



Ontario
Racing
Commission

AMENDED* RULING NUMBER COM SB 025/2007

COMMISSION HEARING
WRITTEN SUBMISSIONS COMPLETED

TORONTO, ONTARIO – JULY 25 & 26, 2007
AUGUST 16, 2007

IN THE MATTER OF THE RACING COMMISSION ACT, S.O. 2000, c.20;

**AND IN THE MATTER OF THE APPLICATION OF
STANDBRED OWNER AUBREY FRIEDMAN**

Standardbred* Owner Aubrey Friedman ("Friedman") requested a hearing before the Ontario Racing Commission to hear an application requiring Woodbine Entertainment Group ("WEG"), to accept entries of horses owned by him.

On May 9, 2007, the Commission convened an initial hearing to consider whether to assume jurisdiction, and to consider an interim order requested by Friedman. The Commission ruled that it would take jurisdiction to review the actions of WEG and declined to grant the interim relief. On that occasion, on application by the Ontario Harness Horse Association ("OHHA"), the Commission granted intervenor status to OHHA.

On June 6, 2007, on request by Friedman, the Panel reconvened to hear a further request for interim relief. The Panel issued a Ruling granting interim relief permitting the horses YORKY'S GIRL, HARE IN MOTION, and two-year-old horses owned by Friedman, to be entered at all Ontario racetracks for all Ontario Sires Stakes events for which they met the qualifying standards and conditions.

On July 25 and 26, 2007, the Commission convened to hear the merits of the Application. On that occasion, the Commission heard a motion for intervenor status by Western Fair Raceway, and heard submissions for Western Fair Raceway. On the consent of all counsel, the evidence tendered in support of the hearing to consider whether to assume jurisdiction, and for interim relief, was accepted as evidence on the merits of the Application.

The Commission Panel in this matter was composed of Chair Rod Seiling, Vice Chair Hon. James Donnelly and Commissioner George Kelly. Warren Rapoport acted as counsel for Friedman; David P. McCutcheon and Colleen Butler acted as counsel for WEG; Brendan Van Niejenhuis acted as counsel for the Administration; Frank Cesario and David Outerbridge acted as counsel for OHHA; and James Adams acted as counsel for Western Fair Raceway.

On reading the written evidence and hearing the oral evidence tendered, and on hearing the oral submissions of counsel and the written submissions of counsel for Friedman, WEG, the Administration, and OHHA, the Panel ordered that the Application be dismissed.

The Panel gave written reasons for its decision, a copy of which is attached to this Ruling.

DATED in Toronto this 19th day of September 2007.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director



REASONS FOR DECISION

1. Following positive tests for EPO (Erythropoetin) on three of Aubrey Friedman's horses, Woodbine Entertainment Group (WEG) on August 8, 2006, suspended Mr. Friedman's racing privileges at WEG racing facilities (Woodbine and Mohawk) for an indefinite period. Mr. Friedman has applied to quash that suspension.

2. Substantial interests are in the balance. For WEG, the integrity of the racing product which it has nurtured for generations, and its huge capital investment in two top-of-the-line racing facilities which are constantly maintained and upgraded. For Mr. Friedman, a professional engineer and so employed, although his livelihood is not at stake a substantial racing business interest is.

3. Mr. Friedman's application is dismissed for the following reasons:

4. On May 9, 2007, the matter came forward with Mr. Friedman seeking leave to proceed with this discretionary hearing, and contingent upon leave being granted, for interim relief restraining enforcement of the suspension pending a full hearing of the Application.

5. Warren Rapoport appeared as counsel for Mr. Friedman, Frank Cesario and on later occasion, David Outerbridge for the Ontario Harness Horse Association (OHHA), David McCutcheon and Colleen Butler for WEG and Brendan Van Niejenhuis for the Administration.

6. At OHHA's request, with no party objecting, and because of the importance of the issue for the horse racing community, OHHA was welcomed as an intervener and was granted full party status.

7. The Ontario Racing Commission Act (2000) provides in Section 7 that the Ontario Racing Commission (ORC) has the power:

- (a) *"to govern, direct, control and regulate horse racing in Ontario in any or all of its forms;"*

Discretionary hearings as opposed to hearings as a matter of statutory right are authorized as follows:

- (k) *"to hold hearings relating to the carrying out of its objects or powers, to establish the procedure for the hearings and to require, by a summons signed by the Chair or by another member of the Commission, a person to give evidence on oath and to produce the documents and things that the Commission considers requisite in a hearing;"*

8. Jurisdiction to proceed is found in the "Sudbury Downs" (OHHA v. ORC 2002 62 OR(3d) 44 ONT C.A.) interpretation of the Commission's obligations and powers under the Ontario Racing Commission Act (2000) and in the discretionary hearing power under Section 7(k). "Sudbury Downs" confirms that the governance and regulatory authority over racing and the operation of



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racetracks includes the power to modify legal rights including private property rights. Accordingly, the exclusion of licensees from horse racing at a certain racetrack is subject to ORC regulatory intervention even at the incidental expense of some aspect of the track's private property rights.

9. On earlier occasions, when this issue has been considered, the ORC identified various aspects of the public interest. The public interest in horse racing is broad, embracing owners, drivers, grooms, industry employees and participants at all levels, including track operators. There is a public interest in the viability of horse racing, the fair and just treatment of industry participants and in protection of the health and well being of horses. In particular, the public has a powerful interest in racing as a significant component of the agricultural sector of the economy which section provides horse racing's vast infrastructure. There must be a substantial public interest in preventing the public from being cheated by doping horses. The absence of competitive horses bears on the quality of the racing product offered to the public (Robinson). Given the owners' capital investment, the ability to race falls within the ambit of the public interest. That entire level of public interest requires that the ORC resolve the issue of refusal by a track operator to accept racing entries.

10. Upon the preliminary application for leave to proceed, the Panel determined that:

- This issue of a licensee's suspension by a racetrack relates to the good of racing generally.
- The issue is primarily race related and cannot be said to be solely or predominantly a matter of property or contractual rights.
- Substantial public interest issues of wide application are involved.

11. Accordingly, counsel for Mr. Friedman had discharged the burden of demonstrating that the hearing should proceed.

12. With the consent of all parties, evidence on the motion for interim relief was applied on the Application. For written reasons the application for interim relief was refused. The Panel directed that the Application must be expedited. Mindful of the risk of conflicting decisions, the Panel indicated that features common to the Friedman hearing and that of his trainer, Todd Gray, which was to proceed before the same Panel (such as the EPO issue) could be heard together if the parties so wished and consented (Ontario Racing Commission Rules of Procedure – Rule 10.1).

13. For reasons related to the availability of parties and counsel, an expedited hearing could not be arranged. The matter came forward on June 6, 2007. Counsel for Mr. Friedman expressed concern that any linking of the Friedman and Gray cases may precipitate further delay. Absent consent of both parties, it was ruled that the two hearings proceed separately.

14. On June 6, on the basis of the failed attempt to expedite, counsel for Mr. Friedman asked leave to proceed with a motion for the reconsideration of the interim relief issue. The Panel heard the motion and because the continued delay was not attributable to Mr. Friedman and was causing irreparable harm to the earning capacity of his four sires stakes horses, interim relief was granted in these terms:



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“Entries owned by Aubrey Friedman, namely, YORKY’S GIRL and HARE IN MOTION, plus his two two-year-olds, must be accepted by all Ontario race tracks for Ontario Sires Stakes events for which they meet the qualifying standards and conditions.”

15. On July 25, 2007, the Application proceeded. Evidence was adduced by counsel for WEG through cross-examination of Mr. Friedman that under the authority of the interim relief, his horse “YORKY’S GIRL” raced in a Sires Stakes event at Clinton Raceway on Sunday, June 24, 2007 and tested positive for the drug “METHOCARBAMOL” (Roboxin). In result, Mr. Friedman’s trainer, Wanda Iafrates, was fined \$1,000 and suspended 15 days (July 16 to July 30) under the Trainer Responsibility Rule 26.02.01 and Rule 9.09(b) (enters a horse to race that has been administered any drug which results in a positive test). Purse money earned by “YORKY’S GIRL” was redistributed. Mr. Friedman did not volunteer this information to the Panel. During cross-examination, Mr. Friedman stated, that if asked, he would have disclosed that information, but not otherwise.

16. Written closing submissions were scheduled with a decision by the Panel to be delivered within a week of receipt of the final submission (Thursday, August 16). Reasons for Decision were to follow. However, the complexity of the issues dictated that the decision be released concurrently with the Reasons.

17. At the conclusion of the July 25 hearing, the Panel heard Counsel on the issue of continuing the interim relief pending release of a formal Decision. As a result of trainer Iafrates’ suspension, Mr. Friedman’s two three-year-olds had been turned out at the Iafrates farm and would of necessity be off racing for a couple weeks. The two two-year-olds were not racing. In consequence, there was no irreparable harm. The balance of convenience weighed decisively against Mr. Friedman. An order issued terminating the interim relief.

Mr. Friedman’s Application

18. WEG maintains a “Standardbred Rule Book”. WEG’s rules are approved by the ORC as being consistent with the ORC Statutory Mandate. Accordingly, those ORC approved track rules may be administered by ORC Stewards (thoroughbred) and Judges (standardbred). WEG “policies” are distinct from the track rules. Policies are not ORC approved and are founded upon contractual and private property rights. The ambit of WEG’s rules and policies has been controversial. At the core of the dispute is the horsepeople’s position, as expressed in concert through letters to the ORC by the Ontario Harness Horse Association, the HBPA of Ontario representing the thoroughbred horsepeople of Ontario and the Jockeys’ Benefit Association of Canada, in a nutshell, essentially stating as follows:

- By penalizing or suspending ORC licensees, track operators usurp the regulatory and governance function of the ORC.

19. This Application presents an adequate factual background for determination of this important racing issue. That background, although not admitted, is not subject to serious dispute.

- Mr. Friedman, a professional engineer since 1980 has owned and raced horses at Mohawk and Woodbine (the WEG circuit) since 1997.



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- His self-description as a “significant and successful owner” is fair.
- Mr. Friedman deposes that from January 1, 2006 to August 3, 2006, he had an ownership interest in horses entered in 190 WEG races. For 2006, Mr. Friedman and Brian Nixon with whom he co-owned at least one horse, compiled a race record with 197 starts, 32 wins, 35 places, 35 shows for total purse money of \$800,600, placing them second in wins and 6th in money on the WEG circuit.
- As of his WEG suspension in June 2006, Mr. Friedman had an ownership interest in seventeen standardbred horses trained by Todd Gray and stabled at Stephenson's Training Centre, and three thoroughbred horses trained by Les Frost.
- Mr. Friedman's affidavit outlines his racing experience referencing his use of more than 25 trainers for thoroughbred and standardbred horses as owner or co-owner of approximately 250 horses which were entered in about 2100 races predominantly at Woodbine and Mohawk. (On those figures a high rate of turnover, 8.4 starts per horse on average)

20. On May 19, 2006, the ORC announced that the currently in use program of pre-and post-race taking of blood and urine samples would be supplemented by out-of-competition blood testing of horses at any time without notice effective immediately. The industry was advised that out-of-competition testing would be invoked only with due cause or change of performance. In order to facilitate that new program, ORC directive No. 5 2006 requires all owners and trainers to make horses available for out-of-competition blood testing as required.

21. In the course of out-of-competition testing on June 12, 2006, blood samples were taken from each of the seventeen horses trained by Todd Gray for Mr. Friedman. The samples resulted in positive tests for EPO (Erythropoietin/Darbepoetin-Alfa) for three of the horses, RAIR EARTH, LASENSA and MY WICKED WILLIE. There was neither acknowledgement of something amiss nor voluntary disclosure by Mr. Friedman or Mr. Gray that lead to that discovery. In consequence, following a hearing before this Panel of the ORC, Mr. Gray was suspended for 10 years and fined \$40,000. Written Reasons were delivered.

22 The veil sheltering communication between owner Friedman and trainer Gray from Mr. Gray's perspective, following notification of the three positive EPO tests, has never been lifted. This was achieved in part by an agreed statement of facts in the Todd Gray hearing thereby averting any cross-examination of Mr. Gray. The presence of EPO in the three horses remains unexplained. Few people would have obvious motive in seeking to enhance the performance of Mr. Friedman's horses. Relatively few would have opportunity to administer the substance or inclination to bear its costs. There was no evidence in this hearing as to the cost of EPO. The Panel is expected to have industry knowledge. The drug is expensive (in the Brian Scott hearing, the evidence was that Sandy DiFlorio advertised EPO and sold it at a unit cost of \$750.00). The evidence on the Brian Scott hearing was that EPO was delivered in refrigerated containers – not likely something to be left lying around to be administered by mistake.

23. Veterinary bills for Mr. Friedman were filed in evidence. None referred to EPO. Simply because they create a paper trail, veterinarian bills are of limited use in tracking illegal drugs. As a matter of industry knowledge, the DiFlorio episode, as referenced in the Brian Scott Reasons, demonstrates the availability of EPO. Once obtained, the drug is capable of being administered by a non-veterinarian.



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24. August 8, 2006, Jamie Martin notified Mr. Friedman that consequent upon his racing record and the three positive EPO tests on his horses, his racing privileges at Mohawk and Woodbine were suspended indefinitely. A written notice to that effect was served on September 1, 2006. The industry was notified of the suspension by press release.

25. Western Fair Association, operator of the Western Fair track, supported WEG's disposition and followed WEG's lead by refusing Mr. Friedman's race nominations and entries. Western Fair relied on WEG's assessment of the evidence and its decision. Western Fair offered nothing pro or con relating to the propriety of the suspension.

26. Following the granting of interim relief to Mr. Friedman in terms that his entries "must be accepted by all Ontario Racetracks for Ontario Sires Stakes.....", Western Fair appeared before the Panel on the July 25 return date. Represented by Hugh Mitchell with Counsel James Adams, Western Fair recorded two-fold objection:

- That they should have prior notice of ORC proceedings affecting them
- That they should have an opportunity to be heard.

27. In response, it should be noted that Western Fair was on actual notice of the WEG/Friedman issue as evidenced by their adoption of the WEG Decision to suspend which preceded the interim relief. Upon appearing before the Panel, Western Fair was given opportunity to make submissions on the merits of the WEG/Friedman controversy and declined to do so withdrawing from the hearing before the issue of continuing the interim relief was argued.

28. Perhaps clarification of the EPO issue is appropriate. In lay terms, EPO stimulates production of red blood cells thereby increasing oxygen capacity and performance. The drug has no therapeutic benefit and is known to have the capacity to be a very serious danger to the health and welfare of the horse. The sole purpose is performance related. The offensive characteristic is two-fold. Firstly, it is the current blatant manifestation of a transgression against the cardinal law of horse racing - that is an attempt at race fixing. Race fixing carries extreme penalties. Secondly, it places the health and well being of the horse at serious risk. That health and well being is of paramount concern in the horse racing community.

29. EPO has been known to be used in racing. Detection was difficult. As testing procedures evolved the seriousness of EPO offences was communicated to the industry. According to the affidavit of Jamie Martin, this was the first positive test for EPO in a racehorse in North America. The drug carries opprobrium in other sports as well.

30. The malignancy of this form of cheating has been chronicled through Reasons for Decisions by the ORC over the last six months, most recently in the Brian Scott and Todd Gray hearings. Industry participants have over the long term been adequately informed and warned.

31. The illegal drug/medication issue is so crucial for the future of horse racing that in order to give a context for assessment of the Friedman issue, paragraphs 10 to 31 inclusive of the Todd Gray Reasons for Decision are quoted as follows:



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“10. The use of EPO/Aranesp as a non-therapeutic performance enhancer is a gross violation of racing rules constituting a serious threat to public confidence. That misconduct is completely unacceptable. Integrity is at the heart of regulatory priority. General deterrence must be a primary concern.

11. EPO/Aranesp counter measures have been long standing and high profile. Detection of the drug was difficult and hence the progression was gradual.

12. In order to explain and support departure from the principle of parity of penalties, certain preconditions must be appreciated:

- The Ontario Racing Commission regulates and governs racing. Protection of the public interest falls to the Commission. With that public interest comes the duty to act fairly and responsibly.*
- Public confidence in the core product of live racing can only be built and maintained on integrity which requires racing free of performance-enhancing drugs.*
- The Commission’s long standing campaign against such drugs and as importantly, promulgation of that campaign.*

13. It is fundamental that the extent of the peril from doping horses be fully appreciated. The consequences are swift and overwhelming:

- A flood of negative publicity from industry participants, commentators, trade literature and the media*
- A loss of public confidence in the integrity of racing*
- Industry morale spirals downward*
- Claiming and purchasing of horses is generally inhibited*
- Declining prices and numbers of buyers for horses and yearlings*
- Fewer entries for racing fields at major tracks as legitimate operators avoid competing with reputed drug violators and race elsewhere*
- Eroding mutuel handles*
- Declining attendance*

14. The result, an industry in distress perhaps shortly in extremis. The future of the industry is in the balance.

15. Detection of EPO/Aranesp started with tests for antibodies as announced by ORC News Release July 3, 2003 as follows:

*“Starting November 1, 2003, samples taken from horses racing in Ontario will undergo new tests for **EPO antibodies**. Any horse testing positive will be put on the Vet’s List and will not be allowed to race for an extended period of time. The Ontario Racing Commission is introducing this newly established test to discourage the use of the banned substances Erythropoietin (commonly known as EPO or Epogen) and Darbepoetin.*

Working in conjunction with the New York State Racing and Wagering Board to develop common protocols for testing, Ontario is taking the next step in the campaign to combat the use of this drug. In 2002, Ontario had established rules prohibiting the possession or use of EPO and Darbepoetin.



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EPO triggers the horse's body to produce more red blood cells, and is thought to improve performance by increasing the blood's oxygen carrying capacity. Regulators around the world are working to eliminate the use of these drugs because of its potential effects on performance and its detrimental impact on the health of the animal."

16. The rule referenced in that News Release is SB Rule 6.46.01 as follows:

"No person shall possess or use a drug, substance or medication on a horse:

(e) which is listed hereafter:

Erythropoietin, also known as EPO

Darbepoietin

Oxyglobin

Hemopure"

17. A pending rule was announced which would refuse permission to race horses while they continued to test positive for antibodies. The ORC commented that removal of such horses from racing may penalize the innocent. (persons who had claimed or purchased a horse already carrying the drug) The Commission had determined the best interests of racing required that such horses should not race.

18. On September 29, 2003, the ORC by Press Release announced the appointment of VitaTech as the laboratory to manage and conduct the new antibodies testing program. It was also announced that commencing November 1st, 2003, all horses entered to race in Ontario may be tested for antibodies of Erythropoietin/EPO or Darbepoietin.

19. These steps constituted signals that the drug issue was deemed to be serious and would be subject to close and continuing scrutiny.

20. Rigid enforcement of the EPO/Aranesp ban was difficult because reliable detection methods were in evolving status.

21. On April 13, 2006, the ORC released a number of rulings relating to illegal substances which provided notice that:

"Twenty-one individuals were found to be in violation of Rule 6.46.01 of the Rules of Standardbred Racing, and their actions prejudicial to the best interest of racing pursuant to Rule 6.20(b). Three licensees were fined \$2,000 and placed on probation for two years; 18 were fined \$1,000 and placed on probation for one year.

While the judgments imposed reflect the seriousness of the offences, they also reflect the ORC's desire to encourage the industry to adopt a program of good medication control and embrace a change of practice.

However, future offenses may result in severe penalties and significant financial consequences."

22. By Notice to the Industry dated April 18, 2006, the ORC issued a policy statement in part as follows:

"The Ontario Racing Commission (ORC) recognizes that the health and well being of the horse is of paramount concern to the racing industry. It also recognizes that the future growth and vitality of the industry is dependent on all racing fans, as well as the general public, having full and complete confidence in the integrity of the sport.



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The ORC believes that a well-managed program of medication control supported by all those involved in the racing industry will play a key role in accomplishing these goals.

Simply stated, medication control means only using medications or products that have a therapeutic value to the horse. When used prior to a race, they should not mask an underlying health problem, cause a positive test, or undermine the testing process. Indeed, the ORC believes it is unethical to give non-therapeutic drugs to a horse at any time.

Another basic aspect of good control is ensuring that you only use products that are properly manufactured and clearly labelled, and that have been obtained from an authorized distributor. And in the case of medications, you ensure that these have been prescribed and/or dispensed by a licensed veterinarian.”

23. On April 19, 2006, the ORC issued a Notice to the Industry of its resolve to impose severe penalties relative to Aranesp/EPO:

“The Ontario Racing Commission (ORC) advises all Ontario racing industry licensees that severe penalties will be imposed on anyone found to have acquired, is in possession of, or administered the drug Aranesp to a horse.

The ORC regulates a number of different testing programs to ensure the fair and safe operation of racing in Ontario, including the Erythropoietin (commonly known as EPO) Antibody Testing Program. While originally developed to treat people suffering from anemia associated with chronic renal failure, Aranesp (darbepoetin alfa) is classed as a potent long-lasting form of EPO.

EPO triggers the horse’s body to produce more red blood cells, and is thought to improve performance by increasing the blood’s oxygen carrying capacity. However, regulators around the world have been working to eliminate the use of the drug because of its potential effects on performance and its detrimental impact on the animal.

Such control measures are essential in order to maintain the health and well being of the horse, the integrity of the industry and the public confidence.”

24. On May 19, 2006, the ORC escalated its campaign against possession or administration of Aranesp/EPO by a Notice to the Industry introducing a radically new detection and enforcement mechanism. Formerly the tracking of blood or urine samples from horses had been race-related, pre and post race. This Notice to the Industry announced out-of-competition blood testing of horses at anytime without notice effective immediately.

25. That Notice to the Industry was accompanied by General Directive No. 5/2006 dealing with blood sample requirements. The preamble stated. “The medication control program will focus on significant change of performance of all horses racing in the Province of Ontario.” Penalties for failure of any owner or trainer to make the horse available to have blood drawn on demand included:

- “The horse being scratched
- The trainer being refused the right to enter a horse in future races at Ontario racetracks
- The owner being refused the right to enter horses owned in future races at Ontario racetracks.”



26. *Those penalties had the potential to put an owner or trainer out of business in Ontario. Surely, this must have been unmistakable notice to the industry participants.*

- *That the problem was regarded as grave*
- *That progressively, the Commission was taking intrusive and effective steps towards dealing with the problem*
- *That breach of the rules and protocols relating to those substances carried consequences of career-ending potential.*

27. *All of this was followed by a significant milestone. In May 2006, the Equine Medication Control Task Force was initiated. "The participants agreed that decisive action was needed to respond to instances of acquisition, possession and administration of illegal and non-therapeutic drugs." This constituted industry-wide consensus in the form of acceptance of and support for the anti-doping campaign by the ORC.*

28. *On January 19, 2007, in further demonstration of industry-wide consensus on this issue, the industry was put on notice of funding of the Medication Control Task Force by a two-year \$1,000,000 per year commitment, two-thirds provided by the Horsepeople's associations and one-third by the racetracks. The balance of the \$1,680,000 annual budget to be met by the financial and human resources of the ORC. That Task Force's mandate was quoted in the Notice to the Industry:*

- *to ensure appropriate deterrents are in place to change the current trend of illicit and non-therapeutic drugs.*

The notice also included:

- *the intent will be to determine the funding of an additional three to five-year commitment to the program. A longer commitment will ensure that those vital medication control initiatives ... will continue.*

29. *In pursuance of its commitment to purge Ontario racing of EPO/Aranesp, the Administration issued notices to the industry of immediate suspensions and proposed orders of 10-year suspensions and orders of a \$100,000 fine for Todd Gray August 3, 2006, Brian Scott December 11, 2006 and Kenneth Parsley all in unrelated occurrences. (The charges against Parsley did not proceed) (Upon appeal to the Racing Commission, both ten-year suspensions were confirmed. Scott's fine was reduced to \$20,000 and Gray's to \$40,000.)*

30. *These News Releases served to continue to inform the industry of the resolve to eradicate these illegal and non-therapeutic drugs.*

31. *The devastation of public confidence exacted by the use of EPO/Aranesp requires a hard line response. That response is stern but fair given the high profile, long-term program responding to this industry threat to the future of horse racing."*

32. *The positive EPO test is compounded by three horses being involved. The multiple findings are, in the absence of explanation, suggestive of something more than an isolated or experimental transgression. The substance being EPO, a performance enhancer devoid of therapeutic value, no reasonable inference beyond deliberate cheating is permitted.*



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33. In refusing to accept Mr. Friedman's race entries, WEG relies upon its private property rights, the contractual rights as detailed in WEG's Rules of Standardbred Racing (the "Rules"), its access agreements and its trespass rights.

34. Section 1.1 of WEG's Rules and Regulations state:

"Is a privilege, not a right, to use the Premises and Race at the Racetracks. Any conduct determined by WEG, in its sole and absolute discretion, to be injurious to the sport of horse racing or not to be in the best interests of the sport of horse racing, may result in the imposition of a penalty in accordance with Section 7.1 of these Rules and Regulations." Section 7.1 provides for penalties including suspension of privileges, loss of fees and eviction from the premises)

35. Mr. Friedman signed an Application for Access Rights (the "Access Agreement") in order to participate on WEG's circuit, which states in part:

"I acknowledge and agree that WEG reserves the right to revoke the access rights, if granted, at any time in its sole and absolute discretion and without notice, reason or compensation."

36. In refusing to accept Mr. Friedman's entries, WEG also relies upon its racing conditions. The general racing conditions state at paragraph I that:

"At the absolute discretion of Woodbine Entertainment Group, the entries of any person (including this entry) or the transfer of any entry (including this entry) may at any time be refused and/or cancelled without either notice or reason being given and without liability except for the return of any subscriptions paid on an entry or entries refused and/or cancelled."

37. In written submissions, counsel for Mr. Friedman states:

"The ORC properly determined in its May 9, 2006 Ruling that WEG's private property rights are not in issue as the matter deals primarily with horse racing."

That assertion is a "non-sequitor" and is wrong. The one does not exclude the other. By reason of the issue being primarily about racing, the private property rights, far from being excluded, necessarily fall under ORC scrutiny. Implicit in private property rights is the right to exclude persons.

38. Honed to a fine point, the nub of Mr. Friedman's position is:

- Neither has he breached any rule of the ORC or WEG nor has he been charged with any such breach. Invoices filed in evidence support Mr. Friedman's assertion that he was in Northern Ontario at the time the EPO was detected.
- He is not responsible for any breach of racing rules by his trainer, Todd Gray, in relation to his care of Mr. Friedman's horses.
- He was not "in any way in collusion or knowledgeable of" infractions by Todd Gray.
- WEG had no jurisdiction to prohibit him from racing at WEG tracks.



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- In the alternative, by imposing the suspension, WEG acted arbitrarily and without reasonable cause.

39. There has been no breach of the ORC Standardbred Rules of Racing by Mr. Friedman: A breach would require that he:

- (a) Administered the drug. This would include intentionally aiding in that administration in the sense of assisting or facilitating for the purpose of making the venture succeed.
- (b) Influenced or conspired with another person to administer the drug. This would include abetting the other person in the sense of instigating, encouraging or urging on that prohibited venture.

40. In contra distinction is passive acquiescence, which may include presence as a spectator or knowledge that the event would happen. Passivity in either form is not sufficient to constitute a breach of the rules of racing which are not currently framed to create wrongdoing by omission or a failure to act. This would require imposition of some positive duty. Nevertheless, failure to act has the capacity to carry consequences.

41. Mr. Friedman's position is to distance himself from his trainers and to maintain that he has no responsibility for the care of his horses whether that care involves conduct egregiously in breach of racing rules or not. The issue is not about the absence of direct evidence of a breach of racing rules by Mr. Friedman. The issue is about his racing record and its consequences upon the public's interest in a viable racing industry.

42. The ORC is committed to the principle of rehabilitation. Opportunity is provided for reform and for return to a useful and productive place in the industry - in effect, a "second chance". However, rehabilitation has inherent limitations. The penalty may have been paid but the wrongful act is not undone.

The moving finger writes; and, having writ, moves on: nor all your piety nor wit shall lure it back to cancel half a line nor all your tears wash out a word of it. - Edward Fitzgerald – The Rubaiyat of Omar Khayyam.

43. The ORC in its commitment to rehabilitation, re-licenses offenders. The private sector may be less forgiving. Convicted child molesters may serve their sentence. That is not to say that having done so, they have the right to babysitters. Repeat theft offenders may serve their sentence; that is not to say that they have the right to a security bond for a fiduciary position. A person convicted of violence against the elderly, infirm or disadvantaged, having paid the penalty does not have the right to demand employment in a nursing home. Having served the required sentence, the former inmate does not have the right to demand that he or she not be excluded from the United States on the basis of the criminal record. The value to be protected may be of such magnitude that extraordinary caution is demanded. (a parent protecting a child from a child molester, a country protecting its homeland security from terrorists, a racing industry protecting itself from those who would destroy racing integrity) No purpose is served by the wrong-doer's declaration "you can't do this to me – I served my time." The past remains undone. In terms of a child's maxim - "if you burn your backside you sit on the blisters".



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44. The manifestation of character-related propensity may remain. Evidence of propensity can be a dynamic factor. Propensity risk escalates in direct proportion to the number, similarity and severity of the incidents. The more entrenched the behaviour, the greater the peril.

45. A record of behaviour relating to racing conduct, even absent breach of rules, carries continuing consequences. Guilt by association is not the issue. The fact is that there can be accountability for racing conduct.

46. A single cheating incident is enough to taint a race or a race card. The perception of cheating can sweep through a race card. The damage is widespread, enduring and not readily undone. A sustained pattern of conduct prejudicial to the best interests of racing can be as harmful to racing as proven cheating.

47. The hinge pin is that cheating, real or perceived, sounds the death knell for wagering and with it the industry itself. Loss of public confidence in the racing product is terminal. To survive, racing must be like Caesar's wife, beyond reproach.

48. The horse racing industry depends upon wagering for its existence. Wagering in turn is rooted in past performance lines. When horses compete in races their performance is assiduously charted. Those chart lines are offered to the public in race program format.

49. Thereby the chart lines are the basis for the study of the horse's "form". Owners and trainers may also lay down "chart lines" which may be the basis for reasonable inferences drawn by racing handicappers.

50. Handicapping considerations range over breeding of the horse and performance by horse, jockey or driver, trainer and owner. Those features may be linked. Trainer (A) and driver (B) comprise a potent duo. Trainer (C) and owner (D) have certain characteristics. The trainer's reputation can be a significant component of the analysis. The trainer who, upon receiving a horse, achieves dramatic improvement forthwith does not go unnoticed. The entry of a certain trainer's horse can inhibit some handicappers from wagering - "too tough to figure". The racing public is knowledgeable with antennae on high alert. EPO violations are high profile, on racing's cutting edge. They are and will be the subject of wide interest by the handicapper. WEG's legitimate business interests include control over its racing product to the extent of protecting the public perception of its racing integrity. What chart lines has Mr. Friedman laid down in the course of his 10-year career as an owner. How do they bear on that perception?

Friedman Chart Line Number One "Retention Program"

51. As one of its "policies", WEG maintains a "retention program". WEG may require any horse to be placed in WEG's secure retention barn for a period specified by WEG prior to the horse racing. The purpose is to safeguard against pre-race impropriety relative to the horse and the rules of racing. The usual basis for implementing the policy is perception by Woodbine of inconsistent performance. (in and out racing) Jamie Martin, WEG's Senior Vice President, Racing, stated in his affidavit:

"In April of 2005 I met with Mr. Gray (Todd Gray, Mr. Friedman's trainer) and Friedman regarding my decision that all horses being trained by Mr. Gray race out of retention. I



made this decision based on the horse INSURANCE FEE owned by Mr. Friedman that raced in an inconsistent form. During my meeting with Mr. Gray and Friedman I expressed WEG's concern about the inconsistent performance of their horses and the need to have them race out of retention."

Chart Line Number Two "Out-of-Competition Testing"

52. That "inconsistent performance" attracted ORC scrutiny. The Racing Commission perceived that something was amiss, and having proceeded with out-of-competition testing, confirmed that perception. Three positive EPO tests.

Chart Line Number Three "Mr. Friedman's Trainer Associations"

53. WEG in its affidavit material adduced evidence of Mr. Friedman's history of employing trainers who have rule violations for illicit substances or for improper use of controlled substances.

54. Douglas Berkley

Mr. Berkley trained for Mr. Friedman from 1997 to 1999. His record for positive tests and suspensions is as follows:

Prior to training for Mr. Friedman -

- Positive test on April 18, 1995 on the horse PROPERTY DAMAGE, Mohawk Raceway. Suspended May 31, 1995 to June 29, 1995.

Subsequent to training for Mr. Friedman -

- Suspended May 18, 2000 to June 1, 2000 (high Bicarb.).
- Suspended for five years, February 12, 2002 to February 12, 2007 for conduct detrimental to racing.
- Todd Gray, Mr. Friedman's trainer at the time of the three EPO positive tests on June 12, 2006, had formerly worked for Douglas Berkley. Mr. Friedman stated that he had no knowledge of Mr. Berkley's positive test in 1995, two years before he employed Mr. Berkley. That positive test would have been a matter of record with Standardbred Canada and as such could have been available to Mr. Friedman.

55. Richard Bianca

His record for positive tests is follows:

- Suspended for two and a half months February 28, 2001 to May 13, 2001, high TCO₂ test at Meadowlands Racetrack.

56. Mr. Friedman stated that he ceased using Mr. Bianca as a trainer in February 2001 (the month of his suspension) and was unaware of the infraction which occurred February 3, 2001. He stated that in 2005, he again used Mr. Bianca as a trainer claiming to understand him to be a reputable trainer with a clear record. That statement seems unlikely in light of the owner/trainer relationship between them when the infraction occurred. The fact, duration and cause of suspensions, is not something that goes unnoticed by the racing community.



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57. David Menary

His record for positive tests is as follows:

- Suspended for two weeks, December 17, 2003 to January 2, 2004, positive test on the horse PAY THE FIDLER.

58. Mr. Friedman stated. "Although I became aware in early 2004 that he received a positive test with that horse --, when he trained my horses no issues in this regard occurred at that time." Mr. Friedman pointed out that the Menary suspension was for a Class IV drug (of five classes, Class I being the most serious).

Chart Line Number Four "Horses owned by Mr. Friedman tested positive as follows":

- Positive test for TCO₂ on Mr. Friedman's horse, POSITIVEREACTION, June 22, 2003, Woodbine Racetrack. – Trainer Travis Nolan was suspended for three months, February 12, 2004 to May 11, 2004. Regarding POSITIVEREACTION, Mr. Friedman stated that following the positive test, he sent the horse to a different trainer. In order to continue to race the horse that was necessary because trainer Nolan was suspended.
- Positive test on Mr. Friedman's horse DEXTERS LION, July 14, 2001, Woodbine Racetrack. Trainer Jonathan Gangell was suspended for eighteen months, September 6, 2001 to March 9, 2003.
- Jonathan Gangell's racing record discloses seven positive tests and a TCO₂ violation other than the DEXTERS LION incident.

Chart Line Number Five "Mr. Friedman's Association with Jonathan Gangell"

59. Mr. Friedman continued to use Mr. Gangell as a trainer upon his reinstatement after serving the suspension.

60. Mr. Friedman stated that following the positive test for DEXTERS LION, "I did not use him (Gangell), as a trainer again until after his suspension was lifted in March 2003 and during that time in 2004 when he was a trainer for some of my horses he had no further violations." Mr. Gangell's record for racing violations as compiled by Standardbred Canada was entered as an Exhibit and is appended as a schedule to these Reasons. According to Mr. Friedman, Gangell offered the explanation that, "DEXTERS LION was simply a horse who had naturally high levels of TCO₂." That explanation must have been rejected because Mr. Gangell was suspended for eighteen months.

Chart Line Number Six "Todd Gray and FOX VALLEY RAVEN"

61. Trainer Todd Gray who was Mr. Friedman's trainer at the time of the three positive EPO tests three months later, received a positive test for FOX VALLEY RAVEN at Flamboro Downs on March 11, 2006. That horse was owned by Mr. Friedman and Mr. Nixon. Todd Gray was suspended for six days, March 26, 2006 to April 1, 2006.



Chart Line Number Seven

62. With backgrounds of positive tests, Mr. Friedman used Mr. Menary and Mr. Gray as trainers after their suspensions had ended.

Chart Line Number Eight “Rob Boyd’s Suspension”

63. Upon Todd Gray’s suspension for the three EPO positive tests, on December 11, 2006, all of Mr. Friedman’s standardbred horses were transferred to the Isles Training Centre to be trained by Rob Boyd. As a result of a positive TC0₂ test on a horse trained by Mr. Boyd for another owner, Rob Boyd was suspended from March 5, 2007 to May 3, 2007. Upon his trainer again being suspended, Mr. Friedman’s horses were transferred to be trained by Wanda lafrates and Howard Lewis.

Chart Line Number Nine “The Positive Test resulting in Wanda lafrates’ Suspension”

64. The positive test for YORKY’S GIRL at Clinton Raceway, June 24, 2007, occurred while Mr. Friedman was racing under the authority of Interim Relief granted by the ORC, and in consequence trainer Wanda lafraes was suspended. Mr. Friedman’s counsel spoke of this event as “unfortunate” – a mildly inadequate characterization. Perhaps some would refer to it as astounding.

65. By way of comparison, the witness, Scott Rowe, has participated in 19,000 races as owner, driver and trainer without a positive test.

66. Two features which occurred following WEG’s suspension require comment. They were not in any way the basis of WEG’s decision then nor can they justify it now. But in doleful certainty, they fit the pattern upon which WEG did rely.

67. Firstly, the positive test on YORKY’S GIRL bespeaks a blatant failure to safeguard against drug offences. This, with only two horses racing, and over a period of less than a month. That his suspension and the resulting hearing were centred upon positive tests in and about his racing record should surely have induced heightened awareness and reasonable precautions. No evidence was given by Wanda lafrates about instructions from Mr. Friedman relating to the risk of positive tests.

68. Secondly, Mr. Friedman’s lack of candour with the Panel in relation to his answer that he would not have disclosed the positive test on YORKY’S GIRL had he not been asked, is a further laminate of the track record which he creates by his conduct. He was prepared to deceive. To lie can be achieved only by the positive act of making false declaration. To deceive can be achieved in some circumstances by doing or saying nothing to correct a mistaken impression.

69. In his evidence Mr. Friedman espoused laudable goals supporting the racing industry but his conduct belies his words. He still failed to give effective instruction to Wanda lafrates that there should be no drug violations. He failed to demonstrate how he will ensure that his trainers will refrain from using illegal performance enhancing drugs or improperly using regulated drugs on



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his horses. By sustained effort to distance himself from responsibility, he becomes irresponsible.

70. The significance of the three EPO tests must be assessed against the cumulative effect of Mr. Friedman's past performance as evidenced by those chart lines. What right does an owner have to cry, "foul" when he is held accountable for an obvious recurring risk which he consistently ignores and from which he attempts to distance himself? Can an owner after positive tests parade from trainer to trainer sacrosanct in the confidence that the process is endless because there is absolutely no accountability at any level?

71. That hands-off passivity may not be in breach of racing rules as presently constituted but it does have the capacity to carry consequences in terms of perception of reputation and as signals relating to character – too close, too often, too long. Once is happenstance, twice is coincidence, thrice is enemy action, as the saying goes.

72. Mr. Friedman took no steps to protect against positive tests. He displayed no effective diligence in enquiring about the backgrounds of his trainers. He ignored the rudimentary precaution of raising the issue of avoidance of positive tests. Following the positive tests he distances himself and moves on to other trainers, still taking no precautions. He apparently did not communicate his expectations to his trainers. Is Mr. Friedman's reputation tarnished? Is that tarnish transferable to WEG?

73. An ORC licence confers eligibility to participate in the regulated racing industry in Ontario. It does not provide immunity from accountability for one's past actions in the context of the well being of the racing industry.

74. If an owner chooses to constantly operate on that level, should he be empowered to force his racing presence unto a track operator committed to racing integrity?

75. The public interest lies in a viable racing industry, honestly operated and seen to be so. That interest extends to racing participants who distance themselves from drug violations. Those ORC licensees ought not to be compelled to compete against those who repeatedly have positive tests.

76. There is no purpose in sounding the obvious. WEG is the industry leader, a credit to the horse racing community and the Province of Ontario. Exemplary standards are maintained in the integrity of the racing product and its presentation. The right of WEG to conduct its business and protect its investment by producing racing at its highest level must be respected. The private property rights of exclusion and trespass are components of the means by which these objectives are achieved. WEG's mission of providing premium racing accords with the ORC mandate. Implementation of policies and actions supporting that high purpose and consistent with the statutory obligations of the ORC and the wide general public interest should be supported.

77. Section 6 of the Ontario Racing Commission Act, 2000 empowers the ORC to take action in the public interest and in accordance with the principles of honesty, integrity and social responsibility. That is the standard of review to which WEG's actions must be subjected. This



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involves weighing individual rights to just and fair treatment and WEG's rights to protect its product and property.

78. As the applicant, Mr. Friedman must bear the onus of proof. For two reasons the extent of that burden must be higher than on a balance of probability.

- In consequence of the severity of the penalty which is the opportunity to race at Ontario's two premier racetracks with the added peril that other smaller tracks may follow suit.
- Time-honoured property rights ought not to fall by proof less than clear, cogent and compelling. The rock-solid status of property rights maintained over centuries demands a heightened burden of proof to that standard.

79. Mr. Friedman must prove that WEG acted absent clear, compelling and cogent reason.

80. WEG's authority is not open-ended, there are limits. WEG, in pursuit of its legitimate business goals, may be held to a standard of conduct whereby it must act firstly, reasonably and fairly, and secondly, upon substantial and demonstrable grounds, and thirdly, in a manner compatible with the best interests of racing. WEG's action, although not dependant upon due process, must be able to withstand a due process review conducted by the ORC.

81. WEG's statement in written submissions that "Licensed owners have a responsibility to monitor their horses and to ensure that non therapeutic performance enhancing drugs are not used in their horses." requires analysis. This obligation is founded neither on the rules of racing nor on any contract of universal application. Nor is there evidence that it is of such universal and longstanding application that it has a force equivalent to trade custom. Perhaps WEG's assertion is a pre-cursor to the ideal situation which may or may not come to pass. In any event, Mr. Friedman cannot be held responsible on the basis of retroactive accountability.

82. Having commented that WEG's powers are not absolute, and having directed attention to three constraints on that power, it may be appropriate to cite an example of what in this Panel's opinion would amount to usurping ORC function.

83. Section 8 of the Canadian Charter of Rights and Freedoms guarantees all Canadians protection against unreasonable search and seizure. The right of search and seizure upon reasonable grounds is conferred upon law enforcement agencies under the authority of the Criminal Code of Canada. Execution of that right is always subject to scrutiny by the court system.

84. Standardbred Rule 1.07 provides that every person participating in and every patron of a meeting shall abide by the standardbred rules. Rule 10.02 provides that the judges, the Director of Racing or persons authorized by them shall have the right to enter any premises upon the grounds of any raceway for the purpose of examining, searching, inspecting and seizing the personal property of any person in or upon such place. Rule 10.03 expands the ORC's right of search and seizure by specific reference to hypodermic syringes, drugs and medicaments and the like.



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85. In result, ORC licensees have waived their constitutional right to freedom from unreasonable search and seizure to the extent required by those rules. There has been no waiver in favour of any track operator or other third person. Apart from the waiver in favour of the ORC, the constitutional right for licensees remains in full force and effect.

86. The ORC conducts tests of bodily substances, human and equine, for drug and alcohol in conjunction with the Canadian Pari-Mutuel Agency. Thereby that area of responsibility is occupied by the ORC. The power to delegate the ORC authority to search and seize created by the provision in Rule 10.02 "*persons authorized by them*" has not been extended to any track operator or designate thereof. A purported parallel search and seizure program by some other agency would be inappropriate in that it would be usurping ORC function and responsibility.

87. Unauthorized search and seizure cannot be condoned. Persons with knowledge of evidence of impropriety should report promptly and fully to the investigative branch of the ORC for appropriate action.

88. Three simultaneous flagrant rule breaches were discovered on a single occasion – each involving a horse owned by Mr. Friedman. Standing alone, that is a huge racing violation by someone. In the context of Mr. Friedman's racing experience and record, it is more so. It must be a legitimate and reasonable business objective to disassociate such conduct from WEG racing. The effective and immediate vehicle to achieve that result was to refuse to accept entries from that owner.

89. WEG's rules provide absolute discretion to exclude any licensed participants at WEG tracks. There is no restriction limiting application to trainers. The test is simple - measure up to the integrity standard or leave.

90. WEG's objectives are elimination of non-therapeutic drugs, preservation of its leadership status and protection of its business interests. Bona fide business decisions to advance these goals must be accorded substantial deference and in so far as they accord with ORC objectives they should be supported. Protection of these business goals must not be at the expense of fairness to ORC licensees. If the track standards are reasonable and are imposed to advance the best interests of racing, must the track dilute its standards and thereby put its racing product at risk by accepting the licensees' racing entries?

91. In such a case, the property and business rights of the track and the ORC obligation to protect the integrity of racing are on all fours. The public interest is overwhelming on the side of the track having the right to take preventative measures in self-defense to protect its racing integrity.

92. The seriousness of the multiple EPO offence in relation to Mr. Friedman's horses in conjunction with Mr. Friedman's background renders WEG's suspension a reasonable response in terms of protecting its racing product. WEG's decision to reject Friedman's entries was a reasonable business decision based on all the circumstances. WEG as an industry leader, acting in the broad public interest, delivers quality. Those who, acting in private interests with no such record of performance and high purpose would have it otherwise, cannot succeed.



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93. There is evidence of Mr. Friedman's racing conduct clear, cogent and compelling that leads to the inescapable conclusion that WEG's action was justified. The starting and the ending point is that by long-standing time-honoured private property rights, WEG has the right to exclude Mr. Friedman racing nominations and entries. No basis exists upon which the ORC should modify those rights. Public interest considerations along with the Commission's obligation of honesty, integrity and social responsibility, require that the ORC should not intervene on Mr. Friedman's behalf. Forcing WEG to accept Mr. Friedman's race entries would be a gross violation of the broad public interest.

94. The application to quash Mr. Friedman's suspension is dismissed.

95. By way of footnote, the following issues may warrant review by the Commission:

- (1) Expanded owner's responsibility for positive tests. The evidence of industry participant Scott Rowe demonstrates support for formal recognition of owner responsibility for the care and health of their horses at least to the extent of being free from illegal and non-therapeutic drugs. Should the rules create a positive duty on the owner to take reasonable precautions against drug violations? If so, as an element thereof, should there be such a provision in the trainer's contract? Should breach of such a rule carry an owner's suspension, optional or mandatory, or some other form of accountability? Should the standard of care be specified in the rule?
- (2) The trainer transfer rule in relation to transfers to family members, employees or former business associates, present and past in order to ensure an arm's length transaction.
- (3) Barring the horse from racing for a fixed period following a positive test for certain classes of drugs – regardless of subsequent owner change.
- (4) Track rules and contracts - should these be updated by referring in specific terms to the doping issue and its consequences?
- (5) Should the basis for "discretionary" ORC hearings be defined in the rules, for example:
 - a) fair treatment of licensees
 - b) confirming access by licensees to a Commission hearing upon substantial or reasonable cause being demonstrated
 - c) matters relating to track policy
 - d) reaffirming the track right to act upon substantial evidence constituting reasonable grounds
 - e) reasonable grounds for track action may include such as illegal medication, race fixing, pattern of association with known undesirables and book making
 - f) requiring track disclosure of specific grounds underlying any censure or discipline
 - g) excluding matters of micro-management of track affairs
 - h) excluding interpretation of track contracts
- (6) Should the rules of racing provide that all prescription medication be administered by veterinarians, licensed and in good standing, with entry made and signed in the horses medication log.



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96. Appended as Exhibit (1), Gangell's racing record.

DATED this 19th day of September 2007.

BY THE PANEL

Rod Seiling
Chair

James M. Donnelly
Vice Chair

George Kelly
Commissioner

EXHIBIT 1

R96629 JONATHAN P GANGELL
ADDRESS PRIVATE

DOB: 15-OCT-1969 MALE/ENG

Changed: 03-FEB-2006 (072)

SC (Trot) 2 - Region Chgd:26-OCT-2006(227) Exp:15-OCT-2007
Active Member/Owner/Driver (B)
ORC Chgd:24-OCT-2006(316) Exp:15-OCT-2007
Full License/Driver/Trainer/Owner
1-Dr/Tr 2-OldFine 3-His:2

PAST FINES/SUSPENSIONS**-----
ORC - STARTING VIOLATION**

Date Issued : 06-MAY-2006 Suspension Ruling Number : 35136

Total Due : 100.00

Violation Occurred : Race 9 at FLAMBORO DOWNS on 06-MAY-2006 horse BELLA FAME
(Fines Reinstated On 12-MAY-2006 by 316ML)

ORC - ELIGIBLE TO BE LICENSED (PROBATION FOR 1 YR) 3-FEB-06 UNTIL 3-FEB-07

Date Issued : 03-FEB-2006 Suspension Ruling Number : 26

Reinstated On 21-FEB-2007 by 007HL)

ORC - VIOL 22.38 (SB32702 WITHDRAWN & REAPPLIED) EXCESS LEVEL TCO2

Date Issued : 13-JUL-2004 Suspension Ruling Number : 210

Total Due : 20000.00

Violation Occurred : Race 2 at WOODSTOCK RACEWAY on 03-JUL-2004 horse TIZZOE
Suspended From 20-JUL-2004 To 19-JUL-2006 (Full Suspension)
(Fines Reinstated On 15-FEB-2006 by 301ST)

ORC - FAILURE TO ENSURE DRIVER WILL DRIVE AS PROGRAMMED

Date Issued : 05-JAN-2004 Suspension Ruling Number : 29933

Total Due : 50.00

Violation Occurred : Race 3 at FLAMBORO DOWNS on 05-JAN-2004 horse PRAIRIE X
PLOSSION
(Fines Reinstated On 19-JAN-2004 by 318MJ)

ORC - SCRATCH DUE TO MEDICATED IN ERROR

Date Issued : 17-JUL-2003 Suspension Ruling Number : 27436

Violation Occurred : Race 11 at FLAMBORO DOWNS on 17-JUL-2003 horse PRINCE
LITIGATOR
Reinstated On 13-SEP-2003 by 316ML)

ORC - WARNING - RULE 15:01 - SUBMITTED AN IMPROPER CLAIMING AUTHORIZATION

Date Issued : 20-MAY-2003 Suspension Ruling Number : 28677

Violation Occurred : Race 7 at ELMIRA RACEWAY on 16-MAY-2003 horse THIS AINT
NOPARTY
Reinstated On 13-SEP-2003 by 316ML)

ORC - POSSESSION OF FOREIGN SUBSTANCE DURING SEARCH-\$500 DUE 06-MAY/03-\$500

DUE 06-JUNE-03

Date Issued : 06-MAY-2003 Suspension Ruling Number : 29311

Total Due : 1000.00

Violation Occurred : at GEORGIAN DOWNS on 06-MAY-2003

(Fines Reinstated On 05-JUN-2003 by 318MJ)

ORC - POSITIVE TEST

Date Issued : 23-AUG-2001 Suspension Ruling Number : 150

Total Due : 15000.00

Violation Occurred : Race 9 at WOODBINE RACETRACK on 14-JUL-2001 horse DEXTERS LION

Suspended From 06-SEP-2001 To 09-MAR-2003 (Full Suspension)

(Fines Reinstated On 10-MAR-2003 by 318MJ)

ORC - WARNING OF MEDICATED HORSE IN ERROR, FUTURE VIOLATION COULD RESULT FINE/OR SUSPENSION

Date Issued : 30-MAR-2001 Suspension Ruling Number : 23600

Violation Occurred : Race 2 at MOHAWK RACETRACK on 29-MAR-2001 horse WYNSUM DREAMS

Reinstated On 02-AUG-2003 by 347PJ)

ORC - RACING A CLAIMED HORSE OUT OF PROV. BEFORE 60 DAYS

Date Issued : 02-AUG-2000 Suspension Ruling Number : 22677

Total Due : 425.00

Violation Occurred : on 12-JUL-2000 horse SHARPER N SMARTER

(Fines Reinstated On 05-AUG-2000 by 324MN)

ORC - REAPPLIED RULE 19291 VIOLATION 22.38 (EXCESS BICARBONATE)

Date Issued : 24-JUL-1998 Suspension Ruling Number : 147

Violation Occurred : Race 7 at WOODBINE RACETRACK horse HARD TARGET

Suspended From 24-JUL-1998 To 07-AUG-1998 (Full Suspension)

Reinstated On 08-AUG-1998 by)

ORC - REAPPLIED RULE 19291 VIOLATION 22.38

Date Issued : 24-JUL-1998 Suspension Ruling Number : 147

Total Due : 1000.00

Violation Occurred : Race 7 at WOODBINE RACETRACK on 24-JAN-1997 horse HARD TARGET

(Fines Reinstated On 15-JUN-1999 by 316ML)

ORC - VIOL. ORC RULE 6.20 B. SUSP. INC. IN SB#19845-19846

Date Issued : 03-JUN-1998 Suspension Ruling Number : 19844

Total Due : 1000.00

Violation Occurred : at FLAMBORO DOWNS

(Fines Reinstated On 15-JUN-1999 by 316ML)

ORC - ONE YEAR FULL SUSPENSION JUNE 7/98 TO JUNE 6/99

Date Issued : 03-JUN-1998 Suspension Ruling Number : 19844

Suspended From 03-JUN-1998 (Full Suspension)

(Suspension Reinstated On 15-JUN-1999 by 324MN)

ORC - POSITIVE TEST

Date Issued : 03-JUN-1998 Suspension Ruling Number : 19846

Total Due : 2500.00

Violation Occurred : Race 3 at FLAMBORO DOWNS on 14-MAY-1998 horse RARE SPENDER

Suspended From 07-JUN-1998 To 06-DEC-1998 (Full Suspension)

(Fines Reinstated On 15-JUN-1999 by 316ML)

ORC - POSITIVE TEST

Date Issued : 03-JUN-1998 Suspension Ruling Number : 19845

Total Due : 2500.00

Violation Occurred : Race 11 at FLAMBORO DOWNS on 20-MAY-1998 horse G T G KARO

Suspended From 07-DEC-1998 To 06-JUN-1999 (Full Suspension)

(Fines Reinstated On 15-JUN-1999 by 316ML)

ORC - POSITIVE TEST - 120 DAYS FULL SUSPENSION (60 DAYS STAYED)

Date Issued : 18-APR-1998 Suspension Ruling Number : 20147

Total Due : 1500.00

Violation Occurred : Race 3 at WESTERN FAIR RACEWAY on 06-APR-1998 horse RARE SPENDER

Suspended From 23-APR-1998 To 21-JUN-1998 (Full Suspension)

(Fines/Suspensions Reinstated On 29-APR-1998 by 301ST)

ORC - ANY FURTHER VIOL. OF 26.02 IN '98 WILL RESULT IN 60 DAYS SUSP. TO BE ADDED TO THAT SUSP

Date Issued : 18-APR-1998 Suspension Ruling Number : 20147

Violation Occurred : Race 3 at WESTERN FAIR RACEWAY on 06-APR-1998 horse RARE SPENDER

Reinstated On 29-APR-1998 by 301ST)

ORC - FURTHER PROB. 02-JAN-98 TO 02-JUL-98 AUT. 30 DAYS IF PROB. BROKEN

Date Issued : 02-JAN-1998 Suspension Ruling Number : 18863

Violation Occurred : Race 4 at FLAMBORO DOWNS on 18-DEC-1997 horse SHANER PUNIM

Reinstated On 15-JUN-1999 by 324MN)

ORC - POSITIVE TEST

Date Issued : 02-JAN-1998 Suspension Ruling Number : 18863

Total Due : 300.00

Violation Occurred : Race 4 at FLAMBORO DOWNS horse SHANER PUNIM

Suspended From 06-JAN-1998 To 15-JAN-1998 (Full Suspension)

Reinstated On 16-JAN-1998 by)

ORC - POSITIVE TEST

Date Issued : 02-MAR-1997 Suspension Ruling Number : 18043

Total Due : 1000.00

Violation Occurred : Race 9 at WOODBINE RACETRACK on 13-FEB-1997 horse GOLDEN TRIANGLE

Suspended From 02-MAR-1997 To 16-MAR-1997 (Full Suspension)

(Fines Reinstated On 04-APR-1997 by 324MN)

ORC - POSITIVE TEST

Date Issued : 28-FEB-1997 Suspension Ruling Number : 16786

Total Due : 500.00

Violation Occurred : Race 4 at WESTERN FAIR RACEWAY horse YES WE WILL

Suspended From 17-MAR-1997 To 31-MAR-1997 (Full Suspension)

Reinstated On 01-APR-1997 by)

ORC - VIOLATION OF RULE #9:09 & #26:02 PROBATION TILL DEC 31/97

Date Issued : 22-FEB-1997 Suspension Ruling Number : 18043

Violation Occurred : Race 9 at WOODBINE RACETRACK on 13-FEB-1997 horse GOLDEN TRIANGLE

Reinstated On 06-JAN-1998 by 002SV)

ORC - POSITIVE TEST

Date Issued : 15-FEB-1997 Suspension Ruling Number : 16781

Total Due : 500.00

Violation Occurred : Race 7 at WESTERN FAIR RACEWAY on 07-FEB-1997 horse ALBANIAN PRINCESS

Suspended From 15-FEB-1997 To 01-MAR-1997 (Full Suspension)

(Suspension Reinstated On 28-FEB-1997 by 021TJ)

ORC - STARTING VIOLATION

Date Issued : 16-JUL-1996 Suspension Ruling Number : 17298

Total Due : 50.00

Violation Occurred : Race 7 at FLAMBORO DOWNS on 16-JUL-1996 horse ROBS STAR OF ORONO

(Fines Reinstated On 23-JUL-1996 by 320MJ)

ORC - INTERFERENCE VIOLATION

Date Issued : 21-MAY-1996 Suspension Ruling Number : 18013

Violation Occurred : Race 9 at FLAMBORO DOWNS horse ROBS STAR OF ORONO

Suspended From 22-MAY-1996 To 05-JUN-1996 (Driving Suspension)

Reinstated On 06-JUN-1996 by)

ORC - STARTING VIOLATION

Date Issued : 16-MAR-1996 Suspension Ruling Number : 17733

Total Due : 50.00

Violation Occurred : Race 2 at FLAMBORO DOWNS on 16-MAR-1996 horse RENRAG ALFRED

(Fines Reinstated On 18-MAR-1996 by 324MN)

ORC - INTERFERENCE VIOLATION

Date Issued : 13-DEC-1995 Suspension Ruling Number : 17950

Violation Occurred : Race 1 at FLAMBORO DOWNS horse ROBS STAR OF ORONO

Suspended From 14-DEC-1995 To 16-DEC-1995 (Driving Suspension)

Reinstated On 17-DEC-1995 by)

ORC - STARTING VIOLATION

Date Issued : 12-DEC-1995 Suspension Ruling Number : 17947

Total Due : 50.00

Violation Occurred : Race 8 at FLAMBORO DOWNS on 12-DEC-1995 horse EAGER KILLEAN

(Fines Reinstated On 13-DEC-1995 by 318MJ)

ORC - FAILED TO KEEP A LINE IN EACH HAND UNTIL THE HEAD OF THE STRETCH -
RULE 22.23(A)

Date Issued : 12-SEP-1995 Suspension Ruling Number : 17901

Total Due : 50.00

Violation Occurred : Race 5 at WOODSTOCK RACEWAY on 12-SEP-1995 horse EDDIES
SPIRIT

(Fines Reinstated On 16-SEP-1995 by 316ML)

ORC - STARTING VIOLATION

Date Issued : 20-AUG-1995 Suspension Ruling Number : 16450

Total Due : 50.00

Violation Occurred : Race 7 at FLAMBORO DOWNS on 19-AUG-1995 horse NORWELL
NADIR

(Fines Reinstated On 26-AUG-1995 by 318MJ)

ORC - DID IMPEDE THE PROGRESS OF ANOTHER HORSE

Date Issued : 18-AUG-1995 Suspension Ruling Number : 16449

Violation Occurred : Race 3 at FLAMBORO DOWNS horse WOODYS GIRL

Suspended From 20-AUG-1995 To 22-AUG-1995 (Driving Suspension)

Reinstated On 23-AUG-1995 by)

ORC - INTERFERENCE VIOLATION

Date Issued : 18-DEC-1994 Suspension Ruling Number : 15657

Violation Occurred : Race 11 at FLAMBORO DOWNS horse TWIN B KATIE

Suspended From 19-DEC-1994 To 21-DEC-1994 (Driving Suspension)

Reinstated On 22-DEC-1994 by)

ORC - VIOLATION TRACK WHIPPING RULE

Date Issued : 18-DEC-1994 Suspension Ruling Number : 15658

Total Due : 50.00

Violation Occurred : Race 11 at FLAMBORO DOWNS on 18-DEC-1994 horse TWIN B KATIE

(Fines Reinstated On 23-DEC-1994 by 324MN)

ORC - TRACK WHIPPING RULE.

Date Issued : 02-DEC-1994 Suspension Ruling Number : 16142

Total Due : 25.00

Violation Occurred : Race 9 at WESTERN FAIR RACEWAY on 02-DEC-1994 horse TWIN B
KATIE

(Fines Reinstated On 26-DEC-1994 by 021TJ)