

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

ANGELA AQUINO
CHRB License #277185
Respondent

CHRB Case #14LA0148

DECISION

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision is hereby remanded to the Board of Stewards to issue a ruling and order for payment of the three thousand dollar (\$3000.00) fine and setting the sixty (60) day suspension with fifteen (15) days stayed on condition that the Respondent not have any violations for Class I, II, III drug substances for a period of one (1) year.

IT IS SO ORDERED ON August 21, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint/Accusation
against:

ANGELA AQUINO,
Respondent

License Type: Trainer
License No. 277185-07/2016

Case No. 14LA0148

PROPOSED DECISION

INTRODUCTION

This matter was heard on July 26, 2014 before the Board of Stewards, George Slender, Ruben Moreno, and James Dreyer, in the Los Alamitos Stewards' Office.

Present at the hearing was the Respondent, Trainer Angela Aquino, Investigator Kevin Kitashima, Safety Steward Randy Winick, and Stewards George Slender, Ruben Moreno, and James Dreyer. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Trainer Angela Aquino was the trainer of record for the horse "Gracies Girl," who started in the second race at Los Alamitos Race Course on June 15, 2014. On June 24, 2014, Sacramento Headquarters emailed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Gracies Girl" (Urine Sample #LA26069) tested positive for the class III prohibited drug Clenbuterol after finishing first in the second race on June 15, 2014. Trainer Aquino was notified of the positive on June 27, 2014, and a barn inspection found no further violations. Both Trainer Aquino and Owner Fernando Valenzuela declined to submit the split sample to be tested.

LIST OF EXHIBITS

Complainant / State

California Horse Racing Board Complaint
#14LA0148

Respondent / Defendant

No documents submitted.

FINDINGS OF FACT

I.

At all times herein mentioned, Respondent was licensed by the California Horse Racing Board in the license category of "trainer."

II.

Respondent was the trainer of record for the horse "Gracies Girl" when it raced in the second race on June 15, 2014 at Los Alamitos Race Course. "Gracies Girl" finished first in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA26069) was taken from "Gracies Girl" following the running of the race in accordance with California Horse Racing Board Rule #1858 (Test Sample Required) and was sent to Kenneth L. Maddy Equine Analytical Chemistry Lab of the California Horse Racing Board. This is the official testing lab of the California Horse Racing Board.

IV.

At all times herein mentioned, the chain of custody of urine sample #LA26069 from "Gracies Girl" was uninterrupted.

V.

After analyzing the sample, Maddy Laboratory reported a finding of the prohibited drug, Clenbuterol, a class III substance, in the sample.

VI.

On June 27, 2014, Trainer Angela Aquino was notified that "Gracies Girl" had tested positive for Clenbuterol.

APPLICABLE RULES

- California Horse Racing Board Rules:
 - **1887** (Trainer to Insure Condition of Horse)
 - **1843** (Medication, Drugs and Other Substances)
 - **1859.5** (Disqualification Upon Positive Test Finding)

DISCUSSION

The first action required in this case and all class I, II, and III medication violations is to address California Horse Racing Board Rule #1859.5 (Disqualification Upon Positive Test Finding). This rule was explained to Ms. Aquino and memorialized in Ruling #144 of the Los Alamitos Quarter Horse Racing Association for the disqualification and purse redistribution of "Gracies Girl," the first place finisher in the second race at Los Alamitos Race Course on June 15, 2014, testing positive for Clenbuterol, a class III prohibited drug substance, which is a class "B" penalty. The trainer and owner of record, Fernando Valenzuela, did not request a split sample.

Trainer Aquino did not dispute the positive test finding, however we must now address the portion of this process dealing with trainer responsibility (California Horse Racing Board Rule #1887 – Trainer to Insure Condition of Horse). It must also be determined if there is any or how much penalty that needs to be applied by determining if there are any mitigating and/or aggravating circumstances in Ms. Aquino's culpability. Trainer Aquino is entitled to a defense of her responsibility by California Horse Racing Board Rule #1888 (Defense to Trainer Insurer Rule), to which there are four defenses. Section (a), (b), and (d) are procedural in nature and do not apply in this instance. However, section (c) asks the trainer to show by a preponderance of the evidence that she made every reasonable effort to protect this horse in her care from tampering by unauthorized person or persons.

In her testimony, Ms. Aquino stated that she only had this horse in her care since the afternoon before the race (24 hours) and secured the horse in her barn with her regular work staff, who only took basic grooming care, such as feeding and bathing the horse to get it ready to compete.

Trainer Aquino stated that she only fed "bute" to "Gracies Girl" the night before competing on June 14, 2014, and Dr. J. Lorbiecki administered lasix on race day, June 15, 2014. Investigator Kevin Kitashima also commented that she runs a clean barn with no illegal or unlabeled medications found after his barn inspection. Ms. Aquino stated that she did not give Clenbuterol in the twenty-four hours "Gracies Girl" was in her care. Investigator Kitashima stated that in his conversation with Medical Director Dr. Arthur that the amount of Clenbuterol found in the post-race test indicated that it was most likely given seven to ten days prior to race day. Angela Aquino testified that this was her first horse she trained for this owner and had a gut feeling not to take it, but on a recommendation by a friend she did, to her regret. Angela stated that she did not know for sure if Mr. Valenzuela match races his horses but would not be surprised if he did, because these horses can go anywhere once they leave the grounds at Los Alamitos without her or any trainer's knowledge.

Owner Valenzuela was not able to attend the hearing, however, he was interviewed and stated

he does not use Clenbuterol at the ranch and has no idea how the horse got Clenbuterol in her system.

In closing, Ms. Aquino was cooperative and sincere with the investigator as well as with the Stewards during this hearing. It should be noted that her medication violation record shows that she has only one class IV penalty since 2007 and runs a very organized and clean barn. Even Dr. Arthur, according to Investigator Kitashima, said it was most likely not administered by the trainer but probably done at the ranch. Angela told the Stewards that she immediately told all of her other owners of her positive test finding and said she understands if they want to remove their horses from her care but none did.

The inquiry will now go to the penalty phase as outlined by California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations), which allows for aggravating and mitigating factors that would enable deviation from the penalties outlined in the text of that rule. This is a class III violation with a class "B" penalty category, which calls for a minimum thirty (30) day suspension and a five hundred dollar (\$500.00) fine to a maximum sixty (60) day suspension and a ten thousand dollar (\$10,000.00) fine. As stated previously, she has only one class IV since 2007 for double NSAIDs.

A review of the aggravating and mitigating factors is now required to determine if some deviation from the minimum penalty is appropriate:

- (1) *Past Medication Record of the Licensee:* Trainer Aquino has one medication violation for two NSAIDs. **Mitigating.**
- (2) *The Potential of the Drug to Influence a Horse's Performance:* Clenbuterol can enhance a horse's performance. The concentration detected was 380 picograms per milliliter in the urine, which would not be considered high. However, the level would suggest the drug was administered ten to fourteen days prior to the race. **Aggravating.**
- (3) *The Legal Availability of the Drug:* Clenbuterol is available from any veterinarian as it is not an illegal drug to use, just to race on. This is a **neutral** factor.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* Upon reviewing the testimony of Trainer Aquino, it is our opinion that she was unaware Clenbuterol had been administered to "Gracies Girl." The horse was shipped to Trainer Aquino the day prior to the race. **Mitigating.**
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* This is a **neutral** factor as the horse was shipped to Trainer Aquino the day before the race.
- (6) *Steps Taken by the Owner to Safeguard Against Subsequent Medication Violations, Including but not Limited to, the Transfer of the Horse(s) to an Unaffiliated Trainer:* There was no evidence on this factor and is therefore **neutral.**

- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors:* This is a **neutral** factor as there is no evidence of such.
- (8) *Purse of the Race:* This is **mitigating** because the purse of the race was rather small: \$7,840.
- (9) *Whether the Drug Found to Be Present in the Official Sample was one for which the Horse was Receiving Treatment as Determined through the Process Described in Rule #1842 (Veterinary Report):* The horse was not prescribed Clenbuterol. **Aggravating.**
- (10) *Whether there was any Suspicious Wagering Pattern on the Race:* This is a **mitigating** factor because of no known evidence that wagering on this race was out of the ordinary.
- (11) *Whether the Licensed Trainer was Acting under the Advice of a Licensed Veterinarian:* **Aggravating** as there is no evidence of her or any veterinarian's advice for approval of this drug to be used on her horses.

A review of the factors reveals that there are more mitigating and neutral factors than aggravating ones.

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug substance, Clenbuterol, was found in urine sample #LA26069 taken from the horse "Gracies Girl," the first place finisher in the second race at Los Alamitos Race Course on June 15, 2014. This finding requires the disqualification of "Gracies Girl" in accordance with California Horse Racing Board Rule #1859.5 (Disqualification Upon Positive Test Finding).

This Board of Stewards took judicial notice of the penalty guidelines as defined in California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations). Clenbuterol is a class III drug that falls in the class "B" penalty.

PROPOSED DECISION

Given all of the foregoing, this Board of Stewards makes the following recommendation in this matter:

State of California
CALIFORNIA HORSE RACING BOARD

* * *

Trainer Angela Aquino who started the horse “Gracies Girl” in the second race on June 15, 2014 at Los Alamitos Race Course, is fined three thousand dollars (\$3,000.00),* suspended sixty (60) days, and placed on probation for one year from the date of this ruling pursuant to California Horse Racing Board Rule #1887 (Trainer to Insure Condition of Horse) and Rule #1859.5 (Disqualification Upon Positive Test) for violation of California Horse Racing Board Rules #1843 (a,b,&d) (Medication, Drugs and Other Substances – Clenbuterol – Class III).

Fifteen (15) of the days of suspension are stayed. Angela Aquino is placed on probation and shall not have any violations for Class I, II, or III substances. If probation is violated subject shall serve the fifteen (15) stayed days.

During the term of suspension, all licenses and license privileges of Angela Aquino are suspended and pursuant to California Horse Racing Board Rule #1528 (Jurisdiction of Stewards to Suspend or Fine), Angela Aquino is denied access to all premises in this jurisdiction.

*California Horse Racing Board Rule #1532 states that all fines shall be paid to the paymaster of purses within seven (7) days of imposition [-----] or the license of the person upon whom the fine was imposed shall be suspended.

Lic# 277185-07/2016

Case# 14LA0148

DATED: August 9, 2014

By the Los Alamitos Board of Stewards:

James Dwyer

George Glendon

Ruben Morend

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