



COMMISSION HEARING

TORONTO, ONTARIO – APRIL 22, 2010

**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 RICHARD TURCOTTE**

Richard Joseph Turcotte (“Turcotte”), is licensed by the Ontario Racing Commission (“ORC”), as a Driver/Trainer/Owner for Standardbred racehorses, licence #7082MB.

A random test saliva sample, taken from Turcotte, on May 30, 2009, at 2058 hours, at Sudbury Downs Raceway by Ontario Racing Commission Investigator, James Richard Frye, was verified as positive for cocaine on June 6, 2009.

Standardbred Ruling Number SB 73/2009, dated June 8, 2009, ordered, inter alia, as follows:

- (i) a \$500.00 fine; and
- (ii) a 15-day suspension of both his Driver’s and Trainer’s licenses;
(June 6, 2009 to June 20, 2009, inclusive).

A return to duty urine sample, taken from Turcotte, on July 17, 2009, at 1130 hours, was verified as negative on July 22, 2009.

Standardbred Ruling Number SB 105/2009 ordered the reinstatement of both the Driver’s and Trainer’s licenses of Turcotte.

A Post-Violation Agreement was entered into between Turcotte and the ORC on July 25, 2009.

A follow-up urine sample, taken from Turcotte, on February 26, 2010, at 1430 hours, pursuant to the Post-Violation Agreement, was verified as positive for cocaine on March 4, 2010.

Standardbred Ruling Number SB 54/2010, dated March 5, 2010, ordered, inter alia, as follows:

- (i) that Turcotte is suspended from performing the duties for which he is licensed; and
- (ii) that Turcotte is referred to the Commission, pursuant to Rule 36.08 (c) (ii), of the Rules of Standardbred Racing.

A return to duty urine sample, taken from Turcotte on March 29, 2010, at 1000 hours, was verified as negative.

Turcotte prepared an Application for Reinstatement Hearing. (undated)

A Notice of Hearing was issued on April 8, 2010 for April 22, 2010, at 1300 hours, before a Panel of the ORC.

On Thursday, April 22, 2010, a Panel of the ORC consisting of the Chair, Rod Seiling, was convened to hear this matter.

Turcotte appeared in person. Turcotte was self-represented. Anthony Williams appeared as counsel for the Administration.



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Upon hearing the allegations against Turcotte, and upon hearing the admissions by Turcotte, and upon reading the exhibits filed, and upon hearing the submissions of both Turcotte and counsel, the Panel found as follows:

- (i) that Turcotte violated Rule 36.08 (c) (ii) of the Rules of Standardbred Racing (“subsequent offence”), in that his follow-up urine sample taken on February 26, 2010, tested positive for cocaine;
- (ii) that Turcotte violated mandatory condition (vi) of his March 4, 2010 Post-Violation Agreement (“commit no further violations of the Alcohol and Drug Policy”).

In view of the circumstances surrounding these violations, including a suspension of 48 days (a suspension that has already been served), and a recognition by Turcotte that he has a substance abuse problem, the Panel ordered as follows:

- (i) Turcotte must enroll in a substance abuse program that is approved by the ORC;
- (ii) Turcotte must complete the approved substance abuse program;
- (iii) Upon completion of this program, Turcotte is eligible to apply for reinstatement of his licenses upon the following conditions:
 - (a) that Turcotte enroll in a substance abuse after-care program, approved by the ORC, of 12 months duration;
 - (b) that Turcotte is placed upon probation for a period of 12 months upon the following conditions:
 - (1) that he keep the peace and be of good behaviour;
 - (2) that he enter into a Post-Violation Agreement with the ORC;
 - (3) that any further violation of the alcohol and drug rules will result in an automatic suspension and a referral to the Director.

A Transcript of the Panel’s Reasons for Decision is attached to this Ruling.

DATED this 26th day of April 2010.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director

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ONTARIO RACING COMMISSION
STANDARD BRED HEARING
IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING OF
RICHARD TURCOTTE,

Held Before: Rod Seiling, Chairman

These are the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **RICHARD TURCOTTE**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 22nd day of April, 2010.

Appearances:

Anthony Williams, for the Ontario Racing Commission
Administration

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1 Hearing commenced:

2 MR. CHAIRMAN: All rise. Please be seated. This
3 is a hearing under the Racing Commission Act in the matter of a
4 request for hearing by Richard Turcotte. I do apologize for being
5 a little bit tardy. I had a Board meeting that went passed its
6 allotted time.

7 MR. WILLIAMS: Thank you, sir and good
8 afternoon. For the purposes of the record my name is Anthony
9 Williams. I appear as counsel for the Administration. Mr. Richard
10 J. Turcotte is present before the Commission. I am assuming Mr.
11 Turcotte is without legal representation or agent on his behalf?

12 MR. TURCOTTE: Yes, sir.

13 MR. CHAIRMAN: And you are aware, Mr. Turcotte,
14 that you are entitled to legal representation?

15 MR. TURCOTTE: Yes.

16 MR. CHAIRMAN: Thank you.

17 MR. WILLIAMS: Sir, Mr. Turcotte and I exchanged
18 a very few words of a pleasant nature just before the hearing
19 commenced. I asked if he had the two packages of material that
20 we provided and he has just received them. He indicated that the
21 materials were sent to him to his mailbox in Chelmsford?

22 MR. TURCOTTE: Chelmsford.

23 MR. WILLIAMS: So I don't know if he would need
24 some time to take a view of what is in there?

25 MR. TURCOTTE: No.

1 MR. CHAIRMAN: Mr. Turcotte, would you like to
2 take a short recess and look at the materials?

3 MR. TURCOTTE: No, no. We looked at it briefly
4 for the last couple of minutes.

5 MR. CHAIRMAN: Okay. We have two documents
6 here. Do you wish them entered?

7 MR. WILLIAMS: Yes, please. I would ask that the
8 package with the yellow backing become our Exhibit number 1.
9 That is entitled factum.

10 MR. CHAIRMAN: So Exhibit 1 will be the factum
11 and Exhibit 2 will be the book of documents.

12 MR. WILLIAMS: Yes, sir.

13 EXHIBIT NO. 1: Administration factum.

14 EXHIBIT NO. 2: Administration book of documents.

15 MR. CHAIRMAN: Okay.

16 MR. WILLIAMS: Now I do not know the situation in
17 relation to Mr. Turcotte as to what events have occurred since his
18 March 5th, 2010 subsequent offence suspension but I do know
19 that up until yesterday he will have served 48 days of his
20 suspension time already served. He would appear to have a date
21 of birth of May 8th, 1957. If my basic arithmetic is reliable --

22 MR. TURCOTTE: That's correct.

23 MR WILLIAMS: -- he would be 52 years of age. Is
24 that right? Is that fair?

25 MR. TURCOTTE: Um hum.

1 MR. WILLIAMS: He is marked as
2 owner/driver/trainer and authorized agent for standardbred
3 racehorses. If permitted, sir, I would seek to provide you with a
4 very brief summary of the relevant facts. We rely in part on what
5 is in Exhibit number 1, the yellow package, in the index at page 3.
6 The tab number 1 indicates Richard Joseph Turcotte is licensed
7 by the Ontario Racing Commission as a driver/trainer/owner for
8 standardbred racehorses. Paragraph 2 indicates a saliva sample
9 being taken on 30, May, 2009 resulted in a positive for cocaine a
10 Section 38.08(c)(i) first offence. The gentleman, pursuant to
11 paragraph 6, entered into a post violation agreement of July 25th,
12 2009. The follow up urine sample was taken many months later
13 on 26, February, 2010 pursuant to the post violation agreement
14 and that sample was verified as positive for cocaine which has led
15 to Section 36.08(c)(ii) subsequent offence proceedings. Mr.
16 Turcotte on 5, March, 2010 pursuant to paragraph 8 was
17 suspended. He was referred to the Commission. He
18 subsequently provided a negative sample and made application
19 for a reinstatement hearing and today is the date selected and that
20 would be the brief summary of the background information, sir.

21 MR. CHAIRMAN: Okay.

22 MR. WILLIAMS: The investigator in relation to the
23 matter Pamela Bray of the Ontario Racing Commission is here
24 and is available to provide evidence or information as is Diane

1 Moretti, program administrator Human Alcohol and Drug Program
2 Ontario Racing Commission.

3 MR. CHAIRMAN: Are you planning to call her or
4 you want to just sit and wait to see what Mr. Turcotte has to say?

5 MR. WILLIAMS: Sir, if that is appropriate.

6 MR. CHAIRMAN: All right. Mr. Turcotte, over to
7 you. You can present your case from the lectern or you can
8 choose to be sworn in and testify. It is totally up to you.

9 MR. TURCOTTE: Good day. My name is Richard
10 Turcotte and we are here with me having no representation at all
11 because I don't have anything really to hide or anything but I just
12 want to get this thing behind me again. I have had may lumps and
13 bumps and battles in my life and this is just one I want to put
14 behind me and move on because I have humiliated and
15 embarrassed many people, my family and I have to get this
16 problem fixed and I'm willing to do whatever it takes to get this
17 matter behind and move on with my life because I don't want to
18 fish for the rest of my life. And that's all what I got to say right
19 now.

20 MR. CHAIRMAN: Well, I have a couple of
21 questions for you. You have provided a clean sample as of March
22 29th and that's of course why we are here. You have that right to
23 request a hearing. What my experience has been through having
24 had to sit here through a number of individuals that unfortunately
25 have incurred similar bumps, as you have paraphrased it. What

1 have you done since the March 5th or actually the February 26th
2 positive test and then the subsequent ruling of March 5th? What
3 have you done to help? You said you need to fix the problem.
4 What have you done to "fix" the problem?

5 MR. TURCOTTE: Well, I have been down here in
6 Campbellville for the last couple of months because my son is
7 racing down here and like there was just too much work with him
8 for him and the wife to do the work so I'm just helping him with the
9 young babies and whatnot, the ones that aren't racing and I'm
10 looking forward to go back to Sudbury within the next couple of
11 weeks and since then there has just been talking to family and
12 relatives and you know, about all the heartaches and problems
13 that I have caused but as far as seeking treatment for that like all
14 my connections are in Sudbury.

15 MR. CHAIRMAN: Have you not - do you not
16 consider enrolling into a substance abuse program?

17 MR. TURCOTTE: I have done that before, sir, in
18 past years.

19 MR. CHAIRMAN: Obviously somewhere along the
20 line there has been a problem because you have tested positive
21 again so it has been my experience that to go over and get this
22 behind you and fix the problems, A, you need to admit there is a
23 problem; B, you need to get help because you can't - it has been
24 evident that self-help doesn't work and then you need to be in a
25 continuing program to help not re-offend. We have a policy here

1 of rehabilitation and we want to work with you but on the other
2 hand until I see some sign that the person is prepared to take
3 those steps to get the help it really isn't to the benefit of you or the
4 industry to see a person get relicensed because you can almost
5 bet that you will be back and there will be another bump. There is
6 a speed bump coming as sure as god made little green apples.
7 So my inclination is, and I'm fully prepared to get some direction if
8 they think need be but Ms. Bray has been here, we have seen
9 each other too often on these cases most recently.

10 My inclination is to get you or have you get enrolled
11 in a program that is acceptable to the Commission and I see the
12 two people sitting right off behind you to your right. They can help
13 you if you need them to recommend but my inclination is to get
14 you enrolled - have you enrol I should say, in a program suitable
15 that they would approve of. That on completion of that program
16 then you would be eligible to have your license back on the
17 condition that you then enrol in a program that; again, subject to
18 their approval, that they would approve of for a period of twelve
19 months and that you would also then be put on probation with the
20 normal terms and conditions and one of those would be that you
21 post, and you are familiar with it, the post violation agreement and
22 one of those would be the condition that you keep the peace and
23 be of good behaviour and that any further violation of alcohol or
24 drug rules you would automatically be suspended and referred

1 back to the Director. So if you are prepared to make that step
2 then I'm prepared to issue such a ruling.

3 MR. TURCOTTE: Sure, I'm ready to do that.

4 MR. CHAIRMAN: Does that sound reasonable to
5 you?

6 MR. TURCOTTE: Sounds excellent.

7 MR. CHAIRMAN: Then I guess for the purposes of
8 Mr. Locke and Ms. Moretti back there, I guess I can write
9 something up. Do you want to take five minutes and I can or is
10 the record that I have just outlined, would that be sufficient?

11 MS. MORETTI: That's sufficient.

12 MR. CHAIRMAN: That's sufficient. Mr. Williams,
13 are you happy with what I've outlined and you can take that as the
14 ruling then?

15 MR. WILLIAMS: Yes, indeed, sir. Not only happy I
16 agree that it is sufficient.

17 MR. CHAIRMAN: Okay.

18 MR. WILLIAMS: And I would wish to say that in
19 view of all the circumstances and the history of this gentleman
20 with past bumps prior to this more recent set of adventures it
21 appears appropriate. In all of the circumstances from the
22 questioning of Mr. Turcotte it would appear from my perspective;
23 you may or may not share this, but a fine would not be
24 appropriate.

1 MR. CHAIRMAN: That's why I didn't go there. I
2 don't think a fine is going to help any. Rather, what funds he has
3 he can dedicate those towards the programs he needs to get
4 himself enrolled in now and in the future. So I'm not proposing a
5 fine. I do note he has served 48 days but the suspension will
6 continue until such time as he completes the first stage of the
7 program as I have outlined. He needs to get enrolled in that
8 program. He needs to be approved by either or both of the people
9 sitting right behind you so I suggest that when this hearing is
10 adjourned that you quickly speak to them and they can help get
11 you pointed in the right direction and help with the process of
12 getting you enrolled and then getting you and you will, once you
13 successfully complete that program you will be subject, as you
14 know, to random testing along the way. I'm glad that you are
15 working with your son so that you have got some employment
16 along the way and you might not get back to Sudbury as quickly
17 as you would have hoped but I do believe that and have
18 confidence that you will be able to get enrolled and complete the
19 first stage and get your licence back and I wish you luck.

20 MR. TURCOTTE: I appreciate your understanding,
21 Mr. Seiling.

22 MR. CHAIRMAN: Thank you and we are
23 adjourned.
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CERTIFIED CORRECT: _____
RAYMOND P. MACDONALD, B.A., CVR
Commissioner of Oaths