

**Horse Racing Appeal Panel**

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**HORSE RACING APPEAL PANEL**

**TORONTO, ONTARIO – JULY 4, 2019  
SB HRAP 05022 2019**

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**NOTICE OF DECISION**

**IN THE MATTER OF THE HORSE RACING LICENCE ACT, S.O. 2015 C. 38 Sched. 9;  
AND IN THE MATTER OF AN APPEAL BY JASON RYAN  
OF RULING NUMBER SB ADMIN 07/2019**

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Date of Hearing:	July 4, 2019
Horse Racing Appeal Panel (Panel):	Sandra Meyrick, Vice-Chair John Charalambous, Member Dr. John Hayes, Member
Representative for the Appellant:	Robert Burgess
Representative for the Registrar of Alcohol, Gaming and Racing:	Nicolle Pace
Decision:	The Panel allows the appeal in relation to RYAN'S licence as a driver and dismisses the appeal in relation to RYAN's licences as a trainer, owner and authorized agent but varies the penalty as articulated below.

WHEREAS Jason Ryan ("RYAN") is licensed by the Alcohol and Gaming Commission of Ontario ("Commission") as a Driver/Trainer/Owner/Authorized Agent, Licence Number Z40411;

AND WHEREAS RYAN was the trainer of record of the horse "Speedling", freeze brand number 6LP27;

AND WHEREAS on April 17, 2019, Commission Deputy Chief Operating Officer issued Ruling Number SB ADMIN 07/2019 wherein RYAN was fully suspended for one (1) year (April 30, 2019 to April 29, 2020, inclusive) and issued a monetary penalty of ten thousand dollars (\$10,000) as a result of a positive test for the Class II drug Lorazepam from "Speedling", tested following the 6<sup>th</sup> race at Western Fair Raceway on January 1, 2019, in accordance with Rules 9.09(b), 26.02.01, 26.02.02, 26.02.03(c), 6.01, 6.04, and 9.08.02 of the Rules of Standardbred Racing ("Rules") and Policy Directive No. 1-2018;

AND WHEREAS Ruling Number SB ADMIN 07/2019 also directs that during the suspension RYAN is denied access to Association grounds with the exception of grandstand privileges, any horses owned in whole or in part are ineligible to race, any sales or transfers must be met with the Judges' approval and horses trained by RYAN will be transferred to another trainer in good standing, in accordance with Policy Directive No. 2-2008;

AND WHEREAS Ruling Number SB ADMIN 07/2019 further directed that "Speedling" was disqualified from 2<sup>nd</sup> place in the 6<sup>th</sup> race at Western Fair Raceway on January 1, 2019 for all purposes with the exception of pari-mutuel wagering, in accordance with Rule 18.08.03 of the Rules;

AND WHEREAS Ruling Number SB ADMIN 07/2019 also directed that the following terms be issued to RYAN's licence for two (2) years (April 30, 2020 – April 29, 2022, inclusive), pursuant to Rule 6.01(d) of the Rules and Policy Directive 3-2008:

1. The licensee shall keep the peace and be of good behaviour,
2. The licensee shall allow Commission Inspectors access to his stabling area at any time to conduct unannounced random searches for illegal or non-therapeutic medications or drugs,
3. The licensee shall allow Commission Inspectors to seize any illegal or non-therapeutic medications or drugs found at his stabling area,
4. The licensee shall be subjected to the Commission's Out of Competition Program, and
5. The licensee may be subject to a Notice of Proposed Order in addition to any penalty imposed by the Commission Racing Officials for any breach of the terms of their license;

AND WHEREAS on March 26, 2019, RYAN filed a Notice of Appeal and a Notice of Motion requesting a stay with the Panel, to which the Registrar objected;

AND WHEREAS on April 29, 2019, the Panel convened to consider RYAN's request for a stay;

AND WHEREAS on May 7, 2019, the Panel issued Decision Number SB HRAP 05012 2019, granting the stay in relation to RYAN's licence as a driver and as such RYAN's access to Association grounds, but dismissed the stay request in relation to RYAN's licences as a trainer, owner and authorized agent;

AND WHEREAS on July 4, 2019, the Panel convened to hear RYAN'S appeal;

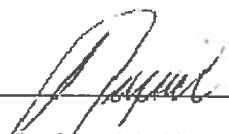
TAKE NOTICE that the Panel:


- allows the appeal in relation to RYAN's licence as a driver, and
- dismisses the appeal in relation to RYAN's licences as a trainer, owner and authorized agent but varies RYAN's penalty to a monetary penalty of \$5,000 and a suspension of 90 days. With 65 days served, the final day of RYAN's suspension is July 29, 2019;


AND TAKE NOTICE that the Panel also directs that the conditions on RYAN's licences as a trainer, owner and authorized agent remain (as set out above and in Ruling Number SB ADMIN 07/2019).

The Panel's Reasons for Decision are attached to this Notice.

DATED this 6<sup>th</sup> of August, 2019.

  
Sandra Meyrick, Vice- Chair  
Horse Racing Appeal Panel

  
John Charalambous, Member  
Horse Racing Appeal Panel

  
Dr. John Hayes, Member  
Horse Racing Appeal Panel

**HORSE RACING APPEAL PANEL (HRAP)  
STANDARD BRED HEARING**

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IN THE MATTER OF THE *HORSE RACING LICENCE ACT*,  
S.O. 2015 c. 38 Sched. 9 and the  
RULES OF STANDARD BRED RACING

AND IN THE MATTER OF AN APPEAL OF RULING NUMBER:  
SB ADMIN 07/2019  
BY APPELLANT: JASON RYAN

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**H E L D   B E F O R E**

Ms. Sandra Meyrick	Vice-Chair
Dr. John Hayes	Member
Mr. John Charalambous	Member

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This is an excerpt of the proceedings in the above-mentioned matter held before the HORSE RACING APPEAL PANEL, Re: **JASON RYAN**, taken before PROFESSIONAL COURT REPORTERS INC., 4950 Yonge Street, Suite 802, Toronto, Ontario, at 10 Carlson Court, Suite 400, Toronto, Ontario, on the 4th day of July, 2019.

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**A P P E A R A N C E S**

Ms. Nicolle Pace	- for the Alcohol and Gaming Commission of Ontario Registrar
Mr. Robert Burgess, Q.C.	- for the Appellant

Hearing continued ...

MS. VICE-CHAIR: Jason Ryan appeals Standardbred Ruling Admin 07/2019. The Ruling finds that Ryan has violated various rules of standardbred racing including Rule 9.09 (b), 26.02.01, 26.02.02 and 26.02.03 (c). The violation arises from a Class 2 positive found in the horse "Speedling" after placing second in the sixth race on January 1, 2019 at Western Fair Raceway.

Ryan's appeal is to penalty. He does not dispute the positive finding. Ryan argues there has been unfairness in this case. Although requesting the residue sample within the 21 days as required by the CPMA Directive. The residue was destroyed and Ryan has been unable to engage an alternate lab to analyze the sample.

The AGCO cannot guarantee that a residue sample will be available. It is, however, extremely useful to the Appellant in arguing mitigating circumstances and should always be provided to the owner or trainer if available.

Ryan argues that there is no obvious source for the Lorazepam finding. Further, Tyler Durand stated that the positive test was not, in his opinion, the result of the deliberate administration of Lorazepam.

A licensed trainer must meet various standards as established by Standardbred Canada. Such standards mandate that the trainer is responsible at all times for the

condition of all horses trained by him or her. The trainer must safeguard from tampering each horse trained by him or her and must exercise all reasonable precautions in guarding his or her horse.

Compliance Officer Durand has provided evidence that Ryan's horses were in good condition and upon inspection of Ryan's barn has raised no other significant concerns. The evidence is that Ryan is a hands-on trainer with a clean record. Ryan himself has given evidence about human urination in the stalls, something he should know is dangerous to his horses and something he must take steps to prevent. He has indicated that he will install cameras, post signs and take whatever steps are required to stop such practice on a going forward basis.

Quoting from the Van Arem Decision of this panel at page 5, "when dealing with a penalty a number of considerations come into play. On the one hand, penalties are designed to punish licensees who breach the rules and deter them and others from doing so. Furthermore, penalties are meant to help preserve the integrity of horse racing and protect the legitimate interest of the wagering public, the race horse and the reputation of racing and all those that provide the racing product. The rules are also in place to ensure that a level playing field exists for those competing in a race. On the other hand, the conduct and motivation of a licensee must

be taken into account together with his or her degree of blame worthiness along with any mitigating factors, including the impact of the penalty on his or her livelihood. Consideration should also be given to the honesty of the licensee and his or her degree of cooperation with the AGCO."

Ryan appears to be a genuine licensee who works hard to support his family and to take care of his horses. The panel unanimously concludes that although the penalty for this first Class 2 violation is a one-year full suspension and a \$10,000 fine, we will vary the penalty to a 90-day suspension with the 65 days served and a \$5,000 fine. The conditions placed on Ryan's license by the AGCO will remain.

Any questions?

MR. BURGESS: The only comment was when does this start?

MS. VICE-CHAIR: You have already been suspended, correct?

MR. RYAN: I just been, I've been listed to drive horses still going into next week. I just have to let those...

MS. VICE-CHAIR: We actually didn't deal with that. We did not deal...

MR. RYAN: So like, like I said, they are already drawn but as I said, like a week today they're not drawn for Thursday already and Thursday...

MR. BURGESS: If we could have a modification that the suspension would start in, we'll say 10 days so he could get his

carries in order. He could fulfill the driving – since he was still driving. The driving...

MS. VICE-CHAIR: Well, why don't we just say the suspension of the driver, the driver's license commences in 10 days because he is already suspended on the other...

MR. RYAN: I was just wondering just for – they draw so far ahead that they've already been finalized...

MS. VICE-CHAIR: I don't know that we want to do that though. I'm going to step out again.

MR. RYAN: That's fine.

MS. VICE-CHAIR: Because you haven't served any time on the driver's license...

MR. RYAN: Yeah, I'm just saying, just I have to call the judges to take out, take me off the programs.

MS. VICE-CHAIR: Let me just get my head around this.

MR. RYAN: Yes, sorry.

MS. VICE-CHAIR: No, it's great. It's we didn't actually address it so we'll do that now.

--- OFF RECORD at 1:34 p.m.

--- ON RECORD at 1:38 p.m.

MS. VICE-CHAIR: Please be seated. I'm sorry. That was our oversight and we did discuss it a little bit and then it

got lost in translation. So we again unanimously, we will uphold the Appeal on the driver's license vary penalty to zero days and zero monetary fine.

MR. RYAN: Driver's license...

MS. VICE-CHAIR: Yeah, your driver's license. So the others, the other portion of the Appeal we are varying to 90 days and a \$5,000 fine.

MR. RYAN: Another 90 days and...

MS. VICE-CHAIR: No, no. With time served of 65 days.

MR. RYAN: Okay, I understand.

MR. BURGESS: Served.

MR. RYAN: Okay.

MR. BURGESS: I just need clarification, I'm sorry.

MS. VICE-CHAIR: Yeah, I know. I, well I didn't do very well in delivering that, so I can understand your need for clarification. Any questions?

MS. PACE: Sorry, yeah. I was, I apologize. So you have him serving 65 days previously, as of today, right?

MS. VICE-CHAIR: Yes.

MS. PACE: And then going forward is he still, does he still have his driver's license or is it a full suspension?

MS. VICE-CHAIR: So we've upheld the Appeal on the driver's license. So it is currently stayed. Correct? The driver's license suspension was stayed. So he is driving so we've upheld



the Appeal so that we are varying that penalty to no days, no fine.  
But on the other trainer and owner licenses, he has served 65 of  
our 90 day suspension and a \$5,000 fine has to be paid.

MS. PACE: Okay, thank you.

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