



COMMISSION HEARING

TORONTO, ONTARIO – AUGUST 16, 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 KELLY SHEPPARD**

On July 12, 2010, the Judges issued SB Ruling 42232 wherein there was a non-placing of the horse PLATO in the seventh race on July 12, 2010, at Mohawk Racetrack pursuant to Rules 18.08.02 and 22.09 of the Rules of Standardbred Racing.

The Judges ruled that there were no violations of the pylon rule in the stretch drive consequently there were no placings and the race was declared Official.

On July 14, 2010, Standardbred licensee Owner/Trainer/Driver Kelly Sheppard ("Sheppard"), licence number B32660, appealed the non-decision of a Panel of Standardbred Judges pursuant to Rule 24.01(b) of the Rules of Standardbred Racing.

On August 16, 2010, a Panel of the Ontario Racing Commission ("ORC"), comprised of Chair Rod Seiling, convened for the purpose of hearing this matter.

Brian Newton appeared on behalf of the Administration of the ORC. Sheppard appeared and was self-represented.

After reviewing the evidence and hearing the testimony of Associate Judge Jeff Minler, the Panel requested an adjournment until September 29, 2010, allowing Sheppard time to review the "WON THE WEST" decision and interpretation of the pylon rule.

On September 20, 2010, the ORC received a notice from Sheppard that he would not be tendering any new evidence. As a result the Panel denied the appeal.

The original order of finish remains as follows:

- 1) PLATO
- 2) WHATABOUT TOM
- 3) IMPERIAL COUNT
- 4) CALIPARI
- 5) BIG STRIKE
- 6) PUT YOUR DUKES UP
- 7) WINDSUN TUDOR
- 8) FULL FORCE

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

DATED at Toronto this 27th day of September 2010.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director



REASONS FOR DECISION

Overview

1. Standardbred licensee, Kelly Sheppard, appealed a ruling of the Ontario Racing Commission (ORC) Judges at Mohawk Raceway SB No. 42232 wherein he alleged that the number 6 horse in the 7th race on July 12, 2010 should have been placed for a violation of the pylon rule, SB Rules 18.08.02 and 22.09.

Background

2. A hearing was held on August 16, 2010 to hear the matter. Mr. Sheppard represented himself. Brian Newton represented the ORC Administration.

3. Judge Jeff Minler testified during a video review of the stretch run of the race that the driver of the #6 horse, Trevor Ritchie, did not violate any of the rules. He agreed with Mr. Sheppard that Mr. Ritchie's sulky wheel went over the pylon but that was within the rules.

4. Mr. Sheppard submitted that Mr. Ritchie also was in violation of the rules as he alleged that Mr. Ritchie, in between the pylons, was leaving the race course. It was this action he submitted that allowed Mr. Ritchie to pass him and thus just best him at the finish line.

5. The Chair of the Panel, Rod Seiling, asked Mr. Sheppard if he was familiar with the WON the WEST decision and the actual pylon interpretation rule. Mr. Sheppard responded that he was unaware. The Chair offered to adjourn the hearing until September 28, 2010 and have the Commission send him that information. He was offered the opportunity to withdraw his appeal, without penalty, if he decided that on reading the decision and rule interpretation his appeal lacked merit.

6. Mr. Sheppard accepted the offer but repeated that his objective in making the appeal was, in his view, the need for clarity.

7. On September 20, 2010, the ORC received from Mr. Sheppard a notice that he would not be tendering any new evidence and was resting his case.

Issue

8. Did Mr. Ritchie violate any of the pylon rules during the stretch run of race 7 at Mohawk Raceway on July 12, 2010?

Decision

9. After carefully listening to the testimony and reviewing the evidence and submissions made, the Panel denies the appeal.

Reasons for Decision

10. Mr. Sheppard did not present any new material evidence that could prove that Mr. Ritchie violated either SB Rule 18.08.02 or 22.09 nor did he demonstrate that the Judges erred in their application of the rules.

11. The race replay video clearly shows Mr. Ritchie's sulky wheel going over the pylon. Even though the pylon is bent in towards the track, he still went over the pylon and was in compliance of the rule.

12. With respect to Mr. Ritchie allegedly going off the race course in between the pylons, the Panel has no definitive proof that it occurred. Mr. Ritchie was certainly bending the rule to its




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maximum limit but there is no conclusive evidence he was in violation. One could reasonably ask, at least in this matter, as to the wisdom of removing the pylons some years ago at the request of the industry. If the pylons from the old configuration were in place there would not have been any issue in this case and perhaps others into the future.

DATED this 27th day of September 2010.


Rod Seiling
Chair