

February 13, 2017

VIA FIRST-CLASS MAIL AND E-MAIL

Jason Klouser
 Director of Enforcement
 State Horse Racing Commission
 2301 N. Cameron Street, Rm. 304
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 jaklouser@pa.gov

Dear Mr. Klouser:

I am writing on behalf of People for the Ethical Treatment of Animals (PETA) to urge the Commission to scrutinize the health and racing soundness examination procedures at Pennsylvania tracks and to investigate the track veterinarian and stewards at Presque Isle Downs in relation to Thoroughbred Charlie's Quest, who raced at the track three times in approximately thirty days during the 2016 season. Less than one month after his last start, a veterinary examination determined that he was unfit for low-level riding—much less competitive racing at high speed—and that he suffered from severe, quadrilateral lameness. Yet he repeatedly made it through the racing soundness examination, suggesting a failing of the system or the individuals, or both, who were tasked with ensuring that he did not race in an unsound condition. Accordingly, PETA requests that the Commission take all available measures to enforce Pennsylvania's racing rules with respect to Charlie's Quest and, further, that the Commission undertake a comprehensive assessment of the adequacy of pre-race health and soundness examinations at Pennsylvania tracks. Charlie's Quest easily could have been one of the hundreds of horses who have died while being raced in the Commonwealth; it is past time to consider whether sufficient safeguards are in place to keep horses like him from entering the starting gates.

Charlie's Quest's Racing History

Charlie's Quest was foaled April 11, 2009.¹ He came to PETA's attention in 2013, during PETA's investigation of trainer Steve Asmussen,² who claimed Charlie's Quest on July 31, 2013.³ On August 12, 2013, Charlie's

¹ Charlie's Quest, Horse Profile, Equibase,

<http://www.equibase.com/profiles/Results.cfm?type=Horse&refno=8702486®istry=T&rft=TB> (last visited Feb. 1, 2017).

² See Joe Drape, *PETA Accuses Two Trainers of Cruelty to Horses*, N.Y. Times, Mar. 19, 2014, available at <https://www.nytimes.com/2014/03/20/sports/peta-accuses-two-trainers-of-cruelty-to-horses.html?src=twrhp&r=2>.

³ Saratoga – July 31, 2013 – Race 1, Equibase,

<http://www.equibase.com/premium/chartEmb.cfm?track=SAR&raceDate=07/31/2013&cy=USA&rn=1> (last visited Feb. 1, 2017). Richard E. Dutrow, Jr. had previously claimed Charlie's Quest, Gulfstream Park – March 10, 2012, Race 1, Equibase, <http://www.equibase.com/premium/chartEmb.cfm?track=GP&raceDate=03/10/2012&cy=>

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Quest was scratched by a New York Racing Association veterinarian based on her pre-race examination of the horse. An eyewitness video captured the reaction of Mr. Asmussen's assistant trainer, Scott Blasi, following the scratch: "But you know what? I'll f--- 'em next time. I'll put a gel cast on that motherf---er, and I'll make it look as good as it f---ing can. I ain't got no problem scratching the horse. Horse is a little f---ing off." Blasi had previously called Charlie's Quest a "rat," a reference to the expectation that he would run poorly. Charlie's Quest did not race again until March 29, 2014—over seven months later.⁴ Charlie's Quest raced another ten times in 2014, then fifteen times in approximately six months in West Virginia in 2015.⁵

In 2016, Charlie's Quest raced on June 8, June 20, and July 10 at Presque Isle Downs and finished seventh in each race.⁶ He was sold on August 1 and was immediately transferred to a medical boarding facility. Veterinarian Kathryn Papp, who examined Charlie's Quest on August 11, found, among other issues, that the horse's "RF medial sesamoid was basically destroyed with multiple fragments identified and disruption of suspensory branch attachments. Floating calcifications were seen within the flexor tendon sheath, which was distended with a large amount of effusion as well as fibrous thickening."⁷ Charlie's Quest "initially appear[ed] sound at both at the walk and trot in a straight line, but when turning it was obvious that there was some pain on both forelimbs as he tried quickly to unload the weight off of each before returning to straight traveling."⁸ He showed lameness in each direction when lunged.⁹ Dr. Papp concluded as follows:

Charlie has quadrilateral lameness, some of which is very severe, progressive, degenerative and likely painful. Many changes identified are chronic, with no acute lesions noted on exams. It is my opinion that the reason for this horse's poor racing performance and continued drop in class was directly related to these limiting lameness factors. It is hard even to believe that this horse was even completing races and daily training, nonetheless, passing consistent racing veterinary inspections.¹⁰

Dr. Papp ultimately determined that Charlie's Quest is "mainly unfit for even moderate riding sport" and that "[e]ven with a pampered life as a pasture companion he will continue to have

[USA&rn=1](#) (last visited Feb. 1, 2017), and is currently under a ten-year ban from the New York Racing Association (NYRA) for chronic drugging violations. See Joe Drape, *3 Years after Triple Crown Bid, Trainer Is Given a 10-Year Ban*, N.Y. Times, (Oct. 12, 2011), available at http://www.nytimes.com/2011/10/13/sports/dutrow-barred-from-training-horses-in-new-york-for-10-years.html?_r=1&hp.

⁴ Charlie's Quest, Results, Equibase,

<http://www.equibase.com/profiles/Results.cfm?type=Horse&refno=8702486®istry=T&rft=TB> (last visited Feb. 1, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ Exhibit 1, Post-Racing/Newly Adopted OTTB Exam Report for Marcy Dalton, at 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

degenerative changes that will worsen over time due to the initial injuries and wear and tear that he has previously incurred.”¹¹

On September 15, veterinarian Jennifer Smith examined Charlie’s Quest to assess whether surgical intervention could improve his condition. She noted that “[r]adiographs of the right front fetlock revealed severe osseous fragmentation of both proximal sesamoid bones and multi focal areas of mineralization and/or osseous fragments within the digital flexor tendon sheath.”¹² Dr. Smith concluded that Charlie’s Quest “had evidence of moderate to severe lameness in all four limbs” and that “[g]iven this horse’s multiple sites of severe lameness in all four limbs and lack of improvement following intra-theal anesthesia of right front DFTS, surgical intervention was not advised.”¹³

Charlie’s Quest has not raced since being sold in August and has been retired to pasture.

The Need for an Investigation and Reforms

The extent of Charlie’s Quest’s lameness calls into serious question whether the track veterinarian and stewards at Presque Isle Downs are complying with safeguards for the welfare of the horses under their watch—or, indeed, whether the safeguards for horses raced at Pennsylvania tracks are sufficient. Under Pennsylvania’s racing rules, “[t]he veterinarian shall, in general, familiarize himself with the racing condition of the entrants” and notify the stewards and racing secretary if in his opinion a horse is not in condition to race.¹⁴ Furthermore, “[t]he track veterinarian shall be present in the paddock before each race, and he shall inspect each entrant” and immediately notify the stewards if, in his opinion, a horse is not in condition to compete in that race.¹⁵ The stewards, in turn, “shall order the horse scratched out of the race, and the horse automatically shall go on the veterinarian’s list, and thereafter may not be permitted to enter until the veterinarian notifies the racing secretary and the stewards that the horse is again fit to compete.”¹⁶

Despite chronic, severe lameness that leaves him unfit for moderate riding, Charlie’s Quest was not ordered scratched at any of the three races he entered at Presque Isle Downs in approximately one month—a fact that renders highly dubious the quality of compliance with Pennsylvania’s racing rules by the track veterinarian, stewards, or both. Even if Charlie’s Quest initially appeared sound at the walk and trot in a straight line, his lameness should have been evident to the track veterinarian upon turning. Thus, it seems that the track veterinarian either did not require the horse to be turned, did not pay attention to the horse when jogged, or detected a problem that the veterinarian or the stewards did not act upon. Further, the racing rules require the track veterinarian’s familiarity with entrants’ racing condition. Even a brief look at Charlie’s Quest’s racing history would show that there were two lengthy periods when

¹¹ *Id.*

¹² Exhibit 2, Medical Summary, at 1.

¹³ *Id.* at 1-2.

¹⁴ 58 Pa. Code § 163.452(a).

¹⁵ *Id.* § 163.452(b); *see also id.* § 163.306 (“[Race-day] examinations [for racing soundness and health] shall be conducted in or near the stall to which the animal is assigned and shall be conducted by a veterinarian employed by the Commission or approved by it.”).

¹⁶ *Id.* § 163.452(b).

he did not race, and review of his medical records would show that he was administered a large variety of medications—all of which indicates the presence of a chronic condition that should necessitate further inquiry into his fitness to race. For the protection of the other horses who are raced at Presque Isle Downs, PETA urges the Commission to review Charlie's Quest's health and racing soundness record and investigate whether the track veterinarian and stewards complied with Pennsylvania law in allowing a horse with quadrilateral lameness to be raced on three separate occasions.

Beyond the Commission's investigation of the individual actions of the track veterinarian and stewards, meaningful scrutiny of the adequacy of pre-race soundness examinations cannot come too soon. According to a website on deaths of horses in the racing industry, a public records request revealed that 118 horses died on Pennsylvania tracks in 2015, including fifteen horses at Presque Isle Downs.¹⁷ Charlie's Quest could have been a casualty of the 2016 season if he had suffered a fatal breakdown while being raced while unsound. Accordingly, it is imperative that the Commission give thoughtful, comprehensive consideration to the manner in which Pennsylvania's racing rules are implemented and whether the racing soundness examinations at Pennsylvania tracks are sufficient in duration, detail, attentiveness, and all other aspects to ensure that lame and otherwise unfit horses are not being raced. Rigorous review of the availability of better technology, such as radiographs and CT scans, for the detection of horses' injuries and chronic conditions is also vital to evaluate the current safeguards against injury for horses raced in Pennsylvania.

Thank you in advance for your prompt attention to this matter and for your close inspection of the regulations, facts, and issues requiring the Commission's oversight.

Sincerely,

A handwritten signature in cursive script that reads "Elisabeth Custalow". The ink is dark and the signature is fluid and connected.

Elisabeth Custalow
Counsel

¹⁷ A Report that Should Shock—Pennsylvania's Dead, 2015, <https://horseracingwrongs.com/2016/02/25/a-report-that-should-shock-pennsylvanias-dead-2015/> (last visited Feb. 1, 2017). That number does not include another twenty-two horses who died on track grounds in Pennsylvania that year. *Id.*