

IN THE MATTER OF AN APPLICATION FOR A LICENCE TO TRAIN

CONCERNING MR KEVIN ALAN MORGAN

**BEFORE THE LICENSING COMMITTEE OF THE BRITISH HORSERACING
AUTHORITY**

75, HIGH HOLBORN, LONDON, WC1V 6LS

19th MARCH 2013

RICHARD RUSSELL ESQ.

STEPHEN BATE ESQ. (CHAIRMAN)

EDWARD DORRELL ESQ.

REASONS

1. On 19TH March 2013 the Licensing Committee granted the application of Mr Kevin Alan Morgan (“Mr Morgan”) to train as an employee of K & C Racing Ltd (“K&C”) for the period ending 31 January 2014, subject to specified conditions. It did so for the following reasons.
2. Mr Morgan’s original application was adjourned on 10 December 2012. The Committee refers to its written Reasons for its decision to adjourn that application. Mr Morgan was invited to reconvene with the Committee and to provide further information, as follows—
 - “i) An up-to-date business plan with accurate information, accompanied by a narrative explaining the underlying assumptions in the plan.
 - ii) Full details of the management structure and business arrangements for the company, including financial and credit controls.

- iii) The Committee wished to see Mr Simcox to ask him (with Mr Morgan and Ms. Peck) about the proposed arrangements and to ask Mr Simcox about his role in the running and management of the company, or otherwise in relation to it, and that of any accountants instructed by him.
 - iv) As to points ii) and iii), the Committee needs to be satisfied that there is a complete separation between Mr Morgan's activities as the trainer on the one hand and the management of the company and the running of the business on the other.
3. A revised and more up-to-date business plan was produced, setting out the assumptions used. It also explained the proposed management structure and business arrangements for the company, including financial and credit controls.
 4. Mr Morgan submitted an application for a licence for the year ending 31 January 2014, again as an employee of K&C. It was this application which Mr Morgan wished the Committee to consider and not his application to continue to train until 31 January 2013, which had been overtaken by the passage of time. It was the later application, which the Committee considered in the light of the various objections previously taken by the Authority to the issue of a licence to Mr Morgan as an employee of K & C.
 5. Mr Simcox attended the reconvened hearing, accompanied by Mr Morgan and Ms Peck.
 6. The Committee spoke to Mr Simcox at some length, and with Ms Peck and Mr Morgan. Mr Simcox has a considerable commercial background and is a very successful and apparently wealthy businessman. He is aged 66 and is retiring from commercial life. He wishes to spend a substantial part of his retirement in pursuing his keen interest in racing. Mr Simcox has had horses with Mr Morgan for several years and has supported him through his difficulties, even though he could have moved his horses to another yard. His 5 horses remain with Mr Morgan. He told the Committee that he had introduced to Mr Morgan the owner who had run up the unpaid training fees of £98,000. He felt a degree of responsibility for that and felt a degree of loyalty to Mr Morgan as a result. He also very much liked the way Mr Morgan looked after the horses so well and his whole

attitude as a trainer, which was very much directed at the welfare of the horses in his care. He wanted, through K. & C, to build up a successful training venture.

7. It was clear from the Committee's discussions that Mr Simcox was a resourceful and able businessman, who understood how to manage and run a company.
8. The Committee discussed the revised business plan with him and Ms. Peck, the two directors of the company. The revised plan had been prepared by a Chartered Accountant who works for Roemex Ltd, the company owned by Mr Simcox and his wife. It was based on up-to-date information provided by Mr Morgan and Ms. Peck and Mr Simcox told us that great care had been taken to see that the figures were accurate. The projection for the period ended 31 October 2013 showed a pre-tax profit of £23,071.00; and for the next 3 months there was a further pre-tax profit of approximately £6,500. Unsurprisingly, these figures depended on the number of horses in training. Despite the death of one horse, reducing the current stock to 8, the Committee considered that the proposals with respect to the number of horses were realistic, as were the financial figures and assumptions (particularly as to costs) used in the revised business plan
9. In view of the interval of time since the last hearing, the company also had now available actual figures for the first 3 months of 2013. The differences between these and the forecast figures provided were not considered to be significant in the circumstances. The difference of approximately £5,000 between the two sets of figures reflects the fact that there are fewer horses in training, as well as a short-term reduction in training fees, because the horses in the yard are not in full training, even allowing for reduced feed and related costs.
10. The day to day financial management of the business will be carried on by Ms Peck. There will be monthly meetings between her and Mr Simcox at which they will consider monthly accounts for the company, comparing them against the forecasts in the business plan. There will also be quarterly meetings with the company's accountant, Mr Brook Alder, to check the financial health of the company. Later in the year a new budget will be produced for 2014. Ms Peck is being assisted by the company's accountants as the business gets started, with a meeting at least once a week so that Ms Peck knows how to produce regular company accounts. Ms Peck has been involved in all aspects of running Mr Morgan's yard since 2005, having been the Assistant Trainer in that time. She also

studied business and law for 3 years at West Suffolk College, Bury St. Edmunds. In the next few months, the company intends to take on a book-keeper to assist Ms Peck.

11. All in all, the Committee was satisfied that appropriate financial controls would likely be in place to keep an eye on the financial position of the company. It was also satisfied that Ms Peck and Mr Simcox together would be able to manage the company with sufficient competence.
12. The revised business plan also sets out the procedure for credit controls. Invoices are to be raised on the first day of each month for the previous month's training fees. Payment terms stated on the invoice will be within 14 days of the invoice date. If payments have not been received by the sixteenth day of the month, the defaulting owner will be contacted by telephone, followed up by a written reminder demanding payment within 7 days of the reminder. If payment has not been received within that time period, the owner will be contacted again with a 'Final Reminder' and asked to settle the account by the end of the month and informed that if payment is not made the horse will come out of training. Mr Simcox was unequivocal about this. He told the Committee, "The horse goes after 30 days".
13. The Committee was satisfied that this is how the credit controls are likely to be operated. All concerned, Mr Simcox, Ms Peck and Mr Morgan, had been chastened by the experiences of Mr Morgan and his bankruptcy, and the causes behind it.
14. Mr Simcox stated that appropriate revisions would be made to Mr Morgan's contract of employment with the company, to make it clear that he would have no role in its management. That revision would reflect what the Committee understood to be the position: that the company would be managed and run by its two directors, and Mr Morgan would confine his activities to providing services to the company as a trainer.
15. The Committee also considered that the granting of a licence to Mr Morgan as an employee of K & C was compatible with the wider interests of racing. His bankruptcy was the consequence of being let down by defaulting owners, albeit that Mr Morgan did not have sufficient credit controls in place. Most long-standing suppliers are still doing business with his yard. He has secured the backing of a competent and able businessman with a passion for racing who has funded the training business and produced a realistic business plan for the training operation. In those circumstances, it is in the interests of racing that Mr Morgan, a competent trainer, be permitted to train again.

16. The Committee attached the following preconditions to the grant of a licence, -
- 16.1 The production to the Authority of a copy lease in the name of K & C Racing Ltd., giving appropriate security of tenure over the training yard for a minimum of 12 months.
 - 16.2 Confirmation from Jockey Club Estates that K & C Racing Ltd. has permission to use Newmarket Central Facilities.
 - 16.3 Appropriate amendments are made to Mr Morgan's contract of employment to render it consistent with his status as an undischarged bankrupt, and that a copy of the contract so amended is provided to the Authority.
17. The Committee also attached the following conditions to the licence, -
- 17.1 Production to the Authority of quarterly management accounts of the company within 30 days of the end of each financial quarterly period, commencing with the period ending 30 April 2013. The last set of management accounts to be for the period ending 30 December 2013, and in respect of that period, those management accounts to be produced by 15 January 2014.
 - 17.2 If the above condition is not complied with, Mr Morgan must show cause why his licence should not be suspended or withdrawn.
18. Following the hearing, Mr Morgan provided evidence showing that the second and third of the preconditions specified in paragraph 16 above had been satisfied. The Authority was also notified by the landlord's agents, Smith's Gore, that that the appropriate paperwork granting the required security of tenure in favour of K & C would be prepared shortly. On 5 April 2013 Ms Peck notified the Authority that Mr Simcox, who was to guarantee the lease, would be abroad for the next two to three weeks. In those circumstances, the Committee considered it right to grant a temporary licence to Mr Morgan until 7 May 2013, to train as an employee of K & C.

Dated 8th April 2013



Stephen Bate

for the Licensing Committee