



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 15, 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 DANIEL WAXMAN AND VANDALAY RACING**

On May 10, 2006, the Director issued a Notice of Proposed Order to Suspend the licenses of DANIEL WAXMAN (“WAXMAN”) and VANDALAY RACING (“VANDALAY”) for failing to ensure that race horses raced in the name of the bona fide owner pursuant to Rule 11.08 of the Rules of Standardbred Racing.

On May 19, 2006, WAXMAN and VANDALAY filed a Notice of Appeal of the Director’s decision.

On December 15, 2010, a Panel of the Ontario Racing Commission (“ORC”) comprised of Chair Rod Seiling convened for the purpose of hearing the appeal.

Trudy Mauth appeared as Counsel for the Administration of the ORC and David Moore appeared as Counsel for WAXMAN and VANDALAY.

Upon reviewing the Agreed Statement of Facts and upon hearing the joint submissions of Counsel for the Administration of the ORC and Counsel for WAXMAN and VANDALAY, the Panel approves the joint submissions, confirms the conclusion that WAXMAN and VANDALAY failed to ensure the proper separation as required in accordance with Rule 6.13.03 (i) – (v) of the Rules of Standardbred Racing and makes the order as attached hereto.

The transcript from the hearing, the Agreed Statement of Facts and the Order are attached to this Ruling.

DATED at the City of Toronto, this 22nd day of December, 2010.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director

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1 Hearing continued ...

2 MR. CHAIRMAN: All rise. Please be seated.

3 This is the continuation of the hearing that was adjourned in the
4 matter of Daniel Waxman, I think, November 16th was the date.

5 Ms. Mauth, good morning.

6 MS. MAUTH: Good morning.

7 MR. CHAIRMAN: Mr. Moore, good morning.

8 MR. MOORE: Good morning, sir.

9 MS. MAUTH: Sorry.

10 MR. CHAIRMAN: That's all right.

11 MS. MAUTH: Mr. Chair, I think on the last date we
12 adjourned proceedings in order to hear word back from the bank.

13 You may recall on the last date Mr. Moore received some
14 communication from a bank I believe in Kentucky and there was
15 some suggestion that perhaps they wished to seek intervenor
16 status in these proceedings. I can tell you, sir, I have not had any
17 contact with the bank at all. All of my information about the bank
18 has come through Mr. Moore and so I understand Mr. Moore is
19 able to provide you with a chronology, a synopsis, of what has
20 transpired between himself and any communications with the
21 bank during that time?

22 MR. MOORE: Yes, that's right.

23 MR. CHAIRMAN: Okay. I think before we do that
24 I'd like to - I have had two letters from Ms. Mauth, one dated

1 November 18th and one dated November 26th and I think I would
2 like to get those in the record.

3 MS. MAUTH: That's fine.

4 MR. MOORE: That's fine.

5 MR. CHAIRMAN: Okay, so the November 18th
6 letter will be Exhibit C and the November 26th letter will be Exhibit
7 D.

8 MS. MAUTH: Thank you.

9 EXHIBIT NO. C: Mauth letter dated November 18, 2010.

10 EXHIBIT NO. D: Mauth letter dated November 26, 2010.

11 MR. CHAIRMAN: Okay, Mr. Moore, back over to
12 you.

13 MR. MOORE: Thank you. I have a booklet which
14 I've provided to my friend and to the reporter and I would ask it to
15 be entered and marked as Exhibit E. It is the exchange of emails
16 which I won't read every one but I will take you through the
17 chronology in summary form.

18 MR. CHAIRMAN: Ms. Mauth, you are okay with
19 this?

20 MS. MAUTH: I am perfectly fine with that.

21 MR. CHAIRMAN: Okay. What are we going to call
22 this? History? Satisfied?

23 MR. MOORE: Yes, that's fine.

24 MR. CHAIRMAN: So that will be Exhibit E.

25 EXHIBIT NO. E: history and chronology of emails.

1 MR. CHAIRMAN: Okay.

2 MR. MOORE: And Mr. Kessinger is the Kentucky
3 lawyer for the Fifth Third Bank who contacted me on the morning
4 of the last attendance before you, sir, on November 16th and went
5 through a flurry of emails that morning and that day that I averted
6 to last time I was here and this booklet captures the
7 communications since that time which have kept Mr. Kessinger
8 apprised of the status of these proceedings and have reported to
9 him on what happened on November 16th and again, I won't read
10 them all into the record but under tab 2 --

11 MR. CHAIRMAN: I'm just wondering whether it
12 wouldn't be helpful to have them in the record.

13 MS. MAUTH: To be read in?

14 MR. CHAIRMAN: To be read in. I think just to be
15 safe and have them on the record.

16 MR. MOORE: All right.

17 MR. CHAIRMAN: Starting at number one I think.

18 MR. MOORE: All right. Then number one is the
19 exchange on November 16th, one of the emails from that morning
20 and it begins with an email to me at 10:35 stating: "David: Please
21 provide me with contact information for the attorney that you are
22 dealing with from the Ontario Racing Commission. The Fifth Third
23 objects to any such resolution pending further review by the bank.
24 Likewise be advised that if Daniel Waxman jeopardizes or
25 consents to a settlement without the bank's permission he does so

1 at his own personal expense and contrary ..." it should be "to the
2 bank's loan terms and all damages will be sought from such
3 actions and/or omissions. I will be in contact after review by the
4 bank." and I responded by indicating: "There was an is no basis
5 for any finding of wrongdoing by Daniel. However there was
6 under the ORC rules some very strict requirements for separation
7 from any ineligible/unlicensed person and the proceeding has
8 been settled with the ORC Administration on that basis, prior to
9 my having had any contact from you. As indicated in my phone
10 call, I was not and am not privy to all of your prior conversations
11 with Lee Norman ..." I should pause there by indicating Lee
12 Norman is the Kentucky legal counsel for Daniel Waxman.

13 MR. CHAIRMAN: Okay.

14 MR. MOORE: "... but I was certainly not aware of
15 any offer by the bank to assist in the funding of the defence of the
16 ORC proceedings, nor of any representation by anyone as to the
17 outcome of the ORC case, by settlement or otherwise. I will
18 review your emails further and seek instructions regarding same."
19 There were other emails that morning but this email kind of
20 captures the initial contact. I had sent some correspondence and
21 left some messages in the week preceding this regarding this, the
22 ORC, proceeding and the first contact I received was that morning
23 literally as I was leaving to come out here. So as you know we
24 appeared before you and apprised you of the developments in
25 relation to the Fifth Third Bank and in that circumstance it was my

1 suggestion concurred in by Ms. Mauth that it would be appropriate
2 to defer consideration of the settlement that we filed that day as
3 Exhibit A, a letter from me to Ms. Mauth, confirming that an
4 agreement in principle had been reached and indicating that while
5 there were some drafting details to be worked out we considered
6 that there was a binding settlement in the event of any difficulties
7 that we would be agreeable to have the panel to in effect give
8 direction about those. So that letter was filed as Exhibit A and the
9 proceeding was adjourned, as you know and on that same day;
10 this is tab 2, I sent an email to Mr. Kessinger reporting on the
11 developments at the hearing that day and I'll just take you through
12 that. Paragraph 1: "This is further to the messages I have left
13 following the email exchange earlier today. 2. I confirm my
14 message that although Daniel Waxman and Vandalay have
15 entered into a binding settlement with the Ontario Racing
16 Commission ("ORC") Administration, the consideration and
17 implementation of that settlement by the ORC itself (i.e. by the
18 statute approved, independent quasi-judicial tribunal) has not yet
19 occurred. That process was intended to take place today. 3.
20 Following our telephone conversation this morning, and receipt of
21 your emails, I attended at the ORC offices and discussed the
22 status of the matters with the ORC Administration's outside
23 counsel, Ms. Trudy Mauth. I advised Ms. Mauth of what had
24 occurred and suggested that consideration be given to postponing
25 the intended hearing before the ORC tribunal to consider the

1 settlement to a later date, in light of your emails, copies of which I
2 gave to Ms. Mauth. After further discussion, Ms. Mauth sought
3 instructions from her client, and agreed that it was appropriate to
4 request the ORC tribunal to defer its consideration of the
5 settlement. 4. Ms. Mauth and I then attended before the Chair of
6 the ORC, sitting as a single tribunal member, I described the
7 morning's events, and provided the Chair with a copy of the letter
8 agreement signed on behalf of the parties confirming the
9 settlement. I will send you a copy of same under separate cover.
10 I also provided the Chair with a copy of your email to me from
11 10:35 a.m. this morning." That's the tab 1 that is in this book. "5.
12 While I confirmed to the Chair that Daniel Waxman and Vandalay
13 had entered into a binding settlement agreement with the ORC
14 Administration, I suggested that the hearing to consider and
15 implement same be deferred pending further discussion with you
16 as to your client's position and intentions, including the possibility,
17 which I inferred from the aforementioned email, that the Fifth Third
18 Bank might seek intervener status before the ORC tribunal for the
19 purpose of making submissions as to why the orders
20 contemplated in the proposed settlement, particularly in relation to
21 certain purses, should not be made. 6. Ms. Mauth concurred in
22 this position. 7. As a result, the Chair adjourned the hearing. I
23 undertook to advise you of the above and to report back to Ms.
24 Mauth as to your client's intentions, prior to noon on Thursday. If
25 the Fifth Third Band decides to seek intervener status and make

1 submissions regarding the settlement, then an appropriate date
2 for that to be done would have to be determined. If not, I expect
3 that consideration of the settlement would likely occur on Friday.
4 8. In other words, no steps will be taken to proceed with
5 consideration of the settlement by the ORC tribunal, or the
6 implementation thereof, without the Fifth Third Bank being
7 afforded an opportunity to intervene and make submissions about
8 the settlement, if so advised. 9. I should add that the position
9 described above on behalf of Daniel Waxman and Vandalay
10 occurred as a result of express instructions from Daniel Waxman
11 to seek deferral of the hearing today so that the Fifth Third Bank
12 would have an opportunity to consider its position further, in
13 accordance with the requests contained in your emails to me. 10.
14 I should also add that Daniel is desirous of resolving all issues
15 with Fifth Third Bank, and I am hopeful that discussions can
16 immediately take place towards that end. He recognizes, as do I,
17 that the successful conclusion to any such discussions is not
18 enhanced by any perception by Fifth Third Bank or its counsel that
19 a settlement has occurred, has been acted upon, and has been
20 implemented without the Fifth Third Bank being aware of same or
21 having had an opportunity to respond. Daniel had no intent to
22 hide the settlement from the Fifth Third Bank and instructed
23 myself and Ms. Norman to contact you last week to discuss same,
24 when it became evident that a settlement appeared likely. 11.
25 Finally, prior to advising you of the particulars and contact

1 information of counsel to the ORC Administration, I thought it
2 appropriate to advise Ms. Mauth of the foregoing. Ms. Mauth
3 agreed that I should provide you with her contact information. It is
4 as follows: Ms. Trudy Mauth, Barrister and Solicitor, 94 Graham
5 Street, Woodstock, Ontario, N4S 6J7, telephone 519-539-4338,
6 cell number 51-532-8961, email mauthlaw@yahoo.ca, fax 519-
7 539-9248. 12. I invite and request you to call me or Ms. Norman
8 at your early convenience to discuss this matter further." And so
9 under the next tab is an email that I sent to Mr. Kessinger on the
10 Wednesday of that week November 17th in keeping with what I
11 said I would do in what I have just read to you and my email read:
12 "I enclose a copy of the letter agreement referred to in paragraph
13 4 of the email I sent you last night. I repeat my request to contact
14 me." And the attachment to that email was Exhibit A as filed in
15 these proceedings previously. That is the letter that was dated
16 November 16th signed by myself on behalf of Daniel and
17 Vandalay and signed by Ms. Mauth on behalf of the ORC
18 Administration. I can read that entirely into the record if you wish
19 but it is a prior exhibit from last day.

20 MR. CHAIRMAN: I don't think we need to do that.

21 MR. MOORE: All right and so through that means
22 the bank's solicitor was advised of the adjournment and of the
23 impending further communication to the panel. On Thursday,
24 November 18th and this is under tab 4, I sent a further email to
25 Mr. Kessinger in fact informing him that day and says: "See

1 attached letter from Ms. Mauth to the Chair of the ORC, in
2 particular, paragraph 4, 5 and 6 thereof. Please contact me
3 tomorrow." Now you will recall as was alluded to in the lengthy
4 email that I read and it was a request that we apprise you, sir, by
5 Thursday of that week whether or not the bank had expressed an
6 intention to intervene and we had had a clear indication that no,
7 the bank was not going to seek intervener status and we were
8 going to see if we could appear before you on the Friday to deal
9 with the settlement given the scheduling that would otherwise be
10 necessary to put the matter over but we had not heard anything
11 and in the circumstances Ms. Mauth and I discussed the matter
12 and we thought it prudent rather than seek to go ahead on the
13 Friday when the bank had had three or four days to; I argue that it
14 had longer but it doesn't matter. We considered it prudent not to
15 seek to proceed on the Friday the 19th and that was the gist of
16 Ms. Mauth's letter to you which I don't think has been previously
17 put in the record so I can just read that in conjunction with this
18 email if you wish.

19 MR. CHAIRMAN: Sure. It is Exhibit C now.

20 MR. MOORE: That's right. Well, I'll paraphrase it.

21 It summarizes the events and in paragraph 3 it refers to my
22 communication to Ms. Mauth that the bank had indicated it needs
23 additional time to consider its position and options. Now in
24 fairness I hadn't received an express statement in precisely those
25 terms. It was evident to me that I had not heard back by noon on

1 Thursday as you had requested and the inference I took was the
2 bank did indeed need more time to consider its options and in the
3 end result we didn't know as of Thursday that week November
4 18th whether the bank would be seeking intervener status or not
5 so as paragraph 4 indicates "Mr. Moore and I ..." this is Ms. Mauth
6 writing it. "... agree that it would be appropriate for this matter to
7 be adjourned to December 15th at 10:00 a.m." and the letter goes
8 on: "I suggested to Mr. Moore that he should advise the bank in
9 writing of the foregoing and it would be appropriate to ask the
10 bank to advise in writing whether it intends to see such intervener
11 status by no later than 12:00 p.m. on November 25 and if so the
12 December 15th date is acceptable for such a hearing." And the
13 last paragraph I think indicates you agreed to do that and indeed I
14 did that by sending this letter and drawing the attention specifically
15 to those paragraphs in the email that I've read that went out on
16 November 18th. I didn't hear anything on Friday, November 26th
17 which is tab 4. I'm sorry, tab 5. The Thursday November 25 date
18 had come and gone. That was the date in the letter we just
19 looked at in which the bank had been asked to apprise of its
20 intentions. So on November 26th I sent an email stating as
21 follows: "This is further to the message which I left for you earlier
22 this morning, and is a follow up to the numerous messages and
23 emails sent previously. Specifically, I was calling earlier today to
24 follow up on the request contained in the letter written by Ms.
25 Mauth that I emailed you on November 18, 2010, namely that the

1 Bank indicate whether it intended to seek intervener status by
2 noon yesterday, and if so, whether there was any issue about the
3 current date of December 15, 2010. I have not had any response
4 to that email or to any of the other messages and emails sent to
5 you following our initial exchanges in relation to this matter. So far
6 as I am aware, Ms. Mauth has not heard from you either. As
7 requested and indicated in my latest message to you, I would ask
8 you to call me to discuss this, as Ms. Mauth intends to report to
9 the ORC later today as to the information available regarding the
10 bank's intentions. Thank you. David Moore." And that, without
11 getting into the details, that reflects that I had left some telephone
12 messages as well in keeping with this correspondence and since
13 that time I received communications basically one line emails on
14 November 30th and December 7th in effect indicating that Mr.
15 Kessinger was expecting to get instructions from the bank and
16 would get back to me the next day. I have not received any
17 further communication until last night and I have shown these
18 emails to my friend. They are not in the book but I had not
19 received any communication until last night at about 4:30 or so in
20 which Mr. Kessinger indicated that - and actually it was a copy of
21 an email to Ms. Norman or Lee Norman the Kentucky counsel for
22 Mr. Waxman indicating - and I haven't put this into the record
23 because it refers to a potential settlement with the bank but it
24 alludes to the possibility of settlement discussions with the bank,
25 repeats the bank's objection to Daniel Waxman resolving this case

1 in the absence of written consent from the bank and alludes to the
2 possibility that the remedies against Daniel Waxman presumably
3 in Kentucky but noteworthy is the absence of any indication of any
4 intention to seek intervener status and of course no such status
5 has been sought. No indication that in effect the invitation to seek
6 such status and assert an interest or a position in relation to the
7 settlement. Those invitations have not been taken up and here
8 we are today without that having happened. So that's the
9 chronology of events since our last attendance before you. As
10 Ms. Mauth has indicated I understand that she has not had any
11 communication from the bank at all despite my having provided
12 the contact information to the bank in response to the request
13 almost a month ago. In those circumstances without getting into
14 the issues between Daniel Waxman and the bank Mr. Waxman
15 doesn't agree with sort of the characterizations and we will have
16 some discussions though counsel I suspect with the bank in
17 Kentucky. Without getting into the details of that it is abundantly
18 clear that the bank has decided not to come before this tribunal
19 and not to seek intervener status and has been given every
20 opportunity to express its intentions to do, was given opportunity
21 in the event that today's date was problematic, to advise either
22 myself or Mr. Mauth of that and there has been no such
23 communication.

24 MR. CHAIRMAN: Well, as you are all aware, we
25 did adjourn on the 16th to allow the appellant an opportunity to

1 contact the bank and communicate the opportunity to at least
2 inquire whether they wanted and there has been nothing. I'm
3 satisfied that the documents you have submitted confirms that you
4 have given adequate notice. I'm also, I think it is reasonable to
5 say, that they have had sufficient time to respond. So that based
6 on Ms. Mauth's letter which is now Exhibit D, I think, then I am
7 prepared to continue on.

8 MS. MAUTH: I agree.

9 MR. MOORE: Thank you, sir. And we have here a
10 formally signed settlement agreement with no more drafting and
11 no more we have got to come back and see you in whenever, with
12 an order attached for your consideration and I can - I'm not sure if
13 the reporter has a copy of this or not.

14 MS. MAUTH: He does, yes.

15 MR. MOORE: But it should be marked. The
16 agreed statement of facts with the draft order attached if I can
17 present that to you, sir, and ask that that be marked as the next
18 Exhibit and either Ms. Mauth or I can take you through that if you
19 wish.

20 MR. CHAIRMAN: Just let me get caught up with
21 the paperwork. That would be Exhibit G. And I think for the
22 purposes of the record I think we should read this into the record.
23 I don't know which one of you wants to do the reading.

24 MR. MOORE: Ms. Mauth will do that. The gist of
25 it, it will speak for itself and it I think fairly recognizes the outcome

1 of extensive discussions, intensive discussions, over the last
2 month or so. A little longer with Ms. Mauth and the recognition
3 that Daniel, the theory or potential theory that Daniel, was privy to
4 dishonest transactions or conduct; the Administration is not
5 advancing that submission and the statements in the Agreed
6 Statement of Facts will speak for themselves. They are satisfied
7 that that is not the case but there are certain specific rules that are
8 somewhat unique to Ontario that came into play in these
9 circumstances that warrants that a ruling be granted and my friend
10 will take you through the details of that.

11 MR. CHAIRMAN: Well, we will listen.

12 EXHIBIT NO. G: Agreed statement of facts and attached
13 order.

14 MS. MAUTH: Thank you. Mr. Chair, this is an
15 Agreed Statement of Facts dated today's date and signed by
16 Daniel Waxman and he also signed it on behalf of Vandalay
17 Racing and it is also signed by myself. That constitutes seven
18 pages. Attached to that is Schedule A which is a draft order for
19 you, Mr. Chair, to sign also dated today that is approximately four
20 pages long.

21 The Agreed Statement of Facts is as follows: It is
22 between the Ontario Racing Commission as the applicant and
23 Daniel Waxman and Vandalay Racing as the respondents.
24 Background and overview: this statement of agreed facts has
25 been signed by Daniel Waxman, Vandalay Racing (a stable

1 owned and operated by Daniel Waxman through which certain of
2 the Horses were owned and raced), and the Administration of the
3 Ontario Racing Commission (the "Parties"). For the purpose of
4 submitting same to a panel of the Ontario Racing Commission
5 ("ORC") in support of a proposed settlement of the within
6 proceedings on the basis of the order referred to hereinafter in
7 paragraph 4 below. 2. These proceedings followed a lengthy
8 investigation by the ORC which resulted in the issuance of a
9 Notice of Proposed Order dated May 10, 2006. As set out in the
10 Notice of Proposed Order the issues relate to the following horses:
11 ALL AMERICAN PAYDAY, ALL AMERICAN REBECA, FOX
12 VALLEY SHAKER, DREAMLANDS REVENGE - aka
13 LIVESTRONG, HYPERION HANOVER, LOYAL OPPOSITION,
14 UNCOMMON SCENTS. 3. The Administration of the ORC has
15 investigated the racing activities of the above named horses and
16 for the reasons set out herein, has determined that several of the
17 horses earned the following purses (the "Purses") in
18 circumstances in which they were ineligible, pursuant to the Rules
19 of Standardbred Racing." Thereafter we have produced a chart
20 with horse name, who it is owned by and the amount of the
21 ineligible purse earnings currently held at the direction of the
22 ORC. ALL AMERICA REBECA owned by Daniel Waxman \$1,200
23 in purses, DREAMLANDS REVENGE owned by Vandalay Racing,
24 \$14,300 in purses, HYPERION HANOVER owned by Vandalay
25 Racing, \$884 in purses, LOYAL OPPOSITION owned by Daniel

1 Waxman, \$200,750 held in purses and monies held by the
2 Hambletonian Society for LOYAL OPPOSITION owned by Daniel
3 Waxman in the amount of \$165,903.27 in USD. "It is
4 acknowledged by Daniel Waxman and Vandalay Racing that the
5 horses outlined in this paragraph 3 (the "Horses") were ineligible
6 to race at the time the purses specified above were earned and
7 therefore said purses were earned "in error" pursuant to Rule
8 16.21 of the Rules of Standardbred Racing. Daniel Waxman and
9 Vandalay Racing acknowledge that the purse monies outlined
10 above and any interest accrued thereon shall be redistributed to
11 the justly entitled owners, trainers and drivers pursuant to Rule
12 6.26 of the Rules of Standardbred Racing. 4. As detailed
13 hereinafter, the Parties acknowledge and agree that Daniel
14 Waxman had extensive background and involvement in the
15 Standardbred racing business, and acquired and raced the
16 Horses bona fides and no dishonest intent is being attributed to
17 him. However, based upon the specific ORC rules and policies
18 referred hereinafter, in the particular circumstances of this case, it
19 was incumbent upon Daniel Waxman to ensure that a clear and
20 distinct separation be documented and maintained between
21 Daniel Waxman's ownership, training and racing of the Horses
22 referred to in paragraph 3, and any involvement therein of his
23 father, Robert Waxman during the period proximate to the races in
24 which the purses detailed in paragraph 3 were earned (the
25 "Relevant Period"). While Daniel Waxman was not party to or

1 privy to any fraudulent or dishonest transaction, the Parties agree
2 and acknowledge that the necessary degree of separation was not
3 maintained in respect of the Horses in question, that it is
4 appropriate that the ORC Panel to issue an Order in the form
5 attached as Schedule A hereto ("Order"), and that the Order is an
6 appropriate and final disposition of all aspects of this proceeding.

7 Daniel Waxman: 5. Daniel Waxman is the son of
8 Robert Waxman, and at the time of the events in question Daniel
9 Waxman had a substantial and documented historical interest,
10 involvement and licensing history in relation to Standardbred
11 racing in Ontario. 6. Daniel Waxman was approved by his father in
12 2004 regarding the potential sale to him of LOYAL OPPOSITION
13 and agreed to buy that horse pursuant to certain documentation
14 provided to the ORC investigators. The context was that Robert
15 Waxman had been actively involved in the Standardbred racing
16 business for several years and he advised Daniel Waxman that he
17 had decided to sell off his race horses and concentrate on
18 breeding.

19 Fact and conclusions relating to the horses: 7. The
20 License of Robert Waxman lapsed on March 6, 2005. Prior to that
21 date, Robert Waxman's license had been the subject of
22 suspensions in the United States, and he had been named as a
23 party in several civil and regulatory proceedings in the United
24 States and Canada. 8. In these circumstances, the parties
25 acknowledge and agree that during the Relevant Period, in light of

1 the applicable ORC Rules, regulations and policies: (a) it as
2 necessary and in the public interest to ensure that Robert
3 Waxman did not have any involvement in the Horses; and (b) the
4 principles and criteria set out in Rule 6.13.03(i) to (v) were
5 applicable to ensure that Robert Waxman did not have any such
6 involvement with racing of the Horses. 9. Daniel Waxman was
7 not aware of the particulars or details of Robert Waxman's license
8 history or of all of the matters and legal proceedings in which his
9 father was involved or named. 10. The ORC Administration does
10 not assert nor is the proposed resolution based upon any finding
11 that Daniel Waxman was party to or engaged in any fraudulent
12 transaction of any other dishonest conduct in relation to any of the
13 Horses. 11 However, as indicated in paragraph 5, Daniel
14 Waxman had extensive history in the Standardbred racing
15 industry as a participant and registrant and had an obligation to be
16 familiar with the applicable ORC Rules, principles, policies
17 including the above referenced provisions of Rule 6.13.03(i to (v)
18 namely, (i) that he maintain separate books and records relating to
19 the racing of his horses and all money earned from racing or used
20 for the payment of debts relating to racing was not to be deposited
21 to a joint account or paid from a joint account with his father. (ii)
22 that he be responsible for his own obligations and liabilities
23 incurred in the course of his racing business and such obligations
24 were to be paid from his own separate and independent account;
25 (iii) that he contract independently of his father with any

1 tradespeople, with an other entity and with the Association at
2 which he was racing; (iv) that he maintain a wholly and
3 independent financial interest from his father; (v) that he conduct
4 his business relating to the racing of Standardbred horses in a
5 manner wholly independent of his father and neither Daniel nor his
6 father influence the other in any matter whatsoever with respect to
7 the racing of Standardbred horses. 12. Daniel intended and
8 believed that his acquisition and racing of the Horses was lawful
9 and bona fide. However, proximate to the races at which the
10 Purses were earned, there were several instances in which the
11 strict lines of separation between Robert Waxman and the Horses
12 were not maintained, contrary to the applicable ORC rules,
13 regulations and policies. 13. In particular, there were instances
14 when: (a) Robert Waxman had been involved in, or assisted with
15 obtaining financing of the acquisition of certain Horses; (b) Robert
16 Waxman received a portion of the consideration which had been
17 agreed upon for the purchase of certain Horses, out of purses
18 subsequently earned by horses owned by Daniel Waxman and/or
19 Vandalay Racing. (c) Robert Waxman on occasion picked up
20 purses earned by Daniel Waxman or Vandalay Racing on Daniel
21 Waxman's behalf; (d) Robert Waxman continued to have contracts
22 and connections with the Horses, including by reason of
23 occasional contacts with trainers, attendances at races, and
24 inquiries regarding the breeding of Horses; (e) certain Horses
25 remained subject to pre-existing security interests in favour or

1 third party lenders who had advanced funds to Robert Waxman,
2 and (f) in some cases, although there were subsequent
3 accountings and reconciliations of the amounts in question
4 (including, on occasions, veterinarian bills) s between Daniel
5 Waxman and Robert Waxman, certain expense payments in
6 relation to the Horses were made or contributed to by Robert
7 Waxman. 14. The Parties acknowledge that one or more of the
8 circumstances referred to in subparagraphs 13(a) - (f) applied to
9 each of the Horses and occurred proximate to the earning of the
10 Purses specified in paragraph 3 herein. 15. The Parties
11 acknowledge and agree that in combination, the foregoing
12 circumstances support a conclusion that the separation required
13 by the Rules and referred to in paragraph 11 above were not
14 adequately maintained, that as a consequence, based upon the
15 applicable ORC Rules, regulations, and policies it is appropriate
16 and in the public interest that the Horses be deemed ineligible in
17 relation to the Purses, and that it is appropriate that the Purses be
18 redistributed to the rightful recipients thereto pursuant to Rule 6.26
19 of the Rules of Standardbred Racing. 16. The Parties
20 acknowledge and agree that the Administration of the ORC has
21 incurred significant investigative, legal and related expenses in
22 connection with these proceedings, and that pursuant to Rule 1.09
23 of the Rules of Standardbred Racing, it is in the best interests of
24 racing that the respondents contribute \$70,000 towards these
25 expenses. 17. The Respondents Daniel Waxman and Vandalay

1 Racing have advised the Administration of the ORC that they do
2 not currently conduct any Standardbred Racing activity in Ontario,
3 having regard to the fact that their licenses lapsed on August 4,
4 2008 and December 31, 2007 respectively. The Respondents
5 have further advised that they have no present intention to
6 conduct any Standardbred racing activities which require a license
7 in Ontario for the foreseeable future and have undertaken and
8 agree not to seek any license for such activities for a period of 7
9 years effective December 15, 2010. And then as I indicated dated
10 today's date signed by Daniel Waxman on behalf of himself and
11 Vandalay Racing and I signed it as counsel for the ORC
12 Administration.

13 MR. CHAIRMAN: Thank you.

14 MS. MAUTH: Attached to that, Mr. Chair, is
15 Schedule A. It is the Order that we are requesting that you, Mr.
16 Chair, sign today. I'm prepared to read that as well into the
17 record.

18 MR. CHAIRMAN: Please, if you would.

19 MS. MAUTH: So this is between Ontario Racing
20 Commission as the applicant and Daniel Waxman and Vandalay
21 Racing as the respondents and the wording of the Order is as
22 follows: Upon filing and consideration of the Statement of Agreed
23 Facts dated December 15, 2010 (hereafter, the "SAF"), and
24 signed by or on behalf of Daniel Waxman, Vandalay Racing and
25 the ORC Administration ("ORC), cumulatively "the Parties", and

1 upon hearing the joint submissions made by the Parties, the Panel
2 approves the joint submissions and accepts the undertakings
3 referred to in paragraph 17 of the SAF (the "undertakings") and
4 Orders and directs, by reason of the contents of and the
5 acknowledgements and admissions contained in the SAF,
6 pursuant to Rules 1.09 and 6.13.03 (i) to (v) of the Rules of
7 Standardbred Racing as follows: 1. Pursuant to and as a result of
8 the undertakings, it is Ordered that Daniel Waxman and Vandalay
9 Racing shall each be ineligible for licensing under the Racing
10 Commission Act, 2000 for a period of 7 years effective December
11 15, 2010; 2. Pursuant to and as a result of paragraph 3 of the
12 SAF, it is Ordered that the ineligible purse monies earned and
13 currently held at the direction of the ORC, and any interest
14 accrued thereon, as specified in paragraph 3 of the SAF, shall be
15 redistributed to the justly entitled owners, trainers, and drivers in
16 accordance with Rule 6.26 of the Rules of Standardbred Racing;
17 3. Whereas Daniel Waxman and Vandalay Racing have
18 acknowledged that in paragraph 3 of the SAF that the horses
19 referred to in paragraph 3, namely ALL AMERICAN REBECA,
20 DREAMLANDS REVENGE, HYPERION HANOVER and LOYAL
21 OPPOSITION were ineligible to race at the relevant times and
22 therefore the purses earned as detailed in the said paragraph 3
23 were earned in error pursuant to Rules 6.26 and 16.21 of the
24 Rules of Standardbred Racing, it is Ordered that: (i) The
25 Woodbine Entertainment Group ("WEG") shall redistribute the

1 purse monies which have been held in the Horseman's Accounts
2 and which have been unavailable to Daniel Waxman and
3 Vandalay Racing in relation to the horses named in paragraph 3
4 above as a result of the ORC investigation, directives and
5 proceedings, in relation to Daniel Waxman and Vandalay Racing,
6 namely the sum of \$217,134 and any interest accrued thereon, to
7 the justly entitled owners, trainers and drivers pursuant to Rule
8 6.26 of the Rules of Standardbred Racing.

9 MR. CHAIRMAN: If I can interrupt for a moment. I
10 take it that that's let of the \$70,000 that is coming to the ORC?

11 MS. MAUTH: It is separate and apart from.

12 MR. CHAIRMAN: It's separate and apart, okay.

13 MS. MAUTH: 4. Whereas Daniel Waxman has
14 acknowledged that the horse named LOYAL OPPOSITION was
15 ineligible to race at the relevant time and therefore the purse
16 referred to below was earned in error pursuant to the Rules 6.26
17 and 16.21 of the Rules of Standardbred Racing, it is Ordered that:
18 (i) The Hambletonian Society shall redistribute the purse monies
19 which have been held by or on behalf of the Hambletonian Society
20 at the direction of the ORC, and which have been unavailable to
21 Daniel Waxman in relation to the horse named LOYAL
22 OPPOSITION as a result of the ORC, investigation, directives and
23 proceedings, namely the sum of \$165,903.27 USD as specified in
24 paragraph 3 of the SAF, and any interest accrued thereon, to the
25 justly entitled owners, trainers and drivers pursuant to the Rule

1 6.26 of the Rules of Standardbred Racing. I believe paragraph 5
2 addresses your concern. It is in the best interests of racing under
3 Rule 1.09 and it so Ordered that: (a) Daniel Waxman and
4 Vandalay Racing shall be responsible to pay the sum of \$70,000
5 towards the costs incurred by the ORC in the investigation of, and
6 the conduct of the ORC proceedings against Daniel Waxman and
7 Vandalay Racing; (b) whereas the Panel has been advised that
8 there is currently in the Horsemen's Accounts under the names of
9 Daniel Waxman and Vandalay Racing a sum estimated to be
10 between \$65,000-\$70,000, representing the aggregate of net
11 purses earned as a result of certain races entered by

12 ULTIMATE BET, IRIS, RUST BELT, whereas said monies
13 have been held on deposit at WEG at the direction of the ORC
14 and remain under the jurisdiction of the ORC pending the outcome
15 of these proceedings, and whereas the Panel is of the opinion that
16 it is appropriate and in the best interests of racing that the funds in
17 question, up to the figure of \$70,000 referred to in paragraph 3(a)
18 herein shall not be released to the Respondents, but shall be paid
19 as a contribution towards the costs of these proceedings; it is
20 further ordered that: (i) WEG shall pay any outstanding trainer and
21 driver fees, if any, related tot he purses referred to above, and (ii)
22 WEG shall remit the remainder of the said funds including the
23 interest accumulated thereon, up to a limit of \$70,000, to the ORC
24 as a contribution towards its investigative expenses in this matter.

25 5. It is Ordered that allegations against Daniel Waxman and

1 Vandalay Racing with respect to violations of Rule 11.08 of the
2 Rules of Standardbred Racing are dismissed. 6. It is Ordered that
3 further directions may be sought from this Panel regarding the
4 calculation of the payments and redistribution of the funds referred
5 to herein. All of which is Ordered this 15th day of December,
6 2010. And there is a line for your signature.

7 MR. CHAIRMAN: I am prepared to sign this. Any
8 comments, Mr. Moore, in addition that you would like to make?

9 MR. MOORE: No, my friend has accurately read
10 the material into the record and there is very little I have to add.
11 Because of the interest calculation and some of the detailed
12 calculations that's why we left that last clause in the Order. My
13 expectation is through discussions with my friend we will be able
14 to sort that out without having to come back for any further
15 direction and that should complete the matter once and for all. I
16 just want to say - sorry?

17 MR. CHAIRMAN: That was going to be my only
18 question as to you are confident you can sort that out. You don't
19 have to come back again?

20 MS. MAUTH: I don't believe so.

21 MR. CHAIRMAN: Good.

22 MS. MAUTH: We left that open because with
23 interest accruing we could not to today's date get the exact
24 amount so we gave an approximation in case WEG or any other
25 agency asked the question how much exactly should it be. It

1 permits the Parties to sort that out and come back for direction if
2 necessary. We don't think it should be an issue but we put that in,
3 in any event.

4 MR. CHAIRMAN: Okay. I don't think we need any
5 more hearing time for this matter.

6 MR. MOORE: No, we have had enough. I just
7 wanted to say and the last thing I say or hopefully the last thing I
8 say is I want to thank my friend and I want to thank the Panel for
9 your patience throughout and in terms of the discussions with my
10 friend I want to say that there has been an openness to sit down
11 informally, review the underlying facts, review some additional
12 documentation and arrive at a conclusion that recognizes what I
13 was saying at the outset that there was not any dishonest intent
14 on behalf of Mr. Waxman but at the same time emphasizing in the
15 public interest that certain of these rules requiring due separation
16 be maintained and arriving at that result has been a product of
17 cooperation and a reasonable and fair review of the case by
18 counsel and I just wanted to put that on the record.

19 MR. CHAIRMAN: Thank you.

20 MS. MAUTH: Thank you.

21 MR. CHAIRMAN: Well, I'm accepting the Agreed
22 Statement of Facts and I have signed the Order.

23 MR. MOORE: Thank you, sir.

24 MR. CHAIRMAN: Now in terms of do we need to
25 make some copies? Do you have extra?

1 MS. MAUTH: We have lots of copies.

2 MR. MOORE: We have a bunch of copies.

3 MS. MAUTH: I've signed all of them on behalf of
4 the Administration but obviously the Order ...

5 MR. MOORE: I have several additional copies of
6 the Statement of Agreed Facts that is signed with the Order
7 attached and I have several copies of the Order as well which will
8 be in addition to Schedule A will be a separate stand alone
9 document too.

10 MS. MAUTH: There is three more copies of what
11 you have in your hand, sir.

12 MR. CHAIRMAN: I'll sign all three.

13 MS. MAUTH: The reporter has a copy.

14 MR. MOORE: And I have three more copies of the
15 Order if you wish as well.

16 MR. CHAIRMAN: There you go.

17 MR. MOORE: Thank you, sir and it might be
18 appropriate for you to sign just a stand alone copy of the Order as
19 well in addition to signing the attachment to the agreement?

20 MR. CHAIRMAN: That would be helpful on our end
21 here to have one because something has got to go out.

22 MS. MAUTH: Yes, that makes sense.

23 MR. CHAIRMAN: And I want to keep this one here
24 for the record. I don't want it separated.

1 MR. MOORE: So I've got three copies of the Order
2 on a stand alone basis if you will.

3 MR. CHAIRMAN: I don't mind signing the Order.

4 MR. MOORE: All right.

5 MR. CHAIRMAN: I'm quite happy to do it.

6 MR. MOORE: Thank you.

7 MR. CHAIRMAN: I'll keep one of them and maybe
8 Ms. Mauth wants one too.

9 MS. MAUTH: Yes, please. Thank you and the
10 copy that I am going to keep for the Administration files, sir, I
11 wonder if you could sign that one and I'll take these back. Thank
12 you very much, Mr. Chair.

13 MR. CHAIRMAN: And if you will wait I'll sign this
14 one for you as well.

15 MS. MAUTH: Thank you very much.

16 MR. CHAIRMAN: I'll just make sure we have got
17 all our paperwork here in place. I think we are done. I have got
18 everything. Thank you.

19 MS. MAUTH: And is the separate Order that you
20 have just signed, would that be Exhibit H?

21 MR. CHAIRMAN: Well, it is already in G already.

22 MS. MAUTH: So we are fine with that?

23 MR. CHAIRMAN: It is stapled together.

1 MR. MOORE: It might be appropriate to have it
2 separate but strictly speaking the attachment is to the document
3 which required your consideration but we are in your hands.

4 MR. CHAIRMAN: I think it makes no difference. It
5 is already there but if you feel more comfortable with having a
6 separate one?

7 MS. MAUTH: I think we should.

8 MR. MOORE: Yes.

9 MR. CHAIRMAN: Then what I will do is the stand
10 alone Order will be H.

11 MS. MAUTH: Thank you.

12 EXHIBIT NO. H: stand alone Order dated December 155,
13 2010.

14 MR. CHAIRMAN: Unless anyone has anything
15 else I think we are finished. Thank you very much. Have a good
16 day.

17 MR. MOORE: Thank you.

18 MS. MAUTH: Thank you very much.

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

IN THE MATTER OF THE RACING COMMISSION ACT,
200, S.O. 2000; C.20 AND THE RULES OF STANDARDBRED RACING

AND IN THE MATTER OF A NOTICE OF PROPOSED ORDER
TO SUSPEND THE LICENSES OF DANIEL WAXMAN AND
VANDALAY RACING

BETWEEN:

ONTARIO RACING COMMISSION

Applicant

- and -

DANIEL WAXMAN AND VANDALAY RACING

Respondents

AGREED STATEMENT OF FACTS

BACKGROUND AND OVERVIEW

1. This Statement of Agreed Facts has been signed by Daniel Waxman, Vandalay Racing, (the stable owned and operated by Daniel Waxman through which certain of the Horses were owned and raced), and the Administration of the Ontario Racing Commission (the "Parties"), for the purpose of submitting same to a Panel of the Ontario Racing Commission ("ORC") in support of a proposed Settlement of the within proceedings, on the basis of the order referred to hereinafter in paragraph 4 below.

2. These proceedings followed a lengthy investigation by the ORC which resulted in the issuance of a Notice of Proposed Order dated May 10, 2006. As set out in the Notice of Proposed Order, the issues relate to the following horses:

ALL AMERICAN PAYDAY

ALL AMERICAN REBECA

FOX VALLEY SHAKER

DREAMLANDS REVENGE – AKA LIVESTRONG

HYPERION HANOVER

LOYAL OPPOSITION

UNCOMMON SCENTS

3. The Administration of the ORC has investigated the racing activities of the above named horses and, for the reasons set out herein, has determined that several of the horses earned the following purses (the "Purses") in circumstances in which they were ineligible, pursuant to the Rules of Standardbred Racing:

HORSE NAME	OWNED BY	INELIGIBLE PURSE EARNINGS CURRENTLY HELD AT THE DIRECTION OF THE ORC
ALL AMERICAN REBECA	DANIEL WAXMAN	\$1200
DREAMLANDS REVENGE	VANDALAY RACING	\$14,300
HYPERION HANOVER	VANDALAY RACING	\$884.00
LOYAL OPPOSITION	DANIEL WAXMAN	\$200,750

MONIES HELD BY HAMBLEONIAN SOCIETY FOR LOYAL OPPOSITION	DANIEL WAXMAN	\$165,903.27 USD
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It is acknowledged by Daniel Waxman and Vandalay Racing that the horses outlined in this paragraph 3 (the "Horses") were ineligible to race at the time the purses specified above were earned and therefore said purses were earned "in error" pursuant to rule 16.21 of the Rules of Standardbred Racing. Daniel Waxman and Vandalay Racing acknowledge that the purse monies outlined above and any interest accrued thereon shall be redistributed to the justly entitled owners, trainers and drivers pursuant to rule 6.26 of the Rules of Standardbred Racing.

4. As detailed hereinafter, the Parties acknowledge and agree that Daniel Waxman had extensive background and involvement in the Standardbred racing business, and acquired and raced the Horses bona fides and no dishonest intent is being attributed to him. However, based upon the specific ORC rules and policies referred to hereinafter, in the particular circumstances of this case, it was incumbent upon Daniel Waxman to ensure that a clear and distinct separation be documented and maintained between Daniel Waxman's ownership, training and racing of the Horses referred to in paragraph 3, and any involvement therein of his father, Robert Waxman during the period proximate to the races in which the purses detailed in paragraph 3 were earned (the "Relevant Period"). While Daniel Waxman was not party to or privy to any fraudulent or dishonest transaction, the Parties agree and acknowledge that the necessary degree of separation was not maintained in respect of the Horses in question, that it is appropriate that the ORC Panel to issue an Order in the form attached as Schedule A hereto ("Order"), and that the Order is an appropriate and final disposition of all aspects of this proceeding.

DANIEL WAXMAN

5. Daniel Waxman is the son of Robert Waxman, and at the time of the events in question, Daniel Waxman had a substantial and documented historical interest, involvement and licensing history in relation to Standardbred racing in Ontario.

6. Daniel Waxman was approached by his father in 2004 regarding the potential sale to him of Loyal Opposition and agreed to buy that horse pursuant to certain documentation provided to the ORC investigators. The context was that Robert Waxman had been actively involved in the Standardbred racing business for several years and he advised Daniel Waxman that he had decided to sell off his race horses and concentrate on breeding.

FACT AND CONCLUSIONS RELATING TO THE HORSES

7. The License of Robert Waxman lapsed on March 6, 2005. Prior to that date, Robert Waxman's license had been the subject of suspensions in the United States, and he had been named as a party in several civil and regulatory proceedings in the United States and Canada.

8. In these circumstances, the parties acknowledge and agree that during the Relevant Period, in light of the applicable ORC Rules, regulations and policies: (a) it was necessary and in the public interest to ensure that Robert Waxman did not have any involvement in the Horses; and (b) the principles and criteria set out in Rule 6.13.03 (i) to (v) were applicable to ensure that Robert Waxman did not have any such involvement with racing of the Horses.

9. Daniel Waxman was not aware of the particulars or details of Robert Waxman's license history or of all of the matters and legal proceedings in which his father was involved or named.

10. The ORC Administration does not assert nor is the proposed resolution based upon any finding that Daniel Waxman was party to or engaged in any fraudulent transaction or any other dishonest conduct in relation to any of the Horses.

11. However, as indicated in paragraph 5, Daniel Waxman had extensive history in the Standardbred racing industry as a participant and registrant and had an obligation to be familiar

with the applicable ORC Rules, principles, policies including the above referenced provisions of Rule 6.13.03 (i) to (v) namely,

- (i) that he maintain separate books and records relating to the racing of his horses and all money earned from racing or used for the payment of debts relating to racing was not to be deposited to a joint account or paid from a joint account with his father;
- (ii) that he be responsible for his own obligations and liabilities incurred in the course of his racing business and such obligations were to be paid from his own separate and independent account;
- (iii) that he contract independently of his father with any tradespeople, with any other entity and with the Association at which he was racing;
- (iv) that he maintain a wholly and independent financial interest from his father;
- (v) that he conduct his business relating to the racing of Standardbred horses in a manner wholly independent of his father and neither Daniel nor his father influence the other in any matter whatsoever with respect to the racing of Standardbred horses.

12. Daniel intended and believed that his acquisition and racing of the Horses was lawful and bona fide. However, proximate to the races at which the Purses were earned, there were several instances in which the strict lines of separation between Robert Waxman and the Horses were not maintained, contrary to the applicable ORC rules, regulations and policies.

13. In particular, there were instances when:

- (a) Robert Waxman had been involved in, or assisted with obtaining financing of the acquisition of certain Horses;
- (b) Robert Waxman received a portion of the consideration which had been agreed upon for the purchase of certain Horses, out of purses subsequently earned by horses owned by Daniel Waxman and/or Vandalay Racing;

(c) Robert Waxman on occasion picked up purses earned by Daniel Waxman or Vandalay Racing on Daniel Waxman's behalf;

(d) Robert Waxman continued to have contacts and connections with the Horses, including by reason of occasional contacts with trainers, attendances at races, and inquiries and/or agreements regarding the breeding of Horses;

(e) certain Horses remained subject to pre-existing security interests in favour of third party lenders who had advanced funds to Robert Waxman, and

(f) In some cases, although there were subsequent accountings and reconciliations of the amounts in question (including, on occasions, veterinarian bills) as between Daniel Waxman and Robert Waxman, certain expense payments in relation to the Horses were made or contributed to by Robert Waxman.

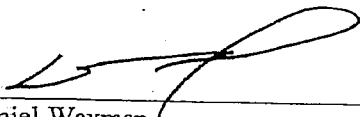
14. The Parties acknowledge that one or more of the circumstances referred to in subparagraphs 13(a) – (f) applied to each of the Horses and occurred proximate to the earning of the Purses specified in paragraph 3 herein.

15. The Parties acknowledge and agree that in combination, the foregoing circumstances support a conclusion that the separation required by the Rules and referred to in paragraph 11 above were not adequately maintained, that as a consequence, based upon the applicable ORC Rules, regulations, and policies it is appropriate and in the public interest that the Horses be deemed ineligible in relation to the Purses, and that it is appropriate that the Purses be redistributed to the rightful recipients thereto pursuant to rule 6.26 of the Rules of Standardbred Racing.

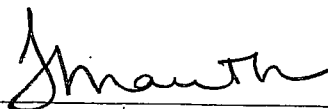
16. The parties acknowledge and agree that the Administration of the ORC has incurred significant investigative, legal, and related expenses in connection with these proceedings, and that pursuant to Rule 1.09 of the Rules of Standardbred Racing, it is in the best interests of racing that the respondents contribute \$70,000 towards these expenses.

17. The Respondents Daniel Waxman and Vandalay Racing have advised the Administration of the ORC that they do not currently conduct any Standardbred Racing activity in Ontario, having regard to the fact that their licenses lapsed on August 4, 2008 and December 31, 2007 respectively. The Respondents have further advised that they have no present intention to conduct any Standardbred racing activities which require a license in Ontario for the foreseeable future and have undertaken and agreed not to seek any license for such activities for a period of 7 years effective December 15, 2010.


DATED this 15th day of December, 2010.



Daniel Waxman



Administration of the ORC
Per:



Vandalay Racing per: Daniel Waxman

SCHEDULE A

IN THE MATTER OF THE RACING COMMISSION ACT,
200, S.O. 2000, C.20 AND THE RULES OF STANDARDBRED RACING

AND IN THE MATTER OF A NOTICE OF PROPOSED ORDER
TO SUSPEND THE LICENSES OF DANIEL WAXMAN AND
VANDALAY RACING

BETWEEN:

ONTARIO RACING COMMISSION

Applicant

- and -

DANIEL WAXMAN AND VANDALAY RACING

Respondents

ORDER

Upon filing and consideration of the Statement of Agreed Facts dated December 15, 2010 (hereafter, the "SAF"), and signed by or on behalf of Daniel Waxman, Vandalay Racing and the ORC Administration ("ORC"), cumulatively "the Parties", and upon hearing the joint submissions made by the Parties, the Panel approves the joint submissions and accepts the undertakings referred to in paragraph 17 of the SAF (the "undertakings") and Orders and directs, by reason of the contents of and the acknowledgements and admissions contained in the SAF, pursuant to Rules 1.09 and 6.13.03 (i) to (v) of the Rules of Standardbred Racing as follows:

1. Pursuant to and as a result of the undertakings, it is Ordered that Daniel Waxman and Vandalay Racing shall each be ineligible for licencing under the *Racing Commission Act, 2000* for a period of 7 years effective December 15, 2010;

2. Pursuant to and as a result of paragraph 3 of the SAF, it is Ordered that the ineligible purse monies earned and currently held at the direction of the ORC, and any interest accrued thereon, as specified in paragraph 3 of the SAF, shall be redistributed to the justly entitled owners, trainers, and drivers in accordance with Rule 6.26 of the Rules of Standardbred Racing;
3. Whereas Daniel Waxman and Vandalay Racing have acknowledged that in paragraph 3 of the SAF that the horses referred to in paragraph 3 of the SAF, namely All American Rebeca, Dreamlands Revenge, Hyperion Hanover, and Loyal Opposition were ineligible to race at the relevant times and therefore the purses earned as detailed in the said paragraph 3 were earned in error pursuant to Rules 6.26 and 16.21 of the Rules of Standardbred Racing, it is Ordered that:
 - i) The Woodbine Entertainment Group ("WEG") shall redistribute the purse monies which have been held in the Horseman's Accounts and which have been unavailable to Daniel Waxman and Vandalay Racing in relation to the horses named in paragraph 3 above as a result of the ORC investigation, directives and proceedings, in relation to Daniel Waxman and Vandalay Racing, namely the sum of \$217,134 and any interest accrued thereon, to the justly entitled owners, trainers and drivers pursuant to Rule 6.26 of the Rules of Standardbred Racing.
4. Whereas Daniel Waxman has acknowledged that the horse named Loyal Opposition was ineligible to race at the relevant time and therefore the purse referred to below was earned in error pursuant to Rules 6.26 and 16.21 of the Rules of Standardbred Racing, it is Ordered that:
 - (i) The Hambletonian Society shall redistribute the purse monies which have been held by or on behalf of the Hambletonian Society at the direction of the ORC, and which have been unavailable to Daniel Waxman in relation to the horse named Loyal Opposition as a result of the ORC, investigation, directives and proceedings, namely the sum of \$165,903.27 USD as specified in paragraph 3 of the

SAF, and any interest accrued thereon, to the justly entitled owners, trainers and drivers pursuant to Rule 6.26 of the Rules of Standardbred Racing.

5. It is in the best interests of racing under Rule 1.09 and it is so Ordered, that

a) Daniel Waxman and Vandalay Racing shall be responsible to pay the sum of \$70,000 towards the costs incurred by the ORC in the investigation of, and the conduct of the ORC proceedings against Daniel Waxman and Vandalay Racing;

b) Whereas the Panel has been advised that there is currently in the Horsemen's Accounts under the names of Daniel Waxman and Vandalay Racing a sum estimated to be between \$65,000-\$70,000, representing the aggregate of net purses earned as a result of certain races entered by ULTIMATE BET, IRIS, RUST BELT, whereas said monies have been held on deposit at WEG at the direction of the ORC and remain under the jurisdiction of the ORC pending the outcome of these proceedings, and whereas the Panel is of the opinion that it is appropriate and in the best interests of racing that the funds in question, up to the figure of \$70,000 referred to in paragraph 3(a) herein shall not be released to the Respondents, but shall be paid as a contribution towards the costs of these proceedings; it is further ordered that:

(i) WEG shall pay any outstanding trainer and driver fees, if any, related to the purses referred to above, and

(ii) WEG shall remit the remainder of the said funds including the interest accumulated thereon, up to a limit of \$70,000, to the ORC as a contribution towards its investigative expenses in this matter.

5. It is Ordered that allegations against Daniel Waxman and Vandalay Racing with respect to violations of rule 11.08 of the Rules of Standardbred Racing are dismissed.

6. It is Ordered that further directions may be sought from this Panel regarding the calculation of the payments and redistribution of the funds referred to herein.

ALL OF WHICH IS ORDERED this 15th day of December, 2010.

A handwritten signature in cursive script, appearing to read "Rod Seiling", is written over a horizontal line.

For the Panel

ONTARIO RACING COMMISSION
Applicant

- and -

DANIEL WAXMAN AND VANDALAY RACING
Respondents

AGREED STATEMENT OF FACTS

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