

When is the Trainer an Agent?

(An update)

From the portion of the “Sale of Horses” Law Journal Article which is attached, it is quite clear that the typical horse trainer is the agent of his/her owners, with wide-ranging duties and parallel fiduciary obligations.

There is, however, a recent and truly bizarre case from the Western District of Kentucky and the Sixth Circuit which was decided finally just last year which is of interest. See, Thomas v. Hodge, 897 F.Supp. 980 (W.D. Ky. 1995); and Thomas v. Hamilton, 106 F.3d 402 (6th Cir. 1997). In that case, which arose in the saddlebred industry, a couple of inexperienced horse owners from California sued their trainer in Kentucky, who had unbroken possession of and made every decision about the show horses belonging to the plaintiffs. Among numerous disputes, the plaintiffs had demanded an accounting of the expenses the trainer had incurred and added to his monthly bills for several years – from veterinary charges, to the costs of transporting the horses, to the travel and entertainment expenses of the trainer. All the plaintiffs were given were monthly statements, with no detail and no supporting invoices. No discovery was taken on the issue; the plaintiffs simply moved that the burden be placed on the trainer to give an accounting. The trial judge ordered a full, supported accounting.

As the trial on other issues approached, the trial judge retired, and was replaced by another trial judge – but still no accounting had been given. A few months before the trial, the plaintiffs moved for a summary judgment, arguing that the unsupported charges were

ready to be credited back. Literally on last business the day before the trial, the new judge decided (a) that all unsupported charges of a true agent must be stricken, but (b) that no accounting was necessary in his case. The new trial judge held that “it is too elementary to be disputed that a trainer may have a different relationship on the track than in the barn.” (Emphasis added). He did not suggest that there was any proof in the record. He thereupon made the distinction as a matter of law – that a trainer “may bind the owner to enter a show,” whereas, to the contrary, “in the barn . . . he performs a service. He binds no one.” Thus, held the trial court, the defendant trainer was not the owner’s agent – and did not have to give an accounting at all.

Practitioners in the equine industry will be surprised indeed to hear that. On appeal the owners argued:

The basis of the authority of the trainer “to enter” a horse is the same basis upon which the trainer binds the owner of any subject to third parties. Forsyth v. Jefferson Downs, Inc., 152 So.2d 369, 371 (La. 1963):

[T]he trainer of the plaintiff who had full control of the horse and thereby stood in the shoes of the owner had complete authority to sign the written agreement.

The Forsyth case involves the waiving of liability of the track during a workout. That is about halfway between an “entry” and the “barn.” In Clearwater Farms, Inc. v. Roosevelt Raceway, 500 N.Y.S. 2d 311 (A.D. 2 Dept. 1986), the trainer bound the horse owner to an agreement exculpating the land owner for the theft or disappearance of the horse from the barn. In Rutter v. Arlington Park Jockey Club, 510 F.2d 1065 (7th Cir. 1975), the trainer bound the horse owner to an exculpatory clause, drastically reducing liability for negligence and even willful contact on the track and in the barn. In Norton v. Jim Phillips Horse Transp., Inc., 901 F.2d 821 (10th Cir.

1989) the trainer entered into a binding contract for shipping the horse from one barn to another.

The appellate court avoided all this by saying (inaccurately) that the trial court had engaged in a “fact-intensive analysis.” In fact, there had not even been discovery. Perhaps lawyers can cite the appellate court’s inaccurate statement to keep the trial court’s error from causing too great a problem for attorneys in the business. Lawyers should, at a minimum, be cautioned that they had best put some proof in the record to show at least the general outlines of the facts which create the agency.