

## **Out of money and freaking out**

I get calls every day from horse people -- professionals, amateurs and owners alike - - who are stunned at the situations in which they are finding themselves. And most of these situations are arising out of handshake deals.

The horse industry likes to do business on a handshake. While this is not a practice that I, as an attorney, recommend, it happens and I am frequently asked how handshake deals can be salvaged or enforced. The reality is that our legal system contemplates that some people will choose to do business on a handshake, and there are general rules that apply. Without a doubt, verbal agreements present a complex set of problems to any business deal gone awry, but that does not mean that a verbal agreement is *de facto* void or can just be ignored.

The saying goes that "desperate times call for desperate actions" but I challenge the notion that this gives anyone permission to resort to fraudulent or criminal behavior. In desperate financial times, our industry cannot throw ethics and relationships out the window in pursuit of personal preservation. Quite the opposite, in desperate financial times, the industry will only survive if we ALL conduct ourselves within the limits of law.

As a lawyer, I would be ecstatic if everyone documented their agreements -- but I know that is not going to happen. So to those who are seeing a handshake deal go down the drain, I offer the following legal and ethical guidelines to understanding your rights and obligations:

### **The Horseman's Legal Guide To Handshake Deals**

1 - The law is fair. Lawyers call that "equity." If someone hasn't agreed in writing to be screwed, then a court is not going to let you get away with screwing them.

2- If someone is taking care of your horse for you and you haven't paid them, they are slowly gaining an ownership interest in your horse. There is a fancy legal explanation for this, but your trainer is not legally obliged to subsidize your horse habit. And, if you owe someone money for taking care of your horse and they refuse to let it leave the barn until you've paid your bill, it is NOT a good idea to come around after dark and sneak it away. In fact, this is probably a crime almost everywhere.

3- You are legally obliged to pay your bills. Any professional who provides a service to you or your horse expects to be paid. This includes vets, farriers, braiders, transport companies, etc. You, and you alone, are obliged to pay for your horse habit. You do not qualify as a charity.

4- If you agree to buy a horse and you take it home with you, you actually have to pay for it... the asking price at the time it got on your trailer.

5- But, if the person you sold a horse to agreed to make payments and misses one, you cannot "repossess" the horse AND keep the money they've already paid.

6- Do not write a check if it won't clear.



7- If you ask someone to "go in on a horse" with you, and they pay you money or pay some or all of the expenses, then they are your partner and they own part of that horse and you really can't screw them.

8- If you borrow money from someone to buy a horse, and then you sell the horse, you owe that person at least the amount they put in. Even if you spent more on the horse while you were trying to get it sold.

9- Professionals do not "lease" green horses to boost their reputations.

10 - There is no such thing as debtor's prison. You can't go to jail for being poor, but you can go to jail for lying, cheating or stealing. Just ask Martha Stewart.

