

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Appeal from the Board
of Stewards Official Ruling #012, Los
Alamitos Spring Thoroughbred Meet, dated
April 29, 2016

Case No. SAC 16-0011

BRANDON BOULANGER
CHRB License #315426
Appellant

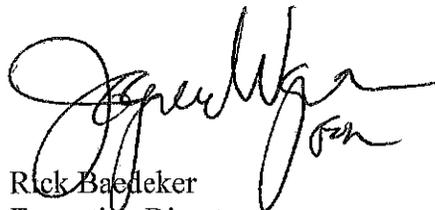
DECISION

The attached Proposed Decision is hereby 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 imposing a ten (10) day riding suspension.

IT IS SO ORDERED ON July 14, 2016.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman

A handwritten signature in black ink, appearing to read "Rick Baedeker". The signature is stylized and cursive, with a large initial "R" and "B".

Rick Baedeker
Executive Director

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CALIFORNIA HORSE RACING BOARD
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**In the Matter of the Appeal of Stewards)
Official Ruling #012 Los Alamitos Spring)
Thoroughbred Meet dated April 29, 2016)
BRANDON BOULANGER)
CHRB License #315426)
Appellant)
_____)**

Case No. SAC 16-0011

PROPOSED DECISION

This appeal was heard by Steffan Imhoff, a Hearing Officer/Appellate Judge designated under Rule 1414 by the California Horse Racing Board (CHRB), at Santa Anita Race Track, Arcadia, California, at the Santa Anita Stewards' Office on May 19, 2016.

William Westermann, Chief Investigator represented the CHRB.

Attorney Bing Bush, Del Mar, California represented the Appellant.

Mr. Boulanger was present and testified on his own behalf.

Steward Scott Chaney testified for the CHRB.

Also present was Safety Steward Luis Jauregui

The proceedings were transcribed by Michelle Derieg, Hearing Reporter, for Weinstein Court Reporters.

The appeal was submitted for decision on May 19, 2016.

BACKGROUND

This Appeal concerns Appellant's conduct during the running of the 8th race at Los Alamitos Race Track on April 29, 2016. Brandon Boulanger was riding number nine, "FIDDLER BLUE" a six year old gelding. The race was a \$10,000 claiming race for a 3 year olds and up and was contested on the dirt track at one mile. After his mount tripped over a fallen foe Boulanger was called in by the Stewards for a film review on April 29, 2016.

FILM REVIEW

Jockey **BRANDON BOULANGER** came into the office to review his ride in the eighth race, yesterday, during which he ran into a fallen horse. Video revealed that his mount was racing last and that he had seven to eight strides from the time the horse in front fell to take some action in order to avoid the collision. It appeared that he only realized that there was a horse in his path, a stride before running into him. Mr. Boulanger maintained that he was aware, tried to angle his horse to the inside but was too late. We disagreed with his assessment and issued the following ruling:

STEWARDS ORDER

Jockey **BRANDON BOULANGER** who rode "FIDDLER BLUE" in the eighth race at Los Alamitos Spring Meet on April 29, 2016 is suspended for TEN (10) racing days (May 5, 6, 7, 8, 12, 13, 14, 15, 19, and 20, 2016) for violation of the California Horse Racing Board rule #1699 (Riding Rules – Careless Riding – failure to take action to avoid a fallen horse resulting in a second accident). Pursuant to California Horse Racing Board rule #1766 (Designated Races), the term of suspension shall not prohibit participation in designated races.

The ruling was unanimous. A copy of the Order signed by Stewards Chaney, Ward and Sawyer and dated April 29, 2016, was received in evidence.

APPEAL

Appellant, through counsel, has filed a timely notice appealing Order SAC # 16-0011. His request for a stay was granted by Executive Director Rick Baedeker on May 3, 2016.

The hearing on appeal of Jockey's **BRANDON BOULANGER's** suspension was conducted by Hearing Officer/Appellate Judge Steffan Imhoff at the Santa Anita Race Track, Stewards Office on May 19, 2016

This Appeal to the CHRB is authorized by Rule 1761. Appellant has the burden of proof on appeal under Rule 1764.

Under the provisions of Business and Professions Code Section 19517, the CHRB may overrule a Stewards' Decision only if preponderance of the evidence shows either that the Stewards mistakenly interpreted the law, new evidence of a convincing nature is produced or the best interest of racing may be better served.

CONTROLLING LAW

The Stewards have general authority and supervision over all licensees, including licensed jockeys such as Mr. Boulanger. (Rule 1527). That authority included their ability to impose a fine or suspension (Rule 1528).

At issue in this appeal is Rule 1699 Riding Rules.

During the running of the race:

- a. A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride. A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.
- b. A horse which interferes with another and thereby causes any other horse to lose stride, go run or position, when such horse is not a t fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

- c. Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.
- d. Jockeys shall not willfully strike or strike another horse or jockey so as to impede, interfere with intimidate, or injure.
- e. If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

APPELLANT'S CONTENTIONS

Applying Rule 1699:

Appellant's sole contention is that he did not ride carelessly in the race at issue in violation of Rule 1699. We therefore turn to the Evidence.

DISCUSSION

Summary of Evidence:

The evidence was based on the DVD of the race, the testimony of appellant and of Steward Scott Chaney and the Chief Investigators File. In the eighth race on April 28, 2016 at Los Alamitos Spring Meet, Jockey **BRANDON BOULANGER** was riding number nine, "FIDDLER BLUE" a six year old gelding. The race was a \$10,000 claiming race for a 3 year olds and up and was contested on the dirt track at one mile. "FIDDLER BLUE" stated slowly and was several lengths behind the pack going into the second turn. Unfortunately leaving the second turn "MACHO SOX" ridden by Fernando Perez broke down and fell. Several of his rivals, including "DUSTINS' PASSION" ridden by Mario Gutiérrez, "VALENTINE BOY" ridden by Bryan Pena and "NO SURRENDER" ridden by Edwin Maldonado steadied and or changed course and avoided the fallen horse. Appellant was still several lengths behind "MACHO SOX" when he went down, but he did not appear to see his fallen rival until he was a couple of strides from him.

He was unable to avoid "MACHO SOX" and tripped over him. "FIDDLER BLUE" also went down. Neither horse survived their injuries. There is no dispute that Appellants mount made up several lengths and was within a couple of lengths of the fallen horse before he took evasive action. In the opinion of the Stewards it was too little too late. We find the Steward's view credible. The jockey should have been aware of the trouble that was brewing ahead of him in time to take the action necessary to avoid his fallen foe. His failure to do so certainly constitutes careless riding under Rule 1699. We turn to the Penalty.

THE PENALTY

In this case the Stewards ordered a ten day suspension. Steward Chaney was asked to explain how this penalty was calculated. He testified that the Stewards have consistently held that if a horse or jockey is injured in connection with the alleged careless riding this is a factor in aggravation on penalty. Given the disastrous outcome of this race the court holds that a 10 day suspension is not unreasonable. This is particularly true as appellant has shown no contrition for the events of that day.

CONCLUSION

Appellant has failed to meet his burden of proof to show by a preponderance of the evidence that the Stewards Decision should be reversed (Rule 1764). There is substantial evidence to support the Stewards Decision to suspend Appellant for careless riding (Rule 1699).

ORDER

Official Ruling SAC #16-0011 dated April 29, 2016, imposing a TEN day suspension on Appellant Brandon Boulanger, License #315426 for careless riding under Rule 1699, in the eighth race, on April 28, 2016, at Los Alamitos Race Track, is hereby AFFIRMED.

The Stewards or the Executive Director shall specify the days that the suspension will be effective.

6-10-16

Dated



STEFFAN IMHOFF
Designated Appellate Judge

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