



COMMISSION HEARING

TORONTO, ONTARIO – SEPTEMBER 16, 2013

NOTICE OF DECISION

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

AND IN THE MATTER OF THE APPEAL OF HIAWATHA HORSE PARK

Hiawatha Horse Park appealed against the Director's Notice of Order (Supplementary), dated August 7, 2013.

Date of Hearing: September 16, 2013

ORC Panel Members: Chair Rod Seiling
Commissioner John W. Macdonald
Commissioner Dan Nixon

Representative for Appellant: Self represented

Counsel for the Administration: Angela Holland

The Panel denied the appeal. Furthermore, Hiawatha Horse Park is fined an additional \$1,500.00 for filing a frivolous appeal.

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

DATED at Toronto this 16th day of September 2013.

Steven Lehman
Executive Director

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ONTARIO RACING COMMISSION

STANDARD BRED HEARING

IN THE MATTER OF THE RACING COMMISSION ACT,
2000, S.O. C.20 AND THE RULES OF
STANDARD BRED RACING:

AND IN THE MATTER OF AN APPEAL AND REQUEST
FOR HEARING OF **HIAWATHA HORSE PARK**:

Held Before:

Rod Seiling Chairman

John Macdonald Commissioner

Dan Nixon Commissioner

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These are an excerpt of the proceedings in
the above mentioned matter held before The
Ontario Racing Commission, Re: **HIAWATHA
HORSE PARK**, taken before Toronto Court
Reporters, Suite 1410, 65 Queen Street West,
Toronto, Ontario, at 10 Carlson Court, Suite
400, Toronto, Ontario, on the 16th day of
September, 2013.

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Appearances:

Angela Holland,

for the Ontario
Racing Commission
Administration

1 Hearing continued ...

2 MR. CHAIRMAN: All rise. Please be seated. After
3 carefully listening to the testimony and reviewing the
4 evidence and documents filed the panel denies the appeal.
5 Furthermore, Hiawatha Horse Park is fined an additional
6 \$1,500.00 for filing a frivolous appeal in order to comply
7 with the Commission's supplementary notice dated August 7th,
8 2013, including providing the purse account documentation by
9 the 16th day of the following month. Standardbred Rule
10 7.16.02 requires a track to pay into its purse account the
11 funds within specified time frames. Mr. Henderson admits
12 there was a substantial under payment to the purse account at
13 Hiawatha and he bears the responsibility. Therefore, he was
14 in violation of Standardbred Rule 7.16.02. Mr. Henderson
15 submitted the under payment was about \$420,000.00. Mr.
16 Dupuis, purse account manager from the Ontario Racing
17 Commission, submitted the amount is about \$677,000.00. It is
18 reasonable to conclude, on a balance of probabilities (FH
19 versus McDougall (2008) (3) SCR 41) that the amount of the
20 under payment is \$677,000.00. In this regard the panel
21 recalled Mr. Dupuis relative to the amount of the under
22 payment. Mr. Henderson was provided a second opportunity to
23 question the purse account manager as to the actual amount of
24 the under payment and he failed to provide any credible
25 evidence to support his position. Horse people are partners
26 with tracks. That partnership is based on contracts signed

1 between the two parties. It is a serious breach of trust and
2 a violation of Standardbred Rule 7.16.02 that this panel and
3 this Commission does not take lightly. Under the Racing
4 Commission Act of 2000 the Commission has the responsibility
5 to act in the best interests of racing. Under that mandate it
6 must ensure that one party does not violate the rights of the
7 other by not remitting funds that are legally due to it under
8 Standardbred Rule 7.16.02. Mr. Henderson's reason for appeal
9 was to recoup interest money incorrectly charged, according to
10 him. In actual fact if he has been assessed interest
11 incorrectly the funds will automatically be reconciled as part
12 of the on going purse review that occurs at every racetrack.
13 The \$5,000.00 fine is fair and reasonable given the
14 seriousness of the rule violation. Purse money is purse
15 money. Penalties serve as a dual purpose. They deal with the
16 perpetrator and serve to act as a deterrent to others. The
17 fact Hiawatha is still not compliant with the supplementary
18 order suggests the track still does not understand the
19 requirements as they relate to purse accounts (a.k.a. horse
20 people's money). The panel agrees to support the request for
21 the \$1,500.00 frivolous appeal. This Commission bears a
22 responsibility to the industry to use its resources
23 judicially. The costs incurred in this matter by the ORC are
24 substantial. Mr. Henderson came to the hearing with little
25 preparation, at best and offered no documentation or evidence
26 to support his position. Any questions?

27 MS. HOLLAND: No, sir.

28 MR. CHAIRMAN: Thank you.

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

2013 CanLII 58826 (ON PC)