

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JOSE DOMINGUEZ
CHRB License #326151
Respondent

CHRB Case No. 18LA0018

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 (\$3,000.00) fine and setting the sixty (60) days of suspension.

IT IS SO ORDERED ON May 24, 2018.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

Date: April 20, 2018

In the Matter of the Complaint Against:

Name

Respondent: Jose Dominguez

Case# 18LA0018

INTRODUCTION

This matter was heard before the Board of Stewards, Tom Ward, Ronald Church, and James Dreyer, in the Los Alamitos Stewards' Office April 20, 2018.

Present at the hearing was Investigator Dennis Drulius and The Board of Stewards. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Owner Jose Dominguez was the owner of record for the horse "Sagita," who started in the seventh race at Los Alamitos Race Course on January 14, 2018. On January 26, 2018, Sacramento Headquarters faxed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Sagita" (Urine Sample #LA39723) tested positive for the class III prohibited drug Clenbuterol after finishing first in the seventh race on January 14, 2018. Owner Jose Dominguez was notified of the positive on January 27, 2018 and a barn inspection found no other violations. On January 28, 2018, trainer Zuazo completed the forms for the split sample testing.

On February 8, 2018, investigators received a denial of split sample test #LA39723 memorandum from Sacramento stating the laboratory chosen by trainer Zuazo had not received the payment for completion of the testing within the five (5) working days after the receipt of the CHRB-56 form as required by Rule 1859.25(3).

LIST OF EXHIBITS

Complainant / State	California Horse Racing Board Complaint #18LA0018
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Respondent / Defendant	No documents submitted
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FINDINGS OF FACT

I.

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

II.

Respondent was the owner of record for the horse "Sagita" when it raced in the seventh race on January 14, 2018 at Los Alamitos Race Course. "Sagita" finished first in the aforementioned race.

III.

A post-race Urine sample (labeled sample #LA39723) was taken from "Sagita" 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 #LA39723 from "Sagita" was uninterrupted.

V.

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

VI.

On January 27, 2018, Respondent was notified.

APPLICABLE RULES

CHRB rule violations listed in the complaint

- Rule 1887 (Trainer or Owner to Insure Condition of Horse)
- Rule 1843 (a, b & d) (Medication, Drugs and Other Substances)
- Rule 1843.1 (b) (Prohibited Drug Substances)
- Rule 1844 (e)6 (Authorized Medication)
- Rule 1859.5 (Disqualification Upon Positive Test Finding)

DISCUSSION

When owner Jose Dominguez failed to appear for his scheduled hearing on April 20, 2018 Investigator Dennis Drulius was able to contact him by phone. Mr. Dominguez explained he was in Mexico and did not know when he would be returning. This hearing was changed by six weeks to accommodate Mr. Dominguez who cited personal issues he had to address. He obviously does not realize the seriousness or the ramifications that a class III Clenbuterol positive can generate. Based on the information received from investigator Drulius the decision was made by the Stewards to move forward with the hearing.

This discussion will primarily be based on statements made by Mr. Dominguez while being interviewed by the investigators.

Trainer Zuazo had stated that all of his dealings were with Francisco Ramirez whom he thought was the owner. In reality Ramirez does not even hold a license issued by the Board. The first time Zuazo met owner Dominguez was during an interview with the Investigators.

Owner Dominguez stated that normally either Francisco Ramirez cared for the horse at the ranch, but it is Juan Barrientos' ranch and he might provide some of the care and training at the ranch. It appears to this Board of Stewards that Mr. Dominguez was so far out of touch with the day to day care of "Sagita" that he had no idea what was going on with the animal.

According to California Horse Racing Board Rule #1887 (Trainer or Owner to Insure Condition of Horse), owner Dominguez is equally responsible with trainer Zuazo for the Clenbuterol positive.

This Board of Stewards is of the opinion that owner Dominguez did not administer the Clenbuterol to "Sagita" nor was he aware it had been administered, however, he must be held accountable according to Rule #1887.

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 permit deviation from the penalties outlined in the text of that rule.

This is a Class III violation with a Class "B" penalty.

A review of the aggravating and mitigating factors is now required:

- (1) *Past Medication Record of the Licensee*: Jose Dominguez has no prior medication violations. Mitigating.
- (2) *The Potential of the Drug to Influence a Horse's Performance*: Clenbuterol can enhance a horse's performance. Aggravating.
- (3) *The Legal Availability of the Drug*: Clenbuterol is available from any veterinarian; however, in Quarter Horses it is a zero tolerance drug. Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug*: Based on the initial investigation by CHRB investigators there appears to be some substance to the thought that owner Dominguez was unaware "Sagita" had been administered Clenbuterol. It appears he was a sideline owner while the daily maintenance was performed by Francisco Ramirez at the ranch of Juan Barrientos, "Sagita's" previous owner. Ramirez is unlicensed by the CHRB. Dominguez's inattention to the horse's care does not relieve him of responsibility. Aggravating.
- (5) *Steps Taken by the Owner to Safeguard the Horse*: This factor does not apply and is therefore neutral.
- (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 Owner*: There is 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*: The purse was \$10,350 which is not excessive and therefore mitigating.
- (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)*: Veterinary reports do not indicate the horse having been prescribed Clenbuterol. Aggravating
- (10) *Whether there was any Suspicious Wagering Pattern on the Race*: Mitigating as there was no evidence of any unusual wagering pattern.
- (11) *Whether the Licensed Owner was Acting under the Advice of a Licensed*

Veterinarian: There is no evidence of any veterinarian's advice for approval of this drug to be administered to "Sagita". Aggravating.

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

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in urine sample #LA39723 taken from the horse "Sagita," the first place finisher in the seventh race at Los Alamitos Race Course on January 14, 2018. This finding requires the disqualification of "Sagita" in accordance with California Horse Racing Board Rule #1859.5.

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

* * *

OWNER JOSE DOMINGUEZ WHO RACED THE HORSE "SAGITA" IN THE SEVENTH RACE ON JANUARY 14, 2018 AT LOS ALAMITOS RACE COURSE IS FINED THREE THOUSAND DOLLARS (\$3,000.00)* AND SUSPENDED SIXTY (60) DAYS) PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887 (A)(TRAINER OR OWNER 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) #1843.1 (b) (PROHIBITED DRUG SUBSTANCES), AND 1844(e)(6)(AUTHORIZED MEDICATION).

DURING THE TERM OF SUSPENSION ALL LICENSES AND LICENSE PRIVILEGES OF JOSE DOMINGUEZ ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS TO SUSPEND OR FINE) JOSE DOMINGUEZ 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# 326151 – 03/2020

Case# 18LA0018

PROPOSED DECISION

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

Dated 4/27/18 by this Board of Stewards:

James Dreyer
Steward James Dreyer

Ron Church
Steward Ron Church

Tom Ward
Steward Tom Ward

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