



State of New Jersey

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OAL Docket No. RAC 01592-20
Agency Ref. No. NJRC-1-H-20-FR

TED SULESKI,

Petitioner,

v.

Final Decision

NEW JERSEY RACING COMMISSION,

Respondent.

An investigation was commenced after New Jersey Racing Commission investigators received information that horses were being shipped from an unlicensed facility to Freehold Raceway on race day. Initial Decision at 11. On Wednesday, November 20, 2019, the horse “Dalton Did It,” trained by Ted Suleski (“Petitioner”), had been entered to race at Freehold on Saturday, November 23, 2019. *Id.* at 10-11.

On November 23, 2019, the Commission investigators traveled to Ketcham Farms (The Ridge), an unlicensed horse farm, set up surveillance and observed a truck and trailer exit the farm. *Id.* at 11. The investigators followed the truck and trailer, and observed it enter Freehold Raceway where “Dalton Did It” was offloaded from the trailer and entry into the track for racing was attempted. *Ibid.* Frank Kero and Marlene Kraemer, the occupants of the truck, were questioned by the investigators, and told the investigators that “Dalton Did It” had been shipped from White Birch, a licensed facility. *Ibid.* The Commission Investigators told the occupants they were not being truthful. *Ibid.* Kero and Kraemer then admitted that they had shipped the horse from The Ridge. *Id.* at 3-4. The investigators informed the Board of Judges and, as a result, “Dalton Did it” was scratched. *Id.* at 4, 11.

The Board of Judges conducted a hearing and determined that Petitioner violated N.J.A.C. 13:71-1.19, N.J.A.C. 13:71-1.20, N.J.A.C. 13:71-2.2, N.J.A.C. 13:71-7.26(a), N.J.A.C. 13:71-7.26(d), N.J.A.C. 13:71-26.4, and N.J.A.C. 13:71-26.7. The judges imposed a 15-day suspension and a \$500 fine. See Ruling No. 20FRE8 (Initial Decision, Exhibit R-3).



Petitioner appealed and the matter was transmitted to the Office of Administrative Law as a contested case. On June 7, 2024 the Administrative Law Judge ("ALJ") issued an Initial Decision affirming the findings that Petitioner violated N.J.A.C. 13:71-7.26(a) and N.J.A.C. 13:71-7.26(d), and the penalties imposed by the judges. Initial Decision at 16-17.

The evidence submitted to the ALJ, which included Ruling No. 20FRE8 (Exhibit R-3), and the testimony of Presiding Judge Tom Salerno, made clear that the judges imposed a 15-day suspension and a \$500 fine based upon the undisputed fact that the horse was stabled at an unlicensed facility after it had been entered to race at Freehold Raceway. Initial Decision at 7, 11, 17.

The Initial Decision affirmed the penalties imposed by the judges for violations of N.J.A.C. 13:71-7.26(a) and N.J.A.C. 13:71-7.26(d). However, as to the judges' finding that Petitioner's actions also violated N.J.A.C. 13:71-1.19, the ALJ determined that the regulation "provide[s] for the authority of the stewards [judges] to impose fines and/or other penalties as appropriate. The Petitioner could not violate [it]." Initial Decision at 11, n.6.

N.J.A.C. 13:71-1.19 states, "The steward and the Board of Judges may fine, suspend or rule off any person who, in their opinion has acted to the detriment of racing or violated the rules." It is undisputed that the Initial Decision found Petitioner to have violated rules N.J.A.C. 13:71-7.26(a) and N.J.A.C. 13:71-7.26(d). See Initial Decision at 16-17.

The Commission adopts the ALJ's findings of fact, conclusions, and the imposed penalty, with the following modification: the Commission finds that Petitioner violated N.J.A.C. 13:71-1.19 by violating Commission rules N.J.A.C. 13:71-7.26(a) and N.J.A.C. 13:71-7.26(d), and that the violation of such rules by Petitioner is to the detriment of racing. It is noted that the Commission has consistently interpreted N.J.A.C. 13:71-1.19 as authorizing the judges to impose penalties (fines, suspensions or ruling off) for conduct they view as detrimental to the sport.

NEW JERSEY RACING COMMISSION

By: 

Tom Salerno, Assistant Director

Dated: August 9, 2024