

**Ontario
Racing
Commission**

Suite 400
10 Carlson Court
Toronto, Ontario
M9W 6L2
Tel 416 213-0520
Fax 416 213-7827

**Commission
des courses
de l'Ontario**

Bureau 400
10 Carlson Court
Toronto (Ontario)
M9W 6L2
Tél 416 213-0520
Télééc 416 213-7827



REASONS FOR DECISION

Judges Official Ruling SB/TB 47907

**Gerard Demers
(Name of Licensee)**

**W17829
(Licence No.)**

**Rule Violations:
9.09 a+b, 26.02.01, 26.02.02, 26.02.03 ©**

**Panel of Judges
(Judges/Stewards)**

Miller Gillies Minler

Background Information/Preliminary Matters:

Positive test certificate for the class "2" drug "Oxilofrine", tag #451515802, for the horse "Pondo Ruba" from race 1 on June 7/15 at Rideau Carleton.

Date of Hearing: Dec 4/15

Counsel/Representative for the Licensee:

**Witnesses Called by the ORC:
none**

**Witnesses Called by the Licensee:
none**

Absences:

none

Primary Issue(s):

Responsibility for this positive test.

Evidence:

Mr. Demers was treating this horse with an Antihistamine that contained "Ephedrine". This was cutoff well in advance of the 48 hour cutoff prior to the race. He did not administer "Oxilofrine" to this horse and has never used this drug.

We are also in receipt of a memo from CPMA that advises that after hearing concerns from the industry regarding the "Oxilofrine" positives that they would be doing some added research regarding "Ephedrine" and "Oxilofrine"

Finally we are in receipt of an email from CPMA that states that after conducting added research they have determined that "Oxilofrine" is a metabolite of "Ephedrine" and the testing data from the four positives dated June 6+7/15 have been reviewed and there is "strong scientific evidence" that these positives are consistent with "Ephedrine" administration that followed the CPMA elimination guidelines.

Findings of Credibility:

We find Mr. Demers credible in his testimony and we find the 2 memo's from CPMA to be credible.

Conclusion Regarding Rules:

When we are in receipt of a positive test certificate we have an "absolute" trainer responsibility. Also when we are in receipt of a positive test certificate the horse shall be disqualified and the purse money and fees returned and redistributed. However we do have a considerable amount to consider when dealing with penalty. We do find a violation of the positive test rules but Mr. Demers is relieved of responsibility when dealing with penalty. We do not believe that Mr. Demers administered the drug "Oxilofrine" to his horse and are convinced that he administered the antihistamine to the horse within the guidelines and had no way of knowing that the metabolization could cause a class "2" positive test.

Penalty Considerations:

Aggravating Factors (including disciplinary history):

This is a first offence for Mr. Demers.

Mitigating Factors (including cooperation):

The memos from CPMA regarding "Ephedrine" and "Oxilofrine" clearly mitigate Mr. Demers penalty

Precedents:

"Aminorex" positives from 2007

Penalty Assessed:

Relieved of responsibility. Purse money and all fee's to be returned and redistributed.

By Order of the Judges

Miller

Gillies

Minler

RIGHT OF APPEAL:

Rules of Standardbred Racing:

Rule 24.01

An appeal is a request to review any decisions or rulings of the Judges or delegated officials. An appeal may deal with placings, penalties, interpretation of the rules, or other questions dealing with the conduct of racing. Appeals shall lie to:

- (a) The Commission, comprised of one panel member or more, as designated by the Chair, if the decision imposes a fine of more than \$1000 or a suspension of 30 days or more;
- (b) The Commission, comprised of one panel member or more, as designated by the Chair, if the decision imposes a fine of \$1000 or less or a suspension of less than 30 days.

Rule 24.03

An appeal lodged in accordance with Rule 24.01 must be based upon specific grounds which would warrant modification or reversal of the decision. The Commission may uphold, rescind, modify or increase any penalty imposed. After due notice, any appellant who fails to appear at the hearing of his/her appeal without good cause may be fined or suspended.

Rule 24.04

Notice of Intent to appeal to the Commission may be given to the Judges or to the Director within 48 hours of receipt of notice of the decision or ruling being appealed. A further eight days is accorded to file the appeal with the Judges or the Director. All appeals shall be in writing and must be completed upon a form furnished by the Commission.

Rule 24.11

At the conclusion of an appeal to the Commission, the Commission may uphold, rescind, modify, or increase the penalty imposed by the Judges or delegated official. In addition, after holding the hearing, the Commission may order a penalty against the person requesting the hearing in an amount prescribed by the Regulations in addition to any other penalty for which person may be liable.

Rules of Thoroughbred Racing:

Rule 13.17

An appeal is a request to review any decisions or rulings of the Stewards or delegated officials. An appeal may deal with placings, penalties, interpretation of the rules, or other questions dealing with the conduct of racing. Appeals shall lie to:

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Rule 13.17.02

An appeal lodged in accordance with Rule 13.17 must be based upon specific grounds which would warrant modification or reversal of the decision. The Commission may uphold, rescind, modify or increase any penalty imposed. After due notice, any appellant who fails to appear at the hearing of his/her appeal without good cause may be fined or suspended.

Rule 13.17.09

At the conclusion of an appeal to the Commission, the Commission may uphold, rescind, modify, or increase the penalty imposed by the Stewards or delegated official. In addition, after holding the hearing, the Commission may order a penalty against the person requesting the hearing in an amount prescribed by the Regulations in addition to any other penalty for which the person may be liable.

Rule 13.19

Notice of Appeal to the Commission must be given to the Director or the Stewards of the Commission within 10 days of receipt of the decision or ruling being appealed.

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REASONS FOR DECISION

Judges Official Ruling SB/TB 47909

**Bill Elliott
(Name of Licensee)**

**C52294
(Licence No.)**

**Rule Violations:
9.09 a+b, 26.02.01, 26.02.02, 26.02.03 ©**

**Panel of Judges
(Judges/Stewards)**

Miller Gillies

Background Information/Preliminary Matters:

Positive test certificate for the class "2" drug "Oxilofrine", tag #5315157326 EIPH, for the horse Naked City from race 11 on June 6/15 at Mohawk.

Date of Hearing: Dec 7/15

Counsel/Representative for the Licensee: Brian Tropea

**Witnesses Called by the ORC:
none**

**Witnesses Called by the Licensee:
none**

Absences:

none

Primary Issue(s):

Responsibility for this positive test.

Evidence:

Mr. Elliott was treating this horse with an Antihistamine that contained "Ephedrine", that was prescribed by his veterinarian and was to be cutoff 48 hours out from a race. His last oral treatment prior to the June 7/15 race was 63 hours out. No one else treated this horse. He did not administer "Oxilofrine" to this horse and has never used this drug.

We are also in receipt of a memo from CPMA that advises that after hearing concerns from the industry regarding the "Oxilofrine" positives that they would be doing some added research regarding "Ephedrine" and "Oxilofrine"

Finally we are in receipt of an email from CPMA that states that after conducting added research they have determined that "Oxilofrine" is a metabolite of "Ephedrine" and the testing data from the four positives dated June 6+7/15 have been reviewed and there is "strong scientific evidence" that these positives are consistent with "Ephedrine" administration that followed the CPMA elimination guidelines.

Findings of Credibility:

We find Mr. Elliott credible in his testimony and we find the 2 memo's from CPMA to be credible.

Conclusion Regarding Rules:

When we are in receipt of a positive test certificate we have an "absolute" trainer responsibility. Also when we are in receipt of a positive test certificate the horse shall be disqualified and the purse money and fees returned and redistributed. However we do have a considerable amount to consider when dealing with penalty. We do find a violation of the positive test rules but Mr. Elliott is relieved of responsibility when dealing with penalty. We do not believe that Mr. Elliott administered the drug "Oxilofrine" to his horse and are convinced that he administered the antihistamine to the horse within the guidelines and had no way of knowing that the metabolization could cause a class "2" positive test.

Penalty Considerations:

Aggravating Factors (including disciplinary history):

This is a second offence for Mr. Elliott in over 20 years.

Mitigating Factors (including cooperation):

The memos from CPMA regarding "Ephedrine" and "Oxilofrine" clearly mitigate Mr. Elliott's penalty

Precedents:

"Aminorex" positives from 2007

Penalty Assessed:

Relieved of responsibility. Purse money and all fee's to be returned and redistributed.

By Order of the Judges

Miller

Gillies

RIGHT OF APPEAL:

Rules of Standardbred Racing:

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Rules of Thoroughbred Racing:

Rule 13.17

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- (b) The Commission, comprised of one panel member or more, as designated by the Chair, if the decision imposes a fine of \$1000 or less or a suspension of less than 30 days.

Rule 13.17.02

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Rule 13.17.09

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Rule 13.19

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REASONS FOR DECISION

Judges Official Ruling SB/TB 47906

**Paul MacDonell
(Name of Licensee)**

**E52778
(Licence No.)**

**Rule Violations:
9.09 a+b, 26.02.01, 26.02.02, 26.02.03 ©**

**Panel of Judges
(Judges/Stewards)**

Miller Gillies Minler

Background Information/Preliminary Matters:

Positive test certificate for the class "2" drug "Oxilofrine", tag #5315157317 EIPH, for the horse "Melmerby Beach" from race 7 on June 6/15 at Mohawk.

Date of Hearing: Dec 4/15

Counsel/Representative for the Licensee: Bill O'Donnell

**Witnesses Called by the ORC:
none**

**Witnesses Called by the Licensee:
none**

Absences:

none

Primary Issue(s):

Responsibility for this positive test.

Evidence:

Mr. MacDonell was treating this horse with an Antihistamine that contained "Ephedrine". This was administered by his vet 56 hours prior to the race. He did not administer "Oxilofrine" to this horse and has never used this drug.

We are also in receipt of a memo from CPMA that advises that after hearing concerns from the industry regarding the "Oxilofrine" positives that they would be doing some added research regarding "Ephedrine" and "Oxilofrine"

Finally we are in receipt of an email from CPMA that states that after conducting added research they have determined that "Oxilofrine" is a metabolite of "Ephedrine" and the testing data from the four positives dated June 6+7/15 have been reviewed and there is "strong scientific evidence" that these positives are consistent with "Ephedrine" administration that followed the CPMA elimination guidelines.

Findings of Credibility:

We find Mr. MacDonell credible in his testimony and we find the 2 memo's from CPMA to be credible.

Conclusion Regarding Rules:

When we are in receipt of a positive test certificate we have an "absolute" trainer responsibility. Also when we are in receipt of a positive test certificate the horse shall be disqualified and the purse money and fees returned and redistributed. However we do have a considerable amount to consider when dealing with penalty. We do find a violation of the positive test rules but Mr. MacDonell is relieved of responsibility when dealing with penalty. We do not believe that Mr. MacDonell administered the drug "Oxilofrine" to his horse and are convinced that he administered the antihistamine to the horse within the guidelines and had no way of knowing that the metabolization could cause a class "2" positive test.

Penalty Considerations:

Aggravating Factors (including disciplinary history):

This is a first offence for Mr. MacDonell.

Mitigating Factors (including cooperation):

The memos from CPMA regarding "Ephedrine" and "Oxilofrine" clearly mitigate Mr. MacDonell's penalty

Precedents:

"Aminorex" positives from 2007

Penalty Assessed:

Relieved of responsibility. Purse money and all fee's to be returned and redistributed.

By Order of the Judges

Miller

Gillies

Minler

RIGHT OF APPEAL:

Rules of Standardbred Racing:

Rule 24.01

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Rule 24.03

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Rule 24.04

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Rules of Thoroughbred Racing:

Rule 13.17

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Rule 13.17.02

An appeal lodged in accordance with Rule 13.17 must be based upon specific grounds which would warrant modification or reversal of the decision. The Commission may uphold, rescind, modify or increase any penalty imposed. After due notice, any appellant who fails to appear at the hearing of his/her appeal without good cause may be fined or suspended.

Rule 13.17.09

At the conclusion of an appeal to the Commission, the Commission may uphold, rescind, modify, or increase the penalty imposed by the Stewards or delegated official. In addition, after holding the hearing, the Commission may order a penalty against the person requesting the hearing in an amount prescribed by the Regulations in addition to any other penalty for which the person may be liable.

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REASONS FOR DECISION

Judges Official Ruling SB/TB 47908

**Jonah Moase
(Name of Licensee)**

**Z95910
(Licence No.)**

**Rule Violations:
9.09 a+b, 26.02.01, 26.02.02, 26.02.03 ©**

**Panel of Judges
(Judges/Stewards)**

Miller Gillies Minler

Background Information/Preliminary Matters:

Positive test certificate for the class "2" drug "Oxilofrine", tag #3515158003, for the horse "Heathers Shadow" from race 2 on June 7/15 at Geargian Downs.

Date of Hearing: Dec 21/15

Counsel/Representative for the Licensee: Larry Todd

**Witnesses Called by the ORC:
none**

**Witnesses Called by the Licensee:
none**

Absences:

none

Primary Issue(s):

Responsibility for this positive test.

Evidence:

Mr. Moase was treating this horse with an Antihistamine that contained "Ephedrine". This was cutoff well in advance of the 48 hour cutoff prior to the race. He did not administer "Oxilofrine" to this horse and has never used this drug.

We are also in receipt of a memo from CPMA that advises that after hearing concerns from the industry regarding the "Oxilofrine" positives that they would be doing some added research regarding "Ephedrine" and "Oxilofrine"

Finally we are in receipt of an email from CPMA that states that after conducting added research they have determined that "Oxilofrine" is a metabolite of "Ephedrine" and the testing data from the four positives dated June 6+7/15 have been reviewed and there is "strong scientific evidence" that these positives are consistent with "Ephedrine" administration that followed the CPMA elimination guidelines.

Findings of Credibility:

We find Mr. Moase credible in his testimony and we find the 2 memo's from CPMA to be credible.

Conclusion Regarding Rules:

When we are in receipt of a positive test certificate we have an "absolute" trainer responsibility. Also when we are in receipt of a positive test certificate the horse shall be disqualified and the purse money and fees returned and redistributed. However we do have a considerable amount to consider when dealing with penalty. We do find a violation of the positive test rules but Mr. Moase is relieved of responsibility when dealing with penalty. We do not believe that Mr. Moase administered the drug "Oxilofrine" to his horse and are convinced that he administered the antihistamine to the horse within the guidelines and had no way of knowing that the metabolization could cause a class "2" positive test.

Penalty Considerations:

Aggravating Factors (including disciplinary history):

This is a first offence for Mr. Moase

Mitigating Factors (including cooperation):

The memos from CPMA regarding "Ephedrine" and "Oxilofrine" clearly mitigate Mr. Moase's penalty

Precedents:

"Aminorex" positives from 2007

Penalty Assessed:

Relieved of responsibility. Purse money and all fee's to be returned and redistributed.

By Order of the Judges

Miller

Gillies

Minler

RIGHT OF APPEAL:

Rules of Standardbred Racing:

Rule 24.01

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Rule 13.17.02

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Rule 13.17.09

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Rule 13.19

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Canadian Pari-Mutuel
Agency

An Agency of Agriculture
and Agri-Food Canada

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Ottawa ON K2C 3X7
tel/tél. : 613 759-6100

Agence canadienne
du pari mutuel

Un organisme d'Agriculture
et Agroalimentaire Canada

DIRECTEUR EXÉCUTIF
C.P. 5904, PDF Merivale
Ottawa ON K2C 3X7
fax/télécopieur : 613 759-6230

July 8, 2015

Le 8 juillet 2015

MEMORANDUM TO:
Provincial Regulatory Bodies
Canadian Horse Racing Associations
Horse Persons Groups

**SUBJECT: Certificates of Positive Analysis
for Oxilofrine**

Oxilofrine is an amphetamine type stimulant. Its use has been reported in human and equine athletes. The Association of Racing Commissioners International (ARCI) categorizes it as a Class 2, Penalty A substance. The Pari-Mutuel Betting Supervision Regulations do not permit the use of oxilofrine.

Recently conducted target testing for the drug oxilofrine resulted in four certificates of positive analysis being issued in the province of Ontario. Consequently, the CPMA carried out an investigation. A preliminary explanation for these positives may be the result of horsemen using products containing ephedrine.

CPMA is conducting further research on oxilofrine and ephedrine, and will advise the industry of its findings upon completion of these studies.

In the meantime, measures have been instituted to ensure that a positive test will not result when products containing ephedrine are used in a manner consistent with the elimination guidelines provided in the CPMA's 2011 Schedule of Drugs booklet.

Sincerely,

NOTE DE SERVICE AUX :
Organismes de réglementation provinciaux
Associations canadiennes de course
Groupes des professionnels du cheval

**OBJET : Certificats d'analyse positive pour
l'oxilofrine**

L'oxilofrine est un stimulant de type amphetamine. Son usage a été rapporté chez des athlètes humains et équins. L'Association of Racing Commissioners International (ARCI) la catégorise comme substance de classe 2 et pénalité A. Le Règlement sur la surveillance du pari mutuel n'autorise pas l'utilisation de l'oxilofrine.

De récents tests ciblés de dépistage de la drogue oxilofrine se sont soldés par la délivrance de quatre certificats d'analyse positive pour la province de l'Ontario. Par conséquent, l'ACPM a mené une enquête. Une explication préliminaire de ces cas pourrait être l'utilisation, par les professionnels du cheval, de produits contenant de l'éphédrine.

L'ACPM effectue présentement de plus amples recherches sur l'oxilofrine et l'éphédrine et avisera l'industrie des résultats à la fin de l'étude.

Des mesures ont été mises en place pour s'assurer qu'un résultat d'analyse positive ne sera pas obtenu lorsque des produits contenant de l'éphédrine sont utilisés conformément aux lignes directrices sur l'élimination énoncées dans la brochure « Annexe des drogues 2011 » de l'ACPM.

Cordialement,



Steve Suttie

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September 4, 2015

Notice to the Industry

ORC Licensees: closely review all memos from the CPMA

In recent months, the Canadian Pari-Mutuel Agency (CPMA) has released a number of memos to Provincial Regulatory bodies and the Canadian horse racing industry. These include:

July 8 - CPMA Statement on Positive Tests

Aug 21 - CPMA Update On Ractopamine

Aug 25 - New Clenbuterol Rules Now In Effect

September 1 – Clarification - Ractopamine

Copies of these CPMA memos are attached to this Notice.

The Ontario Racing Commission (ORC) issues this Notice as a service. ORC licensees are expected to know the Rules of Racing, closely review all memos from the CPMA, and keep up to date on the Schedule of Prohibited Drugs.

Rob McKinney
Deputy Director