

CONFIDENTIAL

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Lewandowski

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Origin of Case

In November 2017, this Office received a complaint from thoroughbred horse owner, [REDACTED], regarding purse earnings being held by NYS Gaming Commission (“Commission”) Steward, Stephen Lewandowski, because of an alleged financial dispute between [REDACTED] and trainer [REDACTED].

Nature of Allegation

Specifically, it was alleged that on August 4, 2017, Lewandowski held \$5,000 of [REDACTED] purse for [REDACTED] placing first. [REDACTED] did not believe that Lewandowski had the authority to withhold this money. Further, [REDACTED] alleged that when he complained to [REDACTED] about Lewandowski’s actions, as well as about [REDACTED] mistreatment of horses, [REDACTED] failed to conduct an investigation.

Investigative Action

This Office reviewed records provided by the complainant, as well as records from the Commission. Interviews were also conducted, including, but not limited to, [REDACTED] and [REDACTED]; [REDACTED]; [REDACTED]; Trainer [REDACTED]; and Lewandowski.

Statutes, Rules, and Regulations

Racing, Pari-Mutuel Wagering and Breeding Law (“PML”) Section 218 – Stewards at race meetings

Section 218 requires that three stewards supervise each thoroughbred race – one from the Jockey Club, one from the track, and one from the Commission. The stewards’ powers and duties are governed by the Commission’s rules.

PML Section 220(2) – Licenses for participants and employees at race meetings

A criterion for consideration for the granting of a racing license is the “financial responsibility, experience, character, and general fitness of the applicant.” Specifically, the Commission considers whether “the participation of such person will be consistent with the public interests of racing generally.” If the Commission finds that the applicant fails to meet any of said financial conditions, it shall not grant the applicant a license.

Title 9 New York Codes, Rules, and Regulations (“NYCRR”) Section 4022.12 – Power to Exclude, Suspend

Part 4022 addresses the authority and role of a track steward. Section 4022.12 specifically pertains to the authority of a steward to exclude and suspend and states:

[i]f the steward of the commission shall find that any person has violated any of the sections of this Subchapter or has been involved in any action detrimental to the best interests of racing generally, such steward may exclude such person from the grounds, or any portion of such grounds, of the association conducting the meeting for a period not exceeding 60 days, or such steward may suspend the license of such person from participating in racing in this State, for a period not exceeding 60 days, or both such exclusion and suspension; and if such steward considers necessary any further action, such steward shall promptly refer the matter to the commission. Such steward, in the exercise of his or her power under this section, shall consult with the steward of the racing association and the steward of The Jockey Club, affording them a reasonable opportunity to make recommendations relative to the action determined by the commission's steward.

Title 9 NYCRR Section 4002.19 – Financial responsibility

In general, Part 4002 of the NYCRR sets forth rules and regulations as it pertains to licensing individuals who wish to participate in racing. This provision considers the financial suitability of each licensing applicant. Specifically, it states “any participant who shall accumulate unpaid obligations, default in obligations, issue drafts or checks that are dishonored or payment refused, or otherwise display financial irresponsibility reflecting on his or her experience, character or general fitness, shall be subject to refusal, suspension, or revocation of license.” It should also be noted that this is the only provision that addresses the issue of financial suitability of a licensing applicant and/or licensee.

9 NYCRR Section 4022.21 - Discretionary powers

The steward has the discretion to take action as they deem appropriate if there are no applicable rules or regulations. Specifically, “[i]f any case occurs that is not, or that is alleged not to be provided for by this Article, such case shall be determined by the stewards in such manner as they think just and conformable to the usages of the turf; and the stewards may impose such punishment and take other action in the matter as they may deem to be within the intent of this Article, including reference to the commission.”

9 NYCRR Section 4022.22 – Limitation on punitive powers

The stewards' punitive powers are limited to those listed in Sections 4022.12 through 4022.15. The punitive powers of the stewards provided for in any section of this Article are limited to the powers provided for in sections 4022.12 (Power to exclude, suspend); 4022.13 (Imposition of civil penalty); 4022.14 (Appeal from penalty); and 4022.15 (Action by the commission).

Handling of Financial Disputes

According to Commission staff, if a financial dispute between licensed parties, such as an owner and a trainer, was brought to their attention they would attempt to mediate in an effort to help settle the dispute. However, they would not withhold purse monies absent a civil judgment, although one steward indicated that he would occasionally prevent the entry of horses into races

until the financial dispute was resolved. Furthermore, if a civil judgment was rendered, the stewards would provide a copy of the judgment to the Bureau of Licensing for its determination whether the individual is suitable to be licensed. Some staff also recalled that the [REDACTED], General Counsel for then NYS Racing and Wagering Board ("RWB") directed RWB officials not to intervene in financial disputes absent proof of a civil judgement and that such proof should be provided to Licensing for review. This Office, however, was unable to locate any record of a communication between Counsel and racing officials regarding the handling of financial disputes.

[REDACTED], NYRA's [REDACTED], advised this Office all that is required to initiate a hold and/or a release of purse money is an email from a steward. [REDACTED] further advised that such directives from a steward occur infrequently. As such, [REDACTED] did not have a formal process to document such requests.

Key Interviews

[REDACTED] is a licensed thoroughbred owner. He stated that in February 2017, he entered into a verbal agreement with [REDACTED] to train his horse [REDACTED]. He asserted that from the outset he advised [REDACTED] that he did not want his horse to be treated with any medication. [REDACTED] claimed that [REDACTED] had never bled, but shortly after she was sent to [REDACTED] he was informed that the horse bled after her morning workout. The following week, while visiting [REDACTED] barn, he observed his horse to be sullen and unresponsive. Over the course of the next few weeks, the demeanor of his horse continued to decline. [REDACTED] expressed concerns to [REDACTED] about his horse's appearance and noted that he and his wife observed on two different occasions other horses receiving injections and/or being muzzled by [REDACTED] employees. [REDACTED] denied giving his horse any medication and assured [REDACTED] that [REDACTED] was doing fine.

On March 3, 2017, [REDACTED] finished fourth in her first race, performing poorly in the last 1/8th of a mile. [REDACTED] stated that after the race, [REDACTED] advised him that the horse had bled and both agreed to observe the horse for the next few days before deciding what to do. Subsequently, [REDACTED] proposed a course of treatment which included Clenbuterol and [REDACTED] declined as he did not wish to have his horse medicated. Thereafter, [REDACTED] told [REDACTED] that [REDACTED] had stepped wrong and fractured her knee and was shown an x-ray. [REDACTED] suggested the horse receive an injection for pain relief and recommended that the horse be "dropped down" to a claiming race. [REDACTED] stated that he instructed [REDACTED] not to take any action and to send the x-ray to another veterinarian, [REDACTED], for a second opinion.

Reportedly, [REDACTED] did not see a fracture in the x-ray. The horse was then sent to [REDACTED] for further evaluation and she determined that [REDACTED] had a chronic/severe lung infection that would require a 90-day rest period. [REDACTED] also informed [REDACTED] that his horse may have been medicated because an orange colored mucus was visible in her throat and lungs.

Thereafter, [REDACTED] received veterinary invoices from [REDACTED] which listed dozens of vitamins and medications administered to his horse which he asserted he was unaware of and did not approve. According to [REDACTED] he had multiple conversations with [REDACTED] regarding invoices and the care his horse received. He stated that he informed [REDACTED] that he felt deceived and would not pay him for the mistreatment and abuse endured by [REDACTED]. [REDACTED] also told [REDACTED] to sue him and let a judge decide if payment should be made.

In May 2017, another horse belonging to [REDACTED] [REDACTED], was initially denied entry into a race by Lewandowski. [REDACTED], the horse's trainer, was able to convince Lewandowski to reverse his decision after pointing out to Lewandowski that he selectively intervened in disputes. That same day, [REDACTED] called Lewandowski to discuss multiple issues he had with [REDACTED] as well as some of the alleged unethical and illegal activities he observed in [REDACTED] barn. He stated Lewandowski advised him to send a brief written statement and then they would discuss it further (*see* Email dated May 7, 2017, between [REDACTED] and Lewandowski, annexed hereto as Exhibit "1"). [REDACTED] stated that he reiterated his concerns in the email as instructed and left Lewandowski multiple voice and electronic messages, but never received a reply.

In June 2017, Lewandowski attempted to block [REDACTED] from entering a race, but her trainer at that time, [REDACTED], convinced Lewandowski to let the horse race. [REDACTED] informed [REDACTED] of the matter. When [REDACTED] finally spoke with Lewandowski, he was instructed to pay [REDACTED]. Moreover, Lewandowski indicated that he did not think there was any reason for [REDACTED] to be investigated. [REDACTED] informed Lewandowski that he would pay [REDACTED] only if a judge ordered it.

On August 4, 2017, Lewandowski placed a hold on \$5,000 of [REDACTED] winnings in [REDACTED] NYRA account. When [REDACTED] called Lewandowski about the hold, he said that he was again instructed to pay [REDACTED]. [REDACTED] did not have any further communication with Lewandowski and decided to contact the Commission for assistance. [REDACTED] said that he spoke with [REDACTED], several times, but ultimately, [REDACTED] told him that he owed [REDACTED] money and to pay him. [REDACTED] attempted to raise his concerns about Lewandowski and the conduct he observed in [REDACTED] barn, but [REDACTED] informed him that if he wanted those issues investigated, he would have to make another complaint. [REDACTED] stated that he was "in disbelief" over the result of [REDACTED] investigation and felt like he was being extorted.

[REDACTED] is a licensed thoroughbred trainer. He stated that in early 2017, he and [REDACTED] entered into a verbal agreement to train [REDACTED] horse [REDACTED]. At the time, he was aware the horse was being trained by [REDACTED], whom he described as a "very good trainer" and was surprised that [REDACTED] wanted to switch trainers. Nonetheless, he agreed to take on [REDACTED] horse. He recalled that the horse bled immediately upon training and that his veterinarian recommended a course of medication which [REDACTED] approved. Approximately three weeks later, the horse raced finishing fourth and bled again. Thereafter, [REDACTED] stated that he had an x-ray taken which revealed that the horse "had something in her knee," but surgery was not required. He informed [REDACTED] that the horse should either rest or be placed in a "cheap claiming

race.” At that juncture, [REDACTED] asked him to send the horse to [REDACTED] for evaluation, which he did.

[REDACTED] alleged that for the short time he trained the horse (seven to eight weeks), [REDACTED] never paid him and that he is owed close to \$6,000, not including veterinarian fees. The costs incurred included [REDACTED] daily day rate and exercise rider, groom, and hot walker fees.

[REDACTED] stated that he spoke with Lewandowski about his financial dispute with [REDACTED] and indicated that he “needed to get paid.” He claimed he had never sought help from a steward before, but asserted that stewards could withhold purse money in such owner/trainer disputes. [REDACTED] stated he has not pursued any civil remedies against [REDACTED] and that [REDACTED] had indicated he would be sued for allegedly mistreating [REDACTED].¹

It should be noted that the day after this Office interviewed [REDACTED] Lewandowski released the hold placed on [REDACTED] account even though their financial dispute had not yet been resolved.

[REDACTED]

[REDACTED] is a licensed thoroughbred trainer who claimed and trained two horses for [REDACTED] in 2017. One of the horses, [REDACTED], was denied entry into a race by Lewandowski. [REDACTED] was informed by Lewandowski that [REDACTED] had to pay [REDACTED] before [REDACTED] would be allowed to race. Ultimately though, [REDACTED] was allowed to race, and [REDACTED] surmised that it was because [REDACTED] had settled his debt with [REDACTED]

[REDACTED] was asked if he had ever requested a steward intercede on his behalf in a financial dispute between himself and an owner, and he replied he had not, adding that he personally handles such disputes and has never needed to pursue litigation against an owner. [REDACTED] explained that he has heard of owners/trainers asking stewards to place holds on purse winnings, but it was his understanding a steward would only intervene if a judgment had been issued.

[REDACTED]

[REDACTED] confirmed that he spoke with [REDACTED] about his allegation that Lewandowski improperly withheld \$5000 in purse money from him. Prior to speaking with [REDACTED] however, [REDACTED] stated that he attempted to speak with a dismissive Lewandowski who asserted that it was a “steward’s matter.” [REDACTED] claimed that he requested Lewandowski provide him with the rule or regulation which authorized his actions, but Lewandowski never responded. [REDACTED] described Lewandowski as “sticking to his position” and adamant that the money would not be released. He stated that [REDACTED] conceded that he owed [REDACTED] money, but disputed the

¹ It should be noted that records indicate that as of September 1, 2017, [REDACTED] advised that she was representing [REDACTED] in his dispute with [REDACTED]. However, it does not appear that a civil action was commenced against [REDACTED] even though he had indicated that he would not pay [REDACTED] absent a judgment. See Email dated September 1, 2017, from [REDACTED] to [REDACTED] cc’ed to [REDACTED] and Lewandowski, annexed hereto as Exhibit “2.”

amount. When asked whether he investigated the allegations that [REDACTED] was mistreating horses that he was training, [REDACTED] stated that [REDACTED] did not report such allegations to him.²

[REDACTED] explained that Lewandowski could be difficult to deal with and often exhibited a haughty arrogance as if he (Lewandowski) was “God at the track.” [REDACTED] recounted that when he first started working for the Commission, Lewandowski did not understand that [REDACTED] reported to him and would attempt to direct the [REDACTED] at Saratoga to do things that [REDACTED] felt were inappropriate. He opined that Lewandowski did not seem to appreciate that that they were part of the same team with the “same goals.”

Commission Staff

Throughout the course of this investigation, interviews of track and Commission employees were conducted. In general, staff reported that since becoming steward, Lewandowski no longer interacted with Commission staff in the backstretch, and that his overall demeanor towards others had changed. In sum, the consensus among staff is that Lewandowski is arrogant, condescending, intimidating and disrespectful. Many opined that his portrayal as a state steward is “bad for business” and a negative reflection on the Commission.

Stephen Lewandowski

This Office first spoke with Lewandowski to obtain a general understanding of the process and policies in place to address financial disputes. At the time, Lewandowski spoke of [REDACTED] and stated that [REDACTED] was not paid for the expenses associated with the care of [REDACTED]. Lewandowski was asked if it was typical for a steward to hold purse money and act as an intermediary between an owner and a trainer in such situations, and he immediately became agitated and turned combative. He declared that as “the highest ranking state official at the track” he “absolutely has the power to hold purse money.” He further stated that “[REDACTED] can choose to pay [REDACTED] with these funds or other monies; either way the funds won’t be released until he pays [REDACTED].” Lewandowski was also asked if it would be more prudent to let the parties resolve the dispute via civil remedies at which point he visibly became more agitated and reiterated that “he is the highest ranking state official at the track and he has every right to hold this money.” Although Lewandowski could not cite the rule or regulation which authorized him to hold the purse money in this instance, Lewandowski retorted that he would continue to hold the funds, and if the Commission wanted to release the money it would be against his will.

Subsequently, this Office formally interviewed Lewandowski in the presence of his counsel. Lewandowski stated that he commenced his employment with the RWB in 1986 as an Inspector. He became an Assistant Steward in 2000 and, in 2014, replaced [REDACTED] as Steward.³ Lewandowski stated that while he was the Assistant Steward, he had minimal

² According to [REDACTED], [REDACTED] took a similar position when he inquired about his other complaints including the mistreatment of [REDACTED]. Specifically, [REDACTED] informed [REDACTED] that if he wanted those allegations investigated, he would have to make another complaint. See [REDACTED] Chronology, annexed hereto as Exhibit “3A.” See also Email dated Aug. 17, 2017, from [REDACTED] to [REDACTED] (including an email string between [REDACTED] and Lewandowski, annexed hereto as Exhibit “3B.”

³ Initially when Lewandowski was describing his work history, he implied that he became the Steward in 2000.

interaction with [REDACTED] and received little to no training or guidance from [REDACTED]. He even cited an incident where he claimed [REDACTED] refused to take a complaint from a trainer, but that he took the time to speak with the trainer and referred him to the track investigator for assistance.

As a steward, Lewandowski stated that his responsibility is to uphold the integrity of horse racing, which includes handling the scratching of horses three days per week and maintaining oversight of the licensing staff and the test barn. Lewandowski reiterated that part of his responsibilities as a steward is interceding in financial disputes between co-owners or between owners and trainers.

Lewandowski explained that he has held purse winnings in the past because of disputes in ownership, payments, and post-race positives. For example, if a co-owner of a horse claimed that he had not been paid, and that co-owner's name was listed in the program, Lewandowski would hold purse money. He stated that he would withhold purse earnings based upon mere allegation and did not require a judgment to take action. When asked if he advised anyone at the Commission, such as the Bureau of Licensing ("Licensing") or the Director of the Division of Horse Racing and Pari-Mutuel Wagering, Lewandowski stated that he did not because he is simply ensuring financial responsibility. With respect to Licensing, he specifically stated that he does not notify the bureau because it "is not involved in assessing financial responsibility; it is the stewards that determine financial responsibility as per the rule book." (Contrary to Lewandowski's beliefs and practices, financial responsibility is discussed in PML Section 220[2] and Title 9 NYCRR Section 4002.19, which are related to licensing determinations, not to stewards' duties and responsibilities.) Lewandowski averred that the stewards become involved when monies are owed and Title 9 NYCRR Section 4022.21 authorizes him to withhold purse earnings. He commented that if every owner took their horses from a trainer and just walked away, and he told trainers to go to court this would cause problems at the track. Nonetheless, Lewandowski maintained that if the Commission told him not to intercede, he would cease.

Lewandowski advised that he became aware of [REDACTED] and [REDACTED] financial dispute in the summer of 2017 when [REDACTED] informed him that [REDACTED] owed him money. He stated that upon receiving [REDACTED] written complaint, he spoke with all the parties, including [REDACTED] and [REDACTED] and opened an investigate case.⁴ Lewandowski never asked for, or reviewed, any agreement between [REDACTED] and [REDACTED]. He is unsure if the [REDACTED] ever followed up on the matter and denied speaking with [REDACTED] about the dispute. When this Office provided Lewandowski with copies of multiple emails between [REDACTED] and himself, he stated that he did not recall any of the emails (see Emails dated August 17, 2017 and August 23, 2017, between [REDACTED] and Lewandowski, annexed hereto as Exhibits "4A" and "4B," respectively).

Lewandowski explained that [REDACTED] horse, [REDACTED], had won a race, and the purse winnings were approximately \$20,000 so he placed a hold on \$5,000 based on [REDACTED] complaint and written statement. When asked what proof he had that [REDACTED] actually owed [REDACTED] money, Lewandowski retorted that there was no dispute that [REDACTED] cared for the horse and that trainer fees were incurred; thus, [REDACTED] should be paid. When asked what recourse [REDACTED] had to appeal Lewandowski's holding of his purse money, Lewandowski

⁴ Lewandowski appears to rely on Title 9 NYCRR Section 4022.7 for insisting that only written complaints can be made. However, it should be noted that this section only pertains to complaints against racing officials.

conceded that, in retrospect, he should have simply suspended [REDACTED] in lieu of placing a hold on the money. As for attempting to prevent [REDACTED] horses from entering a race, Lewandowski denied having done so.⁵ However, Lewandowski did admit that on other occasions he has initially denied the entry of a horse in a race in an effort to prompt the owner or trainer to call him and discuss a resolution of the financial dispute.

Although Lewandowski intervened on [REDACTED] behalf, he commented that [REDACTED] has a history of administering drugs to horses and had been fined for his conduct. He added though, that [REDACTED] allowed [REDACTED] horse to return to [REDACTED] barn which was in the best interests of the horse and not [REDACTED].

Lewandowski was asked to provide records regarding the dispute between [REDACTED] and [REDACTED] as well as records related to any other instances wherein he withheld purse money due to financial disputes. As to the [REDACTED] matter, Lewandowski did not provide a copy of [REDACTED] written statement which he claimed to have received or a copy of the i-Investigate matter he purportedly opened.⁶ However, Lewandowski did provide memoranda related to placing, and releasing, a hold on \$5,000 in [REDACTED] NYRA account. The initial memorandum was undated, but initialed EF with a date of "8/4/17" next to it. The memorandum releasing the hold was not initialed, but dated May 12, 2018. (*see* undated memorandum and May 12, 2018 memorandum from New York State Gaming Commission to Racing Secretary & Horsemen's Bookkeeper, annexed hereto as Exhibits "5A and 5B," respectively). Lewandowski also provided records related to another debt purportedly owed by [REDACTED] to [REDACTED], indicating that Lewandowski continues to insert himself into financial disputes (*see* records related to [REDACTED] annexed hereto as Exhibit "5C"). Lewandowski provided no records related to other instances in which he withheld purse money due to financial disputes, but rather provided records related to an instance when purse monies were held due to a questionable claim.

Records Review

A review of email correspondence provided by [REDACTED] [REDACTED] and Lewandowski revealed that [REDACTED] sent his first email to Lewandowski detailing the alleged mistreatment and costs associated with the training of his horse, [REDACTED], by [REDACTED] on May 7, 2017. There was no response from Lewandowski until [REDACTED] sent him a second email on June 28, 2017, inquiring why there was a problem entering [REDACTED] in a race. Lewandowski's terse response to the June 28 email merely stated "We are not bill collectors. [REDACTED] trained your horse and he needs to get paid. My advise [*sic*] is to settle this." Two more related emails were exchanged before [REDACTED] sent Lewandowski another email on August 7, 2017, regarding the hold placed on his NYRA account.

Thereafter, [REDACTED] prior to contacting [REDACTED] reached out to Lewandowski and inquired what the issues were and Lewandowski simply responded that [REDACTED] owed [REDACTED] money. On August 22, 2017, [REDACTED] suggested to Lewandowski that the hold be lifted and to

⁵ This is also contrary to what [REDACTED] reported to this Office.

⁶ It should be noted that a steward does have the ability to open (and likely add information) to iInvestigate matters. As this is a database utilized by Racing Investigations, consideration should be taken as to whether a non-investigator should have access to the system, and if so, the nature of such access.

let the parties resolve the dispute amongst themselves to which he responded “this is Stewards issue.” There was no record of communications (whether email or statement of complaint) between ██████████ and Lewandowski regarding ██████████ claim that ██████████ owed him money even though Lewandowski indicated that he only accepted written complaints.

This Office also conducted a search of Commission records, including emails, which confirmed that Lewandowski did not respond to ██████████ until after ██████████ second email more than a month and later. The search found that in addition to the correspondence provided above, an email from ██████████ to Lewandowski listed all the holds placed including the reason for it. The reasons listed at times simply stated that the hold was “per” a named steward and not very illuminating. However, what was evident from the document was that there were 18 holds placed in 2017, only three indicated that it was at the direction of a steward, and ██████████ hold was the only one specifically directed by Lewandowski (*see* Email dated January 7, 2018 from ██████████ to Lewandowski, annexed hereto as Exhibit “6.”).

Lastly, this Office conducted a search of the i-Investigate database which revealed that Lewandowski did not open an investigation following ██████████ complaint as he had reported.

In sum, given the absence of corroborating documents (i.e., ██████████ complaint, other holds for similar disputes, and i-Investigate case entry), the contradicting statements made by others, and Lewandowski’s demeanor, the truthfulness of Lewandowski’s statements is called into question. More importantly, his decision to selectively intervene in such disputes causes the public to reasonably question his impartiality and ultimately, the integrity of racing.

Findings:

- 1) In late spring of 2017, ██████████ and ██████████ had a financial dispute about monies owed related to the training and care of ██████████.
- 2) ██████████ did not have a civil judgment against ██████████ for monies owed.
- 3) Lewandowski unilaterally withheld \$5000 in purse earnings belonging to ██████████ on August 4, 2017 during the 2017 Saratoga meet. The hold was not lifted until May 25, 2018, the day after this Office interviewed multiple parties including ██████████. Lewandowski also initially denied entry of at least two of ██████████ horses into races in an attempt to convince ██████████ to pay ██████████. The horses were subsequently allowed to race.
- 4) Lewandowski did not notify the Bureau of Licensing or the Division of Horse Racing and Pari-Mutuel Wagering that he withheld ██████████ purse money because he believed his actions were solely within his purview. Further, contrary to Lewandowski’s assertion, financial responsibility is contemplated in determining an individual’s fitness for licensing in racing activities.
- 5) Lewandowski did not suspend ██████████ from participating in racing. Thus, ██████████ had no mechanism to appeal Lewandowski’s actions.

- 6) The Commission does not have a written policy and/or procedure related to the handling of financial disputes. However, except for Lewandowski, staff agreed that no action should be taken by a steward or judge without proof of a civil judgment.
- 7) Lewandowski did not obtain a written statement from [REDACTED] regarding his financial dispute with [REDACTED] nor did he open a case in i-Investigate as he claimed.
- 8) Lewandowski's actions may reasonably appear to be the result of favoritism; thus, calling into question his impartiality and potentially leading to a negative impact on the integrity of racing and the Commission.
- 9) Lewandowski's claims not to recall his communications with [REDACTED] despite multiple email communications and a spirited conversation raises questions about his candor.
- 10) [REDACTED] accepted Lewandowski's assertion that holding a portion of [REDACTED] purse money was a "steward's matter" and repeated the same to [REDACTED] without confirming that Lewandowski had the authority to do so or reporting the matter to his superior.
- 11) The documentation of holds placed on purses maintained by the Commission as well as the Horseman's Bookkeeper is poor and does not provide a complete and accurate depiction of what events transpired.
- 12) [REDACTED] stated via email, which both Lewandowski and [REDACTED] received, that he had additional observations regarding [REDACTED] practices, but [REDACTED] did not provide specific details. Neither Lewandowski nor [REDACTED] pursued the matter further.

Conclusions & Recommendations

As a result of the above findings, it is recommended that this case be closed as **substantiated**. This Office's review determined that Stephen Lewandowski did not act within the scope and authority of his position when he held \$5000 in purse earnings belonging to thoroughbred owner [REDACTED] without a civil judgment being rendered by either a state or federal court.

In addition, Lewandowski's attitude that he does not have to report his activities to anyone at the Commission paired with his lack of record-keeping related to actions taken, exposes the Commission to liability in the event an individual challenged the legality of Lewandowski's actions. This issue is further exacerbated by Lewandowski's selective intervention in disputes and more importantly, has the potential to negatively impact the integrity of racing and of the Commission.

Accordingly, the following is recommended:

- 1) The Commission should have written policies and procedures indicating how financial disputes should be handled, including if and when a Commission employee may intervene; what actions may be taken; and what units need to be notified, such as Office

of Counsel and/or the Director of the Division of Horse Racing and Pari-Mutuel Wagering

- 2) The Commission should ensure that any action which results in the deprivation of property of another is properly documented.
- 3) Lewandowski's fitness to represent the Commission as a Steward should be reconsidered given his actions against licensees who have not been suspended or revoked, his lack of understanding as to his role vis- a-vis the Division of Horse Racing and Pari-Mutuel Wagering and the Commission as a whole, as well as his lack of record-keeping related to actions taken.
- 4) Lewandowski's conduct should be documented in his personnel file.