

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JOSE A. PEREZ
CHRB License #110965
Respondent

CHRB Case #17LA0065

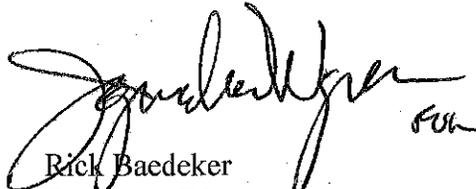
DECISION

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 for payment of the three thousand dollars (\$3000.00) fine and setting the sixty (60) days of suspension.

IT IS SO ORDERED ON June 26, 2017.

CALIFORNIA HORSE RACING BOARD
George Krikorian, 1st Vice-Chairman


Rick Baedeker
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

Date: April 28, 2017

In the Matter of the Complaint Against:

Name

Respondent: Jose A. Perez

Case# 17LA0065

INTRODUCTION

This matter was heard before the Board of Stewards, Tom Ward, Randy Winick, and James Dreyer, in the Los Alamitos Stewards' Office April 28, 2017.

Present at the hearing was the Respondent, Jose A. Perez, who was not represented by counsel, investigators Dennis Drulius and Thomas Blake, and the board of stewards. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Owner, Jose A. Perez was the owner of record for the horse "Love That Dream," who started in the sixth race at Los Alamitos Race Course on February 11, 2017. On March 1, 2017, Sacramento Headquarters faxed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Love That Dream" (Urine Sample #LA36530) tested positive for the class III prohibited drug Clenbuterol after finishing third in the sixth race on February 11, 2017. Owner Jose A. Perez was notified of the positive on March 2, 2017. On March 2, 2017, owner Jose A. Perez completed the forms for the split sample testing. University of Florida was selected as the lab to conduct the testing of the split sample. On April 1, 2017, investigators received a Final Report from University of Florida confirming that split sample #LA36530 contained the presence of Clenbuterol (372 +/-30 pg/ml).

LIST OF EXHIBITS

Complainant / State California Horse Racing Board Complaint #17LA0065

Respondent / Defendant No exhibits

FINDINGS OF FACT

I.

At all times herein mentioned, Respondent was licensed by the California Horse Racing Board in the license category of "owner."

II.

Respondent was the owner of record for the horse "Love That Dream" when it raced in the sixth race on February 11, 2017 at Los Alamitos Race Course. "Love That Dream" finished third in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA36530) was taken from "Love That Dream" following the running of the race in accordance with California Horse Racing Board Rule #1858 (Test Sample Required) and was sent to Kenneth L. Maddy Equine Analytical Chemistry Lab of the California Horse Racing Board. This is the official testing lab of the California Horse Racing Board.

IV.

At all times herein mentioned, the chain of custody of urine sample #LA36530 from "Love That Dream" was uninterrupted.

V.

After analyzing the sample, Maddy Laboratory reported a finding of the prohibited drug, Clenbuterol, in the sample, a class III substance.

VI.

On March 2, 2017, Respondent was notified.

VII.

The respondent elected to have a split sample sent to the University of Florida.

VIII.

On April 1, 2017, Investigator Tom Blake received confirmation from University of Florida that urine sample #LA36530 contained Clenbuterol – 372 pg/ml.

APPLICABLE RULES

CHRB rule violations listed in the complaint

- | | |
|----------------------|---|
| Rule 1887 (a) | (Trainer to Insure Condition of Horse) |
| Rule 1843 (a, b & d) | (Medication, Drugs and Other Substances) |
| Rule 1843.1 (b) | (Prohibited Drug Substances) |
| Rule 1844 (c)6 | (Authorized Medication) |
| Rule 1859.5 | (Disqualification Upon Positive Test Finding) |
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DISCUSSION

The initial action in this case involved the redistribution of purse money earned by the horse "Love That Dream" after running third in the sixth race at Los Alamitos Race Course on February 11, 2017. The Stewards issued Ruling #75 on March 24, 2017, ordering the purse to be redistributed. We now move on to the penalty phase of the complaint filed against the owner of "Love That Dream", Jose A. Perez. According to Board records, Mr. Perez had held an Owner's license for approximately thirty years, with no disciplinary action against him. His horse, "Love That Dream", had won its previous two races and tests taken from the horse proved negative for any prohibited substances. Why the test from the race in question showed the presence of a large amount of Clenbuterol begs for answers. At this point we have found none. Both Mr. Perez and his trainer profess no knowledge of how the drug entered the horse's system. They claim that neither of them use the drug nor have any of it in their possession. The horse in question was at Mr. Perez's ranch under the care of himself or his son. Mr. Perez boards a number of pleasure horses at the facility, but said that the owners have no interest in horse racing and do not use the drug. "Love That Dream" was shipped to Los Alamitos on the day before the race to the care of trainer Guillermo Morales and shipped back to his ranch the day following the race. This constituted a "program training" situation. Mr. Perez feels that he might have been the victim of sabotage, but cannot offer any reasons or, more importantly, names of those who might have conspired against him. For that reason we must reject that theory. Consequently, the responsibility falls back on Mr. Perez and his trainer.

We will now go to the penalty phase of this case as outlined in California Horse Racing Board rule #1843.3(Penalties for Medication Violations) and weigh the aggravating, mitigating, and neutral factors in the case.

Clenbuterol is a Class III violation with a Class B penalty.

A review of the aggravating and mitigating factors is now required:

- (1) *Past Medication Record of the Licensee*: No violations - mitigating
- (2) *The Potential of the Drug to Influence a Horse's Performance*: Significant - aggravating.
- (3) *The Legal Availability of the Drug*: By prescription only – no prescription submitted - aggravating.

- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug*: No testimony to that effect - neutral
- (5) *Steps Taken by the Owner to Safeguard the Horse*: N/A
- (6) *Steps Taken by the Owner to Safeguard Against Subsequent Medication Violations, Including but not Limited to, the Transfer of the Horse(s) to an Unaffiliated Trainer*: None - aggravating
- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors*: None – aggravating
- (8) *Purse of the Race*: \$9085 mitigating.
- (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 (Veterinary Report)*: No - aggravating
- (10) *Whether there was any Suspicious Wagering Pattern on the Race*: No - mitigating
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian*: N/A

A review of the factors reveals that there are more mitigating and neutral factors than aggravating factors.

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in urine sample #LA36530 taken from the horse "Love That Dream," the third place finisher in the sixth race at Los Alamitos Race Course on February 11, 2017. This finding requires the disqualification of "Love That Dream" in accordance with California Horse Racing Board Rule #1859.5.

This Board of Stewards took judicial notice of the penalty guidelines as defined in California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations). Clenbuterol is a class III drug that falls in the class "B" penalty.

PROPOSED DECISION

Given all of the foregoing, this Board of Stewards makes the following recommendation in this matter:

State of California
CALIFORNIA HORSE RACING BOARD

* * *

PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887(A)(TRAINER OR OWNER TO INSURE CONDITION OF HORSE), OWNER JOSE A. PEREZ IS SUSPENDED FOR SIXTY DAYS (60) AND FINED THREE THOUSAND DOLLARS (\$3,000.00)* FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES #1843(A)(B) AND (D)(MEDICATION, DRUGS, AND OTHER SUBSTANCES), #1843(1)(B)(PROHIBITED DRUG SUBSTANCES), #1844(E)(6)(AUTHORIZED MEDICATION – CLENBUTEROL), AND #1859.5(DISQUALIFICATION UPON POSITIVE TEST).

*California Horse Racing Board Rule #1532 states that all fines shall be paid to the paymaster of purses within seven (7) days of imposition [-----] or the license of the person upon whom the fine was imposed shall be suspended.

Lic# 110965 exp 08/2017

Case# 17LA0065

PROPOSED DECISION

Given all of the foregoing, this Board of Stewards makes the following recommendation in this matter:

Dated June 1, 2017 by this Board of Stewards:

James Dreyer
Steward James Dreyer

Randy Winick
Steward Randy Winick

Tom Ward
Steward Tom Ward

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