Jeffrey S. Kerr General Counsel and Vice President of Corporate Affairs



March 18, 2010

VIA FACSIMILIE:

AND FIRST-CLASS MAIL

Charles J. Hynes
Kings County District Attorney

Dear Mr. Hynes:

I am general counsel to PETA and I'm writing to request that you investigate allegations regarding illegal activity in connection with pigeon racing that is to be the subject of an upcoming Animal Planet show filmed in Brooklyn. It is likely that extensive wagering will take place on the outcome of these races, as is customary in the industry, in violation of New York law. See N.Y. Const. Art I § 9; N.Y. Penal Law §§ 225.05, 225.10; N.Y. Rac., Pari-Mut. Wag. & Breed. Law § 224.

In a March 15 press release, Animal Planet announced the upcoming reality television series "Taking on Tyson," set to begin filming next month in Brooklyn and to debut early next year. The series will follow Mike Tyson "inside the intensely competitive and bizarrely fascinating world of pigeon racing."

As I'm sure you're aware, the New York State Constitution prohibits gambling within the state, with the exception of lotteries operated by the state and parimutuel betting on horse races as prescribed by the legislature. N.Y. CONST. Art I § 9. Any individual that "knowingly advances or profits from unlawful gambling activity" beyond personal gambling winnings in violation of this prohibition is guilty of "promoting gambling." See N.Y. PENAL LAW §§ 225.05 (second degree), 225.10 (first degree, occurring where an individual "receives or accepts in any one day more than five bets totaling more than five thousand dollars"). Section 225.00(4) further provides that "[a] person 'advances gambling activity' when, acting other than as a player, he engages in conduct which materially aids any form of gambling activity," which includes "conduct

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS FOUNDATION

¹ See Press Release, Animal Planet, Animal Planet and Mike Tyson Prepare To Knock Out The Competition (March 15, 2010) (attached as Exhibit A); see also Michael Shain, Mike Tyson Reality Series Takes Wing, N.Y. POST (Mar. 15, 2010) (noting that Tyson keeps birds in a loft in Brooklyn that that the series will be filmed in that borough) (attached as Exhibit B).

directed toward the creation or establishment of the particular game" Any person organizing a pigeon race or accepting more than five bets totaling more than five thousand dollars is therefore in violation of New York law.

In addition to the general prohibition on gambling, the New York Legislature has explicitly outlawed "[a]ll racing or trials of speed between horses or other animals for any bet, stake or reward" unless explicitly permitted. N.Y. RAC., PARI-MUT. WAG. & BREED. LAW § 224. This prohibition includes racing or trials of speed between pigeons conducted for the purpose of betting or where any reward is granted to the winning trainer. It is our understanding that in competitive pigeon racing in New York, the winning trainer is awarded prizes for both for weekly races and season-long performance, with a single purse reaching as much as \$200,000.

It is also noteworthy that Tyson will undoubtedly be paid for starring in the series. This compensation may be deemed to be a stake or reward for the pigeon racing on which the show is based, providing an additional ground to find that any races conducted will be in violation of § 224.

A violation of § 224 is deemed a public nuisance and all persons "acting or aiding therein, or making or being interested in such bet, stake or reward is guilty of a misdemeanor," punishable by imprisonment of up to one year. *Id.* In addition to imprisonment, a defendant forfeits to the state "all title or interest in any animal used with his privity in such race or trial of speed, and in any sum of money or other property betted or staked upon the result thereof." *Id.*

In its press release, Animal Planet has touted competitive pigeon racing as requiring "dedication, discipline, patience and tenderness" and noted that "[p]igeon fliers treat the birds like fine thoroughbred horses to dominate the racetrack," ignoring that, unlike thoroughbred racing—which comes with its own set of problems, including illegal drugging—New York State has not created an exception to its firm constitutional prohibition on gambling and has in fact outlawed any non-thoroughbred animal race for bet, stake or reward. We hope that you will contact Majorie Kaplan, President and General Manager of Animal Planet Media, to request that

² The statute excepts racing that is "allowed by this article or by special laws," referring to racing activities conducted by corporations formed under the provisions of, and complying with all provisions of, Article II, Thoroughbred Racing and Breeding. N.Y. RAC., PARI-MUT. WAG. & BREED. LAW § 224. The statutes permit corporations so organized to "conduct[] racing at one or more *thoroughbred* racetracks, conduct[] pari-mutuel wagering and further[] the raising and breeding and improving the breed of *horses*." *Id.* at 201 (emphasis added). This exemption therefore applies only to horse racing by approved corporations.

³ Although the term "animal" is not defined in this chapter, it is defined elsewhere in New York law to include "every living creature except a human being." N.Y. AGRIC. AND MKTS. LAW § 350.

⁴ See SCO Bond Race flyer (New York race guaranteeing \$2,500 to winner) (attached as Exhibit C); see also Shain, supra note 1 ("In the sport of pigeon racing, birds race distances up to 500 miles—with thousands wagered on the outcome."); Joshua Yaffa, Look Homeward, Angels, N.Y. TIMES (Dec. 9, 2007) ("The races are divided into two formal seasons—one in the fall and one in the spring—with prizes awarded both for weekly races and season-long performance.") (attached as Exhibit D); Margalit Fox, Frank Viola, Leader in Sport of Racing Pigeons, Dies at 87, N.Y. TIMES (Nov. 7, 2007) (The Frank Viola Invitational, a 400-mile contest in which the birds are released in Ohio and fly back to New York, is "one of the few truly lucrative pigeon races in the country, with a total purse . . . of more than \$200,000.") (attached as Exhibit E).

production on the series be halted and to inform her that any violations will be prosecuted. She can be reached directly at

Please contact me if you have any questions or wish to discuss this matter.

Very truly yours,

Jeffrey S. Korr

EXHIBIT A

ANIMAL PLANET AND MIKE TYSON PREPARE TO KNOCK OUT THE COMPETITION

Heavyweight Hopeful Entertainment Network Partners with Boxing Champ

March 15, 2010

Contact
Patricia Kollappallil
VP, Communications
patricia_kollappallil@discovery.com
240.662.2969

Brian Eley
Director, Communication
brian_eley@discovery.com
212.548.5153

(New York, New York, March 15, 2010) - Building on the success of the network's rebrand and content transformation, Animal Planet has announced a new show with Mike Tyson, currently known as **TAKING ON TYSON**, where the former heavyweight champion of the world will take audiences inside the intensely competitive and bizarrely fascinating world of pigeon racing. Slated to film this spring in New York City and debut in early 2011, the show will give audiences an insider's look at pigeon rearing and racing, a sport that is far from the mainstream. The novice pigeon racer Tyson goes toe-to-toe against several individuals in hopes of being crowned a champ all over again. Tyson has a deep passion for the birds and raised pigeons all his life. In fact his first-ever fight as a child was in defense of his birds. But this show will follow his first foray into racing them competitively. So for the first time in years, Tyson enters a sport as an underdog.

"Tyson's passion for his pigeons takes my breath away," marvels Marjorie Kaplan, president and general manager of Animal Planet Media. "For years, he has been inspired by these birds that he feels have the 'biggest heart' in the animal kingdom. **TAKING ON TYSON** peels back new layers of the remarkable persona and deep humanity of Mike Tyson while also showing us a whole world we never knew existed right on the rooftops of New York City."

"I'm honored to be a part of this monumental show on Animal Planet," said Tyson. "I feel a great pride acting as an official representative for all the pigeon fancier's out there. I want people to see why we love these birds. It feels good returning to the rooftops of the city where it all started for me - New York."

To rear, train and race pigeons - or "homers" - requires dedication, discipline, patience and tenderness. For many pigeon racers, these avian athletes are the kings of the bird world. Their intelligence, spirit, titanic bonds of loyalty and astounding homing ability sets them apart from other birds. Pigeon fliers treat the birds like fine thoroughbred horses to dominate the racetrack. Such a feat could not be accomplished alone, especially for a rookie like Tyson, but he has a

colorful team of pigeon experts by his side, including his trainer Vinnie Torre, caretakers the Roman Brothers and promoter/manager Mario Costa, each providing deep insights into the rich and colorful sport of pigeon racing. With the gritty and scenic backdrop of New York City rooftops, TAKING ON TYSON takes flight with its view of weekly pigeon auctions and dynamic competitions.

TAKING ON TYSON was created and produced by Touch Productions in association with Tyrannic Productions for Animal Planet. Malcolm Brinkworth is the executive producer for Touch Productions, Mike Tyson is the executive producer with Tyrannic Productions, and Jason Carey is the executive producer for Animal Planet. Charlie Foley is vice president of development for Animal Planet.

Animal Planet Media (APM), a multi-media business unit of Discovery Communications, is the world's only entertainment brand that immerses viewers in the full range of life in the animal kingdom with rich, deep content via multiple platforms and offers animal lovers and pet owners access to a centralized online, television and mobile community for immersive, engaging, high-quality entertainment, information and enrichment. APM consists of the Animal Planet television network, available in more than 95 million homes in the US; online assets www.animalplanet.com, the ultimate online destination for all things animal; the 24/7 broadband channel, Animal Planet Beyond; Petfinder.com, the #1 pet-related Web property globally that facilitates pet adoption; and other media platforms including a robust Video-on-Demand (VOD) service; mobile content; and merchandising extensions.

###

EXHIBIT B



Mike Tyson reality series takes wing

By MICHAEL SHAIN Last Updated: 2:35 PM, March 15, 2010 Posted: 1:38 AM, March 15, 2010

Iron Mike Tyson is getting ready to make his debut as a reality TV star.

Tyson, a life-long pigeon keeper, will star in a series about bird racing. The Post has learned.

"I may have stopped fighting," says the former heavyweight champ. "But I never stopped flying birds. It's my first love."

The show, to be called "Take on Tyson," pits Tyson and his birds against the best racing-pigeon owners in New York.

It is set to air on the cable channel Animal Planet sometime early next year.

The headline potential of turning the ferocious fighter into a reality TV star is not lost on Tyson himself, who has never been on a continuing series.

"I am a little worried about the sitcom effect," Tyson told The Post over the weekend.

"Mike Tyson and Animal Planet? They don't seem to go together, do they?"

Tyson served three years for rape in the mid-'90s and effectively ended his fight career two years later by biting Evander Holyfield during a bout. But he is now well on his way to remaking himself into a sensitive guy.

He cried on Oprah's show last year and starred in a stunningly candid documentary about his life, "Tyson" (which many in Hollywood believe was robbed of an Oscar nomination).

In a suprising role reversal, it is Holyfield who is in hot water these days (accusations of domestic violence, a ducked "Dr. Phil" appearance) and Tyson who is working for the channel that shows the Puppy Bowl.

The fighter says these days he owns "a few hundred birds" in two lofts, one in Brooklyn and another in Jersey City.

But he has never raced birds before.

"Taking on Tyson" begins shooting next month in Brooklyn, the network says.

For the show, Tyson turned his birds over to a cigar-smoking pigeon trainer, Vinnie Torre, who is getting them ready for the competition.

"Mike will be the underdog this time," says Marjorie Kaplan, the head of Animal Planet.

Tyson began with pigeons, he says, at age 10 or 11 in his Brownsville neighborhood, swiping milk crates for bigger kids who used them as coops for their birds.

"I cleaned cages," he says. "I was their go-fer."

In exchange, "I got the strays."

He kept his birds in a small coop attached to the windowsill of his apartment on Amboy Street for a while, he says, and later in a nearby abandoned building.

"I couldn't fly them off the roof," he explains. "Big kids would come and steal them."

And it was the birds that steered him to boxing, he says now.

"I never hurt anybody until somebody hurt one of my birds," Tyson says.

In the sport of pigeon racing, birds race distances up to 500 miles - with thousands wagered on the outcome.

Like most reality shows, the drama won't be in who wins -- but among the hard-core Brooklyn characters who work in the rooftop world of competitive pigeon racing.

"We're just lucky to have Mike Tyson to show us around," says Kaplan.

Details are still sketchy, she says.

"We'll film and, when everyone gets back, we'll see what we have," says the network boss.

NEW YORK POST is a registered trademark of NYP Holdings, Inc.

NYPOST.COM , NYPOSTONLINE.COM , and NEWYORKPOST.COM are trademarks of NYP Holdings, Inc.

Copyright 2010 NYP Holdings, Inc. All rights reserved. Privacy | Terms of Use

EXHIBIT C







Sullivan Catskill Open

350 Mile Y.B. Bond Race

\$2500 Guaranteed To Winner

Prizes 2*d 1,500.00

3rd 1,000.00 4th 750.00

5th 500.00

6th 400.00

7th 300.00

2" to 30" 100.00

Based on 50 Bond

Entries

Futurity Pledge Race Open To all Flyers W/Min Distance of 328 Miles From Clarksburg, WV

Shipping Date thursday. October 28, 2010 - LIB. Saturday 30, 2010

Ship from 2 Locations

SVN Club: 224 Katrina Falls, Rockhill NY 12775

PVI Club: 4 American Legion Way, New City NY

Crates Will Open from 6-9pm

Reporting Saturday Night from 7-10pm

Results can be Faxed as Long as if it was Knocked Off at Club and Signed

by Club Officer

(Do Not Delete Race from Clock)

Bond Pledges 7 Birds for \$200.00

Additional Bonds @ 7 Birds for \$200.00 or 3 Birds for \$100.00

OOA Flyers May Send 3 Free Back up Birds with Every 7 Bird Pledge

Send You're Best on Shipping Night

All Pledges & Payments are Due Before September 4, 2010

Additional Information

- -350 mile Clarksburg, WV # 8423, Race open to all Flyers flying with a min. distance of 328 miles
- -OOA Bonds Split: 60% Breeder 40% Handler, Handler List Available on Request
- -Electronic Clocks: Benzing and Bricon systems are permitted. For other clock system's bring club unit

Send Payment with list of birds and handlers when shipped to: Joe Perrello PO Box 536 Fallsburg, NY 12733

Contact

Joe Perrello — 845-434-4693 Norbert Safko —845-647-9609 Richie Ahrendt—646 -773-2296 John Turney -845-313-8377

EXHIBIT D





December 9, 2007

Look Homeward, Angels

By JOSHUA YAFFA

JUST before midnight on Nov. 3, a white truck pulled up to the Frank Viola Homing Pigeon Club, on a dark and quiet stretch of Stillwell Avenue in Coney Island. The air was cold and smelled faintly of the sea. Two men hopped out of the truck. One opened its rear doors. The other approached a handful of older men who were standing in the street. "How many you got tonight?" the man asked.

Fourteen crates, came the reply. The crates, which were stacked near the curb, held hundreds of pigeons.

It was race night at the Viola club, and for a few hours, the club's pigeon fliers had been tagging the birds' feet with electronic bracelets and scanning the information on the bracelets into a master clock in preparation for their 300-mile overnight journey to the town of Somerset in southwestern Pennsylvania. There, half an hour after sunrise, at a truck stop just off Interstate 76, the birds would be released to race back to Brooklyn, with the earliest arriving back in early afternoon.

Homing pigeons may be icons of the city, with rooftop bird coops a familiar image like the skyline, but the sport has been in decline for the last half century. Although only a couple of hundred pigeon fliers remain in New York, however, that small band, organized into a half-dozen or so clubs like the Viola, forges on, participating in races that span hundreds of miles and conducting hundreds of races each year.

The races are divided into two formal seasons — one in the fall and one in the spring — with prizes awarded both for weekly races and season-long performance.

The Somerset race was the last of the fall season for the Viola club, and a crucial one for John Fasano, a 75-year-old retired roofer who began racing pigeons in New York when he was in his teens. Before the start of this race, Mr. Fasano led the club's rankings for the season's best overall average speed, an award that is the closest thing the sport has to an annual championship.

Mr. Fasano was feeling optimistic when he checked in his birds at the Viola club earlier that night.

"I wish I could fly this good every year," he said. "I'd like to finish with a bang."

As the drivers loaded their cargo into the back of the truck outside the clubhouse, the soft chatter of the birds could be heard through the wooden slats in the crates. The fliers said their goodbyes. "Guys, I'll see you tomorrow," David Kurtz, wearing a heavy flannel coat and a black baseball cap, said to his birds. Then the truck let out a low rumble and disappeared into the darkness.

New York's pigeon clubs, loosely organized by geography and custom, are a cross between an urban

sportsman's lodge and a time capsule of immigrant, working-class New York. Even as recently as a generation back, fleets of racing pigeons swirled above New York like pulsing gray clouds, but the numbers of racers and birds have thinned, with not enough new fliers to replace the old.

Yet the dynamics of a pigeon race have remained mostly the same. The birds are trucked to a central "liberation point" anywhere from 100 to 500 miles from the city, where they are released so they can fly home. The birds' owners sit waiting by the coops on their rooftops, or in their backyards. Most birds return within several hours, but some take days or even months. Others never come back.

Homing pigeons start their training a few weeks after birth, which, for birds that will compete in the fall season, means sometime in early spring. After the young chicks learn their way around the coop, racers start taking the birds on training flights, first carrying a crate of young pigeons down the block, then driving them to New Jersey or Pennsylvania and releasing them so they can fly home.

Longtime fliers say they can spot a winner by looking at a bird's eyes, its plume, the white of its beak. Homing pigeons are members of the same family as common street pigeons, Columbia livia, but the two classes of birds have little else in common.

"It's like comparing a Lamborghini to an old pickup truck," said David Martinez, a New York police detective who is a member of the Viola club.

Pigeon fliers, whose flocks usually number 40 to 80 birds, do indeed treat the birds like fine automobiles, feeding them a careful tonic of antibiotics and vitamins, and birdseed blends with names like Tipple Mix and Vinny's Candy. Steroids are forbidden, and there is random drug testing at many larger races. A champion pigeon can fetch several thousand dollars at auction, with the hope that it will breed future generations of winners.

"It's like having your own sports team," said one Viola club flier. "And you're the owner, the trainer, the doctor."

In the early 20th century, matters were a bit less elaborate. The city's pigeon fliers raced by paying a railroad conductor a couple of dollars to let the birds out when a train bound for Pennsylvania reached Erie. In those days, training meant riding the Staten Island Ferry for a nickel and releasing the birds on the other side. The only supplement a racer might use was a rusty nail placed in the birds' water dish, to give his pigeons an extra boost of iron.

If there were a commissioner for pigeon racing in the five boroughs of New York, in recent years that title would have gone to Frank Viola. Mr. Viola, a slight, white-haired man from Bath Beach, Brooklyn, founded his namesake club in the early 1990s and ran the Frank Viola Invitational for the last 16 years. With 1,500 birds, the race became one of the largest in the city, the Kentucky Derby of the pigeon season. This year, the Viola Invitational was scheduled for the first Saturday in October.

However, two nights before the race, when the city's pigeon men would ordinarily have been readying their birds for the trip to the starting point in Cadiz, Ohio, they were gathered at Torregrossa and Sons funeral home in Bensonhurst. Mr. Viola had died the previous day at age 87, and the pigeon men had come to pay

their respects.

A group of fliers stood in the hallway at the wake, telling their best Frank Viola stories. Remember how his birds flew missions for the Army Signal Corps in World War II? And how about the time he turned down \$20,000 from a Taiwanese breeder for one of his champion pigeons?

Mr. Viola's nephew Peter, who in recent years has taken on a larger role in running both the club and the race, decided to cancel the Viola Invitational in light of his uncle's death. "He held everything together," Bobby Presto, a retired New York police officer and pigeon flier, said of Mr. Viola. "He was like the godfather."

It was a cold fall afternoon, a week after Mr. Viola's funeral. The sun was starting to dip behind the Coney Island parachute jump, and a 44-year-old flier named John Mantagas was waiting for his birds to return. Mr. Mantagas had entered 10 pigeons in a contest called the Main Event that is sponsored by a club in the Westchester Square neighborhood in the Bronx. The birds, 600 in all, were flying back that day from Weston, a small town in West Virginia.

Mr. Mantagas was sitting on the roof of his two-story house in Coney Island, the ground floor of which he rents to the Viola club. Of the 10 pigeons he entered — most fliers enter 5 to 20 birds in a race — he was favoring a blue bar hen wearing the band number 511.

That bird, he said, had been "sitting on eggs," a strategy that involves putting a handful of fake plastic eggs in the nest of a female pigeon in the days before a race. If a bird thinks it has been separated from its unborn chicks, the theory goes, it will fly back faster to the coop.

Nevertheless, no one is exactly sure what gift of biology allows pigeons to navigate their way home from a far-off, unfamiliar place. In studies in the 1960s and '70s, scientists at <u>Cornell University</u> said that pigeons use the earth's magnetic fields as a guide. Other research has pointed to the birds' heightened sensitivity to low-frequency sounds. A group of Italian researchers suggested that the birds navigate by smell; in Italy, birds travel south toward olive groves, or north toward garlic fields.

In Brooklyn, meanwhile, the sky grew darker, the air cooler. "All I want is one," Mr. Mantagas said. "Just give me one bird." By around 4 p.m., his cellphone started ringing. Staten Island, the Bronx, Queens — they all had birds. Vieni Benedetto, a flier who lives in Bay Ridge, called to say he got one, too.

"Benny, you got a good one!" Mr. Mantagas said.

"You might be buying us all dinner," he added with a deep, raspy laugh. "We want linguine with clam sauce and fried calamari!"

He shut the phone and went back to staring at the sky. As a seagull streaked past, Mr. Mantagas started talking about family. "My kids love the birds," he said of his children, ages 2, 3 and 11. "But I don't know if the sport will be around when they're older."

These days it can cost several thousand dollars a year to raise and train racing pigeons. Not to mention, Mr.

Mantagas said, all the other distractions of modern life with which pigeon racing must compete.

A minute later, a dark gray bird started a sharp dive toward the roof.

"Thank God!" Mr. Mantagas said, popping out of his chair. "That's her!"

His hen was home. Inside the coop, she drank greedily from a water dish. Although the bird had returned too late to place among the top winners, Mr. Mantagas was happy. "You made it," he said, picking up the bird and giving it a soft peck on the top of its head. "And here I was, thinking you'd never come home."

A little after noon on Nov. 4, just 12 or so hours after the white truck had left the Viola club and headed for Pennsylvania, Mr. Fasano — the flier who had a good chance to snare top honors for overall average speed — was pacing on the roof of his house on Avenue Z in Gravesend. Mr. Fasano was waiting for his birds to return. This season would be his last, he had decided, and he wanted to go out a winner.

Soon his favorite bird, a blue-checkered cock, appeared on the horizon, its wings pumping. Mr. Fasano reached into a crate at his feet to grab a chico, a bright white, non-racing bird that fliers use like a flare to attract the attention of incoming pigeons, and threw it into the air. Noticing the chico, the cock flew toward the roof and landed on the edge of the coop, a few feet from the electronic timer that would record its return.

Mr. Fasano took a few gingerly steps toward the bird, shaking a plastic tub of birdseed. "That's a baby, go inside," he said softly. The timer beeped, registering the bird's arrival. 13:02:11. A little more than five hours from Somerset. It was a good time, maybe a winning one. After a few more birds returned, Mr. Fasano jumped into his car and set off for the Viola club, a few exits down the Belt Parkway.

The Viola club's quarters are about the size of a studio apartment. One wall is lined with pigeon crates; on another is a faded-green chalkboard for posting race results. Mr. Fasano and the other fliers had gathered at the club to hand over their clocks to Peter Viola, who was entering the times in a computer. "Going out a winner," Mr. Fasano muttered to himself. "That'd be something to talk about all my life."

Although the club was full of loud talk and pigeon stories, the mood, in the absence of Frank Viola, was different. The place felt totally empty, his nephew said.

In recent years, as his uncle's health declined, Peter Viola helped him train his birds, and the two men would drive 70 miles into New Jersey for practice flights. "We'd load the birds early in the morning," Mr. Viola said, "stop at a bagel joint off Route 22, get some bagels and coffee, go sit up by the lake, release a few birds at a time, just sit and talk."

After Peter had entered all the times, the results were posted. Mr. Fasano had come in second for the day's race, beaten by a few yards by another Viola club flier. But his finish was strong enough that Mr. Fasano would earn the trophy for the year's best overall average speed.

"Congratulations," Mr. Viola said to him. "You did it!"

Mr. Fasano shook hands all around. Winning would get him a plaque, maybe a short article in The Racing Pigeon Digest. The Viola club used to hold an end-of-the-season awards party, but the event was canceled a few years ago. "These guys are interested in pigeons," Peter Viola explained. "They ain't interested in dancing."

By 5 p.m., the men had filtered out onto the street. A few climbed into their cars to drive off; others came up to Mr. Fasano to offer their congratulations. The Viola club would miss him, they said.

"Oh, I'll still be in the coop every day," Mr. Fasano said as he lingered for a moment by the club's open door. "I can't stay away from the birds."

Copyright 2007 The New York Times Company

Privacy Policy | Search | Corrections | RSS | First Look | Help | Contact Us | Work for Us | Site Map



EXHIBIT E

The New Hork Times

nytimes.com



November 7, 2007

Frank Viola, Leader in Sport of Racing Pigeons, Dies at 87

By MARGALIT FOX

Frank Viola, one of the grand old men of a grand old New York sport — pigeon racing — died on Oct. 3 at his home in the Bath Beach section of Brooklyn. He was 87.

The cause was chronic obstructive pulmonary disease, his nephew Peter Viola said. Mr. Viola's death was not formally announced until this week.

Pigeon racing in the United States is at least a century old, but the sport really took hold in this country in the decades after World War II. Then, it was impossible to walk down the street in certain New York neighborhoods (among them Bensonhurst and Bath Beach) without one's eyes being drawn upward by wheeling flocks of birds, which exploded into the air like fistfuls of thrown confetti.

These were no ordinary street birds, but racers — homing pigeons whose care, feeding and lively underthe-table handicapping were the consuming pastime of a generation of New York men.

Though racing pigeons are the same species as the common variety (both are rock doves), they are to New York's street birds what Secretariat would be to a Central Park carriage horse. A true racing pigeon, which can fly up to 70 miles per hour, is a thoroughbred — all speed, muscle and pedigree. It can find its way back to its coop from nearly a thousand miles away. Prices for the best birds can run to thousands of dollars, even hundreds of thousands.

For almost nine decades, Mr. Viola raised flocks of the finest pigeons he could buy, trucking them hundreds of miles from the city for the enormous thrill (and the less enormous monetary reward) of seeing them race home again. Throughout the city, on tenement rooftops and in tiny urban backyards, other men — immigrants or, like Mr. Viola, sons of immigrants — were doing the same.

Mr. Viola, who kept as many as a hundred birds at a time, won his share of races. But he was best known for sponsoring what was considered one of the most prestigious races of the year, the Frank Viola Invitational, a 400-mile contest in which the birds are released in Ohio and fly back to New York.

Begun in the early 1990s, the invitational is one of the few truly lucrative pigeon races in the country, with a total purse, put up by Mr. Viola, of more than \$200,000. (Mr. Viola, who earned his living as a construction supervisor, did well in the stock market, his nephew said.) With his death, the race will no longer be held.

Mr. Viola, whose gruff manner belied the tender care he lavished on his brood — he plied them with vitamins, electrolytes and specially prepared food — was considered an especially fine judge of birdflesh. He could spot one of his own pigeons in a whirling flock a block or two distant, his nephew said. Studying a

prospective purchase, he examined its eyes with a jeweler's loupe, looking for the telltale subtleties of color and form that are believed to indicate prowess.

"He paid thousands of dollars for birds, but he would never sell a bird," Peter Viola said in a telephone interview on Monday. "If you wanted one, and you came to the house and he liked you, he would give you the bird, with two stipulations: that you don't sell it and you don't kill it."

Frank Peter Viola was born in Brooklyn on Jan. 7, 1920, to a family that kept racing pigeons. (The family name is pronounced vee-OH-lah.) His mother died when he was an infant, and Frank left high school to work with his father, a plasterer from Calabria, Italy.

When the United States entered World War II, Frank Viola enlisted in the Army. He served in five European campaigns and was wounded on the beach at Normandy, his nephew said. Mr. Viola's pigeons also served: when war was declared, he donated them all to the military, which often used the birds to carry messages across enemy lines.

Mr. Viola's first wife, Mary, died in the late 1960s; his second marriage ended in divorce. Besides his nephew Peter, of Staten Island, he is survived by his third wife, Kathleen, and many other nieces and nephews.

Today, pigeon racing is mostly an old man's game. In the postwar years, there were scores of racing clubs in the greater New York area; perhaps a dozen survive. But even now, on certain fine Saturdays and Sundays, one can see men tautly poised on the city's rooftops, scanning the sky for a few distant specks winging home.

Copyright 2007 The New York Times Company

Privacy Policy | Search | Corrections | RSS | First Look | Help | Contact Us | Work for Us | Site Map