

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY ADAMO,  
MICHAEL GILL,  
Plaintiffs

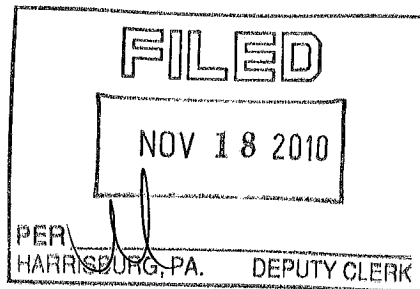
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: CIVIL CASE NUMBER \_\_\_\_\_  
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v.

MICHAEL DILLON,  
JOSEPH MUSHALCO,  
WALTER REMMERT,  
CORINNE SWEENEY,  
JOHN HANNUM,  
RAYMOND HAMM,

Defendants

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:  
: JURY TRIAL DEMANDED  
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COMPLAINT

INTRODUCTORY STATEMENT

This is a civil rights Complaint brought by Plaintiff Anthony Adamo, a licensed trainer of race horses and Plaintiff Michael Gill, a licensed owner of race horses. The Complaint is against various officials of the Pennsylvania Horse Racing Commission. These officials illegally deprived Plaintiffs of their 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to procedural due process and equal protection under the law. Defendants took various actions against Plaintiffs against regulations and/or without notice or hearing. Punitive damages are sought because the actions of the Defendants were particularly egregious. All Defendants are sued as individuals. Plaintiffs bring this action under 42 U.S. Code Sec. 1983.

JURISDICTION AND VENUE

1. This court has jurisdiction by diversity of citizenship and 42 U.S. Code Sec. 1983.

2. Venue is properly before this court because all parties, witnesses and evidence are common to Dauphin County, Pennsylvania which lies within this court's jurisdiction.

PARTIES

3. Plaintiff, Anthony Adamo ("Adamo"), is an adult American citizen residing at 1031 Baron Drive, Fort Erie, Ontario, Canada L2A6G9
4. Plaintiff, Michael Gill ("Gill"), is an adult individual residing at 2 Main St., Plaistow, NH 03865.
5. Defendant, Joseph Mushalko, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Mushalko is Director of Operations for the Pennsylvania Horse Racing Commission ("Commission")
6. Defendant, Michael Dillon, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Dillon is/was Acting Executive Secretary of the Pennsylvania Horse Racing Commission.
7. Defendant, Walter Remmert, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Remmert is Director of Racing Enforcement of the Pennsylvania Horse Racing Commission.
8. Defendant, Corinne Sweeney, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Sweeney is Chairwoman of the Pennsylvania Horse Racing Commission.
9. Defendant, John Hannum, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Hannum is a Commissioner of the Pennsylvania Horse Racing Commission.
10. Defendant, Raymond Hamm, is an adult individual whose office is at 2301 North Cameron St., Harrisburg, PA 17109. Hamm is a Commissioner of the Pennsylvania Horse Racing Commission.

COUNT ONE – ANTHONY ADAMO v. MICHAEL DILLON

11. On February 2, 2010, Anthony Adamo was a licensed trainer of thoroughbred horses in the Commonwealth of Pennsylvania.
12. On February 2, 2010, Michael Dillon was the Acting Executive Secretary of the Commission.
13. On February 2, 2010 Adamo was in good standing with the Commission which has authority and control of all licensing matters for horse racing in Pennsylvania.
14. On February 2, 2010 Adamo was the trainer of about 140 horses for Michael Gill, who owned all the horses that Adamo trained.
15. Some of the horses that Adamo trained for Gill were stabled at Penn National Race Course in Grantville, PA. Some were stabled at Gill's private farm in Chester County, PA.
16. In January of 2010 a group of jockeys at Penn National Race Course began complaining that all Michael Gill horses, trained by Adamo and other trainers,

- were somehow fundamentally unsound in a way that endangered the safety of all jockeys riding in a race against them.
17. The charges made by the jockeys in the above paragraph were unsubstantiated and untrue.
  18. The jockey colonies at all the other race tracks where Gill and Adamo raced the same horses had no complaints about the soundness of the horses. Some of the other tracks where there were no complaints are Philadelphia Park in Bensalem, PA, Laurel Race Course in Laurel, MD, Charles Town Race Track in Charles Town, WV and Delaware Park in Wilmington, DE.
  19. Dillon did not believe the claims of the jockeys as, at all times before and after the ejections of February 2, 2010, Dillon allowed Gill's horses to participate at Philadelphia Park.
  20. The group of jockeys at Penn National threatened to boycott the races at Penn National Race Course on February 3, 2010 where Gill and Adamo had horses entered. The jockeys would not participate in races where Gill's horses were allowed to run.
  21. Jockeys refusing to ride horses they are scheduled to ride is a violation of 58 Pa Code Sec. 163.173 and normally would lead to a fine and/or suspension for the offending jockey.
  22. A group of trainers at Penn National threatened to boycott the races at Penn National Race Course on February 3, 2010 where Gill and Adamo had horses entered. They would not participate in races where Gill's horses were allowed to run. Their actions were purportedly in support of the jockeys boycott.
  23. Trainers refusing to race horses they are scheduled to run is a violation of 58 Pa Code Sec. 165.216 and normally would lead to a fine and/or suspension for the offending trainer.
  24. Gill and Adamo were not violating any regulations by entering their horses for the races of February 3, 2010.
  25. Neither Dillon nor anyone else connected with the Commission ever charged that Gill or Adamo had violated any rules or regulations connected with this incident.
  26. Generally, violations of 58 Pa Code Sec. 163.173 and 58 Pa Code 165.216 would be handled by the stewards of Penn National Race Course.
  27. Dillon decided to supersede the authority of the stewards and take charge of the issue himself.
  28. At all times in this matter Dillon acted under color of law.
  29. On February 2, 2010 Dillon issued an ORDER ejecting Adamo and all of Gill's horses from Penn National Race Course "pending a final resolution of this matter".
  30. On February 2, 2010 Dillon issued an ORDER ejecting Gill and all of Gill's horses from Penn National Race Course "pending a final resolution of this matter".
  31. The above Orders were issued without hearings.
  32. Adamo thus was not allowed to participate in racing at Penn National and was precluded from entering the grounds of the track.

33. Adamo had 48 hours to remove the Gill horses that he trained from the grounds of Penn National Race Course.
34. With the Commission failing to protect him from the illegal actions of the jockeys and trainers Gill decided to disperse his racing holdings and get out of horse racing. Within sixty days of his ejection Gill dispersed all his racing stock.
35. Adamo requested a hearing from the Commission on his ejection as is his right.
36. Adamo requested a supersedeas of the ejection Order pending his hearing.
37. Dillon denied Adamo's request for a supersedeas.
38. In taking action against someone without a hearing the Commission is required to schedule a hearing on the matter within 48 hours or as soon as possible thereafter.
39. The Commission never scheduled a hearing.
40. On March 5, 2010 Dillon issued an Order rescinding the ejection Order of February 2, 2010 against Adamo.
41. The March 5, 2010 Order read in part that the "Commission hereby deems the February 2, 2010 Ejection matter and Anthony Adamo's request for an administrative hearing as moot. Accordingly, no hearing will be scheduled."
42. There was no way that Mr. Adamo could contest his ejection within the Commission's system of due process as administered by Dillon.
43. Dillon's actions were done with actual malice toward Adamo.
44. Dillon's actions were contrary to his duty to enforce the racing rules and regulations.
45. Dillon's actions violated Adamo's 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to equal protection and due process.
46. Dillon's actions subjected Adamo to irrational differential treatment in violation of Adamo's Equal Protection rights.
47. To this day Adamo has not been told what he did to warrant his ejection.
48. As a result of Dillon's illegal actions Adamo lost his job with Gill.
49. As a result of Dillon's illegal actions Adamo has suffered loss of reputation, embarrassment and great financial damage.

WHEREFORE, Anthony Adamo demands judgment of Michael Dillon for the deprivation of Adamo's federally guaranteed rights, for pain and suffering, for embarrassment and humiliation, for fees, costs, attorney's fees, punitive damages, and for an unspecified amount including interest in compensation for the damage done to Adamo's career.

#### COUNT TWO – MICHAEL GILL v MICHAEL DILLON

50. Paragraphs 1-49 above are here incorporated by reference.
51. On February 2, 2010 Michael Gill was a licensed owner of thoroughbred horses in the Commonwealth of Pennsylvania.

52. On February 2, 2010 Michael Gill was in good standing with the Commission.
53. Gill had approximately 190 horses on February 2, 2010. He had approximately 49 horses stabled in free stalls at Penn National Race Course. He had approximately 140 horses at his private farm in Chester County, PA.
54. Gill was the leading owner of thoroughbreds in North America in 2009 with purse earnings of over \$6,600,000 and 370 wins.
55. Over \$3,000,000 of the above sum was won at Penn National because of the large purses currently at the track.
56. The profits his horses made at Penn National subsidized the rest of Gill's horse operation.
57. Penn National was the only track to give Gill free stall space.
58. Gill expected Dillon and the Commission to protect him from the illegal boycott threatened by the jockeys and trainers.
59. Instead of protecting Gill on February 2, 2010 Dillon issued the ORDER ejecting Gill from Penn National.
60. Gill thus was not allowed to participate in racing at Penn National and was precluded from entering the grounds of the track.
61. Gill had 48 hours to remove his horses from the grounds of Penn National.
62. In 48 hours it would be impossible for Gill to apply for a supersedeas from the Commission and another from Commonwealth Court before the horses had to be removed.
63. Even if Gill would have been able to somehow attain a supersedeas his horses would have been at the mercy of jockeys and horsemen at Penn National with no one to protect his interests.
64. In addition, Gill had no assurance that Dillon would continue to let him participate at Philadelphia Park.
65. Having no place to put the ejected horses and having his enjoyment in horse racing ruined Gill had no real choice but to disperse his horse holdings.
66. Within two months of his ejection Gill had dispersed his holdings.
67. After the decision to sell his horses many of the same trainers who threatened to boycott approached Gill to purchase the same horses they were boycotting.
68. After the ejection many of the boycotting jockeys rode the same horses they were boycotting at Penn National after they were sold.
69. After the ejection many of the boycotting jockeys rode against the same horses they were boycotting at Penn National after they were sold.
70. After the ejection many of the boycotting jockeys rode in races at Philadelphia Park where Gill and Adamo had horses entered.
71. After the ejection some of the boycotting jockeys made trips to Laurel Race Track to actually ride the same Gill and Adamo horses they had boycotted against despite the horses still being owned by Gill and trained by Adamo.
72. When the Commission's investigator at Penn National saw the jockeys' illegal and inconsistent behavior in the above paragraphs he alerted Dillon to his findings and was told to drop the matter by Dillon.
73. Dillon at all times in this matter acted under color of law.
74. Dillon's actions were done with actual malice toward Gill.
75. To this day Gill has not been told what he did to warrant his ejection.

76. As Gill had been ejected for no specific time period “pending a final resolution of this matter” Gill expected the Commission to eventually recognize that the jockeys’ original claims were fabrications and rescind his ejection.
77. The Commission refused to investigate the matter further.
78. Dillon was relieved of his employment with the Commission on or about May 5, 2010 and thus was no longer acting secretary thereafter.
79. On May 18, 2010 and July 6, 2010 Gill requested that the Commission drop the ejection against Gill based on the jockeys’ actions described above.
80. In the alternative Gill requested that the Commission hold a hearing on the matter so Gill could exonerate himself.
81. On July 6, 2010 the Commission stated that Dillon’s ejection of Gill is final, no hearing will be held and Gill remains barred from Penn National.
82. Dillon’s actions violated Gill’s 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to due process and equal protection.
83. Dillon’s actions subjected Gill to irrational differential treatment in violation of Gill’s Equal Protection rights.
84. Dillon’s actions were contrary to his duty to enforce racing rules and regulations.
85. As a result of Dillon’s illegal actions Gill suffered loss of reputation, embarrassment and great financial loss.

WHEREFORE, Michael Gill demands judgment of Michael Dillon for the deprivation of Gill’s federally guaranteed rights, for pain and suffering, for humiliation and embarrassment, for fees, costs, attorney’s fees, punitive damages and for an unspecified amount, including interest in compensation for the financial damage done to Gill’s horse business.

COUNT THREE – ANTHONY ADAMO v. CORINNE SWEENEY, JOHN HANNUM and RAYMOND HAMM

86. Paragraphs 1-85 above are hereby incorporated by reference.
87. In this Count Defendants are sued in their official capacities as well as individuals.
88. During all times in this matter Defendants Sweeney, Hannum and Hamm were commissioners of the Commission. Sweeney is chairwoman.
89. Defendants have supervisory authority over all other officials of the Commission.
90. On March 23, 2010 Adamo had a hearing before the stewards at Penn National for alleged violations of various racing regulations.
91. At the hearing Adamo was not allowed to view the evidence used against him. At the hearing the burden of proof was on Adamo.
92. The act of not allowing accused licensees to see evidence used against them and placing the burden of proof on the accused are part of an unconstitutional

- policy or custom that Defendants have allowed to go on for a long period of time.
93. The above policy makes it impossible for Adamo and others to receive a meaningful hearing before the stewards.
  94. As a result of the above policy Adamo unfairly was given a fine and suspension by the stewards.
  95. In their official Order the stewards falsified the language in 58 Pa Code 163.341 (e) to read "The Stewards may not impose a fine in excess of \$5,000." The statute actually reads "The stewards may not impose a fine in excess of \$250."
  96. In their official Order the stewards fined Adamo \$1,000.
  97. It is a policy of the stewards to routinely exceed the limits of the fines in 58 Pa Code 163.341.
  98. Defendants knew of the above policies but allowed them to continue.
  99. At all times Defendants acted under color of law.
  100. Defendants knew of and endorsed Dillon's arbitrary and illegal actions against Adamo on February 2, 2010 and thereafter but did nothing to correct them.
  101. Defendants' actions constitute actual malice toward Adamo or reckless disregard for Adamo's constitutional rights.
  102. Defendant's actions were in violation of Adamo's 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to due process and equal protection of the law.
  103. As a result of Defendants' actions Adamo suffered loss of reputation, embarrassment and great financial loss.

WHEREFORE, Anthony Adamo requests judgment against Corinne Sweeney, John Hannum and Raymond Hamm for deprivation of Adamo's federally guaranteed rights, for pain and suffering, for humiliation and embarrassment, for fees, costs, attorney's fees, punitive damages, and for an unspecified amount, including interest, in compensation for damage done to Adamo's career.

COUNT FOUR – MICHAEL GILL v. CORINNE SWEENEY, JOHN HANNUM and  
RAYMOND HAMM

104. Paragraphs 1-103 above are hereby incorporated by reference.
105. At all times Defendants acted under color of law.
106. Defendants knew of and endorsed Dillon's arbitrary and illegal actions against Gill on February 2, 2010 and thereafter but did nothing to correct them.
107. Defendants' actions constitute actual malice toward Gill or reckless disregard for Gill's constitutional rights.
108. Defendant's actions were in violation of Adamo's 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to due process and equal protection of the law.
109. As a result of Defendants' actions Gill suffered loss of reputation, embarrassment and great financial loss.

WHEREFORE, Michael Gill requests judgment against Corinne Sweeney, John Hannum and Raymond Hamm for deprivation of Gill's federally guaranteed rights, for pain and suffering, for humiliation and embarrassment, for fees, costs, attorney's fees, punitive damages, and for an unspecified amount, including interest, in compensation for damage done to Gill's horse business.

COUNT FIVE – ANTHONY ADAMO v. WALTER REMMERT and  
JOSEPH MUSHALKO

110. Paragraphs 1-109 are hereby incorporated by reference.
111. On March 23, 2010 Adamo voluntarily participated in an interview with Commission investigators at Penn National Race Course.
112. The interview had to do with horse transfers and other matters.
113. Adamo was treated in an abusive fashion by the Commission interviewer. Adamo answered all questions asked.
114. In April of 2010 Gill had disposed of his racing stock and, not having a job anymore, Adamo went to Canada to attempt to revive his career.
115. Instead of the 140 horses he was training on February 2, 2010 Adamo was now training two horses that he bought with his own money.
116. Adamo had obtained stall space at Fort Erie Race Track in Canada for his two horses. Adamo was residing in Canada.
117. Adamo was not participating in racing in Pennsylvania and had let his Pennsylvania trainer's license expire.
118. On June 28, 2010 Remmert, Director of Racing Enforcement for the Commission, sent a demand letter to Adamo ordering Adamo to appear in person in Pennsylvania for an interview. Adamo was to appear within ten days for the interview bringing with him all sorts of documents relating to horse transfers and other matters as well as all of Adamo's tax information.
119. The legal authority that Remmert relied upon in his demand letter is clearly inapplicable.
120. The interview would be about similar matters to the March 23, 2010 interview Adamo had given.
121. Adamo was told by Remmert that he was not a target of the investigation and that Adamo was only a peripheral player in the matter.
122. Statute requires the Commission to pay Adamo's expenses to come to Pennsylvania.
123. Remmert and Mushalko refused to pay any expenses for Adamo.
124. Because the request was overbroad, the fact that Adamo wasn't participating in Pennsylvania racing, the fact that Adamo had already given an interview on the same subject, the Commission's refusal to pay any of his expenses, Remmert's inapplicable legal authority and other reasons Adamo refused to come to Harrisburg, Pa for the requested interview.



125. In the demand letter Remmert threatened to have action taken against Adamo's other licenses in jurisdictions other than Pennsylvania if Adamo didn't comply with Remmert's demand.
126. On July 19, 2010 Mushalko issued an Order indefinitely suspending Adamo until Adamo complied with the demand letter.
127. At all times Remmert and Mushalko acted under color of law.
128. The July 19, 2010 suspension was effective immediately.
129. The vast majority of suspensions given out by the Commission are effective 10 days from the date of issuance in order to give the suspended person time to appeal or transfer his horses.
130. The July 19, 2010 suspension was issued without notice to Adamo and without a hearing.
131. Mushalko and Remmert caused a copy of the suspension to be transmitted to the stewards of Fort Erie with the intention that the Fort Erie officials recognize Pennsylvania's suspension and suspend Adamo.
132. As Adamo entered the grounds of Fort Erie race track on July 19, 2010 he had no way of knowing he was suspended in Pennsylvania.
133. On July 19, 2010 the Fort Erie stewards told Adamo that they had no choice but to give reciprocity to another jurisdiction and ordered Adamo suspended and his horses ejected from the grounds of Fort Erie by the next day.
134. Because no notice of the suspension was given the earliest the Commission could act upon Adamo's July 19, 2010 request for a supersedeas of the July 19, 2010 suspension was July 23, 2010.
135. On July 20, 2010 Adamo was again subjected to the humiliation of having his horses ejected from Fort Erie. He was also now suspended in Canada pending resolution of the matter in Pennsylvania.
136. Actual legal notice of his suspension reached Adamo on July 22, 2010.
137. On July 23, 2010 Mushalko issued a temporary supersedeas good for ten days. If Adamo did not comply with the original demand letter in that timeframe the indefinite suspension would be revived.
138. Adamo was then forced to go to Commonwealth Court in order to get a full supersedeas and force a hearing on the matter before the Commission.
139. The Commission's original position was that Adamo would not be entitled to a hearing on the matter.
140. Mushalko and Remmert acted with actual malice toward Adamo.
141. Mushalko and Remmert deliberately suspended Adamo without notice or hearing with the specific intent of hurting Adamo in Canada before Adamo could appeal the suspension.
142. Remmert's and Mushalko's actions violate Adamo's 5<sup>th</sup> and 14<sup>th</sup> Amendment rights to due process.
143. As a result of Defendants' actions Adamo suffered loss of reputation, embarrassment and great financial loss.

WHEREFORE, Anthony Adamo requests judgment against Walter Remmert and Joseph Mushalko for deprivation of Adamo's federally guaranteed rights, for pain and suffering, for humiliation and embarrassment, for fees, costs,

attorney's fees, punitive damages, and for an unspecified amount, including interest, in compensation for damage done to Adamo's career.

A JURY TRIAL IS DEMANDED



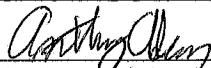
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Dated: NOVEMBER 16, 2010

DECLARATION UNDER PENALTY OF PERJURY

The undersigned under penalty of perjury avers that he is the Plaintiff in the above action, that he has read the above Complaint, and that the information contained therein is true and correct.

Dated: 11/10/10

  
\_\_\_\_\_  
ANTHONY ADAMO

Dated: Nov. 14, 2010

  
\_\_\_\_\_  
MICHAEL GILL

CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiffs certifies that true and correct copies of the foregoing document were served on today's date upon the following:

Attorney General of PA  
Strawberry Square – 15<sup>th</sup> Floor  
Harrisburg, PA 17120

Michael Dillon  
2301 North Cameron St.  
Harrisburg, PA 17109

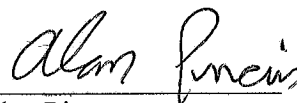
Joseph Mushalko  
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Walter Remmert  
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Attorney for Plaintiffs

Dated: *NOVEMBER 11, 2010*

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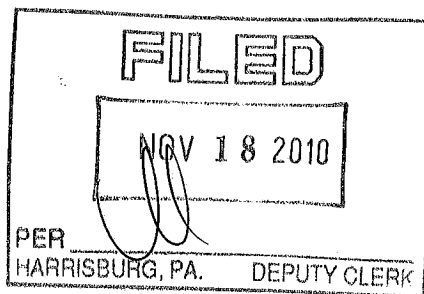
November 16, 2010

Re: Adamo & Gill v. Dillon, et al

Dear Sirs:

Please enter my appearance as counsel for both Plaintiffs in the enclosed action. Enclosed please find an original and one copy of the Complaint in this matter to be filed. Enclosed is the \$350 filing fee.

Thank you for your attention in this matter.



Yours truly,

Alan Pincus  
PA ID #61617