

## Learning Lessons from the Lebanon Tragedy

By Chris Wittstruck, Esq.



*Chris E. Wittstruck,  
Esq.*

The agonizing news of the fire at Lebanon Raceway last month struck both pain and fear in the hearts of all in our industry. The horrific loss of human life is emotionally devastating for all of us, even those of us who never had the pleasure of meeting veteran horsemen Ronnie Williams and James "Turtle" Edwards. Our industry is family; Ronnie and Turtle are our family. We know that their lives were truly enriched by interaction with the beautiful animals they so competently cared for on a daily basis. Their presence in our industry will truly be missed.

In the wake of the Lebanon tragedy, a near-tragedy recently occurred in upstate New York. On December 23, two barns were destroyed at a boarding facility in the Town of Colonie. Luckily, two quick-thinking teenage girls safely removed all 35 stabled horses. The cause of the fire was both all too familiar and fully preventable: A portable heater was placed too close in proximity to combustible material near a barn wall. Certainly, employing state-of-the-art safety protocols and equipment is important in barn environments. There are definite safety standards in the equine industry, and many more things that several argue should be standard. At a minimum, conformity to best management practices at the facility where your horses are stabled is an important step towards guaranteeing their health and safety.

There are an innumerable amount of on-line, free access items that every horse owner and boarder can read that provide information needed to confront emergencies both during and, just as importantly, before the cataclysmic event. Three easy-to-read items are highly recommended. The first is a piece written in 2000 by Beverly J. Whittington posted at the site, GaitedHorses.net. This article provides step-by-step particulars about how the risk of barn fire can be reduced. It sets forth details under three very important headings, which together constitute what can be considered a mantra: Plan, Prepare and Prevent:

<http://gaitedhorses.net/Articles/HorseBarnFires.html>

The second article, entitled "Preventing Barn Fires" is an undated piece written by Jane L. Seegal and maintained by the site Equisearch.com. This extensive article fully explains the need for elimination of burnables and ignition sources in the barn, and how to fully prepare for barn emergencies:

[http://www.equisearch.com/horses\\_care/farm\\_ranch/barns/eqfires1141/](http://www.equisearch.com/horses_care/farm_ranch/barns/eqfires1141/)

In addition, the New York State Horse Council maintains the posting of a 21- page booklet entitled, "Disaster Planning for You and Your Horse." Prepared in March 2008, this authoritative, easy-to-read manual covers emergencies precipitated by floods, hurricanes, earthquakes, winter storms and other natural disasters in addition to fire emergencies. The booklet provides enumerated, point-by-point guidelines for both the preparation for emergencies and the execution of actions during an emergency that are necessary to ensure horse safety.

Besides its very helpful specific content, the manual's introduction provides the proper backdrop to many emergencies and the factors that often are present that are never considered beforehand:

*Will you wish you had done your preplanning and set up your home and property with everything you need in an emergency? Or will you, in the terrible beginning moments as you confront the emergency, find there is no one to help you, find what you have is broken or inadequate, or that you can't get to your supplies? When you plan, always consider the worst possibility: no water (or too much water), no power, gas, roads, or communication! And worst of all, it's probably dark outside.*

<http://www.nyshc.org/Safety%20Documents/HORSE%20DISASTER%20PLAN.pdf>

Still, the most proactive plan offers no absolute protection from events like a spontaneous fire. According to author Seegal, though most are preventable, a staggering 4,500 barn fires occur in the United States each year. Always compounding such disasters is the financial loss. How can the average horseman protect himself from the financial, if not emotional effects of such a tragedy? In sum, ensuring the safety and welfare of your horses is important; so is insuring against the possibility of their catastrophic loss.

While racehorses can't be insured against morbidity, meaning disease or illness, and there is also no disability insurance for our steeds, *full mortality insurance* is widely available. Full mortality insurance covers the owner for the insured value of the horse if it dies or is destroyed for any reason other than an intentional or negligent act by or on behalf of the owner or the owner's agent. For horses of modest value, the policy can be secured without the need for a veterinary exam. Mortality insurance is also available for breeding stock. Admittedly, the annual mortality premium, anywhere from 4.25% to over 6% of a racehorse's value depending upon age and other factors, might prove too steep for some. The cost of the premium for a horse of modest value makes this a rarely used option.

An economical alternative to full mortality insurance is *specific peril insurance*; also often know as "FLT" (Fire, Lightning and/or Transportation). As the terms imply, this policy pays the owner in the case of death or destruction, but only as the result of certain expressly named perils. For example, an FLT policy would pay out if a horse requires euthanization due to a broken leg incurred while being vanned to the track, but would not pay out if the fracture incurred while in its stall. Since coverage is provided only if the fatality is the result of limited circumstances such as fire, the specific peril premium is a fraction of that for full mortality.

One of the most prudent actions any horseman can take is to pay the few dollars necessary to join their local horsemen's association. In addition to things like health, race bike and third party liability insurance (needed if you are sued by someone because of a fire or other incident), many associations also offer fire and disaster insurance as a basic membership benefit. For instance, the Standardbred Owners Association of New York maintains a fire and disaster policy with limits of \$15,000 per horse and \$200,000 in the aggregate (total the company will pay out annually). Horses are covered whether on the backstretch or at a training center, so long as the covered location is pre-disclosed.

While obtaining proper liability insurance for your equine operation is important, many "backyard breeders" and other small owners might overlook the need to obtain

proper insurance against loss due to fire and other natural disasters as well. Most homeowners policies contain a provision which excludes coverage for loss while engaged in business pursuits. While your house and its contents are covered, quite possibly the adjacent barn where your Standardbred breeding stock resides is not. Be sure to review your liability and fire coverage with your insurance agent. Purchasing a commercial rider for equipment or a standalone business policy is important. Even a trainer with just a few horses could realistically spend \$10,000 just to replace equipment.

On this last note, whether a home-based business or not, all the insurance in the world won't be of much help if you don't keep a proper inventory of the business equipment you might need to claim was lost in a catastrophe. If you maintain equipment for your Standardbred racing, breeding or boarding operation, whether you are an owner, trainer or farm manager, good business practice dictates that you maintain receipts for every item purchased, whether large or small. Besides insurance claim concerns, this rule should be adhered to for the purpose of tax deductibility or depreciation of the purchased equipment. Remember, running your horse business as a business is a prerequisite to having it later treated as a business by third parties.

Our worst fears are often never realized or, if realized, turn out to have been trivial. Sometimes, the worst things that happen in life are the things we never gave a thought to before they happened. Think about Lebanon Downs. Think hard. Now, commit to take all the actions necessary to avert a fire or other calamity, for if you do, then as harsh as our loss was on that early Saturday morning in December, two fine men and two score of horses did not die in vain.

**Chris E. Wittstruck, an attorney and Standardbred owner, is the founder and coordinator of the Racehorse Ownership Institute at Hofstra University, New York and a charter member of the Albany Law School Racing and Gaming Law Network.**