



COMMISSION HEARING

TORONTO, ONTARIO – FEBRUARY 2, 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
STANDARBRED LICENSEE BETTY ANN MACKINNON**

On November 14, 2009, the Judges issued Standardbred Judges Decision wherein the horse named 'Kilmartin Brother' was given the penalty of a placing from 1st to 6th for the following reasons:

The horse 'Kilmartin Brother' was placed for a violation of ORC Rule 22.27 (c). The horse was placed for failing to continuously lose ground while off stride in the stretch of the 6th race at Western Fair Raceway.

On November 17, 2009, Betty Ann Mackinnon, Licence Number 55778, filed a Notice of Appeal, pursuant to Rule 24.01(b) of the Rules of Standardbred Racing

On February 2, 2010, a Panel of the ORC, comprised of Commissioner John Macdonald, convened for the purposes of hearing this matter.

Neil McCoag appeared on behalf of the Administration of the ORC. Betty Ann Mackinnon attended the Hearing and was unrepresented.

After reviewing the evidence, hearing the testimony of Judge Jim Thatcher and Driver Robert Sparling, Jr., and upon considering the closing submissions, the Panel denied the appeal and found as follows:

- i. ORC Rule 22.27 (c) was violated. The horse did not continuously lose ground.
- ii. Upheld the decision of the Judges.

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

DATED at Toronto this 2nd day of February, 2010.

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
BETTY ANN MACKINNON

Held Before:

John Macdonald, Chairman

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These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **BETTY ANN MACKINNON**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Mississauga, Ontario, on the 2nd day of February, 2010.

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Appearances:

Neil McCoag, for the Ontario Racing Commission Administration

1 Hearing continued ...

2 MR. CHAIRMAN: I will make a comment first on
 3 the material. It is of interest but I can't accept it in the sense of the
 4 only way you would have been able to introduce that would have
 5 been through a witness who had some connection with that race
 6 to be examined. Otherwise, it is a little unfair for the
 7 Administration. Although as a body we don't adhere to the rules of
 8 law totally. We allow a little leeway. We don't like hearsay too
 9 much but we put up with it because it is there. This would be
 10 going just a little too far. I can understand, and this is why I
 11 wanted to hear what you had to say insofar as a placing; I find this
 12 difficult because of the placing but the rule is quite clear that the
 13 horse must continuously lose ground while on the break and I
 14 can't fault Mr. Sparling for deciding not to go to the inside when he
 15 looked back and saw that there wasn't any safety problem but on
 16 the other hand the horse did not lose ground. It became a
 17 judgment call for Mr. Thatcher and the Associate Judges which
 18 were there that day and I would have to uphold the Administration
 19 and uphold their ruling. For me there isn't enough indication of
 20 what would have been the appropriate place for the horse to be
 21 put. While being 6th is an extreme that is almost a penalty in that
 22 regard the Judges' decision, and it was their decision, was on the
 23 best information they had. Regrettably the horse did not lose
 24 ground and therefore I'd have to uphold the decision of the
 25 Judges. Thank you. Any further questions?

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MR. MCCOAG: Thank you, sir.

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