

Horse Breeding and Sales 2010

PBI Equine Law
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Kenneth E. Schreffler, Esquire

KESAttorney@msn.com

- Attorney in practice 28 years.
- Owned 10 Thoroughbred Racehorses.
- Licensed Thoroughbred Owner – National and Kentucky Racing Licenses.
- Horses have won \$850,000 since 2004.
- Stakes winners include "Raging Rapids."
- 95 Races: 26 wins, 18 seconds, 9 thirds.

Part 1: Breeding

Breeding Management

- The Foal is the Goal.
- About 78% of mares bred actually conceive, and 70% have foals that live beyond 6 weeks.
- Mares under age 9 have a conception rate of 83%, while mares over age 14 have a conception rate of 74%.

Selecting A Stallion

- Stud fees should generally be $\frac{1}{4}$ to $\frac{1}{3}$ the value of the broodmare.
- **Example:** A mare worth \$24,000 should be bred to a stallion with a stud fee range between \$6,000 and \$8,000.
- Under or over breeding the \$ range will result in poor auction prices of foals.

Stallion Breeding

- Generally, young mares are bred to proven stallions to get them off to a good start.
- Older mares are often bred to unproven stallions to get the stallions off to a good start.

Breeding Operations

- Breeding shed activities are highly organized and carefully managed, using a team of 3-6 people.
- Mares are transported to the stallion station.
- All veterinary paperwork must be in order before breeding session begins.
- Breeding sessions are videotaped.

Breeding Operations

- Mares are first "teased" by a teaser stallion and observed.
- Breeding sessions take 2 – 10 minutes.
- Dismount sample is taken after session to evaluate stallion's potency (eg. 2 billion – 20 billion sperm).

New For 2010: Stem Cell Banking

- When foal is born, umbilical cord stem cells are collected, processed and stored.
- Stem cells remain the property of the foal owner. Cells can be sold to subsequent owners.
- Stem cells can be used to treat tendon, ligament and bone injuries.
- Success stories: Lava Man & Thorn Song.

Breeding Contract Basics

- The *three* types of contracts are:
 1. **Live Foal Guarantee**
 2. **In Foal Guarantee**
 3. **No Guarantee**

Live Foal Guarantee

1. Stud fee is earned when pregnant mare delivers a foal that "stands and nurses."
2. Stud fee is returned/void if mare does not get pregnant, aborts, or delivers a sickly foal that cannot "stand and nurse." Typical remedy is rebreeding.
3. Veterinarian must sign certificate attesting to mare's condition and present to stallion owner, normally within 30 days of event.

In Foal Guarantee

1. Stud fee is due/earned on a predetermined date, and is not returnable once the mare is pregnant past that date.
2. Fee is earned typically 45-60 days after breeding to stallion, if she is pregnant.
3. If mare aborts or fails to produce a foal that stands and nurses, stud fee is earned.

No Guarantee

1. Mare owner assumes all the risk, and stud fee is due regardless of whether mare gets pregnant.
2. Fee is earned after breeding session.
3. Least common type of stallion contract.

Anatomy of a Thoroughbred Stallion Syndication:

Smarty Jones.



Success on the track.

- Won 2 legs of Horseracing Triple Crown in 2004, with career earnings of ***\$7,613,155.***
- Won the Count Fleet Stakes, Rebel Stakes, Southwest Stakes, Arkansas Derby, and was first undefeated Kentucky Derby winner since Seattle Slew.

Following the loss at the Belmont Stakes...

- Had he not been retired, probably would have run in the Travers Stakes at Saratoga (August) and the Breeders Cup Classic at Lone Star Park (November).
- Continuing to race risks injury, death, or poor performance on the track.
- Example: **Barbaro**.

Best case racing scenario

- Winning Travers & Breeders Cup Classic would have earned \$500K and \$1M.
 - ✓ Less: jockey and trainer fees, race entry fees, and shipping costs.

Purse Earnings	\$1,500,000.
Jockey Fee	150,000.
Trainer Fee	150,000.
Entry Fees	60,000.
Shipping/Misc.	<u>5,000.</u>
Net Earnings:	\$1,135,000.

Smarty's Original Syndication Deal Structure

1. Ownership in the colt is transferred to a newly formed LLC [**Smarty Jones, LLC**].
2. $\frac{1}{2}$ ownership in the colt is sold as 30 shares @ \$650,000 per share (total **\$19,500,000.**)
3. A share allows the share owner to breed one mare to Smarty Jones per year, each year, as long as he remains a stallion (approx. 12-20 years).

Syndication Deal Structure

1. Someday Farm/Chapman's retain 30 shares in colt (appraised value \$19,500,000.)
2. Someday Farm retains exclusive control over the **"Extended Book."**
3. Someday Farm as majority owner sets stallion fee at \$100,000 per live foal.
4. Three Chimneys Farm receives one share for management & maintenance of horse.

"The Extended Book."

- Stallion covered 110 mares during first breeding season.
 - ✓ 30 shares sold when syndicated.
 - ✓ 30 shares retained by Someday Farm.
 - ✓ **Extended Book** is the difference between syndication/contract commitments and breeding capacity. Here, it is 50 one season rights.

First Year Economics 2005 Breeding Season

- 30 shares sold when syndicated.
- 30 shares retained @ \$100,000 per live foal (\$3,000,000.)
- 50 covers from the Extended Book @ \$100,000 each (\$5,000,000.)

Originally Projected Syndication Deal Value Over Time.

- Year 1: \$19,500,000 + \$8,000,000 = **\$27,500,000.**
- Year 2: \$8,000,000.
- Years 2 through 10: **\$72,000,000.**
- Total deal value over first 10 years: **\$99,500,000.**
- Total deal value over first 15 years: **\$139,500,000.**

Stallion Fees Can Increase Or Decrease.

- Success of progeny on the racetrack.
- Fertility and ability to "push" the size of the Extended Book.
- Use of the stallion in Southern Hemisphere.
- Through the early 1990's top stallions would cover 40 – 90 mares each breeding season. Now: 120-190 covers/season.

What sets stallion fees?

- Buyer wants access to premiere gene pool.
- Buyer wants race proven winning pedigree.
- Buyer wants to win significant purse money at the track.
- General economic conditions.

Stallion Share Buy-Backs

- Share re-purchase rights among members should be established in the LLC Operating Agreement.
- Re-purchase rights require that shares must first be offered back to LLC Members who retain right of first refusal, before being offered to outside third parties.

Stallion Assets

- Stallion contracts & Owner's Equity can be leveraged, financed and collateralized.
- Example: Fifth Third Bank and JP Morgan Chase Bank will accept stallion contracts and owners equity as loan collateral.

Financing Stallion Assets

- You can obtain financing for business loans with security in bloodstock interests, race horses, stallion shares, purses and stallion income to grow and expand the business.
- Watch: Fifth Third Bank vs. Zayat Stable, USDC Central Kentucky. (\$34M loan default).

Payment of Stallion Fees

Live Foal Guarantee

- One-half of fee due when contract signed (typically Fall of the previous year).
- One-half of fee due when foal is born.
- Stallion fee is fully earned when foal "stands and nurses."
- Breeder has leverage in payment – no Jockey Club registration certificate until stallion fee is paid in full.

Breeding Is Big Business, But Business Is Down ↓

■ 2010 Kentucky Stallion Fees:

> A.P. Indy	\$150,000	↓ \$100,000
> Distorted Humor	\$100,000	↓ \$50,000
> Unbridled Song	\$115,000	↓ \$10,000
> Giant's Causeway	\$100,000	↓ \$25,000
> Awesome Again	\$50,000	↓ \$75,000
> Curlin	\$40,000	↓ \$35,000

Smarty Jones Stallion Fee

- ✓ 2005 \$100,000.
- ✓ 2007 \$ 50,000.
- ✓ 2009 \$ 25,000.
- ✓ 2010 \$ 10,000.

Pennsylvania Stallions

■ 2010 Pennsylvania leading sires:

➤ Jump Start	\$10,000	No Change
➤ Real Quiet	\$6,000	↓ \$1500
➤ Cat Thief	\$5,000	↓ \$1,000
➤ Eavesdropper	\$5,000	No Change
➤ Snow Ridge	\$5,000	No Change
➤ Siphon	\$3,500	No Change

Horse Breeding

- Thoroughbred breeding must be by "live cover."
- Standardbred breeding can be live cover or artificial insemination (AI).
- Thoroughbred breeding season is Valentine's Day to July 4th (20 weeks).
- Jockey Club rules specify January 1st as the official birthdate for all Thoroughbreds, regardless of actual calendar birthdate.

The American Stud Book

- When a foal is born, a "Live Foal Report" is filed with the Jockey Club.
- Jockey Club then issues a "Certificate of Foal Registration."
- Foal is then an officially registered Thoroughbred in the American Stud Book.

Becoming a Pennsylvania Bred

- Why does it matter?
 - Register the foal with the Jockey Club and the state where it was born.
 - State registration confers eligibility for State Bred Owners Bonus Program.
 - Breeders also receive a share of track purse winnings for foals they have bred.
 - In PA. a registered PA bred horse earns a 30% bonus for 1st, 2nd, and 3rd place finishes at Philadelphia Park, Penn National and Presque Isle Downs.

How do you become a PA. bred horse?

1. Dam must reside continuously in PA. from October 1 of year of conception through foaling;

(OR)
2. If dam is purchased at sale after October 1 out-of-state and brought to PA. within 14 days of sale, and remains in PA. through foaling.

Is location of breeding important to becoming a PA. bred horse?

- **No.**
 - The location (state) where breeding took place is irrelevant to becoming a PA. bred horse.
 - The location (state) of foaling determines state bred status.
 - Example: FunnyCide. Conceived in Kentucky and born in New York State. A New York Bred.

Pennsylvania Breeder's Fund

- \$16.4 Million was available for 2009.
- Breeders receive 30% of purses earned by PA. Thoroughbreds sired by a registered PA. sire.
- Owners of PA. sires receive 10% of purses earned by PA. Thoroughbreds.
- Owners of PA. registered Thoroughbreds receive 10% of purses earned.

Completing the Commercial Breeding Circle.

- **"Smarty Jones"** progeny:
 1. Stallion fee is \$10,000.
 2. Weanling sales price averaged \$12,323
 3. Yearling sales price averaged \$23,703

Completing the Commercial Breeding Circle.

- **"Afleet Alex"** progeny:
 - Stallion fee is \$15,000. (Down from \$45,000)
 - Weanling sales price averaged \$29,100.
 - Yearling sales price averaged \$50,690.

High Prices = High Performance.

- **“Giant’s Causeway”** (by Storm Cat)
- 2009 top sire – runners earned \$11,078,843 on the track in 2009.
- Causeway sired 26 stakes winners in 2009.
- Causeway sired top 3 year old “Swift Temper.”
- Giant’s Causeway led all stallions with 194 mares bred.

Pennsylvania’s Leading Sire

- **“Jump Start”** (By A.P. Indy)
- Produced 102 winners who earned \$4,493,300.
- Each winner averaged \$44,000 in 2009.
- Stallion fee is \$10,000. Stands at Ghost Ridge Farms.

Growth in Pennsylvania Breeding

State	2008 Stallions	2009 Stallions	Percent Change	2008 Mares Bred	2009 Mares Bred	Percent Change
Kentucky	318	307	-3.5%	21,317	19,059	-10.6%
California (4)	233	201	-13.7%	3,817	2,946	-22.8%
Penna. (5)	89	97	+9.0%	1,237	1,603	+29.6%
New York (6)	85	70	-17.6%	1,839	1,561	-15.1%

Part 2: Horse Sales and Auctions

Private Horse Sales

- Problem area: Failure to disclose pre-existing conditions.
- Did owner know of pre-existing condition before the sale?
- In PA. horse sales are "as is" or "as represented by the seller."
- Advise sellers carefully, review their sales ads and literature.

Buyer Protection

- Review the horse's veterinary records.
- Have your vet do a pre-purchase examination, with X-rays.
- Take a short term lease with option to buy.
Eg. 10-30 days duration.

Public Horse Auctions

- Reserve vs. No Reserve.
 1. Reserve sets a minimum price at which the horse can be sold. Eg. \$10,000 min. bid.
 2. No reserve means sale can take place at any price.

The Auction Process

- Horses are catalogued by Hip Number.
- Get a catalog when you arrive at auction. Many are available on line. Eg. Fasig-Tipton Sales Co., Keeneland, Barretts.
- Read first 5-6 pages of the auction catalog carefully – look for “as is” and warranty disclaimer language.

The Auction Process

- Sale is final when gavel falls.
- Winning bidder signs an “**Acknowledgement of purchase**” form. Buyer now assumes all risk.
- Payment in full with guaranteed funds are due same day.
- Following payment, buyer is issued a “**Stable release**” and takes the horse.

Auction Problem Areas

1. Dual agency of bloodstock agents.
2. Dual agency of veterinarians.
3. Failure to disclose medical conditions and procedures.
4. Concealing true condition and conformation of the horse.
5. Use of anabolic steroids on weanlings and yearlings.

Sales Integrity Program

- TOBA developed a Code of Ethics for public auctions, beginning in 2007.
- Major participants include Keeneland Assn., Ocala Breeders' Sales, Fasig-Tipton.
- Disclosure rules apply to most major horse auctions.

Mandatory Medical Disclosures

- Cribbers and wobblers.
- Horses undergoing invasive joint surgery.
- Horses undergoing abdominal surgery.
- Horses undergoing surgery of the upper respiratory tract.

Prohibited Practices

- Shockwave therapy.
- Acupuncture and/or Electro-Stimulation altering laryngeal function of the horse.
- Knee injections to conceal the true conditions and conformation of the horse.



Questions, comments or
information requests to:
KESAttorney@msn.com
