



## CONDITIONS OF SALE FOR NORTHERN CALIFORNIA SALE

**T**he CTBA Northern California Sale will be held Aug. 9 at the Alameda County Fairgrounds. While last year's sale was a success, the CTBA Board has been working toward making changes that will make this year's event an even better experience for sellers, consignors, and buyers.

One issue addressed was to obtain as much consistency as possible for the conditions of sale between the CTBA and Fasig-Tipton. While the conditions were similar before, some inconsistencies had the potential to create confusion. We approached Fasig-Tipton officials, who kindly granted permission for us to "appropriate" their conditions of sale. However, there are a few differences, one of which is discussed below.

Those conditions will be printed in the sales catalog, and everyone is urged to read them. While they might look a bit daunting and there is the inevitable smattering of legal "mumbo jumbo" that lawyers (like me) require, they are a relatively easy read. We live in an information age, and if you are a sales participant, this is the information for the rules of the game—whether you read them or not.

The difference between Fasig-Tipton's conditions of sale and the CTBA's respects bone warranty. The Fasig-Tipton conditions of sale require that, for 2-year-olds and horses of racing age, "any injury or disease to the bone structure materially affecting its suitability for racing" must either be announced at the time of the sale or be revealed by x-rays

or a veterinarian certificate placed in the sales repository. If the x-rays, certificate, or auctioneer's announcement disclose the defect, there is not a warranty. If the x-rays, certificate, or announcement don't disclose the defect, a limited warranty can come into effect. Yearlings are not covered by the Fasig-Tipton bone warranty.

The CTBA conditions of sale regarding bone warranty are different, and it is very important to be aware of that difference. First, the CTBA bone warranty includes yearlings. Second, while consignors are encouraged to provide x-rays for the repository, the majority of consignors at the Northern California sale historically have not. Because of that, the CTBA believes that the conditions of sale should be tailored to fit the reality of the Northern California sale.

The bone warranty at the CTBA Northern California Sale will work like this:

If an x-ray or a veterinary certificate is on file and discloses the injury or diseased condition that would likely "materially and adversely affect the horse's suitability for training and racing" (or if that condition is announced at the time of sale), the buyer purchases subject to that condition. In other words, there is no right of rejection. You bought it and it is yours, period. The clear message is that before you buy a horse, check the repository.

For those horses without x-rays or certificates on file or if the x-rays do not disclose the disease or injury to the bone structure, the buyer may x-ray the horse within 24

hours (but before the horse leaves the sales ground). If that x-ray discloses a condition covered by the bone warranty, the buyer can reject the horse and cancel the sale. A dispute between the buyer and seller on this issue will be resolved by a panel of three veterinarians. It is important for the buyer to be aware that once the horse leaves the sales ground or 24 hours have passed, whichever occurs first, there is no right of rejection, no matter what a later x-ray might show.

This is a brief summary that I hope will help avoid any confusion about the sale's bone warranty. The process does require some attention and effort by the seller, consignor, and buyer, all of which fall under good business practices. We believe that this is fair to all parties and provides certainty for the sale's process.

I close as only a lawyer can. This is intended to be a summary for your assistance when reading the conditions of sale. It is not a substitute for the actual conditions found in the sales catalog. Those printed conditions control and cover much more than bone warranties. If they are inconsistent with this summary, the printed conditions will control. Those conditions might change between the time of this article and the time the conditions of sale are printed. You should read those conditions thoroughly (this is the type of thing I do when my mother-in-law is visiting) and make sure you understand them. If after reading them, you need further information or clarification, please contact the CTBA. **CTB**