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April 9, 2010

By email: efenasci@lahbpa.org
And regular mail

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Ed Fenasci
Secretary/Treasurer
Louisiana Horsemen's Benevolent & Protective Association
1535 Gentilly Blvd.
New Orleans, LA 70119

Re: Seelig, *et al.* v. La. Horsemen's Benevolent & Protective Ass'n 1993, Inc., *et al.*
Civil District Court, Orleans Parish, Case No. 2009-13379
Independent Counsel Engagement and Report

Dear Ed:

Further to my letter dated April 1, 2010, I investigated the transfer of funds from the Louisiana Downs Video Poker Settlement Account to the LHBPA as suggested toward the end of that letter. My investigation leads me to conclude that the LHBPA should not consider bringing suit against any of its board members or its executive director on the *Use of Video Poker Settlement Account Funds* subject area that I was tasked to investigate. Thus, based on the facts that I investigated and as I presently understand them, I do not believe that the LHBPA should consider bringing suit against any of its board members or its executive director for the wrongdoings alleged by the plaintiffs in the referenced lawsuit concerning any of the eight subject areas that I investigated.

As you know, my lingering concern about the *Use of Video Poker Settlement Account Funds* subject area involved seven checks written on the "Louisiana Downs Video Poker Settlement Account" (Merrill Lynch account no. 21904165) to the LHBPA from August 2008 through July 2009:

<i>Check no.</i>	<i>Date</i>	<i>Amount</i>
119	August 25, 2008	\$24,000.00
120	August 26, 2008	\$50,000.00
121	October 16, 2008	\$50,000.00

<i>Check no.</i>	<i>Date</i>	<i>Amount</i>
122	November 24, 2008	\$25,000.00
123	December 23, 2008	\$25,000.00
124	January 22, 2009	\$25,000.00
125	July 23, 2009	\$25,000.00

The minutes of the LHBPA's Finance Committee's meeting of December 9, 2008 show that the LHBPA needed "additional revenues because of the dramatic interest rate declines which have resulted in reduced revenues and increased expenses such as legal expenses." Minutes of Finance Committee meetings and of Board meetings do not, however, reflect any discussion of the transfers of funds to the LHBPA from the Louisiana Downs Video Poker Settlement Account such as those that occurred from August 2008 to July 2009. Consequently, I felt that further investigation of those transfers was warranted.

To investigate those transfers, I reviewed bank records at the LHBPA's offices on April 8, 2010. Specifically, I reviewed monthly account ledgers for the LHBPA account at Chase Bank known as the "1993, Inc." account (account no. 5114099877) for the months of August, September, October, November, and December 2008 and January and July 2009. The seven checks itemized above were deposited into the 1993, Inc. account on the dates listed above. I also reviewed check register reports for the 1993, Inc. account for the periods August 1, 2008 through January 31, 2009 and July 1, 2009 through August 31, 2009. The check register reports showed every check written on the 1993, Inc. account for those periods.

The monthly account ledgers and the check register reports provided a picture of the transfer of funds into and out of the 1993, Inc. account. Generally, the transfers of funds into the 1993, Inc. account from the Louisiana Downs Video Poker Settlement Account occurred when the balance of the 1993, Inc. account dropped below \$20,000.00.¹ The incoming transfers appeared necessary to keep a positive balance in the 1993, Inc. account. The checks listed in the check register reports for the 1993, Inc. account appear to be for normal and/or recurring business expenses of the LHBPA, including payment of legal fees and indemnification payments for legal expenses incurred by Board members or employees of the LHBPA. None of the checks listed in the check register reports appear to indicate any improper payments or self-dealing by any of the LHBPA's board members or its executive director. As a result, my concerns about the *Use of Video Poker Settlement Account Funds* subject area were assuaged.

Please let me know if you have any questions or comments about this or my earlier letters of March 22 and April 1. I am available to discuss this matter with the LHBPA at the convenience of all involved. I reserve the right to modify and or supplement my report on the basis of additional information received or knowledge gained about its subject matter.

¹ When the January 2009 transfer occurred, the balance of the 1993, Inc. account was \$27,296.36. When the July 2009 transfer occurred, the balance of the 1993, Inc. account was \$45,374.79. However, funds totaling \$50,103.67 were transferred from the 1993, Inc. account to the LHBPA medical benefit trust administrative account in August 2009.

Ed Fenasci
April 9, 2010
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Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read "RLT", written in a cursive style.

Richard L. Traina

RLT:br

Cc: Elizabeth A. Roussel, Esq. (by email: liz.roussel@arlaw.com)

C. James Gelpi, Esq. (by email: cjg@stanleyreuter.com)