



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 10, 2015

NOTICE OF DECISION

**IN THE MATTER OF THE RACING COMMISSION ACT, S.O. 2000, c.20;
AND IN THE MATTER OF THE APPEAL AND HEARING OF
JOHN A. MACMILLAN AGAINST RULINGS SB46736, 46737 and 46739**

Date of Hearing: December 10, 2015
ORC Panel: Anthony Williams, Vice Chair
Representative for the Appellant: Self-represented
Counsel for the Administration: Joyce A. Taylor

Decision:

The Panel accepted the Agreed Statement of Facts and Joint Submission on Disposition.

A transcript with the Panel's oral Reasons for Decision is attached to this Notice.

DATED at Toronto this 17th day of December 2015.

Jean Major
Executive Director

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

**AND IN THE MATTER OF THE APPEAL
AND REQUEST FOR HEARING OF JOHN MACMILLAN RESPECTING STANDARDBRED
RULINGS SB 46736, SB 46737 and SB 46739**

AGREED STATEMENT OF FACTS

1. John MacMillan, who has been advised of his right to legal representation and has declined that right prior to entering into this Agreement, consents to making this Agreement without independent legal advice.
2. On July 2, 2015 Mr. MacMillan was the trainer of record for the horse "Sharks Play" (3KS60). Sharks Play finished second in the first race at Rideau Carleton Raceway July 2, 2015 and was selected for testing following this race.
3. On July 23, 2015 a certificate of positive analysis was received by the Judges at Rideau Carleton Raceway for the prohibited drug Salmeterol (Class #3) identified in the official sample (Tag # 4515183002) taken from Sharks Play.
4. On October 29, 2015 the Judges at Rideau Carleton Raceway found Mr. MacMillan in violation of ORC Rules 9.09(b), 26.02.01, 26.02.02 and 26.03(c) and, as set out in Standardbred Ruling SB 46736, imposed a penalty of \$5000.00 and six months full suspension from November 6, 2015 to April 5, 2016 was ordered. Furthermore, under ORC Rules 9.13 and 18.08.01, Sharks Play was disqualified from the first race on July 2, 2015 at Rideau Carleton Raceway and all purse money earned and including Driver/Trainer fees were ordered returned and redistributed. Under ORC Rule 6.13.01, all horses owned in whole or in part by Mr. MacMillan were suspended and not eligible to race. Under ORC Rule 26.08, horses trained but not owned in whole or in part by Mr. MacMillan could be released to the care of another trainer upon the approval of the judges.
5. On October 29, 2015 Mr. MacMillan submitted a Notice of Appeal of SB 46736, 46737 and 46739 to the ORC and requested a stay of the Judges' Rulings pending appeal. On November 6, 2015 the Deputy Director of the ORC issued Ruling SB 72/2015 refusing the request for a stay of Rulings SB 46736, 46737 and 46739.
6. At the time of this infraction, Mr. MacMillan was on probation respecting a positive test for TCO2 for the horse Shanghai Tiger. The probation period was from June 13, 2014 to June 12, 2016. Mr. MacMillan served a suspension from April 29, 2014 to June 12, 2014 for this infraction and paid a fine of \$2,500.

JOINT RECOMMENDATION AS TO PENALTY

7. The ORC Administration and Mr. MacMillan jointly submit that the following disposition for Ruling SB 46736 and SB 46739 is appropriate in the circumstances:
 - a. Mr. MacMillan breached Rules 9.09(b), 26.02.01; 26.02.02 and 26.02.03(c) of the Rules of Standardbred Racing.
 - b. Mr. MacMillan's licence is suspended for six (6) months, however two (2) of the six months' suspension shall be immediately stayed, and Mr. MacMillan shall serve a four (4) month suspension, including time already served, such suspension continuing until March 5, 2016.
 - c. Mr. MacMillan shall pay a fine in the amount of \$5,000, however \$2,800 of that fine shall be immediately stayed and Mr. MacMillan shall pay a fine in the amount of \$2,200.
 - d. Mr. MacMillan is placed on probation for the period of two (2) years from March 6, 2016 to March 5, 2018 and shall be subject to the following conditions:
 - i. Mr. MacMillan shall keep the peace and be of good behaviour;
 - ii. Mr. MacMillan shall allow ORC Investigators access to his stabling area at any time to conduct unannounced random searches for illegal non-therapeutic medications or drugs found at his stabling area;
 - iii. Mr. MacMillan shall allow ORC Investigators to seize any illegal non-therapeutic medications or drugs found at his stabling area.
 - iv. Mr. MacMillan shall be subject to the ORC's "Out of Competition Program";
 - v. Should Mr. MacMillan be responsible for another offence related to a certificate of positive analysis in respect of any horse during the period of probation, the stay of the two (2) month period of suspension and the \$2,800 in fine shall automatically expire and shall be invoked immediately; and
 - vi. Mr. MacMillan may be subject to a Notice of Proposed Order in addition to any penalty imposed by the Judges for any breach of the terms of his licence.
8. Mr. MacMillan agrees to withdraw his appeal of Ruling SB 46737 and that Ruling shall become final.
9. All of which is respectfully submitted by the Parties.

Dated December 10, 2015

Original signed by Joyce A. Taylor

Joyce A. Taylor
Counsel for the
Ontario Racing Commission

Original signed by John MacMillan

John MacMillan
ORC Licence # R73891

ONTARIO RACING COMMISSION

STANDARD BRED HEARING

IN THE MATTER OF THE RACING COMMISSION ACT, 2000,
S.O. C.20 AND THE RULES OF STANDARD BRED RACING:

AND IN THE MATTER OF AN APPEAL AND REQUEST FOR
HEARING OF **JOHN MACMILLAN**:

Held Before:

Anthony Williams Vice Chairman

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **JOHN MACMILLAN**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 10th day of December, 2015.

Appearances:

Joyce A. Taylor for the Ontario Racing Commission
Administration

Hearing continued ...

1 MR. CHAIRMAN: This will be a very brief decision. This is a decision of the Ontario Racing
2 Commission in the matter of an appeal and request for hearing by John A. MacMillan
3 licensed by the Ontario Racing Commission as driver, trainer, owner licence number
4 R73891. Mr. MacMillan appeals against Standardbred rulings SB46736, 46737 and 46739.
5 We have had a hearing in which the three Standardbred official rulings from October 29th,
6 2015 have been filed as Exhibits 1, 2 and 3 respectively and as Exhibit 4 an Agreed
7 Statement of Facts and a Joint Recommendation as to Penalty. The brief decision in relation
8 to the joint recommendation as to penalty is as follows. An order is to go as requested as set
9 out in Exhibit number 4 filed in this hearing, paragraphs 7(a), (b), (c), (d) and paragraph 8.
10 That would be the ruling of the panel. Is there anything further to address?

11 MS. TAYLOR: I have nothing further, sir.

12 MR. CHAIRMAN: Mr. MacMillan, do you have anything further you wish to address?

13 MR. MACMILLAN: No

14 MR. CHAIRMAN: Well, thank you for your participation. Good luck in the future.

15 MR. MACMILLAN: All right, thank you very much.

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21 CERTIFIED CORRECT: _____
22 RAYMOND P. MACDONALD, B.A., CVR
23 Commissioner of Oaths