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# **THE MILKSHAKE THAT KEEPS ON GIVING**

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It's rare for one article on horse racing to have so many odd comments as Bill Christine's March 8<sup>th</sup> Los Angeles Times article entitled "Horse Racing Bridles at Trainer's Remark." This article was a follow-up to T. J. Simers' column of March 6<sup>th</sup> which had quoted trainer Jeff Mullin's comments on people who bet on horse racing.

Mullins had stated to Simers that "anyone who wagers on horses is either a '[gambling] addict or an idiot.'" "The problem," Mullins said, 'are all the addicts and idiots crying because they lost a \$2 bet,' and then demanding a level playing field. 'It will never be a level playing field. There are a lot of things people don't know, and won't know.'" ... "If you bet on horses, I would call you an idiot."

While Simers' use of quotations from Mullins is somewhat disjointed, [If you parse the quotes, Mullins didn't say that all bettors are addicts or idiots. He said at one point that people who bet on horses are idiots, and at another point that his problems were due to addicts and idiots who lost their bets. A more accurate presentation of his quotes would be that he said that all bettors are idiots, and some are addicts. Saying that all bettors are idiots is not that far removed from the old Damon Runyon line that "all horseplayers die broke."] the gist of Mullins' remarks seems clear. Mullins has no regard for horseplayers and believes that there is no reason for horseplayers to have access to crucial insider information.

Mullins also maintained in the Simers' article that veterinarian Rick Arthur who performs the milkshaking tests at Santa Anita has a conflict of interest since he is employed as a vet by other trainers and that California Racing Board executive director Ingrid Fermin has a conflict of interest since she is the sister-in-law of Bruce Headley who is a trainer and a rival and critic of Mullins.

Christine's column surveyed responses from others around the track and received a broad spectrum of comments none of which bode well for California racing.

Trainer Laura De Seroux further badmouthed Mullins and suggested that he be sent back to Arizona. As to Ingrid Fermin, she said, "I was one of the people who worked to get Ingrid that job. There aren't going to be any problems. It might not look right to the general public, but she's very honest." This clearly isn't the kind of support Ingrid Fermin needs. In government, an appearance of impropriety is tantamount to an impropriety. If the public thinks it doesn't look right, it isn't right. Just because Ingrid Fermin may be honest doesn't mean she's not involved in a conflict of interest situation. If reasonable people could believe that she is using her position for the private gain of others, (See Cal. Government Code 19900(a)), she has a conflict of interest.

This situation isn't the end of the world. Board procedures designed to prevent her from having any involvement with Bruce Headley should be in place to make certain that there is no problem here. Whether this policy of recusal is in place is unclear. In the Simers' article, Fermin said that she singled out Mullins for testing and that a Headley horse had also been selected for milkshake testing. But the point is that Fermin shouldn't be anywhere near a process where she could or could not single out Headley for testing.

Ingrid Fermin could be a terrific gain for California racing, but she needs to be far away from this testing process.

Hall of Fame trainer Bobbie Frankel suggested that Rick Arthur should not be in charge of milkshake testing. Trainers Bob Baffert and Doug O'Neill had also suggested this was a conflict in the Simers' article. It's hard to see how this is not a conflict. Arthur does all the milkshake testing, but works for certain trainers. The limited defense offered by Arthur in the Simers' article is hardly compelling. Arthur suggested there might be a conflict issue, but that "there is no one else to fill the role of overseeing the program." This can't be the way to do business.

Similarly unhelpful were the comments of California Horse Racing Board Chairman John Harris. Chairman Harris is a breeder and owner of horses and he complained about a legislation which would prevent people with horse racing interests from serving on the Horse Racing Board. He believed that the bill was a power toy for the Jockeys Guild and said, "Being a board member takes a tremendous amount of time, and someone not deeply interested in the sport isn't going to dedicate that time."

This statement is nearly as anti-fan a statement as Mullins' utterances. Harris is saying that mere horse racing fans in California (and arguably the even greater number of former fans) could not serve as board members since they don't have the necessary interest to serve on the Board. Only owners and breeders could have that degree of interest. There have to be literally thousands of horseplayers and fans who would gladly serve with dedication on the Horse Racing Board, and some could conceivably even devote more time to the job than its current members. Harris is saying that you need to accept some conflict in order to get better Board members. There is absolutely no evidence that he is correct. One would think that in a field like horse racing with a great potential for corruption, there should be no government acceptance of any conflicts of interest.

Harris also in the Christine article said that "a law that would enable the board to mete out stricter penalties could be passed by next month." Yet Harris, who has been on the Board for 4 ½ years, was part of a board that for years significantly watered down penalties to drug offenders. See Brent Schrottenboer, "Many on Horse Racing Board Have Stake in Industry," San Diego Union-Tribune, December 18, 2004. According to a September article in the Blood-Horse, "of 51 drug positives since 2000, only 10 suspensions have resulted, with several cases pending." Jeff Nahill, "Del Mar Resident Brings a Strong Voice to California Racing Board," North Country Times, February 11, 2005.

Moreover, the legislation to which Chairman Harris appears to be referring (AB 52) does not actually increase penalties. All it does is arguably clear the way for State milkshake testing by obviating the need for a split sample for milkshake testing. Since there's no possibility of a split sample for total carbon dioxide testing, there is no reason for a split sample requirement.

California's milkshake problems don't seem to be limited to Jeff Mullins. There are lots of questionable ingredients affecting much of California racing regulation. This is truly the milkshake that keeps on giving.