

## The Serious Business of Signing Your Name

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The recent inquiry of the Kentucky Horse Racing Commission into the license application of controversial Thoroughbred trainer Rick Dutrow highlights the need to employ extreme care when executing forms, submissions and other documents.

While trainer Dutrow has amassed a list of medication-based and other violations in his decades-long career, the Kentucky Commission's examination, as well as its ultimate decision in denying him a license, hinged on much more than just Mr. Dutrow's infraction history.

During the course of the Commission's April 14 hearing, its counsel questioned the trainer regarding his failure to list fines and suspensions incurred in jurisdictions other than New York on his license application. Further, the Commission noted that while the trainer did disclose a previous criminal conviction on his application, no details regarding the incident were provided despite the requirement to do so as part of the application. In refusing to issue the license the Commission specifically cited, among other reasons, a Kentucky Statute that requires license denial when, "The licensee or applicant has made a material misrepresentation, falsification, or omission of information in an application for a license."

Failing to fully complete an application through the omission of relevant information and, even worse, lying about certain facts, is universally recognized as the standard to deny a license application of any sort. In fact, failure to simply follow the directions of the issuing agency can often lead to license denial. Consider this section of the Harness Rules of the New York State Racing and Wagering Board:

"An application for an occupational license shall be made upon a form supplied by the commission and shall be executed in the manner prescribed by the commission. The commission may issue instructions as to the preparation and execution of applications for occupational licenses, which instructions may be a part of or separate from the application form. Failure to comply with any such instructions shall be grounds for denial, suspension or revocation of an occupational license..."

Of course, the denial of an application might just be the least of a horseman's troubles.

Again in New York, for example, an applicant who knowingly makes a false statement, which he does not believe to be true, in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable, is guilty of a misdemeanor and subject to up to one year in jail. Simply put, if you tell a lie on the application form, you can go to jail. Needless to say, virtually all racing license applications bear such a legend.

Further, inasmuch as the application containing the falsehood is presented to a public authority, if it is found that such falsehood was intended to defraud that authority, the applicant may also be found guilty of a felony and subjected to up to four years in state prison. Try to put one over on a racing commission, and you can go to jail for a very long time.

Additionally, in jurisdictions where a license application is required to be sworn to before a notary public or other public officer or official, falsehoods and misrepresentations contained in an application are a violation of the applicant's oath to tell the truth and can subject him or her to a perjury conviction.

Moreover, the denial of a racing license for any reason, but especially for fraud or misrepresentation, by any racing jurisdiction will have definite ramifications in all other jurisdictions where the applicant seeks an initial license or a license renewal. Based upon the principle of reciprocity, other racing jurisdictions will often respect the action of another commission denying a license and also refuse to grant a license to the applicant in their respective states.

The irony of all this is that most negative information about an applicant is readily available on public databases anyway, thus rendering the insertion of false or misleading information in an application completely ineffective and often counterproductive. Criminal convictions, racing violations, administrative fines, suspensions and revocations, civil judgments... all of these marks against an applicant are found in open and unrestricted fashion by government agencies, including racing commissions. Failure to disclose the easily discoverable is downright foolish, to say the least. Through fingerprints and other crosschecks, racing commissions know about virtually all the bad things an applicant has done. Why hide from them what they will ultimately find out on their own?

What's more, in many instances, negative information will not negatively affect the ability of the applicant to receive a license. Countless members of society have been convicted of crimes ranging from shoplifting to simple assault to driving while intoxicated. While they are convictions, and certainly not things to be proud of, relatively minor criminal scrapes with the law will normally not block the ability to pursue a livelihood in a regulated industry like racing.

A barroom fight in college or driving home from a wedding after one to many champagne toasts can both lead to serious consequences in and of themselves. Still, whether youthful indiscretions or just bad choices made as an adult, the fact that a person has paid society his or her debt and then improved from the experience is an important fact no licensing authority can overlook. Of course, if the applicant lies about the existence of the conviction or facts underlying it, his problems will massively increase, the relatively minor status of the crime notwithstanding.

Further, the need to be both truthful and complete is not limited to license applications. When credit is secured at an auction sale; when representations are made about the age, sex or condition of a horse; when workers compensation or other insurance is applied for... in these and countless other circumstances, material misrepresentations can lead to the voiding of a transaction; an insurance company disclaiming coverage for an otherwise covered incident; the institution of a civil suit for fraud and/or the possibility of criminal prosecution. If a benefit is secured through some form of deception, was it really worth it if the benefit is taken away upon subsequent discovery of the fraud?

Your mother told you that honesty was the best policy. Mom was right. Before you sign your name on the bottom line, make sure every factual item contained above your signature is the truth, the whole truth and nothing but the truth.

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