. (Vol. I, pg. 4).

The commission knew that this was a very controversial issue with many parties. The commission wished to allow parties that took exception to this "order nisi" to present any evidence that would show the commission that their preliminary finding was in error. This hearing was to be conducted pursuant to KAPA proceedings. (Vol. I, pg. 9).

The plaintiff claims they were unduly burdened because they had to overcome the presumption of the validity of the agency action. Plaintiff states this burden was unfair and violated plaintiff's due process. The commission had yet to take action by this preliminary finding. As the definition states a position was required to be taken to allow parties to appear before a hearing body to show cause against the position taken. Plaintiff had the burden of bringing forth evidence to show a reason why the preliminary finding should not become final. This burden is required by the very nature of a show cause. Plaintiff has misinterpreted the purpose of a show cause hearing.

Plaintiff next asserts that due to the commission's preliminary ruling, the commission was unable to be unbiased in their decision-making. A presumption that "until the contrary is shown, public officials,...will act fairly, reasonably and impartially in the performance of their duties." Sutherland v. Ferguson, 194 Kan. 35, 39, 397 P.2d 335 (1964). Presuming a fair tribunal, bias or prejudice should not be inferred-it must be shown. Allen v. Burrow, 69 Kan. 812, 77 P2d 555 (1904); Board of County Comm'rs of Shawnee Co. v. Brookover, 198 Kan. 70, 422 P.2d 906 (1967); Ryan, Washburn L.J. 351, 369 (1972).

The burden of proof rests with the party challenging the action of the administrative agency. Country Club Home, Inc. v. Harder, 228 Kan. 756, 620 P. 2d. 1140; rehearing denied, modified 228 Kan. 802, 623 P. 2d 505 (1980).

Plaintiff must show that bias has occurred. Plaintiff attempts to carry their burden by citing three reasons for showing bias. Those reasons are as follows:

- 1) The commission made a preliminary finding;
- 2) the commission only allowed oral arguments and briefs from persons taking exception to the preliminary finding, and no attempt was made to solicit opinions from all interested parties; and
- 3) the commission did not allow for cross-examination rebuttal evidence, pursuant to K.S.A. 77-523.

As previously stated, a show cause hearing requires a preliminary finding, but does not presume from the position taken the commission was biased in their decision-making. This hearing was not required. The fact that the commission held a show cause hearing in itself demonstrates the commission had no bias and wished to hear from all parties who took exception to their preliminary ruling. The plaintiff's first claim is without merit.

It is true the commission in their Notice of show cause hearing only allowed evidence from interested parties who took exception to the preliminary finding. (Vol. I, pg. 9). Again, this goes to the main purpose of a show cause. The hearing by

its very nature does not require the commission to hear ALL evidence, but merely evidence from parties that had a different position. The plaintiff again has misinterpreted the function of a show cause.

Lastly, plaintiff contends that the commission did not hold the hearing pursuant to K.S.A. 77-523 by preventing parties the opportunity to question and cross-examine witnesses.

The KAPA requirement for the opportunity to be heard is set forth under K.S.A. 77-523(b) which states: " at a hearing... to the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence.." K.S.A. 77-523(b). K.S.A. 77-524(a) further states that a presiding officer is not bound by technical rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence and the presiding officer shall act reasonably without partiality.

In looking over the entire transcript of the hearing, it was never stated by any commission member that cross-examination or presentation of witnesses was prohibited. Six (6) interested parties, including plaintiffs' own attorney, presented evidence. Thirteen (13) exhibits were received into evidence. At no time did any of the prospective witnesses or other persons present at the hearing request to ask questions or cross-examine anyone. The commission did not have the question posed to it to make a ruling to the contrary. The record is replete with Chairman

Londerholm asking if there were any other questions or evidence. The commission afforded all parties time to present evidence. At the hearing, the commission did not cut short anyone who wished to present evidence.

Plaintiff's assertion that the commission action was biased and violated plaintiff's due process is unfounded and not supported by the record.

II.

K.S.A. 77- 8829(b) IS PLAIN ON IT'S FACE AND DOES NOT REQUIRE INQUIRY TO LEGISLATIVE INTENT

Two rules are applicable when a court reviews a decision of an agency final order:

1) A district court may not, on appeal, substitute its judgement for that of an administrative tribunal, but is restricted to considering whether as a matter of law, (1) the tribunal acted fraudulently, arbitrarily or capriciously, (2) the administrative order is substantially supported by evidence, and (3) the tribunal's action was within the scope of its authority.

2) The interpretation of a statute is a question of law and it is the function of a court to interpret a statute to give it the effect intended by the legislature. In re Tax Appeal of Atchison, Topeka & Santa Fe Ry. Co. 17 Kan. App. 2nd 794 at 796, ____P2nd____(1992)

"The determination of an administrative body as to questions of law is not conclusive and, while persuasive, is not binding on the courts. State Dept. of SRS v. Public Employee Relations Board, 249 Kan. 163, 166, 815 P.2d 66 (1991). Interpretation of statutes is a question of law. Todd v. Kelly, 251 Kan. at 515. The final construction of a statute rests within the courts. National Collegiate Realty Corp v. Board of Johnson County Comm'rs, 236 Kan. 394, 404, 690 P.2d 1366 (1984)." State Director of Taxation v. McNabb, 17 Kan. App 2nd 581, _____ P.2d _____ (1992).

When a statute is plain and unambiguous the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be. Interpretation of a statute is a matter of law and it is the function of the court to interpret a statute to give it the effect intended by the legislature. Brabander v. Western Cooperative Electric, 248 Kan. 914, 811 P.2d 1216 (1991).

The fundamental rule of statutory construction, to which all other are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statute. In order to ascertain legislative intent, courts are not permitted to consider only an isolated part or parts of an act, but are required to consider and construe together all parts thereof in pari materia. Board of Johnson County Comm'rs v. Greenhaw, 241 Kan. 119, 734 P.2d 1125 (1987).

"...(the court).. is guided by the presumptions that the legislature understood the meaning of the words it used and intended to use them, and that the legislature used the words in their ordinary and common meaning. The statutory words should be treated as consciously chosen." In re Armed Forces Cooperative Insuring Ass'n, 5 Kan. App 2d 787, 625 P. 2d 11 (1981).

Plaintiff, in their preliminary statement, wrongfully suggests that thoroughbred owners contributed valuable breed money to the Kansas-Bred fund. No monies in this fund are given directly by the persons registered in the fund. The fund receives contributions from simulcast and live breakage and unclaimed winning ticket proceeds. These contributions come from the betting patrons at all parimutuel wagering racetracks. Pursuant to K.S.A. 74-8821(d) and 74-8822(e) respectively, all breakage and unclaimed winning ticket proceeds from parimutuel wagering conducted by a simulcast licensee on simulcast races displayed by the licensee shall be distributed as provided by K.S.A. 74-8836.

In turn, K.S.A. 74-8836 provides in part as follows:

"(h) except as provided by subsection (j):"

"(1) If a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments

thereto, for breakage and unclaimed winning ticket proceeds from live horse races."

"(2) If a simulcasting licensee has a license to conduct live racing of only greyhounds and the licensee displays a simulcast horse race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822 and amendments thereto, for breakage and unclaimed winning ticket proceeds from live horse races."

"{(j)}(4) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h)."

Thus, all breakage proceeds from simulcast horse races displayed in this state are to be remitted by the organization licensee to the commission, which must then remit the proceeds for deposit to credit the horse breeding development fund. K.S.A. 74-8821(b). K.S.A. 74-8829 provides for the allocation of moneys credited to the horse breeding development fund:

"(b) Moneys credited to the Kansas horse breeding development fund shall be apportioned into categories corresponding with the various breeds of horses which are participating in races conducted by organization

licensees in direct proportion to each category's contribution to the fund and shall be used in each category to provide:...."

Simulcast races displayed by Kansas organization licensees are not "conducted" by that licensee; they are conducted by the operator or owner of the track at which they are actually being run. Thus horses participating in a simulcast race do not participate in "races conducted by organization licensees." The breed of horse running at foreign race tracks but simulcast into Kansas racetracks are therefore not to be considered in determining the categories under K.S.A. 74-8829(b) or the categories' contributions to the fund.

The commission contends the final order follows the plain meaning of the statute along with the purpose of the statute which is to promote horse breeding in Kansas and Kansas-Bred racing in Kansas. If, however, the court believes the law to be ambiguous and wishes to review the legislative intent, the commission asserts the plaintiff has failed to show any legislative intent pertaining to these statutes.

In reviewing the legislative history, there is no evidence that casts any light on the issue before us. The only reference to the distribution of breakage in the recorded minutes were statements that the breakage for simulcast races should be handled the same as for live races. (See Minutes, Senate Committee on Federal and State Affairs, March 26, 1991, attachment 1. Minutes, Senate Committee on Federal and State Affairs, April 9, 1991, attachment 3. Minutes, House Committee

on Federal and State Affairs, January 27, 1992, attachments 1 and 2.) Handling simulcast breakage in the same manner as is done for live races would require apportioning the fund into categories corresponding with the breeds that participate in live races in Kansas. See K.S.A. 1992 Supp. 74-8829(b) Thus, even if we could look to legislative history to interpret the pertinent statutes, there is not any recorded history available that would alter the conclusion reached.

Dana Nelson, executive director of the racing commission at the time simulcast legislation was introduced, stated he drafted the legislation. (Vol. III, pg. 77). Mr. Nelson stated that this issue of distribution of breakage and outs was a non-issue with the persons from both the quarter horse and thoroughbred industries. (Vol. III, pg. 110). Mr. Nelson started his testimony before the commission at the show cause hearing by stating: "The area of concern, which this hearing is attempting to address, was not a major area of debate or concern during the simulcasting negotiations. It was decided early that breakage and unclaimed money, the source of revenue for the Kansas-bred fund, would be handled the same for a simulcast race as it was for a live race at every point that was possible." (Vol. III, pg. 77). The only thing that Mr. Nelson found in the legislative history pertaining to these statutes was in his testimony in front of the House Federal and State Affairs Committee January 27, 1992. (Vol. III, pg. 97; See also Vol. II pg. 195). It was also reported by Mr. Nelson that the legislature had no other follow-up questions or lengthy

discussion on this point. (Vol. III, pg. 97). Mr. Nelson left the commission in February, 1993, and became a lobbyist for the Kansas Thoroughbred Association during the 1993 legislative session. (Vol. III, pg. 86).

Plaintiff contends that meetings held by Dana Nelson with members of both the quarter horse and thoroughbred industry prior to the drafting of the final amendments to the simulcasting legislation are to be taken into account to show legislative intent. The files of the racing commission and discussions with individuals in the racing industry prior to the legislation are not probative unless it can be shown through recorded history that such files were used by the legislature in passing the legislation. Dana Nelson stated of all the five meetings that were held with the racing industry factions, only one was attended by Senator Ben Vidrickson. (Vol. III, pg. 89). Plaintiff presented no other evidence that any other legislator participated or had access to the materials of the racing commission. These private meetings of industry representatives should not be considered the intent of the legislature.

Plaintiff also cites State v. Haug, 237 Kan. 390, 391 (1985), as holding the court may look to extrinsic evidence for aid in construction of a statute that is ambiguous. On even the most liberal reading of this case, that holding is not evident. This case deals with criminal statutes and reiterates that in determining whether a statute is open to construction, or in construing a statute, ordinary words are to be given their

ordinary meaning and courts are not justified in disregarding the clear intent of a statute appearing from plain and unambiguous language.

The plaintiff has failed to show any legislative history that would merit a different interpretation of the statute as plainly stated.

III.

PLAINTIFF'S REQUEST FOR EVIDENTIARY HEARING SHOULD BE DENIED

Evidence, in addition to the agency record, may be taken by the court under the KJRA (Kansas Judicial Review Act K.S.A. 77-601 et seq.) "only if it relates to the validity of the agency action at the time it was taken and is needed to decide issues regarding improper constitution or motive of the decision-making body, or unlawfulness of procedure." K.S.A. 77-619 (a). On the other hand, the court may remand the matter to the agency before a final disposition of a judicial review petition with directions for additional fact finding that the court considers necessary if: (1) the agency did not prepare an adequate record, (2) new evidence has become available "that relates to the validity of the agency action at the time it was taken" and that the parties did not know or were not reasonably able to discover such facts, (3) that the agency improperly excluded evidence, or (4) that a relevant provision of law has changed which would indicate new evidence should have been considered. K.S.A. 77-619(b).

The court's power to review additional information is discretionary, and the party seeking review has the burden of showing that the court abused its discretion, where the court has not permitted the introduction of newly discovered evidence. Southwest Kansas Royalty Owners Association v. Kansas Corporation Commission, 244 Kan. 157, 769 P.2d 1 (1989) (See also Ryan, David, Kansas Administrative Law with Federal References (3d ed. 1991) § 24-6).

K.S.A. 77-619(a) requires the plaintiff to show that the information they wish to provide to the district court for consideration relates to the validity of the agency action at the time it was taken and is needed to decide issues regarding improper constitution or motive of the decision-making body, or unlawfulness of procedure. The plaintiff presents no evidence to the court in their brief of any of these requirements to present live testimony for the courts consideration.

At the show cause hearing Mr. Merle Parks, an attorney appearing on behalf of Luis Mata, plaintiff's attorney, presented testimony. (Vol. III, pg. 58). Commissioner Martin asked Mr. Parks if there were other materials or information that (Mr. Parks) would like to bring forward to the commission at (that) time so the commissioners would have the benefit of it before they would enter into deliberations. (Vol. III, pg. 64). Mr. Parks responded:

"Other than the legislative history that we're going to present, I think that will be everything." (Vol. III, pg. 65). Commissioner Martin followed this response by asking:

"So if we give you that opportunity we'll have pretty well then giving (sic) you a fair chance to present anything that you desire on behalf of your clients to this commission today, regardless of whether this is called a show cause hearing or an administrative hearing or a quasi-judicial proceeding, we're giving you pretty well every opportunity that you want to present anything to this commission that you can, is that a true statement?" (Vol. III, pg. 65).

Mr. Parks responded: "That's correct." (Vol. III, pg. 65).

Through statements by the plaintiff's own attorney, it was made clear that plaintiff had presented everything that they believed to be relevant to the issue in question. It would be improper to bring to the attention of the court information that the commission did not have before it in making their decision. Since the plaintiff does not provide any grounds that would fall under K.S.A. 77-619(a), the commission would ask that the court deny the plaintiff's request for an evidentiary hearing.

IV.

PLAINTIFF'S REQUEST FOR ORAL ARGUMENT SHOULD BE GRANTED

The commission believes the court could benefit from oral arguments in this case and would join in the plaintiff's request for the opportunity to address the court.

CONCLUSION

Based on the arguments and authorities discussed in this brief and the record of the original proceeding, the commission requests entry of an order denying the petition for review based on the reasons that the statutes governing the Kansas Bred Fund were interpreted correctly by the commission and the show cause hearing did not violate the plaintiff's due process.

93KCW27-dpb

Respectfully submitted:

A handwritten signature in cursive script, reading "Karen C. Wittman", written over a horizontal line.

Karen C. Wittman
Assistant Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Judicial Review Brief was served upon the following by depositing a true copy thereof in the United States mail, first class postage prepaid, this 7th day of September, 1993, addressed to the following:

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Kansas City, KS 66102

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Mr. Eugene B. Ralston
Ralston, Buck and Associates
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Topeka, KS 66614

ATTORNEY FOR KANSAS QUARTER HORSE RACING ASSOCIATION



Commission Representative

93KCW27-dpb

STATE OF KANSAS



KANSAS RACING COMMISSION

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September 7, 1993

The Honorable Judge Franklin R. Theis
Judge of the 3rd Judicial Court, Division 7
Shawnee County Courthouse
200 SE 7th
Topeka, Kansas 66603

Re: Orion Stables, et al. vs The Kansas Racing Commission, et al.
Case No. 93 CV 681

Dear Judge Theis:

A motion to intervene has been filed in the above-referenced case by the Kansas Quarter Horse Racing Association (KQHRA). This motion was filed with the court on July 1, 1993.

The commission has no objection to this organization intervening in this case. The KQHRA is an interested party and the decision by the court will have a financial impact on the members of this organization who are participating in the Kansas Horse Breeding Development Fund.

If the court determines the KQHRA can participate, the commission would ask strict time limits be set for the KQHRA to respond. The motion to intervene was filed on July 1, 1993. No action was taken by the KQHRA since that time. All briefs by the named parties have been submitted and the commission wishes to have this case settled. Many horse breeders, thoroughbred and quarter horse alike, who are participating in the fund, wish to have their share of the fund as soon as possible.

Thank you for your attention in this matter.

Respectfully,

Karen C. Wittman

Karen C. Wittman
Assistant Attorney General

cc: Luis Mata
Gene Ralston
93KCW207-nsw

9/1/93

bkc

Eugene B. Ralston #06405
RALSTON, BUCK & ASSOCIATES
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(913) 273-8002

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

ORION STABLES, a parntership, et al

Plaintiffs,

vs.

Case No. 93 CV 681
Division Seven

THE KANSAS RACING COMMISSION, et al

ORDER

NOW on this ____ day of _____, 1993, plaintiff's Kansas Quarter Horse Racing Association's (KQHRA) Motion to Intervene comes on for hearing.

The parties appear by and through their respective counsel of record. The Court after hearing argument of counsel finds as follows:

1. That the KQHRA is an interested party.
2. That the KQHRA participated in the hearings before the Kansas Racing Commission which are a part of the record herein.
3. There is no objection to KQHRA's Motion to Intervene.

WHEREFORE IT IS ORDERED, ADJUDGED AND DECREED, that the KQHRA's Motion to Intervene is sustained.

IT IS SO ORDERED.

Honorable Franklin R. Theis
JUDGE OF THE DISTRICT COURT

Approved by:

Eugene B. Ralston
RALSTON, BUCK & ASSOCIATES
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WRITTEN TESTIMONY

TO: REPRESENTATIVE CLYDE GRABER
CHAIRMAN, HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: DAN FICK, SENIOR DIRECTOR OF RACING

SUBJECT: WRITTEN TESTIMONY ON SENATE BILL #380

DATE: SEPTEMBER 16, 1993

MY NAME IS DAN FICK, AND I AM THE SENIOR DIRECTOR OF RACING FOR THE AMERICAN QUARTER HORSE ASSOCIATION, THE WORLD'S LARGEST EQUINE BREED REGISTRY AND HORSEMEN'S ASSOCIATION. THE AQHA REPRESENTS 1,175,000 OWNERS OF MORE THAN 3.5 MILLION AMERICAN QUARTER HORSES. I AM TESTIFYING TODAY AT THE REQUEST OF THE KANSAS QUARTER HORSE RACING ASSOCIATION AND THE KANSAS QUARTER HORSE ASSOCIATION.

THE STATE OF KANSAS RANKS FOURTH NATIONALLY IN THE BREEDING OF AMERICAN QUARTER HORSES, WITH 3,199 NEW REGISTRATION IN 1992. KANSAS RANKS FIFTH NATIONALLY WITH A QUARTER HORSE POPULATION OF 94,330. THE AQHA DATA BASE IN AMARILLO, TEXAS, HAS THE NAMES AND ADDRESSES OF 33,219 OWNERS AND 6,607 CURRENT MEMBERS WHO RESIDE IN KANSAS.

I AM SPEAKING IN OPPOSITION TO SENATE BILL NUMBER 380. THIS BILL WILL HAVE A DETRIMENTAL EFFECT ON THE BREEDING OF RACING AMERICAN QUARTER HORSES IN THE STATE OF KANSAS. KANSAS CURRENTLY RANKS EIGHTH IN THE PRODUCTION OF RACING AMERICAN QUARTER HORSES WITH 223 KANSAS BREEDERS WHO PRODUCED 497 RACING STARTERS IN 1992.

P. O. Box 200 ■ Amarillo, Texas ■ 79168
2701 I-40 East ■ Amarillo, Texas ■ 79104
(806) 376-4811

Attachment 2
House Federal
& State Affairs
Sept. 17, 1993 Aick # 2

THESE FIGURES HAVE DECLINED SIGNIFICANTLY SINCE THE INTRODUCTION OF PARI-MUTUEL WAGERING IN 1988 DUE TO THE COMPETITION FROM GREYHOUND AND THOROUGHBRED RACING. THERE WERE ACTUALLY MORE QUARTER HORSE RACES AND RACE STARTERS IN KANSAS IN 1987 THAN IN 1992. THE PASSAGE OF SENATE BILL 380 WILL FURTHER REDUCE THE INCENTIVES TO BREED AND RACE AMERICAN QUARTER HORSES IN THE STATE OF KANSAS.

THE KANSAS QUARTER HORSE ASSOCIATION WAS VERY INFLUENTIAL, CONTRIBUTING MORE THAN ONE MILLION DOLLARS IN ACHIEVING THE PASSAGE OF THE PARI-MUTUEL LEGISLATION AND REFERENDUM IN THE STATE OF KANSAS. THE MORE THAN 33,000 KANSAS QUARTER HORSE OWNERS AND THEIR FAMILIES ARE ACTIVE SUPPORTERS OF THE QUARTER HORSE RACING INDUSTRY. THE MAJORITY OF OWNERS OF RACING AMERICAN QUARTER HORSES COME FROM THE HORSEMEN AND -WOMEN WHO WERE FIRST INVOLVED WITH OTHER ASPECTS OF THE QUARTER HORSE INDUSTRY - HORSE SHOWS, RODEOS, YOUTH EVENTS, PLEASURE RIDING AND RANCHING.

THE 1992 AQHA MEMBERSHIP SURVEY DEMONSTRATED THAT THE AVERAGE QUARTER HORSE OWNER IS A COLLEGE GRADUATE WITH AN ANNUAL INCOME OF \$83,917 AND IS A PROFESSIONAL, A BUSINESS OWNER OR UPPER-LEVEL MANAGER. THESE INDIVIDUALS ARE OBVIOUSLY AN EXCELLENT TARGET MARKET FOR RACETRACK ATTENDANCE.

THE PASSAGE OF SENATE BILL 380 WILL SEND A MESSAGE TO THE KANSAS QUARTER HORSE INDUSTRY THAT THE STATE LEGISLATURE DOES NOT SUPPORT THEIR INTERESTS.

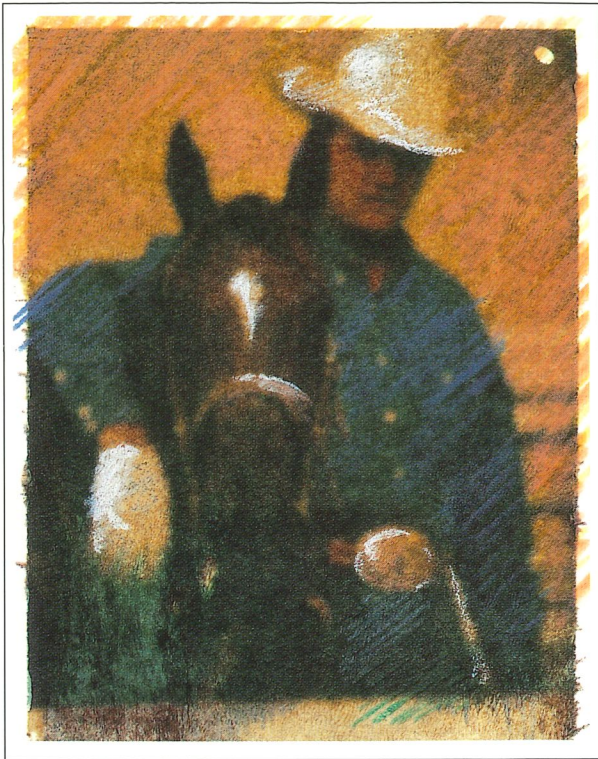
THE DISTRIBUTION OF PARI-MUTUEL SIMULCAST REVENUES IS A STATES RIGHTS ISSUE. I AM UNAWARE OF ANY PRECEDENT FOR THE REVENUES DESIGNATED FOR STATE BREEDING PROGRAMS TO BE STIPULATED TO BE EXCLUSIVELY DISTRIBUTED TO SAME BREED AS THE BREED PARTICIPATING IN THE SIMULCAST RACING. IN EVERY STATE WHERE RACING AMERICAN QUARTER HORSE PARTICIPATE, THE HORSEMEN'S REVENUES FROM SIMULCAST RACING ARE CONSIDERED THE PROPERTY OF THE HORSEMEN PARTICIPATING AT THE RACETRACK RECEIVING THE SIMULCAST SIGNAL. THESE REVENUES ARE GENERALLY APPORTIONED BASED ON THE PERCENTAGE OF RACES AND/OR LIVE HANDLE GENERATED BY EACH BREED.

THE REASON FOR THIS MANNER OF DISTRIBUTION IS THAT THE SIMULCAST SIGNAL GENERALLY REDUCES THE AMOUNT OF PARI-MUTUEL WAGERING ON THE LIVE RACES AT THAT RACETRACK, WHETHER ON A DARK DAY OR DURING A LIVE RACE DAY.

I AM DISAPPOINTED THAT THE THOROUGHBRED INDUSTRY IN THE STATE OF KANSAS, WITH THE SUPPORT OF THE KANSAS DIVISION OF THE HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, HAS CHOSEN TO ARGUE THIS ISSUE BEFORE THE STATE COURTS AND LEGISLATURE OF KANSAS. THE HORSE RACING INDUSTRY SHOULD BE APPEARING BEFORE YOU TODAY TO SEEK LEGISLATION TO ENSURE PROTECTION FROM THE EXPANSION OF OTHER FORMS OF LEGALIZED GAMBLING IN THE STATE OF KANSAS. THE ENTIRE HORSE BREEDING INDUSTRY IS THREATENED BY INDIAN GAMING, RIVERBOAT GAMBLING AND LAND-BASED CASINOS.

UNLESS THE HORSE RACING INDUSTRY IS GIVEN THE SAME OPPORTUNITIES FOR DISTRIBUTION OF ITS PRODUCT AS PROVIDED THE KANSAS STATE LOTTERY AND THE PROPOSED GAMBLING CASINOS, THIS MULTI-MILLION DOLLAR INDUSTRY THAT HAS SUPPORTED THE RURAL ECONOMY OF KANSAS FOR OVER 50 YEARS WILL CEASE TO EXIST.

THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE THIS LEGISLATIVE COMMITTEE. I HAVE PROVIDED COPIES OF THIS WRITTEN TESTIMONY WITH SUPPORTING DOCUMENTS AND A VIDEOTAPE ON THE ECONOMIC IMPACT OF QUARTER HORSE RACING. AT THIS TIME, I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THE COMMITTEE MIGHT HAVE CONCERNING MY TESTIMONY OR THE RACING INDUSTRY IN GENERAL.



AQHA 1992 ANNUAL REPORT



AQHA[®]

AMERICAN QUARTER HORSE ASSOCIATION



MESSAGE FROM THE PRESIDENT

As I look back on my year-long tenure as President of the American Quarter Horse Association, I feel privileged to have presided over the organization as it reached so many milestones. Highlights for 1992 include: Year-end membership at an all-time high of 288,636; increases in registrations versus 1991 figures, reversing an eight-year period of declining registration numbers; a record \$1 million purse offered at the AQHA World Championship Show, which showcased a record 3,112 entries representing 47 states and six foreign countries competing for 85 World Championships; an all-time high 1,693 youths from 44 states, Canada and South America competing at the AQHA World Championship Show, held for the first time in Fort Worth, Texas; and the formation of The Challenge, AQHA's innovative racing incentive program.



These statistics and accomplishments indicate to me that the American Quarter Horse Association is moving forward, into an era of renewed hope and prosperity, and that interest and enthusiasm for the American Quarter Horse is at an all-time high. However, considering the dynamic nature of today's social and economic environment, we cannot simply "sit back and enjoy the ride."

We, meaning AQHA members, AQHA staff, the Executive Committee and Board of Directors, must challenge ourselves to meet the demands of this ever-changing industry, and do so with the resourcefulness, willingness and adaptability that we cherish in our American Quarter Horses. We must match our breed's versatility.

It has been said that God gave Man dominion over all the animals on the Earth. I urge you never to ignore, nor underestimate, your awesome responsibilities to the American Quarter Horse, a breed steeped with nearly 400 years of tradition and excellence.

And having met so many wonderful people during my tenure as AQHA President, I firmly believe that the faith will be strictly kept.

C.W. "Bill" Englund Jr.
AQHA President

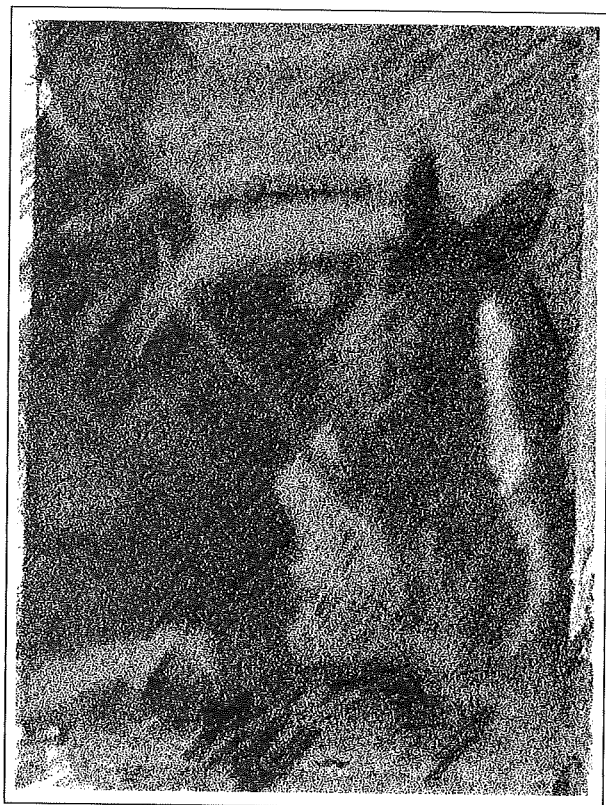


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|--------------------------|------|------------|--------|------|------------|
| *W.B. Warren | 1940 | 1941 | Texas | | |
| *J.F. Hutchins | 1942 | 1943 | Texas | | |
| *R.L. Underwood | 1944 | 1945 | Texas | | |
| *Albert Mitchell | 1946 | 1947 | 1948 | 1957 | New Mexico |
| *Robert E. Hooper | 1949 | 1950 | 1951 | 1952 | Texas |
| *Orville E. Burtis | 1953 | 1954 | Kansas | | |
| *Lester Goodson | 1955 | 1956 | Texas | | |
| *J.E. Browning | 1958 | Arizona | | | |
| *Ken Fratis | 1959 | California | | | |
| *Roy Parks | 1960 | Texas | | | |
| S.M. Moore | 1961 | Oklahoma | | | |
| *Wayne Vickers | 1962 | California | | | |
| Jess L. Hankins | 1963 | Texas | | | |
| Hugh Bennett | 1964 | Colorado | | | |
| *Bud Warren | 1965 | Oklahoma | | | |
| *J.L. "Dusty" Rhoades | 1966 | Texas | | | |
| Tom J. Finley | 1967 | Arizona | | | |
| E.H. Honnen | 1968 | Colorado | | | |
| Lee Berwick | 1969 | Louisiana | | | |
| Jay Pumphrey | 1970 | Texas | | | |
| William R. Verdugo | 1971 | California | | | |
| Bud Ferber | 1972 | New Jersey | | | |
| William R. Thompson | 1973 | Oklahoma | | | |
| *Hugh Peltz | 1974 | Montana | | | |
| Clarence Scharbauer Jr. | 1975 | Texas | | | |
| Robert Kieckhefer | 1976 | Arizona | | | |
| Albert C. Becker | 1977 | Kansas | | | |
| Bill Reed | 1978 | New Mexico | | | |
| David M. Perkins | 1979 | Louisiana | | | |
| *B.F. Phillips Jr. | 1980 | Texas | | | |
| Marten A. Clark | 1981 | California | | | |
| Robert C. Norris | 1982 | Colorado | | | |
| Jack Anderson | 1983 | Oklahoma | | | |
| Rick Johns | 1984 | Arizona | | | |
| Stephen J. "Tio" Kleberg | 1985 | Texas | | | |
| **Howard Weiss | 1986 | California | | | |
| Gerald A. O'Connor | 1987 | Michigan | | | |
| Leo Winters | 1988 | Oklahoma | | | |
| Brad Tate | 1989 | Kansas | | | |
| Sparks Rust Jr. | 1990 | Texas | | | |
| Jim Barton | 1991 | New York | | | |

*DECEASED
**STATE OF RESIDENCY
DURING PRESIDENTIAL TERM

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|-----------|--------------------------|---------------------|-----------|--------------------|------------------------|
| 1992-1993 | Chad Falkenberg | Alberta, Canada | 1980-1981 | Mike Martin, Jr. | Brewster, Washington |
| 1991-1992 | Heath Miller | Pana, Illinois | 1979-1980 | John Amrein | Bonner Springs, Kansas |
| 1990-1991 | Peter J. Cofrancesco III | Sparta, New Jersey | 1978-1979 | Robert A. Norris | Burleson, Texas |
| 1989-1990 | Jason Rees | Newberg, Oregon | 1977-1978 | Charles Hart | Birmingham, Alabama |
| 1988-1989 | Chris Gill | Houston, Texas | 1976-1977 | Tom Wolf | Williamston, Michigan |
| 1987-1988 | Laina McNelis | Boise, Idaho | 1975-1976 | Dirk Jones | Roswell, New Mexico |
| 1986-1987 | Kelly Halbert | McComb, Mississippi | 1974-1975 | Doyle Conner, Jr. | Tallahassie, Florida |
| 1985-1986 | Ross Roark | Andrews, Texas | 1973-1974 | Nick Arismendi | Lockeford, California |
| 1984-1985 | Melissa Hargett | Coleman, Texas | 1972-1973 | Jim Price | Birmingham, Alabama |
| 1983-1984 | Kristin McKinney | Visalia, California | 1971-1972 | Scott Stubblefield | Tyler, Texas |
| 1982-1983 | Brian Galbraith | Alberta, Canada | 1970-1971 | Mark Caperton | Shriever, Louisiana |
| 1981-1982 | Lisa Salley | Tulsa, Oklahoma | | | |

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Term 91-92-93
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Glenn Blodgett, D.V.M., Box 130, Guthrie, TX 79236
Thomas H. Bradbury, P. O. Box 256, Byers, CO 80103
Marten A. Clark, P. O. Box 1167, Pebble Beach, CA 93953
* L. B. "Bud" Cox, III, Box 687, Ozona, TX 76943
** C. O. McKerley, 19451 Old Scenic Highway, Zachary, LA 70791
Bobby R. Sykes, Box 735, Eldorado, TX 76936
Frank Ulrich, 111 S. Meldrum, Fort Collins, CO 80521
Dan McWhirter, R. R. 1, Box 77-A, Doniphan, NE 68832

Term 90-91-92
R. E. "Bob" Blakeman, 2400 Cold Springs Road, Ft. Worth, TX 76106
Tom Finley, 11410 S. Greenfield Road, Gilbert, AZ 85234
Reed Hill, Route 1, Box 97, Shamrock, TX 79079
Don Hunt, 52069 Range Road 222, Sherwood Park, Alberta, CD T8C 1A1
Virginia E. Hyland, 24305 Pine Canyon Road, Lake Hughes, CA 93532
R. C. "Punch" Jones, West Star Route, Tatum, NM 88267
Leo Winters, P. O. Box 156, Tecumseh, OK 74873

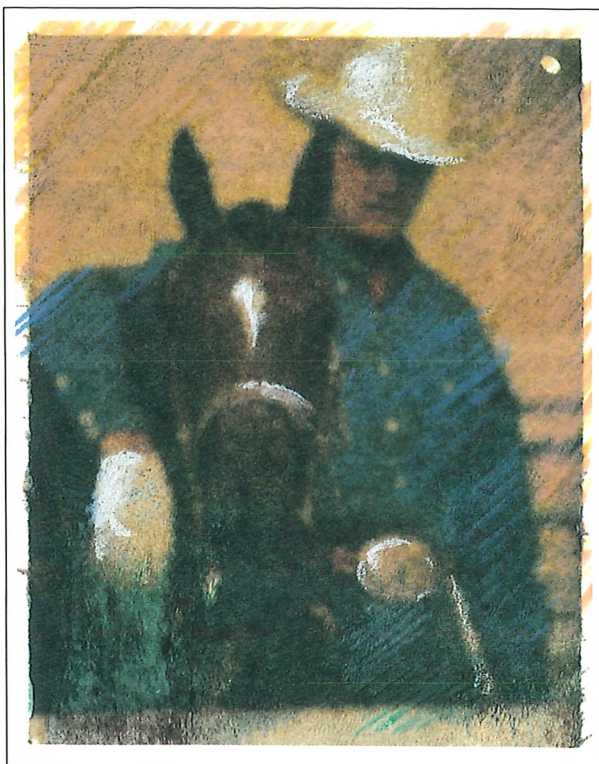
YOUTH ACTIVITIES COMMITTEE

Term 92-93-94
H. F. "Hal" Armstrong, 3286 Center Point Road, Marion, IA 52302
*Dwayne Beck, 11455 S. 94th E Avenue, Bixby, OK 74008
Richard C. Gill, 475 Brown Saddle, Houston, TX 77057
Tracy Hatakeyama, 9485 Asuncion, Atascadero, CA 93422
C. M. "Cal" Loree, RR #1, Airdrie, Alberta, CD T4B 2A3
Joseph H. McAllister, 145 Old Waterbury Road, Southbury, CT 06488
Harry D. Mullins, 5775 Cochrane Mill Road, Palmetto, GA 30268
Skip Parker, 2890 Westridge Avenue, Carrollton, TX 75006
Jason Rees, P. O. Box 73, Newberg, OR 97132
Homer R. Stude, 931 Hwy 00, Wright City, MO 63390
Raymond W. Sutton, Jr., HCR 3, Box 79, Gettysburg, SD 57442
Merle E. Wood, 15400 Mur-Len Road, Olathe, KS 66062

Term 91-92-93
Don Falcon, 1020 Conn Road, Columbia Falls, MT 59912
James K. Fleming, Box 48021, Calgary, Alberta, CD T2X 3C0
Ned Gill, Jr., 475 Brown Saddle, Houston, TX 77057
Harold A. Howard, 11508 W. Remus Road, Remus, MI 49340
Louis A. Hufnagel, Rural Route 2, Box 91, Glenpool, OK 74033
Sue Kaplow, 74 De Voe Road, Chappaqua, NY 10514
Cindy Cantrell McDavitt, Star Route, Box 4, Lone Grove, OK 73443
Charles H. Menker, 9184 Wellbaum Road, Brookville, OH 45309
LaRue Sauers, 710 West 6th, Sedalia, MO 65301
Grady N. Sparks, Route 8, Box 896 A, Jasper, AL 35501
** David D. Whitaker, Box 269, M.T.S.U., Murfreesboro, TN 37132

Term 90-91-92
Connie Blayney, 3711 Laster Lane, Caldwell, ID 83605
Peter J. Cofrancesco III, 809 W Mountain Road, Sparta, NJ 07871
W. J. "Bill" Darvill, 63 Trigwell Bay, Winnipeg, Manitoba, CD R3K 0H7
Bill J. French, 5117 Route 34 West, Oswego, IL 60543
Richard L. Harris, 20705 Avenue 328, Woodlake, Ca 93286
Jerry Matthews, 2311 S. First Street, Cabot, AR 72023
Andy Moorman, P. O. Box 3839, Venice, FL 34293
Willard B. Nordick, Box 38, Limon, CO 80828
James A. Rudolph, Rt. 2, Box 304, Murray, KY 42071
John Schmahl, W 1952 Tecumseh Road, New Holstein, WI 53061
John W. Scott, Jr., Scott Farm, Gilby, ND 58235
Laurel Walker, Bar U Bar Ranch, P. O. Box 26, Skull Valley, AZ 86338
Susan Walton, 5861 E. Rosebush Road, Rosebush, MI 48878

Representatives -
Australian Quarter Horse Association Swedish Quarter Horse Association
Uruguay Quarter Horse Association



MEMBERSHIP REPORT

| | Annual | Life | | Annual | Life |
|------|---------|--------|------|---------|-------|
| 1992 | 276,940 | 11,696 | 1981 | 124,114 | 6,513 |
| 1991 | 265,622 | 10,967 | 1980 | 113,293 | 6,113 |
| 1990 | 261,671 | 10,675 | 1979 | 103,200 | 5,681 |
| 1989 | 255,059 | 10,389 | 1978 | 93,142 | 5,341 |
| 1988 | 130,545 | 9,894 | 1977 | 86,377 | 4,967 |
| 1987 | 127,706 | 9,066 | 1976 | 80,681 | 3,641 |
| 1986 | 141,267 | 8,537 | 1975 | 77,545 | 2,794 |
| 1985 | 149,089 | 8,127 | 1974 | 72,857 | 1,175 |
| 1984 | 148,653 | 7,719 | 1973 | 67,036 | 1,715 |
| 1983 | 143,714 | 7,281 | 1972 | 59,321 | 1,244 |
| 1982 | 135,169 | 6,917 | | | |

1992 ANNUAL REPORT

AQHA

MEMBERSHIP PROFILE AND STATISTICS



THE AMERICAN QUARTER HORSE ASSOCIATION MEMBERSHIP PROFILE

A 1992 demographic and consumer profile survey provided an insight for people interested in American Quarter Horses, the American Quarter Horse Association and related businesses. From a randomly selected list of U.S. AQHA 1992 members, 580 members were contacted. Of these contacted, 429 members, 18 years of age or older,

participated in the telephone survey resulting in a participation rate of 74%. Survey results are accurate within a +/-5% tolerance range.

The interview was conducted, supervised and tabulated by Opinions Unlimited, marketing research consultants, Amarillo, Texas.

Member Profile

- Male: 48%, average age of 48
- Female: 52%, average age of 39
- Average of 3 people per household
- The average member household devotes 87 acres of land to the horse operation.
- The average member household owns an average of 5 registered American Quarter Horses, valued at \$39,260 for an average of \$7,217 per head.
- 79% are married
- 13% are single, never married

Net Worth

- 27% Under \$100,000
- 73% Over \$100,000
- Average net worth per household: \$354,372

Lifestyle

- 70% ride western only
- 3% ride English only
- 24% ride both western and English
- 81% consider themselves as someone who lives a western lifestyle in the clothes they wear and the music they enjoy
- 88% enjoy country and western music

Head of Household

Location of Home

- 91% own their own home
- 13% live in town
- 25% live on a small acreage at the edge of town
- 60% live in rural areas

Education Level

- 99% completed high school
- 70% attended college
- 45% are college graduates or higher

Occupation

- 60% professional, technical, managerial, administrative or owner
- 19% farming, ranching, equine related
- 7% craftsmen and sales

Earned Income

- 5% earned less than \$20,000
- 7% earned between \$20-\$29,999
- 13% earned between \$30,000 and \$39,999
- 25% earned between \$40,000 and \$59,999
- 23% earned between \$60,000 and \$79,999
- 11% earned between \$80,000 and \$99,999
- 12% earned between \$100,000 and \$199,999
- 4% earned between \$200,000 and \$499,999
- Average income, before taxes, per household: \$83,917

Investments

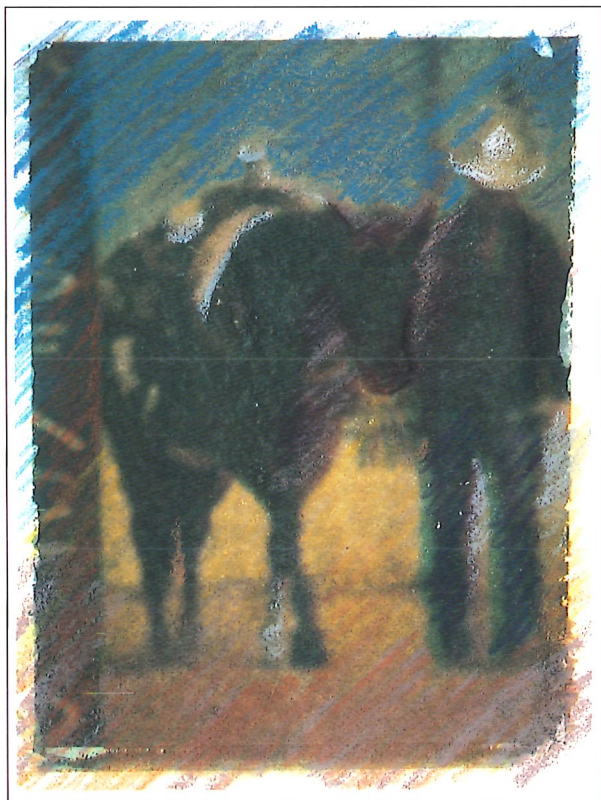
Members of the American Quarter Horse Association have an average of \$72,391 invested in their American Quarter Horses, land and equipment devoted to American Quarter Horses with a total investment of \$20,016,111,500.

Expenditures

Members of the American Quarter Horse Association spent \$3,924,545,609 in 1991 for equine health care and feed; saddles, tack and equipment; western wear and travel equipment.

| MEMBERSHIP / U.S. | | | | | | | | | |
|-------------------|--------|------|--------|------|-----------------|----------------|--------------|----------------|---------------|
| State | 1991 | | 1992 | | State | 1991 | | 1992 | |
| | Annual | Life | Annual | Life | | Annual | Life | Annual | Life |
| Alabama | 4,750 | 96 | 4,914 | 105 | Montana | 4,195 | 227 | 4,616 | 243 |
| Alaska | 279 | 13 | 267 | 14 | Nebraska | 4,354 | 278 | 4,447 | 287 |
| Arizona | 5,162 | 219 | 5,298 | 236 | Nevada | 2,004 | 95 | 2,103 | 95 |
| Arkansas | 4,305 | 145 | 4,546 | 152 | New Hampshire | 303 | 13 | 333 | 14 |
| California | 20,357 | 724 | 20,541 | 775 | New Jersey | 1,529 | 55 | 1,599 | 62 |
| Colorado | 7,750 | 339 | 8,206 | 359 | New Mexico | 4,382 | 244 | 4,275 | 271 |
| Connecticut | 879 | 29 | 899 | 28 | New York | 3,975 | 98 | 4,190 | 102 |
| Delaware | 306 | 6 | 316 | 5 | North Carolina | 5,652 | 143 | 5,944 | 151 |
| Washington, D.C. | 16 | 1 | 22 | 1 | North Dakota | 1,730 | 89 | 1,833 | 91 |
| Florida | 6,509 | 282 | 6,838 | 297 | Ohio | 7,643 | 256 | 8,027 | 277 |
| Georgia | 5,373 | 144 | 5,535 | 152 | Oklahoma | 11,741 | 652 | 11,810 | 689 |
| Hawaii | 549 | 26 | 628 | 31 | Oregon | 5,025 | 158 | 5,320 | 168 |
| Idaho | 4,293 | 120 | 4,573 | 127 | Pennsylvania | 5,523 | 122 | 5,798 | 133 |
| Illinois | 6,086 | 223 | 6,513 | 239 | Rhode Island | 145 | 4 | 177 | 4 |
| Indiana | 6,203 | 187 | 6,666 | 197 | South Carolina | 2,425 | 79 | 2,530 | 80 |
| Iowa | 5,617 | 220 | 5,735 | 230 | South Dakota | 2,720 | 129 | 2,873 | 137 |
| Kansas | 6,543 | 341 | 6,658 | 360 | Tennessee | 4,947 | 160 | 5,252 | 174 |
| Kentucky | 3,374 | 75 | 3,763 | 82 | Texas | 35,137 | 2,367 | 35,431 | 2,490 |
| Louisiana | 5,745 | 256 | 5,975 | 273 | Utah | 4,373 | 136 | 4,502 | 155 |
| Maine | 584 | 5 | 603 | 5 | Vermont | 374 | 6 | 384 | 8 |
| Maryland | 1,706 | 44 | 1,725 | 51 | Virginia | 3,440 | 87 | 3,596 | 95 |
| Massachusetts | 856 | 39 | 842 | 40 | Washington | 6,279 | 159 | 6,717 | 174 |
| Michigan | 5,339 | 150 | 5,586 | 151 | West Virginia | 1,356 | 22 | 1,458 | 24 |
| Minnesota | 4,334 | 90 | 4,568 | 96 | Wisconsin | 3,546 | 105 | 3,828 | 117 |
| Mississippi | 4,317 | 104 | 4,579 | 115 | Wyoming | 3,099 | 171 | 3,220 | 178 |
| Missouri | 7,254 | 212 | 7,791 | 222 | Total US | 244,454 | 9,946 | 253,850 | 10,562 |

| MEMBERSHIP / FOREIGN | | | | | | | | | |
|----------------------|---------------|------------|---------------|------------|---------------------------------|----------------|---------------|----------------|---------------|
| State | 1991 | | 1992 | | State | 1991 | | 1992 | |
| | Annual | Life | Annual | Life | | Annual | Life | Annual | Life |
| Alberta | 5,220 | 339 | 5,466 | 351 | Iran | 0 | 0 | 1 | 0 |
| British Columbia | 2,438 | 89 | 2,724 | 97 | Ireland | 2 | 0 | 2 | 1 |
| Manitoba | 682 | 33 | 752 | 35 | Israel | 23 | 4 | 34 | 5 |
| New Brunswick | 307 | 5 | 325 | 6 | Italy | 1,196 | 27 | 1,251 | 34 |
| Newfoundland | 5 | 0 | 16 | 0 | Japan | 16 | 11 | 19 | 12 |
| Northwest Territory | 4 | 0 | 1 | 0 | Luxembourg | 14 | 1 | 15 | 2 |
| Nova Scotia | 333 | 2 | 332 | 3 | Macau | 0 | 0 | 1 | 0 |
| Ontario | 3,979 | 82 | 4,066 | 88 | Martinique | 6 | 0 | 4 | 0 |
| Prince Edward Island | 63 | 0 | 57 | 0 | Mexico | 472 | 136 | 483 | 146 |
| Quebec | 1,811 | 35 | 1,914 | 34 | Monaco | 0 | 0 | 1 | 0 |
| Saskatchewan | 1,733 | 82 | 1,788 | 84 | Morocco | 0 | 1 | 0 | 1 |
| Yukon | 9 | 0 | 10 | 0 | Netherlands | 84 | 7 | 121 | 8 |
| Total Canada | 16,584 | 667 | 17,451 | 698 | New Caledonia | 0 | 0 | 1 | 0 |
| Argentina | 17 | 3 | 16 | 3 | New Zealand | 3 | 2 | 4 | 2 |
| Australia | 37 | 8 | 29 | 8 | Nigeria | 1 | 0 | 0 | 0 |
| Austria | 113 | 15 | 183 | 18 | Norway | 1 | 0 | 1 | 0 |
| Belgium | 89 | 7 | 137 | 10 | Panama | 4 | 1 | 6 | 1 |
| Bermuda | 8 | 1 | 8 | 1 | Paraguay | 9 | 2 | 5 | 3 |
| Bolivia | 0 | 0 | 1 | 0 | Puerto Rico | 10 | 1 | 9 | 1 |
| Brazil | 114 | 10 | 51 | 11 | Saudi Arabia | 0 | 1 | 1 | 1 |
| Colombia | 4 | 4 | 4 | 4 | Scotland | 22 | 3 | 25 | 4 |
| Costa Rica | 1 | 4 | 2 | 4 | South Africa | 5 | 2 | 3 | 2 |
| Czechoslovakia | 0 | 0 | 1 | 0 | Spain | 3 | 3 | 7 | 4 |
| Denmark | 28 | 1 | 41 | 2 | Sweden | 107 | 3 | 175 | 3 |
| Ecuador | 1 | 1 | 8 | 1 | Switzerland | 146 | 19 | 169 | 24 |
| England | 203 | 8 | 229 | 12 | Thailand | 0 | 0 | 9 | 0 |
| Europa Island | 0 | 0 | 1 | 0 | Trinidad | 0 | 1 | 0 | 1 |
| France | 235 | 3 | 350 | 5 | United Arab Emirates | 0 | 0 | 1 | 0 |
| Germany | 1,541 | 56 | 2,162 | 90 | United Kingdom | 0 | 0 | 6 | 0 |
| Greece | 2 | 0 | 5 | 0 | Uruguay | 30 | 1 | 12 | 2 |
| Guatemala | 2 | 0 | 0 | 0 | Venezuela | 41 | 6 | 35 | 7 |
| Honduras | 1 | 1 | 3 | 1 | Virgin Islands | 1 | 0 | 2 | 1 |
| Hungary | 1 | 0 | 3 | 0 | Wales | 2 | 1 | 2 | 1 |
| | | | | | Total Foreign | 4,584 | 354 | 5,639 | 436 |
| | | | | | TOTAL U.S. & FOREIGN | 265,622 | 10,967 | 276,940 | 11,696 |

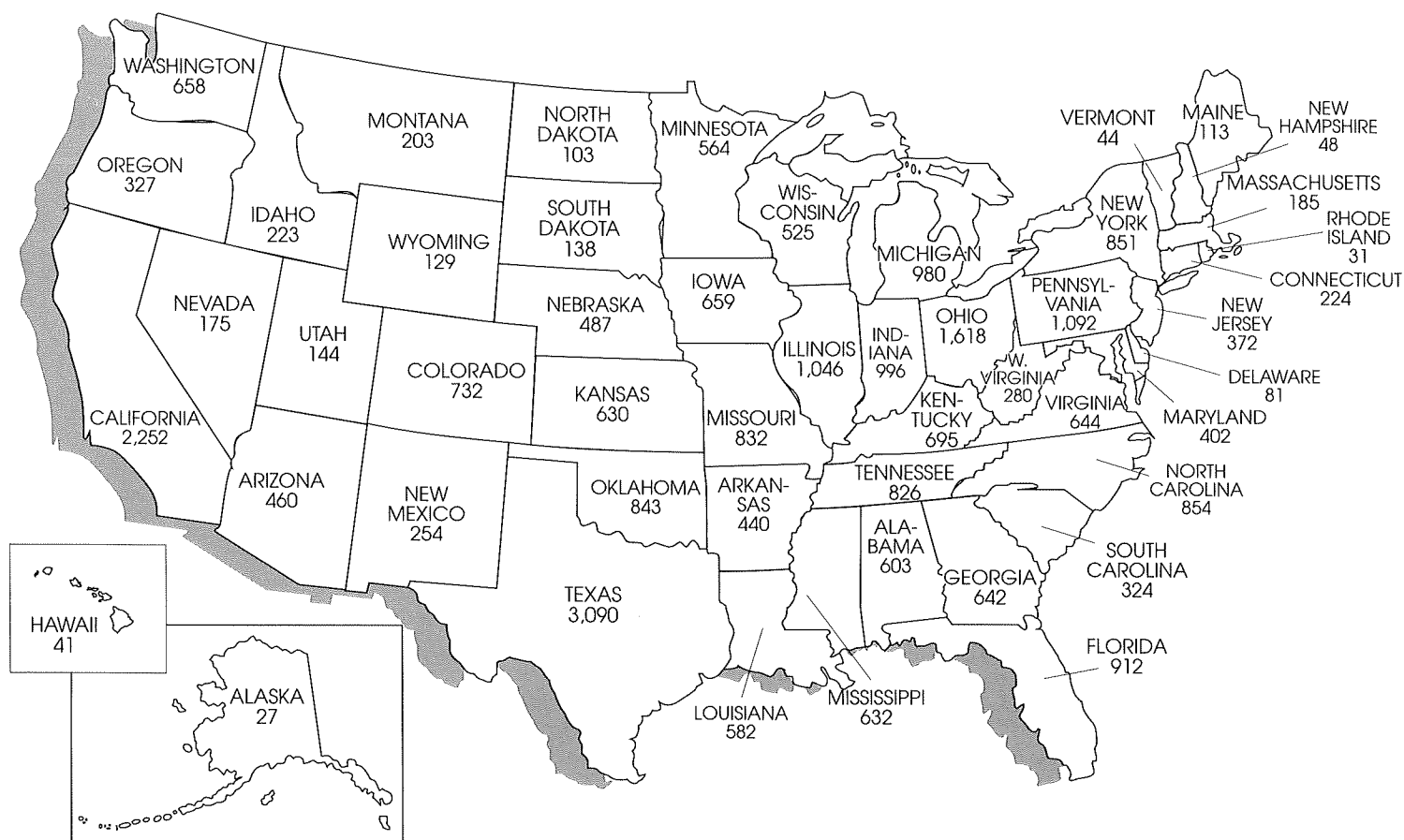


1992 ANNUAL REPORT

AQHA
AMATEUR
YOUTH
JOURNAL
STATISTICS



1992 AMATEUR CARD HOLDERS



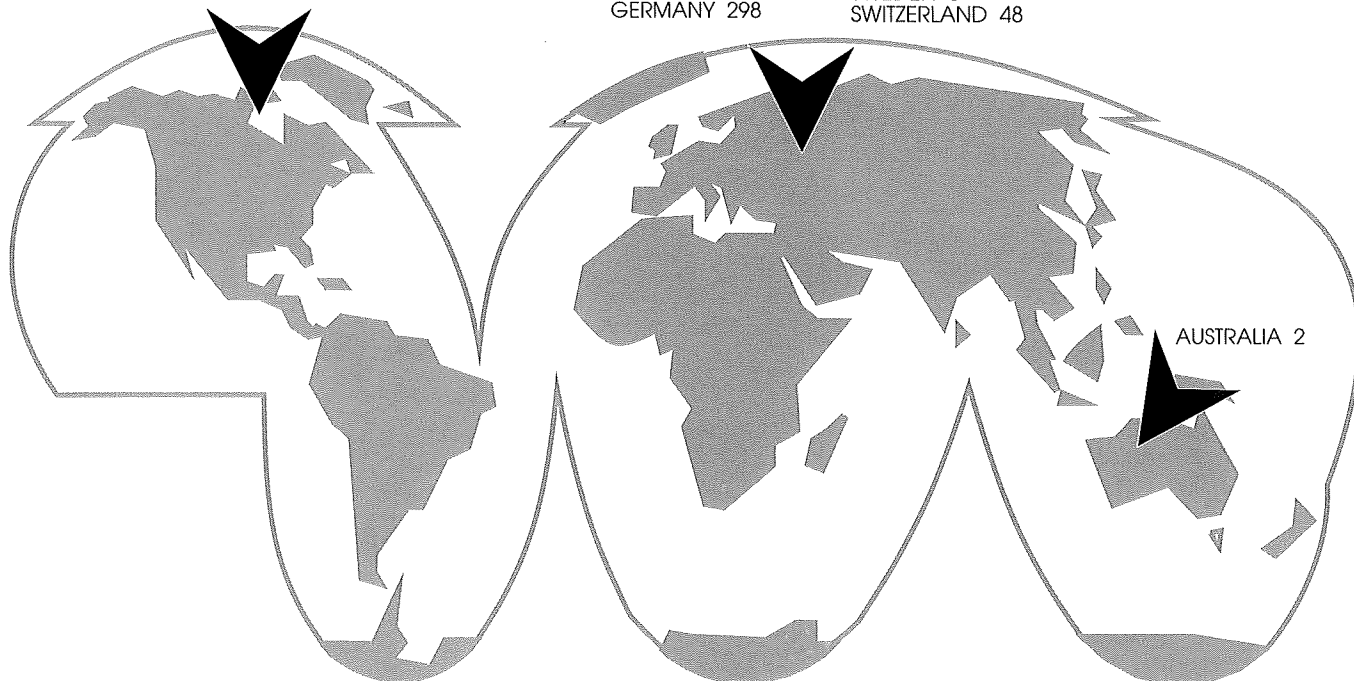
**TOTAL AMATEUR
CARD HOLDERS
U.S. & FOREIGN
31,452**

ALBERTA 315
BRITISH COLUMBIA 259
MANITOBA 41
NEW BRUNSWICK 74
NOVA SCOTIA 52
ONTARIO 811
PRINCE EDWARD ISLAND 10
QUEBEC 191
SASKATCHEWAN 88

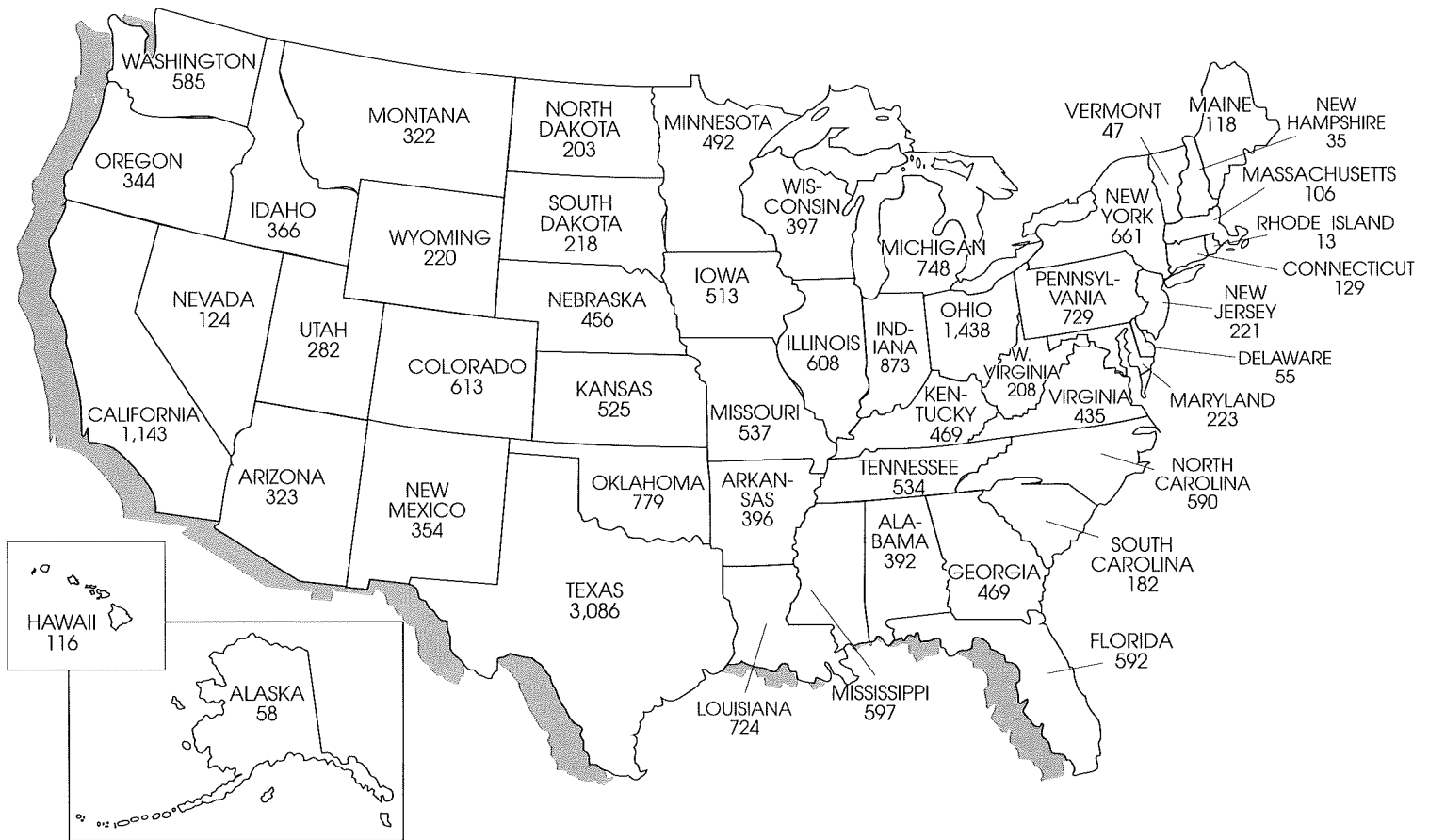
AUSTRIA 35
BELGIUM 29
DENMARK 6
ENGLAND 47
FRANCE 47
GERMANY 298

HUNGARY 1
ITALY 72
LUXEMBOURG 1
NETHERLANDS 3
SCOTLAND 4
SWEDEN 5
SWITZERLAND 48

AUSTRALIA 2



1992 YOUTH MEMBERSHIP



**TOTAL YOUTH
MEMBERSHIP
U.S. & FOREIGN
25,161**

ALBERTA 230
BRITISH COLUMBIA 188
MANITOBA 46
NEW BRUNSWICK 45
NOVA SCOTIA 47
ONTARIO 486
PRINCE EDWARD ISLAND 4
QUEBEC 70
SASKATCHEWAN 105

AUSTRIA 17
BELGIUM 2
DENMARK 2
ENGLAND 13
FRANCE 6
GERMANY 119

ITALY 50
LUXEMBOURG 2
SCOTLAND 1
SPAIN 1
SWEDEN 18
SWITZERLAND 17

AUSTRALIA 8
JAPAN 2

MEXICO 5
URAGUAY 28
VENEZUELA 1

THE QUARTER HORSE JOURNAL & QUARTER RACING JOURNAL

| | Circulation Figures <i>Quarter Horse Journal</i> | | | Circulation Figures <i>Quarter Racing Journal</i> | | |
|----------------------|---|---------------|---------------|--|---------------|---------------|
| | 1992 | 1991 | 1990 | 1992 | 1991 | 1990 |
| Alabama | 1,146 | 1,032 | 1,161 | 115 | 103 | 135 |
| Alaska | 90 | 91 | 100 | 15 | 11 | 18 |
| Arizona | 903 | 864 | 953 | 282 | 292 | 326 |
| Arkansas | 1,157 | 1,081 | 1,222 | 159 | 144 | 204 |
| California | 3,815 | 3,542 | 3,857 | 630 | 633 | 746 |
| Colorado | 1,519 | 1,468 | 1,586 | 340 | 329 | 364 |
| Connecticut | 301 | 288 | 318 | 7 | 8 | 12 |
| Delaware | 100 | 89 | 97 | 2 | 3 | 1 |
| District of Columbia | 11 | 7 | 9 | 2 | 1 | 1 |
| Florida | 1,581 | 1,451 | 1,511 | 202 | 206 | 223 |
| Georgia | 1,315 | 1,258 | 1,399 | 169 | 167 | 182 |
| Hawaii | 111 | 97 | 108 | 14 | 10 | 10 |
| Idaho | 571 | 531 | 592 | 274 | 273 | 315 |
| Illinois | 2,055 | 2,031 | 2,148 | 162 | 156 | 193 |
| Indiana | 1,950 | 1,874 | 1,935 | 153 | 153 | 180 |
| Iowa | 1,700 | 1,713 | 1,811 | 137 | 127 | 152 |
| Kansas | 1,492 | 1,473 | 1,581 | 266 | 312 | 354 |
| Kentucky | 1,095 | 957 | 1,064 | 93 | 90 | 139 |
| Louisiana | 1,241 | 1,198 | 1,344 | 288 | 273 | 286 |
| Maine | 180 | 180 | 192 | 1 | 10 | 10 |
| Maryland | 571 | 527 | 564 | 17 | 22 | 29 |
| Massachusetts | 268 | 245 | 280 | 10 | 7 | 16 |
| Michigan | 1,491 | 1,399 | 1,446 | 150 | 140 | 169 |
| Minnesota | 1,313 | 1,232 | 1,291 | 116 | 139 | 143 |
| Mississippi | 968 | 950 | 1,009 | 115 | 107 | 135 |
| Missouri | 2,047 | 1,970 | 2,103 | 230 | 253 | 319 |
| Montana | 643 | 581 | 595 | 167 | 159 | 179 |
| Nebraska | 1,127 | 1,091 | 1,198 | 95 | 96 | 125 |
| Nevada | 335 | 317 | 347 | 75 | 64 | 76 |
| New Hampshire | 103 | 103 | 104 | 2 | 3 | 1 |
| New Jersey | 583 | 546 | 592 | 24 | 15 | 26 |
| New Mexico | 618 | 622 | 728 | 371 | 368 | 419 |
| New York | 1,323 | 1,209 | 1,264 | 58 | 45 | 63 |
| North Carolina | 1,783 | 1,641 | 1,777 | 122 | 125 | 142 |
| North Dakota | 386 | 367 | 403 | 62 | 42 | 55 |
| Ohio | 2,557 | 2,384 | 2,519 | 129 | 117 | 142 |
| Oklahoma | 2,093 | 2,067 | 2,347 | 840 | 907 | 1,075 |
| Oregon | 818 | 780 | 857 | 149 | 134 | 166 |
| Pennsylvania | 1,775 | 1,704 | 1,778 | 60 | 62 | 73 |
| Rhode Island | 46 | 44 | 39 | 4 | 0 | 0 |
| South Carolina | 599 | 587 | 588 | 60 | 59 | 62 |
| South Dakota | 497 | 459 | 493 | 66 | 67 | 85 |
| Tennessee | 1,518 | 1,440 | 1,470 | 121 | 125 | 148 |
| Texas | 7,422 | 7,394 | 8,319 | 2,357 | 2,466 | 2,750 |
| Utah | 533 | 479 | 559 | 462 | 438 | 514 |
| Vermont | 112 | 105 | 118 | 8 | 9 | 10 |
| Virginia | 1,065 | 1,017 | 1,120 | 49 | 46 | 55 |
| Washington | 1,376 | 1,247 | 1,342 | 181 | 179 | 203 |
| West Virginia | 428 | 386 | 401 | 28 | 20 | 18 |
| Wisconsin | 1,094 | 1,000 | 1,018 | 81 | 76 | 82 |
| Wyoming | 428 | 412 | 477 | 138 | 138 | 149 |
| Military | 0 | 47 | 62 | 0 | 6 | 15 |
| Canada | 1,875 | 1,548 | 1,723 | 285 | 225 | 256 |
| Mexico | 139 | 127 | 138 | 141 | 136 | 125 |
| Other Foreign | 877 | 713 | 660 | 104 | 76 | 75 |
| Total | 61,144 | 57,965 | 62,717 | 10,188 | 10,172 | 11,751 |
| Newsstands | 3,303 | 3,056 | 3,030 | 176 | 196 | 193 |
| Grand Total | 64,447 | 61,021 | 65,747 | 10,364 | 10,368 | 11,944 |

1992 AQHA SHOW STATISTICS

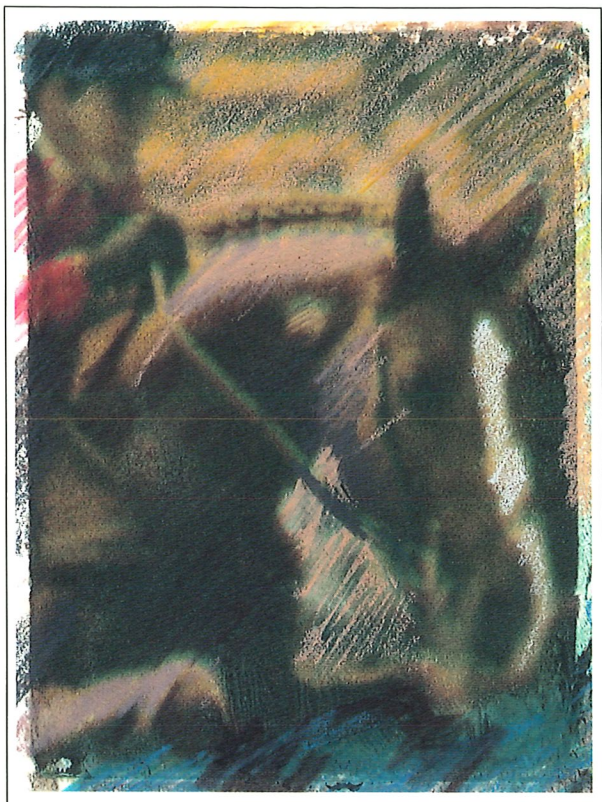


AQHA WORLD CHAMPIONSHIP SHOW

| YEAR | LOCATION | ENTRIES | PRIZE MONEY |
|------|-------------------------|---------|-------------|
| 1992 | Oklahoma City, Oklahoma | 3,116 | \$1,000,000 |
| 1991 | Oklahoma City, Oklahoma | 2,852 | \$615,012 |
| 1990 | Oklahoma City, Oklahoma | 2,500 | \$557,750 |
| 1989 | Oklahoma City, Oklahoma | 2,036 | \$487,871 |
| 1988 | Oklahoma City, Oklahoma | 2,118 | \$503,777 |
| 1987 | Oklahoma City, Oklahoma | 1,708 | \$434,358 |
| 1986 | Oklahoma City, Oklahoma | 1,937 | \$455,700 |
| 1985 | Oklahoma City, Oklahoma | 2,033 | \$461,006 |
| 1984 | Oklahoma City, Oklahoma | 1,449 | \$370,650 |
| 1983 | Oklahoma City, Oklahoma | 1,483 | \$378,250 |
| 1982 | Oklahoma City, Oklahoma | 1,389 | \$324,550 |
| 1981 | Oklahoma City, Oklahoma | 1,526 | \$215,500 |
| 1980 | Oklahoma City, Oklahoma | 1,402 | \$191,200 |
| 1979 | Oklahoma City, Oklahoma | 1,191 | \$163,100 |
| 1978 | Oklahoma City, Oklahoma | 1,104 | \$153,400 |
| 1977 | Oklahoma City, Oklahoma | 1,097 | \$150,700 |
| 1976 | Oklahoma City, Oklahoma | 823 | \$119,300 |
| 1975 | Louisville, Kentucky | 771 | \$114,100 |
| 1974 | Louisville, Kentucky | 692 | \$111,200 |

AQHA WORLD CHAMPIONSHIP SHOW

| YEAR | LOCATION | ENTRIES |
|------|-------------------|---------|
| 1992 | Fort Worth, Texas | 1,690 |
| 1991 | Tulsa, Oklahoma | 1,623 |
| 1990 | Tulsa, Oklahoma | 1,535 |
| 1989 | Tulsa, Oklahoma | 1,469 |
| 1988 | Tulsa, Oklahoma | 1,418 |
| 1987 | Tulsa, Oklahoma | 1,362 |
| 1986 | Tulsa, Oklahoma | 1,375 |
| 1985 | Tulsa, Oklahoma | 1,356 |
| 1984 | Tulsa, Oklahoma | 1,301 |
| 1983 | Tulsa, Oklahoma | 1,310 |
| 1982 | Tulsa, Oklahoma | 1,312 |
| 1981 | Tulsa, Oklahoma | 1,340 |
| 1980 | Tulsa, Oklahoma | 1,305 |
| 1979 | Tulsa, Oklahoma | 1,297 |
| 1978 | Tulsa, Oklahoma | 1,344 |
| 1977 | Tulsa, Oklahoma | 1,239 |
| 1976 | Tulsa, Oklahoma | 1,060 |
| 1975 | Tulsa, Oklahoma | 993 |
| 1974 | Tulsa, Oklahoma | 882 |
| 1973 | Amarillo, Texas | 796 |
| 1972 | Amarillo, Texas | 450 |



1992 ANNUAL REPORT

AQHA SHOW STATISTICS



| APPROVED SHOWS/U.S. | | | | | | | | | | |
|---------------------|-----------|--------------|--------------|------------|---------------|--------------|------------|----------------|--------------|-------------|
| State | Open Only | Open Amt/Yth | Open Amateur | Open Youth | Amateur Youth | Amateur Only | Youth Only | Novice Amateur | Novice Youth | State Shows |
| Alabama | 1 | 63 | 14 | 0 | 0 | 0 | 0 | 72 | 59 | 78 |
| Alaska | 0 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10 |
| Arizona | 0 | 25 | 11 | 0 | 0 | 0 | 1 | 36 | 25 | 37 |
| Arkansas | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 25 | 25 | 25 |
| California | 0 | 104 | 15 | 1 | 3 | 0 | 0 | 112 | 90 | 123 |
| Colorado | 0 | 42 | 7 | 0 | 1 | 0 | 1 | 49 | 41 | 51 |
| Connecticut | 0 | 15 | 0 | 0 | 1 | 0 | 0 | 16 | 16 | 16 |
| Delaware | 0 | 22 | 0 | 1 | 0 | 0 | 0 | 23 | 23 | 23 |
| Florida | 0 | 91 | 1 | 0 | 1 | 0 | 0 | 92 | 90 | 93 |
| Georgia | 0 | 44 | 8 | 0 | 0 | 0 | 0 | 51 | 44 | 52 |
| Hawaii | 0 | 5 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 10 |
| Idaho | 1 | 27 | 1 | 0 | 1 | 0 | 0 | 25 | 28 | 30 |
| Illinois | 0 | 41 | 0 | 0 | 0 | 0 | 0 | 40 | 40 | 41 |
| Indiana | 0 | 58 | 1 | 0 | 0 | 0 | 0 | 58 | 57 | 59 |
| Iowa | 0 | 39 | 0 | 0 | 0 | 0 | 0 | 39 | 37 | 39 |
| Kansas | 0 | 46 | 1 | 0 | 0 | 0 | 0 | 46 | 36 | 47 |
| Kentucky | 0 | 52 | 0 | 0 | 0 | 0 | 0 | 52 | 48 | 52 |
| Louisiana | 0 | 33 | 1 | 0 | 0 | 0 | 0 | 31 | 33 | 34 |
| Maine | 0 | 9 | 0 | 0 | 0 | 0 | 0 | 9 | 9 | 9 |
| Maryland | 0 | 16 | 0 | 1 | 0 | 0 | 0 | 17 | 17 | 17 |
| Massachusetts | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 4 | 4 | 4 |
| Michigan | 0 | 49 | 1 | 1 | 0 | 0 | 1 | 45 | 43 | 52 |
| Minnesota | 0 | 39 | 1 | 0 | 0 | 0 | 0 | 39 | 38 | 40 |
| Mississippi | 0 | 52 | 0 | 0 | 0 | 0 | 0 | 52 | 49 | 52 |
| Missouri | 0 | 36 | 0 | 0 | 0 | 0 | 0 | 36 | 36 | 36 |
| Montana | 0 | 28 | 0 | 0 | 0 | 0 | 0 | 26 | 28 | 28 |
| Nebraska | 0 | 34 | 0 | 0 | 0 | 0 | 0 | 34 | 34 | 34 |
| Nevada | 0 | 18 | 4 | 0 | 0 | 0 | 0 | 18 | 16 | 22 |
| New Hampshire | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 2 | 0 | 2 |
| New Jersey | 0 | 24 | 0 | 0 | 0 | 0 | 0 | 24 | 14 | 24 |
| New Mexico | 0 | 25 | 2 | 0 | 4 | 0 | 0 | 31 | 29 | 31 |
| New York | 0 | 67 | 0 | 0 | 0 | 0 | 0 | 67 | 64 | 67 |
| North Carolina | 0 | 50 | 0 | 0 | 0 | 0 | 0 | 50 | 50 | 50 |
| North Dakota | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 25 | 25 | 25 |
| Ohio | 0 | 59 | 0 | 0 | 0 | 0 | 0 | 59 | 59 | 59 |
| Oklahoma | 0 | 51 | 0 | 0 | 0 | 0 | 0 | 48 | 47 | 51 |
| Oregon | 0 | 34 | 4 | 0 | 0 | 0 | 0 | 30 | 27 | 38 |
| Pennsylvania | 0 | 70 | 0 | 0 | 0 | 0 | 0 | 66 | 64 | 70 |
| South Carolina | 0 | 21 | 5 | 0 | 0 | 0 | 0 | 25 | 21 | 26 |
| South Dakota | 0 | 17 | 0 | 0 | 0 | 0 | 0 | 16 | 17 | 17 |
| Tennessee | 0 | 63 | 3 | 0 | 0 | 0 | 0 | 66 | 63 | 66 |
| Texas | 0 | 170 | 10 | 0 | 2 | 0 | 0 | 175 | 166 | 182 |
| Utah | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 25 | 25 | 25 |
| Vermont | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 3 | 3 | 3 |
| Virginia | 0 | 56 | 0 | 0 | 0 | 0 | 0 | 56 | 54 | 56 |
| Washington | 0 | 33 | 2 | 0 | 1 | 0 | 0 | 35 | 34 | 36 |
| West Virginia | 0 | 42 | 0 | 0 | 0 | 0 | 0 | 42 | 42 | 42 |
| Wisconsin | 0 | 34 | 0 | 0 | 0 | 0 | 0 | 34 | 34 | 34 |
| Wyoming | 1 | 20 | 0 | 0 | 0 | 0 | 0 | 20 | 20 | 21 |

| APPROVED SHOWS / FOREIGN | | | | | | | | | | |
|--------------------------|-----------|--------------|--------------|------------|---------------|--------------|------------|----------------|--------------|-------------|
| State | Open Only | Open Amt/Yth | Open Amateur | Open Youth | Amateur Youth | Amateur Only | Youth Only | Novice Amateur | Novice Youth | State Shows |
| Canada | | | | | | | | | | |
| Alberta | 0 | 34 | 0 | 0 | 2 | 0 | 0 | 36 | 36 | 36 |
| British Columbia | 0 | 30 | 0 | 0 | 0 | 0 | 0 | 29 | 29 | 30 |
| Manitoba | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5 |
| New Brunswick | 0 | 6 | 0 | 0 | 0 | 0 | 0 | 6 | 6 | 6 |
| Nova Scotia | 0 | 8 | 0 | 0 | 0 | 0 | 0 | 8 | 8 | 8 |
| Ontario | 0 | 54 | 0 | 0 | 0 | 0 | 0 | 51 | 46 | 54 |
| Quebec | 0 | 12 | 0 | 0 | 0 | 0 | 0 | 12 | 12 | 12 |
| Saskatchewan | 0 | 15 | 0 | 0 | 0 | 0 | 0 | 15 | 15 | 15 |
| Foreign | | | | | | | | | | |
| Austria | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |
| Belgium | 3 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |
| Denmark | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| England | 1 | 0 | 5 | 0 | 0 | 0 | 0 | 5 | 0 | 6 |
| France | 0 | 1 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 6 |
| Germany | 8 | 13 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 25 |
| Italy | 0 | 7 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 8 |
| Mexico | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 |
| Netherlands | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Sweden | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 4 |
| Switzerland | 0 | 5 | 1 | 0 | 0 | 0 | 0 | 4 | 0 | 6 |
| TOTALS U.S. & FOREIGN | 24 | 2116 | 114 | 12 | 17 | 0 | 3 | 2112 | 1976 | 2286 |

1992 LARGEST YOUTH SHOWS

Show dates are in parenthesis

| ENTRIES | HALTER | ENTRIES | PERFORMANCE | ENTRIES | TOTAL |
|---------|----------------------------------|---------|-----------------------------------|---------|-------------------------------------|
| 66 | Detroit, Michigan (10/1-4) | 2,047 | Columbus, Ohio (10/11-25) | 2,096 | Columbus, Ohio (10/11-25) |
| 53 | Houston, Texas (2/17-23) | 837 | Houston, Texas (2/17-23) | 890 | Houston, Texas (2/17-23) |
| 53 | Albany, Oregon (6/8) | 701 | Detroit, Michigan (10/1-4) | 767 | Detroit, Michigan (10/1-4) |
| 49 | Columbus, Ohio (10/11-25) | 444 | Jackson, Mississippi (2/12-17) | 481 | Jackson, Mississippi (2/12-17) |
| 48 | Albany, Oregon (6/9) | 362 | Albuquerque, New Mexico (9/18-19) | 384 | Albuquerque, New Mexico (9/18-19) |
| 47 | Albany, Oregon (6/11) | 337 | Louisville, Kentucky (11/6-12) | 372 | Louisville, Kentucky (11/6-12) |
| 43 | Albany, Oregon (6/12) | 323 | Toronto, Ontario (3/4-8) | 360 | Toronto, Ontario (3/4-8) |
| 42 | Toronto, Ontario (3/2-3) | 288 | Hilliard, Ohio (5/23) | 321 | Hilliard, Ohio (5/23) |
| 42 | Tucson, Arizona (3/14) | 275 | Tallmadge, Ohio (7/11) | 299 | Tallmadge, Ohio (7/11) |
| 41 | Tucson, Arizona (3/13) | 263 | Scottsdale, Arizona (1/25) | 294 | Scottsdale, Arizona (1/25) |
| 40 | Tucson, Arizona (3/15) | 258 | Tallmadge, Ohio (7/9) | 288 | Delaware, Ohio (4/11) |
| 40 | West Allis, Wisconsin (8/27-28) | 256 | Scottsdale, Arizona (1/24) | 286 | Tallmadge, Ohio (7/9) |
| 39 | Tallmadge, Ohio (9/27) | 256 | Delaware, Ohio (4/11) | 284 | Hilliard, Ohio (5/24) |
| 38 | Albany, Oregon (6/13) | 255 | Hilliard, Ohio (5/24) | 282 | Delaware, Ohio (4/12) |
| 37 | Jackson, Mississippi (2/12-17) | 251 | Baton Rouge, Louisiana (6/4-5) | 281 | Scottsdale, Arizona (1/24) |
| 37 | Toronto, Ontario (3/4-8) | 247 | Delaware, Ohio (4/12) | 277 | Tallmadge, Ohio (7/8) |
| 37 | Findlay, Ohio (7/25) | 247 | Tallmadge, Ohio (7/8) | 275 | Fort Worth, Texas (1/17-2/2) |
| 35 | Delaware, Ohio (4/12) | 244 | Fort Worth, Texas (1/17-2/2) | 273 | Baton Rouge, Louisiana (6/4-5) |
| 35 | College Station, Texas (4/24-25) | 238 | Fort Worth, Texas (8/20-21) | 262 | Fort Worth, Texas (8/20-21) |
| 35 | Spokane, Washington (6/18) | 235 | Wilmington, Ohio (3/21) | 260 | Harlansburg, Pennsylvania (7/21-22) |

1992 LARGEST AMATEUR SHOWS

Show dates are in parenthesis

| ENTRIES | HALTER | ENTRIES | PERFORMANCE | ENTRIES | TOTAL |
|---------|------------------------------------|---------|--------------------------------|---------|--------------------------------|
| 199 | Columbus, Ohio (10/11-25) | 1,195 | Columbus, Ohio (10/11-25) | 1,394 | Columbus, Ohio (10/11-25) |
| 98 | Albany, Oregon (6/8) | 458 | Jackson, Mississippi (2/12-17) | 524 | Jackson, Mississippi (2/12-17) |
| 94 | West Allis, Wisconsin (8/27-28) | 427 | Houston, Texas (2/17-23) | 476 | Houston, Texas (2/17-23) |
| 85 | West Allis, Wisconsin (8/28-30) | 289 | Louisville, Kentucky (11/6-12) | 322 | Louisville, Kentucky (11/6-12) |
| 84 | Albany, Oregon (6/9) | 268 | Scottsdale, Arizona (1/24) | 312 | Toronto, Ontario (3/4-8) |
| 81 | Raleigh, North Carolina (10/14-15) | 263 | Scottsdale, Arizona (1/22) | 289 | Waco, Texas (8/29) |
| 78 | Tucson, Arizona (3/11) | 259 | Scottsdale, Arizona (1/25) | 288 | Scottsdale, Arizona (1/24) |
| 75 | Waukesha, Wisconsin (8/8) | 259 | Waco, Texas (8/29) | 288 | Louisville, Kentucky (8/12-15) |
| 71 | Tucson, Arizona (3/12) | 257 | Scottsdale, Arizona (1/21) | 281 | Scottsdale, Arizona (1/22) |
| 71 | Albany, Oregon (6/11) | 257 | Louisville, Kentucky (8/12-15) | 281 | Fort Worth, Texas (8/20-21) |
| 69 | Toronto, Ontario (3/2-3) | 257 | Fort Worth, Texas (8/20-21) | 279 | Fort Worth, Texas (1/17-2/2) |
| 67 | Lufkin, Texas (9/12) | 254 | Scottsdale, Arizona (1/20) | 277 | Scottsdale, Arizona (1/20) |
| 66 | Jackson, Mississippi (2/12-17) | 247 | Toronto, Ontario (3/4-8) | 277 | Scottsdale, Arizona (1/25) |
| 65 | Toronto, Ontario (3/4-8) | 237 | Fort Worth, Texas (1/17-2/2) | 275 | Scottsdale, Arizona (1/21) |
| 64 | Tucson, Arizona (3/13) | 223 | Scottsdale, Arizona (1/26) | 254 | Tucson, Arizona (3/11) |
| 63 | Tucson, Arizona (3/15) | 222 | Greencastle, Indiana (6/13) | 254 | Greencastle, Indiana (6/13) |
| 61 | Tucson, Arizona (3/14) | 220 | Waco, Texas (8/30) | 250 | Tucson, Arizona (3/13) |
| 61 | Albany, Oregon (6/12) | 214 | Fremont, Nebraska (8/8-9) | 248 | Tucson, Arizona (3/12) |
| 61 | Lincoln, Nebraska (9/11-13) | 210 | Greencastle, Indiana (6/12) | 248 | Greencastle, Indiana (6/12) |
| 59 | Sedalia, Missouri (9/4-6) | 203 | West Palm Beach, Florida (1/3) | 245 | Waco, Texas (8/30) |

1992 LARGEST OPEN SHOWS

Show dates are in parenthesis

| ENTRIES | HALTER | ENTRIES | PERFORMANCE | ENTRIES | TOTAL |
|---------|------------------------------------|---------|-----------------------------------|---------|--------------------------------|
| 260 | Columbus, Ohio (10/11-25) | 1,447 | Columbus, Ohio (10/11-25) | 1,707 | Columbus, Ohio (10/11-25) |
| 150 | Aachen, Germany (9/1-2) | 660 | Jackson, Mississippi (2/12-17) | 762 | Jackson, Mississippi (2/12-17) |
| 145 | Tucson, Arizona (3/11) | 533 | Houston, Texas (2/17-23) | 605 | Houston, Texas (2/17-23) |
| 145 | Albany, Oregon (6/8) | 530 | Louisville, Kentucky (11/6-12) | 579 | Louisville, Kentucky (11/6-12) |
| 143 | Aachen, Germany (9/3-6) | 447 | Louisville, Kentucky (8/12-15) | 496 | Louisville, Kentucky (8/12-15) |
| 143 | Raleigh, North Carolina (9/26-27) | 367 | Tulsa, Oklahoma (12/31) | 465 | Toronto, Ontario (3/4-8) |
| 142 | West Allis, Wisconsin (8/27-28) | 361 | Scottsdale, Arizona (1/21) | 448 | Aachen, Germany (9/3-6) |
| 129 | Charlotte, North Carolina (5/22) | 358 | Toronto, Ontario (3/4-8) | 433 | Tucson, Arizona (3/11) |
| 125 | Toronto, Ontario (3/2-3) | 347 | Scottsdale, Arizona (1/20) | 411 | Fort Worth, Texas (1/17-2/2) |
| 122 | Tucson, Arizona (3/13) | 347 | Scottsdale, Arizona (1/24) | 400 | Aachen, Germany (9/1-2) |
| 122 | Raleigh, North Carolina (10/14-15) | 345 | Scottsdale, Arizona (1/22) | 399 | Tulsa, Oklahoma (12/31) |
| 121 | West Allis, Wisconsin (8/28-30) | 343 | Fort Worth, Texas (1/17-2/2) | 397 | Scottsdale, Arizona (1/21) |
| 121 | Jackson, Mississippi (9/18-20) | 335 | Scottsdale, Arizona (1/25) | 394 | Scottsdale, Arizona (1/20) |
| 120 | Montgomery, Alabama (10/31) | 300 | Aachen, Germany (9/3-6) | 385 | Scottsdale, Arizona (1/24) |
| 116 | Tucson, Arizona (3/12) | 298 | Fort Worth, Texas (8/20-21) | 384 | Tucson, Arizona (3/13) |
| 115 | Albany, Oregon (6/9) | 293 | Tulsa, Oklahoma (12/28) | 380 | Scottsdale, Arizona (1/22) |
| 115 | Raleigh, North Carolina (11/27) | 288 | Tucson, Arizona (3/11) | 378 | Tucson, Arizona (3/12) |
| 111 | Tucson, Arizona (3/14) | 277 | Scottsdale, Arizona (1/26) | 370 | Scottsdale, Arizona (1/25) |
| 111 | Montgomery, Alabama (11/1) | 277 | Pomona, California (1/9-10) | 368 | Tucson, Arizona (3/14) |
| 109 | Tucson, Arizona (3/15) | 276 | Rancho Murieta, California (6/24) | 343 | Tulsa, Arizona (12/28) |

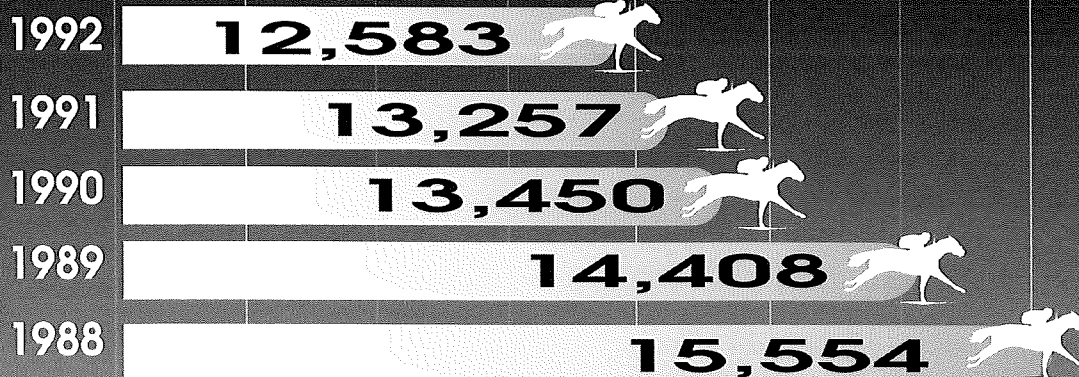


1992 ANNUAL REPORT

AQHA RACING STATISTICS



NUMBER OF RECOGNIZED RACES FOR AMERICAN QUARTER HORSES








1992 STARTERS IN RECOGNIZED AMERICAN QUARTER HORSE RACES

| | | | |
|---|---------------|--|---------------|
| Two-year-olds raced | 7,218 | Horses made first official start | 9,754 |
| Three-year-olds raced | 5,834 | Horses had raced previously | 9,699 |
| Older horses raced | 5,118 | Total | 19,453 |
| Thoroughbreds | 978 | | |
| American Quarter Horse Starters .. | 19,453 | | |






WORLD CHAMPION RACING AMERICAN QUARTER HORSES

| | | | |
|------|--|------|---|
| 1992 | REFRIGERATOR, b.g. 88 by RARE JET | 1970 | KAWEAH BAR, pal.g. 66 by ALAMITOS BAR |
| 1991 | SPECIAL LEADER, b.s. 87 by SPECIAL EFFORT | 1969 | EASY JET, s.s. 67 by JET DECK |
| 1990 | DASH FOR SPEED, s.m. 85 by DASH FOR CASH | 1968 | KAWEAH BAR, pal.g. 66 by ALAMITOS BAR |
| 1989 | SEE ME DO IT, s.m. 86 by ON A HIGH | 1967 | LAICO BIRD, br.m. 65 by Good Bird (TB) |
| 1988 | MERGANSER, ch.s. 86 by DUCK DANCE (TB) | 1966 | No award |
| 1987 | FIRST DOWN DASH, s.s. 84 by DASH FOR CASH | 1965 | GO JOSIE GO, s.m. 62 by GO MAN GO |
| 1986 | GOLD COAST EXPRESS, pal.g. 83 by MOON LARK | 1964 | GOETTA, b.m. 61 by GO MAN GO |
| 1985 | CASH RATE, s.g. 80 by DASH FOR CASH | 1963 | JET DECK, b.s. 60 by MOON DECK |
| 1984 | DASHS DREAM, s.m. 81 by DASH FOR CASH | 1962 | NO BUTT, b.m. 55 by Joe Less |
| 1983 | DASHINGLY, s.m. 79 by DASH FOR CASH | 1961 | PAP, s.g. 54 by PAPITAS |
| 1982 | SGT PEPPER FEATURE, b.g. 78 by TRUCKLE FEATURE | 1960 | VANDY'S FLASH, s.g. 54 by VANDY |
| 1981 | SPECIAL EFFORT, s.s. 79 by RAISE YOUR GLASS (TB) | 1959 | No award |
| 1980 | SUPER SOUND CHARGE, b.s. 76 by ROMA CHARGE | 1958 | MR BAR NONE, s.s. 55 by Three Bars (TB) |
| 1979 | MOON LARK, s.s. 76 by TOP MOON | 1957 | GO MAN GO, ro.s. 53 by Top Deck (TB) |
| 1978 | MISS THERMOLARK, b.m. 75 by Thermos (TB) | 1956 | GO MAN GO, ro.s. 53 by Top Deck (TB) |
| 1977 | DASH FOR CASH, s.s. 73 by ROCKET WRANGLER | 1955 | GO MAN GO, ro.s. 53 by Top Deck (TB) |
| 1976 | DASH FOR CASH, s.s. 73 by ROCKET WRANGLER | 1954 | JOSIE'S BAR, s.m. 51 by Three Bars (TB) |
| 1975 | EASY DATE, b.m. 72 by EASY JET | 1953 | MISS MEYERS, ch.m. 49 by LEO |
| 1974 | TINY'S GAY, br.s. 72 by TINY WATCH | 1952 | JOHNNY DIAL, br.s. 48 by Depth Charge (TB) |
| 1973 | TRUCKLE FEATURE, b.s. 70 by Truly Truckle (TB) | 1951 | MONITA, s.m. 47 by Joe Moore |
| 1972 | MR JET MOORE, s.s. 69 by JET DECK | | MADDON'S BRIGHT EYES, b.m. 46 by Gold Mount |
| 1971 | CHARGER BAR, b.m. 68 by TINY CHARGER | 1950 | BLOB JR., s.s. 47 by Blob (TB) |

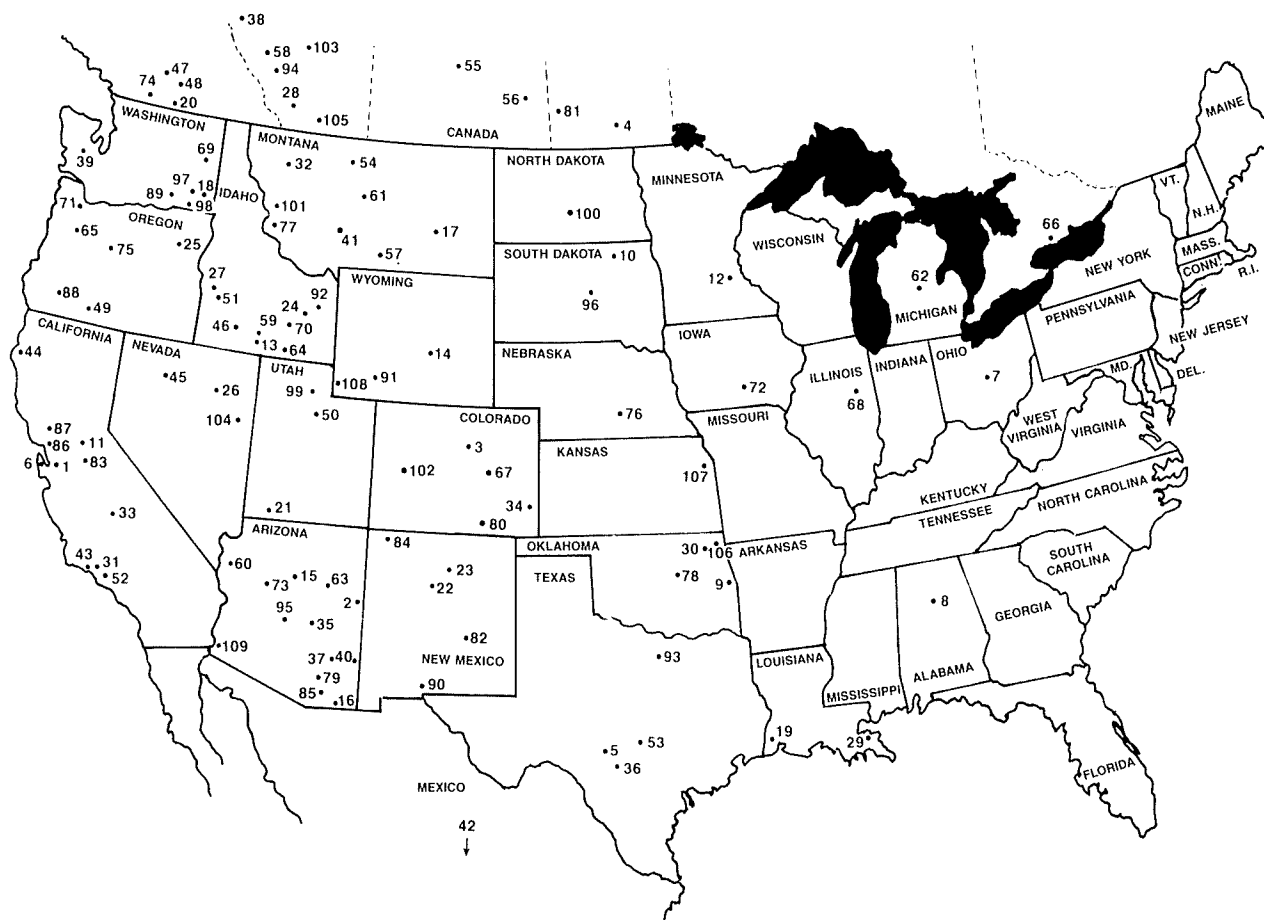
TOTAL PURSE DISTRIBUTION IN RECOGNIZED RACES FOR AMERICAN QUARTER HORSES

| | | |
|------|--------------|---|
| 1992 | \$49,652,716 |  |
| 1991 | \$51,248,894 |  |
| 1990 | \$51,210,144 |  |
| 1989 | \$51,749,453 |  |
| 1988 | \$52,449,928 |  |

TOTAL PARI-MUTUEL HANDLE ON RACES FOR AMERICAN QUARTER HORSES

| | | |
|------|---------------|---|
| 1992 | \$351,727,562 |  |
| 1991 | \$376,109,330 |  |
| 1990 | \$354,208,189 |  |
| 1989 | \$326,739,258 |  |
| 1988 | \$285,202,879 |  |

LOCATIONS OF NORTH AMERICAN QUARTER HORSE TRACKS



1. Alameda County Fair Pleasanton, California
2. Apache County Fair St. Johns, Arizona
3. Arapahoe Park Denver, Colorado
4. Assiniboia Downs Winnipeg, Manitoba, Canada
5. Bandera Downs Bandera, Texas
6. Bay Meadows San Mateo, California
7. Beulah Park Grove City, Ohio
8. Birmingham Race Course Birmingham, Alabama
9. Blue Ribbon Downs Salinas, California
10. Brown County Fair Aberdeen, South Dakota
11. California State Fair Sacramento, California
12. Canterbury Downs Shakopee, Minnesota
13. Cassia County Fair Burley, Idaho
14. Central Wyoming Fairgrounds Casper, Wyoming
15. Coconino County Fair Flagstaff, Arizona
16. Cochise County Fair Douglas, Arizona
17. Cow Capital Turf Club Miles City, Montana
18. Dayton Days Dayton, Washington
19. Della Downs Vinton, Louisiana
20. Desert Park Exhibition Osoyoos, British Columbia, Canada
21. Dixie Downs St. George, Utah
22. Downs at Albuquerque Albuquerque, New Mexico
23. Downs at Santa Fe Santa Fe, New Mexico
24. Eastern Idaho Fair Blackfoot, Idaho
25. Eastern Oregon Livestock Show Union, Oregon
26. Elko County Fairgrounds Elko, Nevada
27. Emmett Racetrack Emmett, Idaho
28. Ermineskin Racetrack Hobbema, Alberta, Canada
29. Fair Grounds New Orleans, Louisiana
30. Fair Meadows Tulsa, Oklahoma
31. Fairplex Park Pomona, California
32. Flathead Fairgrounds Kalispell, Montana
33. Fresno District Fair Fresno, California
34. Gateway Downs Holly, Colorado
35. Gila County Fair Globe, Arizona
36. Gillespie County Fairgrounds Fredericksburg, Texas
37. Graham County Fair Safford, Arizona
38. Grande Prairie Grande Prairie, Alberta, Canada
39. Grays Harbor Park Elma, Washington
40. Greenlee County Fair Duncan, Arizona
41. Helena Downs Helena, Montana
42. Hipodromo De Las Americas Mexico City, Mexico
43. Hollywood Park Inglewood, California
44. Humboldt County Fair Ferndale, California
45. Humboldt County Fair Winnemucca, Nevada
46. Jerome County Fair Jerome, Idaho
47. Kamloops Exhibition Kamloops, British Columbia, Canada
48. Kin Park Vernon, British Columbia, Canada
49. Klamath County Fairgrounds Klamath Falls, Oregon
50. Laurel Brown Racetrack West Valley, Utah
51. Les Bois Park Boise, Idaho
52. Los Alamitos Los Alamitos, California
53. Manor Downs Manor, Texas
54. Marias Fair Shelby, Montana
55. Marquis Downs Saskatoon, Saskatchewan, Canada
56. Melville District AgriPark Melville, Saskatchewan, Canada
57. MetraPark Billings, Montana
58. Millerville Race Society Millerville, Alberta, Canada
59. Minidoka County Fair Rupert, Idaho
60. Mojave County Fair Kingman, Arizona
61. Montana State Fair Great Falls, Montana
62. Mt. Pleasant Meadows Mt. Pleasant, Michigan
63. Navajo County Fair Holbrook, Arizona
64. Oneida County Fair Malad, Idaho
65. Oregon State Fair Salem, Oregon
66. Picow Downs Ajax, Ontario, Canada
67. Pikes Peak Meadows Fountain, Colorado
68. Pit Run Park Gibson City, Illinois
69. Playfair Race Course Spokane, Washington
70. Pocatello Downs Pocatello, Idaho
71. Portland Meadows Portland, Oregon
72. Prairie Meadows Altoona, Iowa
73. Prescott Downs Prescott, Arizona
74. Princeton Racing Days Princeton, British Columbia, Canada
75. Prineville Turf Club Prineville, Oregon
76. Queen City Downs Hastings, Nebraska
77. Ravalli County Fair Hamilton, Montana
78. Remington Park Oklahoma City, Oklahoma
79. Rillito Park Tucson, Arizona
80. Round-Up Park Trinidad, Colorado
81. Rossburn Parkland Downs Rossburn, Manitoba, Canada
82. Ruidoso Downs Ruidoso, New Mexico
83. San Joaquin County Fair Stockton, California
84. San Juan Downs Farmington, New Mexico
85. Santa Cruz County Fair Sonota, Arizona
86. Solano County Fair Vallejo, California
87. Sonoma County Fair Santa Rosa, California
88. Southern Oregon Race Assn. Grants Pass, Oregon
89. Sun Downs Kennewick, Washington
90. Sunland Park Sunland Park, New Mexico
91. Sweetwater County Fair Rock Springs, Wyoming
92. Teton Racing Association Idaho Falls, Idaho
93. Trinity Meadows Weatherford, Texas
94. Trout Springs Training Center Calgary, Alberta, Canada
95. Turf Paradise Phoenix, Arizona
96. Verendrye Benevolent Assn. Ft. Pierre, South Dakota
97. Waitsburg Racetrack Waitsburg, Washington
98. Walla Walla Racetrack Walla Walla, Washington
99. Weber Downs Ogden, Utah
100. Wells County Downs Fessenden, North Dakota
101. Western Montana Fair Missoula, Montana
102. Western Slopes Racing Assn. Rifle, Colorado
103. Westerner Exhibition Assn. Red Deer, Alberta, Canada
104. White Pine Raceway Ely, Nevada
105. Whooop-Up Downs Lethbridge, Alberta, Canada
106. Will Rogers Downs Claremore, Oklahoma
107. The Woodlands Kansas City, Kansas
108. Wyoming Downs Evanston, Wyoming
109. Yuma County Fair Yuma, Arizona



ANNUAL REPORT

AQHA
AWARDS
TRANSFERS
CONVENTION
SITES



| Awards Issued | | | | |
|--|-------------|-------------|-------------|-------------|
| Open | 1992 | 1991 | 1990 | 1989 |
| Register of Merit - Performance | 1,439 | 1,494 | 1,342 | 1,397 |
| Register of Merit - Halter | 1,199 | * | * | * |
| Superior Horse | 393 | 446 | 492 | 491 |
| Performance Champion | 4 | 9 | 7 | 0 |
| AQHA Champion | 24 | 37 | 30 | 34 |
| Versatility Award | 3 | 2 | 1 | 3 |
| AQHA Supreme Champion | 0 | 0 | 0 | 0 |
| All-Around | 1,132 | 1,203 | 1,079 | ** |
| All-Around Runner-Up | 955 | 881 | 766 | ** |
| Amateur | 1992 | 1991 | 1990 | 1989 |
| Register of Merit - Performance | 1,003 | 1,002 | 925 | 859 |
| Register of Merit - Halter | 520 | * | * | * |
| Superior Horse | 252 | 270 | 241 | 202 |
| Performance Champion | 20 | 8 | 8 | 13 |
| Versatility Award | 16 | 9 | 4 | 6 |
| AQHA Champion | 10 | 14 | 18 | 15 |
| All-Around | 1,755 | 1,802 | 1,683 | ** |
| All-Around Runner-Up | 1,824 | 1,816 | 1,644 | ** |
| Novice Amateur Completion Certificates | 184 | 203 | 147 | 69 |
| Youth | 1992 | 1991 | 1990 | 1989 |
| Register of Merit - Performance | 783 | 764 | 806 | 796 |
| Register of Merit - Halter | 299 | * | * | * |
| Superior Horse | 174 | 186 | 191 | 164 |
| Performance Champion | 16 | 19 | 18 | 12 |
| Versatility Award | 5 | 10 | 3 | 9 |
| AQHA Champion | 25 | 42 | 22 | 29 |
| AQHA Supreme Champion | 0 | 2 | 2 | 2 |
| AQHA Supreme Performance Champion | 1 | 0 | *** | *** |
| All-Around | 1,697 | 1,675 | 1,575 | ** |
| All-Around Runner-Up | 1,883 | 1,912 | 1,800 | 2,031 |
| Novice Youth Completion Certificates | 160 | 159 | 104 | 73 |

*No Register of Merit - Halter prior to 1992

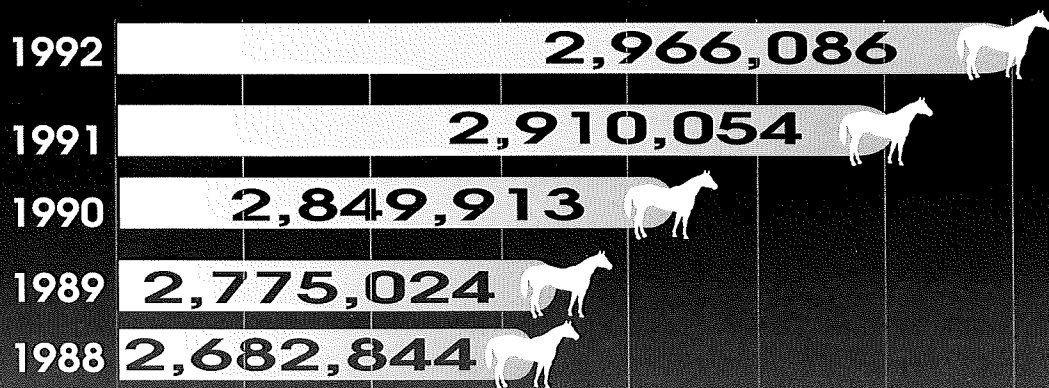
**Not Applicable. These awards were instituted January 1, 1990

***Not offered prior to 1992

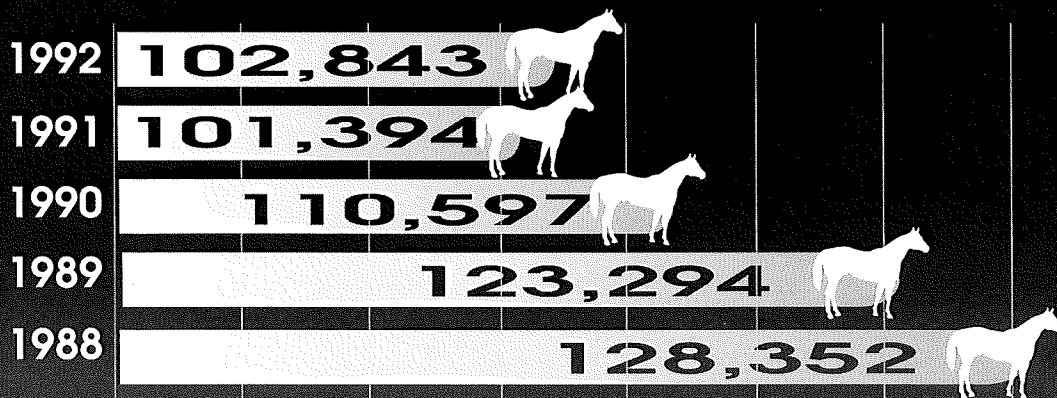
| AMERICAN QUARTER HORSE POPULATION / U.S. | | | | | | | | |
|--|---------------|-------------------|-----------|---------------------|-----|------------------|-------------------|---------------------|
| | | Horse Population* | | New Registrations** | | | Horse Population* | New Registrations** |
| | | 1991 | 1992 | 1992 | | | 1991 | 1992 |
| 1. | Alabama | 38,016 | 39,565 | 1,948 | 27. | Nebraska | 79,053 | 2,576 |
| 2. | Alaska | 1,373 | 1,346 | 31 | 28. | Nevada | 21,548 | 653 |
| 3. | Arizona | 51,748 | 52,766 | 1,300 | 29. | New Hampshire | 1,748 | 40 |
| 4. | Arkansas | 55,524 | 56,094 | 1,784 | 30. | New Jersey | 9,767 | 128 |
| 5. | California | 180,319 | 180,914 | 5,583 | 31. | New Mexico | 64,244 | 1,799 |
| 6. | Colorado | 98,952 | 100,475 | 2,918 | 32. | New York | 27,767 | 625 |
| 7. | Connecticut | 4,724 | 4,715 | 60 | 33. | North Carolina | 34,254 | 1,531 |
| 8. | Delaware | 1,456 | 1,479 | 37 | 34. | North Dakota | 37,515 | 1,275 |
| 9. | Florida | 55,235 | 56,439 | 2,078 | 35. | Ohio | 52,703 | 1,948 |
| 10. | Georgia | 44,690 | 45,923 | 2,035 | 36. | Oklahoma | 196,883 | 6,645 |
| 11. | Hawaii | 3,132 | 3,262 | 141 | 37. | Oregon | 51,725 | 1,810 |
| 12. | Idaho | 58,279 | 60,150 | 2,182 | 38. | Pennsylvania | 33,600 | 1,000 |
| 13. | Illinois | 54,903 | 55,403 | 1,643 | 39. | Rhode Island | 819 | 14 |
| 14. | Indiana | 47,749 | 48,459 | 1,648 | 40. | South Carolina | 15,346 | 615 |
| 15. | Iowa | 72,243 | 73,349 | 2,877 | 41. | South Dakota | 64,409 | 2,456 |
| 16. | Kansas | 94,330 | 94,914 | 3,199 | 42. | Tennessee | 37,246 | 1,708 |
| 17. | Kentucky | 26,102 | 26,987 | 1,042 | 43. | Texas | 484,535 | 17,005 |
| 18. | Louisiana | 67,922 | 68,615 | 2,119 | 44. | Utah | 60,251 | 2,138 |
| 19. | Maine | 3,131 | 3,213 | 106 | 45. | Vermont | 1,974 | 49 |
| 20. | Maryland | 9,496 | 9,631 | 295 | 46. | Virginia | 21,352 | 767 |
| 21. | Massachusetts | 4,560 | 4,654 | 51 | 47. | Washington | 52,118 | 1,871 |
| 22. | Michigan | 46,088 | 46,780 | 1,424 | 48. | Washington, D.C. | 117 | 1 |
| 23. | Minnesota | 44,032 | 45,074 | 1,652 | 49. | West Virginia | 7,906 | 350 |
| 24. | Mississippi | 38,750 | 40,028 | 1,656 | 50. | Wisconsin | 30,667 | 1,023 |
| 25. | Missouri | 82,195 | 83,939 | 2,843 | 51. | Wyoming | 54,027 | 1,531 |
| 26. | Montana | 85,665 | 88,343 | 2,631 | | | | |
| Total 50 States & D.C. | | 2,712,188 | 2,756,358 | 92,841 | | | | |

| AMERICAN QUARTER HORSE POPULATION / FOREIGN | | | | | | | | |
|---|---------|---------|---------------------|---------------------------------|------------------|------------------|---------------------|--|
| Horse Population* | | | New Registrations** | Horse Population* | | | New Registrations** | |
| | 1991 | 1992 | 1992 | | 1991 | 1992 | 1992 | |
| Foreign Countries | | | | | | | | |
| 1. Argentina | 464 | 496 | 0 | 35. Ireland | 7 | 6 | 0 | |
| 2. Australia | 847 | 835 | 0 | 36. Israel | 93 | 121 | 11 | |
| 3. Austria | 277 | 400 | 64 | 37. Italy | 4,326 | 5,496 | 689 | |
| 4. Bahamas | 95 | 95 | 0 | 38. Jamaica | 5 | 3 | 0 | |
| 5. Belgium | 122 | 200 | 21 | 39. Japan | 278 | 297 | 0 | |
| 6. Belize | 0 | 9 | 0 | 40. Juan De Nova Island | 0 | 0 | 1 | |
| 7. Bermuda | 31 | 34 | 3 | 41. Lebanon | 1 | 1 | 0 | |
| 8. Botswana | 2 | 2 | 0 | 42. Luxemborg | 21 | 30 | 1 | |
| 9. Brazil | 1,041 | 1,126 | 12 | 43. Macau | 0 | 1 | 0 | |
| 10. Canada | 165,162 | 172,276 | 7,427 | 44. Mariana Islands | 0 | 1 | 0 | |
| Alberta | 67,978 | 70,771 | 3,133 | 45. Martinique | 5 | 6 | 0 | |
| British Columbia | 19,332 | 20,215 | 810 | 46. Mexico | 17,109 | 18,355 | 880 | |
| Manitoba | 10,764 | 11,711 | 552 | 47. Monaco | 0 | 1 | 0 | |
| New Brunswick | 1,455 | 1,493 | 47 | 48. Morocco | 11 | 9 | 0 | |
| Newfoundland | 58 | 70 | 0 | 49. Netherlands | 163 | 206 | 23 | |
| Nova Scotia | 1,601 | 1,668 | 43 | 50. New Zealand | 92 | 91 | 0 | |
| N.W. Territory | 21 | 20 | 1 | 51. Nicaragua | 24 | 24 | 0 | |
| Ontario | 25,551 | 26,142 | 1,039 | 52. Norway | 3 | 3 | 0 | |
| Prince Edward Island | 330 | 351 | 23 | 53. Panama | 80 | 83 | 1 | |
| Quebec | 11,695 | 12,303 | 446 | 54. Paraguay | 415 | 421 | 0 | |
| Saskatchewan | 26,321 | 27,473 | 1,332 | 55. Peru | 4 | 4 | 0 | |
| Yukon | 56 | 59 | 1 | 56. Philippine Islands | 11 | 9 | 0 | |
| 11. China | 4 | 4 | 0 | 57. Portugal | 1 | 1 | 0 | |
| 12. Colombia | 155 | 160 | 0 | 58. Puerto Rico | 63 | 66 | 0 | |
| 13. Congo | 1 | 1 | 0 | 59. Saudi Arabia | 6 | 8 | 0 | |
| 14. Costa Rica | 225 | 219 | 0 | 60. Scotland | 106 | 120 | 0 | |
| 15. Cuba | 1 | 1 | 0 | 61. Singapore | 1 | 1 | 0 | |
| 16. Czechoslovakia | 0 | 1 | 0 | 62. South Africa | 168 | 169 | 2 | |
| 17. Denmark | 35 | 50 | 6 | 63. Spain | 115 | 124 | 8 | |
| 18. Dominican Republic | 2 | 2 | 0 | 64. St. Kitts | 3 | 2 | 0 | |
| 19. Ecuador | 54 | 50 | 2 | 65. Sweden | 240 | 300 | 39 | |
| 20. Egypt | 0 | 0 | 1 | 66. Switzerland | 323 | 366 | 17 | |
| 21. El Salvador | 6 | 6 | 0 | 67. Taiwan | 9 | 9 | 0 | |
| 22. England | 492 | 548 | 46 | 68. Thailand | 7 | 41 | 0 | |
| 23. Europa Island | 0 | 1 | 0 | 69. Trinidad | 1 | 0 | 1 | |
| 24. Falkland Islands | 0 | 1 | 0 | 70. Trucial States | 1 | 0 | 0 | |
| 25. Finland | 1 | 0 | 0 | 71. United Arab Emirates | 1 | 6 | 0 | |
| 26. France | 547 | 800 | 122 | 72. United Kingdom | 0 | 27 | 0 | |
| 27. Germany | 3,533 | 4,896 | 604 | 73. Uruguay | 23 | 53 | 0 | |
| 28. Greece | 2 | 2 | 0 | 74. Venezuela | 573 | 580 | 13 | |
| 29. Guadalupe | 1 | 1 | 0 | 75. Virgin Islands | 12 | 14 | 5 | |
| 30. Guam | 8 | 7 | 0 | 76. Wales | 5 | 10 | 3 | |
| 31. Guatemala | 327 | 315 | 0 | 77. Zimbabwe | 24 | 24 | 0 | |
| 32. Haiti | 1 | 1 | 0 | | | | | |
| 33. Honduras | 99 | 89 | 0 | | | | | |
| 34. Hungary | 1 | 11 | 0 | | | | | |
| | | | | Total Foreign | 197,866 | 209,728 | 10,002 | |
| | | | | TOTAL U.S. & FOREIGN | 2,910,054 | 2,966,086 | 102,843 | |

TOTAL HORSE POPULATION



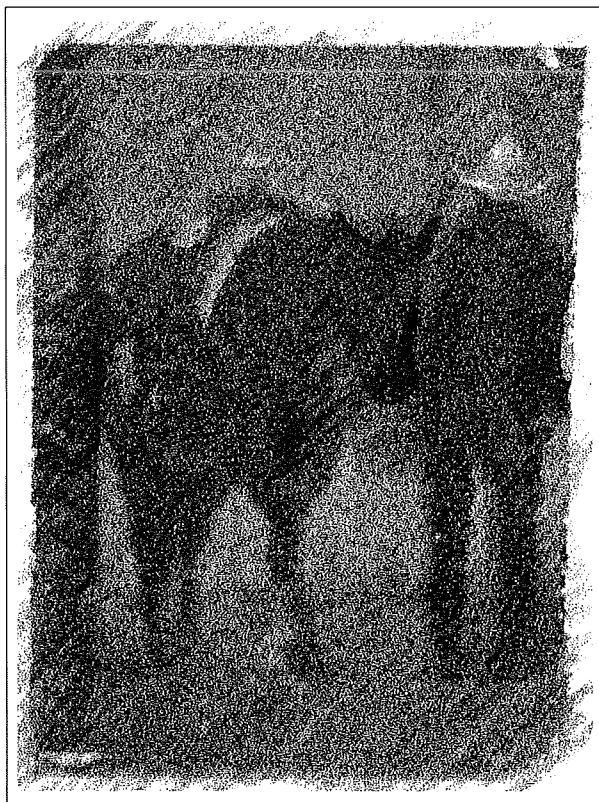
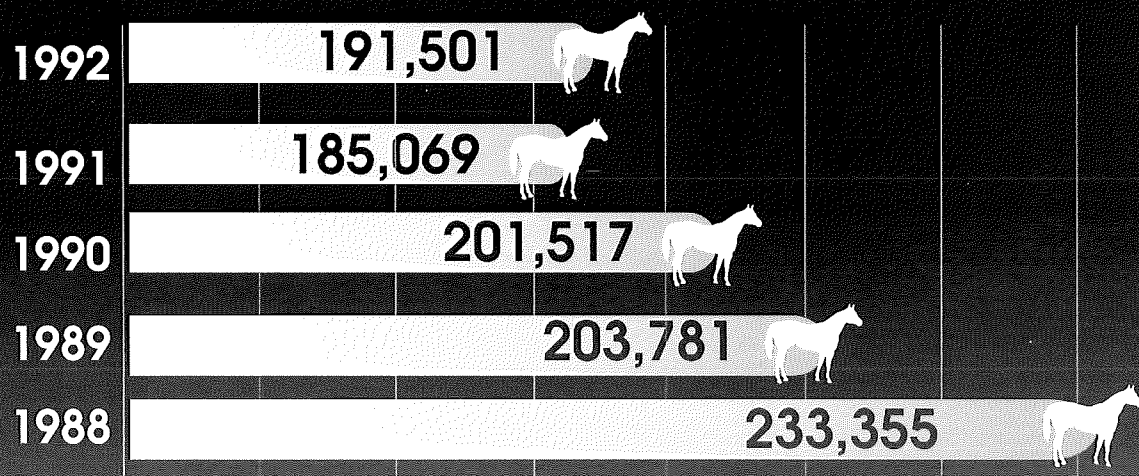
REGISTRATIONS



| AMERICAN QUARTER HORSE TRANSFERS/U.S. | | | | | | |
|---------------------------------------|---------------|---------------|----------------|---------------|---------------|----------------|
| | 1991 | | | 1992 | | |
| | To State | From State | Within State | To State | From State | Within State |
| 1. Alabama | 1,211 | 1,227 | 2,395 | 1,329 | 1,280 | 2,390 |
| 2. Alaska | 49 | 37 | 90 | 26 | 31 | 76 |
| 3. Arizona | 991 | 685 | 2,138 | 1,131 | 698 | 2,137 |
| 4. Arkansas | 1,035 | 1,157 | 2,055 | 1,163 | 1,235 | 2,278 |
| 5. California | 2,145 | 1,998 | 10,422 | 2,049 | 2,382 | 10,153 |
| 6. Colorado | 1,528 | 1,435 | 3,647 | 1,767 | 1,450 | 3,860 |
| 7. Connecticut | 248 | 174 | 213 | 254 | 191 | 194 |
| 8. Delaware | 105 | 57 | 72 | 94 | 57 | 65 |
| 9. District of Columbia | 6 | 7 | 0 | 13 | 8 | 0 |
| 10. Florida | 1,262 | 1,261 | 3,428 | 1,238 | 1,231 | 3,552 |
| 11. Georgia | 1,352 | 1,563 | 3,077 | 1,308 | 1,657 | 2,970 |
| 12. Hawaii | 90 | 21 | 193 | 101 | 36 | 228 |
| 13. Idaho | 966 | 1,084 | 2,057 | 1,000 | 1,084 | 2,156 |
| 14. Illinois | 1,384 | 1,418 | 2,408 | 1,483 | 1,579 | 2,572 |
| 15. Indiana | 1,396 | 1,255 | 2,905 | 1,499 | 1,362 | 3,118 |
| 16. Iowa | 1,173 | 1,899 | 3,124 | 1,281 | 2,056 | 2,934 |
| 17. Kansas | 1,447 | 1,937 | 3,279 | 1,441 | 2,313 | 3,089 |
| 18. Kentucky | 1,060 | 1,016 | 1,393 | 1,237 | 1,075 | 1,505 |
| 19. Louisiana | 936 | 1,040 | 2,878 | 1,076 | 1,168 | 2,891 |
| 20. Maine | 137 | 84 | 268 | 112 | 74 | 235 |
| 21. Maryland | 446 | 401 | 516 | 431 | 450 | 435 |
| 22. Massachusetts | 220 | 138 | 177 | 223 | 129 | 144 |
| 23. Michigan | 825 | 781 | 2,680 | 952 | 803 | 2,782 |
| 24. Minnesota | 960 | 1,029 | 1,926 | 1,082 | 1,175 | 1,989 |
| 25. Mississippi | 1,103 | 986 | 2,345 | 1,140 | 1,069 | 2,345 |
| 26. Missouri | 1,820 | 1,840 | 3,711 | 1,955 | 2,053 | 3,970 |
| 27. Montana | 904 | 812 | 2,274 | 1,047 | 953 | 2,412 |
| 28. Nebraska | 1,042 | 1,323 | 2,170 | 1,236 | 1,569 | 2,174 |
| 29. Nevada | 687 | 417 | 720 | 648 | 466 | 735 |
| 30. New Hampshire | 107 | 58 | 90 | 89 | 64 | 80 |
| 31. New Jersey | 469 | 295 | 349 | 455 | 278 | 316 |
| 32. New Mexico | 1,144 | 1,034 | 1,915 | 1,060 | 1,061 | 1,758 |
| 33. New York | 829 | 478 | 1,329 | 888 | 504 | 1,386 |
| 34. North Carolina | 1,227 | 927 | 2,456 | 1,228 | 939 | 2,641 |
| 35. North Dakota | 523 | 676 | 934 | 689 | 793 | 1,033 |
| 36. Ohio | 1,509 | 1,443 | 3,570 | 1,629 | 1,517 | 3,768 |
| 37. Oklahoma | 2,319 | 4,571 | 6,181 | 2,553 | 4,290 | 5,862 |
| 38. Oregon | 885 | 944 | 2,470 | 1,021 | 1,106 | 2,570 |
| 39. Pennsylvania | 1,168 | 825 | 1,950 | 1,321 | 910 | 1,987 |
| 40. Rhode Island | 49 | 27 | 23 | 62 | 19 | 34 |
| 41. South Carolina | 739 | 468 | 874 | 623 | 456 | 947 |
| 42. South Dakota | 864 | 1,170 | 1,578 | 992 | 1,363 | 1,791 |
| 43. Tennessee | 1,522 | 1,288 | 2,186 | 1,435 | 1,423 | 2,336 |
| 44. Texas | 4,339 | 6,810 | 21,208 | 4,362 | 6,811 | 21,141 |
| 45. Utah | 682 | 739 | 2,437 | 775 | 757 | 2,375 |
| 46. Vermont | 109 | 76 | 73 | 96 | 58 | 80 |
| 47. Virginia | 822 | 732 | 1,306 | 814 | 665 | 1,332 |
| 48. Washington | 930 | 813 | 3,082 | 1,021 | 852 | 3,133 |
| 49. West Virginia | 432 | 336 | 409 | 427 | 341 | 510 |
| 50. Wisconsin | 807 | 585 | 1,444 | 860 | 774 | 1,572 |
| 51. Wyoming | 912 | 819 | 1,409 | 1,053 | 894 | 1,339 |
| Total 50 States (& D.C.) | 48,915 | 52,196 | 119,834 | 51,769 | 55,509 | 121,380 |

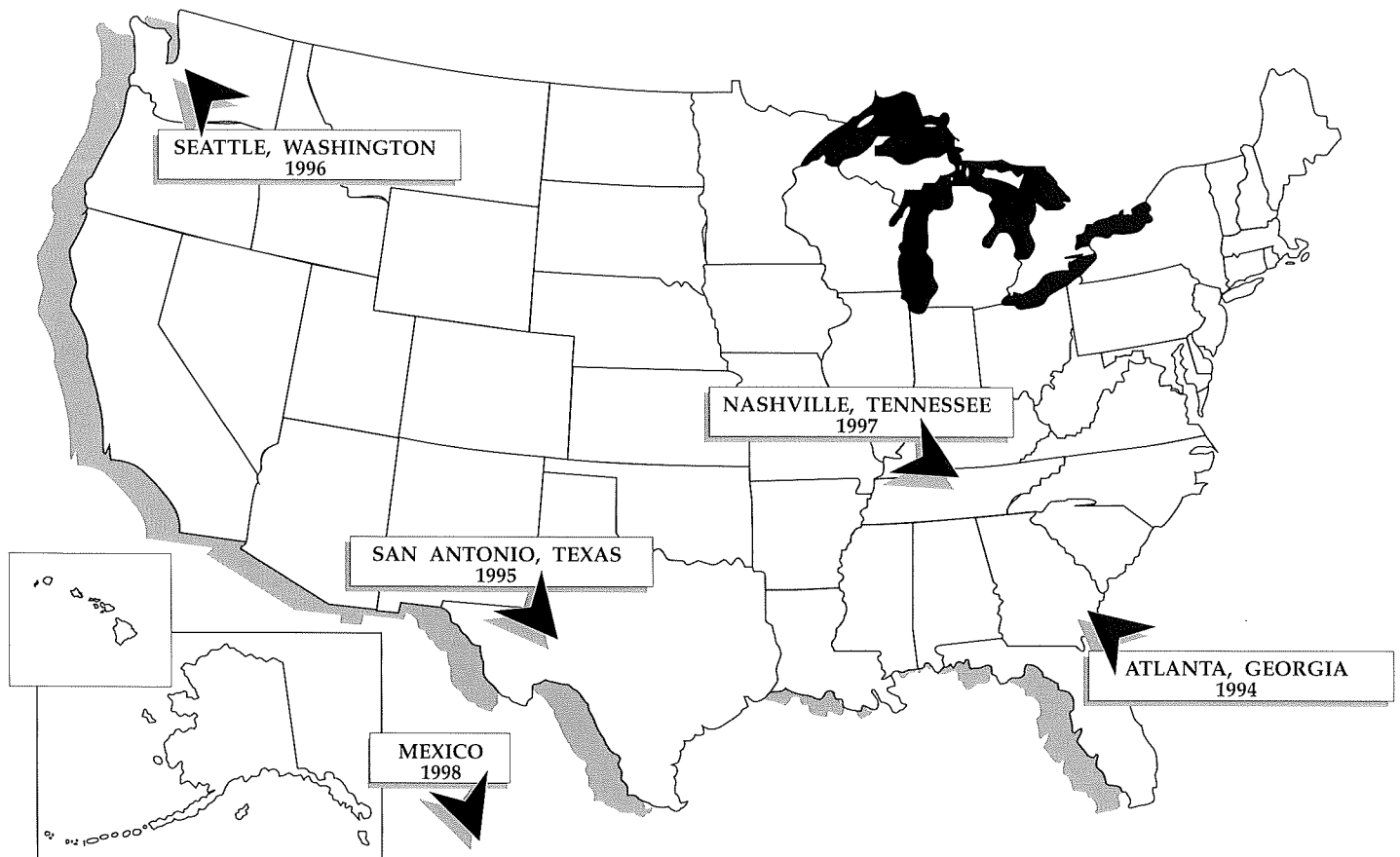
| AMERICAN QUARTER HORSE TRANSFERS / FOREIGN | | | | | | |
|--|-------------|---------------|-----------------|-------------|---------------|-----------------|
| | 1991 | | | 1992 | | |
| | To State | From State | Within State | To State | From State | Within State |
| 1. American Samoa | 0 | 0 | 0 | 3 | 3 | 0 |
| 2. Argentina | 5 | 1 | 8 | 0 | 0 | 0 |
| 3. Australia | 11 | 4 | 0 | 0 | 0 | 0 |
| 4. Austria | 33 | 5 | 52 | 59 | 3 | 46 |
| 5. Belgium | 26 | 10 | 22 | 62 | 4 | 26 |
| 6. Bermuda | 2 | 0 | 0 | 3 | 2 | 0 |
| 7. Brazil | 201 | 39 | 5 | 94 | 4 | 1 |
| 8. Canada Total | 2,777 | 1,889 | 9,014 | 3,576 | 2,216 | 10,011 |
| Alberta | 652 | 461 | 3,181 | 720 | 640 | 3,730 |
| British Columbia | 383 | 240 | 1,184 | 425 | 185 | 1,355 |
| Manitoba | 219 | 89 | 450 | 612 | 108 | 509 |
| New Brunswick | 38 | 38 | 126 | 46 | 37 | 116 |
| Newfoundland | 1 | 0 | 2 | 13 | 1 | 1 |
| Nova Scotia | 78 | 23 | 115 | 62 | 15 | 108 |
| N.W. Territory | 1 | 1 | 0 | 0 | 1 | 0 |
| Ontario | 457 | 334 | 1,903 | 465 | 414 | 1,886 |
| Prince Edward Island | 7 | 12 | 13 | 10 | 5 | 22 |
| Quebec | 615 | 270 | 1,001 | 617 | 318 | 919 |
| Saskatchewan | 316 | 419 | 1,036 | 600 | 490 | 1,364 |
| Yukon | 9 | 0 | 3 | 2 | 0 | 1 |
| Other | 1 | 2 | 0 | 4 | 2 | 0 |
| 9. Czechoslovakia | 0 | 0 | 0 | 1 | 0 | 0 |
| 10. Denmark | 10 | 0 | 2 | 11 | 3 | 7 |
| 11. England | 40 | 32 | 50 | 60 | 22 | 57 |
| 12. Ecuador | 0 | 0 | 0 | 0 | 0 | 9 |
| 13. France | 69 | 6 | 58 | 147 | 12 | 98 |
| 14. Germany | 664 | 53 | 608 | 815 | 51 | 823 |
| 15. Guam | 0 | 1 | 0 | 0 | 0 | 0 |
| 16. Guatemala | 4 | 0 | 0 | 0 | 1 | 0 |
| 17. Honduras | 0 | 0 | 0 | 4 | 0 | 0 |
| 18. Hungary | 0 | 0 | 0 | 11 | 0 | 0 |
| 19. Ireland | 0 | 0 | 0 | 0 | 1 | 0 |
| 20. Israel | 1 | 1 | 15 | 18 | 1 | 15 |
| 21. Italy | 530 | 10 | 530 | 492 | 8 | 644 |
| 22. Japan | 15 | 4 | 11 | 19 | 0 | 3 |
| 23. Luxembourg | 13 | 1 | 1 | 10 | 0 | 2 |
| 24. Macau | 0 | 0 | 0 | 1 | 0 | 0 |
| 25. Martinique | 2 | 0 | 1 | 0 | 0 | 0 |
| 26. Mexico | 752 | 37 | 368 | 524 | 21 | 350 |
| 27. Netherlands | 44 | 4 | 20 | 30 | 9 | 17 |
| 28. Panama | 2 | 0 | 0 | 3 | 0 | 0 |
| 29. Paraguay | 5 | 0 | 0 | 0 | 0 | 0 |
| 30. Puerto Rico | 2 | 0 | 3 | 2 | 0 | 0 |
| 31. Saudi Arabia | 0 | 0 | 0 | 1 | 0 | 0 |
| 32. Scotland | 5 | 9 | 14 | 0 | 0 | 0 |
| 33. Spain | 0 | 14 | 1 | 9 | 7 | 25 |
| 34. Sweden | 30 | 1 | 27 | 21 | 0 | 45 |
| 35. Switzerland | 58 | 9 | 41 | 47 | 18 | 26 |
| 36. Thailand | 0 | 0 | 0 | 34 | 0 | 0 |
| 37. United Arab Emirates | 0 | 0 | 0 | 5 | 0 | 0 |
| 38. United Kingdom | 0 | 0 | 0 | 4 | 3 | 0 |
| 39. Uruguay | 6 | 0 | 0 | 14 | 0 | 3 |
| 40. Venezuela | 110 | 5 | 51 | 51 | 3 | 11 |
| 41. Virgin Islands | 1 | 0 | 0 | 1 | 0 | 0 |
| 42. Wales | 0 | 2 | 0 | 0 | 0 | 1 |
| Total Foreign | 5,418 | 2,137 | 10,902 | 6,132 | 2,392 | 12,220 |
| TOTAL U.S. & FOREIGN | 54,333 | 54,333 | 130,736 | 57,901 | 57,901 | 133,600 |

TOTAL TRANSFERS



AQHA ANNUAL MEETING

FUTURE SITES



AQHA ANNUAL MEETING LOCATIONS

| | | | | | |
|------|-----------------------------|------|---------------------------|------|----------------------------|
| 1993 | Albuquerque, New Mexico | 1975 | Atlanta, Georgia | 1957 | Oklahoma City, Oklahoma |
| 1992 | Las Vegas, Nevada | 1974 | Honolulu, Hawaii | 1956 | Houston, Texas |
| 1991 | Hilton Head, South Carolina | 1973 | Dallas, Texas | 1955 | Long Beach, California |
| 1990 | Fort Worth, Texas | 1972 | Kansas City, Missouri | 1954 | Albuquerque, New Mexico |
| 1989 | Phoenix, Arizona | 1971 | Mexico City, Mexico | 1953 | Tucson, Arizona |
| 1988 | San Diego, California | 1970 | San Francisco, California | 1952 | College Station, Texas |
| 1987 | Orlando, Florida | 1969 | Fort Worth, Texas | 1951 | Colorado Springs, Colorado |
| 1986 | Reno, Nevada | 1968 | Las Vegas, Nevada | 1950 | Amarillo, Texas |
| 1985 | Dallas, Texas | 1967 | New Orleans, Louisiana | 1949 | Denver, Colorado |
| 1984 | Kansas City, Missouri | 1966 | Cincinnati, Ohio | 1948 | Fort Worth, Texas |
| 1983 | Denver, Colorado | 1965 | Dallas, Texas | 1947 | Fort Worth, Texas |
| 1982 | Anaheim, California | 1964 | Phoenix, Arizona | 1946 | Fort Worth, Texas |
| 1981 | Honolulu, Hawaii | 1963 | Tulsa, Oklahoma | 1945 | Fort Worth, Texas |
| 1980 | Nashville, Tennessee | 1962 | Long Beach, California | 1944 | Fort Worth, Texas |
| 1979 | Phoenix, Arizona | 1961 | Denver, Colorado | 1943 | Fort Worth, Texas |
| 1978 | New Orleans, Louisiana | 1960 | Amarillo, Texas | 1942 | Fort Worth, Texas |
| 1977 | Las Vegas, Nevada | 1959 | Fort Worth, Texas | 1941 | Fort Worth, Texas |
| 1976 | Houston, Texas | 1958 | Tucson, Arizona | 1940 | Fort Worth, Texas |

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AMERICAN QUARTER HORSE ASSOCIATION
P.O. BOX 200 ■ AMARILLO, TEXAS ■ 79168

The Kansas Quarter Horse Racing Association

P.O. Box 26272 • Shawnee Mission, KS 66225-6272 • 913/681-1984 • FAX 913/681-1994

September 17, 1993

Representative Clyde Graeber, Chairperson
House Federal and State Affairs Committee
Statehouse Room 526-South

Chairman Graeber, members of the House Federal and State Committee, I am appearing before you today in opposition to Senate Bill 380. Each of you were previously supplied information from our association outlining the reasons for our opposition to Senate Bill 380. I understand that today's hearing is only being held for informational purposes, so I will not take up a lot of your time reviewing materials that you have already received.

I have provided for you today a copy of the Kansas Bred Program brochure. Page 3 explains that The Kansas Horse Breeding Development Fund was established through a provision in the Parimutuel Racing Act. The fund was designed to provide financial incentives to persons involved in the horse racing and breeding industry in Kansas. This brochure explains how Kansas bred horses are registered to participate in the Kansas Bred Program. Senate Bill 380 will negatively effect over 50% of the horses now registered in the Kansas Bred Program.

I would like to bring to your attention a few major points of concern that the quarter horse industry has on the proposed change in the simulcast legislation.

* Senate Bill 380 will award thoroughbred horses 99% of the available breed funds generated from the simulcast of horse races into Kansas pari-mutuel facilities. Based on 1992 year end figures this would be \$172,398 for Thoroughbred horses leaving a total of less than \$1000 to be divided between the Quarter horses, Appaloosa horses, Arabian horses and Paint horses. We cannot control the breed of out of state horse that the racetrack simulcasts in to be wagered on, therefore, if Senate Bill 380 passed we would have no way to generate funds for the Kansas bred program from the simulcast of horse races.

* Simulcast races compete with live races. With the competition of simulcast races the live horse handle has almost dropped in half. This reduces the amount of breed funds available from only live horse races dramatically. It is very simple, Kansas will not have a breed program for 53% of the horses now registered if Senate Bill 380 passed by this committee.

* Original legislation was established to provide support for live racing and for the economic development that live horse racing would provide to the State of Kansas. On January 29, 1993 the Kansas Attorney General ruled that the distribution of breed fund monies are to be based on live racing. It was the opinion of the Kansas Attorney General that the statute should benefit Kansas-bred horses racing in this state, and certain Kansas-registered stallions and mares, whose offspring participate in races conducted in this state.

The Kansas Quarter Horse Racing Association was skeptical about supporting simulcast legislation when asked by the race track and the thoroughbred horse association. We supported simulcast legislation because we felt that it was needed, to give support for continued live racing in Kansas. Senate Bill 380 supports live racing for only one breed of horse registered in the program. We ask you today, to consider the effect on the entire Kansas horse industry prior to your decision and vote on this bill.

Thank you for your time, I would be happy to answer any questions.

Albert Hogoboom
PRESIDENT, KQHRA

Rt. 1, El Dorado, Kansas 67042
(316) 321-1397 (O) (316) 321-3879 (H)

Karen Tolle
EXECUTIVE SECRETARY, KQHRA
P.O. Box 26272, Shawnee Mission, KS 66225-6272
(913) 681-1984 FAX (913) 681-1994

Sept. 17, 1993

House Federal & State Affairs

Attachment 3

KANSAS HORSE BREEDING DEVELOPMENT FUND

KANSAS BRED PROGRAM



3-2

THE KANSAS HORSEMEN'S ASSOCIATION
(The Official Breed Registering Agency for The Kansas Racing Commission)

Attach # 3-2

THE KANSAS HORSEMEN'S ASSOCIATION
420 E. 6TH STREET SUITE 34
TOPEKA, KANSAS 66607
913-233-1986

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913-273-8002 Work

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Vice President
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Canton, Kansas 67428
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316-3445-2424 Work

KANSAS RACING COMMISSION

Dana Nelson, *Executive Director.*

Robert Londerholm, Sr. - Chairman
H. Phillip Martin
Denise Kobuszewski

Peggy Coder
Oscar Peltzer

Dear Horseman:

For the purpose of registration of foals as it relates to classes of Kansas bred horses, Kansas Horsemen's Association is going to proceed in accordance with 112-12-4(g). That regulation states " any foal conceived by a mare certified by the official registering agency . . . may be registered as a Kansas Bred Horse under the provision of K.A.R. 112-12-5."

A foal conceived by a mare certified by the official registering agency, that is the Kansas Horsemen's Association, will be eligible for the appropriate class pursuant to 112-12-5. Those appropriate classes will be eligible for either a class A, B, or C as defined in 112-12-5. We are not going to have a failure of a mare status report operate as an impediment to the program as a penalty.

Eugene B. Ralston
President, Kansas Horsemen's Association

IF YOU NEED TO HAVE YOUR OFFICIAL HORSE REGISTRATION PAPERS STAMPED AS KANSAS BRED . . . CONTACT THE WOODLANDS HORSE IDENTIFIER AT 913/299-9797 EX 3945 OR CONTACT THE KANSAS HORSEMEN'S ASSOCIATION AT 913/233-1986. THESE REPRESENTATIVES CAN ASSIST YOU IN COMPLETING YOUR KANSAS BRED REGISTRATION PRIOR TO ENTERING YOUR HORSE IN A KANSAS BRED RACE.

KANSAS HORSE BREEDING DEVELOPMENT FUND

THE KANSAS HORSEMEN'S ASSOCIATION

(The Official Breed Registering Agency for The Kansas Racing Commission)

The KANSAS HORSEMEN'S ASSOCIATION (KHA) was established in November of 1987. The organization was formed to provide representation to horsemen and all breeds of horses involved in racing and breeding in Kansas. The breeds represented on the Board of Directors according to the by-laws include: Appaloosa, Arabian, Paint, Quarter Horse, Standardbred and Thoroughbred.

In 1989, KHA contracted with the KANSAS RACING COMMISSION (KRC) to become the official registering agency to implement the registration of horses into the Kansas Bred Program. Acting in this capacity under the approval of the Kansas Racing Commission, KHA provides an economic incentive for horsemen to keep horses in Kansas by providing purse supplements for KANSAS BRED REGISTERED horses and breeders awards to owners of KANSAS CERTIFIED MARES and KANSAS CERTIFIED STALLIONS whose offspring run first, second or third in any race run in Kansas.

Working in the capacity as the official registering agency, KHA receives no compensation. However, they are reimbursed for operating expenses from registration fees received from horsemen participating in the program.

In addition to representing all breeds of horses and maintaining the registry of KANSAS BRED REGISTERED horses, KHA is also responsible for determining how the purse supplements, stakes race supplements and breeders awards are to be distributed. These awards are made available through the Kansas Horse Breeding Development Fund.

THE KANSAS HORSE BREEDING DEVELOPMENT FUND was established through a provision in the Parimutuel Racing Act. The fund was designed to provide financial incentives to persons involved in the horse racing and breeding industry in Kansas. The monies for this fund are generated from the breakage and unclaimed winning tickets from the live and simulcast parimutuel wagering at Kansas tracks. Breakage is the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents. The unclaimed winning ticket is a parimutuel ticket purchased which is never cashed.

SECTION A: KANSAS BRED FOAL REGISTRATION:
SECTION B: KANSAS BRED MARE CERTIFICATION
SECTION C: KANSAS BRED STALLION CERTIFICATION
SECTION D: KANSAS DOMICILED MARE AND STALLION
REGISTRATION AND CERTIFICATION

REGISTRATION OF HORSES TO PARTICIPATE IN THE KANSAS BRED PROGRAM:

Horses racing in Kansas Bred races receive purse supplements based on their Kansas Bred classification as Class A, B, C, and G (grandfathered). Class A & G horses receive 100% of the earned purse, Class B horses receive 80% of the earned purse and Class C horses receive 40% of the earned purse. In stakes races the purse distributions are set out by the conditions of the stakes race and Kansas Bred horses receive those percentages regardless of the classification of the Kansas Bred horse.

SECTION A

FOAL REGISTRATION: (K.A.R. 112-12-5)

Any horse which was foaled in Kansas and domiciled in Kansas for the first six months after foaling is eligible to be Kansas Bred registered. There are three classes of registry for registering your foal as Kansas Bred: Class A, Class B, Class C

CLASS A FOAL: * Both MARE and STALLION are certified in the breeding program for the breeding season. * Foal must be conceived and foaled in Kansas and domiciled in Kansas for the first six months after foaling. * Foal must be owned wholly or in part, or leased by a Kansas Resident. * Class A KS. bred horses run for 100% of the purse supplements and 100% stakes supplements

CLASS B FOAL: * Either the MARE or STALLION must be certified in the breeding program for the breeding season. * Foal must be foaled in Kansas and domiciled in Kansas for the first six months after foaling. * Class B KS. bred horses run for 80% of the purse supplements and 100% stakes supplements.

CLASS C FOAL: * Neither the MARE or STALLION are certified in the breeding program for the breeding season. * Foal must be foaled in Kansas and domiciled in Kansas for the first six months after foaling. * No residency requirements. * Class C KS. bred horses run for 40% of the purse supplements and 100% stakes supplements.

CLASS G FOAL: Is a horse grandfathered into the program. This program was in effect until 12/31/89. Class G horses run for 100% of the purse supplements and 100% of the stakes supplements.

HOW TO REGISTER AS KANSAS BRED:
(K.A.R. 112-12-6)

Complete, sign and have notarized the Kansas Bred Program application (YELLOW KS FORM #100) and mail to the Kansas Horsemen's Association with the proper fees. Mail your National Breed Registration certificate along with this form to receive your Kansas Bred Stamp and Kansas Bred registration number. Submit your application to the Kansas Horsemen's Association prior to December 31. Your official national registration papers must be stamped with the official Kansas Bred stamp, to be eligible to run in Kansas Bred races.

OFFICIAL KANSAS BRED STAMP

FEE SCHEDULE:

| | |
|---------------------------------|----------|
| FOALING YEAR BY DEC. 31..... | \$50.00 |
| YEARLING YEAR BY DEC. 31..... | \$250.00 |
| 2 YEARS & OLDER BY DEC. 31..... | \$500.00 |

(exception -horses foaled prior to 2/23/89 may register in program for a \$50.00 fee)



HOW TO CERTIFY MARES AND STALLIONS IN THE KANSAS BRED PROGRAM FOR BREEDING PURPOSES:
(K.A.R. 112-12-4 and K.A.R. 112-12-2)

Horses certified for breeding purposes are awarded breeders awards based on the race records of their Kansas Bred Registered offspring for win, place and show finishes during the entire racing season. These awards are given to Kansas Certified Mares and Stallions regardless whether their offspring is classified as class A, B, C or G.

SECTION B

(K.A.R. 112-12-4)

KANSAS BRED CERTIFIED MARE:

*Must be owned wholly or in part or leased by a Kansas resident.

*Mare must be in Kansas at least 30 days before foaling and remain in Kansas until foal is dropped.

*Must have been foaled in Kansas and registered in the Kansas Bred Program as a Class A, Class B, Class C or Class G and have papers stamped as Kansas Bred.

(For out of state foaled horses and Kansas foaled horses not registered in the program see Section D-KS Domiciled mare and stallion registration)

HOW TO CERTIFY MARE:

*Complete, sign and have notarized application for "CERTIFICATE OF ELIGIBILITY" (BLUE FORM #KS200) and mail to The Kansas Horsemen's Association prior to JULY 1 of the breeding year.

*Mail in proper FEE: \$35.00

*If you sell or transfer your mare to a new owner, you must fill out the back of the "Certificate of Eligibility", that you receive when your mare is certified in the program. New owner must then recertify the mare by filing a new application for "Certificate of Eligibility" (BLUE FORM #KS 200) and pay the \$35.00 fee to recertify. IMPORTANT- New owner must recertify within 30 days of transfer of ownership or certificate of eligibility is revoked).

*MARE STATUS REPORT (WHITE FORM #KS 400) must be filed with the Kansas Horsemen's Association to provide the information needed to properly distribute breeders awards.

SECTION C

(K.A.R. 112-12-2)

KANSAS CERTIFIED STALLION

*Must be owned wholly or in part or leased by a Kansas resident.

*Must stand solely in Kansas during the years he is certified.

*Must have foaled in Kansas and registered in the Kansas Bred Program as a Class A, Class B, Class C or Class G and have their papers stamped as Kansas Bred.

(For out of state foaled horses and Kansas foaled horses not registered in the program see Section D-KS Domiciled mare and stallion)

HOW TO CERTIFY STALLION:

*Complete, sign and have notarized application for "CERTIFICATE OF ELIGIBILITY" (BLUE FORM #KS 200) and mail to The Kansas Horsemen's Association prior to July 1 of the breeding year.

*A copy of the STALLIONS BREEDERS REPORT from his national breed association MUST BE FILED BY NOVEMBER 30 of the breeding year with the official breed registering agency, "The Kansas Horsemen's Association". IF YOU SELL OR TRANSFER THE STALLION TO A NEW OWNER. YOU MUST FILL IN THE OWNERSHIP INFORMATION ON THE BACK OF THE "Certificate of Eligibility" THAT YOU RECEIVED AS PROOF OF

CERTIFICATION. You must mail a copy of your national breed registration showing transfer of ownership to the "Kansas Horsemen's Association".

*NEW OWNER must recertify the stallion by filing a new application for "Certificate of Eligibility" (BLUE FORM #KS200) and paying the \$100 certification fee. IMPORTANT: Must recertify within 30 days of transfer of ownership or certificate of eligibility is revoked.

SECTION D

(K.A.R. 112-12-7)

KANSAS DOMICILED MARE AND STALLION REGISTRATION

The "Domiciled Registration Provision in the Kansas Bred rules and regulations, allows for Kansas foaled horses which were not registered according to the fee schedule to register to participate in the Kansas Domiciled program for breeding purposes only.

The Kansas Domiciled provision also allows for out of state foaled horses to be registered in the Kansas Domiciled program for breeding purposes only.

HOW TO DOMICILE MARES AND STALLIONS:

*Complete, sign and have notarized "Kansas Domiciled Program Application" (GREEN FORM #KS 300) prior to July 1 of the breeding year. This is a \$50 fee for both mares and stallions.

*ALSO: Complete, sign and have notarized the application for "Certificate of Eligibility" (BLUE FORM #KS 200) and mail prior to July 1 of the breeding year. This is a \$35 fee for mares and a \$100 fee for stallions.

***MAIL IN THE PROPER FEES:**

(1) MARES

Kansas Domicile Fee:\$50/Certificate of Eligibility Fee:\$35

MAIL- TOTAL FEE \$85

(2) STALLIONS

Kansas Domicile Fee:\$50/Certificate of Eligibility Fee:\$100

MAIL-TOTAL FEE: \$150

FOLLOW ALL OTHER REQUIREMENTS UNDER THE "KANSAS CERTIFIED MARE" AND "KANSAS CERTIFIED STALLION" Provisions in SECTIONS B AND C.

(K.A.R. 112-12-6 h)

OWNERS MUST NOTIFY "THE KANSAS HORSEMEN'S ASSOCIATION
WITHIN 24 HOURS OF THE DEATH OF A KANSAS BRED HORSE.

ANY TIME BREEDING STOCK OR RACING STOCK IS MOVED OUT OF
STATE OR SOLD : NOTICE MUST BE SENT TO THE "KANSAS
HORSEMEN'S ASSOCIATION" TO PROVIDE THE INFORMATION NEEDED
FOR CORRECT DISTRIBUTION OF BREED FUND MONIES, PURSE AND
STAKES AWARD SUPPLEMENTS.

NOTICE: These rules and regulations are subject to change and are in effect pending final approval of the
Kansas Racing Commission. (Publication date 9/11/92).

MAKE ALL CHECKS PAYABLE TO THE KANSAS BREED REGISTRY
AND MAIL TO THE KANSAS HORSEMEN'S ASSOCIATION

JOYCE BILLINGS, EXECUTIVE SECRETARY
KANSAS HORSEMEN'S ASSOCIATION
420 EAST 6TH STREET SUITE 34
TOPEKA, KANSAS 66607
PHONE: 913/233-1986

DOMICILE

The term domicile used several times
throughout this brochure means, a home;
residence, to establish in a domicile.

HELP ME, I'M NEW TO THIS KANSAS BREED PROGRAM

Let's start with the most often asked question. "My papers say this horse was bred in Kansas. I've checked with the registrar and they say it's Kansas bred, so why do you tell me it's not KANSAS BRED?"

You are right, so far as your breed registering agency is concerned, you do have a Kansas bred horse. BUT, to have a horse in the KANSAS BRED PROGRAM, You must follow through with the registering process set out by the rules and regulations of the KANSAS BREEDERS DEVELOPMENT FUND...a.k.a. KANSAS BRED PROGRAM.

Once you have completed the registering process, your registration papers will carry the Kansas Bred stamp (see pg 5) which will certify to the racing secretary that you are eligible for "KANSAS BRED RACES and added money from the KANSAS BRED PROGRAM.

Another question often asked is "I bought this horse in another state, can I make him (or her) KANSAS BRED? The answer is no, you can't make it eligible to race as KANSAS BRED, only horses born in the state can be raced as KANSAS BRED, and they must have been registered into the KANSAS BRED PROGRAM and have the special stamp on their papers.

The form required for registration of KANSAS BRED horses is form KS100. This is a yellow form, available from the Kansas Horsemen's office in Topeka. This form must be filed, and notarized, and you must also send the registration papers from your breed association, in order to have them stamped. Now, What if???

1. I don't have my papers back yet? Go ahead and fill out the form KS 100, send your check and register those foals by Dec. 31 of the foaling year. This saves a lot of money! The price goes up on yearlings and two year olds! Then when you receive your official breed paper from your breed association send them to the KANSAS HORSEMEN'S ASSOCIATION to have them stamped so your pending application maybe completed.

2. How do I know if I have an A, B, OR C? You have and "A" if both parents are registered as KANSAS BRED through the KANSAS BREEDING DEVELOPMENT PROGRAM and certified in the breeding program. You have a "B" if only one parent is registered and certified in the breeding program and you have a "C" if neither of the parents are registered and certified (See K.A.R 112-12-6)

3. Does that letters A,B, OR C make a difference in my eligibility to run in the KANSAS BRED RACES? No, the stamp makes you eligible to run for the supplement money, and in the designated races. The letter will determine the percentage of the added money available to you however, with the "A" horse receiving 100% of the money, a "B" horse and a "C" horse will receive lesser percentages of the Kansas bred supplement money.

Ah, but I want to get into breeding good KANSAS BREDS, can you help me understand the process of getting my breeding stock into the KANSAS BREEDERS DEVELOPMENT PROGRAM? Sure, we can help, and here are a few of the questions we've answered in the past. If you don't find what you're looking for here, ask away, and we'll be happy to find the answers.

I have this nice mare, born in Oklahoma, but I want my foals to be class A foals. Can I get her into the program? indeed you may! Any mare or stallion is eligible to come in from out of state and be part of our breeding program. The process is called "Domiciled" and it's relatively simple. (K.A.R. 112-12-7) First, the horse to be domiciled must be living in the state prior to application, and it must remain within the state of Kansas during the period of time the horse is registered as 'KANSAS-domiciled' and must be owned wholly or in part by a Kansas resident. The registration process is a matter of filing a blue form KS200 in duplicate, and a green form titled KANSAS-DOMICILED PROGRAM APPLICATION. Fees for a stallion are \$100.00 to accompany the KS 200, and \$50.00 to accompany the Kansas-Domiciled application. Fees for a mare coming into the program are \$35.00 for the KS 200 and \$50.00 for the Kansas-Domiciled application. Once you have domiciled into the program, you will receive a "Certificate of Eligibility.." which should remain with your registration papers. You will need this if you and your neighbor agree on a sale, and you change the ownership of the mare within the state of Kansas.

I have a sweet old mare that has put some nice runners on the ground. She was born in Kansas, but I've never put her in the program. Can I put her in without paying that \$500.00 price-tag for the two and older Kansas registered horses? Indeed you may, and we are encouraging people to do just that! You do need to fill out the KANSAS DOMICILED FORM and the KS200 form, but the fee is reduced to \$50.00, just as it is for the "domiciled" mare, and \$35.00 to accompany the KS 200 form. Complete the same forms for a stallion but the fee will be \$50.00 for the domiciled form and \$100.00 for the KS200. Remember now, this is for breeding stock only...you can't change your mind and run these breeding animals as KANSAS BREDS.

O.K. You've answered a lot of my questions, but here's a really sticky question. I live in Kansas City, Mo., but I bought a KANSAS BRED horse in training. Can he run in the KANSAS BRED races and receive the KANSAS BRED supplement money? Yes indeed on both counts. That's what makes the KANSAS BRED program so great. You can be an Okie, Texan, or from Mars, and if that set of registration papers bears the KANSAS BRED stamp, you've got yourself a race horse, and an opportunity at the added money as well as the restricted races. Now, aren't you glad you bought that KANSAS BRED?

If we haven't answered your questions with this brochure, please feel free to call on the KANSAS HORSEMEN'S ASSOCIATION, 913-233-1986. We are open from 8:00 to 4:00, Monday through Friday, and the answering machine will take your evening calls. We are there to help you, and if we don't have an answer, we'll find someone who can help with your problem.

1992
THOROUGHBRED AND QUARTER HORSE PURSE SUPPLEMENTS

| | |
|-------------------------------------|--------------------|
| QH OVERNIGHT RACES INCLUDING TRIALS | \$ 300.00 |
| QH KS BRED ALLOWANCE RACES | 1500.00 |
| QH KS BRED CLAIMING RACES | 1250.00 |
| QH KS BRED MAIDEN RACES | 1000.00 |
| TB KS BRED RACES 30%-60% OF PURSE | ----- |
| TB OVERNIGHT RACES | NO MONEY ALLOCATED |

Supplemental Kansas bred money paid to only Kansas bred registered horses and not Kansas owned or Kansas foaled horses. Kansas Bred horses have Kansas bred stamp on papers. (These races are for Kansas bred or Kansas owned Kansas bred preferred)

Of the purse money available for Kansas bred horses: Class A & G receive 100%, Class B receive 80%, Class C receive 40%.

Purse supplements subject to change and/or approval of the Kansas Horseman's Association and the Kansas Racing Commission.

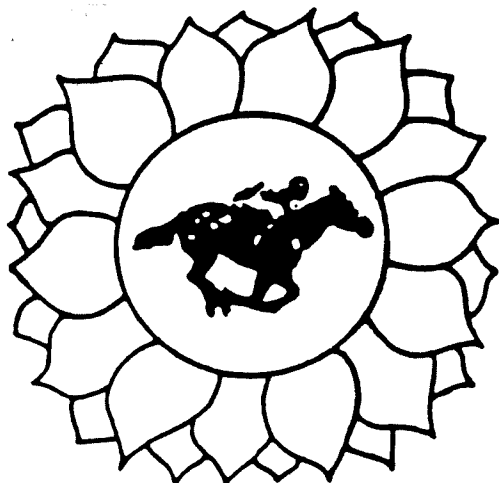
1992
FORMULA FOR DISTRIBUTION OF QUARTER HORSE KANSAS-BRED BREEDERS AWARDS

Points are based on the race records of Kansas bred offspring finishes during the entire racing season. 3 points will be awarded for first place, 2 points will be awarded for second place and 1 point will be awarded for third place. The total number of points will then be divided into the total dollar amount available to determine the point value used in determining payments to owners and breeders.

1992
FORMULA FOR DISTRIBUTION OF THOROUGHBRED KANSAS-BRED BREEDERS AWARDS

| | POINTS | | |
|---|--------|-----|-----|
| | 1ST | 2ND | 3RD |
| CLAIMING RACES WITH A CLAIMING PRICE OF \$7,499 AND BELOW | 6 | 2 | 1 |
| CLAIMING RACES WITH A CLAIMING PRICE FROM \$7,500 TO \$12,499 | 12 | 4 | 2 |
| CLAIMING RACES WITH A CLAIMING PRICE FROM \$12,500 TO \$17,499 | 18 | 6 | 3 |
| ALLOWANCE RACES AND CLAIMING RACES WITH A CLAIMING PRICE OF \$17,500 AND UP | 24 | 8 | 4 |
| STAKES AND HANDICAP RACES | 30 | 10 | 5 |
| MAIDEN ALLOWANCE RACES | 24 | 8 | 4 |

Maiden Claiming Races and Starter Handicap Races will receive points according to the claiming price associated with the race.



KANSAS APPALOOSA RACING ASSOCIATION

September 15, 1993

Members of the House
Federal and State Affairs Committee
Topeka, Kansas

Dear Members:

The Board of Directors and the membership of the Kansas Appaloosa Racing Association are opposed to Senate Bill 380 and the change in present simulcast legislation to provide for only the Thoroughbred horse to benefit from the established Kansas Bred program. Based on 1992 year end figures from the Kansas Racing Commission, if this bill was to pass, the distribution of purse supplements and breed awards for horses now registered in the Kansas Bred Program would be as follows: Thoroughbred horses, \$172,398.18, Quarter horses, \$641,33, Appaloosa horses, \$225.55, and Arabian horses, \$19.72.

Appaloosa horses, Quarter horses and Arabian horses compose 53% of the numbers of horses registered in the Kansas Bred program as provided for through legislation in the parimutuel racing act 74-8829 and 74-8830. Original legislation was established to provide support for live racing and the breeding industry in Kansas. Due to the competition of simulcast races on the live race handles, if SB 380 passes, live racing could not generate the revenues needed to support the Kansas Bred program for the 53% of the horses now registered by the laws set up through the State of Kansas.

The Kansas Appaloosa Racing Association supported simulcast legislation when it was passed by the Kansas Legislature in 1992. We supported simulcast legislation to provide support for live horse racing and economic development for the State of Kansas. We cannot support this change in simulcast legislation.

We are now asking the House Federal and State Affairs Committee to consider the negative impact that Senate Bill 380 will have on 53% of the horses presently registered to participate in the Kansas State Bred program and the negative impact this bill will have on the economic development of the entire horse industry in Kansas.

Attachment 4

House Federal
& State Affairs
Sept. 17, 1993

SPONSORS OF SUNFLOWER CLASSIC FUTURITY AND ALLOWANCE

Members of the House
Federal and State Affairs Committee
September 15, 1993

Page 2

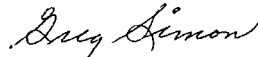
Additionally, on Jan 29, 1993, the Kansas Attorney General ruled that the distribution of breed fund monies are to be based on live racing and that horses participating in simulcast races should not be considered in allocating breakage proceeds. It was the opinion of the Kansas Attorney General that the statute should benefit all Kansas-bred horses racing in this state and certain Kansas-registered stallions and mares, whose offspring participate in races conducted in this state.

The passage of Senate Bill 380 will only further divide the horse industry and create further litigation on this issue. At the present time, there is a lawsuit pending on the breed fund distribution. Orion Stables and other Thoroughbred interests have filed a lawsuit against the Kansas Racing Commission, Orion Stables and Partnership, et al, v. The Kansas Racing Commission, Case No. 93 CV 681. The lawsuit asks for 99% of the available simulcast breed funds to be distributed to only the Thoroughbred horses registered to participate in the Kansas Bred program..

Again, we ask you to **VOTE NO** on Senate Bill 380. Thank you for your time on this important issue.

Sincerely,

KANSAS APPALOOSA RACING ASSOCIATION



Greg Simon, Member
Board of Directors

GS:ss

(913) 456-9757
7564

M



Mike & Suzy | arty
R #3
Manhattan, Ks. 66502

RE: Opposition to SB 380

Mr. Chairman, members of the Federal & State Affairs Committee, I am Mike McCarty, I hold a current trainers license in Kansas. I raise both breeds of horses involved in this hearing. I have had horses in the Kansas bred program. I am not a current member of KQHRA or KTA.

The Attorney General has ruled that the simulcast breed funds should be distributed based on the live races run. The legislative intent of the simulcast bill is abundantly clear. SB 380 is a waste of your time and mine.

A change in this ruling would simply dictate the type of horses we raise in Kansas and would be devastating to the multitude of Kansas residents raising & racing Quarter horses in this state. An upcoming sale, Sept. 28 1993 could be ruined if this bill is passed. This man is a native Kansan of 60+ years. Why would you send a signal to build up his herd of racing bloodlines, at considerable expense, and then "pull the rug out from under him" This will happen to many Kansans raising Quarter horses. No money, no races, will devalue our horses.

As many of you are not in the horse business, may I acquaint you to the quality of Kansas bred Quarter horses. We have the current 1993 World Champion Mare, raised in Kansas. Just two weeks ago, Kansas was represented in the All American Futurity, with two of the ten finalists raised here in Topeka. Kansas has produced many world champions, the trouble is, we have to go to Colorado, New Mexico, Texas, Oklahoma, to race for any money. SB 380 will only make this worse.

Kansas bred Quarter horses used for racing trickles down for use as ranch horses, rodeo horses, roping horses, team penning, barrel racing, ect. Most of the finalists at the National Finals Rodeo, are mounted on race bred Quarter horses.

Attachment 5

Sept. 17, 1993 House Federal &
State Affairs

Featuring: "Nitro Express 577 Syndicate" "Surveyor's Motive" "Mr. Nitro Express"

Alch #5



What I am trying to put across to you is that raceing is not the whole picture when it comes to this bill. There are 91,000 Quarter horses in Kansas, there are 19070 Thoroughbreds, a 71930 head difference, almost a five to one ratio. Last Saturday in Topeka, the state finals of the National Barrel Raceing Asso. were held. There were 130 entries of which 60% of the horses entered were ex raceing Quarter horses. This is just a current example of the usefullness of Quarter horses when they are done raceing. Thoroughbreds when done raceing are sent to the packing plant. 15 years ago I worked as a buyer for Central Packing, North Platte Neb. & the thoroughbred industry was a major supplier of stock, I was there and I will debate this fact with anyone.

It is for these reasons that I ask you to vote NO on Senate Bill 380. Thank you for your time and consideration on this very important issue.

Sincerely,

BACKGROUND;

Full time Kansas rancher
Kansas Trainers License
American Farrier Asso, Master Farrier (Horse Shoeing)
Professional Rodeo Cowboys Asso, 12 years
Lifetime involvement in Horse Industry started at age 10 when paid to break colts,
Post Graduate Education;
Fort Hays University
Kansas State University
Animal Science and Industry with minor in Nutrition & Genetics

Date: Sept. 17, 1993

To: House Federal and State Affairs Committee

From: Jeff Rutland, Rutland Quarter Horse Ranch
Route 1 Independence, Kansas 67301
(316) 331-2485

RE: Opposition to SB 380

For over 30 years, the Rutland Quarter Horse Ranch has carried a reputation in Kansas of producing some of the finest running quarter horses in the country. We have been among the leading breeders in the nation, in virtually every category, and still today we are The Leading Breeder of Race ROM Qualifiers of ALL TIME in the American Quarter Horse Association, the national registry. Not only do I speak as the largest breeder of quarter horses in Kansas, but as one of the largest in the entire country.

To give you a quick run down of the economic impact my quarter horse operation has on the state of Kansas, I have put together a few facts that should be of interest to you. Keep in mind, I am only one of many breeders in the state that raise racing quarter horses.

~The improvements on my ranch include a 320' x 252' barn (that's bigger than a football field), with 148 permanent stalls, that is normally full in the spring with mares shipped in to be bred, both from in Kansas and out of state, bringing money into our state economy.

~Over the past 10 years, we have bred more than 2,000 mares to our stallions. These mares will incur expenses of around \$1500 each.

~I have one stallion. Pacific Bailey, that is known nation wide as one of the All Time Greats of the Quarter Horse industry. He has sired over 3,000 foals himself throughout his lifetime.

~For the past 26 years we have held an annual production sale offering between 120 to 180 foals that we have raised each year. In 1985 we sold 145 head that averaged \$3,000 each. I have a large investment in my horses, machinery, land, etc. totaling well over \$1 Million. Over the past 7 years, I have spent close to \$1.5 Million on feed and hay alone, a I am only one breeder!

In a survey done for the AQHA a few years ago shows there are approximately 14,000 race bred quarter horses in Kansas. The total annual investment is \$6,390 per head. That is a \$90 Million investment that Kansans have in to quarter horse racing today!

Attachment 6
House Federal
& State Affairs
Sept. 17, 1993 A/c #6

So you see, quarter horse racing is indeed a large industry in our state. Yet, with the very limited opportunities to race them in Kansas now, it's a very unstable one. It is difficult financially to produce a horse to race in a state that only has a total of 217 races for them in a year. In comparison, Oklahoma has 1,543 and Texas has 2,672 quarter horse races. Only as far back as 1990, Kansas has 525 races for quarter horses, over twice what we have now. Breeders have less incentive to breed in Kansas if they must take their horses out of state to race them.

Today, the make-up of the race horse breeding industry in our state consists of approximately 45% quarter horse, 47% thoroughbred, and 8% all other breeds. These figures are taken from the number of breeding stock that are actually registered in the Kansas Bred Program. They are the horses that will share the moneys being discussed here today. Can you honestly say that it would be fair to give to the thoroughbred breeders 99% of this money generated from simulcasting? I think that it is evident what would happen to the quarter horse breeding industry in the state if this were allowed to happen.

Let's be fair to all horse breeders in Kansas. Don't allow our system to discriminate because of the breed we have. We should not allow horses raced in other states, which are shown here through simulcast, dictate what kind of horses we raise here. The thoroughbred breeders of Kansas had no more to do with raising the horses that run at Arlington than the quarter horse breeders did, so why should they get all the benefits from a simulcast race? Give all breeders of quality race horses the incentives and rewards we deserve for raising the best, no matter the breed.

Respectfully,


Jeff Rutland

Rt. 1, Box 25
Canton, Ks. 67428
Sept. 12, 1993

Mrs. Eloise Lynch
705 S. Santa Fe
Salina, Ks. 67401

Dear Eloise:

The Federal and State Affairs Committee will be considering Senate Bill 380 on Friday, Sept. 17. Many of us in the Kansas horse racing industry have grave concern over any proposed changes in the simulcast revenue distribution.

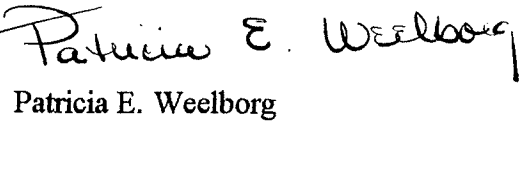
The present simulcast law provides funding for all breeds participating in live racing in Kansas. The proposed change will restrict growth for approximately half of the race horse owners and breeders in the state, with zero opportunity to the owners of Appaloosa, Paint and Arabian horses. (Kansas Breeders Development Fund registration statistics 1-30-93: 50% Thoroughbred, 49% Quarter Horse, 1% divided between Appaloosa, Arabian and Paint)

At the time the simulcast legislation was being considered, it was promoted as a benefit to the entire horse racing industry. Live racing is the base source of the horse racing industry. There are not enough horses of any one breed to sustain the live racing here in Kansas. Without live racing, simulcasting cannot exist. All breeds were in agreement on this program at the outset. Approximately ninety nine percent of the races being simulcast are Thoroughbred races, because of signal availability. There is limited simulcasting of Quarter Horse racing and no simulcasting of minor breed racing. There is no evidence that a single breed can sustain live racing in Kansas. Therefore, so long as more than one breed is supporting live racing, simulcast revenues should be shared on the same basis in which the various breeds participate in live racing.

We have twenty-five years experience in breeding, training and racing horses here in Kansas as well as Nebraska, Colorado, New Mexico and Oklahoma. We have bred and raced winning Thoroughbreds, and Quarter Horses, and bred and owned the 1991 Champion Appaloosa racing colt, WW MACH JET RAIL. It is our opinion that the states that provide economic opportunity for all breeds are the states who have a healthy horse racing industry today.

Very truly yours,


H.M. Weelborg


Patricia E. Weelborg

Attachment 7
House Federal &
State Affairs
Sept. 17, 1993 A/ch #7