



COMMISSION HEARING

TORONTO, ONTARIO – APRIL 10, 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
STANDARDBRED LICENSEE DOUG MCNAIR**

On February 27, 2012, standardbred Driver Doug McNair, ("MCNAIR") (Licence #Y2397), appealed Judges' Ruling SB43990, dated February 24, 2012, wherein he was fined \$300 and given a driving suspension of 5 days for striking the shaft of the race bike with his whip in race 4 at Woodbine Raceway on February 16, 2012, in violation of Rule 22.23.03(d) of the Rules of Standardbred Racing.

On April 10, 2012, a Panel of the Ontario Racing Commission ("ORC") consisting of Chair Rod Seiling, was convened to hear the appeal.

Rick Rier appeared as agent for the Administration. MCNAIR attended the hearing in person and was represented by Anthony Macdonald.

Upon hearing the testimony of Judge Dave Stewart, and MCNAIR, upon reviewing the exhibits filed and upon hearing the submissions of Rick Rier and Anthony Macdonald, the Panel dismissed the appeal. MCNAIR will serve his 5-day driving suspension April 15 to 19, 2012 inclusive.

A transcript of the Panel's Oral Decision is attached to this Ruling.

Dated at Toronto, Ontario this 19th day of April 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
DOUG MCNAIR**

Held Before:

Rod Seiling, Chairman

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **DOUG MCNAIR**, 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 April, 2012.

Appearances:

Rick Rier,

agent for the Ontario Racing
Commission Administration

Anthony MacDonald,

agent for the Appellant
McNair

1 Hearing continued ...

2 MR. CHAIRMAN: All rise. Please be seated. The issue before us today is did
3 the appellant Doug McNair violate Rule SB 22.23.03(d) on February 16th, 2012
4 at Woodbine. The parties agreed to the rule violation, therefore the hearing was
5 on penalty only. The standard of proof of course is on a balance of probabilities
6 with the onus of the proof on the Administration of the ORC. The video of the
7 race clearly showed Mr. McNair hit the shaft of the race bike in six sequences
8 with each sequence involving three to four hits, plus one aggravated hit. The
9 testimony of Judge Stewart on the balance of probabilities supports this fact.
10 Based on the penalty guidelines the penalty assessed by the Judges is not
11 varied and remains at five days with the fine of \$300.00. The panel took into
12 consideration aggravating factors. They were the appellant's previous record,
13 the number of times the rule was violated and the aggressive nature of at least
14 one hit. The ORC has a mandate to protect both the horse and the public
15 interest. It is important that it not only act on such violations but seem to be
16 acting. The penalty is to serve as a deterrent to Mr. McNair and to others who
17 might want to gain an unfair advantage by hitting the shaft of the race bike. Any
18 questions? We will take a five minute break.

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