



COMMISSION HEARING

TORONTO, ONTARIO – SEPTEMBER 7, 2012

**IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;
AND IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING BY
STANDBRED LICENSEE MARTIN O'TOOLE**

Martin O'Toole ("O'TOOLE") appealed against Ruling Number SB 89/2012 and Standardbred Official Ruling No. SB 45116 wherein his licence was suspended.

On August 20, 2012, counsel on behalf of O'TOOLE appealed Ruling Number SB 89/2012 and Standardbred Official Ruling No. SB 45116 and requested a stay.

On August 27, 2012, counsel on behalf of O'TOOLE submitted grounds for the appeal and stay.

On September 6, 2012, a Notice of Hearing was issued to inform the parties that a Panel of the ORC would be convening on September 7, 2012 to hear O'TOOLE's request for a stay.

On September 7, 2012, a Panel of the Ontario Racing Commission ("ORC") consisting of Vice-Chair Hon. James M. Donnelly and Commissioner Brenda Walker was convened to hear this matter.

O'TOOLE represented himself. Jennifer Friedman appeared as counsel for the Administration of the ORC.

Upon considering the exhibits filed, hearing the testimony of Deputy Director Rob McKinney and the submissions of O'TOOLE and counsel for the Administration of the ORC, the Panel ordered as follows:

- 1) A stay of his owner's suspension is granted for six months in order for the disposition of his criminal charges;
- 2) This matter will come back to the Panel in six months to reassess.

The transcript with the Panel's Oral Decision is attached to this Ruling.

DATED at Toronto this 11th day of September, 2012.

BY ORDER OF THE COMMISSION

John L. Blakney
Executive Director

ONTARIO RACING COMMISSION
STANDARD BRED HEARING
IN THE MATTER OF AN APPEAL AND REQUEST FOR HEARING OF
MARTIN O'TOOLE,

Held Before:

Brenda Walker, Chairman
James Donnelly, Vice Chair

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **MARTIN O'TOOLE**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 7th day of September, 2012.

Appearances:

Jennifer Friedman,
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for the Ontario Racing
Commission Administration

1 Hearing continued ...

2 MADAME CHAIR: All rise. Please be seated. This was a hearing of ruling
3 SB 45116 for Martin O'Toole asking for a stay of his owner's licence. After hearing the evidence
4 presented by Jennifer Friedman and witness Rob McKinney and reviewing the witness
5 statements of Martin O'Toole; Mr. O'Toole's groom's licence is under suspension due to not
6 completing his post violation agreement for a failed alcohol test, his owner's licence was
7 suspended after a due diligence investigation that revealed charges that are awaiting
8 disposition. We are aware of the ORC's position against stays absent of exceptional
9 circumstances. Mr. O'Toole gave evidence of serious financial hardship resulting in his inability
10 to own horses. We find that the balance of convenience favours the granting of a stay in these
11 circumstances. Such a stay is not contrary to the best interests of racing and is not contrary to
12 the best interests of racing. Accordingly we order the one, his stay of his owner's suspension
13 be granted for six months in order for the disposition of his criminal charges and that after that
14 Mr. O'Toole's position will be reassessed. You understand that?

15 MR. O'TOOLE: Yes.

16 MADAME CHAIR: So you will be granted a stay only for six months and then
17 hopefully in that time, whether your criminal disposition has been looked at, you will have to
18 come back to us and they will say whether you are suspended again and then they will have to
19 reassess your position at that time and this is only to do with your owner's licence.

20 MR. O'TOOLE: Yes, that's correct.

21 MADAME CHAIR: If you want a groom's licence that is not up to us. Do you
22 have any questions?

23 MS. FRIEDMAN: Yes, a couple of questions. The first pertains to the mode
24 of reassessment is that it automatically comes before a panel or the Director assesses and
25 brings it before the panel?

26 MADAME CHAIR: Yes, the Director will assess it and then he will make a
27 decision and then he will have to come before a panel.

1 MS. FRIEDMAN: And what of a situation if there are further criminal charges
2 within or a further violation of concern; would the stay expire or are there no conditions on the
3 stay?

4 MR. DONNELLY: We will deal with that when it happens.

5 MADAME CHAIR: Yes, we will deal with that when it happens.

6 MS. FRIEDMAN: If I could have your indulgence? So if at the six month point
7 they are still awaiting disposition on those outstanding charges what happens at that point?
8 Does the stay automatically continue or does it go to a panel?

9 MADAME CHAIR: Yes, the stay is done. At the end of six months it will have
10 to go back to a panel and then they will review it and decide whether the stay will continue or
11 not. We are just going to give him six months for his criminal charges to be looked after and
12 reassess at that time.

13 MS. FRIEDMAN: Thank you.

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18 CERTIFIED CORRECT _____

19 RAYMOND P. MACDONALD, B.A., CVR
20 Commissioner of Oaths