



COMMISSION HEARING

TORONTO, ONTARIO – FEBRUARY 15, 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  
STANDARDBRED LICENSEE GREGORY LIEZERT**

Standardbred Licensee Gregory Liezert (“LIEZERT”) appealed Ruling SB 41865, dated December 30, 2010, wherein he was suspended for 2 years (January 31, 2011 to January 30, 2013), followed by 2 years probation (January 31, 2013 to January 30, 2015) for committing an act of cruelty to the horse “Brittle Truth” in violation of 6.22 of the Rules of Standardbred Racing.

A stay of the penalty was granted by the Deputy Director on January 31, 2011, pursuant to Ruling SB 24/2011, pending the hearing of the appeal, with the following conditions:

1. Keep the peace and be of good behaviour;
2. Not to attend the grounds of Rideau Carleton Raceway without permission of the Ontario Racing Commission Judges;
3. No communication directly or indirectly with Dr. Linda Berthiaume-Atack;
4. Attend the hearing on March 16, 2011.

LIEZERT requested an appeal with respect to the second condition of Ruling SB 24/2011.

On February 15, 2011, a Panel of the ORC consisting of Commissioner John Macdonald, was convened to deal with the appeal of the stay conditions.

Angela Holland appeared as counsel for the Administration. Gerry White appeared as counsel for LIEZERT.

Upon hearing the testimony of Rob McKinney, upon reviewing the exhibits filed, and upon hearing the submissions of counsel for the Administration and counsel for LIEZERT, the Panel dismissed the appeal.

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

DATED at Toronto this 17<sup>th</sup> day of February, 2011.

BY ORDER OF THE COMMISSION

  
John L. Blakney  
Executive Director

ONTARIO RACING COMMISSION

**RE: STANDARDBRED HEARING**

IN THE MATTER OF AN APPEAL AND REQUEST FOR  
HEARING OF **GREGORY LIEZERT**

-----

Held Before:

John Macdonald,

Commissioner

-----

This is an excerpt of a Hearing of the Ontario Racing Commission  
re: **GREGORY LIEZERT** taken before Toronto Court Reporters,  
Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10  
Carlson Court, Suite 400, Toronto, Ontario, on the 15th day of  
February, 2011.

-----

Appearances:

Angela Holland,

Counsel for the Ontario  
Racing Commission  
Administration

Gerald White

Counsel for Gregory Liezert

1 Hearing continued ...

2 MR. CHAIRMAN: All rise. Please be seated. I  
3 have had a few minutes to think about this. The Administration  
4 obviously has expressed a concern here involving the protection  
5 of other licensees. They have a responsibility to others as well as  
6 they have to your client, Mr. White. It is what's in the best interest  
7 of racing. The conditions imposed on the stay had the provision  
8 not to attend the grounds of Rideau Carleton Raceway without the  
9 permission of the Ontario Racing Commission Judges. That  
10 passed the obligation over to the Judges and as Mr. McKinney  
11 indicated, the Judges, notwithstanding they are not there on a  
12 regular basis, they are available and the applicant could ask for  
13 certain days, certain times on those days for a specific purpose  
14 and a specific time to do certain things, whether that is training,  
15 just jogging, shoeing which I gather he does and he can race.  
16 Now they can put conditions on that. On the other side of it the  
17 Deputy Director was not aware of any trespass notice that had  
18 been given by Rideau Carleton so obviously they don't seem to  
19 have a concern from their perspective or they are aware of it and  
20 they are awaiting the Commission to make a decision. There is a  
21 hearing on March 15th so it is not a long way away. I have to give  
22 the Judges the benefit of the doubt, notwithstanding your feelings,  
23 Mr. White, that there might be a suggestion of bias because they  
24 have already suspended the applicant because I feel that until  
25 there is an actual refusal by any of the Judges to allow Mr. Liezert

1 to attend the grounds to carry out his business there. Now that  
2 doesn't mean he has to drop everybody off at the gate. He can  
3 hire someone else or the groom can go in or the trainer doing the  
4 work. Now if he has to go and he advises the Judges and if they  
5 turn him down and it is not reasonable then I'm suggesting that it  
6 would be the proper thing to have an appeal and we can respond  
7 fairly quickly here. I will check but there are some hearings next  
8 Wednesday. Yes, standardbred hearings and having another one  
9 is not a major thing if there is a refusal. So the way I see this is it  
10 looks like it may be a little premature in your case, Mr. White,  
11 although you had some indication from the Judges that they  
12 weren't obviously very pleased with the activities of your client but  
13 there has been no actual refusal or you haven't demonstrated that  
14 he applied for a specific time or specific purpose and he had been  
15 turned down. If the Judges act unreasonably for a request like  
16 that where it is not going to interfere with anyone else on the  
17 grounds then that can be dealt with by another panel here or even  
18 myself if I'm available. So I am going to deny your motion with the  
19 right to appeal further if there is a refusal. Thank you. Any  
20 questions?

21 MS. HOLLAND: No, sir.

22 MR. WHITE: So am I to understand that if there is  
23 a refusal, if he asks to go on the grounds and he is refused, his  
24 remedy is to come back on another appeal?

1 MR. CHAIRMAN: I'm sorry but that's the only way I  
2 can see for that, yes and that would force you to provide reason  
3 why it is unreasonable and if it is unreasonable then he should be  
4 permitted. I can see cases where they may say no, that's going to  
5 cause a further problem but if he is coming in there to shoe some  
6 horse, and I don't know the layout of Rideau Carleton as to  
7 whether there is a separate building. I assume there is for  
8 blacksmithing purposes or if he has to go to somebody's barn to  
9 shoe some horses that to me would not necessarily be an  
10 unreasonable request but if he is there for a specific purpose and  
11 for a specific amount of time and a denial of that would be  
12 considered to be because that is part of his income earning ability.  
13 Anything else?

14 MR. WHITE: Well, is driving, catch driving, horses,  
15 would that be? Like if he was refused the ability to go on the  
16 grounds to catch drive would that be one?

17 MR. CHAIRMAN: That could be but I can't  
18 prejudge that.

19 MR. WHITE: No.

20 MR. CHAIRMAN: Part of that is going to depend  
21 on who else is there and what time. The concern is the conflict  
22 and if there is no conflict between your client and any of the other  
23 people that he would come into contact with at that time then  
24 presumably it would be all right to allow him to participate.

1 MR. WHITE: I'm not familiar with the process of  
2 the Commission, sir. Is there any way that a teleconference  
3 appeal could be conducted?  
4 MR. CHAIRMAN: Yes.  
5 MR. WHITE: Because the economics.  
6 MR. CHAIRMAN: I quite understand. A  
7 teleconference particularly there is an appeal that the Judges  
8 acted capriciously or unreasonable in the circumstances but I'm  
9 going to give the benefit of the doubt to the Judges. They are  
10 members of the Commission. They are licensed and they all have  
11 experience and obviously they have an overriding concern for  
12 what's in the best interest of the industry and the horsemen and  
13 everyone else involved.  
14 MR. WHITE: So if he applies, is refused then we  
15 can do an appeal either with yourself or a Commission panel by  
16 way of teleconference?  
17 MR. CHAIRMAN: Yes.  
18 MR. WHITE: Thank you.  
19 MR. CHAIRMAN: Thank you.

-----

CERTIFIED CORRECT: \_\_\_\_\_  
RAYMOND P. MACDONALD, B.A., CVR

Commissioner of Oaths