



Code of Ethics For Auctions Announced

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By Dan Liebman and Deirdre B. Biles

The first-ever code of ethics for the Thoroughbred auction industry was introduced Dec. 16 during a press conference at Keeneland.

Four months in the making, the measures are the work of the Sales Integrity Task Force chaired by W. Cothran "Cot" Campbell of Dogwood Stables, and were inspired by the initial efforts of Padua Stables' Satish Sanan.

The task force was put together by the Thoroughbred Owners and Breeders Association.

The code of ethics covers areas such as dual agency, veterinary practices, and a suggested agent/buyer disclosure agreement. It does not require disclosure of the owner of a horse at the time of sale or purchase but does require a veterinarian to disclose if he owns part of a horse whose radiographs he is being asked to examine in a sale repository.

"Our mission in all of this was to come up with a code that would make the auction scene as buyer friendly as possible ... to create a road map for the new buyer and let him know what he should expect and what is not acceptable," Campbell said. "We have weighed the pros and cons and come at the subject from every angle to arrive at a code that we think is workable, practical, and that will provide a more level playing field for the participants. It certainly is one that will have to be tweaked and revised as we go along."

Said Nick Nicholson, the president of Keeneland and a task force member: "We are not here today as a task force to make a final declaration of victory. This is a journey that we are on, and this is a big step in that journey, but nonetheless, it's just one step."

Nowhere in the code of ethics are penalties discussed for the violation of any section of the guidelines. Addressing that issue, Campbell said: "Where are the teeth? That's an expression that we hear over and over. But we are an industry that is ill-suited to any teeth from a central power. So what we have attempted to do in the way of teeth is to one, shine the spotlight on a practice (such as dual agency) that exists; two, to facilitate legal action and legal recourse; and three, to educate the new buyers. We think this will scare or slow down the crooked agent and greatly diminish the irregularities that do exist. Larceny does exist in our game and every other game, although no more in this game than any other. What this (code) will do will not stamp it out. It will never stamp it out. But we think we are going to diminish it, and that is an excellent starting point, we think."

Sanan, who founded the Alliance for Industry Reform (AIR), expressed satisfaction with the task force's results, but said there was more work to be done.

"When I started this initiative (for auction reform) back in June, I never expected to achieve the kind of success we have," he said. "I was very apprehensive, to be very candid, and I didn't think we would make the progress that we have. We have achieved well over 80 to 90 percent of the objectives that we had defined as members of AIR and also that I had in mind. I think peer pressure itself (as a result of the code) is going to ensure that most of these bad practices are eradicated. But there are a few issues that I think will need to be addressed over the next six to nine months. The only real concern that I have is on the disclosure side. We have debated the right to privacy in committee, and I respect it from a personal perspective and a lot of others. But I think we need to make sure that privacy is not used as a sort of veil behind which some of these practices will continue."

Among the items in the code of ethics:

- Veterinary procedures deemed to "improve the conformation of horses and thus enhance their opportunity to remain sound" are acceptable but must be disclosed. This includes invasive joint surgeries and other surgeries "designed to affect permanent" conformation changes, such as transphyseal bridges and periosteal transections, manipulations, and elevations.

- Veterinary practices prohibited and deemed unacceptable are "temporary alterations" which may mask a horse's conformation, such as shock wave therapy and acupuncture and/or electro-stimulation with the intent to alter laryngeal function. These practices are not permissible "after a horse has arrived at the sale grounds."

The injection of an internal blister or any other means of temporarily altering conformation is "prohibited any time, regardless of the animal's location, within 90 days of sale."

If proof is provided within 14 days of a sale that such a practice has happened, the code considers it "to be just cause for the buyer to turn back the horse and expect reimbursement of the sale price."

- The code mentions that an appended form will be provided by sale companies to consignors to provide information on performed procedures on sale horses, and consignors are "asked" to include the information in repositories. The form is voluntary for foals of 2004 but will be mandatory for foals of 2005 and later.

- The code asks veterinarians to sign a dual agency agreement that reads: "I agree to fully disclose my ownership in any horse that I am asked to examine or render an opinion on, to the client or his agent for whom I am employed."

- The code of ethics states the "supplying of ownership information is not held to be a requirement." Thus who owns or buys a horse will remain as clouded as it has been in the past. It does require disclosure of ownership interest in a horse held by a sale company official. A change of ownership in a horse once it reaches the sale grounds "must" be announced from the auction stand. However, this is only if the sale company is informed of the ownership change.

- The code suggests a written agreement be made between an agent and buyer, but does not require such a document. On the subject of dual agency, the code states: "dual agency (without disclosure to all parties) is inherently fraudulent. No agent/trainer should ask for a commission from a consignor, nor should a consignor pay a commission." However, like the entire code, there is no penalty for not adhering to the dual agency question.

The task force was formed after Sanan, owner/breeder and leading buyer at sales, questioned many practices at auctions and formed an organization called the Alliance for Industry Reform (AIR). Sanan is a member of the task force.

Campbell will step down from the task force on Jan. 15, 2005, and a three-member monitoring committee will be charged with evaluating the progress at auctions and revising the procedures as needed. Those members are Reynolds Bell Jr. of Reynolds Bell Bloodstock, Sanan, and Fred Seitz of Brookdale Farm.

The members of the task force are: W. Cothran Campbell, chairman; Veterinary Practices Committee: John Ward Jr., chairman; Dr. Larry Bramlage, Robert Clay, Nick DeMeric, Walt Robertson, Geoffrey Russell, and Fred Seitz; Dual Agency Committee: Bill Casner, chairman; Headley Bell, Reynolds Bell Jr., Boyd Browning, Lincoln Collins, Bill Farish, and Gerry McMahon; Disclosure Committee: Nick Nicholson, chairman, Greg Goodman, Reiley McDonald, Satish Sanan, Duncan Taylor, D.G. Van Clief Jr., and Tom Ventura.



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Sales Integrity Task Force releases code of ethics

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The condemnation of the practice of dual agency in bloodstock transactions and the required disclosure of any physical procedure that permanently alters a horse's conformation are among the key features included in a far-reaching code of ethics revealed by the Sales Integrity Task Force on Thursday.

Several of the major sales companies have approved the code of ethics and agreed to display the points of the code throughout their facilities. But while the code is intended to curb questionable business practices, there are no formal sanctions in place for enforcing its standards.

"We can't legislate morality, but by focusing attention on [these practices] and putting the spotlight on [them] and having plaques in the barn area about fraudulent practices and various other things, it's going to get the attention of people with larceny in their souls," said Dogwood Stable President Cot Campbell, chairman of the task force. "Further, if they're working for a buyer who has insisted they sign the legal agreement which we're going to provide, that is definitely going to slow [the crooked agent] down. We can't put someone in jail, but if someone signs this agreement and breaches it, then legal action can be taken."

The code does not establish guidelines mandating the full disclosure of ownership, but stresses that buyers protect their interests by requiring agents to sign a proposed "Agent Disclosure Agreement" outlining the role of both parties and any potential compensation that might occur in the transaction.

Veterinarians would also be required to sign a legal form prior to entering the repository that would disclose any equity interest they might have in a horse being offered for sale.

The task force also strongly encouraged sales companies to include a rule in its catalogs rules describing the fraudulent practice of dual agency without disclosure and states that acceptance of the practice by various parties does not mitigate its fraudulence.

In addition to requiring veterinarians to disclose invasive surgeries such as manipulations and elevations that permanently alter conformation, temporary alterations for the purposes of sale such as shock wave therapy and acupuncture will be prohibited once a horse has arrived on the sale grounds. If proof of any of the practices are found 14 days after the sale, the buyer would have just cause to return the horse and receive reimbursement for the sale price.

"Our mission was to examine practices and make recommendations where they were warranted," Campbell said. "The task force took a tough, but realistic stance. We especially sought to protect new buyers, recognizing that the horse auction scene can be intimidating and confusing to novices. We stressed that buyers need to exercise their own due diligence prior to buying a horse, as would be the case in reaching any other business decision."

Campbell added that he would terminate his leadership of the task force on January 15, 2005, and has appointed Reynolds Bell Jr., Satish Sanan, and Fred Seitz to a committee to evaluate progress and revise procedures.

The task force was initiated by several industry groups, including the Thoroughbred Owners and Breeders Association and the country's major auction houses, and replaced the Alliance for Industry Reform, an organization originally spearheaded by Sanan.

"The Thoroughbred Owners and Breeders Association exists to promote and protect the Thoroughbred industry," said TOBA president Dan Metzger. "We feel this code of ethics clearly articulates what is acceptable and unacceptable. It warns that engaging in questionable practices will not be tolerated."

In addition to Campbell, Sales Integrity Task Force includes: Veterinary Practices Committee: John Ward, Chairman; Dr. Larry Bramlage, Robert Clay, Nick DeMeric, Walt Robertson, Geoffrey Russell, and Seitz. Dual Agency Committee: Bill Casner, Chairman; Headley Bell, Reynolds Bell, Jr., Boyd Browning, Lincoln Collins, Bill Farish, and Gerry McMahon. Disclosure Committee: Nick Nicholson, Chairman; Greg Goodman, Reiley McDonald, Sanan, Duncan Taylor, D. G. Van Clief Jr., and Tom Ventura.

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