



COMMISSION HEARING

TORONTO, ONTARIO – MAY 5, 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  
STANDBRED LICENSEES DAVID W. WALL AND ERVIN ABDULOV**

On April 6, 2010, the Judges issued Standardbred Official Rulings SB 42316 wherein David W. Wall ("Wall") was given the penalty of a \$300 fine, and SB 42315 wherein the horse Twin B Brat was placed from 1<sup>st</sup> to 5<sup>th</sup> for violation of Standardbred Rule 18.08.02 in Race 9 at Western Fair Raceway on March 30, 2010.

On April 6, 2010, Wall and Ervin Abdulov, "Abdulov" filed Notices of Appeal, pursuant to Rule 24.01(b) of the Rules of Standardbred Racing.

On May 5, 2010, a Panel of the ORC, comprised of Commissioner John Macdonald, convened for the purpose of hearing this matter.

Tom Miller appeared on behalf of the Administration of the ORC. Wall and Abdulov attended the Hearing and were unrepresented.

After reviewing the evidence, hearing the testimony of Judge Jeff Minler, and upon considering the closing submissions, the Panel allowed the appeal. The fine of \$300 is rescinded, the placing is quashed and the horse is reinstated to the 1<sup>st</sup> finishing position.

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

DATED at Toronto this 7<sup>th</sup> day of May, 2010.

BY ORDER OF THE COMMISSION

  
John L. Blakney  
Executive Director

ONTARIO RACING COMMISSION  
IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING OF  
**DAVE WALL and ERVIN ABDULOV**

Held Before

John Macdonald, Chairman

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This is an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, taken before Toronto Court Reporters, Suite 1400, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Mississauga, Ontario, on the 5th day of May, 2010.

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Appearances:

Tom Miller,

for the Ontario Racing Commission  
Administration

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1 Hearing Continued:

2 THE CHAIRMAN: I've listened to the evidence, thank you, and looked at the video. The difficulty I  
3 have here is that there's no question in my mind there was an offence going over  
4 the pylons. And since this is a court trial de novo I'm looking at the last part of the  
5 rule which says: in the opinion of the judges, leaving the racing strip when not  
6 forced to do so as a result of the actions of another driver and/or horse may be  
7 fined or suspended.

8 So what I'm wrestling with is the difficulty of whether he was forced to do so and  
9 from what I have seen it is questionable, giving the driver the benefit of the doubt,  
10 it would appear to me that while he had the opportunity to go up earlier he chose  
11 not to do so because it was too early. It also appears at the same time that he  
12 was almost forced to go out just because of the events. It was certainly not  
13 something he was planning, it was a judgment call and in this case fits in the rules.

14 It also appears to me that he was effectively forced to go over the pylon and so  
15 in that event I will allow the appeal. Thank you.

16 Are there any questions?

17 MR. MILLER: I'm just going to confirm that the appeal is allowed on both, is that correct, Mr.  
18 Macdonald,

19 THE CHAIRMAN: Yes.

20 MR. MILLER: the placing and the --

21 THE CHAIRMAN: Yes.

22 MR. MILLER: Just so I can write it up later.

23 THE CHAIRMAN: Yes.

24 MR. MILLER: Thank you.

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1 I hereby certify the foregoing to be a true  
2 and accurate transcript as taken by me  
3 to the best of my skill and ability.

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7 Maureen D. Hopkinson, CVR-CM,

8 Commissioner of Oaths.

9 My certificate expires:

10 June 4, 2013.