VIRGINIA RACING COMMISSION

January 21, 2014

10700 Horseman's Road

New Kent, VA 23124

Commencing at 9:00 a.m.

COMMISSION MEMBERS:
J. Sargeant Reynolds, Jr., Chairman
D.G. Van Clief, Vice Chairman (via telephone)
Carol G. Dawson
Stran L. Trout
Philip T. O'Hara

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David S. Lermond, Jr., Deputy Executive Secretary
Kimberly C. Mackey, Office Administrator
Joseph M. Roney, Director of Security & Operations
C. Richard Harden, DVM, Equine Medical Director

ATTORNEY GENERAL'S OFFICE
Joshua E. Laws, Esquire

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MR. HETTEL: Okay. I would suggest we go ahead and start with the appeal of trainer Leanne Hester. She is represented by Mr. Petramalo. Frank.

MR. PETRAMALO: I know you're not gonna believe this, but I'm gonna be brief.

MR. LAWS: I apologize for interrupting, Frank, and especially since you're gonna be brief, but before we get started, do you mind if we move into the record the exhibits and documents that you provided?

MR. PETRAMALO: No. Certainly not. What I would do is formally move into the record Exhibits 1 through 13 that are attached to the memorandum of Leanne Hester, Anne McDonald and Tonya Withers. I think everybody has got a copy; if not, I've got more copies.

MR. LAWS: Any objections from any commissioner?

MR. REYNOLDS: No.

MR. LAWS: Do I hear a motion?

MR. REYNOLDS: Yes. So moved.

MR. LAWS: Second?

MR. TROUT: Yes.

MR. VAN CLIEF: Josh, can you hear me?

MR. LAWS: Yes. I can hear you. Can you hear
me?

MR. VAN CLIEF: I can. I need to let you know I can virtually not hear what's going on there. Unless somebody speaks right into the phone, I'm not going to be able to hear you. I just want you to know that.

MR. HETTEL: Let's see if you can turn up the volume.

MR. LAWS: D.G., at this point, Frank's moving closer to the phone.

So far, we've had a motion to admit Exhibits 1 through 13 into the record. Is there a second?

MR. TROUT: Second.

MR. REYNOLDS: All those in favor, say aye.

NOTE: The Commission votes aye.

MR. REYNOLDS: Opposed?

NOTE: There is no response.

MR. REYNOLDS: The ayes have it.

MR. LAWS: Without objection, those 13 exhibits are moved into the record.

Frank, whenever the technology cooperates, you can proceed when you're ready.

MR. PETRAMALO: D.G., can you hear me now?

MR. VAN CLIEF: I heard that question. Before that, I didn't hear anything.
MR. PETRAMALO: Okay. I didn't say anything.

MR. HETTEL: Would it be more convenient to
stand before the speaker? It's essential for him to
hear it.

MR. PETRAMALO: Sure. I can do that.

MR. LAWS: We lost him.

MR. HETTEL: Let me redial it.

Frank, take over.

MR. PETRAMALO: My name is Frank Petramalo. I'm here today representing Leanne Hester, Anne McDonald and Tonya Withers, in connection with an appeal from two stewards' rulings. Next to me is Leanne Hester.

The first ruling under appeal is the stewards' 15 day suspension, which would go into effect during this summer's Thoroughbred meet, and a $1,000 fine against Leanne for a finding in a urine sample of her horse, Good Gracious, which contained a trace amount of Mepivacaine. I'll get to what Mepivacaine is in a minute.

The second ruling also relates to the same horse. The owners, Anne McDonald and Tanya Withers, had their horse disqualified from her second place finish and had their $4,800 share of the purse forfeited. The horse was placed last, again, because of the
finding of the trace amount of Mepivacaine in the horse's urine.

Now, Mepivacaine is a local anesthetic that is lawfully and often used by veterinarians. To put it most simply, if a horse gets cut for whatever reason, the vet numbs the area around the laceration with Mepivacaine, sews up the horse, end of story.

However, Mepivacaine does have -- how should I put it? -- unlawful uses. It can be injected into the joint of a horse or around the nerve to deaden that sensation. So if you have a lame horse and you're unscrupulous, you can, in effect, make the horse run as though it was normal although it is injured. That's very dangerous, because a horse running while he really is lame can severely injure itself.

Now, in this case, the urine sample came back from the lab with a finding of 27 nanograms. A nanogram is a billionth of a gram; very, very small amount.

Dr. Harden, in his initial report to the stewards upon receiving this, and I think you'll find that at Tab Four, basically said 27 nanograms is well below what would be associated with any anesthetic effect. In Tab Five, his subsequent report, the
pharmacological report, the scientific studies show that as long as the concentration is below 65 nanograms, there really is no effect on the horse.

Now, Dr. Harden undertook an investigation, nonetheless, to find out what the situation is with regard to this Mepivacaine. He learned from Dr. Dan Dreyfus, who was Leanne's treating veterinarian for Good Gracious during that period, that he didn't administer that to the horse, and Leanne didn't, either. So the question then became where did it come from.

We did our own investigation and we presented our results to the stewards. Basically, it appears that this was likely stall contamination, and here's how that came about.

We have and we presented to the stewards and we have here at Tab Six the record for -- the vet's record for Good Gracious for the month of June. You will see there that she never received any Mepivacaine.

However, Leanne had another horse that she trained, Sweet Katy O'Grady. Sweet Katy stepped into a stall fan. If you've ever been to the back side, there are fans set up on the ground blowing into the stall. Well, Sweet Katy stepped into one of those
and cut herself. Dr. Lockhard, who is in practice
with Dr. Dreyfus shows up, the horse is bleeding, he
injects the horse with Mepivacaine, sutures up the
horse. That record of administration is at Tab 7.

Now, after Sweet Katy's injury, Leanne shifted
her away from the track. That stall that Sweet Katy
was in was kind of a swap stall or a utility stall
that many horses went in and out of, including Good
Gracious. For example, when Good Gracious comes out
of her stall so the groom can go in there and clean
the stall, Good Gracious goes into the swap stall or
the stall where Sweet Katy used to be. So it seemed
that that might be the source.

Now, it was reinforced by the following. This,
to be fair to the stewards, was not presented to the
stewards because I wasn't aware of it at the time.

Good Gracious's blood sample, and that's at Tab
8, not urine, now, blood sample, came back with a
minor trace of Flunixin. Flunixin, the trade name is
Banamine, but I'm sure Doc will jump on me for saying
this, but it is a nonsteroidal anti-inflammatory. I
call it aspirin for horses.

Well, there was a trace of that in Good
Gracious's blood. Well, if you look at the
medication records, Good Gracious never in the month
of June ever received any Flunixin; however, Sweet Katy, at the same time she got Mepivacaine, also got an injection of Banamine. So it seems to me that re-enforces the notion that it's likely that we may have had some stall contamination.

The way that comes about, the people here who are familiar with horses know that horses get bored and chew on anything. It's not unprecedented here at Colonial to have a situation like this.

I think about four years ago, we had a horse ship in named Coupe Deville, went into a stall. Coupe Deville won the race, comes back with a positive 75 nanograms above the 65 level of Mepivacaine.

Dr. Harden undertakes an investigation and guess what? The day before, there was a horse in that same stall bleeding from a cut that occurred when the groom cut the bandages that went in there, shot the horse full of Mepivacaine, bingo. The next day the other horse comes in, there's the likely source.

Now, we've also had slightly different types of contamination. Last summer, not this past summer, but the racing summer before, we had a horse, I forget what his name is. Serious John or something like that. Again, came up with a positive for Lidocaine, which like Mepivacaine is a local
anesthetic. The vet never administered it. The trainer never did. The stewards pretty much concluded that it was probably contamination from either hoof packing or leg pain.

So it's infrequent, but it's not unheard of. I would suggest that's what likely happened here, because I don't think there's any dispute that Mepivacaine was not administered either by the trainer or the vet.

More importantly, even ascribing the worst possible motivation to someone, there would be no reason to hit that horse with Mepivacaine because it wasn't lame, it was fine. The mare was fine. No problem whatsoever.

Now, the problem with the stewards in looking at all this is I think they overlooked the guiding principle by which they are supposed to assess reports from the lab.

I quoted it in my memo. I don't know whether I included the actual regulation. Your regulations basically say to the stewards when you get a report back from the lab, in order to determine whether it is a positive in the sense that it's a violation, you've got to do a number of things, including looking at the concentration level, determining
whether that had any likely effect on the horse, and
also to see whether contamination may have
contributed to the result.

Well, in this case, regretfully, the stewards
overlooked that. They disregarded the advice from
Dr. Harden. Dr. Harden said 27 nanograms is below
any level that would have any effect on the horse,
and they disregarded the likelihood of contamination.
Rather, they seized on what we call the trainer
responsibility rule. That is in your regulations and
I included it at Tab 13, saying, well, the horse came
back with some medication in its urine, the trainer
is absolutely responsible, end of story.

Now, they, I think, went further and said, well,
in this case, the situation is aggravated because the
horse also on race day was given Sarapin. Now, this
Sarapin never came back in any test result. They
only knew of that because we voluntarily presented
the medication record for the horse. So the stewards
were going through it and they saw Sarapin and they
got all excited about that.

Well, it's correct that Sarapin should not have
been administered on race day. Why the vet did it, I
don't know. But in essence, it's a no-harm, no-foul.

Sarapin has been around forever. It's made from
the leaves of a pitcher plant, and vets and trainers believe that it's got some analgesic effect. The problem is the science doesn't back that up. Your lab does not test for Sarapin because there's nothing to test for.

If you take a look at Dr. Sams, your lab director, I wrote to him and I said, Dr. Sams, do you test for Sarapin, and if not, why not. He said we don't test for it and the reason is it doesn't contain any identifiable substance that affects a horse.

I also attached as Tab 12 a paper that Dr. Sams co-authored many years ago, which basically came to that same conclusion. He says in the abstract, it seems clear that Sarapin has no significant classical local anesthetic actions in horses and probably not in any other species. Bottom line, it's a placebo. It probably makes vets and trainers feel good, but it does absolutely nothing for the horse.

So I think what the stewards also failed to do was to look at what we lawyers would call the applicable precedent. Remember in the Coupe Deville case I told you was 75 nanograms? Well, in that case, the purse was forfeited because it was likely that that level had some effect on the horse and
could have affected the outcome, but the trainer was not suspended; he was fined $500.

In the other case, the Silent John case, because the concentration of Lidocaine was so small that it did not likely have any effect on the horse, the purse was not lost. The trainer was certainly not suspended; he was fined $500.

So my argument to the stewards was this case is the same. We have an undisputed finding that the Mepivacaine was not intentionally administered to the horse, either by the vet or the trainer, that the level was a minute trace, not likely having any effect, and there's a probability that it was a result of stall contamination.

So my argument was a $500 fine, that's it. Well, that didn't carry the day. I think the stewards were wrong because they ignored the facts and they ignored the applicable regulation that they should work under.

Now, the purpose of your medication regulations, at least as far as I'm concerned, is really two-fold. One, it's to ensure the safety and welfare of the horse. That's number one. Number two is to basically prevent cheating by owners and trainers. They are not allowed to use drugs of any sort that
would give them a leg up or an advantage over the
rest of the competition.

So you ask yourself in this case were either of
those purposes served by the harsh and unprecedented
penalties levied here, and I suggest no, it wasn't.
It seems to me the reasonable thing to do is to
follow precedent, a $500 fine, because Leanne is
responsible, but certainly not a 15 day suspension,
because practically speaking, here is what would
happen there.

The suspension from the stewards is set for June
of 2014. Given the fact that we have such a short
meet, that puts Leanne out of business for this
summer. She has a small farm in Gloucester, brings a
small group of horses every summer to Virginia to
race, mostly Virginia-breds. A 15 day suspension
puts her out of business and it's not fair and that's
not called for.

With respect to the owners, they had almost no
contact whatsoever, other than they write the checks
and pay the bills, but their horse did not have any
competitive advantage over any other horse because
the level of Mepivacaine was so small.

So in summary, I would suggest that you reverse
and modify the stewards' rulings, to the extent of a
$500 fine for Leanne, no suspension, and no
forfeiture of the purse.

Is that brief enough, Bernie?

MR. HETTEL: Well done.

MR. REYNOLDS: Question. The stewards who hear
these cases, are they different stewards every year
when you're trying cases in front of them?

MR. PETRAMALO: For the past -- yes and no.

Clinton Pitts and Ron Herbstreet have been here for
at least two years. This was Mike Pearson's first.
Prior years, we had a group of Maryland stewards.
I'm having a senior moment here.

MR. HETTEL: It was different stewards.

MR. PETRAMALO: Yeah. Different stewards.

Phil Grove, Jean Chalk and Adam Campola.

MR. O'HARA: Campola.

MR. PETRAMALO: Campola, correct, and there
have been different mixes over the years.

MR. REYNOLDS: Go ahead.

MR. TROUT: I have one question here, and I
think it is answered in Exhibit 4, but is there a
lower limit, threshold limit on this particular
medicine? Is it 10 nanograms? Is that the lower
limit, the recommended limit?

MR. PETRAMALO: There's really no threshold.
The RMTC recently has recommended a 10 nanogram threshold. Where that came from, I don't know, because I haven't seen any science to back it. The science backs the higher 65 nanogram level. But in Virginia --

MR. TROUT: The 65, that's dealing with the actual effect that can be noticed?

MR. PETRAMALO: Yes.

MR. TROUT: That's a scientific-type conclusion, as opposed to a legal limit or lower limit?

MR. PETRAMALO: Yes, but the whole theory of thresholds is that they're based on science. A threshold basically means the science shows if you're below, it doesn't have any active medicinal effect on the horse, whereas if you're above, then it does and you're in trouble.

MR. TROUT: Okay.

MR. PETRAMALO: For example, the Flunixin that I talked about, we have a standard here in Virginia of 20 nanograms. The trace amount that was found in Good Gracious was 1.7. When a result like that comes back, you completely disregard it. You don't even look at it because it's so low.

MR. TROUT: What the lower limit was and what's
used, it's actually by the stewards to determine a
lower limit. In other words, if it had been -- well,
10 is essentially the threshold, treat it as that.
If it had been nine, then it probably would have been
a different conclusion in your estimation?

MR. PETRAMALO: I'm not sure. I think the
stewards ignored that section of the regulations
which says consider the concentration and the likely
effect it had on the horse. I think they saw it
comes back with 27 nanograms, it's in there, end of
story, trainer responsibility.

MR. TROUT: That's the only question I had at
this time.

MR. O'HARA: I don't have any questions. I'm
comfortable with that.

MR. LAWS: Frank, can you check and see if D.G.
is still with us?

MR. PETRAMALO: Are you still with us?

MR. VAN CLIEF: I am, Frank. I think Stran
just asked my question. One clarifier. In the
Virginia rules, is Mepivacaine allowed at all?

MR. PETRAMALO: Yes. It is.

MR. VAN CLIEF: What is the threshold again?

MR. PETRAMALO: There is no threshold. Am I
correct on that?
MR. VAN CLIEF: Did he call it a positive? Is that correct?

MR. PETRAMALO: Well, he did not call it a positive. He just reported that there was a concentration of 27 nanograms in the urine.

MR. LAWS: D.G., hold on one second.

NOTE: Dr. Harden is sworn under oath.

MR. HETTEL: Come closer to the phone, Doctor.

DR. HARDEN: Our new rule going forward, which was just recently established, we will basically look at the RMTC recommendations, which is a 10 nanogram threshold; however, the -- and one other point.

The lab reported the 27 nanograms as a failed test. That's how they report the test. They don't tell us positive or negative. It was a failed test with a presence of 27 nanograms of Mepivacaine.

Now, the threshold does not necessarily -- if you're over a 10 nanogram threshold, that does not mean that you're automatically guilty. That does refer to the rule that you commented on where the stewards shall consider the concentration and the likely effect of the race.

That rule prompted me not to give the stewards advice, as you characterized it, but I gave them information. So in other words, I don't advise the
stewards. I give them information that I understand.

It is correct that the lowest level of concentration of finding where Mepivacaine would have a physiological effect on the horse at the time of racing would be 63 nanograms, and so this was the advice -- not the advice, this was the information that I conveyed to the stewards.

MR. VAN CLIEF: That scientific information that we have indicates that at 27 nanograms, Mepivacaine is not going to have an effect on the horse?

DR. HARDEN: That's correct, from the scientific data that we have been able to review. Now, in defense of reporting a positive at say 27 nanograms, that enables the Commission staff to investigate the case to see if there is, you know, justification where the horse may actually have needed Mepivacaine or some other similar medication. So it's basically a set point for us to investigate a case and then refer it to the stewards for their judgment.

MR. VAN CLIEF: Doctor, was there any -- in your investigation, I take it there was no indication that this mare was lame or needed Mepivacaine?

DR. HARDEN: That's correct. Yes, sir. We did
not see any justification to use that drug or that there was a need or anything that the trainer would have instituted that use. We didn't see anything else in this case that suggested, you know, that there was a criminal act.

MR. VAN CLIEF: The information that we got that neither the trainer nor the attending veterinarian that administered the drug was from them, was that the only information we had and was that taken under oath or an affidavit? How did we get that?

DR. HARDEN: It was not taken under oath, but it was taken through a personal conversation that I had with two veterinarians. Personal conversation that I had with them, private conversation, and that was substantiated by their office providing written billing records for the horses.

MR. VAN CLIEF: So you are comfortable then that neither the veterinarian nor the trainer administered Mepivacaine; is that correct?

DR. HARDEN: Yes, sir.

MR. VAN CLIEF: Thank you.

MR. REYNOLDS: Is there any written report from the stewards for this whole thing? Will there be any stewards here?
MR. PETRAMALO: The rulings are at Tabs 1 and 2.

MR. HETTEL: I've got a statement written by Clinton Pitts that Dave Lermond almost read.

NOTE: David Lermond is sworn under oath.

MR. LAWS: Can you state your name for the record?

MR. LERMOND: David Lermond. This is a document written by the stewards.

The stewards are of the understanding that this appeal today of their Ruling 13-031 by Ms. Hester through counsel is to the severity of penalty and is not contesting the findings of fact nor any of the evidence submitted at the stewards' hearing on September 13, 2013.

Although the penalty issued to Ms. Hester falls well within the RCI recommended guidelines for a Class Two drug with a penalty Category B, in retrospect, the Board of Stewards feel we were very lenient.

Following the 2013 Colonial Downs flat/steeple chase meeting, two Virginia Racing commissioners, Mr. Hettel, Mr. Hicks and Mr. Petramalo attended the Jockey Club round table at Saratoga in August.

That day, every single speaker addressed the drug
problem in Thoroughbred racing, one of them even
going so far as to suggest out-of-competition
testing.

The following month at its September meeting, the
Virginia Racing Commission unanimously adopted the
RCI Model Medication Rules and Penalty Guidelines,
and on December 11, 2013, the Kentucky Racing
Commission also approved these uniform rules and
guidelines.

In December, there was a damning article in the
New York Times and congressional hearings began in
Washington as to whether there was a drug problem in
horse racing. At the Senate hearings, it was even
suggested using the United States Anti-doping Agency
to clean up horse racing's use of drugs.

Drugs and horse racing are but one of the many
issues that plague this great sport and erode the
confidence of our fan base.

Following the stewards' hearing for Ms. Hester,
al all three stewards conferred several times,

discussing all the issues and mitigating
circumstances surrounding this case before reaching a
decision and we found the preponderance of the
evidence overwhelming.

A review of the veterinarian's treatment records
for the filly Good Gracious for the month of July clearly shows that between races, treatments for the filly were with the intent of getting her back in the entries as soon as possible, albeit a short meeting, rather than a concern for the filly's longterm health and welfare.

There were also blatant and repeated violations of approved race day medication treatment. One, the use of Sarapin, for which there is no known laboratory test as a race day bleeder adjunct.

Two, according to Equibase records from 2011 through 2013, trainer Hester ran 82 horses and never ran a horse outside the Commonwealth of Virginia in 2011 or 2013. This would indicate training horses is not Ms. Hester's main source of income and or she was acting as a program trainer.

Since this ruling, federal agents have arrested several licensees in another jurisdiction for drug violations with regard to race horses and their licenses were suspended pending the outcome of these charges.

As commissioners of horse racing for the Commonwealth of Virginia, today you have an opportunity to help clean up our own house by affirming the stewards' Ruling 13-031.
Respectively submitted, Clinton P. Pitts, Jr., Senior Commonwealth's steward; Ronald Herbstreet, Commonwealth's steward; and Michael A. Pearson, Commonwealth's steward.

MR. PETRAMALO: May I respond to that?

MR. REYNOLDS: Yes, sir.

MR. PETRAMALO: I have been practicing law for 45 years. That's one of the most outrageous statements that I have ever heard. Point number one. Well, let's get Leanne because the New York Times is excited about drugs and horse racing. Give me a break.

Secondly, they go through the record, the treatment record, the medication record for Good Gracious and they say, ah-ha. She's running the horse into the ground. That's unmitigated boulderdash.

Anybody who knows anything about horse racing, take a look at that. The only thing this horse got in the month of June was every time it raced, it got Lasix, and every time it raced with Lasix, it also got a conjugated estrogen, which is lawful and permitted by this Commission.

It's either Premarin or Thylline. That's what they're for. That's what they're for. The only
medication that this horse ever got was Bute, 24
hours before it got an aspirin. Permitted by
regulations here.

There was one exception. The horse must have
been tieing up or cramping its muscles, because if
you'll note at Tab 6 on June 28, it gets an injection
of Robaxin. That's Methocarbamol. That's a muscle
relaxant.

That's all this horse got, and for the stewards
on their own and for the first time to conclude that,
ah-ha, Leanne is doing everything she can to get this
horse to the racetrack, absolute boulderdash. No
proof of that whatsoever.

Then the final thing, let's send a message.
Let's send -- let's send the message by severely
penalizing a small trainer in her own jurisdiction
who races only here, so therefore, she must be
incompetent or must be cheating is absolutely
outrageous, absolutely, and I would expect that you
totally disregard that nonsense.

I apologize for getting excited, but boy, that
was really something.

MR. REYNOLDS: This incident happened before we
adopted our --

MR. VAN CLIEF: And I have a question about
that statement, about the statement, David, the one you just read from the stewards. Was there an implication that there was a linkage between Hester and some owners out-of-state or am I confused with that?

MR. PETRAMALO: No. I'm sorry, D.G. That's another good point. Without any evidence whatsoever, because Leanne is a small-time trainer, only races in Virginia, only had 82 starts in the last year, they say she must be a program trainer. She must be fronting for somebody else. Absolute crap. She's been coming here for the last ten years with two or three stalls every year. Anybody who has been on the back side knows she trains her horses and she doesn't front for somebody else.

MR. VAN CLIEF: Thank you.

MR. PETRAMALO: "Absolute crap", by the way, is a legal term.

MR. REYNOLDS: Stran.

MR. TROUT: Just one question, and this may be for Dr. Harden. You indicated 63 nanograms -- I guess that's the lowest level where an effect would be anticipated? It might affect the performance of the horse; is that correct?

DR. HARDEN: Yes, sir.
MR. TROUT: But presumably, as with any medicine, there's a graduation where even down to one it might have some effect, but it would not have, I guess, a significant effect until it got to about 63; is that what we're looking at?

What I'm looking at is the 27, or whatever it was, that would have less than the effect of something that might be deliberately given to improve the horse's position, but it would have or could have some effect on the horse's performance; is that correct?

DR. HARDEN: The 63 nanograms was from a study done in the Gluck Center at Kentucky, and it was based on the lowest possible dosage that would anesthetize a nerve, and so then you take into consideration the time factor.

The horse, hypothetically, could have had 500 nanograms two days earlier. So time factors into the concentration that's evident, but the drug also wears off. So any physiological effect of the drug diminishes probably more rapidly than the presence of the metabolites in the system.

Now, it is theoretically true that 27 nanograms could have an effect, but it would be an unmeasurable effect.
MR. O'HARA: What would be the normal dose that would be administered when using Mepivacaine?

DR. HARDEN: It depends on your expertise. Two cc's would be the minimum dose if you had it precisely on the horse's nerve.

MR. O'HARA: How long would that take to turn into 27 nanograms?

DR. HARDEN: That two cc's, the maximum concentration determined from the two cc's would be 63 nanograms.

MR. LAWS: Dr. Harden, I apologize for interrupting you. At Tab 5 in the third paragraph, it gives the explanation of how the drug is metabolized by the horse and how long it takes for the horse to actually metabolize the drug, and how much, therefore, would be present when the test was administered.

So I think that third paragraph would be very helpful to understand what Dr. Harden is saying.

MR. REYNOLDS: Ms. Hester, I believe the memo said that you've never had your license suspended before?

MS. HESTER: Never.

MR. LAWS: I apologize for interrupting.

NOTE: Leanne Hester is sworn under oath.
MR. LAWS: Thank you. Can you answer his question one more time?

MS. HESTER: I have never had any positive tests or any license suspensions or anything.

MR. REYNOLDS: Anywhere?

MS. HESTER: Anywhere.

MR. REYNOLDS: Any jurisdiction?

MS. HESTER: Nowhere.

MR. REYNOLDS: This is the first time?

MS. HESTER: Yes.

MR. REYNOLDS: Dr. Harden, do the stewards confer with you when they're doing this investigation to ask you your opinion of whether these drugs had an effect? Basically, the answer you just gave us, did the stewards talk to you or do they talk to another doctor about these medications?

DR. HARDEN: The regulations require that -- any finding from a laboratory require that I write up a pharmacological report and submit it to the stewards for their use in the hearing, and you have a copy of that report in there.

MR. REYNOLDS: Do you all talk back and forth or do they just accept your report and do with it what they will?

DR. HARDEN: We do talk, somewhat. It depends
on the circumstance. Sometimes we talk more than others. I don't recall specifically how much communication we had on this particular case.

MR. REYNOLDS: Okay. Thank you.

MS. DAWSON: Mr. Chairman?

MR. REYNOLDS: Yes, ma'am.

MS. DAWSON: I have a couple questions, and I'm not sure to whom it should be directed. I wonder if the stewards' ruling was affected by administration of the Sarapin. They commented on it, but they don't specify exactly how it violated the rules, other than it shouldn't have been given on race day.

MR. PETRAMALO: That's correct.

MS. DAWSON: Anybody else? I mean, Dave, can you comment on that?

MR. LERMOND: No. I really cannot.

MS. DAWSON: Is Sarapin always prohibited? Is that a contributing factor here, is what I'm asking.

MR. PETRAMALO: In my reading, I think it's fair to say that the stewards were very concerned when reading the vet records that Sarapin was administered on race day.

Technically, a horse should not receive anything on race day except Lasix and its adjuncts, and I agree that that's what the rules said, and the
veterinarian should not have given Sarapin, but on the other hand while we are not excusing it, it's a no-harm no-foul, because Sarapin is, in my opinion, snake oil. I has no effect on the horse whatsoever.

MS. DAWSON: Is the same true for Premarin?

MR. PETRAMALO: No. Premarin is a lawful adjunct to Lasix.

MS. DAWSON: It can be administered on race day?

MR. PETRAMALO: Yes. Yes.

MS. DAWSON: That's why I had the question about Sarapin. It should not have been administered?

MR. PETRAMALO: Sarapin should not have been administered.

DR. HARDEN: If I could just make one comment. Our regulations in 2013, they have changed going forward. So looking back, our regulations on race day also permit the administration of intravenous electrolytes or fluids and vitamins, and that has in some ways opened the door for veterinarians to give a vitamin jug to a horse on race day, and it was in this context that the Sarapin, which is a plant product, and so some people could --

MS. DAWSON: Sort of like a supplement?

DR. HARDEN: Yeah. So some people could argue
that this was more of a supplement than a drug. I don't want to personally go into that argument, but some people may present that argument.

MS. DAWSON: So with the new medication rules that we have, that would clearly be prohibited?

DR. HARDEN: Going forward, the veterinarian is not permitted to be in the stall with the horse or touch a horse on race day.

MS. DAWSON: But at this time, that wasn't the case?

DR. HARDEN: That's correct. Yes.

MR. LAWS: I'm sorry. Dr. Harden, just so the record's clear, when Sarapin was administered on the three days in June of 2013, was it against the rules on the days that Sarapin was administered in June 2013?

DR. HARDEN: In my opinion, yes. There is -- someone may argue that it's a vitamin or a supplement or a fluid, and that argument would be another day, but my opinion, it is against the rules.

MR. LAWS: Frank, is it your position -- I'm sorry, Mr. Chairman. Can I ask a question?

MR. REYNOLDS: Yes, sir.

MR. LAWS: Frank, is it your position that it wasn't a violation of the rules to administer Sarapin
on those three days in June 2013, or are you all
acknowledging that it was improper to do that?

MR. PETRAMALO: I would be willing to concede
at this point that Sarapin should not have been
administered. I did not explore the supplement
argument. I was more concerned on seeing under the
regulations whether this had any impact on the horse,
whether it was cheating, and it basically was snake
oil.

MR. LAWS: Okay.

MR. REYNOLDS: Are there any other questions
from the commissioners?

MR. TROUT: Just one. I was looking through
the 13-031, and it does list the administration of
Sarapin as part of what led to their conclusion. It
mentions it as something in there.

MR. PETRAMALO: Yes.

MR. TROUT: It's not something that came to
light after that point?

MR. PETRAMALO: No, no, no. They clearly said
it in their --

MR. TROUT: It's not something about the
caine-type administration?

MR. PETRAMALO: Yes. What I pointed out in my
memo, what the stewards believed aggravated the
Mepivacaine situation was the administration of Sarapin, which they found out when we supplied the records, the vet records.

But at the same time, I supplied two of the stewards the abstract of the science article that Dr. Sams wrote, which basically said Sarapin is useless in a horse. So they were aware of that.

MR. REYNOLDS: You told them that you administered the Sarapin, or did they find it in the records that you turned over?

MR. PETRAMALO: No. They found it in the records.

MR. REYNOLDS: Okay.

MR. PETRAMALO: Because there was never any report back from the lab. The lab doesn't test for the stuff.

MR. REYNOLDS: Right. I understand. Okay. Anything else?

MR. VAN CLIEF: Frank, what would the motivation be to administer Sarapin if both the vet and trainer are not aware or are aware that it is no more than a placebo effect?

MR. PETRAMALO: Well, Leanne's testimony before the stewards was basically she said I've got a fractious filly and I'm not sure why. We started
giving her Lasix and she washes out, but in the paddock she's very fractious. She asked Dr. Dreyfus whether there was something he could give, and he said, well, I recommend Sarapin. This was the testimony.

Now afterwards, the horse was more relaxed in the paddock. Now whether it was from the administration of Sarapin or the horse getting used to going to the paddock, who knows, but that's basically what the testimony showed.

MR. REYNOLDS: Is that it? Do we need go into closed session?

MR. LAWS: We do. At this point, Mr. Chairman, would you like to make a motion to go into closed session to receive legal advice on the case that you just heard?

MR. REYNOLDS: Yes, I would.

MR. TROUT: So moved.

MR. REYNOLDS: Second?

MR. O'HARA: Second.

MS. DAWSON: Second.

MR. REYNOLDS: All right, then we will go into closed session.

MR. HETTEL: We could move the phone to the conference room and he could be a part of the
NOTE: The Commission adjourns for a closed session at 9:55 a.m.

MR. LAWS: We are back from the closed session, if anybody wants to make that motion to come back from closed session.

MR. O'HARA: So moved.

MS. DAWSON: Second.

MR. REYNOLDS: We just deliberated and we are going to take a vote. Excuse me. Sorry. First day on the job.

There's a motion on the table to reopen the session, reconvene. There's been a second, so we'll take a vote. All in favor, say aye.

NOTE: The Commission votes aye.

MR. REYNOLDS: All opposed?

NOTE: There is no response.

MR. REYNOLDS: Hearing none, we'll move forward.

MR. LAWS: Would the motion also confirm that we only discussed the case and nothing else that was inappropriate to discuss in closed session.

Regarding the two stewards' rulings, there will be a written ruling issued for each ruling. Ruling Number 13-031 and 13-032, there will be two separate
written rulings. Regarding the first stewards' ruling, the Commission has voted to uphold the $1,000 penalty to trainer Hester, but to remove the 15 day suspension. The only penalty to the trainer would be the $1,000 fine. The suspension has been overturned.

Regarding the second ruling, the Commission has voted again unanimously to uphold the forfeiture of the purse, and reasons for each decision will be in writing and will be distributed within the time frame allowed by the applicable law.

So Frank, if you have any questions about that --

MR. PETRAMALO: No.

MR. LAWS: -- just give me a call. At this point, we need to get Ms. Nelson on the line.

MR. HETTEL: She may very well be.

MR. LAWS: I don't know how to use that thing.

MR. HETTEL: Ms. Nelson, have you joined the conference call?

NOTE: There is no response.

MR. LAWS: Apparently not.

MR. HETTEL: She had said she was going to send correspondence to you that she was going to dial in at 9:30?

MR. LAWS: Correct.
MR. HETTEL: Okay. Why don't I just do this? Why don't I just call her?

MR. LAWS: Sure. Sure.

NOTE: Ms. Nelson joins via telephone.

MR. LAWS: Ms. Nelson -- just for the record, this is the appellant's attorney, Christine Nelson, she's on my personal cell line right now.

Ms. Nelson, I have conferred concerning the hearing scheduled to take place today concerning her client's appeal of the stewards' ruling.

Ms. Nelson, it's my understanding that we're both gonna make an agreed motion to continue the hearing and for the Commission to issue a stay of the stewards' ruling so the hearing can be heard at the next scheduled Commission meeting, and the stay will expire on that day when the hearing is held.

Do you agree with that motion, Ms. Nelson?

MS. NELSON: Yes, I do. Thank you.

MR. LAWS: Commission members, the motion is on the table. Do you all have any comment before we take a vote?

NOTE: There is no response.

MR. LAWS: Hearing none, Commission members, what is your vote on the motion that's on the table? Everyone who is in agreement, say aye.
NOTE: The Commission votes aye.

MR. LAWS: Opposed?

NOTE: There is no response.

MR. LAWS: None. The motion carries unanimously. Ms. Nelson, since the Governor has closed the offices, I will get in touch with you within the next couple of days and we'll talk about the hearing that will take place in the future. Okay?

MS. NELSON: Okay. Thank you so much.

MR. LAWS: Sure. Thank you, and thank your client for his patience and willingness to agree to the motion as well.

MS. NELSON: Thank you.

NOTE: This hearing is adjourned.
CERTIFICATE OF COURT REPORTER

I, Sandra G. Spinner, hereby certify that having first been duly sworn, I was the Court Reporter at the meeting of the Virginia Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the foregoing transcript is a true and accurate record of the proceedings herein.

Given under my hand this 31st day of March, 2014.

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SANDRA G. SPINNER
COURT REPORTER