



COMMISSION HEARING

TORONTO, ONTARIO – MARCH 5, 2010

IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;

**AND IN THE MATTER IN THE APPEAL AND REQUEST FOR HEARING OF
STANDBRED LICENSEE KENNETH HARDY**

Kenneth Wayne Hardy ("Hardy"), is licensed by the Ontario Racing Commission ("ORC"), as a Driver/Trainer/Owner for standardbred racehorses, Licence Number 532044.

His son, William Glen Hardy ("Glen"), is licensed by the ORC as a Driver/Trainer/Owner for standardbred racehorses, Licence Number P96508.

On Tuesday, January 5, 2010, at Western Fair Raceway, at London, Ontario, CAROLINA SONG, a standardbred racehorse trained by Glen, was selected for TCO₂ testing.

On Thursday, January 7, 2010, laboratory analysis confirmed a TCO₂ violation, contrary to Rule 22.38 (a) of the Rules of Standardbred Racing.

On Friday, January 22, 2010, the standardbred Judges ("Judges"), following a Hearing for Glen, issued the following Standardbred Official Ruling against Glen:

- i. A \$1,500 fine;
- ii. A 60-day full suspension (Friday, January 26, 2010 to Friday March 26, 2010).

On Tuesday, February 2, 2010, Hardy requested a trainer transfer for two standardbred racehorses that he owned, REVENEUR and VICKY OBRIEN, for which Glen was the trainer of record.

Policy Directive No. 2-2008 requires Judges to take into consideration three factors when making their determination of applications for trainer transfers including:

"The degree of closeness of any relationship whether it be fiduciary, employee/employer and/or family in nature. ...Final determination of suitability is the sole discretion of the Judges who assess situations on a case by case basis."

On Friday, February 5, 2010, the Judges at Western Fair Raceway issued Standardbred Official Ruling SB 41105, refusing the request by Hardy for the trainer transfer:

"For the reason that the Judges do not feel that this would constitute an "arms' length" transfer. Ken Hardy is an immediate family member of Glen Hardy, (father and son), and it is Ken Hardy's intention to stable these two horses at the same farm that Glen trained at and continues to board his horses at."

On Tuesday, February 9, 2010, Hardy filed a Notice of Appeal against this Ruling.

On Friday, March 5, 2010, a Panel of the ORC consisting of Commissioner John Macdonald, was convened to hear this appeal.



Hardy appeared in person at the Hearing. Hardy was not represented by either counsel or agent.

Anthony Williams appeared as counsel for the Administration of the ORC.

Upon reading the exhibits filed and upon hearing the evidence of Richard Harold Rier, Acting Senior Standardbred Judge, and upon hearing the submissions of both parties, the Panel made the following order:

- i. The appeal by Hardy is denied;
- ii. The trainer transfer application is not approved.

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

DATED this 11th day of March 2010.

BY ORDER OF THE COMMISSION

A handwritten signature in blue ink, appearing to read 'John L. Blakney', written over a horizontal line.

John L. Blakney
Executive Director

ONTARIO RACING COMMISSION

STANDARD BRED HEARING

IN THE MATTER OF AN APPEAL AND REQUEST FOR
HEARING OF **KEN HARDY**

Held Before:

John Macdonald, Chairman

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **KEN HARDY**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 5th day of March, 2010.

Appearances:

Anthony Williams,

for the Ontario Racing
Commission Administration

1 Hearing continued ...

2 MR. CHAIRMAN: I wanted to draw your attention
3 to the frivolous appeal question because the Commission panel
4 has the opportunity, as mentioned in the Notice of Hearing, we
5 can do that.

6 MR. HARDY: Yes.

7 MR. CHAIRMAN: And there is a fine of up to
8 \$1,500.00 and the difficulty that the panel has, is we are trying to
9 discourage people appealing; and not saying your case is like that
10 but some are doing it because if there is a suspension and they
11 have got some races coming up and they want to have it deferred
12 and that want to do that sort of thing and it is the sort of thing that
13 we don't like.

14 MR. HARDY: Yes.

15 MR. CHAIRMAN: In your case I understand it is
16 more, to put it this way, it is almost an emotion thing because it is
17 father and son and it is your horses, your farm but I have to go
18 back to the public perception and you reminded me of the internet.
19 I didn't see the internet example that you gave. Now I will have to
20 go and take a look at it. In any event, the decision of the panel is
21 your appeal will be denied and the transfer will not be approved at
22 this time. This does not stop you from making an application for a
23 transfer after the suspension period has expired.

24 MR. HARDY: Yes.

1 MR. CHAIRMAN: And I can suggest that you might
2 want to consider that at the time to avoid anything possible in the
3 future for horses that you own particularly.

4 MR. HARDY: Yes. Can I ask Mr. Rier a question?

5 MR. CHAIRMAN: We are informal here. We can
6 go off the record for a second.

7 **(DISCUSSION OFF THE RECORD)**

8 MR. CHAIRMAN: Thank you, gentlemen. Any
9 further questions?

10 MR. WILLIAMS: Thank you very much, sir.

11 MR. HARDY: No. Thank you.

CERTIFIED CORRECT: _____
RAYMOND P. MACDONALD, B.A., CVR

Commissioner of Oaths