

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JESSE R. GODINEZ
CHRB License #292550
Respondent

CHRB Case #14LA0049

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 setting the dates of the sixty (60) day suspension and the payment of the ten thousand dollar (\$10,000.00) fine.

IT IS SO ORDERED ON July 18, 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 Filed Against:

Case No. 14LA 00049

JESSE R. GODINEZ
Trainer
CHRB License #292550

(PROPOSED) FINDINGS OF
FACT AND DECISION

COMES NOW DANIEL Q. SCHIFFER, Hearing Officer, appointed to hear the above case and presents his (Proposed) Findings of Fact and Decision, as follows:

On or about March 20, 2014, the California Horse Racing Board (CHRB) filed a Complaint (Exhibit "1", page 3) against JESSE R. GODINEZ for violation of CHRB Rules 1843(a,b&d), 1859.5, 1887 and 1902 for an offense that occurred on March 8, 2014, as follows:

Official urine sample #LA25407 taken on 3/08/2014 at Los Alamitos from horse, "Paint Me Chrome" contained Ractopamine, which is considered a Class 3 prohibited drug substance, Penalty Class B. "Paint Me Chrome" ran in the 5th race finishing 1st. Jesse R. Godinez is the trainer of record.

Pursuant to Business and Professions Code, sec. 19517.5(a), Mr. Godinez elected to have his case heard by a hearing officer (Exhibit "1", page 40) and Daniel Q. Schiffer was appointed by the CHRB for that purpose.

A hearing was commenced pursuant to Notice on May 22, 2014, at 10:00 a.m., in the Executive Meeting Room at Los Alamitos Race Track, Los Alamitos CA. The hearing was transcribed by Michelle E. Derieg, Weinstein Court Reporters. Present at the hearing were CHRB Los Alamitos Investigative Supervisor, Thomas Blake and CHRB Investigator Kevin Katashima. Respondent Jesse R. Godinez was not present at the hearing.

The following witnesses were duly sworn and gave testimony:

THOMAS BLAKE:

1. Mr. Blake stated that he had spoken by telephone to Mr. Godinez, who stated he was in Tucson, Arizona. Mr. Godinez told Mr. Blake that he was unable to attend the hearing and that he had no objection to the hearing going forward.

KEVIN KATASHIMA:

1. Jesse R. Godinez is a trainer licensed by the CHRB bearing trainer's license # 312495- 11/2015. (Exhibit "1", at pages 55- 57)

2. On March 8, 2014, Mr. Godinez was the trainer of the horse named "Paint Me Chrome" (Exhibit "1", page 29) which ran in the fifth (5th) race at Los Alamitos Race Track finishing first (1st) (Exhibit "1", page 30).

3. On March 20, 2014, CHRB Investigators received Notice that "Paint Me Chrome" had tested positive for Ractopamine (Urine Sample # LA 25407) (Exhibit "1", page 21-22).

4. On March 21, 2014, CHRB Investigators spoke to Mr. Godinez by telephone and advised him of the positive test (Exhibit "1", page 18). Mr. Godinez was also given information about his right to obtain a split sample of the test and concerning the disqualification procedures; both of which Mr. Godinez stated he understood. During the interview Mr. Godinez stated that "he does not use Ractopamine nor have any in his barn. The horse "Paint Me Chrome" has been in his barn for over one (1) year. He stated the horse could have been tampered with, since he had been having problems

with other trainers located near his barn. He had two other horses that were tested on the same day; both were shipped in the day of the race." (Exhibit "1", page 18).

5. Pursuant to authorization from Mr. Godinez CHRB Investigators conducted a barn inspection of Mr. Godinez's barn. No Ractopamine was found in the barn. Barn personnel told the investigators that the horses are fed grains, oats, clovite and vitamin supplements. Two feed samples and two dose syringes were were collected and were sent to the University of California, Davis to be tested. (Exhibit 1, page 41). The horse "Paint Me Chrome" was observed in Stall #36. No violations were noted in the inspection. (Exhibit 1, pages 18, 45-48).

6. Both Mr. Godinez and the owner of "Paint Me Chrome" were interviewed by the CHRB Investigators. The horse had been in the barn of Mr. Godinez for over a year and neither man knew how it received the Ractopamine. The owner expressed the opinion that he did not believe Mr. Godinez would give Ractopamine to his horse. (Exhibit 1, page 19).

7. Mr. Godinez arranged for a split sample of the urine to be sent to Pharmacology Analytical Services Team for testing.

8. The UC Davis Laboratory issued a Final Report stating that the samples removed from Mr. Godinez's barn tested negative for any prohibited substance. (Exhibit 1, pages 42-44).

9. The Veterinary Diagnostic Laboratory, Iowa State University, reported that Urine Sample #25407 was found positive for Ractopamine at 317 pg/ml using liquid chromatography-mass spectrometry/ mass spectrometry. ((Exhibit 1, page 26).

10. The CHRB Investigative Report #14LA0090, marked as Exhibit "1" (60 pages) for purposes of this hearing, was duly authenticated by Investigator Katashima and admitted into evidence.

DOCUMENTARY EVIDENCE:

1. Exhibit 1 (60 pages)- CHRB Los Alamitos Race Track Investigative Report # 14LA0049
2. Judicial Notice was taken of the Declaration of Service (of Notice of Hearing) by Certified and First Class (Mail), signed by Vicky Thornton.

FINDINGS OF FACT:

1. CHRB Trainer Licensee Jesse R. Godinez was the trainer of a certain horse, named "Paint Me Chrome"; which horse competed in the fifth (5th) race at Los Alamitos Race Track on March 8, 2014, finishing first (1st).
3. Post race samples of the urine and blood from "Paint Me Chrome" were duly drawn and transported from Los Alamitos Race Track to the University of California, Davis, where testing was conducted by the Equine Analytical Chemistry Laboratory.
4. Test samples from the Laboratory at UC Davis detected and confirmed that the urine of "Paint Me Chrome" contained Ractopamine.
5. A split sample of the urine from the horse "Paint Me Chrome" was tested by the Veterinary Diagnostic Laboratory, Iowa State University, Ames, Iowa, also confirmed the presence of Ractopamine.
6. No Ractopamine, nor any other prohibited substance, was detected in samples removed from the barn of Mr. Godinez that were submitted for testing.
7. Mr. Godinez was duly served by Certified and First Class mail with a Notice of Hearing (and a copy of the CHRB Complaint) but did not attend the hearing.

DECISION:

Ractopamine Hydrochloride (Ractopamine), manufactured by Elanco Animal Health, a division of Eli Lilly Company, and marketed under the

trade names "Paylean" (swine) and "Topmax" (turkeys), as described in promotional materials, is intended to increase weight gain, improve feed efficiency and increase carcass leanness in finishing swine and turkeys prior to slaughter. (Exhibit 1, pages 4-14).

The materials presented at this hearing contain several pages of Elanco written warnings concerning various dangers to humans but makes not reference to its use in horses. Whether or not it has ever been tested or what its effect is on horses is unknown so far as evidence presented at this hearing. It is reasonable to conclude that it has no business showing up in the post race test of a race horse.

Respondent Jesse R. Godinez, a licensed trainer (#292550-11.2015) was the trainer of the horse named "Paint Me Chrome" which competed in the fifth (5th) race at Los Alamitos Race Course on March 8, 2014, finishing first. Post race urine samples detected and confirmed the presence of Ractopamine, a prohibited substance.

Therefore the Hearing Officer finds that the CHRB Complaint against trainer Jesse R. Godinez for violation of CHRB Rules 1843(a, b & d), 1859.5 & 1887 have been proven.

Further the use of Ractopamine, a compound intended for the finishing of swine and turkeys for slaughter, on "Paint Me Chrome" by Mr. Godinez proves his violation of Rule 1902- Conduct Detrimental to Horse Racing.

PENALTIES:

Mr. Godinez has a previous ruling for a positive test for Tramadol (Class 2) on January 21, 2012, (Exhibit 1, pages 51, 56) and a warning for high Phenylbutazone (Exhibit 1, page 55).

Rule 1843.3(d) sets forth minimum penalties for a trainer of a horse with a positive test for Class Three substances. These are stated in Category "B" Penalties. Therefore Mr. Godinez is subject for the first offense penalties stated in Rule 1843.3(d) (Category "B" Penalties) of minimum 30 day suspension absent mitigating circumstances. The

presence of aggravating circumstances could be used to impose a maximum of a 60-day suspension. AND/OR minimum fine of \$500 absent mitigating circumstances. The presence of aggravating circumstances could be used to impose a maximum fine of \$10,000.

Pursuant to Rule 1843.3(b), the Hearing Officer considers the following mitigating circumstances and aggravating factors:


- 1) Prior violations: Mr. Godinez has had one prior violation, for Tramadol, a Class 2 substance. Since that violation occurred slightly over two years before the instant violation Mr. Godinez is not subject to second offense penalties, but, nevertheless, this is an aggravating factor.
- 2) The potential influence of the drug: While it is unclear from the materials presented at the hearing exactly what the potential influence of Ractopamine in "Paint Me Chrome" was, the fact that it was manufactured for use in finishing swine and turkeys for slaughter, sufficiently demonstrates that it should never have been introduced into this animal. This is an aggravating factor.
- 3) Legal availability of the drug: Paylean and Topmax are marketed for use in swine and turkeys but not for use in horses. This is an aggravating factor.
- 4) Knowledge or intentional of administration of drug: Mr. Godinez made no effort to substantiate his assertion that the horse had been tampered with by "other trainers he was having problems with." Given that he presented no evidence to exculpate himself and didn't even attend the hearing, it is reasonable to conclude that he was responsible for the introduction of the substance into this horse. This is an aggravating factor.
- 5) Steps taken to safeguard the horse: Mr. Godinez presented no proof that he did anything to safeguard this horse. This is an aggravating factor.
- 6) Subsequent steps: This is not a factor.
- 7) Environmental contamination: There is little or no possibility that feed intended to finish swine or turkeys for slaughter could have found its way into this horse by environmental contamination. This is an aggravating factor.

- 8) The purse: The purse was \$5000. Mr. Godinez showed a callous disregard for the horse, the wagering public and his fellow competitors by using this substance on "Paint Me Chrome" in order to make a minimum percentage from the purse. This is a aggravating factor.
- 9) Reported drug: No. This is a neutral factor.
- 10) Suspicious wagering pattern: No evidence presented. Neutral factor.
- 11) Acting under advise of licensed veterinarian: Definitely not. This is an aggravating factor.

Based on the foregoing it is the Hearing Officer's conclusion that the the aggravating factors demonstrate a need to order the maximum penalties stated in Rule 1843.3(d). Therefore it is recommended that the following penalties be assessed to Mr. Godinez:

- 1.) Mr. Godinez shall serve a 60 day suspension on dates to be determined by the Los Alamitos Stewards; and
- 2.) Mr. Godinez shall be fined the sum of \$10,000.00 to be paid pursuant to order of the Los Alamitos Stewards.

Respectfully Submitted,



DANIEL Q. SCHIFFER
CHRB HEARING OFFICER

June 26, 2014

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