

Sports Litigation Alert

Reprinted from Sports Litigation Alert, Volume 11, Issue 15, August 22, 2014. Copyright © 2014 Hackney Publications.

2014: The Chinese Year of the Horse

By Robert Darwell and Calvin Berman

There have been rumblings in US media that members of the People's Republic of China's upper crust are jockeying to jumpstart a powerhouse Chinese horseracing industry. Despite 2014 being the Chinese Year of the Horse, these race enthusiasts should not be stocking up on mint julep ingredients just yet.

Although horse folklore has been a part of Chinese culture for centuries, and horseracing is legal in China, people in the country are not exactly galloping to the racetracks. Internationally, however, horseracing is growing increasingly popular, recently gaining a lucrative foothold in Dubai.

The most significant factor contributing to horseracing's relative unpopularity in China is likely the outlawing of gambling. While the horseracing industry outside of China depends on gambling to draw attention and excitement to the sport, Beijing has vehemently opposed most gambling (except in the former European colonies of Macau and Hong Kong, the only two "Special Administrative Regions of the People's Republic of China").

A robust Chinese horseracing industry would be a momentous boon for breeders, jockeys, trainers and other members of the global equine community. In the United States for example, the horse industry boasts an economic impact of over \$100 billion. In Ireland, a country of fewer than 5 million people, the horse industry contributes over \$1 billion to the national economy. Given China's population of 1.35 billion people, it is no wonder why shrewd businesspeople within the industry are chomping at the bit to launch a Sino horseracing market.

Regardless of the potential profitability of a Chinese horseracing market in full stride, recent history has shown that the PRC will not be spurred into action by capitalist ideals. In fact, the global business community is seeing the Chinese government crackdown on even the perception of capitalist corruption as the country places heavy emphasis on its reputation as a solid place to do business. By way of example, a British pharmaceuticals conglomerate recently became the subject of serious bribery and corruption investigations by the Chinese, American, and British governments after British nationals working for the business were arrested in China. And, earlier this summer, about 1,000 Chinese officials were removed from their posts on suspicion of funneling assets overseas.

Any person looking to take the reins on advancing the horseracing industry in China should refrain from any activity that could prick the ears of Chinese regulators. If the Chinese government catches even a hint of perceived corruption, it could spell disaster for the future of the sport in the country.

The United States' Foreign Corrupt Practices Act of 1977 ("FCPA") and the United Kingdom's

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Bribery Act of 2010 place added pressure on potential foreign horseracing entrepreneurs from these countries to stringently adhere to anti-corruption laws. As amended, the FCPA makes it unlawful for a United States national, citizen, resident or enterprise (including foreign businesses maintaining a presence in the United States) to make a payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person. The Bribery Act recently authorized analogous laws in the United Kingdom.

Although it is clear that the horse industry in China will not advance past the starting gate this year, it is possible that horseracing could follow the path created by golf, boxing, and basketball. Both golf and boxing feature established Chinese stars, like Feng Shanshan, who won the 2012 LPGA tournament, and Zou Shiming, a two-time Olympic gold medalist and three-time world champion boxer. Basketball followed a similar arc in China, as it was a relatively fringe sport there until Yao

Ming's emergence as an NBA star earned the sport national adoration. Perhaps it will take a superstar Chinese jockey, breeder, trainer or horse for horseracing to hurdle the obstacles placed before it in China.

Until the horseracing industry can generate momentum in China, racing fans and entrepreneurs alike will just have to imagine what a thundering Chinese horseracing market could mean for the sport.

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