

BEFORE THE CALIFORNIA HORSE RACING BOARD  
OF THE STATE OF CALIFORNIA

In the Matter of:

THE ACCUSATION AGAINST:

DOUGLAS F. O'NEILL  
Respondent

Case No. SAC 07-0056

DECISION

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

The Decision shall become effective on June 20, 2007.

IT IS SO ORDERED ON June 19, 2007.

CALIFORNIA HORSE RACING BOARD  
Richard B. Shapiro, Chairman



Ingrid J. Fermin  
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DOUGLAS F. O'NEILL,

Trainer No. 112723,

Respondent.

CHRB No. 06HP076

OAH No. L2006110095

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on May 21, 2007, in Los Angeles, California.

James Ahern, Deputy Attorney General, represented Ingrid Fermin (Complainant), Executive Director of the California Horse Racing Board (CHRB).

Neil Papiano, Attorney at Law, Iverson, Yoakum, Papiano & Hatch, represented Douglas F. O'Neill (Respondent).

FACTUAL FINDINGS

1(a). On May 17, 2007, the parties entered into a written stipulated settlement agreement. Pursuant to that settlement, the parties agreed to the following facts, legal conclusion, and order.

1(b) At all times relevant herein, Respondent held a trainer license issued by the CHRB, license number 112723. Respondent's trainer license was in full force and effect at all times relevant to this matter.

1(c). On September 6, 2006, Complainant filed an Accusation against Respondent. The Accusation alleged Respondent violated California Code of Regulations, title 4, sections 1843.1, 1843.6, 1887, and 1859.5. Respondent was served with the Accusation on September 17, 2006. Respondent filed a Notice of Defense.

1(d). On May 27, 2006, Respondent was the trainer of record of the horse "Wisdom Cat." "Wisdom Cat" was regularly entered in the seventh race at Hollywood Park Race Course in Inglewood, California on May 27, 2006. "Wisdom Cat" finished out of the money in that race.

1(e). On or about May 27, 2006, prior to the running of the seventh race and in the presence of an assistant to a veterinarian, a blood sample was taken from "Wisdom Cat" by Lucinda Irvine, and the sample was designated TC 56613L.

1(f). On June 1, 2006, Dr. Scott Stanley of the University of California, Davis, reported that the pre-race blood sample TC 56613L, taken from "Wisdom Cat" on May 27, 2006, had been laboratory tested. The results showed a Total Carbon Dioxide (TC02) level of 38.4 millimoles per liter of TC02, exceeding the regulatory action level of 37 millimoles and constituting a prohibited Class 3 drug substance, pursuant to California Code of Regulations, title 4, section 1843.6.

1(g). On June 10, 2006, Respondent was notified of the positive test for an excessive level of TC02 in "Wisdom Cat." Respondent was offered split sample testing but he declined.

1(h). Respondent and Complainant agreed that Factual Findings 1(a) through 1(g) correctly state the facts that resulted in the filing of the instant case (CHRB Case No. 06 HP 076, OAH Case No. 2006110096).

2. Consequently, Respondent agreed to pay a \$3,000 fine to the CHRB within seven calendar days from the date the stipulated settlement agreement was executed (May 17, 2007). Respondent agreed that his failure to pay the fine within that deadline would result in Respondent's license being suspended until Respondent paid the fine.

3. Respondent agreed that the participation fee for the seventh race on May 27, 2006, in which "Wisdom Cat" ran out of the money, must and would be forfeited.

4. Respondent also agreed with the findings of the University of California, Davis laboratory of 38.4 millimoles of TC02 in "Wisdom Cat" on May 27, 2006, and Respondent agreed that the finding was a violation of California Code of Regulations, title 4, sections 1843.6 and 1887.

5. The parties agreed that a record of this penalty would remain in Respondent's official CHRB licensing history.

#### LEGAL CONCLUSION

1. By reason of the stipulated agreement reached by the parties, cause exists to discipline Respondent's trainer license, as set forth in Factual Findings 1-5.

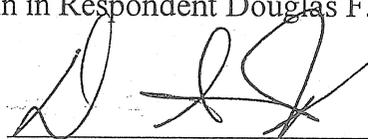
ORDER

1. Respondent Douglas F. O'Neill shall pay a \$3,000 fine to the CHRB. If Respondent failed to pay the fine by May 24, 2007, Respondent's trainer license number 112723 shall be suspended until Respondent pays the fine.

2. The participation fee for the seventh race on May 27, 2006, at Hollywood Park Race Course in Inglewood, California in which "Wisdom Cat" ran out of the money, is forfeited.

3. A record of this penalty shall remain in Respondent Douglas F. O'Neill's official CHRB licensing history.

DATE: June 4, 2007

  
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DANIEL JUAREZ  
Administrative Law Judge  
Office of Administrative Hearings

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 8 California Horse Racing Board

10 BEFORE THE CALIFORNIA HORSE RACING BOARD  
 11 STATE OF CALIFORNIA

14 In the Matter of the Trainer's License of  
 15 DOUGLAS O'NEILL

OAH No. 2006110095  
 CHRB No. 06 HP 076

STIPULATED SETTLEMENT  
 AGREEMENT

16 Respondent .  
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18 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
 19 interest and the responsibility of the California Horse Racing Board ("CHRB"), Respondent  
 20 Douglas O'Neill ("Respondent") and the CHRB hereby agree to the following Stipulated  
 21 Settlement Agreement ("Agreement").

22 RECITALS

23 1. Ingrid Ferrin is the Executive Director of the CHRB. This action was brought solely  
 24 in the official capacity of the Executive Director of the CHRB. The Executive Director is  
 25 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
 26 by James Ahern, Deputy Attorney General.

27 2. Respondent is represented by Neil Papiano of Iverson, Yoakum, Papiano, & Hatch in  
 28 this proceeding.



1 until Respondent pays the fine.

2 11. Respondent acknowledges that the participation fee for the seventh race on May 27,  
3 2006 in which "Wisdom Cat" ran out of the money must and will be forfeited.

4 12. Respondent also agrees with the findings of the University of California, Davis  
5 laboratory of 38.4 millimoles of TCO2 in the horse "Wisdom Cat" on May 27, 2006, and that  
6 this is a violation of Title 4, California Code of Regulations sections 1843.6 and 1887.

7 Respondent agrees and enters into this Agreement freely and voluntarily and waives any further  
8 right of appeal in this matter and waives any claim in federal or state court or any other  
9 administrative forum that may arise out of this matter which he may now have or hereafter  
10 acquires by reasons of this dispute which is settled.

11 13. This Agreement shall be construed as though all parties participated equally in its  
12 drafting. Respondent has carefully read and understands the Agreement.

13 14. This Agreement contains all the terms and conditions agreed upon by the parties  
14 regarding the subject matter of this Agreement. All prior agreements, promises, negotiations, or  
15 representations, either oral or written, relating to the subject matter of this Agreement, not  
16 expressly set forth in this Agreement, have no force or effect.

17 15. The parties understand and agree that facsimile copies of this Agreement, including  
18 facsimile signatures, shall have the same force and effect as the originals.

19 16. A record of this penalty shall remain in Appellant's official CHRB licensing history.

20  
21 IT IS SO STIPULATED

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23 DATED: 5-17-07   
24 Douglas O'Neill  
Respondent

25  
26  
27 DATED: May 17, 2007   
28 INGRID FERMIN  
Executive Director, California Horse Racing Board

1 APPROVED AS TO FORM AND CONTENT:

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DATED: May 17, 2007

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Neil Papiano, Attorney for Respondent

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8 DATED: MAY 18, 2007

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James Ahern, Deputy Attorney General  
Representing Complainant CHRB

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