

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:
FITNESS FOR LICENSURE

ZVI KRIPLE
Appellant

Case No. SAC 14-0060

DECISION

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

The Decision shall become effective on February 23, 2015.

IT IS SO ORDERED ON February 18, 2015.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman


Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

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✓ In the Matter of:
Fitness for Licensure

Case No. SAC 14-0060

PROPOSED DECISION

ZVI KRIPLE
Appellant

PROPOSED DECISION

COMES NOW Hearing Officer, Daniel Q. Schiffer, and submits his Proposed Decision in the above captioned matter as follows:

PROCEDURAL HISTORY

1. Appellant ZVI KRIPLE filed an application, dated July 7, 2013, with the California Horse Racing Board ("CHRB") to be licensed as a thoroughbred trainer. His application included a form entitled "Criminal History Information;" which disclosed that Appellant had an offense in 2009 for Animal Cruelty, 597(B) PC.

2. The CHRB issued a NOTICE OF REFUSAL OF LICENSE, dated July 6, 2013. The grounds for the refusal of the license are stated as:

You have been convicted of a crime punishable by imprisonment in the State or Federal prison, or have been convicted of a crime involving moral turpitude.

You are under suspension, set down, ruled off, or otherwise barred from participating in a racing occupation by a competent racing jurisdiction.

3. On or about January 15, 2014, the CHRB received a written communication from Appellant requesting that the CHRB reconsider its denial of his application.

4. Pursuant to NOTICE OF HEARING a hearing to determine if Appellant was fit for licensure was held on January 24, 2015, at Santa Anita Race Track, Arcadia, California. Daniel Q. Schiffer presided as the duly appointed Hearing Officer. The hearing was transcribed by Michelle Dereig, C.R., Weinstein Court Reporters. Present at the hearing were Appellant ZVI KRIPLE and CHRB Senior Investigator Phillip Miyazaki. However only Appellant was sworn in as a witness and he presented evidence, both oral and written¹, at the hearing. The case was submitted for decision on January 24, 2015.

FINDINGS OF FACT

1. Prior to 2009 Appellant was a thoroughbred trainer licensed by the California Horse Racing Board. Appellant presented a Equine Line print out of his training record between 1998 to 2008².

2. In 2008 Appellant was charged in Los Angeles County Superior Court with violation of Penal Code, section 697(B), animal cruelty. The charges resulted in a 2009 misdemeanor conviction³ for which Appellant was given a fine and three (3) years probation.

3. According to testimony by Appellant he was required, among other things, as part of his probation, to complete animal sensitivity classes and to perform community service. He attended the animal cruelty classes and completed his community service by working at an animal rescue organization in Anza, CA.; completing more than 20 days of work. Appellant did not introduce any documentary evidence to show a certification or to otherwise verify this testimony.

4. On or about March 20, 2014, the Los Angeles County Superior Court, the Honorable Jack P. Hunt, Judge presiding, granted Appellant's petition to have his conviction dismissed.⁴

5. Appellant presented the Declaration of trainer Barry Abrams, dated September 26, 2012⁵; two letters from veterinarian Helmut Von Bluecher, DVM (dated September 25, 2012 and January 22, 2015⁶; and a signed undated statement from his wife

¹ The Exhibits are appended to this Proposed Decision.

² Exhibit 6

³ Appellant testified that the conviction was a misdemeanor. No other proof was presented on the issue.

⁴ Exhibit 5

⁵ Exhibit 2

⁶ Exhibits 4a and 4b

Elisabeth Kriple⁷. Certain portions of these documents related to the circumstances leading up to Appellant's criminal conviction were ruled as not relevant (upon objection by CHRB) and were not considered by the Hearing Officer. The balance of the contents those documents were submitted as evidence of recommendation to show that Appellant had been rehabilitated and is fit for licensure.

6. Appellant testified that he has worked as a truck driver ("24/7"⁸) since he has been suspended by the CHRB and has not committed any crimes or other violations. He does not drink, smoke or do drugs. He is a vegetarian. He feels empathy when he sees dead or injured animals.

7. Appellant stated that he has has been rehabilitated and understands the expectations of the racing community and will respect and follow them. He has become a better member of his community and wants to help the horses; including utilizing ways to prevent injuries.

8. Appellant has 13 horses which he has supported through his work as a truck driver. He wants to race these horses again.

CONCLUSIONS OF LAW

1. Appellant's application for a license was denied on grounds that he has been convicted of a crime punishable by imprisonment in the State or Federal prison, or has been convicted of a crime involving moral turpitude. CA Business and Professions Code, Section 480 (a), CA Code of Regulations, Title 4, Section 1489, subdivisions (a) and (g).

CA Penal Code, section 597(b) is clearly a crime within the above definition:

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when

⁷ Exhibit 3

⁸ As stated in Appellant's written opening statement.

unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment. CA Penal Code, Section 597(b).

Appellant's conviction related directly to the functions, duties and responsibilities of his license as a trainer. Appellant attempted to present evidence that the factual circumstances leading to the charges were in a "gray area."⁹ However the letter submitted by Dr. Von Bluecher states unequivocally that the "horse had a very serious end stage laminitis. Dr. Brokken's recommendation for humane destruction was made on the basis of clinical findings."¹⁰

2. A person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482. CA Business and Professions Code, Section 480 (b).

3. A person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal. CA Business and Professions Code, Section 480 (c).

According to the NOTICE OF REFUSAL OF LICENSE, Appellant was also denied a license because, he was "under suspension, set down, ruled off, or otherwise barred from participating in a racing occupation by a competent racing jurisdiction." However there was no evidence submitted by the CHRB concerning the veracity of this statement. CHRB Investigator Miyazaki, who attended the hearing on behalf of the CHRB, was not sworn as a witness at this proceeding and did not offer any evidence of this purported violation. As such the Hearing Officer cannot determine that Appellant was denied a license other than for his being convicted of a crime punishable by imprisonment in the State or Federal prison, or have been convicted of a crime involving moral turpitude.

⁹ This term was used by Appellant in his written opening statement.

¹⁰ Exhibit 4b

Mr. Miyazaki stated in the CHRB's closing argument that the Board of Stewards had held a hearing and, based on the criminal conviction, had suspended Appellant for the balance of the term of his license and he (Appellant) was not eligible to reapply for a license. Business and Professions Code, sections 480(c) or 482 mandate as a matter of law that the CHRB must consider whether or not Appellant has been rehabilitated in determining if he is to be relicensed.

4. Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when: (a) Considering the denial of a license by the board under Section 480; or (b) Considering suspension or revocation of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee. CA Business and Professions Code, Section 482.

If the CHRB has developed "criteria of to evaluate rehabilitation" it was not given to Appellant in any documents delivered to the Hearing Officer. In fact Appellant stated several times at the hearing that he did not know what he should present in order to show that he was now fit to be licensed.

Although a lay person is held to the same standard in presenting his case as if he were represented by an attorney¹¹, nevertheless, without a standard of proof, as is required by Business and Professions Code, sections 480(b) & 482, it will be the Appellant's best guess what to present (whether or not he is represented by counsel).

Therefore the issue to be decided in this case is whether or not Appellant, without the benefit of criteria developed by the CHRB, has presented sufficient proof of his rehabilitation to be re-licensed.

In the absence of other criteria established by the CHRB, the fact that Appellant's conviction was dismissed pursuant to CA Penal Code, section 1203.4, establishes that Appellant completed the terms of his probation¹², i.e., Appellant's testimony concerning his completion of animal sensitivity classes and performance of community service is therefore established.

¹¹ A lay person, who is not indigent, and who exercises the privilege of trying his own case must expect and receive the same treatment as if represented by an attorney -- no different, no better, no worse. Taylor v. Bell (1971) 21 Cal App. 3d 1002.

¹² Penal Code, section 1203.4(a)(1) specifies ... defendant has fulfilled the conditions of probation for the entire period of probation.

The additional evidence submitted by Appellant concerning his rehabilitation is clearly hearsay evidence. The CHRB did not object to it on those grounds.¹³ The letter from Appellant's wife is of little value for obvious reasons. However the documents authored by Dr. Von Bluecher and Barry Abrams, both highly respected and accomplished members of the California horse racing circuit, verify that Appellant is a competent horseman who should receive a second opportunity.

Appellant has successfully completed his probation and has continued to work diligently to maintain his place in society and as a caretaker of animals; while all the time attempting to re-establish his opportunity to participate in racing. In light of his apology, his admission of remorse, his acknowledgment of his understanding of the gravity of his prior acts, his unblemished record since his conviction¹⁴, and the recommendations of his fellow racing participants, it is concluded that Appellant has been rehabilitated from the acts which led to his being refused a license.

CONCLUSION

Therefore it is determined that Appellant ZVI KRIPLE is fit to be licensed and should be granted a license as a thoroughbred trainer in the state of California.

Respectfully Submitted,



DANIEL Q. SCHIFFER
Hearing Officer

Dated: January 30, 2015

2015 FEB -3 PM 1:43

RECEIVED
CHRB

¹³ The CHRB objected to those portions of the documents which referred to the circumstances concerning the treatment of the horse that led to the criminal conviction on grounds of relevancy and those objections were sustained. However a timely objection on grounds of hearsay was not interposed by the CHRB to stop the evidence from being considered in determining the findings herein. See Government Code, section 11513(d).

¹⁴ It is significant that nearly 6 years have passed since the conviction.

EXHIBITS to In Re the Matter of Fitness for Licensure of ZVI KRIPLE,
Case # SAC 14-0060

**Declaration of Barry Abrams in Support of Petition for CHRB Trainer's License by Mr.
Zvi "Henry" Kriple**

I, Barry Abrams, declare:

1. I have knowledge of the following and, if called upon, could and would testify competently thereto.

2. I am, and have been, a professional Thoroughbred horse trainer and owner, licensed by the California Horse Racing Board since approximately 19___. During my career as a trainer, I would venture to say that I have owned and trained many hundreds (if not thousands) of horses, from starting two-year-olds to winning high profile stakes races. At this time I have ___ horses under my care at racetracks, and ___ horses at a farm.

3. I have known Henry Kriple for approximately ___ years, since he arrived in this country from Europe. For part of that time, before he began his own training stable, he worked for me. Through this, and subsequent personal observation of Mr. Kriple and his horses over the years, I know Mr. Kriple to be a good, solid, knowledgeable horseman who cares deeply for the welfare of his horses. By my observation and experience, Mr. Kriple works very hard and his horses have always presented as consistently well-nourished and cared for. I would even go so far as to say that the condition of his horses is even better than average for professional horse trainers.

4. In my observation and experience, Henry Kriple is skilled at nursing sick horses back to health, and if he believes there is a chance to save a horse's life, he will. Although not all conditions are curable, Mr. Kriple worked diligently to help horses recover from their illnesses and injuries.

5. Even with the best of care, Thoroughbreds sometimes get hoof problems, like laminitis. Often when a horse has hoof problems they naturally lose weight, which to an extent is desirable, since less pressure bears down on the hoof when the horse is standing.

6. While horses suffering founder and related hoof problems take much time and patience to bring back to health, it can be and is done, and I have done so numerous times in the past. We horsemen are more likely to give the horse a decent continued life where the horse is no longer a riding horse, as the horse here, In Scheffla's Honor, was. In these cases, the trainer's care of the horse is critical to the horse's recovery. These situations do not necessarily call for

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daily and constant direct veterinary supervision, especially where experienced horsemen like Mr. Kriple are involved.

7. In my professional opinion, based on direct experience and observation, Mr. Kriple is an experienced, patient and competent horseman. He cares for his horses to the extent that he lives at the track, and has no other avocations. His shed-row and stalls were always clean and even decorated nicely. His horses and his barn have always been a great source of pride to him.

8. In my opinion, Henry Kriple should never have lost his license for trying to save a horse's life. I have seen much worse cases of injury where the horse was treated and survived in a relatively healthy state for years after, and strongly believe Mr. Kriple was more than capable of saving In Scheffa's Honor's life. Indeed, at the time charges were brought against Mr. Kriple for not euthanizing the horse, he had many other horses under his care which were very healthy and well-cared for. To my knowledge, no other horse was subject of any complaint.

8. To my knowledge Henry Kriple is honest and he does not drink or do drugs, and is an upstanding member of the horse community.

9. Based upon the foregoing, I, Barry Abrams, firmly believe that Henry Kriple deserves another chance to pursue his lifelong avocation as a professional trainer of thoroughbred racehorses, and that his petition for reinstatement of his California Trainer's should be granted.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26 day of September, 2012 at Arcadia, California.


Barry Abrams

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My name is Elisabeth Kriple. I was married to Zvi Kriple for 25 years. During this time we had the pleasure to care for several cats and dogs. They brought joy, happiness and sense of care to our family.

It's appalling and shocking to me if not puzzled what brings someone to accuse Zvi with such a degrading accusation. There is no way he will intentionally or otherwise hurt an animal and I mean any! He gets depressed, upset and sad anytime he sees an animal in distress or need.

At one time he purchased a young filly at an auction in Sweden. Nobody wanted her because her right front foot was turned in as much as 50 degrees and she couldn't bend her knee at all. Her future was certain if Zvi hadn't bought her. And guess what! She lived to an old age, bred few foals along and was galloping with the herd at any opportunity.


I have heard that Zvi saved the lives of several horses during his training career. It takes a deep compassion to face the difficulties when deciding for an animal in need and I will trust Zvi's evaluation and judgment before anybody else for that matter.

He was also kind enough to help me in every day's simple tasks like cooking, dishing, cleaning the house, washing, shopping groceries but also aiding me in the restroom several times a day and my with personal hygiene. Yes, I was gravely disabled with severe pain almost from the beginning of our marriage. Let me tell you that my situation was worse than that of laminates. So what are you suggesting -that Zvi should have got reed of me. The humane thing to do? Euthanized because of poor life quality?

People like Zvi are rare and I hope someone will be able to see this.

Thanking you for your attention.

Regards


Elisabeth Kriple

VON BLUECHER, BLEA, HUNKIN INC.
EQUINE MEDICINE AND SURGERY

Helmuth von Bluecher, D.V.M.
Jeff A. Blea, D.V.M.
Dawn Hunkin, D.V.M.
Leslie McLaughlin, D.V.M.
Todd Brokken, D.V.M.

P.O. Box 970
Sierra Madre, CA 91025
Phone: 626-836-1688
Fax: 626-836-1690

September 25, 2012

California Horse Racing Board.

Dear Board Members,

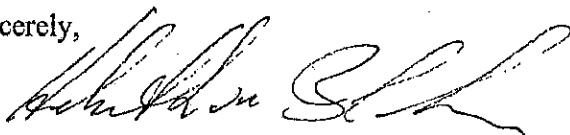
I would like to support Zvi "Henry" Kriple in his application for re-instatement of his California Horse Racing Board Thoroughbred Trainer's License.

I have provided veterinary care and consultation for Henry a number of times when he was stabled at Santa Anita a number of years ago prior to 2008. Henry was always very polite, took good care of his horses, and his horses were always in good condition, well groomed, and well fed. I never had any problems with him in his treatment or his care of his horses. He was always very willing to give his horses the proper veterinary care and husbandry. He was in no way ever abusive or neglectful of his horses.

I would be happy to give Henry professional veterinary care for his horses again if asked to do so.

I hope The California Horse Racing Board would give Zvi Kriple another chance, and re-instate his license.

Sincerely,



Helmuth von Bluecher, D.V.M.
Equine practitioner at Southern California Race tracks.

4a

VON BLUECHER, BLEA, Hunkin, INC.
EQUINE MEDICINE AND SURGERY

Helmuth von Bluecher, D.V.M.
Jeff Blea, D.V.M.
Dawn Hunkin, D.V.M.

Todd Brokken, D.V.M.
Jennifer Finley, PH.D., D.V.M.

January 22, 2015

Zri (Henry) Kriple

Dear Henry,

I have looked over the summary of the necropsy report of your horse In Schlefa's Honor. I think the summary report, and I did not see the complete report, indicates beyond a shadow of a doubt that your horse had a very serious end stage laminitis. Dr. Brokken's recommendation for humane destruction was made on the basis of his clinical findings. I don't think anyone could argue that.

I have known you for many years and took care of some of your horses some years ago. I always felt you were a good care taker of those race horses and went to considerable lengths to make life good for them and give them the care necessary for a good athletic career. Because of my experience with you in caring for your horses previously, I would hope that you might get another chance to train your horses at the racetracks in Southern California.

I would recommend that the administrative law judge and the stewards would give you another consideration.

Regards,



Helmuth von Bluecher, D.V.M.
hvonbluecher@gmail.com
cell: 626-862-6147

Regards,

Helmuth von Bluecher, D.V.M.
hvonbluecher@gmail.com
cell: 626-862-6147

~~Attng Sharon Jolly~~
MR UMBERTO

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/24/14

CASE NO. KA085637

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ZVI HENRY KRIPLE

INFORMATION FILED ON 06/16/09.

COUNT 01: 597(B) PC MISD

ON 03/20/14 AT 830 AM IN EAST DISTRICT DEPT EAN.

CASE CALLED FOR MOTN/DISM PURSNT PC SEC 1203.4

PARTIES: JACK P. HUNT (JUDGE) MARK NATOLI (CLERK)
DEBRA PINEDA (REP) ROSS ALARI (DA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

AS TO COUNT (01):

MOTION PURSUANT TO SECTION 1203.4/1203.4A OF THE CALIFORNIA PENAL CODE IS
HEREBY GRANTED. IT IS HEREBY ORDERED THAT THE PLEA, VERDICT, OR FINDING OF
GUILT BE SET ASIDE AND VACATED AND A PLEA OF NOT GUILTY BE ENTERED; AND THAT
THE INFORMATION BE, AND IS HEREBY DISMISSED

COUNT (01): IS DISMISSED: DISMISSED PER 1203.4 P.C.

THE PETITION OF THE DEFENDANT TO DISMISS THIS CASE PURSUANT TO
PENAL CODE SECTION 1203.4 IS GRANTED AS PRAYED. AN ORDER OF
DISMISSAL IS SIGNED AND FILED.

COUNT (01): DISPOSITION: DISMISSED PER 1203.4 P.C.

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

03/24/14

PAGE NO. 1

MOTN/DISM PURSNT PC SEC 1203.4
HEARING DATE: 03/20/14

 5a

CASE NO. KA085637
DEF NO. 01

DATE PRINTED 03/24/14

I HEREBY CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF THE ELECTRONIC MINUTE
ORDER ON FILE IN THIS OFFICE AS OF THE ABOVE DATE.

SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK OF SUPERIOR COURT, COUNTY OF LOS
ANGELES, STATE OF CALIFORNIA

BY *[Signature]*, DEPUTY

MANKELE



PAGE NO. 2

MOTN/DISM PURSNT PC SEC 1203.4
HEARING DATE: 03/20/14

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Stats Central - Trainer Profile

[Home](#) » [Stats Central](#) » [Trainer Profile](#)

0

As of 08.29.14
Zvi Kriple

Statistics

2014 Statistics

Starts: N/A

Firsts: N/A

Seconds: N/A

Thirds: N/A

Earnings: N/A

Avg. Earnings Per Start: N/A

Career Statistics:

Starts: 287

Firsts: 37

Seconds: 29

Thirds: 40

Earnings: \$229,980

Avg. Earnings Per Start: \$801

Earnings/Wins Rankings

Earnings ▼	2014 ▼	Horses - All Ages ▼	Horses - All Sexes ▼	All Surfaces ▼
		All Races ▼	Filter	

6a

No statistics available for this year

Statistics By Year

Year	Starts	Firsts	Seconds	Thirds	Earnings
2008	2	0	0	0	\$800
2005	5	0	0	0	\$2,000
2004	18	1	0	2	\$8,677
2003	78	12	10	11	\$53,829
2002	88	15	14	17	\$81,217
2001	47	6	3	5	\$31,067
2000	17	2	0	0	\$22,900
1999	24	1	2	4	\$25,980
1998	8	0	0	1	\$3,510

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