

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the Indiana Horse Racing Commission ("Commission" or interchangeably "IHRC"), by Mike Smith, Executive Director of the Indiana Horse Racing Commission Staff ("Commission Staff") and Alvin Schwartz ("Schwartz"), a breeder and licensed owner. Collectively, the Commission Staff and Schwartz shall be referred to herein as "the Parties." This Agreement is reached in conjunction with the Commission's waiver of 71 IAC 14-2-1 and is subject to the review and approval of the Commission. If the Commission declines to grant the proposed waiver of 71 IAC 14-2-1, the Agreement is considered declined as well.

RECITALS

1. The Commission is the administrative agency in the State of Indiana that regulates horse racing pursuant to provisions of Title 4, Article 31 of the Indiana Code and Title 71 of the Indiana Administrative Code.
2. At all times relevant to this Settlement Agreement, Schwartz was a participant in the breed development program and a licensed owner with the Commission.
3. As a Commission licensee, Schwartz is subject to IHRC rules and regulations.
4. As a licensee, and participant in the breed development program, Schwartz was required to be knowledgeable of all IHRC rules and regulations.
5. Title 71, Section 14 of the Indiana Administrative Code sets forth requirements of the Standardbred Development Program.
6. This Settlement Agreement is issued in conjunction with the requested waiver of 71 IAC 14-2-1; the rule known as "Stallion registration."
7. Schwartz failed to properly register the stallion Stevensville, pursuant to the requirements set forth in 71 IAC 14-2-1.
8. Stevensville, an unregistered stallion, was bred to thirty-seven (37) mares during the 2019 breeding season. At least twenty-eight (28) of those mares were owned by individuals other than Schwartz.
9. Individuals that paid Schwartz for a service, in good faith, are likely to suffer undue economic hardship as the foals sired by Stevensville will be unable to participate in Indiana sired or Indiana sired and bred races without intervention by the Commission.
10. The Commission may waive a rule that, if enforced, would cause undue burden. 71 IAC 2-2-1(c).

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11. The Commission has determined that waiver of the requirements of 71 IAC 14-2-1 is appropriate due to the unique circumstances and the significant potential harm to good faith purchasers of Schwartz's service.
12. Schwartz acknowledges that waiver of 71 IAC 14-2-1, in no way relieves him of responsibility for violation of the aforementioned rule.
 - a. Schwartz violated 71 IAC 14-2-1 "Stallion registration" by failing to properly register Stevensville which, without intervention of the Commission, would result in a significant portion of the 2019 foal crop being ineligible to compete as Indiana sired or Indiana sired and bred horses.
13. The Commission acknowledges that the below factors were considered, including some mitigating factors, in determining how to proceed in this matter:
 - a. There are thirty-seven (37) mares known to IHRC that were bred to Stevensville that will be unable to participate in Indiana sired and Indiana sired and bred races without Commission intervention.
 - b. Schwartz is a long-term participant in the Commission racing program, as a breeder and owner. During his time as an IHRC licensee and breeder program participant, Schwartz has maintained an exemplary disciplinary record.
 - c. IHRC Breed Development Inspector Randy Dever, verified the location of Stevensville on two separate occasions. On both occasions, Stevensville was present in Indiana as required by IHRC rules.
 - d. Schwartz is not the lone victim of his failure to comply with IHRC rules. Rather, there are at least twenty-eight (28) other individuals, who were acting in good faith, that would be negatively impacted by Schwartz's rule violation.
 - e. The IHRC has a statutory mandate to take action and make decisions in the best interest of the horse racing industry and pari-mutuel wagering in Indiana to ensure the greatest level of integrity and the highest of standards.
 - f. IHRC believes that failure to allow Stevensville to be registered, and thereby causing undue economic hardship to a number of innocent parties, is not in the best interest of horse racing or pari-mutuel wagering in Indiana.
14. In lieu of disciplinary action or other legal action, the Parties have now reached a resolution of the potential claims at issue in conjunction with the waiver.
15. Now in full and complete resolution of all legal claims and possible disputes arising from this matter, the Commission Staff and Schwartz agree to the terms and conditions set forth in this Agreement.

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AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and the promises to be performed as set forth herein, the Parties agree as follows:

16. Schwartz has acknowledged his violation of 71 IAC 14-2-1.
17. This Agreement is based upon a very specific understanding of the facts and context of the situation that the Commission has at the time this Agreement is entered into. The Commission reserves its right to terminate this Agreement if additional facts outside of what is currently known to the Commission come to light making this Agreement inappropriate.
18. Schwartz agrees to release all claims and potential claims against the Commission, the Commission Staff, and/or its current former representatives, agents and/or employees relating to the Commission action that is the subject of this Settlement Agreement. Schwartz specifically agrees to release and forever discharge any claims and/or complaints against the Commission, the Commission Staff, and/or its current or former representatives, agents, and/or employees, arising from, relating to, or in any way connected with the issues associated with Commission Staff's inquiry into this matter and/or its pursuit of action against Schwartz.
19. As a result of the matter discussed in detail above, Schwartz agrees to a monetary fine of five thousand dollars (\$5,000.00) to be paid pursuant to Commission regulations. Schwartz agrees that the due date for the fine will be set at forty-five (45) days from the date of the Commission approval.
20. Schwartz and Commission Staff acknowledge that this Agreement is subject to the approval of the Indiana Horse Racing Commission.
21. The Commission shall enter a ruling consistent with this Agreement which will make clear the sanction set forth in paragraph 19 is the sole sanction to be assessed for the violation referenced in this Settlement Agreement.
22. Any waiver of any provision of this Agreement must be in writing and must be approved by the Commission or the Commission's designee. No waiver of any provision of this Agreement shall constitute either a waiver of any provision hereof (whether or not similar) or a continuing waiver.
23. This Agreement shall be deemed executed in the State of Indiana, and shall be governed and construed in accordance with the laws of Indiana, without regard to its choice of law provisions, and all claims relating to or arising out of this Agreement, or breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of Indiana, without regard to its choice of law provisions. Exclusive jurisdiction and venue over any and all disputes arising out of or in connection with this Agreement shall be brought only in a state court of competent jurisdiction located in Marion County, Indiana.

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24. Schwartz represents that he has carefully read and reviewed the foregoing Agreement, acknowledges its contents, has had the right to consult with his own counsel, and agrees to be bound by its terms. Schwartz acknowledges that he has voluntarily entered into this Agreement as of the date and year herein set forth.

IN WITNESS HEREOF, the Parties have executed this Agreement on the dates listed below.

I swear, under penalties for perjury, that the foregoing representations have been made by me and are true and correct.

8-19-19
Date

Alvin Schwartz
Alvin Schwartz

ON BEHALF OF THE INDIANA HORSE RACING COMMISSION:

Date

Chairman Philip Borst, DVM

Approved as to form:

Noah Jackson, Deputy General Counsel