

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

PEGGIE C. HANFORD
CHRB License #238222

Respondent

CHRB Case #13GG0139

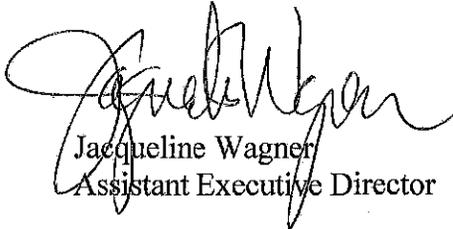
DECISION

The attached Proposed Decision by the Board of Stewards 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 suspension and the payment of fine.

IT IS SO ORDERED ON January 16, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Jacqueline Wagner
Assistant Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

PROPOSED DECISION
of the
BOARD OF STEWARDS

Pacific Racing Association
Golden Gate Fields

DATED JANUARY 5, 2014

IN THE MATTER OF:

California Horse Racing Board

Vs.

Trainer Peggie C. Hanford

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CASE # 13GG0139

INTRODUCTION

This matter came for hearing at Golden Gate Fields before a Board of Stewards consisting of Mr. John Herbuveaux, Mr. Darrel McHargue and Mr. Dennis Nevin on December 14, 2013.

Present at the hearing were the Respondent, Ms. Peggie C. Hanford, Owner Mr. Juan Moya, California Horse Racing Board investigators Mr. Louis Quezada and Mr. Mike Bridges. Mr. Quezada presented the case on behalf of the California Horse Racing Board. The proceedings were recorded by Christine Niccoli, C.S.R.

Respondent was advised of her right to be represented by counsel. Hanford waived that right and stated she was prepared to go forward without counsel.

At the hearing the parties were allowed to introduce relevant exhibits, produce witnesses for examination and cross examination and offer argument. Documentary evidence was submitted, oral testimony was heard, the hearing was then closed and the matter deemed submitted.

BACKGROUND

The Respondent, Trainer Peggie C. Hanford (hereinafter Hanford) was charged in complaint #13GG0139, filed by Investigator Louis Quezada (hereinafter Quezada) on behalf of the California Horse Racing Board (hereinafter CHRB), with alleged violations of CHRB rules #1843 (a) & (d) (Medication, Drugs and Other Substances), #1859.5 (Disqualification Upon Positive Test Finding), #1887 (a) (Trainer to Insure Condition of Horse) and #1502 (Program Trainer Prohibited) of the California Code of Regulations, Title 4, Division 4 .

The complaint states, in part:

"The official urine sample #F10910 taken on October 6, 2013 at the Fresno County Fair from the horse 'Willy Dasher' contained 974 pg/ml of Clenbuterol. 'Willy Dasher' finished first in the second race as a result. The trainer of record was Peggy (sic) Christine Hanford. Clenbuterol is a Class 3 drug with Category B penalty."

At the commencement of the hearing Quezada requested that the complaint be amended to include rule #1859.5 (Disqualification Upon Positive Test Finding). Since the owner of Willie Dasher Juan Moya (hereinafter Moya) was present at the hearing doing so would preclude having to conduct another formal hearing into the disqualification of Willy Dasher should the finding of a positive test for Clenbuterol be established.

Both Hanford and Moya were asked if they had any objection to Quezada's request and each individually agreed to the inclusion of rule #1859.5 into the complaint. Moya was asked if he wished to be represented by counsel at the hearing and he declined counsel.

At the conclusion of the hearing Quezada requested on behalf of the CHRB that the allegation of violation of rule #1502 (Program Trainer Prohibited) be withdrawn from the complaint as he believed the evidence presented did not substantiate a violation of said rule. The stewards granted the request and the complaint was again amended to withdraw an alleged violation of rule #1502.

EXHIBITS

CHRB EXHIBITS:

- 1 Amended Complaint #13GG0139
- 2 Questions for licensees not represented by counsel at a hearing before the Board of Stewards (Hanford).
- 3 Questions for licensees not represented by counsel at a hearing before the Board of Stewards (Moya).
- 4 California Horse Racing Board Memorandum date June 7, 2012 entitled, "Clenbuterol Regulation At All California Tracks."
- 5 Data Packet from University of California, Davis Equine Analytical Laboratory for urine sample #F10910.

FINDINGS OF FACT

I

At all relevant times herein Hanford was licensed as a trainer by the CHRB.

II

At all relevant times herein Moya was licensed as an owner by the CHRB.

III

Hanford was the trainer of record for the horse Willy Dasher who was the winner of the second race at the Fresno District Fair in Fresno, California on October 6, 2013.

IV

Moya was the registered owner of Willy Dasher when the horse raced on October 6, 2013.

V

Following the running of the second race Willy Dasher was taken to the Receiving Barn at the Fresno District Fair and urine sample #F10910 was collected from the horse.

VI

Test sample #F10910 was sent to the Equine Analytical Chemistry Laboratory at the University of California, Davis, the official testing laboratory for the CHRB.

VII

Results of the tests conducted on sample #F10910 showed the presence of the prohibited drug substance Clenbuterol at a level of 974 pg/ml.

VIII

On October 16, 2013 Dr. Scott Stanley, Chief Chemist for the laboratory facility at the University of California, Davis, notified the CHRB of the test results on sample #F10910.

IX

On October 22, 2013 CHRB Headquarters in Sacramento notified Investigator Louis Quezada of the test results on sample #F10910 and the investigation which led to the filing of the instant complaint commenced.

X

Prior to July 18, 2012 Clenbuterol was a CHRB approved substance if the level detected in a post race test sample was under 5 nanograms per milliliter.

XI

On June 7, 2012 the CHRB issued a memorandum (CHRB Exhibit 4) stating that effective July 18, 2012 authorization for a threshold level of clenbuterol currently allowed by rule will be suspended for all breeds at all tracks in California.

XII

The memorandum removed Clenbuterol from the CHRB approved substance category to the CHRB prohibited substance category if Clenbuterol was detected at any level in a post race test sample.

XIII

The June 7, 2012 memorandum further stated that Clenbuterol can be detected by the laboratory at Davis at low picogram levels in both urine and blood and that a picogram is one-trillionth of a gram.

XIV

Quezada stated that Moya was in charge of all aspects of caring for the horse Willie Dasher when not on the grounds of a racetrack.

XV

Hanford had used Moya's ranch to break her young horses in the spring of 2013 and Hanford felt comfortable accepting responsibility as trainer for Moya's horse, Willie Dasher, because of this relationship.

XVI

Quezada stated that during the investigative process both Hanford and Moya have been forthright and cooperative.

XVII

Moya testified that he owns and races horses at Los Alamitos Race Course in southern California and on the northern California Fair Circuit.

XVIII

Moya acknowledged that he has taken horses to unregulated match races in the central valley of California on a couple of occasions.

XIX

Moya cares for and trains his horses at his ranch and usually delivers them to his trainer at Los Alamitos the day before the race. Moya's trainer at Los Alamitos is Mario Loza.

XX

CHRB regulations allow a horse that has been entered in a race to ship in to the track as long as the horse arrives at that facility twenty-four hours before the race.

XXI

Hanford testified that she assumed Willie Dasher was being shipped from a stall at Los Alamitos race track to Fresno for the race on October 6, 2013.

XXII

Hanford testified that she usually does not allow an owner to keep his/her own horses at the ranch and then deliver the horse to her a day or two before the race but she made an exception for Moya based on their prior relationship.

XXIII

Moya shipped the horse from his ranch to Hanford at the Fresno Fair and the horse arrived on the grounds the morning of October 5, 2013, more than twenty-four hours before the second race on October 6, 2013.

XXIV

Neither Hanford nor Moya have any knowledge as to how the Clenbuterol came to be found in the post race test sample as neither personally administered the substance nor directed it to be administered.

XXV

Both Moya and Hanford postulated that some disgruntled people on the racetrack may have surreptitiously medicated Willie Dasher with Clenbuterol but that is only speculation on their part.

XXVI

Moya stated that he does not use Clenbuterol when treating his horses on the ranch.

XXVII

Neither Moya nor Hanford availed themselves of the opportunity to have the split of sample #F10910 tested.

XXVIII

Neither Moya nor Hanford contested the chain of custody for sample #F10910.

XXIX

Neither Moya nor Hanford contested the test results reported by the Equine Analytical Chemistry Laboratory at the University of California at Davis which showed the presence of Clenbuterol in sample #F10910.

XXX

Hanford testified that she entered Willie Dasher for the race at Fresno on October 6, 2013.

XXXI

Hanford testified that she did not receive any remuneration as trainer of Willie Dasher from Moya due the fact that she used Moya's ranch to get her horses ready in the springtime.

CALIFORNIA HORSE RACING BOARD RULES
California Code of Regulations, Title 4, Division 4

California Horse Racing Board rule 1843 states:

MEDICATION, DRUGS AND OTHER SUBSTANCES.

It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:

(a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.

(b) No drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided in these rules.

(c) No person other than a licensed veterinarian or animal health technician shall have in his/her possession any drug substance which can be administered to a horse, except such drug substance prescribed by a licensed veterinarian for a specific existing condition of a horse and which is properly labeled.

(d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal, anti-inflammatory drug substance or a finding of a drug substance in excess of the limits established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered the horse.

California Horse Racing Board rule 1859.5 states:

DISQUALIFICATION UPON POSITIVE TEST FINDING

A finding by the stewards that an official test sample from a horse participating in any race contained a prohibited substance as defined in this article, which is determined to be in class levels 1-3 under Rule 1843.2 of this division, unless a split sample tested by the owner or trainer under Rule 1859.25 of this division fails to confirm the presence of the prohibited drug substance determined to be in class levels 1-3, shall require disqualification of the horse from the race in which it participated and forfeiture any purse, award, prize or record for the race, and the horse shall be deemed unplaced in that race. Disqualification shall occur regardless of culpability for the condition of the horse.

California Horse Racing Board rule 1887(a) states:

TRAINER TO INSURE CONDITION OF HORSE.

(a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of the urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off.

DISCUSSION

The first matter to be decided is whether Peggie Hanford is in violation of CHRB rule #1843 (a) & (d) (Medication, Drugs and Other Substances) because the urine sample taken from the horse Willie Dasher following the running of the second race at the Fresno Fair showed the presence of the prohibited substance Clenbuterol.

The uncontested evidence presented from the CHRB official laboratory at Davis shows that Willie Dasher's post race urine sample, #F10910, showed the presence of clenbuterol at a level of 974 pg/ml which is prima facie evidence that Hanford is in violation of CHRB rule #1843 (a) & (d).

The second matter under consideration is whether Hanford should be penalized pursuant to Rule #1887 (Trainer to Insure Condition of Horse) because of the positive test finding.

Hanford allowed herself to be listed as the trainer of record for the horse Willie Dasher when the horse competed in and won the second race at the Fresno Fair on October 6, 2013. Hanford allowed this to happen even though she did not have physical care and custody of Willie Dasher until the horse arrived at Fresno just over 24 hours prior to the race.

Hanford entered the horse approximately three days prior to the race after conversations with owner Moya. Hanford assumed that Willie Dasher was residing in a stall at Los Alamitos Race Course in Cypress, California but the horse was actually at Moya's ranch.

If the horse had been stabled at Los Alamitos it would have been under the care of a licensed trainer and in a restricted area that would have afforded a higher degree of protection than that offered at Moya's ranch. The barn area of a race track is secured by a fence and access is restricted to only those persons licensed by the CHRB or those persons signed in by a licensee at the stable gate. Moya's ranch did not offer the same degree of protection.

Hanford knowingly accepted responsibility for the condition of Willie Dasher when she entered the horse for the second race on October 6, even though she did not have the horse in her custody until approximately 24 hours before post time. She assumed this responsibility without questioning those who actually did have care and custody of Willie Dasher.

Rule #1887 is very explicit that the trainer is the absolute insurer of and responsible for the condition of a horse in a race, **"...regardless of the acts of third parties"** (emphasis added). Although Hanford testified that she did not directly administer the Clenbuterol to Willie Dasher she was not in a position to protect the horse from those who may have done so because she delegated that responsibility to Moya.

Rule #1887 which holds the trainer responsible for the condition of a horse also states in part "...the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off."

Moya acknowledged that he participated in unsanctioned match races in the central valley and although no allegations have been brought against him in this matter Moya had the care and custody of Willie Dasher until the day before the race and could share responsibility for the test results.

Even though Moya testified that he too did not administer the Clenbuterol to the horse Hanford is not relieved of her responsibility under rule #1887 and must accept the consequences of her actions.

Before arriving at a penalty mitigating circumstances and aggravating factors must be considered and discussed. In her defense Hanford has an excellent record with respect to compliance with medication regulations. There is no direct evidence that she administered the substance to the horse and once she had custody of Willie Dasher she took appropriate steps to protect the horse.

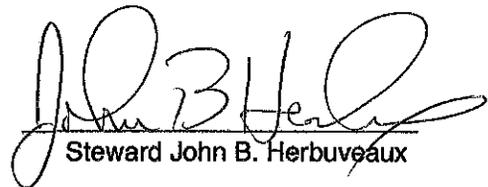
On the other side of the ledger Hanford was grossly negligent in that she did not insure that the horse was under her care and in her custody or that of another licensed trainer before the horse was entered to race. Her prior contact with Moya at his ranch in the spring led Hanford to loosen her regular safeguards, which contributed to the positive test result.

Another factor to be considered is that Clenbuterol has been banned throughout the state because of widespread abuse. Horses may still be trained on the substance but no trace may be found in a post race test sample. Although both Moya and Hanford deny any knowledge concerning how the Clenbuterol came to be present in Willie Dasher its presence does reflect negligence on their part.

PROPOSED DECISION

Trainer Peggie Hanford who started the horse Willie Dasher, winner of the second race at the Fresno District Fair on October 6, 2013, is hereby suspended Thirty (30) Days and fined the sum of Fifteen Hundred Dollars (\$1500.00) pursuant to California Horse Racing Board #1887 (a) (Trainer to Insure Condition of Horse) for violation of California Horse Racing Board rule #1843 (a) & (d) (Medication, Drugs and Other Substances; Prohibited Substance, Clenbuterol [Class 3])

During the term of suspension all licenses and license privileges of Peggie C. Hanford are suspended and pursuant to California Horse Racing Board rule #1528 (Jurisdiction of Stewards) subject is denied access to all premises in this jurisdiction.


Steward John B. Herbuveaux


Steward Dennis Nevin


Steward Darrel McHargue

RECEIVED
CALIFORNIA HORSE RACING BOARD
FRESNO DISTRICT FAIR
OCT 15 2013

Dated: 1-5-14