

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

RICARDO GUILLEN
CHRB License #317211
Respondent

CHRB Case No. 18LA0134

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 (\$3,000.00) fine and setting the suspension.

IT IS SO ORDERED ON November 29, 2018.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

Date: October 12, 2018

In the Matter of the Complaint Against:

Name

Respondent: Ricardo Guillen

Case# 18LA0134

INTRODUCTION

This matter was heard before the Board of Stewards, Ronald Church, David Nuesch, and James Dreyer, in the Los Alamitos Stewards' Office September 29, 2018.

Present at the hearing was the respondent, Ricardo Guillen, Supervising Investigator Kevin Kitashima and The Board of Stewards. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Trainer Ricardo Guillen was the trainer of record for the horse "Sovereign Jess," who started in the eighth race at Los Alamitos Race Course on June 9, 2018. On June 21, 2018, Sacramento Headquarters emailed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Sovereign Jess" (Urine Sample #LA41118) tested positive for the class III prohibited drug Clenbuterol after finishing first in the eighth race on June 9, 2018. Trainer Guillen was notified of the positive on June 21, 2018 and a barn inspection found no other violations. On June 22, 2018 trainer Guillen completed the forms for the split sample testing. Texas Veterinary Medical Diagnostic Laboratory was selected as the lab to conduct the testing of the split sample.

On August 30, 2018, investigators received a Final Report from TVMDL, confirming that the split sample #LA41118 contained the presence of Clenbuterol (38pg/ml).

LIST OF EXHIBITS

Complainant / State California Horse Racing Board Complaint
#18LA0134

Respondent / Defendant No documents submitted

FINDINGS OF FACT

I.

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

II.

Respondent was the trainer of record for the horse "Sovereign Jess" when it raced in the eighth race on June 9, 2018 at Los Alamitos Race Course. "Sovereign Jess" finished first in the aforementioned race.

III.

A post-race Urine sample (labeled sample #LA41118) was taken from "Sovereign Jess" 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 #LA41118 from "Sovereign Jess" 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 June 21, 2018, Respondent was notified.

VII.

The respondent elected to have a split sample sent to the Texas Veterinary Medical Diagnostic Laboratory.

VIII.

On August 30, 2018, Investigator Blake received confirmation from TVMDL that urine sample #LA41118 contained Clenbuterol.

APPLICABLE RULES

CHRB rule violations listed in the complaint

Rule 1887	(Trainer or Owner to Insure Condition of Horse)
Rule 1843	(Medication, Drugs and Other Substances)
Rule 1843.1	(Prohibited Drug Substances)
Rule 1844	(Authorized Medication)
Rule 1859.5	(Disqualification Upon Positive Test Finding)

DISCUSSION

Owner Erik Flores testified that his ranch consists of seventy acres and is very accessible with numerous individuals renting stall space from him. The ranch is his primary source of income. Mr. Flores feels he was the victim of retaliation by some individuals who tried to purchase the horse in question, "Sovereign Jess", and were turned down by him.

The problem trainer Ricardo Guillen faces is that "Sovereign Jess" never should have been at the ranch to begin with. When Mr. Guillen put "Sovereign Jess" on his registration sheet, he accepted full responsibility for the animal and the actions of other individuals that may come in contact with him.

Arrival and departure slips at Los Alamitos confirm that "Sovereign Jess" arrived at the track on June 8, 2018 at 2:50pm from Getaway Farms. He was shipped back to that destination on June 12, 2018 at 4:20pm. Based on these facts, it is therefore reasonable to assume that trainer Guillen was not the perpetrator in this situation nor was he aware that "Sovereign Jess" had been administered Clenbuterol. These circumstances do not, however, relieve trainer Guillen of culpability for the positive Clenbuterol pursuant to California Horse Racing Board Rule #1887 (Trainer or Owner to Insure Condition of Horse).

Even though Ricardo Guillen has only held a trainer's license in California since 2015, he has an excellent history with no violations whatsoever. Having said that, however, Mr. Guillen used very poor judgement when he allowed "Sovereign Jess" to be shipped in and out to him inviting the nefarious circumstances that occurred.

He therefore must be held accountable for his irresponsibility.

The inquiry will now go to the penalty as outlined by California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations) which allows for aggravating and mitigating factors that would permit deviation from the penalties outlined in the text of that rule.

This 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:* Trainer Guillen has been licensed since 2015 and has had no medication violations. Mitigating.
- (2) *The Potential of the Drug to Influence a Horse's Performance:* Clenbuterol can enhance a horse's performance. Aggravating.
- (3) *The Legal Availability of the Drug:* Clenbuterol is available from any veterinarian; however, in Quarter Horses it is a zero tolerance drug. Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* "Sovereign Jess" was shipped to trainer Guillen on June 9, 2018, the day prior to the race and shipped out on June 12, 2018 by owner Erik Flores. Given these facts, it is reasonable to assume that trainer Guillen did not administer, nor was he aware, that "Sovereign Jess" had been administered Clenbuterol. It is, however, another textbook example of program training and as the registered trainer of "Sovereign Jess", Ricardo Guillen must be held responsible. Aggravating.
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* This is an aggravating factor as Guillen did not have constant control of the horse.
- (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:* There is no evidence on this factor and is therefore neutral.
- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors:* This is a neutral factor as there is no evidence of such.
- (8) *Purse of the Race:* The purse was \$8,000 which is not excessive and therefore 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):* Veterinary reports do not indicate the horse having been prescribed Clenbuterol. Aggravating
- (10) *Whether there was any Suspicious Wagering Pattern on the Race:* Mitigating as there was no evidence of any unusual wagering pattern.
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian:* There is no evidence of any veterinarians advice for approval of this drug to be administered to "Sovereign Jess". Aggravating.

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

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in Urine sample #LA41118 taken from the horse "Sovereign Jess," the first place finisher in the eighth race at Los Alamitos Race Course on June 9, 2018. This finding requires the disqualification of "Sovereign Jess" 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

* * *

TRAINER RICARDO GUILLEN WHO STARTED THE HORSE "SOVEREIGN JESS" IN THE EIGHTH RACE ON JUNE 9, 2018 AT LOS ALAMITOS RACE COURSE IS FINED THREE THOUSAND DOLLARS (\$3,000.00)* AND SUSPENDED SIXTY (60) DAYS) AND PLACED ON PROBATION FOR ONE YEAR FROM THE DATE OF THIS RULING PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887 (TRAINER OR OWNER TO INSURE CONDITION OF HORSE) AND RULE #1859.5 (DISQUALIFICATION UPON POSITIVE TEST) FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES #1843 (a, b & d) (MEDICATION, DRUGS AND OTHER SUBSTANCES) (CLENBUTEROL - CLASS III) #1843.1 (b) (PROHIBITED DRUG SUBSTANCES), AND 1844(e)(6)(AUTHORIZED MEDICATION).

FOR CAUSE, THIRTY (30) DAYS OF THE SIXTY (60) DAY SUSPENSION ARE STAYED PROVIDED MR. GUILLEN IS NOT IN VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES AND REGULATIONS #1843 AND #1887 REGARDING CLASS I, II, OR III DRUG SUBSTANCES DURING THE TERM OF PROBATION. IF MR. GUILLEN VIOLATES A CONDITION OF HIS PROBATION, THE ABOVE REFERENCED THIRTY (30) DAY STAY OF SUSPENSION SHALL BE LIFTED AND THE ACTUAL SUSPENSION SHALL BE IMPOSED AFTER NOTICE AND HEARING.

DURING THE TERM OF SUSPENSION ALL LICENSES AND LICENSE PRIVILEGES OF RICARDO GUILLEN ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS TO SUSPEND OR FINE) RICARDO GUILLEN IS DENIED ACCESS TO ALL PREMISES IN THIS JURISDICTION.

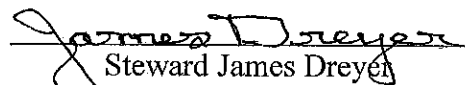
*California Horse Racing Board Rule #1532 states that all fines shall be paid to the paymaster of purses within seven (7) days of imposition [-----] or the license of the person upon whom the fine was imposed shall be suspended.


Lic# 317211 – 10/2020

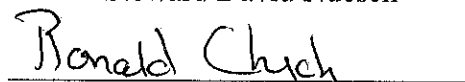
Case# 18LA0134

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

Dated October 26, 2018 by this Board of Stewards:


Steward James Dreyer


Steward David Nuesch


Steward Ronald Church

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