



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 15, 2011

**IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;
AND IN THE MATTER IN THE APPEAL AND REQUEST FOR HEARING OF
SUDBURY DOWNS RACEWAY**

On August 31, 2011, the Judges at Sudbury issued Standardbred Official Ruling SB 44210 to Sudbury Downs Raceway ("SUDBURY"), namely an Order to Comply, citing Rules 1.09 and 5.11 of the Rules of Standardbred Racing.

On September 2, 2011, SUDBURY filed a Notice of Appeal in relation to Standardbred Official Ruling SB 44210, and requested a stay of the subject Ruling pending the hearing of the Appeal.

On September 12, 2011, the Acting Executive Director of the Ontario Racing Commission (the "ORC") issued Ruling Number S.B. 129/2011 wherein he denied the request for a stay of Standardbred Official Ruling SB 44210.

On October 3, 2011, the Judges at Sudbury issued Standardbred Official Ruling SB 44212 to SUDBURY, amending Ruling SB 44210.

On October 13, 2011, counsel on behalf of SUDBURY filed a Notice of Appeal in connection with Standardbred Official Ruling SB 44212.

On November 8, 2011, a Notice of Hearing was issued indicating that the appeal will be heard on December 19, 2011 at 9:00 a.m.

On November 28, 2011, counsel on behalf SUDBURY notified counsel on behalf of the Administration of the ORC that SUDBURY wished to withdraw its appeal and agreed to do so on the basis of the following:

- a) Inclusion of a two year probationary period in connection with Condition 6 of Standardbred Official Ruling SB 44212 to be effective from October 3, 2011 through October 3, 2013. The timeframe shall be expressly added to Condition 6;
- b) The withdrawal of the appeal is without prejudice to the rights of Sudbury Downs to appeal the Judges invoking Condition 6 in the future;
- c) A challenge to Condition 6 itself cannot be preserved for a subsequent hearing involving Condition 6 given that the reasonableness of this Condition is the primary basis for the within appeal;
- d) In accordance with Policy Directive 3-2010, costs shall be paid by Sudbury Downs to the ORC in the amount of \$650.
- e) Sudbury will formally withdraw its appeal and acknowledge payment of costs described in paragraph (d) above via conference call on December 19, 2011 at 9:00 a.m. or on a date to be agreed by the parties.



COMMISSION HEARING

TORONTO, ONTARIO – DECEMBER 15, 2011

Pursuant to the agreement of the parties, and without determining the merits of the appeal, Condition 6 of Standardbred Official Ruling SB 44212 shall now read:

Following compliance with ORC Ruling SB 44210, Sudbury Downs may be subject to a fine for any race night that the racetrack at Sudbury Downs is not in a condition satisfactory to the Judges taking into consideration weather conditions or other mitigating circumstances if any. This condition shall be effective from October 3, 2011 through October 3, 2013.

On December 1, 2011, a Notice of Hearing was issued indicating that the appeal will be heard on December 15, 2011 at 8:30 a.m.

On December 15, 2011, a Panel of the ORC comprised of Chair Rod Seiling was convened for the purposes of hearing the withdrawal of the appeal.

Catherine Beagan Flood attended via telephone on behalf of SUDBURY. Jennifer Friedman appeared on behalf of the Administration of the ORC.

Upon hearing the submissions of counsel, including considering the Draft Ruling, the Panel:

- i) accepted the withdrawal of the appeal by SUDBURY on the basis of the foregoing terms; and
- ii) ordered payment of costs in the amount of \$650 to be payable by SUDBURY to the ORC within 15 days.

The transcript of the Hearing and the Draft Ruling are attached to this Ruling.

DATED at Toronto this 7th day of February 2012.

BY ORDER OF THE COMMISSION

A handwritten signature in blue ink, appearing to read "John L. Blakney", written over a horizontal line.

John L. Blakney
Executive Director

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:

IN THE MATTER OF THE APPEAL AND REQUEST FOR
HEARING OF **SUDBURY DOWNS**:

Held Before:

Rod Seiling, Chairman

These are the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **SUDBURY DOWNS**, 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 December, 2011.

Appearances:

Jennifer Friedman,

for the Ontario Racing
Commission Administration

Catherine Beagan Flood,

for Sudbury Downs

INDEX OF EXHIBITS

EXHIBIT #	PAGE #
1. letter dated November 30, 2011.....	4

1 Hearing commenced ...

2 MS. FRIEDMAN: Ms. Flood, I have you in the hearing
3 room and Chair Seiling is here.

4 MS. FLOOD: Good morning, Chair.

5 MR. CHAIRMAN: Good morning, Ms. Flood. How are you
6 today?

7 MS. FLOOD: I'm great, thank you.

8 MR. CHAIRMAN: Are we ready to proceed then?

9 MS. FLOOD: We are and I just wanted to say thank you to
10 the panel and to Ms. Friedman for allowing us to appear by
11 conference call. I really appreciate that.

12 MR. CHAIRMAN: I think it is better for everybody given
13 what we are just dealing with.

14 MS. FLOOD: Thank you.

15 MR. CHAIRMAN: So anyway, I will just open it up. This is
16 a hearing of the Ontario Racing Commission under the Racing
17 Commission Act 2000 in the matter of a request for a hearing by
18 Sudbury Downs. So Ms. Friedman, I will turn it over to you.

19 MS. FRIEDMAN: Thank you. Counsel for Sudbury Downs
20 and I in advance of today have arrived at a draft ruling which I
21 have presented to you for your review and attached to that ruling
22 is a letter dated November 30, 2011 making reference to the draft
23 ruling. I would ask that the letter as well as the draft ruling be
24 entered as Exhibit 1.

25 MR. CHAIRMAN: Any objections, Ms. Flood?

1 MS. FLOOD: No, sir.

2 MR. CHAIRMAN: Okay, so the letter of November 30th,
3 2011 will be Exhibit 1 and I have so stamped it already.

4 EXHIBIT NO. 1: letter dated November 30, 2011.

5 MS. FRIEDMAN: Mr. Chair, do you wish me to read into
6 the record the content of the draft ruling?

7 MR. CHAIRMAN: I don't think it is necessary given we
8 have already entered it now as Exhibit 1 so I think we can
9 dispense with reading it into the record.

10 MS. FRIEDMAN: Thank you. I would ask that the
11 amendment as a consequence of the ruling be read into the
12 record as well as the cost agreement.

13 MR. CHAIRMAN: By all means.

14 MS. FRIEDMAN: Thank you. With reference to paragraph
15 8 on page 2 of the draft ruling the amendment is as follows:

16 "Pursuant to the agreement of the parties and without determining
17 the merits of the appeal, condition 6 of Standardbred Official

18 Ruling SB 44212 shall now read: Following compliance with ORC

19 ruling SB 44210 Sudbury Downs may be subject to a fine for any

20 race night that the racetrack at Sudbury Downs is not in a

21 condition satisfactory to the Judges, taking into consideration

22 weather conditions or other mitigating circumstances, if any. This

23 condition shall be effective from October 3, 2011 through October

24 3, 2013." Paragraph 9: "The panel accepts the withdrawal of the

25 appeal by Sudbury on the foregoing basis which includes

26 paragraphs 1 through 8 and orders payment of costs pursuant to

1 policy directive number 3-2010 in the amount of \$650.00 to be
2 payable by Sudbury to the ORC within 15 days of the release of
3 this ruling." And I ask that this draft ruling be attached to the
4 transcript or to the oral decision, whatever is prepared.

5 MR. CHAIRMAN: I think attached to the transcript will be
6 fine. It will save us reading. Ms. Flood, do you have any
7 problems or are you in agreement?

8 MS. FLOOD: I don't. Ms. Friedman's representation
9 accurately reflect the agreement reached by the parties.

10 MR. CHAIRMAN: So I'm prepared to accept everything
11 and so order it and unless there is anything else I think that
12 concludes the hearing.

13 MS. FRIEDMAN: Thank you very much.

14 MS. FLOOD: Thank you very much.

15 MR. CHAIRMAN: Thank you and have a good day.

16 MS. FLOOD: Thank you, Mr. Chair.

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

Commissioner of Oaths



**IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;
AND IN THE MATTER IN THE APPEAL AND REQUEST FOR HEARING OF
SUDBURY DOWNS RACEWAY**

DRAFT RULING

1. On August 31, 2011, the Judges at Sudbury issued Standardbred Official Ruling SB 44210 to Sudbury Downs Raceway ("SUDBURY"), namely an Order to Comply, [citing](#) Rules 1.09 and 5.11 of the Rules of Standardbred Racing.
2. On September 2, 2011, SUDBURY filed a Notice of Appeal in relation to Standardbred Official Ruling SB 44210, and requested a stay of the subject Ruling pending the hearing of the Appeal.
3. On September 12, 2011, the Acting Executive Director of the Ontario Racing Commission (the "ORC") issued Ruling Number S.B. 129/2011 wherein he denied the request for a stay of Standardbred Official Ruling SB 44210.
4. On October 3, 2011, the Judges at Sudbury issued Standardbred Official Ruling SB 44212 to SUDBURY, [amending Ruling SB 44210](#).
5. On October 13, 2011, counsel on behalf of SUDBURY filed a Notice of Appeal in connection with Standardbred Official Ruling SB [44212](#).
6. On November 8, 2011, a Notice of Hearing was issued indicating that the appeal will be heard on December 19, 2011 at 9:00 am.
7. On November 28, 2011, counsel on behalf SUDBURY notified counsel on behalf of the Administration of the ORC that SUDBURY wished to withdraw its appeal and agreed to do so on the basis of the following:
 - a) Inclusion of a two year probationary period in connection with Condition 6 of Standardbred Official Ruling SB 44212 to be effective from October 3, 2011 through October 3, 2013. The timeframe shall be expressly added to Condition 6;
 - b) The withdrawal of the appeal is without prejudice to the rights of Sudbury Downs to appeal the Judges invoking Condition 6 in the future;
 - c) A challenge to Condition 6 itself cannot be preserved for a subsequent hearing involving Condition 6 given that the reasonableness of this Condition is the primary basis for the within appeal;
 - d) In accordance with Policy Directive 3-2010, costs shall be paid by Sudbury Downs to the ORC in the amount of \$650.
 - e) Sudbury will formally withdraw its appeal and acknowledge payment of costs described in paragraph (d) above via conference call on December 19, 2011 at 8:00 am or on a date to be agreed by the parties.

8. Pursuant to the agreement of the parties, and without determining the merits of the appeal, Condition 6 of Standardbred Official Ruling SB 44212 shall now read:

Following compliance with ORC Ruling SB 44210, Sudbury Downs may be subject to a fine ~~or~~for any race night that the racetrack at Sudbury Downs is not in a condition satisfactory to the Judges taking into consideration weather conditions or other mitigating circumstances if any. This condition shall be effective from October 3, 2011 through October 3, 2013.

9. The Panel accepts the withdrawal of the appeal by SUDBURY on the foregoing basis and orders payment of costs, pursuant to Policy Directive No. 3-2010, in the amount of \$650 to be payable by SUDBURY to the ORC within 15 days of the release of this Ruling.