



**INVESTIGATIVE REPORT  
INTO THE 2013 TRAVERS STAKES**

Prepared by:  
The New York State Gaming Commission  
October 4, 2013

## **Introduction**

This report sets forth a summary of evidence received during an investigation by the New York State Gaming Commission after a complaint by the trainer of the horse “Moreno” that the jockey of the horse “Will Take Charge” used an electrical device in the 2013 Travers Stakes. The complaint was received, and the investigation began on August 30, 2013, a week after the Travers was run. The investigation concluded on September 28, 2013.

All evidence involved in this specific investigation, including videos, high-resolution photographs, the original complaint and other documentation, may be viewed at [www.gaming.ny.gov/travers\\_investigation.php](http://www.gaming.ny.gov/travers_investigation.php).



## Executive Summary

The New York State Gaming Commission regulates all aspects of gaming and gambling activity in the state, including horse racing and pari-mutuel wagering, Class III Indian Gaming, the state lottery (including video lottery terminals) and charitable gaming.

An important part of the regulatory role provided by the Commission is to thoroughly investigate claims that call into question the integrity of a pari-mutuel event. A claim of such a nature was made by a trainer against the rider of the horse that finished first in the August 24, 2013 Travers Stakes at Saratoga Race Course.

On August 30, 2013, Eric Guillot, the trainer of the second place finisher "Moreno," alleged that Luis Saez, the jockey of the winning horse "Will Take Charge" was carrying an electrical device during the race in order to shock or jolt the horse into running faster. If true, such an allegation would not only be a blatant violation of long-standing Gaming Commission rules, it would also carry with it possible criminal violations, including but not limited to Grand Larceny, Conspiracy and/or Animal Cruelty, as well as federal violations.

At a minimum, it would constitute a misdemeanor offense as set forth in New York State Penal Law Section 180.50 proscribes "tampering ... , with intent to influence the outcome of a sports contest, ... with any animal ... involved in the conduct ... of a sports contest in a manner contrary to the rules and usages ... [that] govern such ... contest." This offense is a class A misdemeanor punishable by a possible fine and a term of imprisonment not to exceed one year.

Commission rule Section 4043.3(a) states "No person shall ... use or possess any electrical device, 'joint,' 'battery,' electric prod, or any other electrical equipment that can be used to stimulate, depress, goad, spur, retard or condition a horse during a race or during training."

Mr. Guillot's written complaint states:

*"I Eric Guillot am filing a complaint for our lost in the race called the Traver's at Saratoga on Aug 24th 2013 - My horse Moreno was beat a nose on the wire by horse named Take Charge Indy - After suffering biggest defeat in our career - my brother Chip who was here cooking Cajun food had recorded races on NBC line for family once he got home and watched replay on NBC on big plasma TV he said it was obvious the kid had trouble celebrating cuss of black device in right hand switching too left hand and tucking under left shoulder under saddle pad! We feel this has crossed every integrity line of horse racing and would like this investigated an resolved!" (sic)*

Mr. Guillot presented as evidence of the allegation a video of the replay of the Travers Stakes that was recorded by a mobile device. Mr. Guillot claimed the video showed the alleged violation at the finish line and during the gradual riding to a stop of the horses after the finish of the race. This video, along with all other evidence reviewed in the investigation, is available online at [www.gaming.ny.gov/travers\\_investigation.php](http://www.gaming.ny.gov/travers_investigation.php).

Because of the nature and possible ramifications, Mr. Guillot's complaint was investigated thoroughly and comprehensively. The Commission, with the full cooperation and assistance of The New York Racing Association, Inc. (NYRA) and forensic video analysis provided by the New York State Police (NYSP), thoroughly investigated each aspect of the accusation, seeking to determine:

- Was any electrical or mechanical device found on the racetrack by NYRA?
- Is the recording of the National Broadcast Company's (NBC) broadcast submitted by Mr. Guillot an accurate depiction?
- What is shown in the highest quality video when analyzed by forensic experts?
- Was there any aspect of the conduct of Mr. Saez that suggests he was using a device?
- Was there any indication in the behavior of the horse that suggests a device was used?
- Was there any difference in the performance of the horse compared to prior races?
- Was there any difference in the reaction of Mr. Saez compared to other races he won?
- Does Mr. Saez or the other jockeys in the race report anything incriminating?
- What is the reputation of Mr. Saez among the other jockeys at NYRA races?

To answer these questions and come to an unambiguous conclusion, the investigation included the following actions:

- Thorough and repeated searches of the racetrack surface and a search of Mr. Saez's locker in the jockey room at Saratoga Race Course.
- Comprehensive analysis of video and photographic evidence provided by NYRA, NBC, as well as private photographer Dennis Donohue. Investigators from the NYSP, including the director of the State Police's Forensic Video/Multimedia Services Unit, provided expertise and technical assistance to enhance and evaluate the footage collected.
- Interviews and sworn/signed statements from Mr. Saez, other jockeys participating in the 2013 Travers Stakes, as well as the outrider and valet who were in proximity to "Will Take Charge" on August 24, 2013.

**The Commission's investigation concluded that Mr. Saez was not carrying any sort of electrical device and that Mr. Guillot's allegation was wholly unsubstantiated.** This conclusion was reached unanimously by the three Stewards and the staff of the Commission.

The Commission acknowledges the participation and cooperation of various parties involved in the investigation, including the NYSP, NYRA, NBC, the jockeys who rode in the 2013 Travers Stakes, as well as NYRA outriders and Mr. Saez's valet.

## ***Statutory and Regulatory Authority of the New York State Gaming Commission***

The New York State Gaming Commission (“Commission”) was established on February 1, 2013, when the New York State Racing and Wagering Board was merged with the New York Lottery into a new Commission to oversee all lawful gaming activities in New York State. The Commission has jurisdiction over all horse racing activities in the State, continuing a history of State oversight of Thoroughbred racing that dates from 1895. The Commission’s regulations prescribe the powers and duties of the three Stewards who supervise each Thoroughbred pari-mutuel horse race. One of these Stewards is an official employed by the Commission. The Commission has a staff of experienced investigators, headed by Acting Director of Racing Investigations Joel M. Leveson, who assist State Steward Carmine Donofrio and investigate all racing matters for the Commission.

## ***Mission Statement of the New York State Gaming Commission***

The Commission's mission is to ensure that all lawful gaming and horse racing activity conducted in this State is of the highest integrity, credibility and quality. Operating in the most efficient and transparent manner, the Commission conducts the New York Lottery and serves the best interests of the public by providing responsive and effective state gaming regulation. The Commission strives to ensure that all stakeholders in the gaming and horse racing industries, including the consumers who wager on activities regulated or operated by the Commission, are treated in an equitable and responsible manner and to promote the health and safety of horses and all participants in racing. By consolidating various regulatory functions into one oversight body with broad powers, the Commission seeks to ensure fair and strict regulation of all gaming activity while reducing costs and regulatory burdens to the gaming industry. The Commission aspires to provide the regulatory structure necessary for New York gaming activity to operate effectively in a global, evolving and increasingly competitive marketplace to generate revenue for aid to education and for the support of government, and to contribute to overall economic development and job creation in New York.

## ***The 2013 Travers Stakes***

The Travers Stakes is one of the most prestigious races in Thoroughbred racing. It is the oldest major Thoroughbred race in America, dating from 1864. It is a Grade 1 race with a purse of one million dollars, and is known as The Mid-Summer Derby and the “crown jewel” of the renowned annual Saratoga Race Meeting.

The Travers Stakes was conducted on August 24, 2013 at Saratoga Race Course. It was the 12<sup>th</sup> race of the day. According to the official Equibase chart for the race (**Figure 1**), “Moreno’ established control from the start, fought back after ‘Orb’ took a slim lead at the top of the stretch, then lost in a photo finish as “Will Take Charge” steadily closed from the outside and overtook the leaders at the finish line.”

Official Order of Finish:

1. Will Take Charge (Luis Saez)
2. Moreno (Jose Ortiz)
3. Orb (Jose Lezcano)
4. Palace Malice (Mike Smith)
5. Romansh (Javier Castellano)
6. War Dancer (Alan Garcia)
7. Verrazano (John Velazquez)
8. Golden Soul (Robby Albarado)
9. Transparent (Irad Ortiz, Jr.)

Pursuant to established procedure, when no Jockey or Steward inquiry was lodged, the race was declared official.

Figure 1:

**SARATOGA - August 24, 2013 - Race 12**  
 STAKES Travers S. Grade 1 - For Thoroughbred Three Year Old  
 One And One Fourth Miles On The Dirt Track Record: (General Assembly - 2:00.00 - August 18, 1979)  
 Purse: \$1,000,000 Guaranteed  
 Available Money: \$1,000,000  
 Value of Race: \$1,000,000 1st \$600,000, 2nd \$200,000, 3rd \$100,000, 4th \$50,000, 5th \$30,000, 6th \$5,000, 7th \$5,000, 8th \$5,000, 9th \$5,000  
 Weather: Clear Track: Fast  
 Off at: 5:47 Start: Good for all

Last Raced	Pgm	Horse Name (Jockey)	Wgt	M/E	PP	1/4	1/2	3/4	1m	Str	Fin	Odds	Comments
27Jul13 19SAR <sup>2</sup>	5	Will Take Charge (Saez, Luis)	126	L	5	5 <sup>1</sup> / <sub>2</sub>	5 <sup>2</sup>	5 <sup>2</sup>	5 <sup>1</sup> / <sub>2</sub>	3 <sup>1</sup>	1 <sup>Nose</sup>	9.60	4w angle 5/16, up
27Jul13 19SAR <sup>3</sup>	6	Moreno (Ortiz, Jose)	126	L b	6	1 <sup>1</sup> / <sub>2</sub>	1 <sup>2</sup>	1 <sup>2</sup>	1 <sup>Head</sup>	2 <sup>1</sup>	2 <sup>3/4</sup>	31.00	2p,came back,lost bob
8Jun13 11BEL <sup>3</sup>	2	Orb (Lezcano, Jose)	126	L	2	4 <sup>Head</sup>	4 <sup>Head</sup>	4 <sup>1</sup>	2 <sup>2</sup>	1 <sup>Head</sup>	3 <sup>Nose</sup>	3.15	ins bid 1/4,yield late
27Jul13 19SAR <sup>1</sup>	8	Palace Malice (Smith, Mike)	126	L	8	9	8 <sup>1</sup> / <sub>2</sub>	8 <sup>3</sup>	6 <sup>1</sup> / <sub>2</sub>	5 <sup>2</sup>	4 <sup>3</sup> / <sub>4</sub>	2.45	stumble st,5w into str
26Jul13 19SAR <sup>1</sup>	1	Romansh (Castellano, Javier)	126	L b	1	2 <sup>1</sup>	2 <sup>Head</sup>	3 <sup>1</sup>	3 <sup>1</sup>	4 <sup>1</sup> / <sub>2</sub>	5 <sup>2</sup>	36.50	3w far turn, weakened
13Jul13 13CAN <sup>1</sup>	7	War Dancer (Garcia, Alan)	126	L f	7	8 <sup>1</sup> / <sub>2</sub>	9	9	8 <sup>1</sup>	7 <sup>1</sup> / <sub>2</sub>	6 <sup>1</sup>	29.75	ins to 1/2,5-7w upper
28Jul13 13MTH <sup>1</sup>	3	Verrazano (Velazquez, John)	126	L	3	3 <sup>1</sup> / <sub>2</sub>	3 <sup>2</sup>	2 <sup>Head</sup>	4 <sup>1</sup> / <sub>2</sub>	6 <sup>1</sup> / <sub>2</sub>	7 <sup>1</sup> / <sub>4</sub>	1.60 <sup>1</sup>	3w 1st, 3w 2nd, lined
28Jul13 13MTH <sup>1</sup>	4	Golden Soul (Albarado, Robby)	126	L	4	6 <sup>1</sup> / <sub>2</sub>	6 <sup>Head</sup>	6 <sup>Head</sup>	7 <sup>1</sup> / <sub>2</sub>	8 <sup>1</sup>	8 <sup>3</sup> / <sub>2</sub>	30.00	rail run 1/4,flattened
26Jul13 19SAR <sup>5</sup>	9	Transparent (Ortiz, Jr., Irad)	126	9	7 <sup>1</sup>	7 <sup>Head</sup>	7 <sup>Head</sup>	9	9	9	9	14.10	3w & ask 5/16,empty

Fractional Times: 24.40 48.88 1:13.43 1:37.47 Final Time: 2:02.68  
 Split Times: (24.48) (24:55) (24:04) (25:21)  
 Run-Up: 36 feet

Winner: Will Take Charge, Chestnut Colt, by Unbridled's Song out of Take Charge Lady, by Dehere. Foaled Apr 13, 2010 in Kentucky.  
 Breeder: Eaton. Winning Owner: Willis D. Horton

Total WPS Pool: \$3,514,205

Pgm	Horse	Win	Place	Show	Wager Type	Winning Numbers	Payoff	Pool
5	Will Take Charge	21.20	8.60	5.20	\$2.00 Pick 3	1-3-5 (3 correct)	2,465.00	375,520
6	Moreno	26.40	8.60	8.60	\$2.00 Pick 4	67-13-5 (4 correct)	12,038.00	2,016,700
2	Orb			4.30	\$2.00 Daily Double	3-5	604.00	395,809
					\$2.00 Exacta	5-6	313.00	2,020,664
					\$2.00 Superfecta	5-6-2-8	5,098.00	731,599
					\$2.00 Trifecta	5-6-2	1,950.00	1,420,347

Past Performance Running Line Preview

Pgm	Horse Name	1/4	1/2	3/4	1m	Str	Fin
5	Will Take Charge	5 <sup>4</sup>	5 <sup>4</sup> / <sub>14</sub>	5 <sup>4</sup>	5 <sup>3</sup> / <sub>2</sub>	3 <sup>1</sup>	1 <sup>Nose</sup>
6	Moreno	1 <sup>1</sup> / <sub>2</sub>	1 <sup>2</sup>	1 <sup>2</sup>	1 <sup>Head</sup>	2 <sup>Head</sup>	2 <sup>Nose</sup>
2	Orb	4 <sup>1</sup>	4 <sup>1</sup>	4 <sup>3</sup>	2 <sup>Head</sup>	1 <sup>Head</sup>	3 <sup>3/4</sup>
8	Palace Malice	9 <sup>5</sup> / <sub>2</sub>	8 <sup>5</sup> / <sub>2</sub>	8 <sup>5</sup> / <sub>14</sub>	6 <sup>5</sup>	5 <sup>2</sup> / <sub>2</sub>	4 <sup>3/4</sup>
1	Romansh	2 <sup>1</sup> / <sub>2</sub>	2 <sup>5</sup>	3 <sup>5</sup>	3 <sup>5</sup>	4 <sup>5</sup>	5 <sup>5</sup>
7	War Dancer	8 <sup>5</sup>	9 <sup>5</sup>	9 <sup>5</sup> / <sub>14</sub>	8 <sup>7</sup>	7 <sup>5</sup>	6 <sup>5</sup>
3	Verrazano	3 <sup>2</sup> / <sub>2</sub>	3 <sup>2</sup>	2 <sup>2</sup>	4 <sup>3</sup>	4 <sup>5</sup> / <sub>2</sub>	7 <sup>7</sup>
4	Golden Soul	6 <sup>5</sup> / <sub>2</sub>	6 <sup>5</sup> / <sub>14</sub>	6 <sup>5</sup>	7 <sup>5</sup> / <sub>2</sub>	8 <sup>7</sup> / <sub>2</sub>	8 <sup>11</sup> / <sub>34</sub>
9	Transparent	7 <sup>7</sup>	7 <sup>5</sup> / <sub>14</sub>	7 <sup>5</sup> / <sub>14</sub>	9 <sup>5</sup>	9 <sup>5</sup> / <sub>2</sub>	9 <sup>15</sup> / <sub>14</sub>

Trainers: 5 - Lukas, D.; 6 - Guillot, Eric; 2 - McLaughlin, Kiaran; 8 - Pletcher, Todd; 1 - Albertrani, Thomas; 7 - McPeck, Kenneth; 3 - Pletcher, Todd; 4 - Stewart, Dallas; 9 - McLaughlin, Kiaran

Owners: 5 - Willis D. Horton; 6 - Southern Equine Stable LLC; 2 - Janney, III, Stuart S. and Phipps Stable; 8 - Dogwood Stable; 1 - Godolphin Racing LLC; 7 - Magdalena Racing (Susan McPeck) and Diamond M Stable; 3 - Let's Go Stable, Tabor, Michael B., Magnier, Mrs. John and Smith, Derrick; 4 - Charles E. Fipke; 9 - Godolphin Racing LLC;

Footnotes  
 WILL TAKE CHARGE came away with no apparent mishap, sat reserved under a good hold from the pilot in the two path, picked up interest when asked departing the backstretch, was asked for a bit more commencing to angle outward from the five-sixteenths pole until four wide at the head of the stretch, gained ground readily racing through the furlong grounds, forged on ahead, tipped slightly to be outside of MORENO in deep stretch, drew even and got the head down on the line to prevail. MORENO quickly established control after the start, took up residence in the two path being rated on a loosely-contested lead for the opening three-quarters, had started to drift into the three path when pounded upon by ORB as the field turned for home, fell back by a silver very shortly later, arrived at the eighth pole trailing by about a neck, fought back gallantly to re claim the advantage past the sixteenth pole, continued on gamely but got headed at the finish line. ORB was briefly fighting the bit heading for the top of the opening bend, quickly settled down and took up the chase on the runner up from near the two path, was guided into the pocket coming to the end of the backstretch, crept into contention, unleashed a strong bid cutting the corner and grabbed away the advantage, arrived at the furlong marker clutching to a slim lead, relinquished reluctantly in the final seventy yards, but held on well enough to stave off PALACE MALICE's belated challenge and salvage the show. PALACE MALICE grabbed hold after stumbling at the start, was then carried in a bit by TRANSPARENT, swung three wide entering the backstretch and remained well off the rail thereafter, advanced steadily into contention racing around the second bend, was in the four path at the five-sixteenths marker and one path wider heading into the stretch, came home with belated energy, narrowly failing to take third. ROMANSH loosely drafted behind MORENO down the backstretch, slightly to that rival's outside, took the three path around the far turn, stayed in contention until deep into the furlong grounds before weakening in the final furlong. WAR DANCER rode the rail to the half mile pole, got taken outward leaving that station, fanned to be six to seven wide by the three-sixteenths marker, mustered up a mild response to mainly improve position. VERRAZANO forwardly placed three wide on the first turn, stayed within striking distance but from one path wider on the next one, had no response when asked and backed away. GOLDEN SOUL darted over to the inside, launched a rail run coming to the quarter pole, flattened out. TRANSPARENT broke inward, carrying PALACE MALICE momentarily towards the inside, raced from off the rail throughout, was three wide and under encouragement at the five-sixteenths pole, came up empty.



Video Race Replay

KEENELAND Winner sold through Keeneland Association, Inc.

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5

**Eric Guillot's Complaint, Email and Video**

One week after the conclusion of the 2013 Travers Stakes, Eric Guillot, the trainer of the second-place finisher "Moreno" filed a complaint against Luis Saez, the jockey of "Will Take Charge," the horse that defeated his horse at the finish. There was no prior complaint and there had been no inquiry or claim of foul after the race.

Mr. Guillot filed a written complaint which reads as follows:

"I Eric Guillot am filing a complaint for our lost in the race called the Traver's at Saratoga on Aug 24th 2013 - My horse Moreno was beat a nose on the wire by horse named Take Charge Indy - After suffering biggest defeat in our career - my brother Chip who was here cooking Cajun food had recorded races on NBC line for family once he got home and watched replay on NBC on big plasma TV he said it was obvious the kid had trouble celebrating cuss of black device in right hand switching too left hand and tucking under left shoulder under saddle pad! We feel this has crossed every integrity line of horse racing and would like this investigated an resolved!" (sic) **(Figure 2)**

**Figure 2:**

**VOLUNTARY STATEMENT**

STATE OF NEW YORK: \_\_\_\_\_ COUNTY OF SARATOGA

CITY, TOWN OR VILLAGE OF SAR. SPA.

ERIC GUILLOT, being duly sworn, am \_\_\_\_\_ years of age, being born on \_\_\_\_\_ at \_\_\_\_\_ and my address is LAFAYETTE, LA. My telephone number is \_\_\_\_\_ My occupation is TRAINER at HYRA My work telephone number is \_\_\_\_\_

I make this statement voluntarily concerning the information I am about to provide.

\_\_\_\_\_ give my permission to \_\_\_\_\_ investigator for the New York State Gaming Commission, to write this statement on my behalf:

I Eric Guillot am filing a complaint for our lost in the race called TRAVERS at Saratoga on Aug 24th 2013 - My horse Moreno was beat a nose on the wire by horse named Take Charge Indy - After suffering Biggest Defeat in our career - my Brother Chip who was here cooking Cajun food had recorded races on NBC line for family once he got home and watched replay on NBC on Big Plasma TV he said it was obvious the kid had trouble celebrating cuss of black device in right hand switching too left hand and tucking under left shoulder under saddle pad! We feel this has crossed every integrity line of horse racing and would like this investigated an resolved!

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge.

Page 1 of 1 page(s)  
 Transcribed and sworn before me this 30th day of August, 2013  
 Jdated 11/11/13 August

Eric Guillot  
 (BUSINESS)

Mr. Guillot also emailed a complaint to Alternate State Steward Stephen Lewandowski and presented as evidence of the allegation a video of the replay of the Travers Stakes that was recorded by a mobile device. Mr. Guillot claimed the video showed the alleged violation at the finish line and during the gradual riding to a stop of the horses after the finish of the race.

Mr. Guillot subsequently contacted the Commission to suggest that perhaps the jockey, Luis Saez, had hidden the device in his hands; dropped the device onto the surface of the track; or forced the device into the rein knot, which is formed when the two reins are tied together to permit a jockey to control the reins with one hand and to prevent a rein from dropping out of reach during the race.

There was no physical evidence provided showing any device in the possession of Mr. Saez during the 2013 Travers Stakes. Mr. Guillot alleges that the video he provided showed a “blurry, black device” he believed to be an illegal electrical or mechanical device.

### ***Legal and Statutory Implications***

The applicable rule of the Commission states, “No person shall ... use or possess any electrical device, ‘joint,’ ‘battery,’ electric prod, or any other electrical equipment that can be used to stimulate, depress, goad, spur, retard or condition a horse during a race or during training.” Section 4043.3(a) of Title 9 of the New York Code of Rules and Regulations (“NYCRR”). A variant of this rule has been in effect for more than a century.<sup>1</sup>

Under the Penal Law of the State of New York, the use of an electrical device in a pari-mutuel horse race constitutes a criminal offense. Section 180.50 of the Penal Law proscribes “tampering ... , with intent to influence the outcome of a sports contest, ... with any animal ... involved in the conduct ... of a sports contest in a manner contrary to the rules and usages ... [that] govern such ... contest.” This offense is a class A misdemeanor punishable by a possible fine and a term of imprisonment not to exceed one year.

Other possible criminal charges associated with such an allegation could include:

- Grand Larceny in the second degree, given the purse money at stake (Penal Law §155.42)
- Conspiracy, varying degrees depending on the number of individuals involved (Penal Law §105.10)
- Animal Cruelty, a misdemeanor offense, due to the allegation of shocking a horse into running faster (Agriculture and Markets Law §353)

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<sup>1</sup> See, e.g., Goodwin’s Annual Official Turf Guide for 1903, “Adopted and Used by All Jockey Clubs and Racing Associations in the United States and Canada” (Goodwin Bros.), Rules of Racing, Part XXIV, Rule 162, Section VI (added December 11, 1902), “Any person ... who shall have used appliances electrical or mechanical other than the ordinary whip and spur. Every person so offending shall be ruled off.” Compare 9 NYCRR § 4042.1(e).

- Federal offenses involving Mail and Wire Fraud, due to the pari-mutuel wagering that was transacted on this event across state lines.

American Thoroughbred racing has been scandalized on occasion by reports of the use or possession of such electrical devices, but incidents of this nature have been rare at the preeminent NYRA race meetings. There have been only three reports of an electrical device found on the grounds in the past 40 years:

- Jockey Sandino Hernandez was suspended by the Commission when he threw down an electrical device as a paddock judge approached him before the 4th race at Belmont Park on September 20, 1974.
- An electrical device was seen falling against the side of the horse ridden by jockey Lazaro Saumell in the starting gate before the start of the 2nd race at Belmont Park on June 22, 1981, and found by NYRA veterinarian Dr. Manuel Gilman.
- Groom Victor Maldonado was found in possession of a cattle prod in a training barn at Aqueduct Racetrack in late 1986. It was found hidden in a fire box in the barn and he claimed to have found the device on a chute leading to the main track.

These incidents were investigated fully, and the jockey matters were referred for prosecution by the former Racing and Wagering Board.

Any use or possession of electrical devices in New York racing would be a cause for serious concern of the Commission.

### ***Overview of Investigation***

Upon receiving the initial complaint, the Commission immediately determined to conduct a thorough investigation into this very serious charge. Various officials in state government were promptly briefed on the allegation, including:

- Director of State Operations Howard B. Glaser
- New York State Police Superintendent Joseph A. D'Amico
- Mary B. Kavaney, Assistant Secretary for Public Safety
- Bennett M. Liebman, Deputy Secretary for Gaming and Racing

Under the leadership of the Commission's Acting Executive Director Robert Williams, Acting Director of the Division of Horse Racing and Pari-Mutuel Racing Ronald G. Ochrym, and Acting Director of Racing Investigations Joel M. Leveson, and with the full cooperation and assistance of NYRA and forensic video analysis provided by the NYSP, the Commission thoroughly investigated each aspect of the accusation, seeking to determine:

- Was any electrical or mechanical device found on the racetrack by NYRA?
- Is the recording of the NBC broadcast submitted by Mr. Guillot an accurate depiction?
- What is shown in the highest quality video when analyzed by forensic experts?
- Was there any aspect of the conduct of Mr. Saez that suggests he was using a device?
- Was there any indication in the behavior of the horse that suggests a device was used?
- Was there any difference in the performance of the horse compared to prior races?

- Was there any difference in the reaction of Mr. Saez compared to other races he won?
- Does Mr. Saez or the other jockeys in the race report anything incriminating?
- What is the reputation of Mr. Saez among the other jockeys at NYRA races?

Additional actions taken:

- NYRA conducted thorough and repeated searches of the racetrack surface and a search of Mr. Saez's locker in the jockey room at Saratoga Race Course.
- NYRA immediately provided its video of the race to the Commission. NYRA was able to obtain from NBC original race footage for analysis by the State Police and Commission.
- New York State Police Bureau of Criminal Investigations Investigator Ronald R. Pierone, Jr. , Director James Kennedy of the Forensic Video/Multimedia Services Unit and Senior Investigator Michael Cuomo with the participation of Commission Acting Director of Investigations Leveson, provided a forensic screening and analysis of all available video of the 2013 Travers Stakes at the State Police video laboratory in Albany, New York.
- Photographer Dennis Donohue provided access to his professional photographs that he had taken from his vantage point on the first turn as the horses finished in the 2013 Travers Stakes. He provided to the Commission a copy of his photographs clearly depicting the hands of Mr. Saez.
- Gaming Commission investigative staff interviewed Mr. Saez, other jockeys who rode in the Travers Stakes, as well as Mr. Saez's valet and the outrider who met Mr. Saez and "Will Take Charge" upon completion of the race.

## The Investigation

On August 30, 2013, Trainer Eric Guillot claimed that jockey Luis Saez on “Will Take Charge” used an electrical device to defeat his horse “Moreno” in the 2013 Travers Stakes.

In all, Mr. Guillot proffered three complaints:

- Orally/in-person to State Steward Carmine Donofrio at the Commission’s office at Saratoga Race Course. Mr. Guillot brought with him a mobile device-provided video of a recording of the race made by his brother from the television broadcast of the race by NBC **(Figure 3)**. Acting Director of Investigations Leveson was summoned to the Commission’s offices to participate in an interview of Mr. Guillot. This process was completed before noon on August 30. State Steward Donofrio alerted the other two Stewards, Dr. W. Theodore Hill, D.V.M., The Jockey Club Steward at NYRA, and Braulio Baeza, Jr., NYRA Steward, of the complaint that had been filed.
- Via written statement delivered to Commission Investigator A. Louis Gonzalez, who is regularly stationed at the NYRA racetracks **(Figure 2)**
- Via email detailing his complaint to Alternate State Steward Stephen Lewandowski. **(Figure 4)**

**Figure 3:**

[www.youtube.com/watch?v=2ap2KZU7v00&feature=youtu.be](http://www.youtube.com/watch?v=2ap2KZU7v00&feature=youtu.be)

**Figure 4:**

**Lewandowski, Steve (GAMING)**

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**From:** [REDACTED]  
**Sent:** Friday, August 30, 2013 12:33 PM  
**To:** Lewandowski, Steve (GAMING)

I Eric Guillot trainer of Moreno second place finisher in Travers stakes on august 24th in Saratoga am filing a complaint for our lost while beaten a nose to the winner Will take charge. My brother Sidney Guillot was here cooking Cajun food for the backside and recorded the races live on NBC sports channel for all family members. Once he returned and watched it on recording it was obvious the jockey of the winner Will take charge had use and electrical device on his animal to surge pass us last two strides. we feel the integrity line has been crossed BIG TIME for horse racing and need this resolved ASAP

Eric Guillot

On August 31, 2013, Alternate State Steward Lewandowski directed NYRA to hold the purses from the winning and second place horses in the 2013 Travers Stakes.

NYRA Investigator John McDonnell made an unannounced search of the locker and jockey area of Luis Saez in the NYRA jockey room, with no incriminating results.

The three Stewards met with Luis Saez and Jockey Guild representative rider John Velazquez in Dr. Hill's office at the racetrack and went to the judges' booth where the NYRA video of the race could be reviewed. Mr. Velazquez, also a jockey, rode in the Travers Stakes on seventh place finisher "Verrazano."

Both jockeys stated that the video did not indicate that Mr. Saez used or possessed an electrical device or anything but his padded riding crop and reins during the Travers Stakes. The riders independently stated that the video included sequences at the finish of the race and when Mr. Saez was riding to a stop after the race during which Mr. Saez's hands were completely open and empty.

After conferring with legal counsel, Mr. Saez elected to make a formal statement at a later date.

State Steward Donofrio requested that NYRA provide a copy of its videos of the race to the Commission for further detailed review.

### ***Multiple Searches of the Track Surface***

The 2013 Travers Stakes was the last race conducted on the dirt on August 24, but another 19 races had been held on the dirt at Saratoga Race Course during the week before Mr. Guillot contacted the Commission with his complaint. Typically, a dirt racetrack is harrowed between races and after periodic track maintenance.

During this week of repeated use of the racetrack, no electrical device had been noticed on the racetrack surface or grounds. Thorough searches for an electrical device were planned for the racetrack beginning August 31.

According to NYRA Vice President of Facilities and Racing Surfaces Glen Kozak, NYRA investigators conducted seven searches of the dirt racing surface and neighboring area of Saratoga Race Course:

- Three visual searches were conducted in the mornings of August 31, September 1 and September 2, 2013. The dirt track was used for 11 races on August 31, seven races on September 1 and 10 races on September 2. NYRA had leveled ("floated") the dirt racing surface before each race by pulling a heavy drag on the racetrack. This is done to smooth the racing surface and to minimize intrusions of rainfall when there are wet weather conditions. The final day of racing at the 2013 Saratoga Race Meeting was September 2, 2013.
- Another visual inspection was conducted for an electrical or mechanical device while NYRA conducted its final grading of the dirt surface at Saratoga Race Course on September 5, 2013.

- Three additional searches were conducted by using a tractor to pull a magnet device on September 5, 6 and 7, when the weather was dry enough to permit this device to be readily dragged on the track surface. The magnet is ordinarily used to locate and remove any metal objects, such as shoeing nails, which may have fallen onto the dirt surface of the racetrack during the day. NYRA began its Fall 2013 Belmont Race Meeting on September 7, 2013.

Nothing of interest or pertinent to the investigation was detected during any of the searches.

### ***Examination of the Video and Photographic Evidence***

The video and photographic evidence, including the video submitted by Mr. Guillot, was subjected to an examination by investigative staff, including the NYSP's Forensic Video/Media Services Unit. Additionally, footage from NBC and NYRA, including feeds that were unaired on public broadcast, were carefully analyzed using the NYSP's comprehensive resources. The NYSP review included technological enhancements and speed alterations in order to clearly analyze each frame of the footage.

In total, the NYSP's Forensic Video/Multimedia Services Unit reviewed and analyzed more than 7,000 individual frames taken from the raw high-definition video footage obtained from NBC.

This examination showed conclusively:

- There was no foreign object depicted in the hands of Mr. Saez .
- His hands never possess any object other than his padded riding crop or reins.
- Mr. Saez did not, at any time throughout the conduct of the race, carry his hands in a suspicious manner or appear to engage in any furtive movement.
- Mr. Saez, at the finish of the race, carried his hands in the hair line of the mane of "Will Take Charge" and not near the surface of the horse where he could have administered an electrical or mechanical charge to the horse **(Figure 5)**
- His hands' movements consist of the transfer of his padded riding crop from one hand to the other while maintaining pressure on the reins.
- He makes no furtive motion that suggests that he has any device in his hands.
- He does not place anything in the rein knot or under his saddle and no motions by Mr. Saez suggest that he ever attempted to do so.

After examination of the Guillot-provided mobile device footage **(Figure 3)**, it was determined that it appears to have been made using various physical components, including:

- A digital video recorder or other recording device used to record the race
- A monitor or television used to display the replay of the race
- A mobile device used to record the monitor's display of the replay

According to the Forensic Video/Multimedia Services Unit's Director, when video is recorded in the manner described by Guillot, "compression artifacts" will likely occur in the recording created. Compression is the scientific method of reducing the amount of data required to convey an image. Because the Guillot-provided video resulted from a mobile device recording of images displayed on a television monitor displaying output from a home recording device (e.g. DVR), which had recorded from the original telecast footage, "compression artifacts" are present.

The forensic experts found the original source footage to be an accurate depiction of the race, and that the Guillot-provided recording is not an accurate depiction of the race.

At the conclusion of the race, the video evidence includes several frames that clearly depict Mr. Saez holding his left and right hand in an open position or in a manner that reveals what is in his hand. In each case, his hand is empty or holds only his padded riding crop or the reins of the horse. At no time does an object appear to drop from his hands. **(Figures 6-16)**

A review of photos obtained from private photographer Dennis Donohue taken after the conclusion of the race further supports this finding. **(Figures 17-18)**

The Stewards, who have decades of experience in either participating or monitoring Thoroughbred racing, or both, have expertise to determine whether or not a horse has been subject to an electrical or mechanical shock. The video and photographic review supports the Stewards' collective opinion that the horse "Will Take Charge" did not appear to respond to any administration of an electrical or mechanical shock.

The video and photographic review, when coupled with information derived from statements from Mr. Saez and the other jockeys who participated in the Travers Stakes, including Javier Castellano who rode "Will Take Charge" in its prior race, prove:

- The performance of the horse was consistent with its performance under the hand of a different jockey in its prior race, the 2013 Jim Dandy conducted at Saratoga Race Course on July 27, 2013. In both races, the horse closes well in the stretch and overtakes Mr. Guillot's horse "Moreno" by lengthening its stride.
- Mr. Saez reacted in his typical fashion after winning the 2013 Travers Stakes. There is no evidence that he did not celebrate in his normal fashion or otherwise appear to attempt to conceal any device.

**Figure 5:**



© 2013 Bob Coglianesi Photos - Used with permission.

**Figure 6:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 7:**



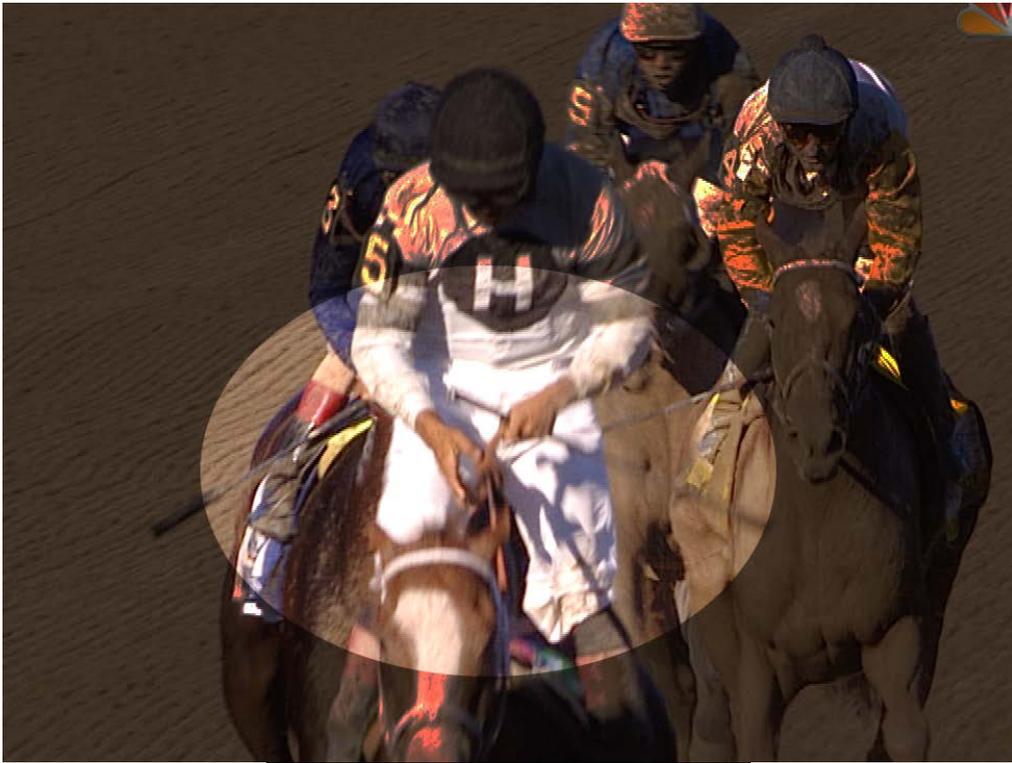
© 2013 NYRA, Inc. - Used with permission.

**Figure 8:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 9:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 10:**



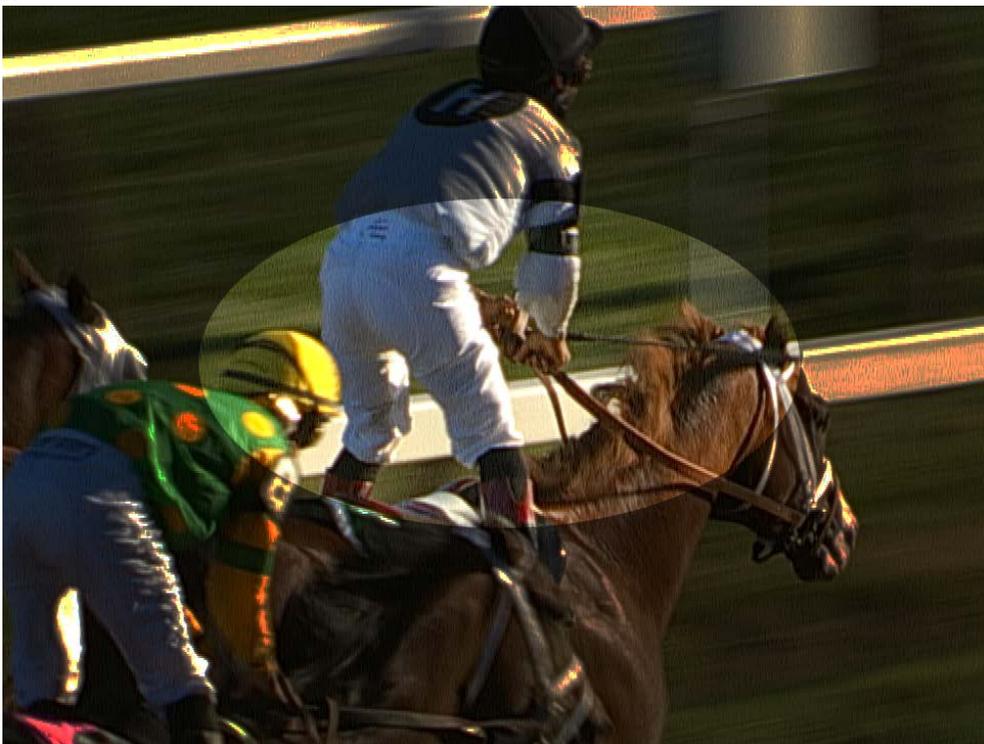
© 2013 NYRA, Inc. - Used with permission.

**Figure 11:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 12:**



© 2013 NYRA, Inc. - Used with permission.

*Figure 13:*



© 2013 NYRA, Inc. - Used with permission.

*Figure 14:*



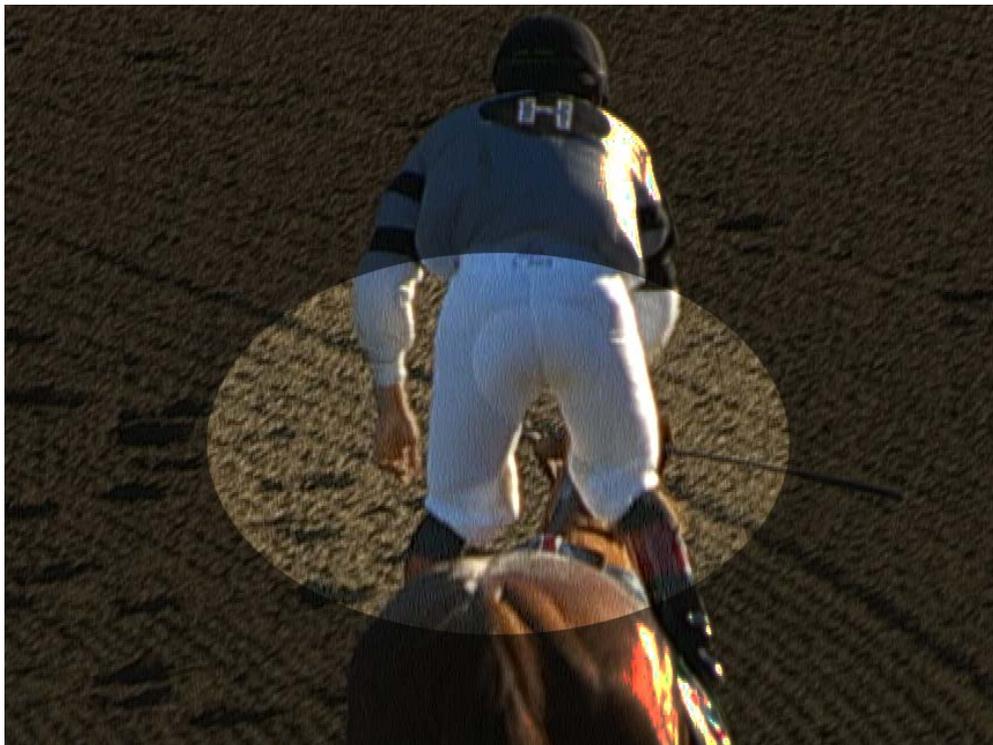
© 2013 NYRA, Inc. - Used with permission.

**Figure 15:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 16:**



© 2013 NYRA, Inc. - Used with permission.

**Figure 17:**



© 2013 Dennis Donohue - Through-My-Lens.com. Used with permission.

**Figure 18:**



© 2013 Dennis Donohue - Through-My-Lens.com. Used with permission.

## ***Interviews of the Witnesses***

Each of the jockeys in the Travers Stakes in proximity to Mr. Saez who might have observed any misconduct or unusual behavior was interviewed in person. Interviews were also conducted in person by Commission investigators with Mr. Saez's jockey valet at the 2013 Saratoga Race Meeting and with the outrider for his horse after the Travers Stakes.

Each witness observed no device in the hands of Mr. Saez and voiced no reason to suspect that he had possessed or used an electrical or mechanical device during the Travers Stakes. Additionally, none were aware of rumors of anyone engaging in such activity among the jockey community at the Saratoga Race Meeting and strongly condemned such practices.

Javier Castellano, who finished fifth in the Travers Stakes aboard "Romansh," previously rode "Will Take Charge" in the 2013 Jim Dandy at Saratoga Race Course on July 27, 2013. Mr. Castellano stated that "Will Take Charge" performed in a similar manner during the stretch in the Travers Stakes and the Jim Dandy.

Jose Ortiz, jockey on second place finisher "Moreno," was not surprised by the results or by Mr. Saez's reaction to his victory.

The witnesses praised Mr. Saez's character, personal manner, and reputation as a person and jockey. According to these witnesses, Mr. Saez is a quiet and reserved young jockey who did not act out of character in the manner in which he reacted to winning the Travers Stakes.

The interviews and subsequent signed statements of each witness were evaluated as part of the investigation (**Figure 19**). In sum:

- ***Javier Castellano, Rider of "Romansh:"*** Mr. Castellano felt that Mr. Saez "rode the horse masterfully" and that the horse attained its closing speed gradually, by lengthening its stride, "exactly the way he remembered his own ride of the horse" in the Jim Dandy.
- ***Miguel A Gutierrez, Chief Outrider at NYRA tracks for the past 23 years:*** Mr. Gutierrez was positioned on the outside rail to watch the horses finish the 2013 Travers Stakes and took "Will Take Charge" back to the winner's circle after the race. He saw nothing fall from the hand of the winner and saw Mr. Saez place nothing under the saddle cloth.
- ***Jose Lezcano, Rider of "Orb:"*** Mr. Lezcano went to the inside while "Will Take Charge" went to the outside in their efforts to pass "Moreno" in the stretch. He noticed after the race that Mr. Saez initially was not sure whether or not he had won the race.
- ***Jose Ortiz, Rider of "Moreno:"*** Mr. Ortiz described Luis Saez as a professional and personable jockey, albeit somewhat reserved. He was not surprised by the performance of "Will Take Charge" and believed that Mr. Saez did not immediately realize that he had won this very close race.

- **Rodney Paine, Jockey Valet of Mr. Saez during this Saratoga Race Meeting and Exercise Rider:** Mr. Paine reported that none of the jockeys at the Saratoga Race Meeting have any use for electrical devices, and not Mr. Saez in particular. He recognizes that Mr. Saez is a “quiet and reserved” person who reacted in his typical manner when he won the 2103 Travers Stakes.
- **Mike Smith, Rider of “Palace Malice:”** Mr. Smith could see Luis Saez’s ride during the race and saw nothing unusual. After the race, the other jockeys had “only respect and kindness” for Mr. Saez.
- **John Velazquez, Rider of “Verrazano” and Jockey Representative of The Jockey Guild at the NYRA racetracks:** Mr. Velazquez reported that Mr. Saez was “busy in the stretch” with various actions that occupied his hands and attention, “then rode with his hands in the hair line of the mane ... to the finish.” He was “directly behind” Mr. Saez and saw nothing fall from his hands.

In total and reviewed individually, these interviews establish that there is no basis to suspect that Mr. Saez used or possessed an unlawful device during the running of the Travers Stakes.

Additionally, the interviews confirm the manner in which Mr. Saez behaved at the conclusion of the race as being within his character and attest to his integrity and professionalism as a jockey.

Figure 19:

Voluntary Statement

State of New York

County of 42

City, Town or Village of Saratoga NY

I, JAVIER J. CASTELLANO, being duly sworn, am [redacted] at, and my address is [redacted]. My telephone number is [redacted] My occupation is at. My work address telephone number is .

I make this statement voluntarily concerning the information I am about to provide.

I give Leveson, Joel permission to type this statement on my behalf.

*front will take charge*

Javier Castellano is a jockey who rode number one horse, "Romansh" when asked whether he remembered how the race unfolded, he was able to recite perfectly how it did happen. He stated that he was behind the eventual winner "Will Take Charge" ~~at the way~~. He stated that the horse ran exactly how it did when he rode it a few weeks before, in the Jim Dandy Stakes with one exception. When he rode the horse, in the stretch run the horse started to "lug-in". He went on to say he probably would have been closer to the winner if he did not have to grab the horse to the outside. ~~He stated that trainer Luis had taken the blinkers off the horse so that he could see around himself, which improved its psyche so that he ran a straight line for jockey Saez.~~ Castellano could not say enough for Luis Saez stating that he rode the horse masterfully to win the race. Castellano stated the horse received his closing speed gradually and did it by lengthening its stride, which was done exactly the way he remembered his own ride of the horse.

When asked if while riding behind "Will Take Charge" at the end of the race, he saw anything come from the left hand of jockey Saez' hand he said no.

When asked if the riders in the colony ever joked about or talked about using a "Joint" or a electric "buzzer" he became animated and said in part "that if I would know of anyone using such a device I would immediately report them to the Stewards" he went on to say that at NYRA tracks there are the best jockeys in the world and the best horses, he opined that there is no necessity to use such a device.

When asked if there was any negativity in the jockey quarters after the race he said no. Every one was happy for Luis.

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge. *\* RE-WROTE BRIEF STATEMENT AS I WAS CONFUSED BY TRANSCRIBED AND AFFIRMED BEFORE ME THIS 18TH DAY OF SEPTEMBER, 2013. ABOVE TYPED STATEMENT.*

*Javier Castellano*  
(SIGNATURE)

*Joel Leveson*  
(WITNESS)

*\* AS FAR AS I'M CONCERNED, LUIS SAEZ RODE AN EXCELLENT ROLL DURING WHAT TIME, I DID NOT NOTICE ANYTHING AWRY NOR DID (SEE SAEZ DO ANYTHING IMPROPER).*

**Voluntary Statement**

State of New York

County of 42

City, Town or Village of Saratoga NY

I, MIGUEL A. GUTIERREZ, being duly sworn, am [REDACTED] at, and my address is [REDACTED]. My telephone number is [REDACTED]. My occupation is at [REDACTED]. My work address telephone number is [REDACTED].

I make this statement voluntarily concerning the information I am about to provide.

I give Leveson, Joel permission to type this statement on my behalf.

I am the Chief Outrider at NYRA tracks. I have been working as such for 23 years. I was asked if I know what a electrical device looks like I said I knew of them but not exactly.

When asked where I was positioned to watch the Travers Stakes I told Mr. Leveson that I sit a little way in front of the gate maybe 30 yards.

I told Mr. Leveson that once the race started and the horses passed me into the first turn I rode my horse to the outside rail where I could watch the horses coming up the stretch.

Mr. Leveson wanted to know if I saw anything fall from the hand of the winner. I said no. he asked me if I saw the jockey Saez place anything under the saddle cloth, I said no. he then asked me if I saw anything unusual after the race, I said no.

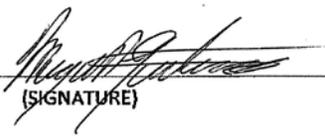
Mr. Leveson then asked me if I could say why the winning jockey Saez was not waving his hands to show he was happy. I said the jockey was only thanking God for the ride and for the win, then he was smiling, then he was talking with the second place jockey. Then he was fixing his clothes and his helmet and glasses.

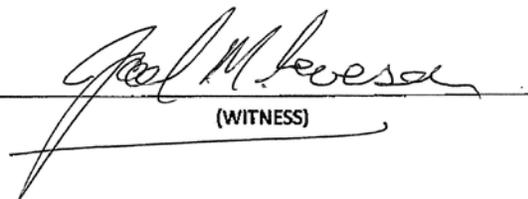
I then took the winning horse to the winner's circle then waited while they took the picture.

Mr. Leveson asked me if Saez talked to anyone else, I said only Donna Barton with NBC. She was talking to the second place winner. When she was finished she rode her horse over to Saez.

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge.

Transcribed and affirmed before me this 18th day of September, 2013.

  
(SIGNATURE)

  
(WITNESS)

VOLUNTARY STATEMENT

STATE OF NEW YORK:

COUNTY OF NASSAU

CITY, TOWN OR VILLAGE OF ELMHURST

JOSE LEZCANO, being duly sworn, am \_\_\_\_\_ years of age, be-

born on \_\_\_\_\_, at \_\_\_\_\_, and

address is \_\_\_\_\_ My telepho-

number is \_\_\_\_\_ My occupation is JOCKEY

at NYRA My work telephone number is \_\_\_\_\_

I make this statement voluntarily concerning the information I am about to provide.

JOSE LEZCANO, give my permission to ALF

investigator for the New York State Gaming Commission, to write this statement on my behalf:

- I'VE BEEN A JOCKEY FOR APPROXIMATELY 9 YRS.
- I WAS THE RIDER ON THE HORSE "ORR" IN THE 2013 TRAVELERS @ SARDIS.
- AS THE RACE STARTED, I WAS ON THE INSIDE (ST) & TAKE CHARGE WAS ALONGSIDE ME.
- FOR MOST OF THE RACE, TAKE CHARGE WAS BEHIND ME BY (1) LENGTH.
- DURING THE (2ND) TURN, I WAS INSIDE & TAKE CHARGE WAS ON THE OUTSIDE.
- AROUND THE (14) POLE, I WENT AHEAD BUT SUDDENLY WILL TAKE CHARGE PASSED ME BY & WON THE RACE AS NO ONE CAME IN 3RD.
- AT THE TIME DURING RACE, I DID NOT SEE (SHEZ) (WILL TAKE CHARGE) USE OR GRIP ANYTHING OR ANY OBJECT. SHEZ RAN A GREAT RACE AND I CONQUA (HEATED) HIM, NOTICING THAT HE WAS UNCERTAIN ABOUT THE VICTORY.

I have read this statement and/or it has been read to me. It consists of \_\_\_\_\_ page(s) and it

is true and correct to the best of my knowledge.

Page 1 of 1 page(s)

Transcribed and sworn before me this

28 day of Sept, 20 13

revised 7/11/13

[Signature]  
 (SIGNATURE)  
[Signature]  
 (WITNESS)

Statement provided by Jockey Jose Ortiz, [REDACTED] at the Belmont Office of the NYS Gaming Commission on 9/18/13, in the presence of NYS Investigator A. L. Gonzalez.

He's been a Jockey for approximately (1.5) yrs. Having started his career in Puerto Rico and then moving to New York.

He's known Jockey Luis Saez since Saez started several months ago and has competed against him on numerous occasions.

Thus far Saez has been equally as professional as he is personable. He's an excellent Jockey with the potential to be a great one. He's very sociable, well liked and respected albeit somewhat reserved.

Questioned about his opinion on the Travers Race, Ortiz said the race went as he expected with no particular surprises. His horse (Moreno) took the lead and was in the lead for most of the race except at the end when "Take Charge" took charge and won the race, beating him by a nose.

Asked if he'd been surprised at the outcome, Ortiz gave a firm response of no, stating that "Take Charge" had beaten him before in a previous race and in his opinion, "Orb" had been rested a bit too long.

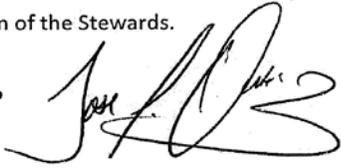
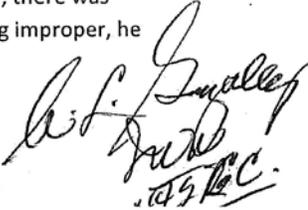
When questioned about their position around the turn, Ortiz stated that "Orb" was alongside of him on the left but "Take Charge" was behind him.

As to any conversation that he had with Saez, Ortiz stated that he congratulated Saez once they crossed the finish line but Saez appeared to be unaware that he'd won the race. Although Saez is an aggressive and skillful rider, he's also very quiet and reserved. He noticed that Saez was not as exuberant as many other Jockeys are when they win.

They had dinner together that evening, some place by the Harness Track. They had a fun time and spoke socially but each avoided talking about the race.

While Ortiz was certain that Saez had beaten him by a nose, Saez was not as certain about having won the race. He was very calm and collective as he normally seems to be.

Asked if he'd seen Saez use or drop any electrical device (Joint) during the race, Ortiz gave an emphatic no. Asked if he'd seen anything unusual during the race in terms of behavior, Ortiz again provided an emphatic no. Ortiz added that as far as he was concerned, there was nothing improper about the race or the results. If he were to notice anything improper, he would immediately bring it to the attention of the Stewards.

9-19-13    
A.L. Gonzalez  
NYS G.C.

**Voluntary Statement**

State of New York

County of 42

City, Town or Village of Saratoga-NY

I, RODNEYPAINE, being duly sworn, am [redacted] at, and my address is [redacted]. My telephone number is [redacted]. My occupation is at [redacted]. My work address telephone number is [redacted].

I make this statement voluntarily concerning the information I am about to provide.

I give Leveson, Joel permission to type this statement on my behalf.

Rodney Paine is a licensed exercise rider in the morning and a jockey valet in the afternoon. Paine started as valet for Luis Saez at the beginning of the Satatoga meet. Paine is a third generation jockey having ridden in Australia and Japan before entering the United States. Paine said that he is not aware of any use of a mechanical device in his former days as a jockey nor in his time as a valet in N.Y. He further stated that to his knowledge the jockey colony has never talked even jokingly about the use of a shocking device. He emphatically stated that he was not aware of any use of a shocking device by or in the locker or clothing of Luis Saez. Paine states that he was present at the time of Saez' locker search. When asked if he found the lack of jubilation of Saez to be unusual after crossing the finish line in the Travers, he answered that Saez is a very quiet and reserved individual, who sits quietly between races studying the racing form and past races. Also at the end of the races that he has not seen Saez do anything to show extra joy other than smiling. Paine stated that at the weigh in after the race, that Saez followed him out of the winners circle, at which time he told him to go back to the horse and remount for the picture. Paine said that he thought the winning of the race had not set in with Saez at that moment. Paine answered when questioned, that there was no negativity in the jockey quarters or the walk back to the room and no talk of anything but congratulations from the other riders. \*

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge.

Transcribed and affirmed before me this 18th day of September, 2013.

Rodney Paine (SIGNATURE)      Joel Leveson (WITNESS)

\* JOSE ORTIZ, WHOM RODE THE RUNNER UP, WAS THE FIRST TO CONGRADULATE ME AND SAY HOW AWESOME IT WAS FOR ME. I THEN SEEN HIM HIGH FIVE, LUIS SAEZ AND CONGRADUAA HIM.

Rodney Paine

**Voluntary Statement**

State of New York

County of 42

City, Town or Village of Saratoga NY

I, MIKE E. SMITH, being duly sworn, am [REDACTED] at , and my address is [REDACTED]  
[REDACTED]. My telephone number is [REDACTED]. My occupation is at . My work address  
telephone number is .

I make this statement voluntarily concerning the information I am about to provide.

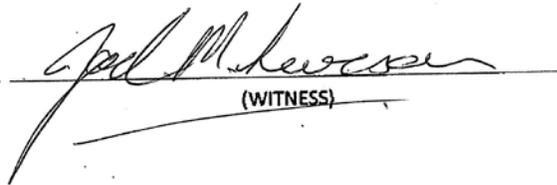
I give Leveson, Joel permission to type this statement on my behalf.

Mike Smith is a jockey who has been riding races in N.Y. since 2003. He was riding "Palice Malice" in the Travers Stakes. When asked if he could remember the race, he said his horse had a poor start and that he was behind the leaders in deep stretch. He said that he was in a position to watch Luis Saez give "WillTake Charge " a good ride. When ask if he was near or behind him at the wire he stated that he was . When asked if he saw anything unusual he said no. When asked if there was anything unusual in the jockey quarters after the race he said no, only respect and kindness for Saez.

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge.

Transcribed and affirmed before me this 18th day of September, 2013.

  
(SIGNATURE)

  
(WITNESS)

**Voluntary Statement**

State of New York

County of 42

City, Town or Village of Saratoga NY

I, JOHN R. VELAZQUEZ, being duly sworn, am [redacted] being born on [redacted] at, and my address is [redacted]  
[redacted] My telephone number is [redacted] My occupation is at [redacted]. My work address [redacted]  
[redacted] telephone number is [redacted].

I make this statement voluntarily concerning the information I am about to provide.

I give Leveson, Joel permission to type this statement on my behalf.

John Velazquez is a long time jockey at NYRA tracks, he is also the Jockey Guild Representative for NYRA tracks. He was riding "Verrazano" in the Travers Stakes. He said he did not have a very good start and had time in the latter parts of the race to study the ride given to the eventual winner. The writer had asked Velazquez if he saw anything unusual regarding the way Saez' hands traversed the neck of the horse. The answer was that Saez was busy in the stretch from the time the horse came through the turn. He changed the whip to the left hand from the right hand urged the horse to change leads, then settled for the last ride after bringing the horse to the outside, then rode with his hands in the hair line of the mane, to the finish. The answer was that he was race riding with nothing unusual noted other than giving a good performance.

When asked if he was riding close to the eventual winner he answered directly behind him.

When asked if he saw anything fall from his hands he said no.

I have read this statement and/or it has been read to me. It consists of 1 page(s) and it is true and correct to the best of my knowledge.

Transcribed and affirmed before me this 18th day of September, 2013.

John Velazquez 9/19/13 (SIGNATURE)  
Joel Leveson 9/19/13 (WITNESS)

### ***The Statement/Interview of Luis Saez***

On September 25, 2013 at approximately 11 a.m., Acting Director of Investigations Joel Leveson interviewed Luis Saez at Belmont Race Track. Present were his attorney Karen A. Murphy, his agent Richard DePass and Jockey Guild Representative John Velazquez.

As Mr. Saez's primary language is Spanish, Commission Investigator Angel Gonzalez acted as interpreter. Mr. Velazquez is also bi-lingual and listened and interpreted along with Investigator Gonzalez during the interview. Mr. Velazquez and Investigator Gonzalez were never in disagreement regarding the translation.

After being sworn-in, Mr. Saez was questioned about his background as a jockey both in his native Panama, Florida and New York.

He was asked whether he rode "Will Take Charge" before, either in morning workout or races. He answered neither.

He was asked to describe his ride in the Travers Stakes. After discussing the race, he was asked to comment on what happened from the time he stood up after the finish wire, till he sat down in the saddle, to stop the horse in the clubhouse turn.

Mr. Saez stated, in general, that after the race, he was uncertain whether he had won the race or not until "the lady rode over to me." He claimed that when NBC commentator Donna Barton rode over to him, he then knew he was the winner.

Mr. Saez then was asked questions pertaining to his hand movements while trying to change his whip from the left hand to the right hand after the wire. He agreed that the right hand was holding the knot and the left hand was holding the loop of the reins. He stated that he reached for the handle of the whip, then steadied himself while feeling unbalanced momentarily. He stated that once he was back in balance he moved his right hand back to the whip to complete the change of hands on the whip. He then rearranged the hands on the reins in preparation for the eventual stop of the horse. After completing this maneuver, he relaxed his left hand guiding the horse with the right hand.

After indicating that he has heard of an electrical device, Mr. Saez was asked the following questions:

- Have you ever seen one?  
No.
- Have you ever used one?  
No.
- Have you ever used an electrical device in a morning work out?  
No.
- Have you ever ridden next to someone who you knew to be using an electrical device?  
No.

- Did anyone ask you to carry an electrical device?  
No.
- Did D. Wayne Lukas (Trainer of “Will Take Charge”) ask you to carry an electrical device?  
No.
- Did you carry an electrical device in the race?  
No.
- Did you hide anything under the saddle cloth?  
No.
- Did you throw anything away with your left hand?  
No.
- Did you hide anything in the knot of the reins?  
No.

Mr. Saez signed a statement recounting the above interview **(Figure 20)**.

Mr. Saez answered every question asked of him. His answers were direct and forthright.

In summary, Mr. Saez stated that he did not use an electrical device in the Travers Stakes, was not asked to use one before he rode “Will Take Charge,” did not hide any object under the horse’s saddle cloth or in the rein knot, and had not thrown anything away with his left hand.

He gave a full account of his hand motions at the finish of the race, consistent with what Investigator Leveson, himself an experienced horseperson, recognized from the race videos.

The interview of Mr. Saez did not suggest any wrongdoing on his part.

**Figure 20:**

SUMMARY OF INTERVIEW - LUIS SAEZ

On September 25, 2013, at approximately 11am. Director of investigations interviewed Luis Saez at Belmont Race Track. Present were his attorney, Karen Murphy, Esq.; Richard DePass, his agent; John Velasquez, Jockey and Guild Representative; and Angel Gonzalez, Investigator of the NYSGC acting as interpreter. Mr. Saez was sworn in by Leveson to the truth, after starting the recorder.

It should be noted that John Velasquez listened and interpreted along with Angel Gonzalez, the two Spanish speakers were never in disagreement.

Luis Saez was questioned about his background as a jockey both in his native Panama, Florida and N.Y.

He was asked whether he rode "Will Take Charge" before, either in morning work out or races, he answered neither.

He was asked to recite the riding of the Travers Stakes race.

After discussing the race he was asked to comment on what happened from the time he stood up after the finish wire, till he sat down in the saddle, to stop the horse in the club house turn.

Saez stated in general that after the race he was filled with emotion and uncertainty whether he had won the race or not.

When asked why he did not pump his fist over his head at the end of the race, he said he did not know for sure if he was the winner until "the lady rode over to me," noting that when NBC commentator Donna Barton rode over to him, he then knew he was the winner.

Saez then was asked questions pertaining to his hand movements while trying to change his whip from the left hand to the right hand after the wire. He agreed that the right hand was holding the knot and the left hand was holding the loop of the reins. He stated that he reached for the handle of the whip, then steadied himself while feeling unbalanced momentarily. He stated that once he was back in balance he moved his right hand back to the whip to complete the change of hands on the whip. He then rearranged the hands on the reins in preparation for the eventual stop of the horse. After completing this maneuver he relaxed his left hand guiding the horse with the right hand.

After indicating that he has heard of an electrical device, Saez was asked the following questions:

Have you ever seen one?

No.

Have you ever used one?

No.

Have you ever used an electrical device in a morning work out?

No.

Have you ever ridden next to someone who you knew to be using an electrical device?

No.

Did anyone ask you to carry an electrical device?

No.

Did Mr. Lukas ask you to carry an electrical device?

No.

Did you carry an electrical device in the race?

No.

Did you hide anything under the saddle cloth?

No.

Did you throw anything away with your left hand?

No.

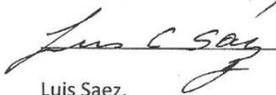
Did you hide anything in the knot of the reins?

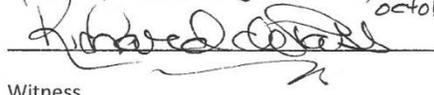
No.

Attestation:

I, Luis Saez, have read this statement, consisting of two pages, and it is true and correct to the best of my knowledge.

Affirmed before me this 3<sup>rd</sup> day of ~~September~~ October, 2013.

  
Luis Saez.

  
Witness

### ***Timeline of Investigation***

**Friday, August 30, 2013:** Mr. Guillot contacts Commission Stewards and provides complaint and video alleging Mr. Saez carried/used an electronic device in the August 24, 2013 Travers Stakes. Commission Stewards and investigators interview Mr. Guillot, watch and obtain a copy of his text video and take his written complaint. **(Figures 2-4)**

**Saturday, August 31, 2013:** Alternate State Steward Lewandowski directs NYRA to withhold purses.

Commission staff briefs the Director of State Operations, the Superintendent of the State Police and the Deputy and Assistant Secretaries for Public Safety and Gaming and Racing on the complaint.

NYRA conducts a search of Mr. Saez's area and locker in the jockey room with no incriminating result. NYRA confirms that no pertinent foreign objects were found on the track between the Travers Stakes and August 31. NYRA initiates additional comprehensive examinations of the dirt racing surface and neighboring area of the racetrack with no incriminating results.

The three supervising Stewards meet with Mr. Saez and his Jockey Guild representative, Mr. Velazquez, who, after viewing the video, deny it shows any device.

State Steward Donofrio requests all films and views from NYRA. Acting Director of Investigations Leveson in consultation with Acting Executive Director Williams requests the assistance of the NYSP for forensic video analysis.

NYRA delivers all films to State Steward Donofrio and Acting Director of Investigations Leveson delivers the video evidence to NYSP.

**Sunday, September 1, 2013:** NYRA conducts another inspection of the dirt race track and neighboring areas of the racetrack with no incriminating results.

**Monday, September 2, 2013:** Commission Acting Director of Investigations Leveson meets with NYSP Bureau of Criminal Investigations Investigator Pierone and Forensic Video/Multimedia Services Director Kennedy. Director Kennedy requests High-Definition NBC footage, which was not yet available to Investigators. NYRA again searches the dirt racetrack and neighboring areas of the racetrack with no incriminating results.

**Tuesday, September 3, 2013:** NYRA performs a third search of the dirt racetrack and neighboring areas of the racetrack with no incriminating results.

**Thursday, September 5, 2013:** NYRA performs a fourth search of the dirt racetrack and neighboring areas of the racetrack, this time with a magnetic device, with negative results. NYRA also conducts a visual inspection during its final grading of the dirt surface of the racetrack at Saratoga Race Course, also with no incriminating results.

**Friday, September 6, 2013:** NYRA performs a sixth search of the dirt racetrack and neighboring areas of the racetrack, its second with a magnetic device, with no incriminating results.

**Saturday, September 7, 2013:** NYRA conducts a seventh and final search of the dirt racetrack and neighboring areas of the racetrack, its third with a magnetic device, with no incriminating results.

**Monday, September 9, 2013:** NBC delivers its High-Definition race footage to the NYSP. Investigator Pierone, Director Kennedy and Senior Investigator Michael Cuomo, together with Commission Acting Director of Investigations Leveson, engage in a forensic examination of the race videos at NYSP video lab in Albany, NY. The team analyzes HDTV footage supplied by NBC at normal play and frame-by-frame, which feature less motion distortion than in the original video supplied by Mr. Guillot.

HDTV film shows no evidence of any electrical device at any time. Every still frame in the critical sequence from the finish to riding to a stop by an outrider horse, is examined:

- Several frames clearly show Mr. Saez's left hand – when the alleged device is claimed to be switched to such hand – is visible, open, and empty. **(figures 6, 11, 16)**
- Neither of Mr. Saez's hands hold anything except a riding crop or reins. **(figures 6-18)**
- No object is seen falling from Mr. Saez or his horse. **(figures 6-18)**
- Mr. Saez makes no motion to conceal an object in either hand or elsewhere. **(figures 6-18)**

NYSP and Commission investigators conclude:

- The race video shows no illegal object in Mr. Saez's possession.
- The Mr. Guillot-provided video resulted from a mobile device recording of images displayed on a television monitor displaying output from a home recording device (e.g. DVR), which had recorded from the original telecast footage, "compression artifacts" are present.
- The forensic experts found the original source footage to be an accurate depiction of the race, and that the Guillot-provided recording is not an accurate depiction of the race.

**September 9 – 14, 2013:** Arrangements are made to interview witnesses.

**September 14-19, 2013:** Acting Director of Investigations Leveson and Investigator Gonzalez interview several jockeys who participated in the Travers Stakes, including Javier Castellano, Jose Ortiz, Mike Smith and John Velazquez. Investigator Leveson also interviews outrider Miguel Gutierrez and jockey valet Rodney Paine. The witnesses sign statements based on these interviews and all report seeing nothing out of the ordinary during the Travers Stakes. **(Figure 19)**

**Tuesday, September 24, 2013:** Acting Director of Investigations Leveson obtains still shots from professional photographer Dennis Donohue who was positioned at the outside rail on the first turn. Mr. Donohue's still photographs confirm what the NBC footage show and include two additional photographs of the back of Mr. Saez's hands, which are relaxed and clearly grasping only the reins or his padded riding crop after the conclusion of the race. **(Figure 17-18)**

**Wednesday, September 25, 2013:** Acting Director of Investigations Leveson conducts a formal interview of Mr. Saez in the presence of Mr. Saez's various representatives, including his attorney Karen A. Murphy. Interpretation to and from Spanish is provided by Investigator Gonzalez and John Velazquez.

**Saturday, September 28, 2013:** Investigator Gonzalez interviews jockey Jose Lezcano, who reports seeing nothing out of the ordinary during the Travers race.

**Thursday, October 3, 2013:** Gaming Commission receives signed statement summarizing the September 25 formal interview of Mr. Saez. **(Figure 20)**

## ***Findings***

From its investigation and analysis, the Commission found the following:

- There is no credible video evidence of any object in Mr. Saez's hands, apart from his reins and padded riding crop, at any time during the 2013 Travers Stakes.
- The NBC video evidence shows that no unlawful object was in Mr. Saez's hands.
- Any appearance of what was alleged to be an illicit object or device in the video supplied by Mr. Guillot is not an accurate depiction because there is no such object in the actual NBC footage.
- Any alleged appearance of an object in the mobile device-generated video supplied by Mr. Guillot is due to "compression artifacts" caused by making home recordings of the HDTV footage that was broadcast by NBC.
- There was no device found on the track surface, in the jockey room, or anywhere on the grounds.
- Mr. Saez behaved in a manner typical for him after winning the Travers Stakes.
- Mr. Saez rode his horse throughout the race in a manner that indicates that he was not using an electrical or mechanical device on his horse during the Travers Stakes.
- The horse "Will Take Charge" did not behave at any time in a manner that suggests that Mr. Saez used an electrical or mechanical device on the horse during the Travers Stakes.
- No jockey who participated in the race with Mr. Saez and the outrider observed or sensed anything out of the ordinary in regard to Mr. Saez's ride of the horse "Will Take Charge" during the Travers Stakes.

## ***Conclusion***

**The Commission's investigation concludes that Mr. Saez was not carrying any sort of electrical device and that Mr. Guillot's allegation was wholly unsubstantiated.** This is the conclusion reached unanimously by the three Stewards and the Commission staff.

The investigation answered the questions the Commission posed at the outset as follows:

- Was any electrical or mechanical device found on the racetrack by NYRA?  
No.
- Is the recording of the National Broadcast Company's (NBC) broadcast from Mr. Guillot an accurate depiction?  
No. The Mr. Guillot-provided video resulted from a mobile device recording of images displayed on a television monitor displaying output from a home recording device (e.g. DVR), which had recorded from the original telecast footage, "compression artifacts" are present.
- What is shown in the highest quality video when analyzed by forensic experts?  
Mr. Saez was not carrying any sort of electrical device.
- Was there any aspect of the conduct of Mr. Saez that suggests he was using a device?  
No.

- Was there any indication in the behavior of the horse that suggests a device was used?  
No.
- Was there any difference in the performance of the horse compared to prior races?  
No.
- Was there any difference in the reaction of Mr. Saez compared to other races he won?  
No.
- Does Mr. Saez or the other jockeys in the race report anything incriminating?  
No.
- What is the reputation of Mr. Saez among the other jockeys at NYRA races?  
Jockeys praised Mr. Saez's character, personal manner and reputation as a person and jockey. According to these witnesses, Mr. Saez is a quiet and reserved young jockey who did not act out of character in the manner in which he reacted to winning the Travers Stakes.

The New York State Police provided invaluable expertise and analysis to the Commission through the course of this investigation. The Commission specifically thanks New York State Police Investigator Ronald Pierone (BCI), Director James Kennedy of the Forensic Video/Multimedia Services Unit and Senior Investigator Michael Cuomo for their comprehensive assistance in the investigation.

NYRA's cooperation and assistance in this matter was crucial to the investigation. NYRA staff provided inspection and investigative services on the grounds of the track, as well as video and photographic evidence to the Commission. This cooperation was instrumental for an investigation of this magnitude.

Thanks are due to NBC which promptly provided unaired footage of the race to the Commission. The footage permitted a detailed analysis of the actions before, during and after the Travers Stakes.

The Commission acknowledges the cooperation of the jockeys who rode in the Travers Stakes, including Mr. Saez, as well as outrider and valet staff in the investigation. The interviews and signed statements of each of the participants provided necessary context to conclude that the allegation made was unsubstantiated.

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