



Tightening Down

Newly adopted USTA rules aim to further safeguard integrity

story by **Carson Morris**

For too long, USTA members have watched in frustration as suspended and unlicensed individuals continued to participate in the Standardbred economy—seemingly unabated and in violation of USTA and state racing rules. This is a significant problem. Ineligible individuals' illegitimate activities in the Standardbred industry undermine the integrity of the sport by allowing their negative influence to continue while causing upstanding members of the racing community to feel that rule violations carry no consequences.

The USTA shares in its members' frustration and is doing something about it. The association has put resources into enforcement, including by deputizing the Standardbred Racing Investigative Fund (SRIF) to pursue investigations on its behalf and steadfastly enforcing rule violations when wrongdoing is established. The USTA also recently reformed its rules and bylaws to enable the association to more effectively confront the problems at hand.

The goal is not just to catch and punish wrongdoers but to reform the cultural norms and expectations in Stan-

dardbred racing so that misconduct does not occur in the first place. Cultural change requires that the USTA educate its membership on, among other things, the misconduct it is targeting, the types of investigations it is pursuing, how they are undertaken, how the rules are being interpreted and enforced, and what standards of conduct are expected of association members. This article is part of the USTA's commitment to transparency and keeping its members informed as it carries out the enforcement priorities endorsed and demanded by the membership.

What conduct is SRIF focused on?

To solve a problem, you must understand the problem. Among the problems SRIF is focused on is the prevention of ineligible individuals from participating in the mainstream Standardbred economy.

Ineligible actors cannot operate in the industry without collaborating with individuals and entities in good standing with the USTA and state commissions. One of the primary ways this occurs is through “bearding,” in which horses are falsely registered in the name of a fictitious owner or entity when they are, in fact, under the ownership and control of someone barred from participating in the underlying activity, such as owning or training a registered Standardbred (refer to USTA Rule 26.01—“In order to register a horse the owner thereof must be a USTA member”; and Rule 17.02—same for trainers).

But beard owners and trainers are not the only problem. USTA members who knowingly do business with those engaged in fraudulent arrangements are also at fault because they enable and allow these frauds to proliferate.

The USTA, on behalf of its membership, must hold accountable those who knowingly participate in fraudulent business activities. In turn, the membership must understand and accept that it does not pay to knowingly do business with those who operate under fraudulent pretenses, thus bringing about the cultural change the USTA is seeking to accomplish.

Only when all responsible parties are held accountable can the problem be effectively confronted. SRIF’s investigations and recent revisions to the USTA’s rules aim to make this goal a reality.

How does SRIF investigate fraud in the Standardbred industry?

SRIF’s investigations are rooted in the USTA’s rules, which not only establish standards of conduct but also include valuable tools to investigate misconduct. In carrying out its investigations, SRIF identified areas where the rules could be updated to reflect the association’s enforcement goals and realities of the modern equine economy and

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proposed a slate of rule revisions to bolster the association’s enforcement powers. All were adopted and went into effect May 1.

USTA members should familiarize themselves with the rules, including the recent revisions, several of which are discussed below.

- **Rule 26.16—Record Requests.** Individuals who engage in prohibited conduct don’t often offer up proof, unprompted, showing the full scope and scale of their misconduct. While most members have responded honestly and openly to SRIF’s inquiries, that is not always the case. Thus, it is essential for the USTA to have adequate investigative tools that account for members’

possible resistance to participating in an investigation.

The USTA has this power in Rule 26.16, which entitles the association to demand that a member produce essentially any records and information related to a registered Standardbred. The rule also establishes that failure to comply with a record request can constitute a violation resulting in fines or a suspension.

Recent examples of the significance of Rule 26.16 include the USTA’s indefinite suspension of Debbie Surick for failing to comply with a record request in connection with SRIF’s investigation into Nick Surick’s ongoing involvement in Standardbred racing. At the USTA’s

annual meeting, the board of directors imposed sanctions for violations of this rule. Rule 26.16 enabled SRIF to obtain extensive financial and business records and communications in its investigations, such as encrypted texts exchanged with Nick Surick, who managed his Standardbred interests from behind prison walls by using a contraband cell phone.

Recent revisions to Rule 26.16 clarified the USTA's powers to demand records and added the right to require that members sign an unsworn declaration under penalty of perjury that their response to a record demand is true and correct, thus encouraging faithful compliance with the rule. The USTA has demonstrated a commitment to enforcing Rule 26.16. Members should understand that cooperation with a record request from SRIF and/or the USTA is not optional, and that refusal to comply may likely result in the suspension of one's USTA membership.

- **Significant rule revisions focused on enforcement.** It is critical that USTA members understand the rules they are subject to, their obligations under the rules and bylaws, and the potential consequences of violating them. The above discussion on Rule 26.16 is just one important example of this. Other examples include rules targeting the nexus of individuals who knowingly collaborate with non-members and ineligible individuals operating through bearding arrangements and otherwise engaging in fraudulent and prohibited conduct. While the USTA has always had rules to address this conduct, recent revisions add clarity and the ability to more directly address such impropriety.

- **Aiding and abetting.** The USTA recently made it a violation to aid and abet another in committing a violation of the rules (see USTA Rule 20.08). Rule 20.08 makes it a violation to aid, abet, assist, facilitate or encourage another to commit a violation of the rules of the USTA, and makes the member liable for the same violation they aided and abetted another in committing. The rule is intended to hold those who work with others they know are engaged in conduct violative of the USTA's rules accountable for the same misconduct even though they may be removed by a degree from the core violation.

- **Conspiracy.** Similarly, the USTA already prohibited conspiracies to violate the rules (see USTA Rule 20.07), of which the board of directors recently found several members in violation. Rule 20.07 was recently revised for clarity and continues to offer a basis to hold members accountable for misconduct committed in collaboration with others.

- **Fines.** Additional revisions eliminated language that unjustifiably narrowed the applicability or force of the rules. For example, Rule 20.16, which prohibits false ownership, struck language that arguably limited its applicability and now clearly makes it a violation to submit false information in connection with a registration. The \$5,000 maximum fine per violation in Rule 3.01 is also now gone. There was

ed a definition for “persons not in good standing” to the rules (see Rule 4.130). The concept applies to a limited class of wrongdoers—only those who are serving an indefinite suspension from the USTA or had their membership revoked because of a violation of the USTA's rules or bylaws are “persons not in good standing.”

Prohibitions pertaining to persons not in good standing are established in Rule 20.17, which is intended to broadly prohibit these individuals from participating in aspects of the Standardbred economy that fall under the USTA's jurisdiction, such as owning an interest in a Standardbred farm, stable, horse, or stallion syndicate share. Rule 20.17 also makes it a violation for a member not to report an attempt by a person not in good standing to engage in conduct

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no sound justification for this cap; just because a member only committed one violation does not mean the appropriate sanction could not exceed \$5,000. Indeed, the limitation arguably presented an economic incentive to violate a rule if the net payout would exceed \$5,000. Members should understand that the USTA is no longer so constrained in the fines it may impose for a violation.

- **Rule 1.03—Licenses.** Members should also understand that the USTA's obligation to issue a limited license under Rule 1.03 when a state commission has licensed the member to engage in activities under that state's jurisdiction, such as training or driving, does not control the member's standing with the USTA, which may impact a member's conduct beyond that authorized by the state commission. The USTA retains its autonomy over the scope of that which it controls, which can extend beyond the scope of a Rule 1.03 license, and revisions to the rule clarify this aspect of its operation.

- **Persons Not in Good Standing.** Finally, as an additional means of eliminating negative influences from the Standardbred industry, the USTA add-

ed a definition for “persons not in good standing” to the rules (see Rule 4.130). The concept applies to a limited class of wrongdoers—only those who are serving an indefinite suspension from the USTA or had their membership revoked because of a violation of the USTA's rules or bylaws are “persons not in good standing.”

There is virtually nothing a group of people cannot accomplish with the right resources, expertise, and, most importantly, the will to make it happen. During my tenure with SRIF, I have come to appreciate that the USTA and the Standardbred community have always valued and aspired to integrity. The values were there, the will was there—the USTA just needed a way. The association is finding and following that way, and we look forward to working with the membership in improving the Standardbred industry and making its goals a reality. **HB**

Carson Morris provides legal counsel to the Standardbred Racing Investigative Fund, a 501(c)(3) corporation formed in 2020 to fund expert investigations into matters concerning the health and welfare of Standardbred horses, such as prohibited medication practices and fraudulent trainer listings. To comment on this story, email us at readerforum@ustrotting.com.