



COMMISSION HEARING

TORONTO, ONTARIO – MAY 22, 2012

**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
THE NORTHERN HORSEMEN'S ASSOCIATION**

On February 14, 2012, the Ontario Racing Commission ("ORC") issued a Notice to Industry entitled 'Ontario Racing Program – 2012 Schedule of Race Dates' wherein the ORC issued its final race date schedule for Sudbury Downs.

On February 21, 2012, the Northern Horsemen's Association ("NHA") appealed the schedule of racing and requested revisions as follows:

- i) Wednesday May 2, 2012 to be moved to Saturday December 1, 2012;
- ii) Wednesday November 14, 2012 to be moved to Saturday December 8, 2012; and
- iii) Wednesday November 21, 2012 to be moved to Saturday December 15, 2012.

On April 24, 2012, the NHA withdrew its appeal in connection with May 2, 2012. In its place, the NHA requested a scheduling change from Wednesday November 7, 2012 to Saturday December 1, 2012 be considered by a Panel of the ORC.

On April 25, 2012, a Notice of Hearing was issued to notify the parties that the Hearing will be held on May 22, 2012.

On May 22, 2012, a Panel of the ORC comprised of Chair Rod Seiling, Vice-Chair Hon. James Donnelly, and Commissioner Dan Nixon was convened to hear this matter.

Cheryl Danyluk acted as agent on behalf of NHA. Andrew MacIsaac acted as agent on behalf of Sudbury Downs. Jennifer Friedman appeared as counsel for the Administration of the ORC.

Upon hearing the testimony of Paul MacLean and Philippe Belanger, reviewing the exhibits filed, and considering the submissions on behalf of NHA, Sudbury Downs, and the Administration of the ORC, the Panel denied the appeal.

The transcript with the Panel's Oral Decision is attached to this Ruling.

DATED at Toronto this 23rd day of May, 2012.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director

ONTARIO RACING COMMISSION
STANDARD BRED HEARING
IN THE MATTER OF AN APPEAL AND REQUEST FOR HEARING OF
THE NORTHERN HORSEMEN ASSOCIATION;

Held Before:

Rod Seiling, Chairman

James Donnelly, Vice Chairman

Dan Nixon, Commissioner

These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **THE NORTHERN HORSEMEN ASSOCIATION**, 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 May, 2012.

Appearances:

Jennifer Friedman, for the Ontario Racing
Commission Administration

Andrew MacIsaac, agent for Sudbury Downs

Cheryl Danyluk, agent for NHA

1 Hearing continued ...

2 MR. CHAIRMAN: Please be seated. After carefully listening to the testimony
3 and reviewing the evidence and the documents filed the panel denies the appeal.
4 The race dates were assigned in accordance with the principles of the Ontario Racing
5 Program. Both parties agreed to the principles when the ORP and the Director
6 arriving at his decision of 62 days of racing for 2012 as per his February 14th, 2012
7 Notice to the Industry.

8 The issue for determination is whether the dates of November 7, 14 and 21
9 are to moved to December 1, 8 and 15. The reasons underlying the decision are as
10 follows: unique starters down 19 percent, purse variance already increased, longest
11 season and largest number of race dates for any grassroots track that as per the
12 ORP is supposed to operate from May through to Labour Day, poor customer
13 demand in December notwithstanding the anomaly of the December 2011 handle that
14 was likely caused by the unusual mild weather, the reflection of customer demand for
15 the product with an average handle of \$7,256.00 second lowest in the province.
16 Projected horse increases for the period in question are not realistic. NHA witnesses
17 MacLean and Belanger testified about the problems of shipping south at that time of
18 the year, including weather and their refusal to do it after aborted efforts. Accepting
19 the testimony the panel concludes it is the same factors that would preclude southern
20 based trainers from shipping north. Further casting doubt on the NHA assertion of an
21 increasing horse supply is the anticipated horse shortage in Southern Ontario in 2012
22 as witnessed by the WEG application to move to four days per week of racing from

1 five for its premier summer meet. The determining factors for greater certainty are
2 horse supply and customer demand. No basis on either account has been brought
3 forward that would allow the panel to deviate from the Ontario Racing Program
4 principles. The panel wants to draw attention to the industry in these uncertain times
5 to the following paragraph in the Windsor Raceway decision of 2010, ORCD number
6 79, ruling number general 003/2010 at paragraph 32: "The framework for race dates
7 is an industry-wide strategy. If the implementation were to require participants to
8 think beyond today and seek a glimpse of tomorrow the individual vision should not
9 be restricted to what's in it for me but should include what's in it for the industry." For
10 these reasons Windsor's application was dismissed. For similar reasons the NHA
11 application is dismissed. Thank you.

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18 CERTIFIED CORRECT _____
19 RAYMOND P. MACDONALD, B.A., CVR
20 *Commissioner of Oaths*