



COMMISSION HEARING

TORONTO, ONTARIO – AUGUST 16, 2011

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

**AND IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING BY  
STANDARD BRED LICENSEE MARC BERNIER**

On July 18, 2011, standardbred licensee Marc Bernier, ("BERNIER") appealed the Judges' Ruling SB42643 wherein the horse "Hot Copy" did make a break in a qualifier at Mohawk Racetrack on July 8, 2011, and therefore did not qualify in accordance with Rule 12.09 of the Rules of Standardbred Racing. The appeal centered around the charting of Hot Copy with a broken equipment symbol "BE"

On August 16, 2011, a Panel of the Ontario Racing Commission ("ORC") consisting of Commissioner Brenda Walker, convened to hear the appeal.

Rick Rier appeared as agent for the Administration. BERNIER attended the hearing in person and was unrepresented.

Upon hearing the testimony of Judge Don Lawrence and, BERNIER, and upon hearing closing submissions, the Panel dismissed the appeal.

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

Dated at Toronto, Ontario this 24<sup>th</sup> day of August 2011.

BY ORDER OF THE COMMISSION



John L. Blakney  
Executive Director

ONTARIO RACING COMMISSION  
STANDARD BRED HEARING  
IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING OF  
**MARK BERNIER:**

Held Before:

Brenda Walker, Commissioner

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These are the oral reasons and ruling in the above mentioned matter held before The Ontario Racing Commission, Re: **MARK BERNIER**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Mississauga, Ontario, on the 16th day of August, 2011.

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Appearances:

Rick Rier

agent for the Ontario Racing  
Commission Administration

1 hearing continued ...

2 MS. WALKER: I can make this decision right now  
3 and unfortunately, you know, with the testimony and no added  
4 evidence brought forward I'm going to have to disallow the appeal.  
5 I know your concerns and I think it is something that should be  
6 maybe conveyed to trainers a little bit more, the protocol. You  
7 know, just what can happen and maybe if you had known or your  
8 trainer had known at that time, if you could have known where the  
9 shoe was off and got that information to the Judges that morning it  
10 could have made a difference to you. I'm not saying it would but if  
11 your starter, your patrol Judge; I guess they are the same person  
12 now, said no, I found that shoe right where he made the break  
13 then that may have assisted them and you may have got the  
14 benefit of the doubt, you know, to get that. So just something to  
15 think about down the road. Okay?

16 MR. BERNIER: Absolutely. I think that's the issue  
17 is that if we would have known where the shoe came off. It did  
18 come off at some point during the qualifier.

19 MS. WALKER: Yes and you know, if Mr. Shaffer or  
20 yourself, if you had been there and if he had known saying where  
21 was that shoe, where did you find it and they had said well, I found  
22 it at the head of the stretch then you could have relayed or you  
23 could have asked him to relay that information to the Judges and  
24 they may have, you know; I'm not saying they would because they

1 would have to look at everything but there could have been a  
2 determination that yes, that caused the break.

3 MR. BERNIER: So what I'm gathering is the onus  
4 is on the owner/trainers.

5 MS. WALKER: It is.

6 MR. BERNIER: To figure out where exactly the  
7 shoe fell off?

8 MS. WALKER: Well, it was on their onus to ask the  
9 paddock Judge where he found the shoe, okay? And then they  
10 could have relayed that information to the Judges to help them to  
11 determine whether the horse deserved a broken equipment or an  
12 equipment break, okay? Thank you very much.

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CERTIFIED CORRECT \_\_\_\_\_  
RAYMOND P. MACDONALD, B.A., CVR  
Commissioner of Oaths