

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:

**Appeal of the Board of Stewards Official
Ruling #129, Sacramento Harness
Association, dated June 28, 2007**

Case No. SAC 07-0075

**RICHARD BERTRAND
Appellant**

DECISION

The attached Proposed Decision is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on January 17, 2008.

IT IS SO ORDERED ON January 16, 2008.

CALIFORNIA HORSE RACING BOARD
Richard B. Shapiro, Chairman



Richard Bon Smith
Acting Executive Director

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BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In The Matter of the Appeal of Stewards)
Official Ruling No. 129, Cal Expo)
Sacramento Harness Association)
dated June 28, 2007)
Hearing Date: November 29, 2007)
RICHARD BERTRAND)
Appellant)

Case No. SAC 07-0075

PROPOSED DECISION

Appeal of the Board of Stewards Official Ruling #129, Sacramento Harness Association, dated June 28, 2007

The complaint was heard by Steward Will Meyers, acting as a hearing officer under Rule 1414 for the California Horse Racing Board.

Richard Bertrand appeared in person without counsel.

Steward Wayne Oke represented the California Horse Racing Board.

All parties were afforded the opportunity to examine all relevant exhibits for argument.

Evidence was received, the record was closed and the matter was deemed submitted.

APPLICABLE REGULATIONS

Horse Racing Law – Division 8; Chapter 4; Article 5; Section 19517 has the following components:

- (a) The board, upon due consideration, may overrule any steward's decision other than a decision to disqualify a horse due to a foul or a riding or a driving infraction in a race, if a preponderance of the evidence indicates any of the following:
 - (1) The steward mistakenly interpreted the law.
 - (2) New evidence of a convincing nature is produced.
 - (3) The best interests of racing and the state may be better served.

California Horse Racing Board Rule # 1721 (H) (Driving Rules)

No driver during a race shall:

- (h) Lay off a normal pace and leave a hole when it is well within the horse's capacity to keep the hole closed.

California Horse Racing Board Rule # 1764 (Appearance at Hearing upon Appeal)

The Board shall notify the appellant, the stewards and all licensees or other persons affected by decision under appeal of the date, time and location of its hearing in the matter. The burden shall be on the appellant to prove the facts necessary to sustain the appeal.

DISCUSSION

A) Summary of Evidence

I

Richard Bertrand drove the horse "Go Minnie O" on June 23, 2007.

II

Appellant Richard Bertrand testified on his own behalf. Steward Grant Baker testified on behalf of the stewards. The film of the race was played and referred to by both witnesses and was received into evidence.

III

Review of the race tape clearly shows Mr. Bertrand pull back on the reins stopping the horses momentum creating a hole for a rival near the 1st quarter.

IV

Mr. Bertrand contends he was putting the rival horse in the hole so he could pull his horse to the outside and go for the lead.

V

Mr. Bertrand did not pull his horse to the outside as stated, and after careful scrutiny of the films, neither the hearing officer nor Mr. Bertrand could detect where he attempted to pull.

VI

Mr. Bertrand indicated in his testimony that it was well within his horses capability to keep the hole closed.

VII

Steward Grant Baker testified that he saw no legitimate reason for Mr. Bertrand's actions and felt he was in violation of California Horse Racing Board Rule #1721 (H) by allowing a hole.

VIII

Steward Grant Baker testified that after careful review of the race on June 28th with Mr. Bertrand the stewards could find no apparent reason for Mr. Bertrand's actions.

IX

After review of the race in question with Mr. Bertrand on June 28, 2007, the stewards issued the following ruling:

RULING # 129

DRIVER RICHARD BERTRAND, WHO DROVE "GO MINNIE O" IN THE TENTH RACE ON SATURDAY JUNE 23, 2007, IS HEREBY FINED THE SUM OF TWO HUNDRED (\$200.00)* DOLLARS FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULE #1721 (H) (DRIVING RULES – ALLOW A HOLE).

B) Controlling Law

Horse racing law allows for overruling a stewards decision under the following criteria:

- (1) The steward mistakenly interpreted the law.
- (2) New evidence of a convincing nature is produced.
- (3) The best interests of racing and the state may be better served.

In this instance:

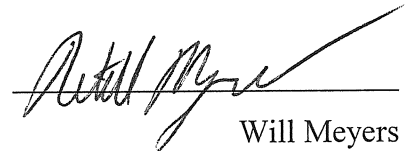
The stewards interpreted the law correctly in that Rule #1721 (H) directly reflects the violation of laying off the pace and allowing a hole. No new evidence was introduced. The original tape of the race was used at both hearings corroborating the violation. Fines and suspensions are utilized as deterrents to rule violations and therefore help to better racing and the State.

CONCLUSION

After the hearing and race review, it is determined that cause exists to find Richard Bertrand in violation of California Horse Racing Board Rule #1721 (H) (Driving Rules – Allow a Hole) in that he failed to keep a hole closed in the Tenth Race on June 23, 2007 at Cal-Expo when it was well within the horse's capacity to keep the hole closed. Wherefore the following order is issued:

RULING #129, ISSUED JUNE 28, 2007 FINING MR. BERTRAND TWO HUNDRED (\$200) DOLLARS FOR ALLOWING A HOLE, AT SACRAMENTO HARNESS ASSOCIATION, CAL-EXPO IS AFFIRMED.

Dated: December 07, 2007

A handwritten signature in black ink, appearing to read "Will Meyers", is written over a horizontal line.

Will Meyers

Designated Hearing Officer