



COMMISSION HEARING

TORONTO, ONTARIO – JULY 15, 2008

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

**AND IN THE MATTER OF THE APPEAL OF LICENSEES  
JOHN KOPAS, DAVE POLEY, JOHN PENTLAND, JIM WELLWOOD,  
JAMIE BARDOEL AND SCOTT MCNIVEN**

Standardbred Licensees John Kopas, Dave Poley, John Pentland, Jim Wellwood, Jamie Bardoel and Scott McNiven appealed Ruling SB 37355 wherein the Judges ruled that the 4<sup>th</sup> Race on July 11, 2008, at Flamboro Downs was a “No Contest” in accordance with Rule 22.33 of the Rules of Standardbred Racing.

On July 15, 2008, a Panel of the Commission consisting of Chair Rod Seiling convened to hear the Appeal.

Maureen Harquail appeared as Counsel for the Administration. Louis Liebenau appeared on behalf of John Kopas and John Pentland. Dave Poley and Jim Wellwood were present and appeared on their own behalf. Jamie Bardoel and Scott McNiven were not present.

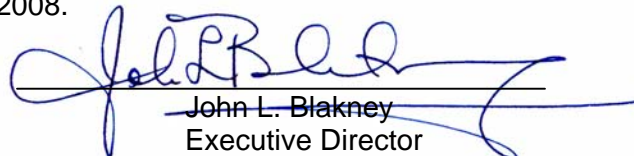
Upon hearing the evidence of Judge John Harper and on reviewing the videotape of the race and the Exhibits filed, and on hearing the submissions of Counsel for the Administration and the Appellants, the Panel allowed the appeal and ordered the following:

- i. Race #4 on July 11, 2008 at Flamboro Downs is a charted race;
- ii. STAR GAZED, TAKE MY PULSE and GRIN GODDESS (top 3 finishers) are eligible for the Gold Final to be raced on July 18, 2008, at Flamboro Downs;
- iii. TOPAZ SEELSTER (4<sup>th</sup> place) will be eligible for the consolation race;
- iv. STAR GAZED, TAKE MY PULSE, GRIN GODDESS and TOPAZ SEELSTER will earn their normal respective splits of the purse with 5<sup>th</sup> place monies to be divided amongst those horses which did not cause any interference during the race and which did not finish, specifically PUTNAM JORDAN, SPOILED BEACH and SHELLACE.

The Panel's oral decision is attached to this Ruling.

DATED in Toronto this 15<sup>th</sup> day of July 2008.

BY ORDER OF THE COMMISSION

  
John L. Blakney  
Executive Director



### REASONS FOR DECISION

After carefully considering the testimony and reviewing the evidence, the Panel rules to uphold the appeal of the appellants, licensees, John Kopas, Dave Poley, John Pentland, Jim Wellwood, Jamie Bardoel and Scott McNiven.

It rules that there was a third option as Judge Harper agreed under cross-examination. Therefore the race is determined as under Rule 22.32, a “No Contest” for those horses which were prevented from having a fair chance due to an exceptional circumstance. Therefore, the race #4 for OSS purposes is a charted race. The first 3 finishers, STAR GAZED, TAKE MY PULSE and GRIN GODDESS are eligible for the Gold Final to be raced this Friday, July 18 at Flamboro Downs. The 4<sup>th</sup> place finisher, TOPAZ SEELSTER, will be eligible for the consolation race and points.

In terms of purse monies, the top four horses will earn their normal respective split of the purse with the 5<sup>th</sup> place monies to be divided amongst those horses which did not cause any interference during the race, those being #3 PUTNAM JORDAN, #4 SPOILED BEACH, and #8 SHELLACE. The rationale for this decision is Rule 18.03. These horses are not eligible for the consolation.

The Panel recognizes the Judges had a very difficult task and applauds them for their concern in protecting the public and the health and welfare of the horses. With the fullness of time, it is easier to judge fairness as it relates to courses of action.

The Panel does not consider rescheduling the Panel and re-racing the 4<sup>th</sup> race a viable option.

DATED this 15<sup>th</sup> day of July 2008.

Rod Seiling  
Chair