



COMMISSION HEARING

TORONTO, ONTARIO – JULY 22, 2010

**IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;
AND IN THE MATTER OF THE REQUEST FOR REINSTATEMENT HEARING BY
STANARDBRED LICENSEE ALLAN GARTH CULLEN**

Allan Garth Cullen, (“Cullen”), of Windsor, Ontario, was licensed by the Ontario Racing Commission (“ORC”) as a driver/trainer/owner of standardbred racehorses, Licence Number H40256.

On January 1, 2008, new Standardbred Rules for “Alcohol and Drug Offences – Human” came into effect in the Province of Ontario.

On February 2, 2008, Cullen provided a random saliva sample which tested positive for cocaine, in violation of Rule 36.08 (c)(i), a “first offence” under the new Rules (his sixth cocaine positive violation).

On March 28, 2008, Cullen provided a follow-up urine sample which also tested positive for cocaine, in violation of Rule 36.08 (c)(ii), “a subsequent offence within 12 months of the first offence” under the new Rules, (his seventh cocaine positive violation).

On 1, May 2008, a Reinstatement Hearing was held. The penalties imposed upon Cullen at this Hearing included:

- (i) a Probation Order for 2 years, and
- (ii) a Post-Violation Agreement with the ORC (which Cullen entered into on October 4, 2009 at Windsor)

On October 20, 2009, Cullen provided a follow-up saliva sample which tested positive for cocaine, in violation of Rule 36.08 (c)(i), a “first offence” under the new Rules, (his eighth cocaine positive violation).

This positive test also put Cullen in violation of both:

- (i) his May 1, 2008 Probation Order, and
- (ii) his October 4, 2009 Post-Violation Agreement

On November 5, 2009, Standardbred Ruling Number 177/2009 was issued against Cullen. The sanctions imposed in this Ruling were as follows:

- (i) a suspension of licence, and
- (ii) a referral to the Commission

On November 19, 2009, an Application by Cullen for Reinstatement was heard by the ORC.



The following Order was made:

- i. \$2,000 fine;
- ii. Six-month suspension;
- iii. Cullen must enrol in a substance abuse program approved by both the ORC and Driver Check;
- iv. Cullen will not be eligible for licensing until a substance abuse representative appears before the Panel and assures that Cullen:
 - a. has provided a negative return to duty test;
 - b. has undergone a complete addiction assessment;
 - c. has followed through on the recommended substance abuse plan;
 - d. has provided proof of ongoing substance abstinence;
 - e. has signed a declaration that any and all prescriptions must be disclosed both to the ORC and the substance abuse professional;
 - f. has agreed to utilize one medical and one dental professional from whom he may receive scripts, except in the case of an emergency;
 - g. may only use prescription medications that have been scripted in the past 365 days of being written.
- v. Cullen will be subject to random drug testing, at his cost, at any time.
- vi. Upon reinstatement of his licence, Cullen must sign a Post-Violation Agreement.
- vii. Upon signing the Agreement, Cullen will be placed on probation for two years.

While on probation, Cullen must:

- a. keep the peace and be of good behaviour
 - b. commit no further violations of the ORC Alcohol and Drug offences – Human
carry out the provisions as set out in Chapter 36 of the Rules of Standardbred Racing
- viii. Any violation of the following:
- (i) Order of the Commission
 - (ii) the Post-Violation Agreement, or
 - (iii) the Order of Probation

will result in an automatic suspension of two years.

On July 22, 2010, a Panel of the ORC, consisting of the Chair Rod Seiling was convened to hear the Application for Reinstatement by Cullen.

Cullen appeared in person at the Hearing. Cullen was represented by Brian Tropea, Industry Liaison and Policy Advisor, Ontario Harness Horse Association. Anthony Williams appeared as counsel for the Administration of the ORC.



Upon reading the exhibits filed and upon hearing the evidence of Cullen and Pauline Stanczuk and upon hearing the submissions of both Brian Tropea and counsel for the Administration, the Panel ordered as follows:

Cullen may apply to the ORC for a driver's licence for standardbred horses upon the following conditions:

- 1) Cullen will be on probation for a period of two years.
- 2) Cullen will be subject to random alcohol and drug testing at his expense.
- 3) Detection of any alcohol or drug over the legal limits will result in an automatic licence suspension for five years.
- 4) Cullen must sign a Post-Violation Agreement with the ORC.
- 5) Cullen must enrol and actively participate in a drug rehabilitation program approved by a substance abuse professional of the ORC.
- 6) Regular reports from the program must be filed with the ORC.
- 7) Cullen must keep the peace and be of good behaviour while he is on probation.
- 8) Regarding the spinal injections, Cullen must provide to the ORC information from the attending physician as to what medications are administered to Cullen.
- 9) If Cullen requires a script for drugs such as Oxycodone he is not to drive in any race. Failure to comply will result in the immediate suspension of his licence automatically.

A transcript of the Panel's Reasons for Decision is attached to this Ruling.

DATED this 23rd day of July 2010.

BY ORDER OF THE COMMISSION

A handwritten signature in blue ink, appearing to read "John L. Blakney".

John L. Blakney
Executive Director

ONTARIO RACING COMMISSION
RE: STANDARD BRED HEARING
AND IN THE MATTER OF THE REQUEST FOR
REINSTATEMENT HEARING BY
ALLAN GARTH CULLEN

Held Before:

Rod Seiling, Chairman

This is an excerpt of a Hearing of the Ontario Racing Commission re: **ALLAN GARTH CULLEN**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 22nd day of July, 2010.

Appearances:

Anthony Williams, for the Ontario Racing Commission
Administration

Brian Tropea, OHHA representative for the licensee
Allan Garth Cullen

1 Hearing continued ...

2 MR. CHAIRMAN: All rise. Please be seated. Mr. Cullen has had eight cocaine
3 positives. This fact causes one to question whether he should be allowed the privilege of an ORC
4 licence. His repeated rule violations raise the question of his actions putting other licensees and
5 horses in danger. Further more, Mr. Cullen did not comply with Standardbred ruling number
6 039/2009 and the conditions for license.

7 However, this Commission has a policy of rehabilitation and is prepared to
8 give Mr. Cullen one more chance and to grant him the privilege to apply for an ORC driver's
9 license with the following conditions attached: 1) he will be on probation for a period of two years;
10 2) he will be subjected to random drug and alcohol testing at his cost; 3) detection of any alcohol
11 or drug substance over the legal limits he will be given an automatic license suspension for five
12 years; 4) he must sign a post violation agreement; 5) he must enrol and actively participate in a
13 drug rehabilitation after care program approved by the ORC's SAP while on probation; 6) regular
14 reports from the program must be filed with the ORC SAP; 7) while on probation he must keep the
15 peace and be of good behaviour; 8) regarding the spinal injections Mr. Cullen must provide
16 information from the attending physician what medications are administered; 9) If Mr. Cullen
17 requires a script for drugs such as Oxycodone he is not to drive in any race. Failure to comply will
18 result in the immediate suspension of his license automatically. Questions?

19 MR. TROPEA: No, sir.

20 MR. CHAIRMAN: We are complete then.

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