



COMMISSION HEARING

TORONTO, ONTARIO – FEBRUARY 15, 2011

**IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;
AND IN THE MATTER OF THE REQUEST FOR REINSTATEMENT HEARING
BYSTANDBRED LICENSEE ALAN FAIR**

Standardbred Licensee Alan Fair ("FAIR"), is licensed by the Ontario Racing Commission ("ORC") as an owner/trainer, licence number Y60007.

On January 19, 2011, FAIR was required to provide a sample and failed to present himself to provide the required sample, in violation of Rule 36.07(g) of the Rules of Standardbred Racing ("the Rules").

On January 20, 2011, the Deputy Director issued Ruling SB 19/2011 wherein FAIR was suspended and ordered to appear before the Commission, pursuant to Rule 36.08(d).

On February 15, 2011, a Panel of the ORC consisting of Commissioner John Macdonald was convened to hear the matter.

Angela Holland appeared as counsel for the Administration. FAIR appeared and was self-represented.

Upon hearing the testimony of Investigator Tyler Durand, Investigator Pam Bray, and FAIR, upon reviewing the exhibits filed, and upon hearing the submissions of counsel for the Administration and the submissions of FAIR, the Panel ordered as follows:

- i. FAIR is fined \$500;
- ii. FAIR is suspended until February 20, 2011; and
- iii. FAIR will enter into a post-violation agreement for a period of 1 year, commencing February 15, 2011.

The Transcript of the Panel's Reasons for Decision is attached to this Ruling.

DATED at Toronto this 17th day of February 2011.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director

ONTARIO RACING COMMISSION

RE: STANDARDBRED HEARING

IN THE MATTER OF AN APPEAL AND REQUEST FOR HEARING OF

ALAN FAIR

Held Before:

John Macdonald,

Commissioner

This is an excerpt of a Hearing of the Ontario Racing Commission re: **ALAN FAIR** taken before Toronto Court Reporters, Suite 1410, 65 Queen Street West, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 15th day of February, 2011.

Appearances:

Angela Holland,

Counsel for the Ontario
Racing Commission
Administration

1 Hearing continued ...

2 MR. CHAIRMAN: The last comment you made; a
3 crime that you did not commit, you are suggesting that you weren't
4 caught for anything but it's like an impaired driving charge. If you
5 fail to take the test it is the same thing and it is serious and that's
6 counsel for the Administration's position. You had to make the
7 effort once you were chosen and it was at random that you were
8 supposed to report at that time to see the investigators and
9 Judges and you didn't show. Now you have a reason you didn't
10 show except that you didn't make the effort to communicate that.
11 Therefore, it is a serious offence. It is almost like you did it. Now
12 the post violation agreement, that will be done. As I say, we can't
13 avoid that one. It is not that onerous and it is one year and what it
14 does is it says okay, you are clean, you don't have to do the hard
15 time. If you are unfortunate to be chosen again, which this could
16 happen, then you now know you have to report and we have to
17 make it clear to all the horsemen that we consider this serious.
18 Drug and alcohol testing is random, as you are aware now and I'm
19 assuming that this was the first time you received that notice or
20 you would know more about it. You probably know other drivers
21 and trainers who have had to report. The idea is to tell them so
22 that they know it is serious. Now I understand your problem is
23 timing. I'm not sure I necessarily agree totally with the
24 Administration as far as the time of the days. Today is the 15th.
25 You have had a suspension now for almost a month so I think I'd

1 like to suggest that it be cut back to the 20th, February the 20th. It
2 will have been a month. Now you and I don't know if they can do
3 the post violation agreement in that time.

4 MS. HOLLAND: We will make our best efforts, sir,
5 to get it done by then.

6 MR. CHAIRMAN: And the final state and place and
7 I don't think it is unreasonable for you, it is a notice that we take
8 this seriously. My job is to see that it is enforced and Ms.
9 Holland's point is that yes, while I'm very pleased that you have a
10 clean test and you did that fairly quickly and that shows us at that
11 time. What we don't know and that's for the rest of the drivers and
12 horsemen colony and trainers is they need to know that yes, there
13 is a reason for this random testing and for the horsemen it is very
14 important to the industry. We have to make it look like we are
15 trying to do the best we can and that includes everybody in the
16 industry, all the horsemen as well as the Administration. Looking
17 at this we want everybody to know there is a reason for this
18 random testing and I'm sorry you got caught up in this but
19 unfortunately you didn't handle it as well as you could have but
20 now you know how unfortunate that can be. Any questions?

21 MS. HOLLAND: I was just wondering about the
22 monetary fine, sir?

23 MR. CHAIRMAN: That will stay. I did say that in
24 my opening but that's a \$500.00 fine plus the suspension carries
25 until February the 20th.

1 MS. HOLLAND: And then the post violation
2 agreement runs from today?

3 MR. CHAIRMAN: It runs from today.

4 MS. HOLLAND: Excuse me, Mr. Chair, I've just
5 been advised by Investigator Bray that normally the PVA runs
6 from the date that it is signed.

7 MR. CHAIRMAN: I don't think Mr. Fair should
8 necessarily be responsible for the fact that we have a physical
9 difficulty in getting it signed. it could be signed a week or two
10 weeks from now but in this case it starts today.

11 MS. HOLLAND: Understood, sir.

12 MR. CHAIRMAN: Thank you. Any further
13 questions?

14 MS. HOLLAND: No, sir.

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