

LOUISIANA HORSEMEN'S BENEVOLENT
AND PROTECTIVE ASSOCIATION 1993, INC.



COMPLIANCE AUDIT
ISSUED MAY 4, 2011

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

May 4, 2011

**STANLEY SEELIG, PRESIDENT OF THE
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HORSEMEN'S ALLIANCE HOLDING, INC.**
New Orleans, Louisiana
**SAM DAVID, PRESIDENT OF THE
HORSEMEN'S INSURANCE ASSOCIATION SPC**
Grand Cayman Islands

We have audited certain transactions of the Louisiana Horsemen's Benevolent and Protective Association 1993, Inc., the Louisiana Horsemen Medical Trust, the Louisiana Horsemen Pension Trust, the Horsemen's Alliance Holding, Inc., and the Horsemen's Insurance Association SPC. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations and a matter for legislative consideration as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the Twenty-First Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP:DD:dl

LHBPA 2011

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Improper Use of Dedicated Funds

During the period 2006 through 2010, Louisiana Horsemen's Benevolent and Protective Association 1993, Inc. (LHBPA 93):

- (1) may have improperly used funds that were statutorily dedicated for providing medical benefits, pension benefits, and a worker's compensation program for expenses such as lobbying, soil testing, and board election costs;
- (2) may have violated Louisiana law by borrowing approximately \$1,085,718 from the Medical Trust to pay expenses of LHBPA 93, and incurred \$759,167 of lobbying expenses and \$11,000 of campaign donations; and
- (3) made monthly retainer payments of \$5,958, totaling \$346,774, from 2006 through 2010 on behalf of the LHBPA 93 and Medical and Pension Trusts to three law firms without a contract or evidence of work performed.

International Travel

During the period April 2006 through December 2009, on six occasions LHBPA 93 and the Horsemen's Insurance Alliance (HIA) SPC Board of Directors used statutorily dedicated fees totaling \$147,474 to travel to resort locations in the Cayman Islands, Aruba, Costa Rica, and Los Cabos, Mexico. Of the six occasions, one trip consisted of meeting with Cayman Authorities to establish HIA (totaling \$16,065); four were for HIA annual board meetings (totaling \$125,347); and the remaining trip was for LHBPA 93 employees to attend an international Cayman Captive conference (totaling \$6,062). Each annual HIA board meeting trip lasted five to six days although only one board meeting and one shareholder meeting was held during each trip.

Board Operations

During the period 2006 through 2010, LHPBA 93:

- (1) did not have a written contract or cooperative endeavor agreement for services provided with any of the affiliated entities;
- (2) directed the operations of the affiliates as if there were no distinct entities;
- (3) may have violated Louisiana law^{14, 17} by using statutorily dedicated funds to create and operate the HIA, a Cayman Corporation that provides worker's compensation benefits to Louisiana horsemen; and
- (4) improperly voted to appoint Medical and Pension Trust Trustees.

Since the LHBPA 93 board appeared to operate these affiliates as one entity, its actions could negatively impact the not-for-profit status of LHBPA 93 and affiliates, and subject them to further government regulation and taxation. In addition, LHBPB 93 may also be subjected to the liabilities of the affiliated entities.

Background

The LHBPA is a nonprofit corporation that is recognized and designated by the Legislature as a representative of its members and other horsemen for the purpose of protecting the interests of Louisiana horse owners and trainers racing in the state.¹ The LHBPA is governed by a member elected board that is comprised of five horse owners, five horse trainers, and a president. According to Mr. James Gelpi, former LHBPA legal counsel, in 1992 the LHBPA lost its tax exempt status and reorganized as Louisiana Horseman's Benevolent and Protective Association 1993, Inc. (LHBPA 93). LHBPA 93's nonprofit status did not permit benevolent acts. Therefore, to continue providing medical and pension benefits, LHBPA 93 created two independent entities titled the Louisiana Horsemen's Medical Trust (Medical Trust) and the Louisiana Horsemen's Pension Trust (Pension Trust). In 2006, LHBPA 93 created two independent entities (Horsemen's Alliance Holding, Inc. [HAH] and the Horsemen's Insurance Alliance SPC [HIA]) to establish the Louisiana Horsemen's Workers Compensation (WC) Program in response to legislation passed in 2005. Louisiana law provides funding for LHBPA 93, its affiliated entities, and the WC Program as follows:

Entities	Funding Source ²	Total Revenue 2006 - 2008 ³
LHBPA 93	Interest on the Horsemen's Bookkeeper Account and a portion of the Pony Lead Fee ⁴	\$2,399,884
Medical Trust	Fees from Video Poker, ⁵ Slots, ^{6,7} Pari-Mutuel ⁸ and Off Track ⁹ Wagering	20,892,512

(Continued)

¹ Louisiana Revised Statute (R.S.) 4:179.1 provides that "the Horsemen's Benevolent and Protective Association is hereby designated and recognized as an authorized representative that shall represent member and other horsemen racing at licensed race meetings held in the state of Louisiana for the purpose of, but not limited to, negotiating contracts for such horsemen with all racing associations licensed by the state of Louisiana, relative to purses, hospitalization, medical benefits, conditions, and all other matters of interest and concern to such horsemen."

² According to the Louisiana State Racing Commission, funding sources directed by Louisiana law to LHBPA 93, including video poker at off track betting facilities and slots, are provided before tax.

³ Revenue figures were obtained from the last three available financial audits or compilations.

⁴ R.S. 4:185(B)(3) provides that "interest earned on the investment of monies in the Horsemen's Bookkeeper Account and that portion of a pony lead fee as hereby authorized and assessed by the representative of horsemen in the state to provide retirement benefits to horsemen and to pay its administrative and operating costs, withdrawals from the account shall be only for those purposes provided in Paragraph (2) of this Subsection."

⁵ R.S. 27:318(B)(4) provides in part that "four percent of all monies earned or authorized in accordance with the provisions of this Section for purse supplements shall be paid the authorized representative of the horsemen for the use and benefit of such persons and other horsemen as medical and hospital benefits. However, provisions of this Paragraph shall not apply if provisions of R.S. 4:183 as currently in effect require such a deduction from monies earned for purse supplements under this Section, and provisions of this Paragraph would result in duplication of designated funds for hospitalization for horsemen."

⁶ R.S. 27:361(B)(4)(a)(i) provides that "seventy percent to supplement purses for thoroughbred races at that facility or any facility licensed by the Louisiana State Racing Commission to conduct additional or substitute races or race days as authorized by R.S. 4:147.1, thirty percent of which shall be for Louisiana-bred thoroughbred horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law."

⁷ R.S. 27:361(B)(4)(a)(ii) provides that "thirty percent to supplement purses for quarter horse races at that facility or any facility licensed by the Louisiana State Racing Commission to conduct additional or substitute races or race days as authorized by R.S. 4:147.1, sixty percent of which shall be for Louisiana-bred quarter horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law."

⁸ R.S. 4:183 (A)(4)(b) provides that "four percent thereof to the Horsemen's Benevolent and Protective Association for the use and benefit of such permittees, their employees, and others as medical and hospital benefits with an amount not to exceed thirty percent aforesaid of the commissions and amounts received by the Horsemen's Benevolent and Protective Association to be used for administrative expenses and other costs necessary to provide the benefits."

⁹ R.S. 4:217(D)(1)(d) provides that "two percent shall be distributed to the Horsemen's Benevolent and Protective Association for the use and benefit of such persons and other horsemen as medical and hospital benefits with an amount not to exceed thirty percent thereof to be used for administrative expenses and other costs necessary to provide the benefits."

Entities	Funding Source²	Total Revenue 2006 - 2008³
WC Program	Fees from Video Poker, Slots and Pari-Mutuel Wagering ¹⁰	\$5,981,650 ¹¹
Pension Trust	A portion of the Pony Lead Fee ⁴ and Fees from Video Poker, Slots and Pari-Mutuel Wagering ¹²	1,168,061
	Total	\$30,442,107

Pursuant to Louisiana law,¹³ the Legislative Audit Advisory Council requested that the Louisiana Legislative Auditor conduct a compliance audit of the LHBPA operations. This is the first of two reports that will be issued related to this audit. The procedures performed during this audit consisted of:

- (1) interviewing LHBPA employees;
- (2) interviewing other persons as appropriate;
- (3) examining selected LHBPA documents and records;
- (4) gathering documents from external parties;
- (5) reviewing LHBPA policies; and
- (6) reviewing applicable state laws and regulations.

¹⁰ R.S. 4:252(C)(5) provides that 'the total amount of purses and purse supplements authorized for use by the Horsemen's Benevolent and Protective Association for establishment, operation or administration of the insurance program authorized in this Part shall not exceed two percent of the total amount of purses and purse supplements available for purses for any race meet.'

¹¹ Premiums, totaling \$7,203,043, collected by LHBPA 1993, Inc., are maintained in a separate account and are not included in this total.

¹² In 2008 the Pension Trust began receiving additional funding from fees from Video Poker, Slots and Pari-Mutuel Wagering (totaling \$209,621) in accordance with R.S. 4:251.1(B)(1) which states, "Of the purses and purse supplements authorized for use by the Horsemen's Benevolent and Protective Association in this Part for the Horsemen's Benevolent and Protective Association's workers compensation insurance program, pursuant to R.S. 4:252(C)(5), the Horsemen's Benevolent and Protective Association may utilize up to one-half of that authorized two percent of the total amount of purses and purse supplements available for purses for any race meet for the improvement and administration of the Horsemen's Self-Help Pension Program without the limitations and conditions established for the Horsemen's Benevolent and Protective Association's workers compensation insurance program but with the limitations expressly established in Paragraphs (2) and (3) of this Subsection for the Horsemen's Self-Help Pension Program."

¹³ R.S. 4:185.1 provides in part that "the Legislative Audit Advisory Council may order additional audits of the LHBPA and its operations and programs."

Louisiana law¹⁴ requires that any funds received by any horsemen's organization or organization representing horsemen from any distribution, allocation, or deduction can only be used for the benefit of horsemen racing in the state of Louisiana. Since LHBPA 93 is the only entity with employees, it provides administrative and support services for its affiliated entities.

Improper Use of Dedicated Funds

As the administrator, LHBPA 93 manages the daily operations for the Medical Trust, Pension Trust, and the WC Program. According to LHBPA 93 records, expenses are allocated based on predetermined percentages between the LHBPA 93 and its affiliated entities. However, management cannot provide supporting documentation or demonstrate how the expense allocations were derived or how in some cases the costs benefitted the entity paying for the expense. During the period 2006 through 2010, LHBPA 93:

- (1) may have improperly used funds that were statutorily dedicated for providing medical benefits, pension benefits, and a worker's compensation program for expenses such as lobbying, soil testing, and board election costs;
- (2) may have violated Louisiana law^{5, 6, 7, 8, 9} by borrowing approximately \$1,085,718 from the Medical Trust to pay expenses of LHBPA 1993 and incurred \$759,167 of lobbying expenses and \$11,000 of campaign donations; and
- (3) made monthly retainer payments of \$5,958, totaling \$346,774, from 2006 through 2010 on behalf of the LHBPA 93 and Medical and Pension Trusts to three law firms without a contract or evidence of work performed.

LHBPA 93's Improper Use of Statutorily Dedicated Funds

Louisiana law^{5, 6, 7, 8, 9} restricts the use of medical purse supplement fees to pay medical and hospital benefits to Louisiana horsemen. After receiving these statutorily dedicated fees, LHBPA 93 deposits them into a Medical Trust administrative bank account and transfers 70% of these fees to the medical benefit account to be paid out in benefits. Before 2006, the LHBPA 93 developed and implemented expense allocation procedures for itself, WC Program, Medical Trust, and Pension Trust. As a practice, certain operating expenses incurred by all four of the affiliated entities are paid out of the Medical Trust administrative bank account such as travel, building maintenance, flowers, gifts, awards, professional services, donations, and office supplies. At the end of each month, these expenses are then allocated to each of the four affiliated entities.

¹⁴ R.S. 4:179.2 provides that "any horsemen's organization or organization representing horsemen shall be either a corporation or a trust, or both, organized under the laws of this state, in order to receive a distribution, allocation, or deduction of any funds under the provisions of Part I and Part I-A of this Chapter. Any funds received by such organization from any such distribution, allocation, or deduction shall be used only for the benefit of horsemen racing in the state of Louisiana."

We discussed the expense allocation method with Mr. Bill Hof, the former LHBPA 93 treasurer, and he stated that the allocations were in place prior to his employment. He also stated that he made changes to the allocations when the WC Program began at the direction of Ms. Mona Romero, former LHBPA 93 executive director. Neither Mr. Hof nor Mr. Edwin Fenasci, current LHBPA 93 secretary/treasurer, could explain how the allocation percentages were determined or provide documentation showing that all of the entities approved the allocations. We attempted to discuss this matter with Mr. Sean Alfortish, former LHBPA 93 president, and Ms. Romero, but neither of them would speak with us regarding this matter. In September 2010, Mr. Fenasci further stated that not all of the allocations are correct and that they are in the process of correcting the allocations for the upcoming financial audit. During our limited review, we noted that some of the expenses were allocated without regard for the entity receiving the benefit, such as lobbying, soil testing, and LHBPA 93 board election expenses.

Selected Examples of Expense Allocations			
Entity	2006 - 2007 Lobbying Expense Allocation	2008 Soil Testing Expense Allocation	2008 LHBPA 93 Board Election Expense Allocation
Medical Trust	\$19,628	\$1,757	\$20,631
LHBPA 93	12,249	1,054	16,212
WC Program	7,045	597	5,201
Pension Trust	1,908	105	1,300
Total	\$40,830	\$3,513	\$43,344

Since lobbying, soil testing, and board election expenses are not related to providing medical and hospital benefits, pension, or providing WC insurance, the allocation of these expenses may violate Louisiana law.^{5, 6, 7, 8, 9} For the fiscal year ended December 31, 2008, \$1,240,451 of expenses (not including payroll) were allocated as described below:

2008 Expense Allocation Summary		
Entity	2008 Average Allocation Percent	2008 Allocation Total
Medical Trust	50%	\$622,991
LHBPA 93	28%	349,559
WC Program	19%	230,686
Pension Trust	3%	37,215
Total Allocated		\$1,240,451

LHBPA 93 and the Pension Trust do not maintain signed board minutes. Of the unsigned minutes provided by LHBPA 93 and the Pension Trust, and signed minutes provided by HIA, there is no mention of or discussion of expenses to be allocated or the percentages allocated to each entity. In addition, since the Medical Trust Trustees do not meet to discuss administrative issues or review and approve administrative expenses before payment, the Trustees cannot

demonstrate that they approved the use of the Medical Trust's funds to pay the expenses of the affiliated entities.

According to LHBPA 93 records, during 2006 through 2008, it took between four and eight weeks to transfer the 70% benefit portion of the statutory fees from the Medical Trust administrative bank account to the benefit account. According to Mr. Murray Woodward, medical plan administrator, when the medical benefit account balance approaches \$180,000, he slows down on issuing checks until additional funding is deposited from the Medical Trust administrative bank account. The practice of using the Medical Trust's administrative funds to pay expenses for other affiliated entities may have caused a delay in payment of medical benefits. In addition, the allocation of expenses that do not relate to a particular program would have reduced the amount of funds to be used to provide medical, pension, and workers' compensation benefits to Louisiana horsemen.

Improper Loans of Medical Administration Fees

Louisiana law^{5, 6, 7, 8, 9} restricts the use of medical purse supplement fees to pay medical and hospital benefits to Louisiana horsemen. During the period 2006 to May 2010, the Medical Trust may have violated Louisiana law^{5, 6, 7, 8, 9} by improperly loaning LHBPA 93 funds to pay its expenses. According to LHBPA 93 records, as of February 18, 2011, the balance of the interest-free loan due to the Medical Trust from LHBPA 93 is \$1,085,718. In addition, this loan of the Medical Trust's funds may have caused a delay in providing medical benefits and/or limited the amount of benefits that could have been provided. We noted during this same period that the LHBPA 93 incurred \$759,167 of lobbying expenses and \$11,000 of campaign donations to Friends of Bobby Jindal and the Bobby Jindal Transition Fund.

Ms. Romero stated that the LHBPA 93 borrowed money from the Medical Trust because of its decrease in revenues. She also stated that the LHBPA 93 board discussed this problem openly and should be included in the minutes. During our review of the LHBPA 93 unsigned minutes, there were no discussions or board action regarding borrowing funds from the Medical Trust to pay its operating expenses. After reviewing the board minutes, we attempted to discuss this with Mr. Alfortish and Ms. Romero but they would not speak with us. Ms. Christine Early, LHBPA 93 board member and Medical Trust trustee, stated that LHBPA 93 began borrowing the funds before Mr. Alfortish became president and that the loan does not affect the benefits provided. Mr. Fenasci stated that the LHBPA 93 owed money to the Medical Trust before he became treasurer in October 2009, and that he found records as of March 2005, which indicate the LHBPA 93 owed approximately \$187,000 to the Medical Trust. He stated that LHBPA 93 revenue sources, interest on the bookkeeper account, and a portion of the pony lead fee⁴ have drastically dropped since the recession.

After receiving statutorily dedicated fees for medical benefits, LHBPA 93 deposits them into a Medical Trust administrative bank account and transfers 70% of these fees to the medical benefit account to be paid out in benefits. As stated above in the previous section regarding the improper use of statutorily dedicated funds, the improper loan of \$1,085,718 to LHBPA 93 to pay its operating costs may have caused a delay in providing medical benefits and/or limited the amount of benefits provided.

Retainer Payments

LHBPA 93 made monthly retainer payments of \$5,958, totaling \$346,774, from 2006 through 2010 on behalf of the LHBPA 93 and Medical and Pension Trusts to three law firms without a contract or evidence of work performed. A contract is not required by law, but is a good business practice. According to Mr. Fenasci, Mr. Larry Robideaux (Medical Trust Trustee), and Mr. Samuel David, LHBPA 93 board member and pension chairman, Mr. Gelpi, through the three law firms, was the general counsel for LHBPA 93, the Medical Trust, and the Pension Trust. LHBPA 93 could not provide us with a copy of any contracts or detailed invoices documenting the services provided by Mr. Gelpi. In addition, LHBPA 93 did not issue each firm an Internal Revenue Service 1099 Miscellaneous Income Form for services provided as required by federal law.¹⁵ We attempted to meet with Mr. Alfortish, Ms. Romero, and Mr. Gelpi for explanations, but they would not meet with us. Without sufficient documentation, LHBPA 93, the Medical Trust, and the Pension Trust cannot demonstrate that Mr. Gelpi provided legal services for each entity equal to his retainer amount.

We recommend that:

- (1) the Medical Trust seek immediate reimbursement of the loan balance from LHBPA 93;
- (2) the Medical and Pension Trusts review and approve expenses before payment to ensure that adequate services are performed, that supporting documentation is available, and that the statutorily dedicated fees are spent in accordance with Louisiana law;^{5, 6, 7, 8, 9}
- (3) LHBPA 93, the Medical Trust, the Pension Trust, and HIA review past expenses to the extent of available records to identify any improper expenses or expense allocations and recover those funds;
- (4) LHBPA 93 comply with the federal tax code by reporting all payments to attorneys as 1099 Miscellaneous Income;
- (5) all related entities obtain written professional services contracts including, but not limited to, contractual obligation amounts, services to be performed, expense reimbursements, and payment terms; and
- (6) the Medical Trust review administrative expenses, annually at a minimum, to determine the amount needed to pay for administrative expenses. If the entire 30% is not needed, the Medical Trust should consider transferring the unused revenue to provide medical benefits.

¹⁵ Internal Revenue Code 6045(f) provides, in part, "return required in the case of payments to attorneys."

International Travel

During the period April 2006 through December 2009, on six occasions LHBPA 93 and the HIA Board of Directors used statutorily dedicated fees totaling \$147,474 to travel to resort locations in the Cayman Islands, Aruba, Costa Rica, and Los Cabos, Mexico. Of the six occasions, one trip consisted of meeting with Cayman authorities to establish HIA (totaling \$16,065); four were for HIA annual board meetings (totaling \$125,347); and the remaining trip was for LHBPA 93 employees to attend an international Cayman Captive conference (totaling \$6,062). Each annual HIA board meeting trip lasted five to six days although only one board meeting and one shareholder meeting was held during each trip. Statements by board members or employees that attended indicate the two meetings could have been held on one day. Since the meetings were several days longer than necessary, some of the travel expenses may be personal in nature and violate Louisiana law.^{9, 10}

During the first two annual board meetings, the attendees stayed five nights and six days while the last two meetings the attendees stayed for four nights and five days. According to HIA records, two board meetings were held each year--the HIA annual board meeting and the HIA shareholders meeting. These records, along with statements made by Mr. David, Mr. William Hornsby, Mr. William Boorhem (current or former HIA board members), Ms. Tammy Broussard, Mr. Hof, Mr. Nicholas Leggio (three former LHBPA 93 employees who attended some of these board meetings), Ms. Rachelle Mischler (current employee), and Mr. Fenasci, indicate that both meetings were conducted or could have been conducted during one day. However, the board members and other current and former employees also stated that several short, informal meetings occurred during each trip but only a few select individuals attended. There are no records of these meetings.

Mr. David, Mr. Hornsby, and Mr. Boorhem referred to the international travel as a perk or vacation. Ms. Broussard, Mr. Hof, and Mr. Leggio stated that it was a vacation or the board members thought of the trip as a perk. Mr. Alfortish and Ms. Romero, who resigned from the board sometime after November 18, 2010, would not meet for an interview with the auditors. Although not the legal counsel for HIA, Mr. Gelpi also attended all of the meetings. He would not meet for an interview with the auditors.

Of the \$147,474 spent on international travel, \$28,319 was paid by the Medical Trust; \$118,977 was paid by HIA; and \$178 was paid by LHBPA 93. Since LHBPA 93 used Medical Trust funds to pay for HIA's travel costs, it may have violated Louisiana law.^{5, 6, 7, 8, 9} The following table is a summary of the expenses incurred by HIA for international travel.

Total International Travel Expenses	Total
Hotel/Airfare*	\$120,988
Meals**	19,178
Entertainment Expenses***	2,090
Gifts****	3,718
Petty Cash for the 2009 Board Meeting with No Supporting Receipts	1,500
Total	\$147,474
<p>* Includes some first-class airfare for Mr. Alfortish, Mr. Gelpi, and Mr. Hornsby and spouse. Also includes \$19,803 in guest and spouse expenses and \$7,675 in cancelation or penalty expenses.</p> <p>** Includes at least \$1,877 in alcohol expenses.</p> <p>*** Includes two fishing trips and a Sunset Cruise.</p> <p>**** Includes two Louis Vuitton handbags, totaling \$2,907, purchased by Mr. Alfortish for Ms. Romero and Ms. Broussard as gifts. The remaining \$811 was a purchase from a hotel gift shop on Mr. Alfortish's LHBPA 93 credit card.</p>	

During fieldwork, we reviewed existing records of LHBPA 93 and contacted vendors to review the invoices for the travel costs. Of the \$147,474 in international travel expenses, 88% did not have detailed supporting documentation. However, we were able to obtain some of these detailed receipts from vendors. Of the existing records, we found several expenses that may be inappropriate or personal in nature, which may be a violation of Louisiana law.¹⁴

We recommend that:

- (1) the Medical Trust seek reimbursement of \$28,319;
- (2) all related entities implement a travel policy with guidelines and limitations for travel expenses;
- (3) all related entities prohibit entertainment and personal expenses such as spousal/guest travel expenses, fishing trips, and Louis Vuitton handbags with statutorily dedicated fees;
- (4) all related entities document the public purpose and public benefit for amounts expended to determine if a trip or meal is in the best interest of the horsemen;
- (5) LHBPA 93 implement a credit card usage policy that:
 - a. outlines guidelines and restrictions for credit card usage,
 - b. requires employees to turn in all receipts, including itemized receipts for meal purchases, and

- c. requires documentation of the business purpose and attendees of all meals charged to its affiliated entities;
- (6) LHBPA 93 require credit card users to sign a form acknowledging their understanding of the credit card policy; and
- (7) HIA determine which travel expenses are personal or excessive and seek reimbursement for these expenses.

Board Operations

The LHBPA 93 board established and created the Medical Trust, Pension Trust, and the WC Program. Since LHBPA 93 is the only entity with employees, it provides administrative and support services for its affiliated entities. LHBPA 93 developed and implemented a cost allocation method to allocate expenses incurred for providing these services. During the period 2006 through 2010, LHBPA 93:

- (1) did not have a written contract or cooperative endeavor agreement for services provided with any of the affiliated entities;
- (2) directed the operations of the affiliates as if there were no distinct entities;
- (3) may have violated Louisiana law^{16, 17} by using statutorily dedicated funds to create and operate the HIA, a Cayman corporation that provides WC benefits to Louisiana horsemen; and
- (4) improperly voted to appoint Medical and Pension Trustees.

Since the LHBPA 93 board appeared to operate these affiliates as one entity, its actions could negatively impact the not-for-profit status of LHBPA 93 and its affiliates and subject them to further government regulation and taxation. In addition, LHBPA 93 may also be subjected to the liabilities of the affiliated entities.

WC Program

In 2005, the Louisiana Legislature passed a law to provide the LHBPA 93 the authority and the funding to establish, operate, and administer a WC Program to members and horsemen licensed to race in Louisiana.^{16, 17} LHBPA 93 was also provided the authority “to administer the insurance program as part of its corporate activity or to carry out the insurance program through one or more other entities which may include a trust established under the law of Louisiana.”

¹⁶ R.S. 4:251(B)(1) provides the LHBPA the authority “to establish, operate and administer an insurance program for the purpose of providing workers' compensation insurance coverage and related benefits to members of the Horsemen's Benevolent and Protective Association and other persons including and especially owners of race horses, licensed by the Louisiana State Racing Commission.”

¹⁷ R.S. 4:251(B)(2) provides the LHBPA “to administer the insurance program as a part of its corporate activity or to carry out the insurance program through one or more other entities which may include a trust established under the law of Louisiana.”

Creation of HAH and HIA

In April 2006, Mr. Alfortish, Mr. Gelpi, Ms. Romero, and Mr. Leggio traveled to the Cayman Islands to create the HIA. According to Mr. Leggio, they met with the Cayman regulatory authorities, chose a legal firm to create HIA, and chose USA Risk Group to manage and administer HIA's insurance operation. According to unsigned board minutes, there was no prior approval of these actions by the LHBPA 93 board. During the May 4, 2006, board meeting, the LHBPA 93 board was told a captive insurance company called HIA was formed to provide WC insurance. The board then appointed Mr. Alfortish, Ms. Romero, and two other board members to HIA and passed a motion to hire the Audubon Insurance Group, now Chartis, as the reinsurer of HIA.

According to records filed with the Louisiana Secretary of State, LHBPA 93 incorporated the HAH on June 30, 2006. On July 20, 2006 HAH purchased HIA, making it the parent company of HIA. The unsigned LHBPA 93 board minutes do not include any evidence the LHBPA 93 board approved the creation of or appointed board members to HAH. We also noted that the HAH board largely mirrored the HIA board and there is no record of the HAH board approving the purchase of HIA. Although created in June 2006, HAH did not have a board meeting until May 2010, and did not open a bank account until October 2010.

HIA is incorporated as a tax-exempt segregated portfolio insurance company in the Cayman Islands. HIA's business structure allows it to hold separate insurance portfolios for entities not affiliated with LHBPA 93 or the state of Louisiana. According to the December 31, 2009, audited financial statements, HIA has only one segregated portfolio called Louisiana Horsemen's SP. However, Mr. Michael Fenasci, LHBPA 93 WC administrator, stated that Mr. Alfortish was working on expanding the WC Program by allowing other states to participate. We attempted to discuss this matter with Mr. Alfortish, Ms. Romero, and Mr. Gelpi, but they refused to speak with us. Because statutorily dedicated fees could be used to provide WC benefits to horsemen in other states not licensed by the Louisiana State Racing Commission, this may not be consistent with Louisiana law.¹⁶

Although both were organized in the Cayman Islands under Cayman law, HIA and the Louisiana Horsemen's SP are solely funded through statutorily dedicated WC purse supplements received by LHBPA 93. HIA does not receive funds for operational or capital requirements from premiums collected from policy holders. Since HIA is not domiciled in Louisiana and is not registered with the Louisiana Secretary of State, LHBPA 93 may have violated Louisiana law^{14, 17} by funding HIA's operations with statutorily dedicated funds. Louisiana law provides that "any horsemen's organization or organization representing horsemen shall be either a corporation or trust, or both, organized under the laws of this state, in order to receive a distribution, allocation, or deduction of any funds and that these funds should only be used for the benefit of the horsemen."

Administering the WC Program

Since 2006, HIA has contracted with Chartis; a U.S. based insurance company licensed in Louisiana, as the reinsurer and issuer of WC policies to the LHBPA 93 members on Louisiana Horsemen SP's behalf. Although HIA is located in the Caymans, the WC Program is administered in Louisiana by LHBPA 93. During our review, we noted that LHBPA 93 has always administered the WC Program without a written contract or cooperative endeavor agreement with HIA. In addition, HIA holds only one annual board meeting and one shareholder meeting per year and both are held outside of the United States.

According to Mr. Gelpi, Mr. Rob Leadbetter, USA Risk, and Mr. Scott Penwell, HIA legal counsel, HIA does not conduct business in the United States to avoid United States regulation and taxation. However, during our review of LHBPA 93 unsigned minutes, we noted that the LHBPA 93 board may have conducted HIA business in the United States, which could make HIA subject to United States regulation and taxation. The LHBPA 93 board voted and passed the following motions in the United States on four separate occasions in 2009 to:

- (1) replace Andreini & Co. with Arthur J. Gallagher (June 15, 2009, New Orleans, LA);
- (2) replace Andreini & Co. with Arthur J. Gallagher as the agent of record and stay with Chartis for the renewal policy period (June 23, 2009, Teleconference);
- (3) approve Arthur J. Gallagher's basic contract terms (August 11, 2009, New Orleans, LA); and
- (4) amend Arthur J. Gallagher's contract to a specific fee schedule (December 20, 2009, Vinton, LA).

Matter for Legislative Consideration

If the LHBPA WC insurance coverage was organized under Title 22, the insurance code would require certain restrictions in regard to investments inclusive of securities, mortgage loans, and derivative instruments. In addition, the code would require a limit of 5% of the insurer's assets in any one institution and it would also require that any material transactions involving more than 5% of the insurer's assets would require the approval of the Department of Insurance.

As regard to the Title 23 WC coverage, i.e., the group self-insurance coverage, the restrictions on the assets of the WC insurer are even more stringent. The restrictions on the investments under this Title are similar to the restrictions that public entities have in regard to investments. For example, deposits of these WC companies must be in federally insured banks and savings and loan and such deposits must be collateralized by direct obligations of the United States Government.

A matter for legislative consideration is to place within Title 4 the requirement that LHBPA's WC Program either comply with the investment mandates of Title 22 or investment mandates of Title 23.

Medical Trust

The Medical Trust was formed in 1993 by the LHBPA 93 to administer the Louisiana Horsemen's Medical Benefit Plan (Medical Plan). The Medical Trust is funded exclusively by statutorily dedicated fees to provide medical and hospital benefits and to pay for administrative expenses related to providing such benefits to eligible horsemen.

Administering the Medical Plan

According to Mr. Gelpi, the LHBPA 93 created the Medical Trust because its not-for-profit status obtained in 1993 did not permit it to perform benevolent acts. The trust documents state that "the Medical Trust was created as a mechanism for the payment of medical and hospital benefits." After creating the Medical Trust, the LHBPA 93 continued to receive statutorily dedicated fees from Louisiana race tracks, in accordance with Louisiana law,^{5, 6, 7, 8, 9} and began depositing the fees into Medical Trust accounts. Louisiana law^{5, 6, 7, 8, 9} limits the use of these fees to paying medical and hospital benefits to Louisiana horsemen. According to the Medical Trust's audited financial statements, during the period 2006 through 2008, the Medical Trust received a total of \$20,892,512 in fees collected by the LHBPA 93.

The LHBPA 93 administers the Medical Plan without a written contract or cooperative endeavor agreement with the Medical Trust. However, LHBPA 93 receives a monthly management fee of \$2,800. According to the Medical Trust Agreement, the Medical Plan "shall be administered by the Trustees or a committee of persons designated by the Trustees in accordance with the terms of the [Medical] Plan." The Medical Trust Agreement also states that any action taken under the Medical Plan or the Medical Trust is determined by a vote of the majority of the Trustees. However, the Medical Trust does not have recorded board minutes documenting any decisions it has made in regard to the operations of the Medical Trust.

According to three Medical Trust Trustees, Mr. Robideaux, Ms. Early, and Mr. Sturgis Ducoing, LHBPA 93 has always administered the Medical Plan and the Trustees have never reviewed administrative expenses or approved them before payment. They also stated that the Trustees meet only to discuss and decide on medical benefits provided to members. According to Mr. Robideaux, Medical Trust chairman since 2005, LHBPA 93 runs the Medical Trust; they are operated as one and the same entity. In addition, the Medical Trust pays \$2,800 per month to LHBPA 93 without any written agreement with the Medical Trust. The Medical Trust Trustees may not be following the trust restrictions since they do not review or approve administrative expenses before payment or have a written agreement with LHBPA 93 to administer the Medical Plan.

Improper Appointment of Trustees to the Medical Trust

Since 2006, Medical Trust Trustees have been comprised of a combination of LHBPA 93 board members, members of LHBPA 93, and the LHBPA 93 president. According to the Medical Trust Agreement, the LHBPA 93 board can remove any or all Trustees from the Medical Trust. The Trustees “continuing in office shall appoint the person or persons to fill any vacancy in the office of Trustee, however caused, or may determine to leave the such vacancy unfilled so long as the two Trustees remain.” During the June 9, 2008, LHBPA 93 board meeting, the LHBPA 93 board removed some of the Trustees and improperly appointed new Trustees, which is not consistent with the Medical Trust Agreement, which provides that the continuing Trustees are to appoint the new trustees. We attempted to discuss this matter with Mr. Alfortish, but he would not speak with us.

Pension Trust

The Pension Trust was formed in 1993 by the LHBPA 93 board to administer the pension program. The Pension Trust receives statutorily dedicated fees to provide financial assistance for pension benefits and to pay for administrative and other costs necessary to provide these benefits.

Administering the Pension Plan

According to Mr. Gelpi, LHBPA 93 created the Pension Trust because its not-for-profit status obtained in 1993 did not permit it to perform benevolent acts. The Pension Trust was created as a mechanism for the payment of retirement benefits to eligible horsemen. In 2008, LHBPA 93 began to receive additional funds through statutorily dedicated fees from Louisiana race tracks, in accordance with Louisiana law.¹² According to the Pension Trust’s audited financial statements, during the period 2006 to 2008, it received a total of \$1,168,061 in fees.

LHBPA 93 administers the Pension Plan without a contract or cooperative endeavor agreement with the Pension Trust. We also noted that LHBPA 93 does not receive a fee for administering the program. According to the Pension Trust Agreement, the Pension Plan “shall be administered by the Trustees or a committee of persons designated by the Trustees in accordance with the terms of the [Pension] Plan.” The Pension Trust Agreement also states that any action taken under the Pension Plan or the Pension Trust is determined by a vote of the majority of the Trustees; however, the Pension Trust only has one set of board minutes during the period 2006 through 2010.

According to Mr. David, Pension Trust chairman, the Trustees have only met twice since he became a Trustee in 2005--once to discuss how to generate more revenue and then how to distribute the additional funding the Pension Trust began receiving in 2008 from statutorily dedicated funds through LHBPA 93. Mr. David also stated that the Trustees receive summary financial information but have never reviewed or approved Pension Trust’s administrative expenses before payment. The Pension Trust Trustees may not be following the trust restrictions since they do not review or approve administrative expenses before payment or have a formal written agreement with the LHBPA 93 to administer the Pension Plan.

Improper Appointment of Trustees to the Pension Trust

Since 2006, Pension Trust Trustees were comprised of a combination of LHBPA 93 board members, LHBPA 93 members, and the LHBPA 93 president. According to the Pension Trust Agreement, the LHBPA 93 board can remove any or all Trustees from the Pension Trust. The Trustees "continuing in office shall appoint the person or persons to fill any vacancy in the office of Trustee, however caused, or may determine to leave the such vacancy unfilled so long as the two Trustees remain." During the June 9, 2008, LHBPA 93 board meeting, the LHBPA 93 board removed some of the Trustees and improperly appointed new Trustees, which is not consistent with the Pension Trust Agreement which provides that the continuing Trustees are to appoint the new Trustees. Mr. David stated that the Pension Trust Trustees are appointed by the president of LHBPA 93 and reappointed every election year. We attempted to discuss this matter with Mr. Alfortish, but he refused to speak with us.

We recommend that:

- (1) LHBPA 93 obtain written contracts with its related entities, including, but not limited to, contractual obligations, services to be performed, expense reimbursements, and payment terms;
- (2) each entity conduct regular meetings and operate in accordance with its bylaws or trust agreements and Louisiana law;
- (3) LHBPA 93 comply with Louisiana law^{14, 17} and establish a Louisiana corporation or trust to receive statutorily dedicated fees and to provide WC insurance to Louisiana horsemen. The board may want to consider requesting an attorney general opinion regarding the legality of operating and funding the HIA in the Cayman Islands; and
- (4) each entity record, review, and approve all minutes and maintain a single accessible location to store the approved minutes and appropriate documentation concerning each meeting.

Management's Response

Louisiana Horsemen's Benevolent & Protective Association, Inc.

BOARD OF DIRECTORS

Owners

Tom Abbott
Bobby Dupre
Christine Early
Marcia Lamarche
Arthur Morrell

Chairman
Stanley Seelig



BOARD OF DIRECTORS

Trainers

Sam Breaux
Patrick Mouton
Kenny Roberts, Sr.
Don Stemmans
Terry Vance

April 18, 2011

VIA FEDEX

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Re: Draft of Compliance Report on the Louisiana Horsemen's Benevolent & Protective Association 1993, Inc., the Louisiana Horsemen Pension Trust, the Louisiana Horsemen Medical Benefit Trust, the Horsemen's Alliance Holding, Inc. and the Horsemen's Insurance Association, SPC

Dear Mr. Purpera:

This letter is submitted on behalf of the Louisiana Horsemen's Benevolent and Protective Association 1993, Inc. ("1993, Inc.") and reflects the position of the newly-elected Board of Directors and the undersigned President of 1993, Inc.

As you know, the members of 1993, Inc. elected a new Board of Directors and President on March 31, 2011. The new board and President were sworn in and took office on April 8, 2011. The new board has engaged new legal counsel, P. J. Stakelum III of Chehardy Sherman Ellis Murray Recile Griffith Stakelum & Hayes, LLP of Metairie, LA. In line with your recommendation, the format of the minutes for all meetings is being changed to show that minutes are subsequently approved and then signed by the Secretary and attested to by the President.

You should be aware that the new board consists of 10 directors, six of whom were not on the Board during the 2008-2011 term of the prior board. Of the four sitting directors who were reelected in the March 31, 2008 election, two were only appointed to the board within the last several months as replacements for a director who resigned and a director who was named acting president following Sean Alfortish's removal in December 2010. A third director was generally the lone opposing vote on the many 9-1 votes by the prior board. The undersigned and three of the newly-elected directors were among the individuals who brought lawsuits against Mr. Alfortish and/or the prior board members in an attempt to address issues involving financial irregularities.

Response to Background:

- On page 2 of 12 of the draft compliance audit report, you indicate total revenue for the Medical Benefit Trust of \$20,399,884 for the years 2006-2008. As you know, the Medical Benefit Trust is funded by a 4% deduction from purse monies. Since purse monies have averaged around \$90-\$100 million per year for the 2006-2008 period, the contribution to the Medical Benefit Trust should have run around \$11-\$12 million. We ask that you verify your calculations, as it is possible that your \$20.3 million figure was inadvertently inflated by inclusion of intra-trust transfers.
- Also, on page 2 of 12 of the draft compliance audit report, you included "Interest on the Horsemen's Bookkeeper Account" as a funding source for the Pension Trust. This is not accurate, as all interest on the Horsemen's Bookkeeper Account is dedicated to 1993, Inc. by statute, and we suggest that it be struck out.

Response to Recommendations on Administrative Expenses (Pages 4-6 of report):

- **The Medical Trust should seek immediate reimbursement of the loan balance from 1993, Inc.**

At its initial board meeting on April 8, 2011, the new board of 1993, Inc. removed all of the existing trustees of the Medical Benefit Trust. In line with authority granted to the board of 1993, Inc. in the trust agreement, the board of 1993, Inc. appointed three new trustees. The newly-appointed trustees met on April 13, 2011 and approved new signatories on all of the Medical Benefit Trust's bank accounts and appointed three additional trustees. In line with your recommendation, the trustees of the Medical Benefit Trust will maintain written minutes of the meetings. Such minutes will be reviewed and approved at subsequent meetings and signed by an appropriate individual.

At its meeting on April 8, 2011, the board of 1993, Inc. discussed the existing loan from the Medical Benefit Trust. The undersigned and 1993, Inc.'s new legal counsel are presently investigating various legal avenues by which money previously taken from the Medical Benefit Trust might be recovered and by which the loan might be repaid in an expeditious fashion. The undersigned is also taking steps to prevent additional Medical Benefit Trust monies from being "loaned" to 1993, Inc.

- **The Medical and Pension Trusts review and approve expenses prior to payment.**

As discussed above, new trustees have recently been appointed for the Medical Benefit Trust. Those trustees plan to meet regularly and, with the assistance of legal counsel, are developing procedures to assure that administrative expenses and benefit payments are validly approved.

At its initial board meeting on April 8, 2011, the new board of 1993, Inc. removed all of the existing trustees of the Pension Trust. In line with authority granted to the board of 1993, Inc. in the trust agreement for the Pension Trust, the board of 1993, Inc. appointed three new trustees. Immediately following the adjournment, the newly-appointed trustees met and approved new signatories on all of the Pension Trust's bank accounts and appointed two additional trustees. In line with your recommendation, the trustees of the Pension Trust will maintain written minutes of the meetings. Such minutes will be reviewed and approved at subsequent meetings and signed by an appropriate individual. As is the case with the trustees of the Medical Benefit Trust, the trustees of the Pension Trust plan to meet regularly and, with the assistance of legal counsel, are developing procedures to assure that administrative expenses and benefit payments are validly approved.

- **LHBPA 93, the Medical Trust, the Pension Trust, and HIA review past expenses to identify improper expenses or expense allocations and recover those funds.**

The directors of 1993, Inc. are aware of this recommendation. Because most of the newly-appointed trustees of both the Medical Benefit Trust and the Pension Trust are directors of 1993, Inc., they are also aware of this recommendation. The directors and trustees, with the assistance of legal counsel, intend to review past expense allocations to determine the appropriateness of those allocations and will take appropriate action once the appropriateness of past allocations have been resolved.

- **LHBPA 93 to report all payments to attorneys as 1099 Miscellaneous Income.**

1993, Inc. agrees with this recommendation and the undersigned will instruct 1993, Inc.'s accounting staff to issue the necessary 1099s for 2010 and future years.

- **All related entities to obtain written professional services contracts.**

The new board of 1993, Inc. agrees with this recommendation. In appointing new legal counsel, the new board directed that counsel sign a written contract and provide itemized billing. The finance committee of the board was instructed to negotiate the wording of counsel's contract. Written professional service contracts will be obtained with other professional service providers who are engaged to provide such services in the future.

- **The Medical Benefit Trust review administrative expenses and consider transferring any unused revenue to provide medical benefits.**

As discussed above, the newly-appointed trustees of the Medical Benefit Trust will be meeting to establish procedures for the review and approval of administrative expenses. Consideration will be given to utilizing unused revenue to provide medical benefits.

Response to Recommendations on International Travel (Pages 7-8 of report):

- **The Medical Benefit Trust seek reimbursement of \$28,319.**
- **All related entities implement a travel policy with guidelines and limitations for travel expenses.**
- **All related entities prohibit entertainment and personal expenses with statutorily dedicated fees.**
- **All related entities document the public purpose and public benefit amounts expended to determine if a trip or meal is in the best interest of a horsemen.**
- **LHPBA 93 implement a credit card usage policy.**
- **LHBPA 93 should require credit card users to sign a form acknowledging their understanding of credit card policy.**
- **HIA should determine which travel expenses are personal or excessive and seek reimbursement for these expenses during international travel.**

Because of significant overlap among the seven recommendations listed immediately above, a response to all seven recommendations is given in the following paragraphs.

The undersigned and 1993, Inc.'s legal counsel are presently conducting an extensive review of the workers compensation insurance program. It is the undersigned's understanding that all international travel cited in the draft compliance audit report was allegedly in connection with the offshore aspect of the workers compensation program. It is also the undersigned's understanding that the figure cited for international travel represents 100% of such expenses and that your office did not attempt to apportion such expenses between those that would be considered reasonable and necessary and those that would be considered to be of a personal nature. The review currently underway includes an examination as to the necessity for such international travel and steps which can be taken to minimize such travel expenses to the extent that such international travel is required. The review will also include an attempt to apportion past expenses between those that should be considered reasonable and necessary and those that would not fit that criteria.

The undersigned and legal counsel are presently drafting written policies governing credit card usage, travel, meals, entertainment and alcohol consumption and, in due course, will present those policies to the board of 1993, Inc. for approval. It is anticipated that such policies will address who is authorized to incur reimbursable travel, meal and entertainment expenses and require written documentation of all such expenses to show the date, persons and public/business purpose associated with such expenses. It is also anticipated that such policies will address the issues of entertainment, alcohol consumption, personal expenses and statutory restrictions on the use of dedicated fees. Finally, it is anticipated that all persons expending funds subject to these policies will be required to sign an appropriate acknowledgment acknowledging their awareness and understanding of these policies. It is contemplated that the governing officials of all related companies will adopt similar policies.

The board of 1993, Inc. and the undersigned agree that charges from improper international should be recouped. It is the undersigned's understanding that neither 1993, Inc. nor any of its affiliated companies have detailed records of all of these expenditures and that your office obtained additional detail from some of the vendors involved. We would appreciate your providing us with this additional documentation so that we can determine which expenditures are properly recoverable. The \$28,319 of international travel expenses noted as having been paid by the Medical Benefit Trust will be recouped for the Medical Benefit Trust. However, a determination must also be made as to whether this expense is part of the existing "loan" from the Medical Benefit Trust so that the same money is not recouped twice.

Response to Recommendations on Pension Trust (page 12 of report):

- **LHBPA 93 obtain written contracts with its related entities.**

The undersigned and legal counsel are presently reviewing expense allocations and intend to present to the board of 1993, Inc. contracts for the provision of services to affiliated entities. Those contracts will also be approved by the governing bodies of the related entities.

- **Each entity conduct regular meetings and operate in accordance with bylaws, trust agreements and Louisiana law.**

As discussed above, the board of 1993, Inc., the trustees of the Medical Benefit Trust and the Pension Trust have already begun implementing these procedures. It is anticipated that once the internal operations of the workers compensation insurance program are reviewed, similar procedures will be implemented for those companies involved in the workers compensation insurance program.

- **1993, Inc. establish a Louisiana corporation or trust to receive statutorily dedicated fees and provide WC insurance to horsemen, and consider requesting an Attorney General Opinion regarding the legality of operating and funding the HIA in the Cayman Islands.**

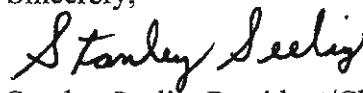
As discussed above, the undersigned and legal counsel are presently conducting a thorough review of the workers compensation insurance program and do not possess sufficient information at this time to comment on the operational aspects of the program. Due consideration will be given to this recommendation, as it is the intent of the new board and the undersigned that the workers compensation insurance program operate in compliance with all provisions of state and federal law, including those statutes by which it is authorized to operate.

- **Each entity record, review and approve all minutes and maintain a single accessible location to store the approved minutes and appropriate documentation concerning each meeting.**

As discussed above, this recommendation is being implemented.

We thank you for the opportunity to respond to your audit.

Sincerely,



Stanley Seelig, President/Chairman

C. JAMES GELPI

23205 CHARLES HOLDEN ROAD • HOLDEN, LOUISIANA 70744 • 225/ 209-0041

April 19, 2011

Mr. Gregory Lavergne, Senior Compliance Auditor
Compliance Audit Division
Office of Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804-9397

Re: Response to Selected Portions of Draft Report

Dear Gregg,

I have and thank you for your letter of April 6 and the attached selected portions of the draft report pertaining to certain named entities.¹

The letter asks me to “provide any information” that I have “which might impact the findings contained in the report”. Because I have not been provided the full draft report and since the selected portions submitted to me do not designate any particular parts as “findings” I can only address those selected sections and, within them, the items that appear likely to me to be findings. This response will utilize the same headings that the draft report uses to assist you in following my progression through the selected portions of the draft report.

Background

I recognize much of the draft report’s background material as being that which was presented by me at our meeting where that and considerable other information was provided. And, the information contained in this section of the draft report, while only a portion of what was covered in our meeting, does appear essentially correct with the possible exception of two items which may be noteworthy. First, the draft report states that “in 1992 the LHBPA lost its tax exempt status”... Actually, the tax exempt status had been lost prior to 1992 necessitating the reorganization to which the report then refers. Second, the draft report states that the “LHBPA created two independent entities (Horsemen’s Alliance Holding INC. [HAH] and the Horsemen’s Insurance Alliance SPC [HIA]”. I don’t think the records will show that the LHBPA was the “incorporator” of either of these two entities or otherwise show that the LHBPA was the creator of either. What might be a more correct representation is that the LHBPA ‘93 caused or brought about the creation of those two entities.

Retainer Payments

The first part of this section suggests that the legal work performed under the retainer arrangement with LHBPA 1993 was without a contract or evidence of the work performed. Over the eighteen years of my and other attorneys associated with me providing these legal

¹ Your cover letter transmitting the draft report states that the audit includes “the Horsemen’s Insurance Association, SPC. I think you mean the Horsemen’s Insurance Alliance, SPC.

services, the LHBPA '93 has requested work to be performed, has received the benefit of the services performed, has literally seen and experienced the services being performed, has much of the work product in its possession, has made policy decisions and participated in the strategy decisions pertaining to the work, has assigned special projects to me and my firm, has received the advice it requested, has participated in the deliberations, meetings, trials, hearings, conference calls, email exchanges, legislative sessions and much more. So there is evidence of the work performed. Perhaps it is meant that there is no written itemized bill issued to the LHBPA '93 each month. Such itemized bills are customary for hourly work. However, the agreement in this instance was legal services for a retainer. The retainer was payment of a fee to retain the lawyers' general availability to the client and was not related to a particular representation.

Further, the draft report's conclusion that there was no contract perhaps means there was no specific "written" contract because there clearly was an agreement or contract and the parties performed under it for approximately two decades.

In this and other sections of the draft report it is stated that I would not meet. Surely you recall our lengthy meeting which provided you the background information that you attribute to me referenced in the draft report's "Background" section and that when I was contacted recently about another meeting, I was no longer representing the LHBPA '93. Further Gregg, if you review your emails from me you will find that I replied to the request for another meeting stating that "while I believe that the HBPA would consent to such an interview, it may be necessary or advisable to obtain their consent." I wrote seeking that consent which consent was believed to be prudent and/or necessary due to the privileges and confidentialities afforded clients by Rule 1.6 of the Louisiana Rules of Professional Conduct. I requested a written response but it has not arrived.

International Travel

In all the years of representing the LHBPA'93, I have furnished such legal advice as was requested from time to time by the Board and/or the President of the Association. I have responded to such requests whenever and wherever asked to do so.

I do not know, and the draft report does not state, the context in which it was said that the annual travel to the board meeting of the related company was "a perk or vacation", but such business travel was not in my case. I attended these meetings when requested or instructed to do so by the LHBPA '93 and did so without compensation beyond the agreed retainer amount.

I hope that this response is of assistance to you and your office in achieving a fair and balanced audit report.

With kind regards, I am

Very truly yours,

C. James Gelpi

March 19, 2011

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
1600 North Third Street
Baton Rouge, LA. 70804

Dear Mr. Purpera,

I would like to state that I am writing in regard to the Legislative Audit that you prepared for the La. HBPA. Please be aware that I am writing as a response to inquiries made of the 2008 Board. The 2011 Board was newly sworn in last week. I am sure that the President, Mr. Stanley Seelig, along with his newly elected board and the few that were reelected will do everything that is suggested in your report to improve the financials of this organization.

To begin, the La HBPA voluntarily submits our financial records to an annual audit performed by an outside audit firm. A review of their audit reports for the period of 2006 through 2008, and the newly hired firm for the 2009 audit revealed no improprieties or improper accounting practices within our various entities. Our Board was never given any issues of wrong doing by either firm. In the review of the 2010 Audit, Mr. Dawson acknowledged that monies were borrowed from the Medical Trust by past Presidents prior to the 2005 Board. This was all done upon advice of our legal counsel.

It is the 2008 Board's belief that we are not a public entity subject to the Louisiana laws identified in this report. We need further clarification of this matter since we are a membership organization receiving the majority of our revenues from purse money earned through pari-mutuel betting, simulcasting of races, and direct charges to owners and trainers of race horses.

As a member of the Medical Trust, we did not withhold any money that was due to a horseman during the period of 2006 – 2010. The trustees did reduce medical payments but that was due to the fact that the money that is generated to pay the beneficiaries was running in excess of the money received. We were made aware that more money was going out than was coming into the Medical Trust. The allocation of expenses only affected the administration portion of the available funds and at no time was the medical portion affected or reduced due to the allocations.

'93 Inc., the parent company of all the entities of the La HBPA, relies on the interest from money deposited with the bookkeepers and a nominal Pony Fee that is assessed the owners when their horse runs in a race. This is the only income. At one time, the interest money was enough to keep the La HBPA running, but with the sharp decline in interest rates the organization did not have the resources to continue to operate. Without '93 Inc.

there is no Medical Trust, no Pension Trust and no Worker's Compensation. These entities are crucial to our organization.

It is planned that the entities would agree to cost allocations, and they would be charged a management fee by '93 Inc. This would be a step in the right direction. I agree that '93 Inc. should reimburse for any improper charges that were made. It is my understanding that these reimbursements are in the process of being made.

I agree that each of the entities should be autonomous and hold separate meetings apart from the '93 Board to conduct their business affairs. Separate minutes should be prepared to document the decisions of each entity. Mr. Seelig has already appointed a board of trustees for the Medical and Pension Trusts, conducting separate meetings from the '93 Board.

As a trustee of the Medical Trust, I inadvertently interpreted the HIPPA law that states that no minutes should be kept of the Medical Trust meetings. I have since learned that the business meeting minutes are expected to be taken and signed.

In the matter of retainer fees, I agree that it is the best practice to have an engagement letter with all professional service firms and that we should get adequate supporting documentation for their invoices. I am sure that Mr. Seelig will require this practice. I was unaware and surprised that Mr. Gelpi did not receive a Form 1099 for his services.

It is my understanding that the offshore captive insurance company was formed on the advice of our insurance consultants for the amount of \$3Million, that we saved approximately \$27 Million as opposed to having a U.S. underwriting company for \$30 Million. Our program would not have been possible if we would have had to pay \$30 million. In order to not be considered a U.S. Company subject to U.S. income taxes we must not have an office or conduct business affairs within U.S. borders. Hence, it is necessary to hold business meetings outside of this country. I do agree that meetings should be limited to necessary personnel of the worker's compensation, HAH and HIA boards, and that there should be no expenses paid for time or activities outside of that necessary to conduct business affairs. I also agree that all purchases should be supported with adequate documentation for its business purpose and advance approval should be obtained if possible.

It is my understanding that the Cayman Islands performed their own Audit of our Insurance Fund, along with the La. Office of Insurance.

For the period of 2006 – 2010, '93 Inc. was not the only entity with employees. Medical trust also had employees. I also do not believe that the '93 Board directed the affairs of either Trusts. There did exist crossovers between the trustee and the board of directors of 1993, but I can't agree with the statement that the '93 Board directed the affairs of the Trusts. There were separate meetings for each entity. The last time that I attended a

Pension Trust meeting was when Lloyd Romero was President. The report suggests that the Worker's Compensation funds are all statutorily dedicated, but this is not correct. Each trainer pays between \$40 and \$60 per start of personal money to participate in the program. As mentioned before, this confuses what is and is not public money and whether or not all actions are subject to laws governing governmental entities. I have trouble agreeing that we violated Louisiana laws by saying that we funded HIA with statutorily dedicated money.

The report implies that there are restrictions on the investment of excess money. Again, how can all money be public funds when it is derived from bettors, owner and trainer fees, simulcasting and all earnings on those amounts?

It is stated that during the 6/9/08 '93 Inc. Board meeting, the Board removed some of the trustees and improperly appointed new trustees, which is not consistent with the Medical Trust Agreement which provides that the continuing trustees are to appoint the new trustees. I do not believe this is accurate to state that '93 Inc. administers either plan. It does appear that we need to do a better job of documenting actions taken by the trustees and we have begun that process with the 2011 Board.

I appreciate your attention in this matter, and promise to implement your recommendations in the future.

Sincerely,



Christine D. Early
Board of Director

Will S. Hornsby
111 Veterans Boulevard
Metairie, Louisiana 70005

April 12, 2011

Gregory Lavergne, CFE
Senior Compliance Auditor
P. O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Lavergne,

I have received your letter dated April 6, 2011 regarding the Louisiana Horsemen's Benevolent and Protective Association (HBPA) and Horsemen's Insurance Association SPC (HIA).

The meeting with you and Ms. Jones took place on January 19th at my office. During that meeting you asked if I considered the board meeting a "perk." I said I did but further stated that if the off shore incorporation regulations allowed us to meet within the United States that I would prefer to have the board meeting in the United States and complete all business within one working day. I do not and have not considered the off shore board meetings a "vacation."

Your letter also referenced that Ms. Mischler and Mr. Fenesci indicated that the board meetings were or could have been conducted in one day. This is physically possible but due to the travel required to reach an off shore location it would be a very difficult trip if we traveled one day, met the next, and traveled back to the United States the following day. I do not believe that board members who volunteer their time and talent would continue to serve with those board meeting restrictions.

You also mentioned that short, informal meetings were conducted. We refer to those as "sidebar meetings." You stated that there are no records of these meetings. Mr. Glepi attends each sidebar meeting and takes copious notes. I cannot explain why those notes are not part of the board meeting minutes but I assure you that the sidebar meetings did occur, HIA business was conducted, and copious notes do exist.

Sincerely,



Will S. Hornsby, III, CLU, ChFC
HIA Board Member
HIA Vice-President



April 20, 2011

Gregory Lavergne
Senior Compliance Officer
Louisiana Legislative Auditor
1600 North Third Street
Baton Rouge, Louisiana
70804-9397

Gregory,

In response to your letter dated April 6, 2011 to myself requesting information I might have which might impact the findings contained in the draft compliance audit report on the Louisiana Horsemen's Benevolent and Protective Association, the Louisiana Horsemen Pension Trust, the Louisiana Horsemen Medical Trust, the Horsemen's Alliance Holding INC., and the Horsemen's Insurance Association SPC I respectfully submit the following:

I, nor my employer, USA Risk Group (Cayman) Ltd. ("USARGC") have any working knowledge of, or have been engaged to act on behalf of the Louisiana Horsemen's Benevolent and Protective Association, the Louisiana Horsemen Pension Trust, the Louisiana Horsemen Medical Trust, nor the Horsemen's Alliance Holding INC.

The name of the Cayman Islands domiciled insurance entity is Horsemen's Insurance Alliance, SPC ("HIA SPC")

USARGC has been engaged to act as insurance manager of HIA SPC as required under the Insurance Law of the Cayman Islands.

USARGC has no knowledge of, nor have received copies of, or have been privy to any unsigned meeting minutes of the LHBPA 93 Board and therefore are unable to comment on the content or accuracy of those meeting minutes.

Specifically in relation to the four bullet pointed items referred to in the April 6th letter, under the title Administering the WC Program, It would appear to me that if those motions were in fact passed they may very well have been legitimate business of the LHBPA 93 and have no business relationship with HIA SPC for the following reasons:

Point #1 - It is my opinion that it would not be unusual for an association of the size and complexity of LHBPA 93 to engage a US broker to conduct insurance business on their behalf and from time to time change that relationship from one brokerage to another.

Point #2 - It is my opinion that it would not be unusual for an association of the size and complexity of LHBPA 93 to maintain an agent of record and from time to time change that relationship from one agent to another. Further the LHBPA 93 has an insurance agreement with Chartis (HIA SPC has a reinsurance agreement with Chartis) and in my

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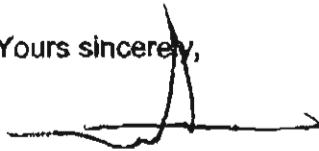
opinion it would not be unusual to approve that insurance agreement from time to time at the LAHBPA 93 Board level.

Point #3 – As Arthur J. Gallagher is engaged by LHBPA 93, it would not be unusual, in my opinion, that the Board of LHBPA 93 would approve the basic contract terms.

Point #4 - As Arthur J. Gallagher is engaged by LHBPA 93, it would not be unusual, in my opinion, that the Board of LHBPA 93 would approve the amendment of the contract with Arthur J. Gallagher to a specific fee schedule.

If you wish to seek further clarification or wish to discuss any of the above points in more detail please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Leadbetter', written over a horizontal line.

Robert Leadbetter
Vice President
USA Risk Group (Cayman) Ltd.

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April 20, 2011

VIA EMAIL & FACSIMILE (225-339-3987)

Mr. Gregory Lavergne, CFE
Senior Compliance Auditor
Louisiana Legislative Auditor
1600 North Third Street
P.O. Box 94397
Baton Rouge, LA 70804-9397

Re: Horsemen's Insurance Alliance SPC

Dear Mr. Lavergne:

I am in receipt of your April 6, 2011 letter to me regarding your draft compliance audit report on Horsemen's Insurance Alliance SPC and certain affiliated companies ("HIA"). While the letter is addressed to me and says "via facsimile" I never received it from your office. That letter and an attached paragraph of the draft audit report captioned "Administering the WC Program" was forwarded to me by Ed Fenasci at the Louisiana Horsemen's Benevolent and Protective Association.

I am somewhat confused by the attached paragraph because it says "According to Mr. Gelpi, Mr. Rob Leadbetter, USA Risk, and Mr. Scott Penwell, HIA legal counsel, HIA does not conduct business in the US to avoid US regulation and taxation." That statement is a question of both fact and law which I am not able to answer because of the following. I am special outside legal counsel to HIA with respect to certain issues regarding its formation and operation as a segregated portfolio company. I do not participate in the day-to-day operations of HIA or any of the affiliated companies referred to in your audit. Since I am not a party to the day-to-day operations of HIA or any of its affiliated companies, I cannot express a view on the facts of whether it conducts business in the United States because I simply am not involved in those matters. I think based on those facts, a legal determination would then need to be made based on those facts to determine whether HIA is "conducting a business" in the US.

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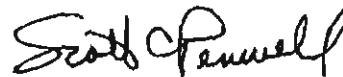
Mr. Gregory Lavergne, CFE
April 20, 2011
Page 2

As a Cayman Islands domiciled segregated portfolio company, HIA strives not to be subject to US taxation and therefore strives not to be "engaged in a US trade or business." It also strives not to violate any state or federal regulatory requirements. Whether or not HIA has succeeded in not being "engaged in a US trade or business" for tax purposes or has violated any state or federal statutes or regulations is a factual and legal determination. As I said before, I am not party to the facts and have not been asked to render any legal opinion based on any set of facts.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,

STEVENS & LEE



Scott C. Penwell

SCP:kdd