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June 2, 2008

Hon. Bobby L. Rush, Chairman  
Hon. Ed Whitfield, Ranking Member  
Subcommittee on Commerce, Trade and Consumer Protection  
Committee on Energy and Commerce  
United States House of Representatives  
Room 2125 Rayburn House Office Building  
Washington, DC 20515-6115

Dear Representatives Rush and Whitfield:

As the President of The Jockey Club, I am responding to the questions posed in your May 22, 2008 letter addressed to Ogden Mills Phipps, Chairman of The Jockey Club. The Jockey Club has long devoted very substantial efforts and resources to improving the health and safety of the Thoroughbred horse and bringing together the public and private groups that are capable of forging solutions. In doing so, we have gone far beyond the confines of our role as "Keeper of the Stud Book" in North America to effect change.

### **Background**

As a consequence of the tragic events that took place in the 2008 Kentucky Derby, The Jockey Club appointed a Thoroughbred Safety Committee from within our membership to continue and extend the significant work on equine safety and welfare that The Jockey Club has long undertaken and sponsored. As described more fully below, those efforts have been devoted to uncovering facts, recommending solutions, and helping to eliminate impediments to beneficial change.

We are sure that the Subcommittee recognizes that the power to impose regulatory solutions lies in the hands of the racing commissions of 38 states with jurisdiction over Thoroughbred racing and pari-mutuel wagering. Throughout the years, The Jockey Club has worked with regulators as well as private stakeholders in the Thoroughbred industry to encourage the adoption of uniform policies and penalties to bring about needed changes that have been identified in studies commissioned and funded by The Jockey Club and others. The Jockey Club has, in particular, advocated stricter medication policies and stricter penalties for violation of those policies, to be applied on a uniform basis. Some of these important initiatives have been adopted by the industry and have borne results. Others remain works in process.

### **The Jockey Club's Role and Activities**

The Jockey Club is the breed registry for all Thoroughbred horses in North America. As such, it is responsible for maintaining The American Stud Book, which includes all Thoroughbreds foaled in the United States, Canada and Puerto Rico as well as Thoroughbreds imported into

those countries from nations around the world that maintain similar Thoroughbred registries. The American Stud Book, like the stud books maintained by similar organizations in other countries, identifies horses that, by pedigree and lineage, are considered Thoroughbreds in accordance with the internationally accepted definition of a Thoroughbred (as further described in our response to question (1)).

Beyond its primary mission, The Jockey Club, as the Subcommittee properly recognizes, "is dedicated to the improvement of thoroughbred breeding and racing and it maintains a leadership role in numerous industry initiatives." The Jockey Club is recognized for having long stood in the forefront as a world leader in promoting the health and welfare of the Thoroughbred. The following are some examples of The Jockey Club's leadership role in this regard over the past two decades.

In 1990, we retained McKinsey & Company to undertake a project aimed at developing a national strategic plan for drug detection in the racing industry. The study was funded entirely by The Jockey Club and had the support of the National Association of State Racing Commissioners, predecessor organization to Association of Racing Commissioners International ("RCI"). Their report, titled "*Building a World-Class Drug Detection System for the Racing Industry*" was released in 1991.

A summary of the primary recommendations from that report are as follows:

- **Create a consistent drug classification system**
- **Sample collection and documentation process**—all steps in the sample collection process should be fully documented to minimize litigation and an industry-wide split sample process should be adopted.
- **Quality Assurance**—recommends a system that covers every aspect of the testing process, not just the testing lab and that RCI develop a certification process.
- **Research & Technology Management**—establishes thresholds, develops new tests, identifies new drugs being launched in the human market and develops tests, fosters better technology management.
- **Responsibilities and penalties**—must be consistent to offense based on degree of influence on performance. Responsibility should be extended to include the trainer, vet and owner.
- **Animal selection policy**—recommendation was to test 50% of winners instead of 100% and other specific finisher categories based on a matrix of off odds and finish position. This would reduce the number of samples and allow deeper testing of samples.
- **Lab operations and configurations**—recommendation is to consolidate labs testing fewer than 12-15,000 animals per year and/or with a budget under \$1 million.

The first three recommendations were fully or partially adopted by RCI. The next two are ongoing priorities of the Racing Medication and Testing Consortium ("RMTC"), as described more fully below. The last two recommendations have not been followed.

During 2000, several events laid the groundwork for the development of a national organization committed to tackling issues relating to medication and post-race testing and following through with the recommendations contained in the McKinsey report.

In August, the National Thoroughbred Racing Association's Task Force on Racing Integrity and Drug Testing released the initial results of its Supertest project at The Jockey Club Round Table Conference. The report was a culmination of three years of research into the state of post-race testing in the United States, including results from more than 1,000 cleared split samples that were put through an additional rigorous battery of tests. The report served to highlight some of the challenges the industry faced in order to improve the post-race detection of prohibited substances.

In December, the American Association of Equine Practitioners hosted the "Racehorse Medication Summit" during the annual Symposium on Racing in Tucson, Arizona. The summit brought together individuals representing 23 industry stakeholder groups for a facilitated closed-door meeting to determine potential consensus points on the most basic elements of a uniform national medication policy for racehorses. Participants vowed to continue the effort beyond Tucson, leading to the formation of the RMTC.

Since then, the RMTC has primarily focused its efforts on the McKinsey "blueprint," including model medication rules and penalties, research to detect prohibited substances, establishment of thresholds and withdrawal times, race-day security, and industry communications. These recommendations include, but are not limited to, anabolic steroids.

The Jockey Club has been one of the major financial contributors to RMTC since its inception.

At our 2004 Round Table Conference, we invited Dr. Don Catlin, the creator of the UCLA Olympic Drug testing lab, to speak about his experience and how it may help to prevent the use of prohibited drugs in horse racing. The outgrowth of that conference was the creation of the Equine Drug Research Institute ("EDRI"), formed as a committee of The Grayson-Jockey Club Research Foundation ("Grayson") and in conjunction with Dr. Catlin's Anti-Doping Research Laboratory. EDRI's mission is to fund a major research initiative designed to develop new tests for drugs that pose significant risk of potential abuse in equine sports, and to share that forthcoming data with qualified equine testing laboratories free of charge, to assure a fair and level playing field for all participants.

The Jockey Club has been one of the major financial contributors to EDRI since its inception.

Grayson is a worldwide leader in equine research. Since 1983, Grayson has provided more than \$13 million to fund 210 projects at more than 30 universities. In 2007 alone, \$1,105,045 was allocated for 21 projects, including three devoted to the study of laminitis, the painful and often fatal hoof disease that afflicted 2006 Kentucky Derby winner Barbaro for much of his recuperative period following his injury in the Preakness Stakes.

Through the years, Grayson funded research has resulted in the following significant achievements, for example:

- The first vaccine for equine influenza, which allowed some control of race track cough;
- Identification of the cause of virus abortion leading to the vaccine for that malady;
- Enhanced understanding of basic aspects of Equine Infectious Anemia (the disease for which Coggins Tests became mandatory);
- Defined the cause of Colitis-X;
- Development of a vaccine for Equine Viral Arteritis;
- Verified dosages of Xylazine as an efficient tranquilizer for horses injured during high exercise (used to treat Barbaro on-track at the Preakness);
- Quantified the increased risk of injury from use of front toe grabs; and
- Increased understanding of various aspects of Equine Protozoal Myeloencephalitis.

Grayson is funded almost entirely by private contributions from individuals and organizations throughout the Thoroughbred industry. In addition to providing financial support to Grayson's many fund raising activities, The Jockey Club provides administrative services free of charge to Grayson.

The Subcommittee's letter acknowledges the two important Summits on The Welfare and Safety of the Racehorse that The Jockey Club and Grayson organized and Keeneland Association hosted in 2006 and 2008. The October 2006 Summit involved more than 40 leaders from across the industry. The impetus for the 2006 Summit actually arose at an April 2005 Grayson conference organized to consider equine health research priorities. Actions taken at the 2006 Summit included:

- Creation of an on-track injury reporting system and development of a standard form for reporting injuries;
- Increasing industry awareness of a growing body of scientific data identifying use of high toe-grabs on front shoes of race horses as inadvertently increasing risk of injury; and
- Statistical analyses to determine if specific bloodlines are producing horses exceeding norms in terms of soundness and durability, with an eventual plan to derive a Durability Index as a tool for breeders.

The second Summit was convened in March 2008. We attach the 2006 and 2008 "Recommendations of the Welfare and Safety of the Racehorse Summit" for reference. All the costs of hosting both Summits and the ongoing initiatives emerging from them have been underwritten entirely by The Jockey Club, Grayson and Keeneland.

### **The Jockey Club's Summons to Action**

The Jockey Club holds its annual Round Table Conferences to gather the views of important Thoroughbred industry participants on pressing issues. At the 55<sup>th</sup> annual Round Table in August 2007, The Jockey Club's Chairman, Ogden Mills Phipps, made these comments in his opening remarks:

*"When we go about the task of selecting topics for the Round Table, we try to focus on critical issues that are presently affecting our industry. I think today's program reflects that longstanding philosophy. Advance deposit wagering, equine health and welfare, medication. They are topics that affect everyone in this room and everyone who makes a living in the Thoroughbred industry. Medication, unfortunately, seems to be a staple of the Round Table. We have been addressing it in one way or another at thirteen of the past twenty Round Tables. I can assure you that it will remain on this agenda until we have resolved this issue and we have achieved the "level playing field" that every trainer, breeder, owner, jockey and racing fan deserves."*

Mr. Phipps later closed the Round Table Conference with these further comments on the crucial problems of medication and the welfare of the horse:

*"The Stewards of The Jockey Club cannot stand the [slow] pace we're going at. Or the fact that medication needs to be on this agenda virtually every year. Integrity issues -- or even the perception of integrity issues -- cause grave concern to anyone overseeing a business of any kind. They are especially troublesome for businesses involved with spectator sports. . . . To be quite candid, the stewards of The Jockey Club think it's a disgrace that numerous horses in our sport's most prominent and highly visible races are routinely trained by people who have repeated medication-related violations. . . ."*

*There is nothing more important to The Jockey Club and the Stewards of The Jockey Club than resolving the medication dilemma. We have to level the playing field for the sake of this industry and everyone involved in it. The Jockey Club is committed to providing significant funding in this area going forward, but we need the full cooperation and support -- financial and otherwise -- of all stakeholders in our industry. Whether you're an owner, a trainer, a racetrack operator, the state or any other stakeholder in this industry, you have a lot to lose if we don't rectify this situation soon. . . ."*

The Jockey Club has since committed \$500,000 from its 2008 operating budget alone to address medication and horse safety issues.

On May 8, 2008, The Jockey Club's Chairman, Mr. Phipps, announced the creation of a Thoroughbred Safety Committee "to review every facet of equine health, including breeding practices, medication, the rules of racing and track surfaces, and to recommend actions to be taken by the industry to improve the health and safety of Thoroughbreds."

The foregoing items are salient examples of leadership efforts by The Jockey Club with regard to Thoroughbred medication and equine health and safety issues. Many other examples can be added. The important point is that The Jockey Club is committed to working vigorously within the Thoroughbred industry to identify and implement solutions and working within the framework of the current state of regulation and industry representation to do so.

### Responses to Specific Questions

- (1) What specific registration requirements, if any, does the Jockey Club impose on a horse to promote durability and soundness in the Thoroughbred breed?

The Jockey Club is the breed registry for Thoroughbred horses in North America. As such, we maintain The American Stud Book, which ensures the correct pedigree and identification of every Thoroughbred. Ensuring the correct pedigree and identification is essential to maintaining the integrity of Thoroughbred breeding and racing. In order to register as a Thoroughbred, breeders must comply with the rules of registration as set forth in the *Principal Rules and Requirements of The American Stud Book*. A copy of those rules can be found at <http://www.jockeyclub.com/registry.asp?section=3>.

The Jockey Club is a member of The International Stud Book Committee, which serves to coordinate the policies and practices of Stud Book Authorities around the world. A key ingredient to accomplishing this is through the development of the internationally accepted "Definition of a Thoroughbred", as contained in Article 12 of the *International Agreement on Breeding, Racing and Wagering* (copy attached hereto for reference). All Stud Book Authorities who wish to have their Stud Book recognized on an international level are signatories to this important Article, and incorporate the provisions included therein into their own rules. There are presently 64 countries that maintain recognized Stud Books.

The rules themselves do not promote specific attributes. To do so would be at best subjective and potentially restrictive to fair trade and free market enterprise. Instead, the rules set forth the internationally accepted requirement that entry in a Thoroughbred Stud Book is dependant upon registration of antecedents of a produce in a Stud Book approved by the International Stud Book Committee.

- (2) Aside from promulgating rules for registration, how does the Jockey Club influence breeding practices with regard to the traits and characteristics of Thoroughbred racehorses? Does the Jockey Club encourage breeders to produce horses that are sound and durable, as well as fast and precocious? If so, how?

We believe that the many activities of The Jockey Club outlined earlier in this letter encourage practices that promote the health, safety and welfare of Thoroughbred horses,

including racehorses. The Jockey Club does not encourage breeders to produce "fast and precocious" horses.

In addition, The Jockey Club Information Systems, Inc. (TJCIS) has the most comprehensive equine database in the world, and provides breeders, owners, buyers and sellers with a wide array of products, reports and services designed to assist them with their private business decisions. TJCIS also prepares catalog pages, or provides data to third party catalog page writers, for all horses sold at public auction in North America. These catalog pages are prepared in accordance with guidelines established by the Society of International Thoroughbred Auctioneers ("SITA"). TJCIS works closely with this group to develop standards and guidelines, and annually publishes the *International Cataloguing Standards* book as a service to the worldwide Thoroughbred community.

(3) What are the Jockey Club's rules and regulations with regard to inbreeding? Does the organization promote standards minimizing the genetic dangers of inbreeding? Does it promote outcrossing and diversification of the gene-pool?

Please refer to our answer to question (1), above.

(4) What regulations, if any, does the Jockey Club employ to ensure that a registered Thoroughbred's sire or broodmare were not compromised by performance-enhancing drugs or race-day medications that would otherwise mask the infirmities of an unsound horse?

Please refer to our answer to question (1), above.

(5) Has the Jockey Club studied the differences between the rules governing medications and performance enhancing drugs in the United States and in racing jurisdictions around the world? If so, what are its findings and conclusions?

The Jockey Club is a member of the International Federation of Horseracing Authorities ("IFHA"), an organization that includes representation from more than 60 countries worldwide. The mission of the IFHA includes, but is not limited to, coordinating and harmonizing the rules of the member-countries regarding breeding, racing & wagering.

Article 6 of the IFHA international agreement describes prohibited substances. Because of the medication policies enacted by the 38 state racing authorities, the United States is a signatory only to parts of that Article.

There is a substantial amount of literature on the subject of the use of race-day medications and performance-enhancing drugs in Thoroughbred racing in various jurisdictions around the world. There are significant differences between regulation

inside and outside the United States, and United States race-day medication rules are among the most permissive in the world. As noted above, The Jockey Club has been among the leaders in the industry effort to identify and either ban or regulate the use of performance-enhancing drugs and race-day medications by Thoroughbred race horses.

- (6) Does the Jockey Club support a central body or league to govern horseracing, similar to what is in place in Great Britain and other countries? Why or why not?

The Jockey Club is one of five founding members of the National Thoroughbred Racing Association ("NTRA") and provided \$1,000,000 in startup funding in 1998 to create the NTRA as a national office for the industry. The Jockey Club believes that a strong, central, industry-led body can be beneficial in implementing industry changes with respect to the use of performance-enhancing drugs and race-day medications and achieving other initiatives that it believes are important to the integrity, success, and health of the Thoroughbred horseracing industry.

One of the significant recommendations from the 2008 Welfare and Safety of the Racehorse Summit was to establish uniform regulation of medication and integrity rules through the creation of an industry-led national regulatory structure. There is significant interest on the part of key industry stakeholders in achieving uniformity by utilizing the authority federal law grants states to form interstate compacts. In the United States there is an existing interstate compact of state racing regulators, the National Racing Compact. This Compact was originally formed for the narrow purpose of facilitating the occupational licensing of owners and trainers participating in multiple jurisdictions. There are discussions currently underway – led by the RCI and some of its member jurisdictions - on how the role of this Compact could be expanded into other areas to achieve uniformity in regulatory policy. The Jockey Club is supportive of this initiative and will work together with RCI and other industry stakeholders to achieve it.

- (7) Does the Jockey Club support a comprehensive tracking system for track-related injuries in Thoroughbred racehorses? Would it support tracking such injuries (and deaths) according to type of injury, track, trainer, breeder, owner, and other germane categories?

The Jockey Club is underwriting the cost of developing and implementing a comprehensive system to report track-related Thoroughbred racehorse injuries. As previously described, one of the principal recommendations arising out of the 2006 Welfare and Safety of the Racehorse Summit was the creation of a uniform, Internet-based on-track injury reporting system. Shortly after the 2006 Summit a uniform On-Track Injury Reporting Form was developed and distributed to regulatory veterinarians across the country for review and comments. In June, 2007 the improved form became the basis for an injury reporting pilot project. With more than 40 tracks participating during the nine month pilot project, we were able to collect and analyze more than 2,000 reports of injuries which occurred at racetracks across the country. Initial analysis was



done on that preliminary set of data and the project's worthiness was apparent from the snapshot statistics which were released early in 2008.

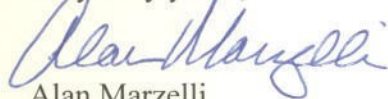
In April, 2008 the On-Track Injury Reporting Database entered initial testing by employees of The Jockey Club, who also began entering into the production database the nearly 3,000 hard copy injury reports which were submitted. In May 2008 a beta test was begun with regulatory veterinarians in California and the system is set to be made available to racetracks nationwide in the summer of 2008.

(8) In general, what are the most pressing problems facing the Thoroughbred industry, and what reforms can be initiated to address them?

As stated earlier, there is nothing more important to The Jockey Club and the Stewards of The Jockey Club than resolving the medication dilemma. We are confident that our recently formed Thoroughbred Safety Committee will identify and address reforms that need to take place with respect to this country's medication policies, as well as the overall issues of health and safety of the horse, and that we will harness the appropriate support from within the industry to implement the recommendations that will be forthcoming later this summer and beyond.

We trust that this adequately responds to the questions raised in your letter dated May 22, 2008.

Very truly yours,



Alan Marzelli  
President & Chief Operating Officer