



COMMISSION HEARING

TORONTO, ONTARIO – OCTOBER 24, 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  
HOWARD TAYLOR**

Howard Taylor ("Taylor") appealed against Standardbred Official Ruling SB 42711, dated October 18, 2011, wherein the horse, Buck I St. Pat, was rendered ineligible to be declared to and race in an overnight or added money event for having made a break in two consecutive races, pursuant to Rule 12.10.01 of the Rules of Standardbred Racing.

On October 18, 2011, Taylor requested that an electronic Hearing be scheduled given the time-sensitive nature of the appeal.

On October 20, 2011, a Panel of the Ontario Racing Commission consisting of Chair Rod Seiling was convened to hear this matter via teleconference.

Taylor acted as counsel on behalf of the horse, Buck I St. Pat. Jennifer Friedman appeared as counsel for the Administration.

Upon hearing the testimony of ORC Judge Dave Stewart, Cindy Aziz, Scott McKelvie, Ronald Burke, and Jamie Rucker, and upon hearing the submissions of counsel, the Panel denied the appeal and awarded \$1,200 in costs to the ORC for a frivolous appeal.

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

DATED at Toronto this 24<sup>th</sup> day of October 2011.

BY ORDER OF THE COMMISSION



John L. Blakney  
Executive Director

ONTARIO RACING COMMISSION  
THOROUGHBRED HEARING  
IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING OF  
**HOWARD TAYLOR**

Held Before:

Rod Seiling, Chairman

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These are an excerpt of the proceedings in the above mentioned matter held before The Ontario Racing Commission, Re: **HOWARD TAYLOR**, taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 20th day of October, 2011.

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Appearances:

Jennifer Friedman,

for the Ontario Racing  
Commission Administration

Harold Taylor,

for licensee Taylor

1 Hearing continued ...

2 MR. CHAIRMAN: Okay, is everybody on?

3 MR. TAYLOR: Yes.

4 MR. CHAIRMAN: Okay. The appeal is denied. The onus is on the appellant  
5 to know the rules. Ignorance, as per Standardbred Rule 1.09, is not an acceptable  
6 defence. It is reasonable to conclude that Ms. Aziz, an experienced race office  
7 official, had she known of the second break would know about rule 12.10.01 and  
8 would have told Mr. Burke of the need to qualify the horse. In terms of the precedent  
9 cases I'm persuaded that as in Exhibit 2 and I quote, the defence, as well established  
10 in American law, in cases where government officials are relied upon it has to be  
11 clear and certainly it isn't clear from the appellant's perspective, the conflicting  
12 testimony of their own witnesses, as to what transpired on the phone call to Ms. Aziz  
13 and I accept Ms. Friedman's request and I award \$1,200.00 in costs to the ORC for a  
14 frivolous appeal. Thank you very much.

15 MR. TAYLOR: Excuse me, sir, you find it frivolous?

16 MR. CHAIRMAN: I do.

17 MR. TAYLOR: So am I to understand that every time you lose an argument it  
18 is deemed frivolous or do feel that this was of no merit whatsoever?

19 MR. CHAIRMAN: I think the appeal stands as it is, sir - the decision.

20 MR. TAYLOR: Well, if you assessing me \$1,200.00 I think I have the right to  
21 know why.

22 MR. CHAIRMAN: I just said, it is a frivolous appeal. I accept it. Ms.  
23 Friedman asked for that. You did not even respond.

1 MR. TAYLOR: I'm sorry, what? I wasn't given the opportunity to respond and  
2 had she asked for that at the time because that request was made as part of a  
3 rebuttal and it was not part of anything that I said for rebuttal. It wasn't something that  
4 should have been allowed in rebuttal.

5 MR. CHAIRMAN: The ruling stands as it is, sir.

6 MR. TAYLOR: Well, where do I take an appeal from that ruling?

7 MR. CHAIRMAN: Ms. Friedman can explain it to you.

8 MR. TAYLOR: I'm sorry?

9 MS. FRIEDMAN: You can make a Judicial Review to the Divisional Court.

10 MR. TAYLOR: The fine I'm talking about.

11 MS. FRIEDMAN: The Divisional Court. Any aspect of the decision can be  
12 appealed to the Divisional Court.

13 MR. TAYLOR: Okay, I will do that then.

14 MS. FRIEDMAN: Thank you.

15 MR. CHAIRMAN:

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