

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:
FITNESS FOR LICENSURE

ANTHONY AYALA
Appellant

Case No. SAC 16-0019

DECISION

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

The Decision shall become effective on August 29, 2016.

IT IS SO ORDERED ON August 25, 2016.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

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STATE OF CALIFORNIA

In the Matter of:)
FITNESS FOR LICENSURE)

ANTHONY AYALA,)
Appellant)
_____)

Case No. SAC 16-0019

PROPOSED DECISION

This matter was heard on June 1, 2016 by C. Scott Chaney, a Hearing Officer designated under California Horse Racing Board rule 1414 (Appointment of Referee) at California Horse Racing Board headquarters in Sacramento, California.

The Appellant, formerly licensed jockey Anthony Ayala, (hereinafter “Appellant” or “Mr. Ayala”), represented himself.

The California Horse Racing Board (hereinafter “CHRB”) was represented by CHRB Staff Attorney Phil Laird.

The proceedings were recorded by court reporter Wendy Frazier.

PROCEDURAL BACKGROUND

On August 23, 2015, Ayala applied for and was refused a CHRB license in the category of “jockey—TB”. That refusal was based on a Board of Stewards’ ruling dated August 9, 2014 – Sonoma County Fair Ruling #21, which recommended that Mr. Ayala not be relicensed. The CHRB investigative staff determined that the decision with respect to whether Mr. Ayala be relicensed should be made through a fitness for license hearing. The purpose of this hearing therefore is to take evidence concerning whether Appellant should be considered for a CHRB license. Both parties were noticed and the hearing was scheduled for June 1, 2016. On that day, the hearing was called to order at approximately 11:00 am in accordance with the notice supplied to all parties. The CHRB submitted documentary evidence relevant to the matter as well as oral testimony by CHRB Investigator Duane Tadlock, while the Appellant presented his own testimony, as well as documentary evidence. The record was closed and the matter deemed submitted that same morning.

LIST OF EXHIBITS

CHRB Exhibit #1 – Apology Letter and Request for Jockey License Reinstatement; Comprehensive Addiction Programs, Inc. letters.

CHRB Exhibit #2 – Notice of Refusal of License; Report of Investigation; Application for License; Criminal History Information; Sonoma County Fair Association Ruling #21 dated August 9, 2014; Quest Diagnostics Laboratory Report; Field Test picture; Pacific Racing Association Ruling #16 dated January 24, 2014.

CHRB Exhibit #3 – Email from Bob Fletcher (Winners' Foundation) to CHRB Investigator Duane Tadlock.

CHRB Exhibit #4 – CHRB License History of Anthony Ayala.

CHRB Exhibit #5 – CHRB Proposed Rule 1489. Grounds for Denial or Refusal of License.

CHRB Exhibit #6 – CHRB Proposed Rule 1489.2. Criteria to Evaluate Rehabilitation of a Person When Considering Denial, Suspension, or Revocation of an Occupational License.

FACTUAL FINDINGS

I

Jockey Anthony Ayala has been licensed as a jockey in California since 2006 and was licensed as a jockey in a number of other states well before that.

II

In 2012, Ayala was issued a ruling based on a positive drug test for marijuana and cocaine (PRTG018 11/22/12). After that suspension he was reinstated in 2013 (PRTG053 4/18/2013). He license was then summarily suspended again on 4/25/13 (PRTG059) pending appearance; and reinstated on 6/13/13 (SACD000). On 7/6/13, his license was once again summarily suspended pending appearance (SACD000).

III

In October of 2013, Appellant was convicted of Possession of Marijuana, fined and ordered to serve 6 days in jail.

IV

On January 24, 2014, the Board of Stewards at Golden Gate held a hearing upon Mr. Ayala's appearance, reinstated him but then suspended him through the term of his license (March 31, 2014), placed him on probation, ordered him to complete a substance abuse program and demonstrate a history of sobriety before being reinstated (PRTG016). Lastly, that order required a fitness hearing before relicensing.

V

In preparation for that license hearing, Mr. Ayala submitted to a drug test which revealed a level of methamphetamine. The result of that hearing was a suspension of Mr. Ayala's license for its term and a recommendation that he not be relicensed. (SCFR021). At that hearing, Mr. Ayala maintained that hearing that the positive was due to adulterated dietary supplements.

VI

In August of 2015, Mr. Ayala was denied a license based on the 2014 ruling, after which he requested a fitness for license hearing, which is the purpose of this hearing.

VII

On June 26, 2015, Mr. Ayala entered a detox unit in Fresno, and was discharged on July 14, 2105. Apparently that consisted of 14 days of detox and an additional 5 days but fell short of the 30 day minimum as suggested by the Winners' Foundation. Appellant refused the offer of residential treatment and that facility. The facility recommended Alcoholics Anonymous classes upon leaving, but there is no evidence that Appellant has attended such classes.

APPLICABLE LAWS AND REGULATIONS

California Horse Racing Board Rule 1489 (Grounds for Denial or Refusal of License).

The Board, in addition to any other valid reason, may refuse to issue a license or deny a license to any person:

- (a) Who has been convicted of a crime punishable by imprisonment in a California state prison or a federal prison, or who has been convicted of a crime involving moral turpitude.

.....

- (g) Who has committed an act involving moral turpitude, or intemperate acts which have exposed others to danger...

....

- (h) Who has unlawfully engaged in or who has been convicted of possession, use or sale of any narcotic, dangerous drug, or marijuana.

DISCUSSION OF ISSUES

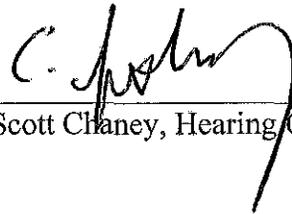
The last time Mr. Ayala had a hearing and the opportunity to present evidence was before the Board of Stewards on August 9, 2014 after which that Board recommended that Mr. Ayala not be relicensed (SCFR021). In my view, given that due process protection, Appellant would have to present compelling evidence to disturb that decision. At a minimum, and still not determinative, he would have to comply the

original terms and conditions of the ruling dated January 24, 2014, which required participation in a Board of Stewards' approved substance abuse program and the demonstration of a history of sobriety. First, evidence showed that while Appellant began the detox portion of the substance program, he did not, in any real way, complete the program, and therefore has not complied with this portion of the original ruling. The second condition, that is, demonstrate a "history of sobriety and abstention from drugs" has not been satisfied and in fact the evidence points to the contrary. Appellant has no record of attending AA meetings or any further substance abuse programs, education or follow up. Further, he tested positive for methamphetamine six months after the original ruling was published. At hearing, while Appellant expressed a genuine interest and need for a CHRB license, he did not present compelling testimony regarding his addiction or problem. After multiple DUIs, a cocaine/marijuana positive and a methamphetamine positive, it seems clear that a problem does exist and should be addressed and remedied before being granted any CHRB license, much less one in the category of jockey.

CONCLUSION/PROPOSED DECISION

Given all of the foregoing, I recommend that Mr. Ayala not be licensed at this time. It is further recommended that Mr. Ayala not be considered for a license for a period of at least one year from the date of this ruling. Additionally, should Mr. Ayala ever be considered for a license in the future, he must participate in a fitness for license hearing at which, at a minimum, he should be required to present evidence of participation in a substance abuse program and demonstrate a history of sobriety.

DATED: August 13, 2016.



C. Scott Chaney, Hearing Officer

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