NOTABLE RECENT SPORTS LAW CASES ILLUSTRATING INTEGRITY ISSUES RELATED TO ILLEGAL BETTING

BY JACK ANDERSON
As the ARF Council on Anti-Illegal Betting and Related Financial Crime has noted previously, illegal betting in sport is not a self-contained issue. It may be symptomatic or causative of problems in that sport relating to doping, animal and participant welfare and money or ‘image’ laundering by associated criminal personalities or entities. The multi-factorial threats associated with illegal betting can adversely affect the public reputation of a sport, undermining its regulatory autonomy (organisational integrity) and putting into question the sport’s social or statutory licence (its operational integrity).

Moreover, integrity threats emanating from illegal betting often necessitate costly internal investigations by a sport, which may require cooperation with external law enforcement and may even result in criminal prosecution or civil litigation. The two (recent) case studies presented here attempt to encapsulate this web of integrity issues often stemming from illegal betting, which as noted in Section Four is one of several interlocking integrity concerns for racing and other sports.

**United States v Navarro et al (2021)**

On 11 August 2021, the United States Attorney for the Southern District of New York (Manhattan) announced that Jorge Navarro and Kristian Rhein had pleaded guilty in a global drugs and doping conspiracy. In announcing the guilty pleas, the Manhattan US Attorney said that the defendants represented “the supply side and the customer side of the market in performance-enhancing substances that have corrupted much of the horse racing industry [in the US].” The Manhattan US Attorney went on to describe Navarro, one of America’s most successful licensed trainers (and a winner of a number of major races globally), as “a reckless fraudster whose veneer of success relied on the systematic abuse of the animals under his control.”

The Manhattan US Attorney was equally forceful in her description of the co-defendant (Rhein), noting that he had “previously admitted that he flouted his oath as a veterinarian to protect the animals under his care, choosing instead to pursue money through the sale and administration of unregulated substances used by trainers engaged in fraud and animal abuse.”

The charges in the Navarro case arose from a federal investigation in the US into a series of alleged conspiracies by racehorse trainers, veterinarians, and others to manufacture, distribute, supply, and receive misbranded performance-enhancing drugs (PEDs) and secretly administer such PEDs to racehorses. PED-enhanced racehorses would then be in an advantaged position to win (and did in fact win) millions of dollars in prize winnings in racetracks throughout the United States (New York, New Jersey, Florida, Ohio and Kentucky) and abroad (e.g. in the United Arab Emirates where Navarro-trained XY Jet won the 2019 Golden Shaheen race in Dubai). Navarro admitted in his guilty plea that XY Jet was one of the horses he had doped.

The conspiracy was sustained by the fact that trainers such as Navarro stood to profit by earning a share of the prize-winnings. Its success also assisted Navarro in attracting a greater number of owners to his stables and thus enabled him to earn more in trainer fees and increase the number of racehorses under his control. Similarly, Rhein, as the head veterinarian and owner of Empire Veterinary Group, profited from the sale and administration of these medically adulterated and dangerous substances.
The doping conspiracy endangered the health and well-being of the racehorses. Among Navarro’s preferred PEDs were ‘blood building’ drugs which, when administered before intense physical exertion, can lead to cardiac issues or death. Among the PEDs administered by Rhein was SGF-1000, a vasodilator capable of promoting stamina, endurance, and lower heart rates in horses through the purported action of ‘growth factors’ allegedly derived from sheep placenta. SGF-1000 was one of the PEDs given to the thoroughbred *Maximum Security* the (later disqualified) winner of the 2019 Kentucky Derby.

In their pleas, Navarro agreed to the payment of restitution in the amount of USD25,860,514, reflecting winnings obtained through his fraudulent doping scheme, and Rhein agreed to pay restitution in the amount of USD729,716 in connection with fraud committed through a false billing practice related to the PED misbranding scheme. Navarro was sentenced to the maximum five years in prison in December 2021 after pleading guilty to one count of conspiracy to commit drug adulteration or misbranding. Rhein was sentenced to three years in prison⁴. The charges faced by them related mainly to breaches of the US Federal Food, Drug and Cosmetic Act (1938), namely the misbranding and adulteration of drugs to be administered to animals.

The web of integrity issues covered by this matter is wider than breaches of ‘food law’: it is noteworthy that the investigative work underpinning the charges was carried out by the FBI New York Office’s Eurasian Organized Crime Task Force with the support of the FBI’s Integrity in Sports and Gaming Initiative. Moreover, the prosecution of the case was handled by the Money Laundering and Transnational Criminal Enterprises Unit of the Manhattan District Attorney’s Office. The manner (by which and by whom) this matter was investigated and prosecuted indicates that the US authorities have rightly identified the links between doping, animal welfare, race rigging and fixing, money-laundering and transnational economic crime (which can include illegal betting).

As for the industry itself, the Horse Racing Integrity and Safety Act became federal law in the US in December 2020. The since-established Horse Racing Integrity and Safety Authority (HISA) is currently concerned primarily with anti-doping, animal welfare and racetrack safety, working closely with, among others, the United States Anti-Doping Agency. It may be that in time that HISA takes a wider view of ‘integrity’ to include matters prompted by the Navarro case, which, per the indictment, included a broad conspiracy of trainers, suppliers and vets.

Other defendants noted in the Navarro indictment include Jason Servis, trainer of the above-mentioned *Maximum Security*, which appeared to win the 2019 Kentucky Derby before being disqualified for interference⁵. Servis was at the time of writing seeking to suppress a variety of wiretap evidence, including from Navarro’s phone, on the grounds that it was illegally obtained. In September 2021, the Manhattan District Attorney’s office filed a motion to dismiss Servis’s application. The motion overviews some of the evidence gathered by the wiretaps including how some of those charged sought to benefit from the conspiracy by using the inside information they had obtained (as to the PED-enhanced status of horses) for considerable gain on the betting markets⁶.

There is an ongoing debate in the US that the lack of integrity in horse racing is putting the sport’s very existence into question⁷. Concerns about animal welfare and a decline in betting revenue (with bettors in newly regulated US markets moving towards wagering on major league sports) poses a challenge to the future strength of the sport.
Charles Byrnes (Trainer, Viking Hoard) v Irish Horseracing Regulatory Board (2021)

On 18 October 2018, Viking Hoard (trained by Charles Byrnes) ran in a hurdle race in Tramore, County Waterford, Ireland. On the betting markets, the horse opened at a price of 4/1. The horse did not complete the course and was pulled up. The horse was examined after the race and a urine sample was taken. The sample tested positive for various sedatives, which are prohibited substances on race day in Ireland. The Irish Horseracing Regulatory Board (IHRB), the integrity unit for racing in Ireland, commenced an investigation into the adverse analytical finding and into betting patterns relating to Viking Hoard.

At an independent first instance hearing, the IHRB’s case was that the prohibited substances administered adversely affected the performance of Viking Hoard, the integrity of the race, and the health, safety and welfare of the animal, its rider, stable staff and other riders and animals in the race. The IHRB’s chief vet gave evidence that one of the substances administered to the horse was found in such high concentration that it was 100 times the applicable International Screening Limit (ISL). The IHRB admitted that several factors relevant to the case were unknown including the form in which the sedatives were administered, exactly when the seemingly deliberate over-dosage occurred, and by whom it was done. The IHRB’s chief vet summarised that Viking Hoard had been ‘nobbled’ before the race.

The IHRB had received alerts from the British Horseracing Authority (BHA) relating to betting patterns on Viking Hoard on the commercial betting exchanges. The information indicated that there was a substantial lay bet on the Tramore race, with a potential liability of EUR34,889 if the gelding won. This sum was risked to win EUR3,200, representing half of the relevant exchange market. The first instance tribunal in this matter was satisfied that “this risk/reward ratio demonstrated substantial confidence on the part of the layer”, and some evidence was presented as to a similar pattern in previous starts by Viking Hoard.

It was noted in evidence that the lay bets were initially placed (on the Betfair exchange) via a limited liability company from the same overseas account – emanating from a so-called ‘white label’ website – with some suggestion that such a mechanism was used to “hinder identification of the possible beneficiaries of lay betting.” The IHRB’s deputy head of security identified an individual known to be associated with the combined account, stating that the person in question is “in a distant part of the world and was said to be associated with match-fixing and associated betting in connection with other sports.”

Viking Hoard’s trainer gave evidence that he had nothing to do with the administration of prohibited substances to Viking Hoard or the various betting activities set out above. There was no evidence presented by the IHRB as to the latter. Byrnes conceded that the horse had been left unattended in the stable yard on two occasions before the race totalling 20 and 25 minutes.

The tribunal approached the case on the interpretation of the evidence that was reasonably open and most favourable to Byrnes, that being that Viking Hoard was ‘nobbled’ by an unidentified third party at a time when the gelding was left unaccompanied by him or his son. It must be noted that there was no CCTV footage available in that area of the Tramore racetrack. The tribunal was nevertheless satisfied that Byrnes should in strict liability be sanctioned, given that under the Irish Rules of Racing (Rule 148) a “trainer is responsible for all matters concerning the welfare, training and running of horses under their care, unless a satisfactory explanation is forthcoming”. In this regard, the tribunal observed, although the trainer was not alleged to be involved directly in the administration of the sedative, this “neglect in supervising [his horse] facilitated what was clearly organised pre-race doping of his charge. The deliberate doping of Viking Hoard close to race time in this case could not conceivably have been a casual or opportunistic event.”
Of interest is the tribunal’s reasoning on: (a) the difficulties of proof that an investigating integrity unit faces in cases where there is no direct evidence of who administered a prohibited substance; (b) the requisite standard of proof and (circumstantial) evidence in a case which involves the inference of fraud and (c) the proportionality of sanction – the tribunal ordered that Byrnes’ licence be withdrawn for a period of six months and imposed on him a EUR1,000 fine.

Further, the tribunal in this matter noted that the consequences of the trainer’s failure to supervise his horse were “disturbing” and threefold in nature: the concentration of sedative rendered the horse a danger to its rider and all nearby persons and animals; it also ensured that the winning bets staked on Viking Hoard on the betting exchanges could be opposed with absolute confidence and that any punter who backed Viking Hoard to win in good faith was “dishonestly deprived of a fair run for their money”; and the affair damaged the reputation of the Irish racing industry.10

A subsequent appeal by Byrnes was dismissed11.

**Conclusion**

Illegal betting on a sport can damage that sport’s reputation — particularly if it is one already closely associated with betting by the public, such as horse racing. Illegal betting may be also be indicative of an intricate and nefarious web of criminal involvement in a sport. Unlike the Licensed and Regulated wagering industry, where licensing and statutory obligations facilitate mutually beneficial co-operation, data analysis and intelligence sharing between the industry, sport, and law enforcement, Under-regulated and Unregulated betting markets opportunistically undermine the integrity of any sport they so desire, flouting domestic and international law.

Motivated by illegal betting gain, resulting conspiracies can endanger the human and animal participants in a sport. They can also affect the wider public, given that illegal betting is accompanied by tax evasion, money-laundering and associated, transnational economic crime. As has been illustrated by the above case studies, illegal betting is also one side of the same coin that is “betting illegally”.

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