



WRITTEN MOTION

TORONTO, ONTARIO – MARCH 22, 2013

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 DANIEL L. CREIGHTON**

**RULING UPON A MOTION BY LICENSEE
FOR THIRD PARTY DISCLOSURE**

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Background

- (1) Daniel L. Creighton (Creighton) is licensed as a trainer, Licence No. C20276, by the Ontario Racing Commission (ORC).
- (2) On Sunday, June 17, 2012, a horse trained by Creighton “Quantum Cashman”, placed 1st in the 7th race at Clinton Raceway, Ontario.
- (3) A urine sample taken from the horse, following the race, resulted in a Certificate of Positive Analysis of an Official Sample, (codeine and morphine), dated June 26, 2012.
- (4) On November 2, 2012, a panel of track judges found that Creighton had violated the Rules of Standardbred Racing.
- (5) A penalty was imposed upon Creighton by the track judges.
- (6) On November 6, 2012, Creighton received a stay of the penalty upon conditions.
- (7) On November 8, 2012, Creighton filed a Notice of Appeal.
- (8) A “trial de novo” of the allegations against Creighton is presently scheduled for a Hearing commencing on Monday, April 22, 2013, at 9:00 a.m. at the offices of the ORC at Toronto.
- (9) Following a blizzard of e-mails between the interested parties, a Pre-Hearing Teleconference was held on Wednesday, December 19, 2012, before John W. Macdonald, Q.C., Commissioner, ORC, re disclosure issues.
- (10) A further Pre-Hearing Teleconference scheduled for Wednesday, March 20, 2013, (also re disclosure issues) was adjourned as a result of an unanticipated medical procedure for one of the essential participants.
- (11) The second Pre-Hearing Teleconference subsequently morphed into a Notice of Motion with written submissions by the interested parties.
- (12) All parties filed focused submissions within the recommended timelines.
 - (i) The submissions of the licensee are dated March 22, 2013.
 - (ii) The submissions of the Canadian Pari-Mutuel Agency (CPMA) are dated March 25, 2013.
 - (iii) The submissions of the Administration of the ORC are dated March 27, 2013.

The Cards

- (13) “...What’s in a name? That which we call a rose
By any other name would smell as sweet; ...”
William Shakespeare,
Romeo and Juliet, Act II, Scene II, Capulet’s Garden, lines 43– 44.
 - (a) The Notice of Motion of the licensee dated March 5, 2013, requests, *inter alia*, an order directing that the CPMA produce:

- (i) “10 race cards signed by Mr. Vincent prior to the race in question,”
(underlining added).

- (b) The subsequent Notice of Motion – Written submissions of the licensee, dated March 22, 2013, seeks to amend the race cards reference to sample cards, at (para 2),
(underlining added).
- (c) The Book of Documents filed by the Administration of the ORC, in the Index, describes the document at Tab 3, page 3, as a urine tag, (underlining added).
- (d) The Book of Documents at Tab 23, page 95, contains an excerpt from Chapter 3 of Racing Forensics Inc., Test Barn Procedures as follows:

Urine/Blood collection card, (underlining added).
- (e) The written submissions of the CPMA, dated March 25, 2013, present its preferred description of the requested documents as test cards, (underlining added).

Notice of Appeal

(14) The Notice of Appeal challenges the reliability of the urine collection procedure utilized by Albert “Grant” Vincent, Chief Test Inspector, to obtain the “official sample”, from the horse, Quantum Cashman, which resulted in the certificate of positive analysis.

Ruling

(15) In the opinion of this panel of one, it has been demonstrated, by the Notice of Appeal, Notice of Motion and Written Submissions, that there exists a reasonable possibility that the requested information is relevant:

- (i) to meeting the case of the Administration of the ORC;
- (ii) to advancing a defence;
or otherwise
- (iii) to making a decision which could affect the conduct of counsel for the licensee at the Hearing.
per *R. v. Dixon* [1998] 1 S.C.R. 244 at page 10, para 22.

(16) Further in view of the requested disclosure material, presently outstanding, the anticipated issues likely to arise at the Hearing and the reasonable positions of accommodation advanced by counsel on behalf of the interested parties on the Motion, a Ruling is to go as follows:

The Canadian Pari-Mutuel Agency (CPMA), is directed, to provide to counsel for the licensee and to counsel for the Administration of the ORC, as soon as practicable, and in any event, prior to Monday, April 22, 2013, for use in these proceedings.

- (i) the last 10 urine/blood collection cards, which were prepared and signed by Albert “Grant” Vincent, for the testing of official samples in his capacity as Chief Test Inspector, for Racing Forensics Inc. prior to Sunday, June 17, 2012, at 3:30 p.m. at Clinton Raceway, Ontario;
- (ii) any record pertaining to urine/blood collection samples alleged to have been improperly administered by Albert “Grant” Vincent, between December 31, 2011 and June 17, 2012 at 3:37 p.m.;

- (iii) the test results for all urine samples taken on Sunday, June 17, 2012, at Clinton Raceway from equine athletes;
- (iv) the test results for all urine samples taken from equine athletes by Albert "Grant" Vincent for the month of June 17, 2012.

DATED at Toronto, Monday, April 8, 2013.

A handwritten signature in black ink, consisting of the letters 'AW' in a stylized, cursive font.

Anthony Williams
Vice Chair
Ontario Racing Commission