



COMMISSION HEARING

TORONTO, ONTARIO – MAY 9, 2013

**NOTICE OF DECISION**

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

Paul Henry appealed against Ruling Number SB 45365.

Date of Hearing: May 9, 2013

ORC Panel Members: Commissioner John W. Macdonald

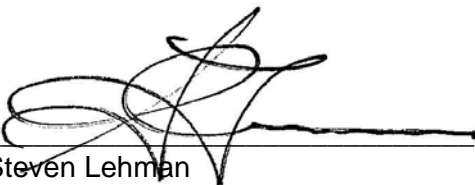
Representatives for Appellant: Travis Henry and  
Anthony MacDonald (as a friend)

Representative for the Administration: David Stewart

The Panel denied the appeal but varied the penalty.

A transcript with the Panel's oral Reasons for Decision is attached to this Notice.

DATED at Toronto this 16<sup>th</sup> day of May 2013.



Steven Lehman  
Executive Director

ONTARIO RACING COMMISSION

IN THE MATTER OF THE APPEAL AND REQUEST  
FOR HEARING OF PAUL HENRY

Held Before:

John W. Macdonald, Commissioner

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This is the ruling in the above mentioned matter held before The Ontario Racing Commission, Re: PAUL HENRY, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 9th day of May, 2013.

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Appearances:

David Stewart, For the Ontario  
Racing Commission  
Administration

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THE COMMISSIONER: I can tell you right  
2 off the top, the fact that this horse had been  
3 claimed, Billy Bass, to go to Buffalo, for our  
4 purposes is immaterial. We're dealing here  
5 with the horse that was programmed to be on  
6 lasix and raced without it.

7 So there were factors here, and  
8 Mr. McCoag explained that. The chief test  
9 officer missed it and it was not reported to the  
10 judges. So if he had, the judges would have  
11 done -- the horse would have been scratched.  
12 That's the same as being late to get to the  
13 program, that it's set up what you have to do.

14 Travis was the one who looked  
15 after the horse. He had the ultimate  
16 responsibility at least to know. There's where  
17 -- there's a negligence factor here, due  
18 diligence.

19 If you are claiming for somebody  
20 else, yes. I don't know what the responsibility  
21 was for the owner, Mr. Callahan, but he should  
22 have looked and probably did look at the lines,  
23 so he knew what the horse was....

24 If he had an obligation to -- or  
25 not, I don't know. That's between the two of

1           you. But I think you are the person responsible  
2           for looking after the welfare of the horse here.  
3           You should have known the horse had three --  
4           previous six starts.

5                         Sorry, I should have excused you.  
6           You don't have to sit there. You can go back.

7                         You should have known that the  
8           horse was racing on lasix. We don't know for  
9           how long, but the more recent ones he had. So  
10          you did bear some of the responsibility there.

11                        The judges have already dealt with  
12          the chief test officer who obviously wasn't  
13          doing his or her job properly at the time. And  
14          I guess in English literature terms, that's a  
15          comedy of errors. It's not really a comedy  
16          here. There is an element that the public  
17          should know there were -- lasix, they have been  
18          around for a while, supposed to be  
19          anti-bleeding. There is some benefit to the  
20          horse.

21                        The public is entitled to know if  
22          a horse is on lasix or not. And I would be a  
23          little concerned if I was the betting public and  
24          the horse had shown lasix for a number of races  
25          and all of a sudden he's out off. Well, that's

1           why the judges should be informed so they can  
2           announce if a horse is going off lasix. And  
3           usually it might be a time period the horse has  
4           been off before they attempt to see what he's  
5           like off lasix.

6                            Anyhow, because of this  
7           combination, while I'm going to deny the appeal  
8           I'm going to reduce the fine of \$250 by  
9           suspending the other 250, provided there's no  
10          racing-related violations in the next year.

11                           I'm suspending -- the fine is  
12          staying the same at \$500 but I'm suspending half  
13          of that. And my reasons are that too many  
14          errors, and the responsibility rests with not  
15          only the trainer but, in this case, the test  
16          officer. If this had been a horse that would  
17          have been racing for a few weeks and missed the  
18          lasix, I would have treated that differently.

19                           I'll give you some benefit of the  
20          doubt that, while you were a little careless at  
21          not knowing, this is something that was thrown  
22          onto you in a short period of time. On that  
23          basis, the effective fine will be \$250.

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--- Whereupon at 12:25 p.m. the proceedings  
3 were concluded.

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This is to hereby certify  
that the forgoing is a true  
and accurate transcript of  
the proceedings to the best  
of my skill and ability.

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Sandra Brereton  
Certified Court Reporter  
Registered Professional Reporter