

**Jeffrey Gural**

**Senate Hearing – Thursday, July 12, 2012 at 2:30 pm**

**Medication and Performance –Enhancing Drugs in Horse Racing**

Thank you for inviting me. My name is Jeffrey Gural. I grew up Long Island and started attending racetracks as a teenager over 50 years ago. I currently own two standardbred breeding farms; one in Upstate New York and the other in Northeast Pennsylvania. Together I have approximately 40 broodmares. I also have interests in about 15 race horses and six years ago I reopened two bankrupt racetracks in Upstate New York which are now operating as racinos.

At the end of last year I headed up a group of investors that leased the Meadowlands Racetrack from the State with the intention of hopefully revitalizing the sport there as the Meadowlands is still considered the number one standardbred racetrack in North America and probably the world. Before discussing the medication problem, I thought you should be aware of the fact that the current business model for horse racing almost guarantees a bleak future for the sport as we do almost everything wrong. Some examples are as follows:

1. We have no marketable stars because any horse that excels at three and creates some hype is almost always retired as soon as possible to the breeding shed. Occasionally a filly like Zenyatta will race an extra year but it is very hard to market a spectator sport that does not have marketable stars. It would be as if the NBA asked LeBron James to retire, the NFL asking Tom Brady to retire in his prime and in baseball if they asked their current rookie sensations Mike Trout and Bryce Harper to retire in a year or two. Obviously from a marketing standpoint it is the exact opposite of what any other industry does.
2. We have no season other than the five weeks of the Triple Crown for thoroughbreds. Quite a few standardbred tracks race year round in front of a handful of people. By racing year round we fail to capture the excitement that other sports have when opening day arrives and it ends with the Super Bowl or the World Series. With the exception of the three most successful tracks, Saratoga, Keeneland and Delmar most other tracks have no beginning and no end.
3. Despite receiving hundreds of millions of dollars from other forms of gambling to supplement our purses virtually none of that money is spent marketing the sport or paying for additional drug testing. While I believe the great majority of the horsemen would gladly agree to take 5% of this money and use it for marketing and additional drug testing their leaders seem to be opposed and as a result nothing gets done. Since the average age of our customers is 52 and 2% of our fans die each year not spending some of the slots money on marketing to attract younger people is very short sighted. Where would NASCAR be if they didn't spend money on marketing?

4. Our biggest customers from a betting standpoint typically do not wager at or with a racetrack. These customers typically wager with either off shore or small companies with a computer in Oregon because those companies can afford to give their customers back generous rebates. In the past this money was bet at a racetrack and the track and the horsemen typically shared a 20% commission. Today the track only receives between 3% and 7% of wages from big bettors. In essence, the track has the costs of putting on the races and maintaining the facilities and their biggest customers in many cases are actually at the track with a cell phone betting elsewhere. It would be the equivalent of someone going to a movie theater, watching the movie and paying someone else the cost of admission.
  
5. The last problem relates to the medication issue which is the reason I was asked to come here today. While standardbred racing does not have the problem that the other breeds have as far as fatal injuries both on and off the track due to the fact that standardbreds always have two feet on the ground and are a sturdier breed. I believe in the last five years at my tracks there have been less than five fatalities most of which were heart attacks or some other ailment. The big problem we do have is the perception rightly or wrongly that any trainer who wins consistently is probably using some sort of illegal medication or juice as it is called. I think the best way to explain this in layman's terms is to describe what happened when I took over operating the Meadowlands at the end of last year. In an effort to show my customers that I was very serious about this issue I sat down with my racing staff and went over a list of all of the trainers who had applied to race at the Meadowlands in order to determine which ones were suitable to participate and which trainers would hurt my business if I allowed them to participate. Together we reviewed a list of fines and suspensions for all of the trainers applying to race and also took into account other factors as well. When it was a gray area we typically put the trainers on probation with the understanding that any new violation relating to illegal medication would be grounds for being added to our list of excluded participants. One of the trainers that we elected to exclude was a gentleman from California named Louis Pena. In reviewing Mr. Pena's record we discovered that he had 12 fines and or suspensions dating back to 1991. It was also noted that Mr. Pena had trained horses in California from 1991 to 2009 and during that 18 years his average yearly winnings were approximately \$400,000 and in no time did the horses that he trained ever win more than \$950,000. Mr. Pena moved his training operation to New Jersey at the beginning of 2010 and arrived on the scene with no horses and amazingly by the end of the year his horses had won \$7,263,295 and he was the leading trainer at the Meadowlands, Yonkers, Pocono Downs and Chester. In 2011 he once again duplicated this amazing feat and his horses won \$7,120,984. In essence Mr. Pena had gone from a run of the mill trainer in California to the greatest trainer that ever lived since no trainer had ever been close to being the leading trainer at all four area tracks. Horses claimed by Mr. Pena often improved 2 seconds overnight. Mr. Pena sued and asked the court for a temporary restraining order on the grounds that our decision to bar him was a violation of his due process rights under the 14<sup>th</sup> amendment of the United States Constitution. Fortunately, the courts ruled in our favor and affirmed our rights of exclusion. Our legal fees to defend this action came to about

\$65,000 and many people were surprised that we won. Mr. Pena continued to be allowed to race at the other three area tracks. I had actually agreed to meet with Mr. Pena to discuss the situation in late May when I learned that the New York State Racing and Wagering Board had suspended him for illegally drugging horses in nearly 700 races in New York State and more than 1,700 equine drug violations. Initially I thought I was vindicated in my decision but shockingly over the next few days I was contacted by various people in the industry who I respected advising me that if the same standards that Mr. Pena was being suspended for were applied to all of the other trainers at the Meadowlands there would probably not be enough horses left to race as a vast majority of the trainers were also in violation of some of these rules. It should be noted that while that may sound like Mr. Pena is a victim that is not the case. For example; one of the drugs he used, Factrel "off label on many occasions" is a drug used to enhance ovulation in cows. The only reason to give such a drug to a gelding apparently would be to produce a small increase in testosterone designed to make the horse "feel better" for racing. In other words to cheat. Mr. Pena or his vet in many cases injected some horses with up to five different medications within 24 hours of a race. When I investigated further I discovered that the rules of which drugs are allowable and when are different in every state. New York uses specific time requirements for various medications while Pennsylvania, New Jersey and Delaware only use recommended withdrawal times. I reached out to Ed Martin at ARCI and with his help we arranged a meeting at the Meadowlands in June with all of the regulators from these four states, along with some respected veterinarians and a handful of trainers to discuss the problem. Clearly with different rules in every state it is possible that a trainer could make a mistake but why should the rules be different. It was agreed by the regulators that they would try to work together to come up with uniform standards but everyone agreed that getting anything done would be difficult and require public hearings, comments, etc. and no one was quite sure whether we would be able to accomplish our goal. I checked back and as expected nothing has gotten done.

The other thing you should be aware of is that even when someone is caught cheating the penalties in most cases is a joke. It is not uncommon for a trainer to receive a suspension, get a stay as a result of an appeal, if need be go to court to get a stay and finally two or three years later agree to accept a six month suspension provided it can begin in November and end in April allowing the trainer to simply go down to Florida and avoid the cold winters in the Northeast and train newly purchased yearlings on a farm. Occasionally the trainer will simply take six months and go on vacation. The horses he was training are put in the assistant trainer's name for the winter so in essence there are no penalties at all other than a forced vacation in Florida or a cruise in the Mediterranean.

In any case, standardbred racing does have a problem and one suggestion that I have heard is to send a message to the states that Congress would like to see the states adopt the Interstate Compact Concept which would allow all of the states to use the same rules and regulations. Unfortunately, in states like New York it would be almost impossible to pass since the leader of the horsemen, Joe Faraldo had made it clear that he is opposed to this approach. He is also opposed to the use of out of competition testing

which would allow inspectors to visit the farms where the horses are stabled in order to determine if there are any rules being violated. I am hopeful that Governor Cuomo who has taken a strong interest in this matter as a result of the many breakdowns in the thoroughbred racing will get the state to agree to pass legislation allowing New York to join in the Interstate Compact. I am confident that Governor Cuomo takes this matter very seriously and I am cautiously optimistic that over the next few months we will see legislation to address the problems.

In short, our industry needs change if we are going to survive long term and because unlike other sports we have no commissioner to set the rules. The fact is medications both legal and illegal appear to be so much more prevalent than in other racing jurisdictions and without an Interstate Compact it would seem that the next logical thing would be for the Federal Government to take this over so that the rules are the same in every state. For me, other than family, there is no bigger thrill than winning a race and going to the track with friends. I would hate to see the sport I love die but we need a new business plan and we need to eliminate the chemists if we are going to survive and protect the tens of thousands of jobs that rely on this industry's long term survival.