



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**February 1, 2008**

**INVESTIGATION FINDS CONFLICT BY RACING JUDGE**

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Office of the State Inspector General determined that Racing and Wagering Board (RWB) judge Richard DeSantis engaged in outside business activity – selling horse liniment and other items to people in the harness industry – that violated RWB policy and the New York State Public Officers Law. DeSantis also may have committed a criminal act when he made false filings to the New York State Commission on Public Integrity. The Inspector General referred DeSantis’s conduct to the Commission on Public Integrity and the Albany County District Attorney’s Office. After being informed of the Inspector General’s findings, the RWB rejected DeSantis’s application for re-appointment as a judge.

ALLEGATION

The Inspector General received information from the RWB that Richard DeSantis, a Presiding/Associate Judge, may be involved in the production and sale of “Victory Lane” goods – a product line that he patented – to horsemen who participate in harness racing events which he oversees.

SUMMARY OF INVESTIGATION

During the time covered by this investigation, Richard DeSantis was employed by the RWB as an Associate Judge and as a Presiding Judge - his title and function vary depending on his assigned location – and officiated at Monticello Raceway and Vernon Downs Racetrack. As an associate judge, DeSantis was responsible for upholding the rules and regulations of the RWB, officiating at harness horse races and investigating apparent interference or rules violations. When in the role of a presiding judge, DeSantis served as the principle representative of the RWB at the race meet, and he supervised the

associate judges, starter, paddock judges, supervising veterinarian and other RWB employees at the track.

As a state employee, DeSantis is subject to Public Officers Law § 74, which provides, in relevant part, that “[a]n officer or employee of a state agency . . . should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties.” Furthermore, “[a]n officer or employee of a state agency . . . should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.” RWB policy prohibits employees from having “any interest in or engage in any business or activity ‘in substantial conflict’ with the discharge of their public duties.”

The Inspector General determined that DeSantis was appointed to his position in 1999. DeSantis was advised at that time by the RWB Chief of Officials to divest himself of his interest in a company called Victory Lane as this outside-business activity might create a real or perceived conflict of interest in DeSantis’ official duties. Victory Lane produces and sells equine products, including poultices (a moist treatment applied over the skin to treat an aching or inflamed body part), foot-packing and liniment products.

Prior to this appointment, DeSantis was employed by Monticello Raceway where he was responsible for monitoring the administration of Lasix, an approved diuretic, to horses. DeSantis also held a RWB “General Services” license. (General Services licensees include, but are not limited to, the suppliers of harness goods, salesmen, and those individuals who perform services in connection with a harness horse race.) According to DeSantis’s RWB license records, from 1996 to 1999 he maintained a General Services license that listed Victory Lane as his employer and “President” as his position with the firm. There was no mention of Victory Lane, LTD in the resume that DeSantis submitted to the RWB in 1999 when he sought state employment. However, a later resume submitted to RWB by DeSantis in 2007 cites that he was the “owner/operator” of Victory Lane during the years “1991-1997.”

RWB records further show that DeSantis surrendered his General Services license in August 1999. In an internal RWB e-mail dated August 18, 1999 between two RWB employees, it was stated that DeSantis had been informed that he must surrender his license and position as Lasix director if he was to be considered for the appointment as Presiding/Associate Judge. A separate internal RWB e-mail dated August 31, 1999 between two RWB employees stated that DeSantis must surrender his General Services license and that DeSantis should submit a short memo indicating this. This e-mail contained a handwritten note which stated, “I Richard DeSantis surrender my license (Gen.Ser.) on 9-1-99.” The note bears the signature “Richard DeSantis.” In addition, there is a second handwritten memorandum dated September 10, 1999, which stated: “I, Richard W. DeSantis have turned in my license (General Services) to [an RWB employee] at Vernon Downs on August 27, 1999. I am no longer in possession of that license.” The memo is signed “Richard DeSantis.”

The Inspector General issued a subpoena for all relevant bank accounts maintained by DeSantis including copies of signature cards and monthly statements for the period August 1, 2004 – August 1, 2007. Records showed that DeSantis maintained three accounts, including a checking account under the name “Victory Lane Ltd.” “Richard DeSantis” is the only authorized signatory listed for the Victory Lane account on a signature card. The same address is printed on the checks for both the Victory Lane account and DeSantis’s personal accounts. Furthermore, the signatures on the handwritten 1999 RWB memo, the bank’s signature cards for the other accounts, and on the checks issued from these accounts appear consistent.

Despite DeSantis’ claim of relinquishing involvement in Victory Lane in 1999, the Inspector General’s analysis of the account records for Victory Lane revealed current activity - the deposit and withdrawal of checks under the name DeSantis. Bank statements revealed five to six deposits, on average, each month into the account from various tack shops, harness shops and individuals. Signature comparisons show that all checks drawn on Victory Lane contained what appeared to be DeSantis’s signature. There were no withdrawals authorized from this account by any name other than “Richard DeSantis.”

The Inspector General’s review of the Victory Lane account during a one-year period (July 1, 2006 to June 30, 2007) revealed what appeared to be a significant number of business transactions. Checks deposited into this account during this period total in excess of \$60,000. Further, an analysis of activity in both the Victory Lane bank account and DeSantis’s personal checking account showed intertwined activity. For example, the bank records revealed that DeSantis is the owner of a Personal Direct Deposit Christmas Club Account. To this account, there were 56 transactions of \$20 each directly deposited from the Victory Lane account, totaling in excess of \$1,000. In addition, the Inspector General’s Office identified that both the Victory Lane and DeSantis’s personal checking account made payments to the same credit cards, utilities and retail stores.

The Inspector General’s Office also examined Victory Lane account transactions for potential associations with individuals whom DeSantis officiated at races. Some checks deposited into this account, presumably to purchase products, were identified as coming from RWB-licensed horsemen who have raced, or have close family members who have raced, at locations that DeSantis has worked as either a Presiding or Associate Judge. Based on a review of DeSantis’ RWB time and attendance records and racing schedules, there are at least five horsemen who raced at tracks, as either a driver or trainer, on the same days that DeSantis was the Presiding or Associate judge for the race. Simply stated, these records established that DeSantis had presided over Victory Lane customers.

The Inspector General’s Office obtained records from United Parcel Service which listed a “daily pick-up” account for DeSantis’s address in the name of Victory Lane. The contact name on the UPS Victory Lane account was DeSantis and contact phone number on the account was the same number DeSantis listed as his personal contact number on his Racing License Renewal Applications and his most recent resume

submitted to RWB in 2007. The UPS records also show numerous transactions between DeSantis and a store known to sell horse supplies.

As a public officer, DeSantis was required to file an Annual Statement of Financial Disclosure with the Commission on Public Integrity (formerly the State Ethics Commission) in accordance with the Public Officer's Law. The financial disclosure statement provides the public with information about the activities and investments of those required to file which might reasonably tend to indicate the existence of a conflict of interest or potential violation of the public trust. Public Officer's Law §73-a requires, in pertinent part, the reporting of "any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York." Additionally, the "nature and amount of any income in excess of \$1,000 from each source for the reporting individual" must also be disclosed. DeSantis's filings with the Commission on Public Integrity from 1999 to 2006 contained no listing of interest in an outside business, specifically Victory Lane. The Commission also had no record of DeSantis having requested or receiving Commission approval to engage in any "outside activities" from which a state employee receives annual compensation in excess of \$4,000, as required by state regulation (19 NYCRR 932).

On October 31, 2007, the Inspector General's Office interviewed DeSantis regarding his affiliation with Victory Lane. When asked to describe his affiliation with Victory Lane, DeSantis stated that he created, patented and started the production of equine products under the corporate name Victory Lane, LTD in the 1980s and "was going around, track to track, selling the poultice (medicinal paste used to treat horses) and the foot packing and the liniment." DeSantis stated that he manufactured the products at Monticello Raceway during this period. He even noted that his current vehicle, parked within view of the Inspector General interviewers sported "VCTRYLN" license plates. It also should be noted that during the attempt to schedule the interview with DeSantis, Inspector General investigators called DeSantis's home telephone which stated that the caller has reached Victory Lane.

Regarding his employment as a Presiding/Associate Judge by the RWB in 1999, DeSantis initially told the Inspector General's Office: "When I came on board, I had to disassociate myself with it because it was a conflict of interest and I leased the company to my friend [a RWB racing licensee and owner of a tack shop] in Monticello. And that's it." According to DeSantis, "the Board" and the Chief of Racing Officials had informed him that he would need to disassociate himself from his interest in the corporation. DeSantis stated that the acquaintance offered to "take it off [his] hands." When the acquaintance replied that he couldn't afford to buy it, DeSantis purportedly told him, "Lease it. What do I care?" Regarding the terms of the alleged lease, DeSantis stated the lease was to be in place until he left his position with New York State, at which point he would discontinue the lease and regain control of the corporation. Asked about the terms of the alleged agreement, DeSantis claimed, "Nothing. I don't get any money out of it. I just gave him the thing to keep the product going." When asked again if money was exchanged as part of this lease agreement, DeSantis replied, "Nothing." According to

DeSantis, his acquaintance began the manufacture, selling and distribution of the product at this point in 1999.

DeSantis stated that prior to 1999, he had created a bank account for Victory Lane at the same bank referenced above. Upon the alleged transfer of the corporation to the acquaintance, DeSantis initially told the Inspector General that the acquaintance would not use this account for business but DeSantis would use it to “write checks.” When asked to explain the fact that checks made out to the payee “Victory Lane” were being deposited in this account during the last several years, DeSantis stated that he needed to speak with his acquaintance to “find out [the answer]” and requested that the Inspector General go “off the record.” His request was denied.

When confronted with this evidence, DeSantis contradicted his previous statement, replying “yeah” when asked if he held an active bank account for Victory Lane. DeSantis even added, “I’ve got a check right here.” When asked what he was doing with a check for Victory Lane, DeSantis stated, “I just carry it.” When asked why, DeSantis claimed, “Well, if you need money, cash the check.” DeSantis next claimed that “if [the acquaintance] is servicing the accounts then he’s putting money in there.”

DeSantis again altered his version of events, telling investigators, “Whether it was legal or not, the deal is he’s paying me over a ten-year period. Now, I didn’t know if that was going to be a conflict with the State or not. But he didn’t have the money to buy me out. So I said, you know, well, we’ll just lease it. But it’s actually, it’s a buy-out: \$10,000 a year, for \$100,000 in 10 years.” DeSantis further stated that his acquaintance “will make deposits [into the Victory Lane bank account] and I get, he gives me ten thousand dollars a year. Now, see, that could be considered a conflict because I’m getting money from Victory Lane but even though I’m not going out selling Victory Lane. That’s why I said he’s just leasing it, just to make it easier. Now everybody’s mixed up.”

In this new version, DeSantis claimed his acquaintance kept track of the accounting and purportedly paid the \$10,000 to him each year by writing “many” checks to “cash” or “DeSantis” during the year. However, the Inspector General’s Office review of this account activity from July 1, 2006 to June 30, 2007 noted payments to “cash” totaling only \$700. Further, contrary to DeSantis’s statement, a review of all checks drawn from this account and signature cards showed no other persons affiliated with the Victory Lane bank account and specifically no checks signed by DeSantis’s acquaintance.

When DeSantis was informed that the Inspector General’s Office had reviewed the bank account transactions records and there were numerous checks deposited in the account from tack shops, horse owners, drivers, and trainers, DeSantis stated: “It’s over. You guys can do what you want. I’m not going to argue. I’m going to go play golf.” The interview was concluded.

## FINDINGS AND RECOMMENDATIONS

The investigation by the Inspector General established that DeSantis violated the Public Officers Law and RWB policy. He specifically violated Public Officers Law § 73-a by not disclosing his interest in Victory Lane, LTD to the Public Integrity Commission, and DeSantis further violated a state regulation by not seeking and obtaining the Commission's approval to engage in such an outside activity that generated more than \$4,000 annual income. By omitting his outside business activity on required submissions to the Commission on Public Integrity, DeSantis appears to have committed the crime of Offering a False Instrument for Filing.

By selling products to horsemen whom he oversaw as part of his RWB duties, DeSantis also violated conflict of interest provisions of Public Officers Law § 74, as well as RWB policy. Upon learning that DeSantis had applied for re-appointment to the RWB, the Inspector General's Office advised the RWB of its findings. RWB advised the Inspector General's Office that it did not re-appoint DeSantis. The Inspector General's Office referred its findings to the Commission on Public Integrity and the Albany County District Attorney's Office.