

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

SHAUN CHRISTOPHER MORROW
CHRB License #277078
Respondent

CHRB Case #13GG0147

DECISION

The attached Proposed Decision by the Board of Stewards is adopted, with the following modification:

1. The proposed fine of fifteen hundred dollars (\$1500.00) is adopted.
2. The license of Respondent is suspended for thirty (30) days, fifteen (15) days of the suspension are stayed, and Respondent is placed on probation for a period of one (1) year. During the period of probation, Respondent must not incur a Class 3 medication violation. If Respondent incurs a Class 3 violation, the above referenced fifteen (15) day suspension shall be lifted and the remaining actual suspension shall be imposed after notice and hearing.

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 June 19, 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/Accusation against:

**Shaun Christopher Morrow (Trainer),
CHRB LICENSE NUMBER: 277078**

Case No. 13GG0147

PROPOSED DECISION

This matter was heard on February 27, 2014 by the Board of Stewards consisting of John Herbeveux, Darrel McHargue and Dennis Nevin at Golden Gate Fields racetrack.

The Respondent, Shaun Christopher Morrow, was represented by himself. Respondent Morrow was advised of his right to be represented by counsel, waived that right and stated he was prepared to go forward without counsel.

The California Horse Racing Board (hereinafter "CHRB" or "Complainant") was represented by Investigator Louis Quezada.

The proceedings were recorded by Christine Niccoli, Certified Shorthand Reporter (C.S.R.).

PROCEDURAL BACKGROUND

The Respondent, Shaun C. Morrow (hereinafter Morrow) was charged in complaint #13GG0147, filed by California Horse Racing Board (hereinafter CHRB) Investigator Mike Bridges (hereinafter Bridges) on behalf of the CHRB on February 1, 2014. Morrow was charged with alleged violations of CHRB rules #1843 (a) & (d) (Medication, Drugs and Other Substances), #1859.5 (Disqualification Upon Positive Test Finding), and #1887 (Trainer to Insure Condition of Horse) of the California Code of Regulations, Title 4, Division 4.

There were no Prehearing Conferences, no Motions filed/granted/denied and no Stipulations entered into by the parties.

The hearing was called to order on February 27, 2014 at 10:10am and the record was closed at the conclusion of the hearing at 11:04am.

LIST OF EXHIBITS

Complainant/CHRB Exhibits:

1. Complainant package #13GG0147 (including notification for owners William A. Branch, Arnold R. Hill, Charles W. Kotulski, Leonard M. Duncan and John G. Raef).
2. University of California, Davis – Equine Analytical Chemistry Laboratory data package for urine sample #F10896.
3. Questions for licensees not represented by counsel at a hearing before the Board of Stewards.

Respondent's Exhibits:

1. None

LIST OF WITNESSES

Complainant/CHRB Witnesses: None

Respondent Witnesses: Owner William A. Branch (telephonic testimony)

FINDINGS OF FACT

Facts of the violation.

I

The trainer of record for the horse was Shaun C. Morrow and was properly licensed at all relevant times.

II

The horse CHARLSIE'S SONG started in and finished second in the fourth race at the Fresno District Fair, Fresno, California on October 5, 2013.

III

Following the running of the fourth race on October 5, 2013 the horse CHARLSIE'S SONG was taken to the test barn at the Fresno District Fair and urine sample #F10896 was obtained from the horse. Urine sample #F10896 was sent for analysis to U.C. Davis Equine Analytical Chemistry Laboratory for the CHRB.

IV

On October 15, 2013, the U.C. Davis Laboratory reported to the CHRB that urine sample #F10896 contained 577 pg/ml* of Clenbuterol.

* One thousand picograms are equal to one nanogram.

V

On October 15, 2013, split sample custodian Alan Tier notified Assistant Executive Director Jacqueline Wagner and Equine Medical Director Rick Arthur, D.V. M., of U.C. Davis' positive test finding of Clenbuterol in urine sample #F10896 and advised the CHRB Investigations Unit to proceed with its investigative process.

VI

On October 16, 2013 Investigator Bridges was notified by CHRB of the positive test on urine sample #F10896 to conduct an investigation which led to the complaint (#13GG0147) being filed.

VII

On October 19, 2013 CHRB Investigator Phil Miyazaki, at the request of Bridges, contacted Morrow at Hollywood park and served the latter with the positive test notification and secured his signature of receipt of that notification and conducted a search of Morrow's barn at Hollywood Park and no Clenbuterol was located. Owners were not immediately notified of the positive and when they were on December 15, 2013, they, through partner Branch, requested the split be tested by the University of Florida.

Morrow made no request to have the split of urine sample #F10896 tested by an independent laboratory.

VIII

On January 6, 2014, the CHRB received notice from the University of Florida that urine sample #F10896 arrived in good condition, was analyzed according to standard operating procedures and the presence of Clenbuterol was confirmed at a concentration of 430 picograms per milliliter.

IX

Prior to July 18, 2012 Clenbuterol was a CHRB approved substance if the level detected in a post race test sample did not exceed 5 nanograms per milliliter.

X

On June 7, 2012 the CHRB issued a memorandum 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 and is now classified as a Class III, Penalty B, prohibited drug substance.

XI

Morrow testified he shipped the horse CHARLSIE'S SONG from his barn at Hollywood Park to the transit barn at the Fresno District Fair on October 4, 2013, the day before the race in question.

XII

Morrow testified that he arranged for trainer Genaro Vallejo to have one of his grooms care for the horse CHARLSIE'S SONG while in the transit barn.

XIII

Morrow testified Vallejo was contacted as they have a common owner, William A. Branch, a co-owner of CHARLSIE'S SONG.

XIV

Morrow further testified that he prepared CHARLSIE'S SONG feed tub at his barn at Hollywood Park and shipped it with the horse to the Fresno District Fair.

XV

Morrow also testified at first that he did not know the name of Genaro Vallejo's groom, but later in his testimony he stated he thought the groom's name was Ricardo.

XVI

CHRB Investigator Miyazaki notified Morrow of the positive test on October 19, 2013 and conducted a search of Morrow's barn at Hollywood Park and no Clenbuterol was located.

APPLICABLE RULES AND REGULATIONS

CHRB rule violations listed in the complaint.

Rule 1843. (a) & (d)	Medication, Drugs and Other Substances.
Rule 1843.3	Penalties for Medication Violations.
Rule 1859.5.	Disqualification Upon Positive Finding.
Rule 1887.	Trainer to Insure Condition of Horse.
Rule 1888.	Defense to Trainer Insurer Rule.

DISCUSSION OF ISSUES

The first issue to be determined is whether there was a positive test for urine sample #F10896 taken from the horse CHARLSIE'S SONG that finished second in the fourth race at the Fresno District Fair on October 5, 2013 and if CHRB rule #1859.5 is applicable. The rule simply requires the CHRB to demonstrate that a Class 1, 2 or 3 drug substance was detected in an official test sample. University of California Davis Laboratories, the official lab for the CHRB detected Clenbuterol in test sample #F10896 and the horseman's split sample tested by the University of Florida confirmed the presence of Clenbuterol, a Class 3 drug substance.

The only remaining issue is whether trainer Morrow, the only individual charged in this case, deserves a penalty for the positive test finding as articulated in CHRB rule #1887 (Trainer to Insure Condition of Horse). The CHRB rule itself creates a strict liability for trainers with medication positives, but then provides criteria for a defense to the charge through CHRB rule #1888 (Defense to Trainer Insurer Rule). In this case Morrow failed to establish anything more than mitigation consideration.

DISCUSSION OF MITIGATING OR AGGRAVATING CIRCUMSTANCES

The Board of Stewards considered the following factors in accordance with CHRB rule #1843.3 (Penalties for Medication Violations):

- 1) Past Medication Record of the Licensee: This is trainer Morrow's first medication violation of any kind – mitigating.
- 2) The potential of the drug to influence a horse's performance; Clenbuterol is a zero tolerance drug substance as determined by the CHRB and therefore – aggravating.
- 3) The legal availability of the drug: Clenbuterol is considered a therapeutic drug that may only be dispensed by a licensed Veterinarian via prescription – aggravating.
- 4) Whether there is reason to believe the responsible party knew of the administration of the drug: No evidence or testimony that Morrow knew of the administration of Clenbuterol – neutral.
- 5) The steps taken by the trainer to safeguard the horse: Trainer Morrow left the horse in the custody of a groom that was not employed by him and he did not know – aggravating.
- 6) The steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer: There was not evidence or testimony regarding this factor and is therefore – neutral.
- 7) The probability of environmental contamination or inadvertent exposure due to human drug use or other factors – neutral.
- 8) The purse of the race: The race in question was a maiden fillies and mares, purse \$10,000.00 – neutral.
- 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 (Veterinarian Report): No evidence or testimony indicating a therapeutic treatment prescribed by a licensed Veterinarian: aggravating.
- 10) Whether there was any suspicious wagering pattern on the race: No evidence of any unusual wagering on the race in question – mitigating.
- 11) Whether the licensed trainer was acting under the advice of a licensed Veterinarian: no evidence regarding this issue – neutral or aggravating.

CONCLUSION

The Board of Stewards concludes the Class III prohibited drug substance Clenbuterol was detected in urine sample #F10896 taken from the horse CHARLSIE'S SONG, who finished second in the fourth race at the Fresno District Fair on October 5, 2013. This finding requires the disqualification of CHARLSIE'S SONG in accordance with CHRB rule #1859.5 and this Board of Stewards issued said disqualification in Pacific Racing Association ruling #33 on February 28, 2014.

The issue of responsibility for the positive test rests on the trainer (Morrow) in this case as CHRB rule #1887 creates a strict liability for trainers with medication positives. However, CHRB rule #1888 provides for a defense and in this case Morrow failed to present convincing evidence or testimony to avoid culpability.

Upon consideration of CHRB rule #1843.3 (Penalties for Medication Violations) and a review of the mitigating and aggravating factors the Board of Stewards makes the following recommendation in this matter.

PROPOSED DECISION

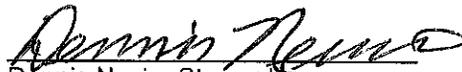
Trainer Shaun C. Morrow, who started the horse CHARLSIE'S SONG in the fourth race at the Fresno District Fair on October 5, 2013, is fined fifteen hundred dollars (\$1500.00)* and suspended for thirty (30) days for violation of CHRB rule #1843 (a) & (d) (Medication, Drugs and Other Substances – Clenbuterol – Class III – Penalty Category B) pursuant to CHRB rule #1887 (Trainer to Insure Condition of Horse).

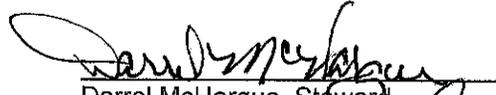
During the term of suspension, all licenses and license privileges of Shaun C. Morrow are suspended and pursuant to California Horse Racing Board rule #1528 (Jurisdiction of Stewards to Suspend or Fine), Mr. Aguirre is denied access to all premises in this jurisdiction.

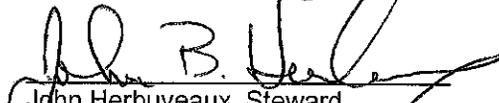
*Rule #1532 – Fine shall be paid to the Paymaster within seven calendar days from the date of this ruling, or the person upon whom the fine is imposed shall be suspended.

LIC: 277078- 05/14
CASE: 13GG0147

DATED: XXXX, XXXX


Dennis Nevin, Steward


Darrel McHargue, Steward


John Herbuveaux, Steward

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