

Alberta Sale Stake Eligibility Decision

A question of eligibility was raised about a horse (Something Better) who has been nominated for the Alberta 2YO filly Sales Stakes under the Western Sale Stake Series reciprocal agreement between Alberta, British Columbia and Manitoba. This agreement was designed to improve the quality and quantity of entries for the Regional Division Sale Stakes. A grievance was launched by an Alberta owner to Adrian Munro and David Lovlie of the CTHS AB and Grant Watson of the CTHS BC.

Once the complaint was received, discussions between the CTHS AB and CTHS BC took place to try and determine if the horse was eligible for the Alberta 2YO filly Sale Stakes and future Sale Stakes in Alberta and Manitoba. Due to the Interprovincial implications of the issue, CTHS AB and CTHS BC referred to protocol mandated by CTHS National and the following actions were taken:

- The CTHS National obtained a legal opinion of the National Office's attorney, Alistair Riswick.
- Interviews were held with;
 - The purchaser's
 - The consignor
 - The CTHS BC sale staff and the CTHS BC sales chairman from the 2015 sale.
- A meeting of the CTHS National Board of Directors was convened whereby the Directors would ultimately rule on the Eligibility of Something Better to the Alberta Sales Stakes.

The horse in question was entered in the CTHS BC Mixed Sale in 2015 but was withdrawn due to injury the day prior to the sale. The horse was sold privately while on the sales grounds. The proceeds of the sale were paid directly to the Consignor and the official results of the CTHS BC Mixed Sale in 2015 showed the horse as Withdrawn. The Consignor did not pay Commission on the sale. However, the nomination fees for this horse were paid in full as allowed in BC which used the term "cataloged" rather than "passed through" for the 2015 sale to establish eligibility for BC Sales Stakes.

Sales Stakes eligibility in both the Alberta and Manitoba require horses to pass through the ring.

All information and documents including consignor contracts, acknowledgement of purchase agreements, sales catalogs from 2015 and the wording used for the western sale series, were sent to the CTHS National Office's attorney for review. After extensive talks and research the National Office's attorney gave his opinion on the eligibility of the horse for the CTHS Sale Stakes in each province. The opinion is included following the synopsis. The opinion of Legal Counsel is that the horse is not eligible for the Alberta Sales Stakes.

All the pertinent information was provided to the National Directors prior to a properly convened Board of Directors meeting. The Board of Directors conference call took place on July 27th where they were asked to review all documents and the legal opinion of the National Office's attorney. The call was attended by Glenn Sikura (Director Ontario), Yvonne Schwabe (Director Ontario), Bernard McCormack (Director Ontario and National Vice President), Darin Bouchard (Director Manitoba), Adrian Munro (Director Alberta and National Vice President), Grant Watson (Director BC and National President), Jim

Alendal (Director BC), and David Pihl (Director BC). Absent from the call with regrets were Mike Vanin (Director Alberta), Brian Alexander (Director Alberta), and Lorne Horning (Director Saskatchewan).

Directors from Alberta and British Columbia abstained from voting on the issue of eligibility. The remaining National Directors' unanimously agreed with the opinion of legal counsel and have ruled that the horse is not eligible to run in the Sale Stakes in Alberta and Manitoba.

The horse is eligible to run in the CTHS BC Sale Stakes as all conditions of eligibility have been met.

Starting in 2016, CTHS BC will be using "passed through" rather than "cataloged" to determine eligibility for the Sale Stakes. This change will make all sale grads from the CTHS AB, CTHS BC and CTHS MB sales eligible in each other's province.

Grant Watson

CTHS National President

July 27th, 2016

Legal Opinion – Counsel for CTHS National

From: "Alistair Riswick" <ariswick@cslp.ca>

To: "Grant Watson (watson.bay.stables@shaw.ca)" <watson.bay.stables@shaw.ca>

Sent: Tuesday, July 26, 2016 2:30:12 PM

Subject: FW: eligibility

After speaking with you yesterday afternoon, I reviewed the materials that you sent to me, as well as the materials that were delivered to my office earlier today.

I understand that a reciprocal agreement was reached among the BC, Alberta, and Manitoba Divisions in 2015 to allow horses from one province to participate in the sale stakes of the others. Although I have not seen the agreement itself, I understand that it simply provides that, if eligible for the sale stakes in one of the reciprocating Divisions, the horse is eligible in all three. The problem at hand arises because the eligibility requirements in BC were expressed differently than the eligibility requirements in Alberta and Manitoba. A person whose horse was eligible for the Alberta Sale Stakes Race would understand from reading the Alberta conditions that horses from BC could also participate, but only if the BC horse had “passed through” the BC sale. This term is understood to mean that the horse actually went through the sale ring, been sold, and a commission paid.

The BC horse in question (actually a filly) apparently did not “pass through” the BC sale. It was injured prior to the sale and was withdrawn. The withdrawal of the horse was apparently allowed for under the terms of the consignment conditions. No sale commission was ever collected from the consignor of the horse.

The wording of the BC conditions as printed on the consignment form apparently did not include the words “passed through”. The wording allowed eligibility to horses “which were catalogued to the CTHS (BC Division) Sale where full commission and nomination fees have been paid”. The wording as printed in the sale catalogue was different and the same “passed through” wording was used as appeared in the Alberta conditions.

I understand that the BC Division has made a determination that the horse in question is eligible for the BC Sale Stakes Race. However, the issue of its eligibility for the Alberta race has been raised by the owner of a horse which is eligible for that race, which is being run this coming weekend. The complainant, like all other persons owning horses that are eligible for the Alberta Sale Stakes Race, has the right to require that the race is run in accordance with the terms and conditions that were published for purchasers at the Alberta Sale.

In my opinion, the argument of the Alberta owner is the better one. The Alberta Sale Stakes Race should be run in accordance with the terms that were set out for the Alberta Sale. A horse that did not “pass through” the BC sale should not be eligible.

Although this may seem unfair to the current owner of "Something Better", an argument can be made that the horse did not, in fact, meet the eligibility criteria for the BC sale stakes since "full commission" was not paid.

Given the circumstances that you describe in your email, I would suggest that Something Better should be found not to be eligible for the Alberta Stakes Race and that the nomination fees paid by the current owner be refunded.

If you have any questions with respect to the foregoing, please call me.

Yours truly,

Alistair Riswick