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THE BLOG**

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How Many “Bad Apples” Are There in the Bloodstock Orchard – and How to Remove Them

“Some agents and bloodstock vendors are guilty of ‘improper practices’. Some are unscrupulous, some are dishonest and some are in criminal breach of their fiduciary duties towards the purchasers of bloodstock.”

Back in the autumn of 2017, I wrote several blogs about integrity and corruption in racing, which included the bloodstock supply chain and sales houses. As a result of this I was invited to take part in the investigation instigated by the BHA and led by former senior policeman Justin Felice. I met up with him and colleagues on a couple of occasions and shared with them my own experiences encountered in buying racehorses over a 15-year period. Early in August, key stakeholders in racing met for a first review of his report, which was subsequently leaked by the *Racing Post*. Encouragingly, many of the recommendations I made to the study have been incorporated in the report.

Full credit should be given to the BHA for being prepared to launch this study. They came in for a fair bit of criticism and it is true to say that there are a few vested interests who were reluctant to acknowledge that major changes are needed. Some agents, trainers, managers of studs, bloodstock vendors and syndicators are guilty of “improper practices” which, if you are generous, you would say are unscrupulous and dishonest but if not you would say are criminal breaches of their fiduciary duties towards the purchasers of bloodstock, namely owners.

Felice is damning in his analysis of the industry and, quite rightly, calls for “transformational changes”. Although there is a code of practice dating back to 2004, subsequently amended in 2009, there hasn’t been a single recorded complaint in 15 years, which only encourages a number of resisters of change to remain in a state of denial over the corruption that occurs on a significant scale. Felice acknowledges this and believes that there is *omerta* – a culture of silence and of impunity. Bad, and even illegal, behaviour has long been tolerated by the industry. This isn’t some sort of minor, grubby, “Del Boy”-type misdemeanour; it is endemic behaviour up to and including the elite of breeders and agents who have shamelessly ramped prices and ripped off naïve and gullible owners. Addressing this behaviour is long overdue, and the real test of successful implementation of the Felice report will be the sharpness of the teeth of enforcement practices, the number of complaints that now surface and, in time, the banning and / or criminal prosecution of some of the culprits.

Many of the “improper practices” are widely known, and include:

- Agents demanding a percentage of the sale price as totally unwarranted “**luck money**” from vendors. They pocket this for themselves and / or share it with the trainer. The owner knows nothing about it.
- **Dual representation**, where the agent is acting for both purchaser and vendor, and charges a commission to both parties. Although representing both sides of the same transaction, at least one of the parties is unaware of the fact.
- **Secret profiteering**, which is when the sales process is rigged through conspiratorial pre-agreed bidding up of a horse’s price. Vendors and agents conspire to inflate the price artificially above a pre-agreed amount and then split the difference between themselves.
- **Running up** a price where the vendor bids against a buyer, without their knowledge, to obtain a higher value for their horse.

Anyone who is acting as an “agent” for a principal, e.g. an owner, must act in the principal’s best interests, otherwise they will be in breach of agency law and legislation such as the Criminal Law Act 1977, Fraud Act 2006 and Bribery Act 2010. In the light of the extensive use of the four “improper practices” described above, it is staggering that there haven’t been any prosecutions, but Felice is well aware that collusion and coercion in the bloodstock supply chain means that there is a huge reluctance to act and, indeed, a fear that by coming forward, individuals will be victimised by the powerful players who dominate at the sales.

It is encouraging, therefore, that “transformational and once in a generation” changes are being proposed, *inter alia*:

1. The BHA to be given jurisdiction over the currently unregulated bloodstock sector.
2. The industry to operate under a proper, tougher Code of Conduct.
3. Agents to be licensed. Those operating under such a licence will have to accept regulatory access to bank accounts if an investigation is taking place.
4. Breach of the licence will lead to an agent losing it, together with bans and removal of access to the sales.
5. Furthermore, breaches of the Rules of Racing – conduct prejudicial to horseracing – to be enforced on similar lines to the Financial Conduct Authority.
6. Payment of luck money over, say, £250 to be deemed to be an inducement, and therefore criminal.
7. Stop vendors bidding on their own horses beyond the reserves that they themselves have set. When a vendor bids beyond that reserve, the auctioneer to be required to announce it as a vendor bid.
8. Binding agreements introduced between the BHA and sales houses to enable information sharing.
9. Make it clear who is selling the horse. Sales houses to log and make public the full beneficial ownership of every horse due to be sold.
10. Harmonisation of these changes to occur in Ireland and, in time, other jurisdictions such as France.

It will be interesting to see the progress made once consultation with stakeholders has been completed, and whether the industry is prepared to put its bloodstock sales houses properly in order. Zero tolerance of corrupt practices is required. Without it, the already fragile ownership base is likely to contract further and profound damage be done to racing’s integrity and reputation. At least it is encouraging that the study was completed and that there is a readiness on the part of the BHA to publish it and act on it.

