



COMMISSION HEARING

TORONTO, ONTARIO – NOVEMBER 30, 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
STANDARD BRED LICENSEE RICHARD SHAKES**

Richard Samuel Shakes (“Shakes”) is licensed by the Ontario Racing Commission (“ORC”) as a Driver/Trainer/Owner (licence #M024040).

On June 1, 2010, a follow-up urine sample was taken from Shakes, in accordance with the Post-Violation Agreement, which sample was verified as a cocaine positive on June 8, 2010.

On June 11, 2010, the Deputy Director issued Ruling Number SB 115/2010 wherein it was ordered that Shakes:

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

On November 7, 2011, Shakes provided a negative sample.

On November 17, 2011, Shakes submitted an Application for Reinstatement Hearing.

On November 21, 2011, a Notice of Hearing was issued to advise that a Hearing would be held on November 30, 2011.

On November 30, 2011, a Panel of the ORC, comprised of Commissioner John MacDonald, was convened to hear this matter.

Shakes attended in person, and was unrepresented. Jennifer Friedman appeared as counsel for the Administration.

Upon hearing the testimony of ORC Investigator Pamela Bray, reading the exhibits filed, and considering the submissions of Shakes and counsel for the Administration, the Commission ordered as follows:

- 1) \$500 fine (the stay that was granted to Shakes in accordance with Ruling Number SB 85/2010 was lifted for failure to successfully complete the Post-Violation Agreement);
- 2) Prior to reinstatement of his licences, Shakes must enter into a Post-Violation Agreement for a period of two years;
- 3) Shakes must pay the outstanding monies owing to the ORC in the amount of \$834;
- 4) Shakes must provide evidence to the ORC that he has completed the recommendations of a Substance Abuse Professional (“SAP”);
- 5) Shakes must provide evidence to the ORC that he is attending a suitable after-care program.

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

DATED at Toronto this 6th day of December 2011.

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
RICHARD SHAKES

Held Before:

John Macdonald, Commissioner

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **RICHARD SHAKES**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 30th day of November, 2011.

Appearances:

Jennifer Friedman,

for the Ontario Racing
Commission Administration

1 Hearing continued ...

2 MR. CHAIRMAN: I have listened to what we have had this
3 morning and have read the material introduced in the book of
4 documents and the history that you have had, Mr. Shakes. You
5 have had two situations, problems. You have been before the
6 panel here and I don't think that the requests from the
7 Administration is unreasonable. The fine of course is there. It
8 was stayed but unfortunately you did violate the agreement for the
9 post testing so that's the \$500.00 that you have to pay. There was
10 some question about the \$834.00 but it would appear that they are
11 legitimate charges and part of what you agreed to pay under the
12 post violation agreement. We will discuss timing of that but that's
13 an obligation that you owe. Obligations have been incurred, paid
14 for by the Ontario Racing Commission and they are just looking
15 for reimbursement. There is no interest charge or anything else.
16 It is just something that they want you to recognize that that is part
17 of the responsibility of you getting back in the business and we
18 would hope that going back in the business that you would stay
19 away from what you described made you a bad apple. We are
20 hoping that doesn't continue. The post violation agreement, that's
21 the only one I'm not sure of. Ms. Friedman has suggested two
22 years. You had fifteen months on the last one and basically this is
23 an agreement whereby you agree basically to stay clean, stay off
24 this habit and if there is enough work around that will keep you
25 busy and we just hope that that's the case. So I will go along with

1 the two years. It is not unreasonable, unless you have any other
2 further comments on that. You had fifteen months the last time
3 and that didn't work the way it should have. You were subject to
4 out of competition testing and the other things that go with the
5 post violation agreement and you are familiar with that. You have
6 already signed one before and the latest one was in Exhibit 2 at
7 tab 2 if I recall. Sorry, it is tab 1 in Exhibit 2 and the agreement
8 would be similar to that. Really the only change will be the length
9 of time and all that is, is for you to know that you have got to stay
10 with the program and do everything you can. Now I don't know if
11 I've missed anything, Ms. Friedman or Mr. Shakes that you may
12 certainly want to add?

13 MS. FRIEDMAN: There are two aspects. The evidence of
14 completion of the recommendations of a substance abuse
15 professional as well as evidence of an after care program and I
16 recognize the document provided but we would have to make
17 inquiries about that document.

18 MR. CHAIRMAN: And my question for you there is there a
19 time for him to provide this?

20 MS. FRIEDMAN: Could I have your indulgence for a
21 moment?

22 MR. CHAIRMAN: Yes.

23 MS. FRIEDMAN: I understand from Mrs. Moretti that she
24 is going to follow up today on the telephone numbers that were
25 provided by Mr. Shakes and in terms of the after care program

1 there is no definitive time frame to impose in relation to that. The
2 one concern though I'd ask for your assistance on in relation to the
3 document that has been provided, if a phone call is made and it
4 turns out that there wasn't satisfactory completion, I'd ask that that
5 condition be broader in terms of the evidence that it has been
6 completed.

7 MR. CHAIRMAN: Well, this is normally evidence that he
8 would provide to the Deputy Director that he has been involved in
9 an after care program. Now is there something - I don't know
10 where Mr. Shakes now lives. You have moved from London I take
11 it then?

12 MR. SHAKES: No, I'm in London now, sir.

13 MR. CHAIRMAN: You are in London now. If there is
14 something in that area then he can be helped by advising him as
15 to where he should go in that regard. Can you assist me in that?

16 MS. FRIEDMAN: We can make inquiries through the
17 substance abuse professional as to what would be appropriate in
18 that area.

19 MR. CHAIRMAN: I'm concerned about in order to help Mr.
20 Shakes and giving him some time lines as to when he is expected
21 to be able to hear. He would hear shortly I would take it, within a
22 few days.

23 MR. SHAKES: Yes.

24 MR. CHAIRMAN: And then it would be up to him, that's
25 you, Mr. Shakes, to show that you have entered into this program

1 and get the help there and I don't know. how long is this program
2 traditionally go on? Do you know?

3 MR. SHAKES: Thirty days. The one I finished was thirty
4 days.

5 MS. FRIEDMAN: After care is, I understand, supposed to
6 be ongoing. So the question is whether Mr. Shakes is currently in
7 an after care program.

8 MR. SHAKES: No.

9 MR. CHAIRMAN: Okay, so there is a follow up procedure
10 involved in his after care program and it is the practice that they
11 will report on a monthly basis or quarterly or what do they do? Do
12 you know?

13 MR. SHAKES: My only concern, sir, is it is very expensive.
14 You see I still do meetings. That's my after care of treatment.
15 Them professionals, they are dear.

16 MS. FRIEDMAN: What we propose a condition being that
17 he is required to; the obligation is on him so he is required to,
18 follow up with the ORC as necessary in relation to any sort of
19 program that he is in and it will be established what the basis is for
20 communicating to the ORC.

21 MR. CHAIRMAN: It's a little vague but is there a
22 community based program for this sort of thing? That's why we
23 would hope he would have something in the London area to help
24 him with that.

1 MS. FRIEDMAN: I understand inquiries are going to be
2 made today in terms of what is available and from that point on it
3 is the obligation of Mr. Shakes to enter one of those programs and
4 continue one of those programs.

5 MR. CHAIRMAN: Okay, you understand, Mr. Shakes, this
6 is your obligation. This is part of your rehabilitation to hopefully
7 along with the post violation agreement. That just provides for the
8 possibility of testing on a random basis to make sure that you stay
9 clean but the after care program is going to be your obligation.
10 Now it may be expensive. They may mean that you are going to
11 have to look around to find the best place you can, whether it is an
12 A.A. type program or whatever is available --

13 MR. SHAKES: N.A.

14 MR. CHAIRMAN: -- in your community.

15 MR. SHAKES: So I'd get into contact with Mrs. Moretti?

16 MR. CHAIRMAN: Ms. Moretti can help you with that.

17 MR. SHAKES: And just work with her?

18 MR. CHAIRMAN: Yes.

19 MR. SHAKES: I can do that.

20 MR. CHAIRMAN: Okay. Thank you. This matter is
21 terminated.

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