

KENTUCKY HORSE RACING COMMISSION

June 15, 2016

SPECIAL MEETING AGENDA

**Location: United States Dressage Federation
(Located at the Kentucky Horse Park)
4051 Iron Works Pkwy, Lexington, KY 40511
Lexington, KY 40511**

Time: 1:30 pm

I. Swearing in of New Commission Members

II. Call to Order and Roll Call

III. New Business

- 1. Consideration of Mr. Utabek Umarov's petition to overrule the Executive Director's denial of Mr. Umarov's request for stay of the Stewards Rulings pending action on appeal. (pgs. 1-19)**

IV. Executive Session

V. Adjournment

MATTHEW G. BEVIN
GOVERNOR



DAVID A. DICKERSON
SECRETARY

PUBLIC PROTECTION CABINET

KENTUCKY HORSE RACING COMMISSION

MARC A. GUILFOIL, EXECUTIVE DIRECTOR
4063 IRON WORKS PKWY, BLDG. B
LEXINGTON, KENTUCKY 40511
TELEPHONE: (859) 246-2040 FAX: (859) 246-2039
WEB SITE: [HTTP://KHRC.KY.GOV](http://khrc.ky.gov)

STEWARDS RULING

Ruling number: 16-0043

Track: Churchill Downs

Date: May 3, 2016

Owner/Trainer: Otabek Umarov (D.O.B. 5/29/1973)

Otabek Umarov is hereby suspended by the Board of Stewards for having been formally ejected and excluded from Churchill Downs on May 2, 2016. During his suspension Mr. Umarov is denied the privileges of all facilities under the jurisdiction of the Kentucky Horse Racing Commission.

810 KAR 1:025 Section 14 (h)

BY ORDER OF THE STEWARDS

Lydia L. Leigh
Brooks A. Kieraff III
Brian L. Boyd

Kentucky
UNBROKEN SPIRIT
EQUAL OPPORTUNITY M/F/D

ARCI



PUBLIC PROTECTION CABINET

FRANKLIN S. KLING, JR.
CHAIRMAN

KENTUCKY HORSE RACING COMMISSION

MARC A. GUILFOIL, EXECUTIVE DIRECTOR
4063 IRONWORKS PKWY, BLDG. B
LEXINGTON, KENTUCKY 40511

TELEPHONE: (859) 246-2040 FAX: (859) 246-2039
WEB SITE: HTTP://KHRC.KY.GOV

Ruling Number: 16-0049

May 27, 2016

Owner/Trainer: Otabek Umarov (D.O.B.5/29/1973)

Track: Churchill Downs

After a formal hearing before the Board of Stewards, the Owner/Trainer license issued to Otabek Umarov is hereby **REVOKED** for a period of **TEN (10) YEARS** as of May 27, 2016 and he is fined **TEN THOUSAND (\$10,000) DOLLARS** for the following violation of 810 KAR 1:110 Section (3), subsection (5). This penalty is imposed pursuant to **810 KAR 1:110 Section 8, subsections (1)(a) and (1)(b).**

810 KAR 1:110 Section 3, subsection (5); The licensee prevented an out of competition sample from being collected from the horse "Looks to Spare" on association grounds at Churchill Downs on April 30, 2016, further aggravated by removing the horse from the grounds to an undisclosed location after notification that the horse had been selected for sampling. The Board of Stewards consider the following violations as aggravating circumstances related to the above-described penalty:

810 KAR 1:025 Section 14, subsection (v); The licensee failed to answer truthfully questions asked by the commission or its representatives pertaining to a racing matter.

810 KAR 1:025 Section 14, subsection (x) 1.; The licensee engaged in conduct of a disorderly nature by failing to obey the stewards' orders that are expressly authorized by the administrative regulations of the commission.

810 KAR 1:025 Section 14, Subsection (q); The licensee has engaged in conduct that is against the best interests of horse racing, or compromises the integrity of operations at a track, training facility, or satellite facility.

For each of the following violations, the license of Mr. Umarov is **REVOKED** for **ONE (1) YEAR**, to run concurrent with each other and with the above-described 10 year revocation:

810 KAR 1:018 Section 3, subsection (3) and Section 14, subsection 1 (1)(2); The licensee, being a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission, was in possession of hypodermic needles, syringes and injectable medications on association grounds at Churchill Downs on April 30, 2016.

810 KAR 1:025 Section 14, subsection (g); The licensee has made a material misrepresentation, falsification, or omission in an application for a license.

During the revocation, Mr. Umarov is denied the privileges of all facilities under the jurisdiction of the Kentucky Horse Racing Commission. Entry of all horses owned or trained by Mr. Umarov is denied pending transfers to persons acceptable to the stewards. Further, Mr. Umarov is required to appear in person before the License Review Committee of the Kentucky Horse Racing Commission for any future license consideration pursuant to **810 KAR 1:110 Section 8, subsection (1)(d).**

BY ORDER OF THE STEWARDS



Brooks A. Brummett
Richard A. Leigh
Brian L. Bell

KENTUCKY HORSE RACING COMMISSION
4063 Ironworks Parkway, Building B
Lexington, Kentucky 40511
Phone: (859) 246-2040 Fax: (859) 246-2039
<http://khrc.ky.gov>

REQUEST FOR STAY PENDING APPEAL

All requested information must be provided for request to be effective

Date: 6-9-16

To: ~~John F. Ward, Executive Director~~ Franklin S. Kline, JR

From: Dubek Unarov



Pursuant to KRS 230.320, the undersigned hereby requests a stay of penalty pending appeal. The stay must be filed within ten (10) calendar days of the issuance of the Stewards' Ruling.

- Date of Issuance of Stewards' Ruling: 5/31/16, 5/27/16, 3 Denial of Stay -> 6/18/16
- Penalty: 10 year license revocation + 1 year license suspension, dual
- Period of time for which stay requested: Until final adjudication.
- Justification for the stay (attach additional page(s) if necessary): See attached

*of course
they
suggested*

Dubek Unarov / Attorney Justin Fowler
Print name

Dubek Unarov
Signature

Justin Brian Todd, LLC, Attorney Justin Fowler
460 W. Market Street, Suite 3200
Louisville, KY 40202
Address

justin@jbtlaw.com
E-mail

502-568-0356
Telephone



PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
MARC A. GUILFOIL, EXECUTIVE DIRECTOR

Ruling Numbers: 16-0043 & 16-0049

May 3, 2016 & May 27, 2016

Owner/Trainer: Otabek Umarov (D.O.B. 5/29/1973)

Track: Churchill Downs

PETITION FOR STAY

Pursuant to KRS 230.320, Otabek Umarov petitions the racing commission to overrule the executive director's denial of his request for stay. As justification for his request for stay, Otabek Umarov states as follows:

On May 27, 2016, the Board of Stewards revoked Mr. Umarov's owner/trainer license for ten years. See May 27, 2016 Order/Ruling attached as **Exhibit A**. This revocation is believed to be the first of its kind handed down by the Kentucky Racing Commission for an alleged out-of-competition violation since the rules were approved in 2010 and the length of the revocation appears to be the maximum provided for under the regulations. This is a complicated and apparently first-of-its kind case. Mr. Umarov should not be entirely deprived of his ability to earn a living until the case is finally adjudicated.

Mr. Umarov, who is not a fluent English speaker, is a trainer of limited means who has had less than 100 career starters since 2014. The Board of Stewards, **without proper notice or hearing**, suspended him on May 3, 2016, improperly depriving him of due process and his right to earn a living. See Order attached as **Exhibit B**. Mr. Umarov is currently appealing both the May 3, 2016 and May 27, 2016 Board of Stewards' Ruling/Orders for multiple reasons. See Notice of Appeals attached as **Exhibit C**. On June 8, 2016, Executive Director Marc Guilfoil

denied the stay, only because “the egregious nature of the violations set forth within the aforesaid Stewards’ Rulings.” See Letter attached as **Exhibit D**.

Multiple substantial questions have been presented to this Commission regarding whether Umarov’s May 27, 2016 revocation is proper and whether he will be denied due process should the revocation be enforced. This is believed to be the first time the Board of Stewards has taken upon itself to mete out any penalty related to out-of-commission testing and it has decided to invoke the maximum length of revocation. The Board of Stewards applied the maximum penalty despite the following issues:

- Mr. Umarov is not a fluent English speaker. The Board of Stewards understand during their hearing that “he speaks pretty good English but doesn’t understand totally.” The guarantees of due process and equal protection afforded by the Kentucky and United States Constitution apply to English speakers and non-English speakers alike. The Board of Stewards cannot hold a hearing in a language he does not understand. *See e.g. Perez-Lastor v. I.N.S.*, 208 F.3d 773, 778 (9th Cir. 2000) (“It is long-settled that a competent translation is fundamental to a full and fair hearing.”). Gravity of charges does not overrule Mr. Umarov’s constitutional rights.
- Dr. Nick Smith, who did not testify at the Stewards’ Hearing, allegedly approached Mr. Umarov on Saturday, April 30, 2016. The person that approached Mr. Umarov presented no credentials and no written order or notice that out-of-competition testing was to take place. Without proper notice of intent to collect a specimen or credentials, Mr. Umarov cannot be required to let unknown persons stick needles in his horse. Declining to allow a random person, appearing unannounced at your barn, without credentials or a written order from the KRC or stewards, to stick needles in one’s injured horse until speaking with the Stewards is entirely reasonable.
- Mr. Umarov did not violate the out-of-competition testing regulations. 810 KAR 1:110(4)(a-c) states that:

(4) An owner, trainer, or any authorized designee shall fully cooperate with the commission veterinarian, or his or her designee, by:

(a) Locating and identifying any horse designated for out-of-competition testing;

(b) Making the horse available for the collection of the specimen at an agreed upon stall or other safe location; and

(c) Observing the collection of the specimen.

Mr. Umarov complied with the regulation. The Board of Stewards seems to take great offense to Mr. Umarov allegedly removing Looks to Spare from Churchill grounds following a seemingly random person attempting to stick a needle in his horse. After speaking to the Stewards, Mr. Umarov stated he would make the horse available, but in Paducah where the horse had been taken. He pled with them to speak with the person who removed the horse from the grounds to set up the specimen collection but *the stewards* declined. The regulations say nothing about moving a horse and in fact provide the right to have the horse tested in “an agreed upon stall or other safe location.” The Stewards and KRC did not comply with the regulation.

- The search of Mr. Umarov’s vehicle and property violated his constitutional rights.
- Mr. Umarvo did not make a material misrepresentation, falsification, or omission in application for a license. He reported his prior suspension on his license.
- There are potential issues of bias, conflict of interest, and fraud involved with the Stewards’ hearing.
- The plethora of other issues identified in the Notice of Appeal all of which must be determined before robbing Mr. Umarov of his livelihood.

The Stewards’ Ruling provides absolutely no factual basis to support its finding of violations. If the stay is not granted, Mr. Umarov will suffer an irreparable injury. An “irreparable injury” is an injury for which no adequate remedy exists at law. *Wallace v. Jackson*, 3 S.W.2d 766, 767 (Ky. 1928). Thus, an irreparable injury is one not compensable in damages. *Devou v. Pence*, 106 S.W. 874, 874-75 (Ky. 1908). Even where an action for damages is available, however, an injury is still irreparable where “for reasons beyond his control, the

complainant cannot avail himself of it . . .” *Friedburg, Inc. v. McClay*, 191 S.W. 300, 302 (Ky. 1917). Consequently, “an injury is regarded as irreparable if ‘there exists no certain pecuniary standard for the measurement of damages.’” *United Carbon Co. v. Ramsay*, 350 S.W.2d 454,456 (Ky. 1961).

In this case, the injury to Umarov would be irreparable if the Commission prohibits him and his horses from participating in upcoming races without first affording him due process and final adjudication. Umarov would lose his chance to participate in a races and perhaps win large purses. His reputation would be unduly damaged. He would also be prevented from gaining the career opportunities and recognition associated with training and having his horses run in (and possibly win) races. Perhaps even more importantly, he would be forever denied the statutory due process available to him under KRS 230.320 because his suspension and revocation will have been served before he has the opportunity to exhaust his administrative remedies.

Against the immediate and irreparable harm that Umarov stands to suffer from the Commission’s conduct, the Court must weigh the absence of any commensurate harm to the legitimate interests of the Commission. *Maupin supra*, 575 S.W.2d at 699. This “balance of harm” clearly weighs in favor of issuing the stay. As explained above, the potential harms to Umarov are significant. However, there would be little or no harm to the Commission in permitting Umarov to exhaust his administrative remedies. If the revocation is eventually affirmed, Umarov can still serve the 10-year revocation. Also, the Commission certainly will not be deprived of any monetary or other relief if Umarov is permitted to exhaust his administrative remedies before serving his suspension. Moreover, the requested relief should be granted because it “merely preserve[s] the status quo” by permitting Umarov to continue racing until his

administrative remedies are exhausted. *See id.* Absolutely no harm will result to the Commission if the stay is lifted and none has ever been identified.

The stay should be issued as to both Orders/Rulings until at the very least Mr. Umarov has been able to exhaust his administrative remedies. The Commission should not deprive Mr. Umarov of his livelihood prior to final adjudication of his appeal.

Respectfully submitted,

FROST BROWN TODD LLC



Joel B. Turner
Justin S. Fowles
FROST BROWN TODD LLC
400 West Market Street, 32nd Floor
Louisville, Kentucky 40202-3363
(502) 589-5400
(502) 581-1087 (fax)
jturner@fbtlaw.com
jfowles@fbtlaw.com
Counsel for Appellant Otabek Umarov

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was faxed prior to 4:30 p.m. and mailed via U.S. Mail, first class on the 9th day of June 2016, to the following:

Kentucky Horse Racing Commission
Attn: Franklin S. Kling, Jr., Chairman of Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Fax: (859) 246-2039



Counsel for Appellant Otabek Umarov

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MATTHEW G. BEVIN
GOVERNOR



DAVID A. DICKERSON
SECRETARY

PUBLIC PROTECTION CABINET

FRANKLIN S. KLING, JR.
CHAIRMAN

KENTUCKY HORSE RACING COMMISSION

MARC A. GUILFOIL, EXECUTIVE DIRECTOR
4063 IRONWORKS PKWY, BLDG. B
LEXINGTON, KENTUCKY 40511

TELEPHONE: (859) 246-2040 FAX: (859) 246-2039
WEB SITE: HTTP://KHRC.KY.GOV

Ruling Number: 16-0049

May 27, 2016

Owner/Trainer: Otabek Umarov (D.O.B.5/29/1973)

Track: Churchill Downs

After a formal hearing before the Board of Stewards, the Owner/Trainer license issued to Otabek Umarov is hereby REVOKED for a period of TEN (10) YEARS as of May 27, 2016 and he is fined TEN THOUSAND (\$10,000) DOLLARS for the following violation of 810 KAR 1:110 Section (3), subsection (5). This penalty is imposed pursuant to 810 KAR 1:110 Section 8, subsections (1)(a) and (1)(b).

810 KAR 1:110 Section 3, subsection (5); The licensee prevented an out of competition sample from being collected from the horse "Looks to Spare" on association grounds at Churchill Downs on April 30, 2016, further aggravated by removing the horse from the grounds to an undisclosed location after notification that the horse had been selected for sampling. The Board of Stewards consider the following violations as aggravating circumstances related to the above-described penalty:

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For each of the following violations, the license of Mr. Umarov is REVOKED for ONE (1) YEAR, to run concurrent with each other and with the above-described 10 year revocation:

810 KAR 1:018 Section 3, subsection (3) and Section 14, subsection 1 (1)(2); The licensee, being a person other than a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission, was in possession of hypodermic needles, syringes and injectable medications on association grounds at Churchill Downs on April 30, 2016.

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During the revocation, Mr. Umarov is denied the privileges of all facilities under the jurisdiction of the Kentucky Horse Racing Commission. Entry of all horses owned or trained by Mr. Umarov is denied pending transfers to persons acceptable to the stewards. Further, Mr. Umarov is required to appear in person before the License Review Committee of the Kentucky Horse Racing Commission for any future license consideration pursuant to 810 KAR 1:110 Section 8, subsection (1)(d).

BY ORDER OF THE STEWARDS



Franklin S. Kling, Jr.
David A. Dickerson
Mark A. Guilfoil

MATTHEW G. BEVIN
GOVERNOR



DAVID A. DICKERSON
SECRETARY

PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
MARC A. GUILFOIL, EXECUTIVE DIRECTOR
4063 IRON WORKS PKWY, BLDG. B
LEXINGTON, KENTUCKY 40511
TELEPHONE: (859) 246-2040 FAX: (859) 246-2038
WEB SITE: HTTP://KHRC.KY.GOV
STEWARDS RULING

Ruling number: 16-0043

Track: Churchill Downs

Date: May 3, 2016

Owner/Trainer: Otabek Umarov (D.O.B. 5/29/1973)

Otabek Umarov is hereby suspended by the Board of Stewards for having been formally ejected and excluded from Churchill Downs on May 2, 2016. During his suspension Mr. Umarov is denied the privileges of all facilities under the jurisdiction of the Kentucky Horse Racing Commission.

810 KAR 1:025 Section 14 (h)

BY ORDER OF THE STEWARDS

Richard L. Lynch
Brooks A. Benaff III
Brian L. Bell

Kentucky
UNBRIDLED SPIRIT
EQUAL OPPORTUNITY M/F/D

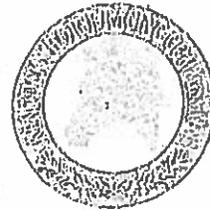


KENTUCKY HORSE RACING COMMISSION
Phone: (859) 246-2040 Fax: (859) 246-2039
<http://khrc.ky.gov>

NOTICE OF APPEAL

IN ORDER FOR AN APPEAL TO BE DEEMED EFFECTIVE AND FILED, THE NOTICE OF APPEAL MUST BE COMPLETED, SIGNED, DATED AND FAXED TO THE KENTUCKY HORSE RACING COMMISSION OFFICE, ATTENTION: MARGI WINTZ. ALL APPEALS MUST BE RECEIVED DURING REGULAR BUSINESS HOURS, MONDAY-FRIDAY FROM 8:00 A.M. TO 4:30 P.M. ANY APPEAL RECEIVED AFTER 4:30 P.M. ON A REGULAR BUSINESS DAY, OR ON A WEEKEND OR STATE HOLIDAY, WILL BE DEEMED FILED THE NEXT REGULAR BUSINESS DAY.

Name: Otabek Umarov
Address: ATTN: Justin Fowles, Frost Brown Todd LLC
400 W. MARKET ST., Louisville, Ky 40202
Telephone #: 502-568-0356
E-mail: JFowles@fbt.law.com
Track: Churchill Downs
Date of Infraction: Date Alleged - 4-30-16



I hereby appeal the Order/Ruling of Board of Stewards
(Steward, Judge or Other Official)

Issued on May 27, 2016 regarding revocation of ownership/
(Date of Order/Ruling) (Decision being appealed)

trainer license for the following reasons (attach additional page(s) if necessary):

See Attached

I request a hearing before the Kentucky Horse Racing Commission (check one) Yes No

Otabek Umarov 400 W. Market St., 50202 Louisville Ky 40202
(Printed Name) (Address) (City) (State) (ZIP)

Otabek Umarov by J. Fowles 6-3-16
(Signature) (Date)



PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
MARC A. GUILFOIL, EXECUTIVE DIRECTOR

Ruling Number: 16-0049

May 27, 2016

Owner/Trainer: Otabek Umarov (D.O.B. 5/29/1973)

Track: Churchill Downs

NOTICE OF APPEAL

Notice is hereby given that Owner/Trainer Otabek Umarov hereby appeals to the Order/Ruling of the Board of Stewards entered in this matter on May 27, 2016. A copy of the May 27, 2016 Order is attached hereto as Exhibit A.

The Appellant Otabek Umarov appeals this Order/Ruling for the following reasons:

1. The Order/Ruling of the Board of Stewards does not comply with applicable law or regulations;
2. The Order/Ruling of the Board of Stewards constitute an abuse of discretion;
3. The regulations issued constitute an abuse of discretion;
4. The Order/Ruling is not in accordance with law or applicable regulations;
5. The Order/Ruling of the Board of Stewards goes against the evidence;
6. The Order/Ruling of the Board of Stewards was arbitrary and capricious and an abuse of discretion;
7. The application of the regulations by the Board of Stewards is arbitrary and capricious;
8. The regulations upon which the Board of Stewards relied in their Order/Ruling are arbitrary and capricious and improperly vague so as to be arbitrary and capricious;

9. Mr. Umarov was not afforded his due process rights;
10. The regulations/law applied to Mr. Umarov violate his equal protection rights;
11. The Board of Stewards hearing violated Mr. Umarov's due process and equal protection rights;
12. The Board of Stewards did not examine relevant data or facts;
13. The Board of Stewards did not articulate a satisfactory explanation that properly connects facts/conclusions to their conclusions;
14. The Board of Stewards' conclusion is counter to the evidence;
15. Mr. Umarov was not provided with proper notice of the out-of-competition testing;
16. The attempted out-of-performance testing did not comply with the regulations, proper testing procedures, or the requirements of due process;
17. The attempted out-of-performance testing was not to be performed by a qualified individual or someone who provided proper credentials;
18. The Board of Stewards' Ruling may have been based on bias, a conflict of interest, or fraud;
19. The penalty imposed is extreme and without rationale;
20. The Board of Stewards' Ruling/Order constitutes an improper delegation of authority;
21. Any search/seizure was improper and violated Mr. Umarov's rights; and
22. Mr. Umarov complied with the regulations and law.

Respectfully submitted,

FROST BROWN TODD LLC



Joel B. Turner
Justin S. Fowles
FROST BROWN TODD LLC
400 West Market Street, 32nd Floor
Louisville, Kentucky 40202-3363
(502) 589-5400
(502) 581-1087 (fax)
jturner@fbtlaw.com
jfowles@fbtlaw.com
Counsel for Appellant Otabek Umarov

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was faxed prior to 4:30 p.m. and mailed via U.S. Mail, first class on the 3rd day of June 2016, to the following:

Kentucky Horse Racing Commission Office
Attn: Margi Wintz
Fax (859) 246-2039

Kentucky Horse Racing Commission
Attn: Margi Wintz
4063 Iron Works Parkway, Building B
Lexington, KY 40511

Kentucky Horse Racing Commission
Attn: Marc Guilfoil, Executive Director
Fax (859) 246-2039

Kentucky Horse Racing Commission
Attn: Marc Guilfoil, Executive Director
4063 Iron Works Parkway, Building B
Lexington, KY 40511



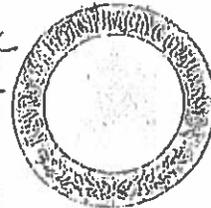
Counsel for Appellant Otabek Umarov

KENTUCKY HORSE RACING COMMISSION
Phone: (859) 246-2040 Fax: (859) 246-2039
<http://khrc.ky.gov>

NOTICE OF APPEAL

IN ORDER FOR AN APPEAL TO BE DEEMED EFFECTIVE AND FILED, THE NOTICE OF APPEAL MUST BE COMPLETED, SIGNED, DATED AND FAXED TO THE KENTUCKY HORSE RACING COMMISSION OFFICE, ATTENTION: MARGI WINTZ. ALL APPEALS MUST BE RECEIVED DURING REGULAR BUSINESS HOURS, MONDAY-FRIDAY FROM 8:00 A.M. TO 4:30 P.M. ANY APPEAL RECEIVED AFTER 4:30 P.M. ON A REGULAR BUSINESS DAY, OR ON A WEEKEND OR STATE HOLIDAY, WILL BE DEEMED FILED THE NEXT REGULAR BUSINESS DAY.

Name: Otabek Umarov
Address: ATTN: Justin Fowles, Frost Brown Todd LLC
400 W. MARKET STREET, Louisville, Ky 40202
Telephone #: 502-5680356
E-mail: JFowles@fbtlaw.com
Track: Churchill Downs
Date of Infraction: DATE ALLEGED -



I hereby appeal the Order/Ruling of Board of Stewards
(Steward, Judge or Other Official)

Issued on MAY 3, 2016 regarding Suspension of privileges
(Date of Order/Ruling) (Decision being appealed)

_____ for the following reasons (attach additional page(s) if necessary):

see attached

I request a hearing before the Kentucky Horse Racing Commission (check one) Yes No

Otabek UMAROV 400 W. MARKET ST, Suite 3200 Louisville Ky 40202
(Printed Name) (Address) (City) (State) (ZIP)

Justin Fowles, authorized signatory 6-3-14
(Signature) (Date)



PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
MARC A. GUILFOIL, EXECUTIVE DIRECTOR

Ruling Number: 16-0043

May 3, 2016

Owner/Trainer: Otabek Umarov (D.O.B. 5/29/1973)

Track: Churchill Downs

NOTICE OF APPEAL

Notice is hereby given that Owner/Trainer Otabek Umarov hereby appeals to the Order/Ruling of the Board of Stewards entered in this matter on May 3, 2016. A copy of the May 3, 2016 Order is attached hereto as Exhibit A. Mr. Umarov was not provided with required notice of this Order/Ruling or a required hearing prior to issuance of this Order/Ruling and only learned of this suspension on June 2, 2016 after reviewing the Kentucky Racing Commission's Website. He has attempted to appeal well within 10 days of receiving the Order.

The Appellant Otabek Umarov appeals this Order/Ruling for the following reasons:

1. Mr. Umarov did not receive notice or an opportunity to be heard regarding the May 3, 2016 Order/Ruling;
2. Mr. Umarov did not receive proper notice of the Order/Ruling of the Board of Stewards;
3. The Order/Ruling of the Board of Stewards does not comply with applicable law or regulations;
4. The Order/Ruling of the Board of Stewards constitute an abuse of discretion;
5. The regulations issued constitute an abuse of discretion;
6. The Order/Ruling is not in accordance with law;
7. The Order/Ruling of the Board of Stewards goes against the evidence;

8. The Order/Ruling of the Board of Stewards was arbitrary and capricious;
9. The application of the regulations by the Board of Stewards is arbitrary and capricious;
10. The regulations upon which the Board of Stewards relied in their Order/Ruling are arbitrary and capricious and improperly vague so as to be arbitrary and capricious;
11. Mr. Umarov was not afforded his due process rights;
12. The regulations/law applied to Mr. Umarov violate his equal protection rights;
13. The Board of Stewards did not examine relevant data or facts;
14. The Board of Stewards did not articulate a satisfactory explanation that properly connects facts/conclusions to their conclusions;
15. The Board of Stewards' conclusion is counter to the evidence;
16. Mr. Umarov was not provided with proper notice of the out-of-competition testing;
17. The attempted out-of-performance testing did not comply with the regulations, proper testing procedures, or the requirements of due process;
18. The attempted out-of-performance testing was not to be performed by a qualified individual or someone who provided proper credentials;
19. The Board of Stewards' Ruling/Order may have been based on bias, a conflict of interest, or fraud;
20. The Board of Stewards' Ruling/Order constitutes an improper delegation of authority;
21. The penalty imposed is extreme and without rationale;

22. Any search/seizure was improper and a violation of Mr. Umarov's rights; and
23. Mr. Umarov complied with the regulations and law.

Respectfully submitted,

FROST BROWN TODD LLC



Joe B. Turner
Justin S. Fowles
FROST BROWN TODD LLC
400 West Market Street, 32nd Floor
Louisville, Kentucky 40202-3363
(502) 589-5400
(502) 581-1087 (fax)
jturner@fbtlaw.com
jfowles@fbtlaw.com
Counsel for Appellant Otabek Umarov

CERTIFICATE OF SERVICE

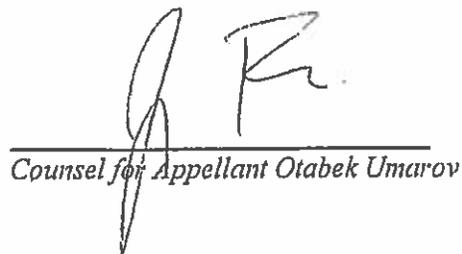
It is hereby certified that a true and correct copy of the foregoing was faxed prior to 4:30 p.m. and mailed via U.S. Mail, first class on the 3rd day of June 2016, to the following:

Kentucky Horse Racing Commission Office
Attn: Margi Wintz
Fax (859) 246-2039

Kentucky Horse Racing Commission
Attn: Margi Wintz
4063 Iron Works Parkway, Building B
Lexington, KY 40511

Kentucky Horse Racing Commission
Attn: Marc Guilfoil, Executive Director
Fax (859) 246-2039

Kentucky Horse Racing Commission
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KENTUCKY HORSE RACING COMMISSION

MARC A. GUILFOIL, EXECUTIVE DIRECTOR
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June 8, 2016

VIA ELECTRONIC MAIL AND U.S. MAIL

Joel B. Turner, Esq.
Justin S. Fowles, Esq.
Frost Brown Todd LLC
400 West Market Street, 32nd Floor
Louisville, KY 40202-3363

Re: Otabek Umarov
Requests for Stay Pending Appeals of Stewards' Ruling Nos. 16-0043 and
16-0049
Otabek Umarov v. Kentucky Horse Racing Commission
Administrative Action No. KHRC-OR-002

Dear Messrs. Turner and Fowles:

This written decision of the Executive Director of the Kentucky Horse Racing Commission (KHRC) is addressed to both of you as legal counsel for Mr. Umarov in the above-referenced pending administrative appeals.

In regard to Mr. Umarov's Requests for Stay Pending Appeal of Stewards' Rulings No. 16-0043 and No. 16-0049, received on June 3, 2016, both of the applications for stay are hereby denied due to the egregious nature of the violations set forth within the aforesaid Stewards' Rulings. This denial of the Requests for Stay Pending Appeal is made pursuant to KRS 230.320(d).

Sincerely,


Marc A. Guilfoil
Executive Director

