

Horse Racing Appeal Panel

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**HORSE RACING APPEAL PANEL**

TORONTO, ONTARIO – APRIL 30, 2021
SB HRAP 05024 2021

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 RACHEL ANDREW OF
STANDBRED RULING NUMBER 1173266**

Date of Hearing: April 30, 2021

Horse Racing Appeal Panel (HRAP/Panel): Sandra Meyrick, Vice-Chair
John Charalambous, Member
Bruce Murray, Member

Representative for the Registrar: Nicolle Pace

Representatives for the Appellant: Brian Tropea
James Whelan

Decision: The Panel dismisses the appeal but varies the penalty as set out below.

WHEREAS Rachel Andrew (“ANDREW”) is licensed by the Alcohol and Gaming Commission of Ontario (“Commission”) as a Trainer, Licence Number HP0A213;

AND WHEREAS ANDREW was the trainer of record of the horse “Brody’s Scrapper”, freeze brand number 3JM32;

AND WHEREAS on March 17, 2021, the Director of the Commission’s Regulatory Compliance Branch issued Standardbred Ruling Number 1173266, wherein ANDREW was issued a one hundred and twenty (120) day suspension (April 1, 2021 – July 30, 2021, inclusive) and a monetary penalty of five thousand (\$5,000) dollars for a positive test for TCO₂ from “Brody’s Scrapper”, who finished 1st in the 10th race at Flamboro Downs Raceway on February 21, 2021, in accordance with Rules 22.38(b), 26.02.01, 26.02.02, 26.02.03(d), 6.01, 6.04, 9.08.2, 22.38.06 of the Rules of Standardbred Racing (“Rules”) and Policy Directive 1-2018;

AND WHEREAS Standardbred Ruling Number 1173266 also states the ANDREW’s partner had elevated TCO₂ readings in November and December, 2017 and, although ANDREW was not the trainer of record for those horses, she had significant involvement in the stable her partner was running;

AND WHEREAS Standardbred Ruling Number 1173266 further directed that all horses owned in whole or in part are suspended and are not eligible to race during the suspension period. All horses may, with the consent of the AGCO Racing Officials, be released to another trainer. “Body’s Scrapper” was declared unplaced for all purposes, with the exception of pari-mutuel wagering, and all purse monies were ordered returned and redistributed in accordance with Rules 6.13.01, 26.08, 9.13 and 18.08.01 of the Rules;

AND WHEREAS Standardbred Ruling Number 1173266 also directed that the following terms are added to ANDREW's licence for two (2) years (July 31, 2021 – July 31, 2023, inclusive), in accordance with Rule 6.01(d) of the Rules and Policy Directive No. 3-2008:

1. The Licensee is required to complete the Commission's Equine Medication Use and Awareness Program before reinstatement,
2. The licensee shall keep the peace and be of good behaviour,
3. The licensee shall allow Compliance Officials access to their stabling area at any time to conduct unannounced random searches for illegal or non-therapeutic medications or drugs,
4. The licensee shall allow Compliance Officials to seize any illegal or non-therapeutic medications or drugs found at his stabling area,
5. The licensee shall be subjected to the Commission's Out Of Competition Program, and
6. 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 22, 2021, ANDREW filed a Notice of Appeal and a Notice of Motion requesting a stay with the Panel;

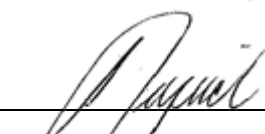
AND WHEREAS on April 1, 2021, the Panel issued Decision Number SB HRAP 05024 202, granting the stay;

AND WHEREAS on April 30, 2021, the Panel convened to consider ANDREW's appeal;

TAKE NOTICE that the Panel dismisses ANDREW's appeal but varies the one hundred and twenty (120) day suspension penalty (April 1, 2021 – July 30, 2021, inclusive) to forty-five (45) days, less days served from April 1, 2021, and varies the monetary penalty to \$2,500.

A transcript of the Panel's Reasons for Decision is attached to this Notice.

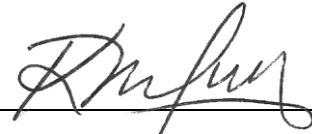
DATED this 13th day of May, 2021.



Sandra Meyrick, Vice-Chair,
Horse Racing Appeal Panel



John Charalambous, Member
Horse Racing Appeal Panel



Bruce Murray, Member
Horse Racing Appeal Panel

HORSE RACING APPEAL PANEL (HRAP)
STANDARD BRED HEARING

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 BY **RACHEL ANDREW**
OF RULING NUMBER 1173266

SUMMARY TRANSCRIPT OF PROCEEDINGS
before The Horse Racing Appeal Panel
held via electronic video hearing
on Friday, April 30, 2021 at 2:08 p.m.

BEFORE: Sandra Meyrick, Vice-Chair
John Charalambous, Member
Bruce Murray, Member

APPEARANCES:

Nicolle Pace Representative for the Alcohol
and Gaming Commission of
Ontario Registrar

Brian Tropea Representatives for the Appellant
James Whelan

ALSO PRESENT:

Valerie Badenas Court Reporter

Arbitration Place © 2020

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--- Upon commencing the excerpt on Friday,
April 30, 2021 at 2:08 p.m.

THE VICE-CHAIR: Thank you. So thank you very, very much, everyone, for your very able submissions today and your evidence. It has been very, very helpful.

We are unanimous in our decision today. We are going to reduce the penalty to 45 days, \$2,500, and we are doing that primarily because it is consistent with case law that has been provided to us and which has been delivered by this panel in previous matters of very similar circumstances.

I am more than prepared to write reasons with more detailed explanation as to how we have arrived at this conclusion if you wish, but that is all that I have to say at the moment.

Again, we were quite impressed by Ms. Andrew and by Mr. Durand. We just feel that given many circumstances, including the world in which we live at the moment, it is important to be fair to all parties.

Ms. Andrew has agreed that she will serve the 45 days, and I believe is already doing so, withdrew her motion for stay so that she could start to serve her time, and we wish you well with that.

So, again, if you want written reasons, please just reach out to the administration and ask for them.

Anything more that I can do, we can do for you today? Ms. Pace?

MR. WHELAN: Thank you very much.

MS. PACE: No, thank you, Madam --

MR. TROPEA: Thank you very much, Madam --

MS. PACE: -- Vice-Chair.

MR. TROPEA: -- Chair.

THE VICE-CHAIR: Okay.

MR. TROPEA: Madam Vice-Chair --

MS. ANDREW: Thank you very much.

MR. TROPEA: -- thank you very much. I -- we really appreciate your consideration in the matter and thank you very much for coming to the conclusion that you did. It is not ideal, but it is certainly much better than it was.

THE VICE-CHAIR: Again, I want Mr. Durand to know that we are listening to what you're saying. It is a complicated situation right now, and we are trying to be fair to everyone here.

So, certainly, we wish you all well, and we will see you again without doubt. Hopefully not you, Ms. Andrew.

MS. ANDREW: I don't want to be seen again, no.

THE VICE-CHAIR: I know I will see Mr. Tropea and Ms. Pace again and surely Mr. Durand as well, so thank you.

--- Whereupon the proceeding adjourned at
2:10 p.m.