

Testimony of Joe De Francis

Energy & Commerce Subcommittee on Consumer Protection and Commerce
Re: H.R.1754 – The Horseracing Integrity Act of 2019
January 28, 2020

Chair Schakowsky, Congresswoman McMorris, Members of the Committee, thank you for giving me this opportunity to testify before you today.

My name is Joe De Francis, I was the former Chief Executive Officer and controlling shareholder of the Maryland Jockey Club (MJC), the corporate parent entity of Pimlico Race Course (home of the Preakness Stakes, the middle jewel of thoroughbred racing's famed Triple Crown) and Laurel Park. I am also the Chairman of the Humane Society of the United States National Horseracing Advisory Council. I am proud to lead that council because the Humane Society represents countless Americans who believe as I do that we as a nation have an immeasurable debt to the horse. Ensuring the best care and the proper protection for horses should be our highest priority.

While I'm honored to represent HSUS, I also wear a second hat regarding this issue. Having for decades been a significant equity owner in, and responsible for the operation of, the MJC--America's oldest, and one of our most prestigious and significant racing operations--I'm very familiar with the economic demands of the marketplace that must be met in order to run a successful business. Setting aside the critically important ethical and moral issues that are essential to this debate (unlike human athletes, who at least can exercise their free will in making a choice to cheat with drugs, horses are totally dependent for their health and well-being on both the ethics and the competence of the humans who care for them), and focusing solely on the harsh, business bottom line, it is absolutely essential to the survival--let alone the success--of the business that the equine athletes are treated ethically and humanely, and are perceived by the public as being properly cared for.

The days when horse racing enjoyed a virtual monopoly on gambling in America--and could get away with reckless monopolistic behavior--have been gone for decades and are gone forever. We are besieged on all sides by competition for the gambling dollar--from State-run lotteries to the seemingly endless proliferation of casinos to the nascent introduction of sports betting nationwide. By far, our strongest and most effective asset in this heated competition is the athleticism, nobility and majesty of the thoroughbred race horse. If the general public loses confidence that the people responsible for the health and safety of these equine athletes are mistreating them--as survey after survey unequivocally proves is happening to an increasing extent--then the "invisible hand" of the marketplace will drive horse racing into extinction as surely as it has Ringling Brothers Circus.

The bar for effectively detecting and punishing cheaters in American racing is so low

that it is difficult to fail. Frankly, it is more of an IQ test, than a drug test, because trainers in the US would have to be more daft than unlucky to fail – each trainer knows what they're being tested for, when they're being tested, and if that isn't bad enough, the lab testing may miss it anyway. There is little, if any, out-of-competition testing, the kind of testing that has proven so effective in catching athletes who dope in Olympic sports. In addition, few labs are up to international standards, and the procedures and chain of custody vary too much from state to state to instill any confidence in the system. Finally, and probably most importantly, racing officials who are given the responsibility of promoting racing cannot, and should not, be given responsibility of policing those who they also promote.

Congress now has an opportunity to do something constructive about it. H.R. 1754, the Horseracing Integrity Act, will transfer the responsibility of the sport's anti-doping program to an independent organization, run by both the US Anti-Doping Agency and conflict-of-interest free representatives from the racing industry. This bill will charge a new rulemaking and enforcement organization, the Horseracing Anti-Doping Authority (HADA), with establishing a list of acceptable and illegal therapeutic drugs, laying out the basis for when drugs can be used. This independent organization will take this new structure and apply it uniformly across all 38 jurisdictions, with meaningful reciprocal penalties, and a process that will ensure fairness and most importantly, deterrence.

It is only a win, win, win for racehorses and the sport. This new system will ensure that our equine athletes are treated with fewer drugs, run only when they are healthy enough to do so, and compete with their given talents. Trainers will be less dependent on "treating" horses with chemicals, and more reliant on their horsemanship to win races. In addition, trainers who ship horses across state lines will no longer have to worry about running afoul of another state's arcane doping requirements, because every racing jurisdiction will have the same, uniform medication regulations. In the end, risks to racehorse welfare will be reduced, and the sport of racing will benefit as bettors and fans will have greater confidence that what they're watching is the result of ability, not chemistry.

Both animal welfare groups and organizations from the industry see American racing's drug habit as a practice that must end — for the horses' health and safety and the integrity of the sport.

I also want to debunk the myth that it's somehow inhumane not to treat horses with medications when they race. Almost every drug or medication has certain positive therapeutic qualities or effects, and other negative effects that are performance-enhancing and/or harmful to health. The key to an enlightened, effective, humane policy on drugs and medications in racing is to have the most knowledgeable, competent and unbiased people as possible balancing these positive and negative effects, and deciding which way the scales tip with respect to any particular drug or medication. The core of the problem is that this critically important balancing is being done today on a state-by-state basis by state regulators--many of whom are

well-intentioned--but the overwhelming majority of whom lack the necessary expertise (and some of whom are influenced by factors other than what's in the best interests of the health and safety of the horses) to make the best possible decisions. And different states have and continue to come to different conclusions on these watershed issues.

The most important aspect of H.R. 1754 is that it places USADA (with input from the horse racing experts on the board of HADA) in charge of conducting this balancing, not only with respect to the myriad of drugs and medications that exist today, but importantly with respect to the countless new drugs and medications that are being developed and created at this moment and into the future. USADA has by far the greatest repository of scientific knowledge and expertise of any organization in the world regarding the impact of drugs and medications on athletic performance and health. USADA is literally light years ahead of any individual state regulatory body in this regard. Most importantly, USADA is completely unbiased, independent and free from any conflicting motivations other than what's best for the health and safety of the equine athletes that are the foundation of our sport and our business.

The controversy over Lasix is a classic example of this problem. The words of experienced equine veterinarian Dr. Kraig Kulikowski accurately and succinctly describe Lasix far better than I ever could:

"Exercise Induced Pulmonary Hemorrhage (EIPH) is a disease affecting many race horses. The cardiovascular and respiratory tract are under incredible stress during racing. The exchange of oxygen in the lung is paramount during the extreme effort of racing. There are strong forces from the diaphragm to breath and there are even stronger forces on the blood pressure of the capillaries of the lungs. As the heart pumps stronger blood pressure to the vessels of the lung, the capillaries of the lung burst and begin to bleed. This blood leaks into the air sacs of the lung. At this point, the horse starts to drown on its own blood. Sometimes there is enough blood that it begins to pour from the horses nostrils. Typically, the first symptom a jockey or trainer will notice on a horse suffering from EIPH is a decrease in speed or performance.

Lasix (furosemide) is a diuretic. It has been used in treating horses with EIPH. It is not fully understood why furosemide helps with bleeding from the lungs. It could be that by dehydrating the horse, we decrease blood volume thereby lowering the blood pressure at the level of the lung capillaries. It could be that a drop in water weight on race day means that the horse is stressed less while weighing less. There may be other factors or it may be a combination of factors that result in a decrease in lung bleeding during exercise."

While I'm neither a medical doctor nor a vet, mountaineering is my hobby, and I know humans suffer a very similar problem when they go to high altitudes. When a

human's circulatory system is under stress because of the reduced oxygen in the air at altitude--similar to the stress a horse's circulatory system is under when running at full speed--a small percentage of humans suffer a genetic defect that prevents their red blood cells from being able to transport enough oxygen to allow their bodies to function normally. People with minor defects suffer minor effects generally known as "mountain sickness" and characterized by headaches at altitude. People with more serious defects are prone also to suffer High Altitude Pulmonary Adema (HAPE), where their lungs begin to fill with fluid. Similar to horses bleeding through their nostrils from EIPH, humans with severe cases of HAPE begin to cough up blood.

The treatment for humans is the same as for horses--a powerful diuretic called "Diamox" which I have personally used many times when climbing at high altitudes. But only roughly 6% of the population of race horses is genetically prone to suffer from EIPH to the point where they would be unable to race unless administered Lasix on race day. Yet virtually 100% of the horses who race in the US are treated with Lasix when they run. Why is this? Because the weight that a horse carries when he/she runs is critical to the speed that the horse can run. The overwhelming majority of races run in America vary the amount of weight that each horse carries in order to create as competitive a race as possible. The standard rule of thumb is that one extra pound of weight will slow a horse down by one length in a race of one mile. Depending on the size and weight of the horse, Lasix will typically flush 20 pounds or more of water weight out of that horse's system, and thus allow that horse to run that much faster.

So while 6% of the horses being treated with race-day Lasix are actually receiving a therapeutic benefit, the other 94% are using it solely as a performance-enhancer, and are suffering the detriment of racing at full physical capacity while dehydrated. Why is this bad? The answer should be self-evident for anyone who has ever tried to perform extreme physical exertion in a dehydrated state, but for people who haven't then Dr. Kulikowski again explains it far better than I ever could:

"Why argue against the use of Lasix if it helps EIPH?

First, a horse that bleeds from its lung and is drowning on its own blood is unfit to be a racehorse. If a juvenile human athlete coughed up blood every time he or she took to the little league field, they would not be considered safe or fit to have on that playing field.

Second, the concept of dehydrating an athlete prior to its athletic performance is medically inappropriate. Human athletes use the expression "stay hydrated" for a reason. A dehydrated athlete runs the risk of affecting muscle metabolism, kidney function and cardiovascular function along with many other metabolic functions. Just to make a horse artificially run faster, we potentially put the rest of its body functions at risk.

Third, bleeding into the lung has the impact of decreasing performance and

speed. By removing the effects of EIPH, we have removed the horse's ability to modify its efforts in a racing scenario. We artificially remove that governor on a horse's cardiovascular and respiratory system. We artificially allow that horse to run faster and further than it naturally would ever run. When we artificially allow that horse to run faster and further than it should, then on top of that we mask any possible orthopedic pain with steroids and anti-inflammatories, then horse's bodies fail."

The cost/benefit balancing on Lasix is so obvious that literally every major racing jurisdiction in the world--other than the United States--bans the administration of Lasix on race day. But for other drugs and medications--including importantly those drugs and medications still being created in labs right now and in the future--it may be a closer call or a more difficult balance. It is imperative--both from a moral and ethical perspective as well as from a business perspective--that we have the very best and most qualified, unbiased decision-maker—USADA (with the input of conflict-of-interest-free racing experts on the HADA board)--making one judgment for the best interests of all American racing rather than 38 different State regulatory bodies making 38 different decisions based on each state's parochial interests.

Chair Schakowsky, this very committee saved the sport of racing over 40 years ago when it passed the Interstate Horseracing Act, which allowed racetracks to transmit their racing signals over state lines. Today 90% of all wagers are interstate, and IHA is the life blood of the industry. In the U.S. in 2018, 493 Thoroughbred racehorses died, according to the Jockey Club's Equine Injury Database. This is absolutely unacceptable. Altogether, you have another opportunity to save our industry from itself and afford our equine athletes the protection they deserve by passing the Horseracing Integrity Act, and I strongly urge you to do so at the soonest occasion.

Thank you, Members of the Committee.

Testimony of Marty Irby
Executive Director
Animal Wellness Action
before the
U.S. House Subcommittee on Commerce and Consumer Protection
H.R. 1754, "The Horseracing Integrity Act"
January 28, 2020

On behalf of Animal Wellness Action, one of the nation's leading animal protection organizations on Capitol Hill, I submit this testimony in support of H.R. 1754, the Horseracing Integrity Act. I express my sincere thanks to Chair Jan Schakowsky and Ranking Member Cathy McMorris Rodgers for conducting this hearing and offer special thanks to Representatives Paul Tonko, and, Andy Barr for introducing this reform effort. I also express thanks to Energy and Commerce Committee Chair Frank Pallone and Ranking Member Greg Walden for their participation in this process. This hearing builds on the testimony and other information gathered during the 2018 hearing conducted before the Subcommittee on H.R. 2651 in the 115th Congress.

I first want to underscore that Animal Wellness Action does not oppose horseracing. We join with many horse owners, breeders, trainers, and racing enthusiasts in speaking out on the broader topic of the protection of horses within the American horseracing industry and across the greater equine world. We seek to promote the proper stewardship of horses at every stage of their lives, including during their racing careers. We are deeply concerned about on- and off-track risks to the horses, including catastrophic injuries sustained during racing.

America was built on the backs of horses, and they have always played a central role in the economy and culture of the United States. We owe them a debt of gratitude, and the very least we must do is ensure their safety, welfare, and protection.

Horses are dying at alarming rates on racetracks across the country, posing a serious animal wellness problem. 2019 was a tumultuous and tragic year in American horseracing, and 2020 has begun in quite the same vein. This epidemic has gained nationwide attention and concern – 42 horses have died at Santa Anita Park in Arcadia, California since December of 2018. There have been countless deaths on U.S. racetracks that continue year after year, decade after decade.

While there are a number of issues at play concerning fatal injuries to horses in American racing, the overuse of therapeutic drugs - such as powerful pain-masking agents – is one area where change is desperately needed. The rampant doping and abuse of medication within

American horseracing, along with the absence of a national regulatory body, pose unacceptable health risks to horses. Any gaming industry that takes shortcuts on animal protection and that cheats or misleads the betting public will see an erosion in public support and consequently in the future viability of the sport. Horses that need to be trained or raced under the influence of any performance-enhancing or pain-masking drugs should not be doing so and should be resting instead.

As a lifelong horseman who began riding unassisted at the age of three, I have spent the vast majority of my life in the presence of horses, and most of the past decade working to protect them. I understand their biology, their social characteristics, behaviors, and instincts, and I believe that horses are born to run.

Equine behavior is best understood from the view that as prey animals, horses are uniquely sensitive, and their first reaction to a threat is often to flee. But humans domesticated horses thousands of years ago, and they have served us in the establishment and construction of our modern-day society. Through selective breeding, some breeds of horses have been bred to be quite docile, particularly certain large draft horses. On the other hand, more athletic breeds were selected for traits such as speed, agility, alertness, and endurance; building on natural qualities that extended from their wild ancestors. These are the same traits carried today by the breeds of horses we see in racing competition, traits that predispose them to inherent vulnerabilities when overworked, resulting in painful and often permanent injuries. Simply masking pain or injury for the benefit of human exploitation and capital gain has created an equine welfare crisis within the racing community and public domain alike.

For the past five years, I have worked in concert with the Coalition for Horseracing Integrity to advance the Horseracing Integrity Act in order to bring a higher standard of care and safety for the horses, save equine lives, and bring integrity back to the sport. This goal is achievable for the horseracing industry, and it's a great hope of mine that Congress will ensure these results by passing the Horseracing Integrity Act so the measure can set a new standard and become the law of the land.

Today horseracing operates under an outdated, state-based, balkanized patchwork of medication rules that creates confusion and risk for owners and trainers and contains gaps in rules and enforcement. The Horseracing Integrity Act would greatly improve regulatory standards, ban the use of all medications on race day, and level the playing field for everyone invested in horse racing — horses, jockeys, trainers, owners and fans alike.

While many professional sports have taken crucial steps to rid their games of illegal doping, the racing industry continues to lag behind — not because of a lack of leadership, but because too many players within the industry are simply opposed to fundamentally altering the status quo, which has led to the multitude of equine deaths each year.

This isn't the first time Congress has taken a look into horse racing. In fact, in 2008, after Eight Belles was euthanized on the track at Churchill Downs following her second-place finish in The

Kentucky Derby, the House convened a series of hearings, wherein the industry promised to unite and modernize its regulations. Today, very few states are compliant with the minimum standards the industry has set for itself. The inability of the industry to better protect its equine and human athletes, as well as the interests of fans, underscores the need for the Horseracing Integrity Act to pass during the 116th Congress before the end of this year. If Congress passes the Act, it will provide an opportunity to help protect animals and bring a greater level of safety to U.S. horseracing once again.

The Horseracing Integrity Act designates the U.S. Anti-Doping Agency (USADA) as the independent anti-doping organization that would oversee and administer all drug testing in U.S. horseracing. USADA, a non-profit, non-governmental agency, is recognized by Congress as the official anti-doping agency for Olympic, Pan American, and Paralympic sports in the United States. Delegating the authority for testing, oversight, and rulemaking to USADA is the cornerstone of this landmark legislation and a provision that we believe to be the most critical component for the protection of racehorses along with the legislation's specific ban on the use of race-day medication.

With limited oversight from the Federal Trade Commission (FTC), H.R. 1754 would provide USADA with the ability to impose penalties for cheating that apply nationwide: a lifetime ban for the most severe types of doping, and a range of penalties for other serious medication violations, and suspensions for rules violations. Currently, each state's racing commission sets its own rules, allowing trainers to escape oversight by simply moving to another state. The bill's ban on race-day medication of horses would ideally be phased in over several years to allow for the industry to make a more comfortable transition. Horses who need drugs to race should not be entered into competition with a cocktail of legal or illegal drugs that could put their safety and health in jeopardy.

Imagine if all 32 professional football stadiums in the U.S. had its own set of rules, with variations from stadium to stadium, that's the scenario that American horseracing currently operates within. The states have varying rules and penalties on medicating horses, and that patchwork has proved dangerous to horses and unfair to racing fans and to responsible owners and trainers. And if NFL players choose to take the risk of drugging themselves, they are the ones who have made that decision. Unlike human athletes, horses have no voice, and they have no choice. That is why we are here today, and why we must ensure they are properly protected.

California Governor Gavin Newsom may have said it best in a September 2019 interview with The New York Times when he put California horse racing on notice: "I'll tell you, talk about a sport whose time is up unless they reform. That's horse racing. Incredible abuses to these precious animals and the willingness to just spit these animals out and literally take their lives is a disgrace." That's a pretty strong statement from the leader of a state with an enormous horseracing industry.

In addition to the deaths, Newsom pointed out a second disturbing point: Justify, the winner of the 2018 Triple Crown (only the second horse to attain the title in the past 40 years) failed a drug test after winning the Santa Anita Derby. The Santa Anita victory was a qualifier that preceded the superstar's sweep of The Kentucky Derby, Preakness Stakes, and Belmont.

Unfortunately, the California Horse Racing Board (CHRB) disposed of the review behind closed doors while its chairman maintained a horse with Justify's trainer — perhaps the most well-known figure in modern American horseracing: Bob Baffert. It's a serious conflict of interest, and when the CHRB doubled down last year, denying an effort to reopen the inquiry, more and more animal activists began to take notice and started contacting us expressing a desire to bring horseracing to an end.

The public sentiment is very rapidly shifting from a desire to end doping to concerns about the very existence of the sport itself. It is past time for the racing industry to realize it isn't business as usual and big changes are being demanded by concerned citizens who won't put up with business-as-usual when it comes to equine welfare.

But passing the Horseracing Integrity Act is not the only thing that's needed to ensure the protection of these majestic animals. The slaughter of American equines for human consumption claimed around 70,000 horses in 2018. We don't eat horse meat in America just as we don't eat dogs and cats (Congress banned the slaughter of Dogs and Cats for human consumption in the Farm Bill signed into law in December of 2018). Horse slaughter is a cruel and terrifying end for the horses, and these intelligent creatures have done nothing to warrant this kind of mistreatment and crass exploitation.

In 2012, a [Wild for Life Foundation study](#) showed that approximately 19% of horses sent to slaughter were Thoroughbreds, but there does not appear to be much data on the numbers since then. Due to the efforts of the Thoroughbred Aftercare Alliance and increasing anti-horse slaughter policies at many of America's racetracks, the numbers have most certainly declined, and we applaud their work, but again more must be done.

The U.S. Department of Agriculture documented serious cruelty violations in plants previously operated in the United States before closure in 2007. Millions of taxpayer funds were being wasted to "oversee" operations involving horses with broken bones and terrifying eye injuries in foreign-owned facilities on an annual basis before their closure.

Most Americans want no part of this enterprise of supplying foreign diners with slabs of horse meat. Even Ferdinand, the winner of the 1986 Kentucky Derby held at Churchill Downs, fell victim to this predatory industry, reminding us that this unethical enterprise has been consuming horses for decades. If one of the nation's most popular horses is prodded into a kill chute, then no horse is safe. In addition to advancing H.R. 1754, it is vitally important for the protection of American racehorses that the full House Energy and Commerce Committee also advance H.R. 961, the Safeguard American Food Exports (SAFE) Act, led by Chair Schakowsky,

and Representative Vern Buchanan, that is set to be heard tomorrow morning by the Health Subcommittee.

And there are still more issues that must be addressed as well. Eliminating whipping is one important reform that the industry must make to put the welfare of horses at the center of the enterprise. Make no mistake, the use of a whip to force horses to run faster is archaic and should be eliminated on a global scale. Our modern-day society will not tolerate these types of abuses and will not tolerate horse deaths for the purposes of entertainment – this isn't ancient Rome, it's 2020.

The inability of the industry to better protect its equine and human athletes, as well as the interests of the betting public, underscores the need for the Horseracing Integrity Act to pass during the 116th Congress. If Congress fails to pass the Act, and obstructionists within the industry continue to hinder the legislation, then we may very well see those who demand horseracing be brought to an end prevail. Those who oppose H.R. 1754 must take a serious look in the mirror and ask themselves if they want to be remembered for animal abuse, countless horse deaths, and bringing an end to horseracing, or for saving lives and bringing integrity back to the sport.

I am grateful for the honor and privilege of speaking before you today and ask that the Horseracing Integrity Act be advanced through this Subcommittee and the full Committee to the House floor for a vote, and I thank Chair Schakowsky, and Members of the Committee for their continued work and support to protect our iconic American equines from the abuses they face. The way in which we treat the most vulnerable among us is a reflection of our character as a nation and a society.

Statement by
William M. Lear, Jr.
Vice Chairman, The Jockey Club
House Energy & Commerce Subcommittee on Consumer Protection & Commerce
HR 1754 Horseracing Integrity Act
Tuesday, January 28, 2020

Good Morning. Thank you Chair Schakowsky, Congresswoman McMorris Rogers, and Members of the Committee for inviting me to testify today. My name is Bill Lear, and I am Vice Chairman of The Jockey Club and a Trustee of Keeneland Association.

The goals of the Horseracing Integrity Act are simple and straightforward. We want the cleanest possible sport, we want the safest possible sport, and we want an even playing field.

Members of the Committee, everyone in horseracing has to recognize that we are no longer debating solely within the confines of our industry. Our audience now, our jury of our peers, is the public at large and the news outlets that determine what they will see and hear.

It is the universal public sentiment and the universally accepted public policy in the United States that performance-enhancing drugs have no place in sport. We have to fix our medication regulation system. And when I say that in this context, I always put "system" in quotes because what we have is no system at all. We have a patchwork, and a poor patchwork, within all of the different states. We have understood this problem for some time, and we have tried to address this problem internally — believe me, federal legislation is not the choice of first resort for us.

We tried with an interstate compact and the leaders of the industry, including most of the organizations you would love to see around the table working together, The Jockey Club, the American Quarter Horse Association, the United States Trotting Association, RCI, the New York State Racing and Wagering Board, the NTRA, Keeneland, the Kentucky Horse Racing Commission, the National, believe it or not, HBPA, worked together in 2009 and 2010 to create the Interstate Racing and Wagering Compact. Kentucky passed it. New York passed it in one house of the legislature. Virginia tried to pass it, but couldn't. So that compact died for lack of a second. Now they're trying again in the Mid-Atlantic Region and I commend them for the effort, but I don't hold out much hope.

The Achilles heel of interstate compacts is the set of conditions typically included to get them passed in the first place, such as (i) allowing member states to opt out of rules they don't like, or (ii) allowing states to pull out of the compact at any time for any reason, or (iii) unrealistic super majority voting requirements. The Mid-Atlantic compact has an 80 percent rule. That means one or two states have an effective veto.

Members of the Committee, we tried the interstate compact. We tried within the industry under National Uniform Medication Program, or NUMP. Six years ago, NUMP was introduced

with four components and then added a fifth one for out-of-competition testing. Adoption throughout the states has been slow, erratic, and even now, is incomplete. And that's just the initial elements. Every time there's a significant change to NUMP, that change has to run the gauntlet of 30-some racing states. Each one with its own set of protocols, processes, administrative rules and regulations. It took six years in California to get third-party Lasix. And there are lots of other examples of that sort of thing.

So where are we with our current system? The unfortunate reality is that we are pretty much in the same place that we were four years ago.

Do we have the same medication rules in place in every racing jurisdiction in the United States or even in all of the major racing states? No.

Do we have the same testing rules and procedures in place in every one of those racing jurisdictions, including best practices out-of-competition testing? No.

Do we have the same procedures and standards in place for laboratories and the same contractual arrangements? And that's really important because the price people are paying for tests varies across the board. And are all the labs accredited to the same standards as the best labs in other countries? No, no, and no.

Do we have the same processes for investigation, prosecution, and adjudication of rules violations in all of the racing jurisdictions? Again, no.

Do we have the same system of penalties in place in every racing jurisdiction and is there consistency in the application of those penalties? Meaning does the same offense draw the same penalty in California as it does in New York as it does in Kentucky and Florida? No.

Do we have a system in place that can react quickly and uniformly throughout the nation to address the latest new drug that comes along and is used by those who would cheat to try to beat the system? No.

Do we have a medication regulatory authority in place that can speak with one voice to the authorities of other nations when the need to do so arises? Again, no.

It's not enough to say that, well, the majority of racing starts occur in states that have the same list of permitted and prohibited medications or the same multiple violation rules. That's not national uniformity. If they don't test the same, if they don't have the same lab contracts, if they don't investigate as thoroughly, if they don't do all those other things, it's not uniformity and it's not sufficient rigor in all probability.

Members of the Committee, we could be uniform and weak and that would be no better than we are today.

Passage of the Horseracing Integrity Act would address all of these deficiencies by combining the world's best anti-doping expertise with deep expertise and experience from within our industry, both on the governing board and in advisory committees. In a private, I want to underline that, a private, nonprofit entity under the umbrella of the Federal Trade Commission. The FTC has among its jurisdictional mandates, free, open and fair competition and consumer protection, which is a perfect fit for what we're trying to accomplish.

The legislation also has a mandate to provide due process guarantees to everybody, both in rules promulgation and in adjudications, the ability to react quickly, forcefully, and on a nationwide scale to address the next bad thing that comes up in medication. And we all know that more of those are coming.

It also provides an avenue for partnering with state regulators through contract to delegate the implementation of key parts of this legislative program, but all with the same processes, protocols, and rules.

And perhaps most importantly, the legislation is founded upon the unremarkable proposition that the regulatory authority should be controlled by independent persons with deep knowledge of the subject matter, both anti-doping and horse racing, but with no conflicts of interest and nothing to gain or lose personally as a result of the regulations adopted.

Members of the Committee, no case better illustrates the need for an independent body than the unreported positive drug test by the super horse, Justify. In 2018, the California Horse Racing Commission, one of the best racing commissions in the country, decided behind closed doors not to disclose and to dismiss a positive drug test for Justify. I am not going to argue whether the overage in question would have made a difference in the race, or how the horse got this drug in its system. What I can say is that this board, with some members with financial ties to the industry, and the then-Chairman of the board having had a horse with the same trainer as Justify, decided to suspend their own processes. I ask, how is that going to instill faith in the system?

We are facing an existential threat. If our response to that threat is or even appears to be business as usual, we're going to lose. We're going to go the way of the circus and dog racing in Florida.

We all know that we need to change what we're doing. And the battle we're waging for the hearts and minds of the public, passage of meaningful reforms, will be critical. The HIA represents true reform and because of that, as you've seen, it's supported not just by industry key players like the Breeders' Cup, TOBA, KTA, Keeneland, WHOA, The Jockey Club, but also, by the top animal welfare organizations.

Many people in our industry believe that we are staring at the abyss. The future of Thoroughbred racing and breeding is at stake. We have to do more to protect our athletes. We have to do more to protect our horses and to get the cheaters and the abusers out of our sport.

There is a path forward and the Horseracing Integrity Act represents that path. It can put us on the road to not just recovery, but prosperity, if we will all join in. Thank you.

Statement by Chris McCarron

Energy & Commerce Subcommittee on Consumer Protection and Commerce
Re: H.R.1754 – The Horseracing Integrity Act of 2019
January 28, 2020

Chair Schakowsky, Ranking Member McMorris Rogers, and Members of the Committee, my name is Chris McCarron. I was a professional Thoroughbred jockey for 28 years, from 1974 through 2002. I won 7,141 races, and when I retired, I was the leading money earner in the sport's history. I won six Triple Crown races and nine Breeders' Cup races, five in the Classic. I was inducted into the National Racing Hall of Fame in 1989 during my first year of eligibility. I am also a founding member of the Humane Society of the United States National Horseracing Advisory Council. I joined that council because I believe in the organization's animal welfare mission. The humane movement in American history was built around the protection of horses, and we have a deep responsibility to them. That's why I'm here today.

I support H.R. 1754 because horseracing, as a sport, has been in a serious decline for years and something must be done to curb this trend. I believe one of the reasons for this decline is the lack of public confidence in our product. Over the past few decades, medication violations (I mean by this, horses testing positive for banned substances and for non-banned substances in excess of permitted amounts) have escalated to the point of being unacceptable to our patrons and participants alike.

When I began my career in Maryland in 1974, the average number of *annual* starts was approximately 14. Today the average number of *career* starts is 11. This statistic alone has caused many of our horse owners to leave the sport and countless others to lose interest in becoming an owner. Racing simply cannot withstand this serious decline. Why would anyone, knowing these stats, want to become involved in racehorse ownership?

Further, there are far too many horses becoming injured to the point where their careers come to an early end. To borrow and adapt an old adage, "medications don't kill horses, improper use of medications kill horses," i.e., racing horses that would be better served by much-needed rest. Instead of giving the animal the rest it needs, a trainer relies on his/her veterinarian to administer a medication to mask pain by reducing inflammation caused by an injury. I can tell you this for sure. Horses' careers would last much longer if this practice was less prevalent.

I should also say this, that I have a personal interest in seeing this bill passed. Far too many of my brethren, the active jockeys and exercise riders plying their trade on a daily basis, are being injured due to horses breaking down during racing or training. Several years ago, the *Journal of American Medical Association* conducted a study that revealed

that jockeys experience 35 accidents per week. To be clear, this is a very dangerous occupation. More to the point, on average, two jockeys die each year due to training or racing accidents and two more are left paralyzed. The vast majority of these tragedies occur due to a horse's breaking down. Very often these horses are racing with pre-existing conditions that have been masked by medication.

I can also tell you this. While riding, there is no more of a helpless feeling, Madam Chair, than when a horse breaks down. If a jockey is lucky enough to survive the fall, the sorrow felt for the fate of the horse is the next weight to bear. When jockeys get on the horses, they aren't told the medical history, they aren't told whether the horses are completely sound, they aren't told whether particular horses should be resting rather than racing.

That is why I strongly support the Horseracing Integrity Act. This bill directly addresses one of the leading causes of breakdowns. Right now, there are almost no controls on what therapeutics horses are given while in training. A majority of breakdowns happen on the training track in the mornings. This bill will significantly expand out-of-competition testing, which is below 5% of all tests for horses right now. By comparison, 60% of all tests for Olympic athletes are out of competition.

There's something really wrong here and I'll tell you what it is. The status quo with 38 different states governing one industry with 38 different sets of rules and penalties and numerous different laboratories doing the testing using different standards is just not working. It simply cannot go on if Thoroughbred racing is to continue to be a viable industry.

I'm sure you are aware of the hundreds of thousands of jobs and the billions of dollars of revenue our industry provides. That concerns me too. Something must be done to stem the tide and stabilize an industry that is so vital to communities all over our country.

I sincerely hope you give H.R.1754 the thumbs-up and help the Thoroughbred racing industry right this ship. It's sinking and we truly need your help.