



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 7, 2011

**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
STANDARDBRED LICENSEE ANTHONY MACDONALD**

On November 14, 2011, the Judges issued Standardbred Official Ruling SB 43362 wherein Anthony MacDonald (“MacDonald”) was given the penalty of a \$200 fine for violation of SB Rule 22.05.01 (e) by needlessly allowing another horse to pass in on the inside while driving “Lucky Taryn” in race 11 on November 10, 2011 at Woodbine Raceway.

On November 14, 2011, MacDonald filed a Notice of Appeal, pursuant to Rule 24.01(b) of the Rules of Standardbred Racing.

On December 7, 2011, a Panel of the Ontario Racing Commission (“ORC”), comprised of Commissioner John Macdonald, convened for the purpose of hearing this matter.

Neil McCoag appeared on behalf of the Administration of the ORC. MacDonald attended the Hearing and was unrepresented.

After reviewing the evidence, hearing the testimony of Judge Craig Walker and driver MacDonald, and upon considering the closing submissions, the Panel allowed the appeal.

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

DATED at Toronto this 21st day of December 2011.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director

ONTARIO RACING COMMISSION
STANDARD BRED HEARING
IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING OF
ANTHONY MACDONALD

Held Before:

John Macdonald, Commissioner

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **ANTHONY MACDONALD**, 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 December, 2011.

Appearances: -----
Neil McCoag, agent for the Ontario Racing
Commission Administration

1 Hearing continued ...

2 MR. CHAIRMAN: I find this very difficult because of; again, needlessly. I understand
3 what the rule is all about and the obligations he has. Obviously this horse did drift out and
4 I'm not totally convinced that he didn't make the full efforts that he might have done to be
5 able to keep the horse down on the rail which would have made it almost impossible at this
6 stage because Mr. McNair had already started to come out and change when he saw that he
7 wasn't going to get anywhere on the outside. It is a toss up here. I saw some efforts by Mr.
8 MacDonald to try and keep his horse straight and so it is a question of degree. I'm not sure
9 that he made all the efforts that he could have. In the spur of the moment you don't have an
10 awful lot of time to make a decision. I'm mindful of the fact that we don't like horses being
11 allowed to come up the inside. It doesn't look good for the public and the betters but anyone
12 looking at this race though could see he was having a little trouble steadying the horse and
13 the horse was getting tired. So that's where I come back to the word needlessly. I agree
14 with the administration that there could have been more effort but I'm not sure in the spur of
15 the moment that the effort he made was totally wrong. It was probably insufficient but I'm
16 also not convinced that it was needlessly let up the inside. I'm in a difficult position. I
17 understand what the Administration said and I understand what Mr. Walker and the judges,
18 how they felt, that the effort was not there. So it is a question of the amount of the effort. I
19 think there was some effort, maybe not enough but I don't think that it is going to be
20 damaging to anyone if I allow this appeal and my feeling is that I should allow the appeal and
21 rescind the fine. Mr. MacDonald, you have won the appeal. I'm still not totally convinced that
22 you made sufficient effort to stay on the rail. My concern is that you knew the proclivities of
23 this horse bearing out and drifting but he was getting tired at the same time. You did make
24 some effort so you are getting the benefit of the doubt here. I have a concern of the word, as
25 I mentioned a few times, needlessly. The position of the Administration and Mr. Walker
26 made that quite clear that they didn't think you made enough of an effort. I could see that

1 you had some effort but I'm also not convinced that you did make a full effort but
2 notwithstanding that I feel that you did make enough effort and it wasn't a blatant attempt to
3 let somebody up the rail to win. I do understand your evidence that you were there to win if
4 you could. That was your prime motive and therefore you did make some effort.
5 Unfortunately for you in that race the horse driven by Mr. McNair still had a lot left in the tank
6 and came up on the inside and notwithstanding trying to make an outside move and went
7 back inside and won the race. I am going to allow this appeal, as I said.

8 MR. MACDONALD: Thank you.
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11 CERTIFIED CORRECT

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13 RAYMOND P. MACDONALD, B.A., CVR
14 Commissioner of Oaths