

Opinion No. 66-42

April 6, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

TO: Mr. Floyd B. Rigdon, Chairman, State Racing Commission, P. O. Box 8576, Station C, Albuquerque, New Mexico

QUESTION

STATEMENT OF FACTS

Thoroughbred horses are registered with the Jockey Club of New York and are issued a foal certificate with a name and number which will not be issued to any other horse. The American Quarter Horse Association issues a foal certificate in like manner for quarter horses. This foal certificate must be registered with and left in the possession of the Racing Secretary of a given race meet during the time that a particular horse is permitted to race at that meet. It is customary for a trainer to have these certificates to register them with the Racing Secretary and to check them out at the close of the meet or if and when the horse is removed from the track. If a horse owner does not have this certificate, he is deprived of racing the horse at any track and, in some instances, cannot use the animal for breeding purposes. On occasion, trainers will retain this certificate until an owner has settled his accounts with him.

QUESTION

What position should the State Racing Commission take in this matter insofar as who has the right to retain this foal certificate?

CONCLUSION

See Analysis.

OPINION

{*50} ANALYSIS

It is our opinion that any question which arises over whether or not a particular horse owner owes an account to a trainer is strictly a private matter and that the State Racing Commission should not be involved in any way in resolving the question. The State Racing Commission has no authority or power to adjudicate the question of whether or not one party owes another one a certain amount of money, or how much money is owed, even if the debt is admitted. If either of the contentious parties is inclined to do so, the civil courts are available to adjudicate the claims one may have against the

other. In this connection, we point out to the Commission that Section 61-3-5 N.M.S.A. 1953 Compilation (P.S.) provides a lien for, among others, those who board others for pay, or furnish feed, shelter or pasture for the property and stock of others. We also point out that this lien can only be enforced through the civil courts of New Mexico.

{*51} Since, as noted above in the statement of facts, it is customary for the trainers to have in their possession the foal certificates and since it is also required that these foal certificates be filed with the Racing Secretary of a particular meet, we believe we should direct some comment to the proper handling of the release of these foal certificates. We believe that the proper procedure for release of the foal certificate is that it is proper for the Racing Secretary to return this foal certificate to whomever filed it with him, be it the owner or trainer except, however, that release should always be at the discretion of the owner. For example, if the certificate is filed by an owner and then claimed by a trainer, it should not be released to the trainer without the prior permission of the owner; or, if it is filed by a trainer, then it may be returned to that trainer, unless the owner has indicated that he wants the foal certificate returned directly to him.