

How a Grandmother Wanted the Police to Arrest Me Because She Forgot Who Owned the Horse; Or, Why a Horse's Brand Inspection Certificate is Important to the Buyer, the Seller, and the Stable Owner

A true story by Andrea Raschke, Stable Owner Smoky Acres, LLC

Colorado law mandates that a brand inspector from the State Board of Stock Inspection certify that a shipper or seller is the legal owner before issuing a Brand Inspection Certificate as legal proof of ownership for cattle, horses, mules, and donkeys. An inspection is required every time there is a change in ownership (be it a sale, adoption, or gift and even if no money is exchanged), every time an animal is to be transported over 75 miles within Colorado, and every time an animal leaves the state. For horses, an owner may obtain a one-time Permanent Travel Card to avoid having to have an inspection every time an animal is transported over 75 miles or leaves the state. In addition, any time livestock is to be transported on a public road, proof of ownership must be available to local law authorities or a brand inspector. A Colorado Brand Inspection Certificate or Permanent Travel Card is this proof.

When I set up my small convalescent/retirement horse boarding facility in 2000, my lawyer advised that the very first section in my Boarding Contract stipulate the following: The OWNER hereby warrants to the STABLE that he/she is the sole owner of the horse and has full authority to enter into this agreement. In a subsequent section, I acknowledge that I have received this authority from the OWNER in the form of a copy of their Brand Inspection Certificate or Permanent Travel Card. Consequently, in order for my contract to be enforceable, I need legal validation that I am taking direction from the actual owner of the horse. If necessary, I also want to have the ability to perfect an agistor's lien which allows me to use the horse as security for payment of any debt owed to me from the horse's owner. There is no benefit to me to have my contract signed by somebody who could simply say, "Not my horse, not my problem!" because he or she legally can't be proven to own the horse. In addition, this protects me from violating the state statute of unlawfully having any estray (unknown ownership or lost) brand animals in my custody. Little did I realize that I would encounter yet another reason to make sure each horse at my stable has the proper Brand Inspection paperwork.

It was Mother's Day 2018. I had just finished turning out the horses after their evening feeding when I noticed a car drive up and park across the street with two adults in it. I didn't think much of it because people often stop to look at the panoramic view to the south or to watch the horses in my paddock. I also knew that a neighbor was hosting a graduation party that was bringing in more unfamiliar traffic than usual. The next evening, I was doing the dishes when the same car returned and again stopped across the street. I watched as it then pulled up and parked next to my driveway. I went outside to find out what they wanted. The passenger exited the car and walked up to me announcing that she had come to claim HER horse!

First, some background. One of my current boarders had brought his 27-year old mare to my stable to enjoy her retirement because she was too arthritic to be ridden any more. He did not have a Brand Inspection Certificate for her; nor had he ever heard of one. I explained to him what the process would be for him to get the inspection paperwork required by my Boarding Agreement, and he wasn't concerned because he already knew the horse's full history. His mother (Owner 1) had purchased the then 2-year old horse from a breeder in 1993. About 10 years later, his mother sold the mare to her friend (Owner 2). In 2009, Owner 2's daughter left for college, and she no longer wanted the horse. Owner 1 told Owner 2 that her son was interested in buying the horse for his then 5-year old daughter, and that's how the horse came to my boarder (Owner 3) without a Brand Inspection Certificate. My boarder made an appointment with the Brand Inspector and provided her with nine years' worth of vet bills along with the mare's microchip registration. [Note: A microchip only proves the identity of the horse and is not proof of horse's ownership in Colorado. Think of the Brand Inspection Certificate as being the car's title, and the microchip as being the car's VIN. I could put a microchip in every horse at my place, but that won't prove that they are legally mine.] There had been no written contract or bill of sale when my boarder purchased the horse, and he no longer had the copy of the cancelled check from nine years ago. Based on the information then available, the Brand Inspector had my boarder sign a Guaranty of Title in which he stated under penalty of perjury (which is a felony if convicted) that he was the sole owner of the horse. My boarder received his Brand Inspection Certificate.

Back to the lady standing in my driveway. She asked if I knew who she was. I replied that I did and that she was my boarder's mother. She explained to me that she was concerned about the horse not being confined to a stall overnight, and I replied that the horse needed as much turnout as possible due to her arthritis but that the horse always had access to a stall. The mother became even more agitated and stated that she still had the horse's breed registration papers as well as the Brand Inspection Certificate; and, because she was worried sick about how I was caring for the horse, she was going to go to the police! I also was aware that my boarder's mother has the onset of dementia; so, I was kind but firm with her explaining that the horse now belongs to her son, is well-loved by her 14-year old granddaughter, and that the horse is getting excellent care under a veterinarian's supervision. She seemed to be reassured and then soon left. I sent a text to my boarder to let him know his mom had stopped by and went about the rest of my evening.

To my surprise, the Brand Inspector called me the next day, May 15, 2018. My boarder's mother had gone to them asserting that her horse had only been leased but never sold to either her friend or to her son, and she wanted the mare

back. I was ordered to keep the horse quarantined on my property until the ownership dispute was resolved – the mare wasn't even to be allowed to be hand-walked on the street lest she be loaded into a trailer at the end of the block and driven off into the sunset (plus, it would obviously be unlawful for anybody to haul the horse on a public road without proof of ownership). I immediately sent an email to the Brand Commissioner to inform him about what I understood had happened and to emphasize that the Guaranty of Title my boarder had attested to was not with the intent of fraud. My boarder, as a financial advisor, would lose his professional license if that were the case. We also wanted for him to be able to have a valid Brand Inspection Certificate, so he could continue boarding at my stable, gift the horse to his daughter when she turns 18-years old, or even move the mare out of state if he had a job transfer or his daughter wanted to take the mare to college. The Brand office got busy trying to untangle the mess.

On May 23, 2018, the Brand Commissioner sent my boarder a letter explaining what his staff uncovered. Owner 1 bought the horse from a breeder in 1993, obtained a Permanent Travel Card in 1999, and then sold the mare in 2003 to Owner 2. These transactions were evidenced by proper transfers of inspection documentation. As noted above, a Brand Inspection Certificate was issued to Owner 3 earlier in 2018. To complicate matters further, Owner 1 requested that Owner 2 prepare a handwritten bill of sale dated May 20, 2018 to document that Owner 2 had previously returned the horse to Owner 1. Per my boarder (Owner 3), his mother (Owner 1) did in fact have a verbal first right of refusal agreement with Owner 2, and his mother had taken custody of the horse. What had happened was that when the horse came available for sale, my boarder told his mother he wanted the mare, and his mother had agreed to take the mare on behalf of her son for the two days he needed to get a trailer and travel to bring the horse home for his daughter. Thus, Owner 1 did not have a Brand Inspection Certificate despite her claim otherwise (and breed registration papers by themselves are not adequate proof of ownership); Owner 2 did have a Brand Inspection Certificate that she had never transferred, but she had since given Owner 1 a bill of sale; and, Owner 3 was holding a Brand Inspection Certificate that had been issued in the interim but was now void due to inaccurate representation at the time it was prepared. This meant that only party with the legally binding Brand Inspection Certificate was Owner 2, and she neither wanted nor claimed the horse.

This still left the mare's ownership status unclear, and the Brand Inspection Division is not allowed play the role of judge and jury as they have no statutory authority over bona fide ownership disputes in which Brand Inspection Certificates have not been properly transferred. If the parties involved could not come to a resolution, regardless of what any of them wished to be true or that the monetary value of the horse was now minimal, the matter would have to be resolved in a civil court. Legally, the seller is supposed to be the one responsible for the Brand Inspection Certificate. In this case it also meant that Owner 2 was now caught between Owner 1 wanting the Brand Inspection Certificate transferred to her because she had a bill of sale and Owner 3 threatening to demand reimbursement for nine years' worth of financial costs for a horse he thought he owned.

Contrary to popular belief, Colorado law does not allow for somebody to simply "keep" any livestock that appears to be unwanted. Therefore, if an animal is considered to be an estray or abandoned, the Brand Board will pick it up and take custody for up to 20 days to advertise it in an effort to locate the owner. If no owner can be verified, the animal is then put up for sale at auction with the new owner receiving a Brand Inspection Certificate. While this gave my boarder the option of being able to buy his mare at auction to get a new Brand Inspection Certificate, he did not want for the horse to have to even temporarily leave the care she was receiving at a place where he knew she was content.

On July 3, 2018 my boarder texted me that he had just received a new Brand Inspection Certificate showing him as the official owner of the horse. He had managed to finally come to an agreement with his mother to no longer contest the ownership of the mare. This allowed the Brand office to have Owner 2 agree to properly transfer her original Brand Inspection Certificate to Owner 1 (to recognize the bill of sale even though it provided only a limited statutory claim due to when it was issued). The Brand office then had Owner 1 agree to properly transfer the new second Brand Inspection Certificate to Owner 3 who now held the new and third Brand Inspection Certificate necessary for a precise paper trail of which I have a copy of for my Boarding Agreement. Thankfully, this happy ending gave all of us an extra reason to celebrate on the 4th of July as my boarder once again had full authority over his horse without going to court or auction, and I no longer had to worry about going to jail for refusing to allow a grandmother to have access to a horse she once owned.

Lessons Learned: Good intentions, the relationship between the parties involved, or mental capacity is irrelevant. The age, value, or intended use of the horse is of no consequence. The Brand Inspection Certificate is all that matters.

- Owner 1 – If you want to keep control of your horse, keep the Brand Inspection Certificate.
- Owner 2 – If you do not want to risk financial or legal responsibility for your horse, sign over the Brand Inspection Certificate.
- Owner 3 – Make sure to get everything in writing to prevent the risk of a voided Brand Inspection Certificate.
- Stable Owner – Make sure every boarding contract is backed up by a Brand Inspection Certificate.

The above account has been approved by my boarder, and the Brand Commissioner has encouraged me to share this story.