

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

RICARDO SEPULVEDA
CHRB License #268422

Respondent

CHRB Case #15LA0287

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, with the exception that the proposed penalty of the suspension is reduced to sixty (60) days; however, the proposed fine of ten-thousand dollars (\$10,000.00) is not reduced and remains unchanged, as provided by Government Code Section 11517 (c) (2) (B).

This 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 April 25, 2016.

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: February 19, 2016

In the Matter of the Complaint Against:

Name

Respondent: Ricardo Sepulveda

Case# **15LA0287**

INTRODUCTION

This matter was heard on February 19, 2016 before the Board of Stewards, Tom Ward, Randy Winick, and James Dreyer, in the Los Alamitos Stewards' Office.

Present at the hearing was the Respondent, Ricardo Sepulveda, the Board of Stewards, Supervising Investigator Tom Blake, Senior Investigator Kevin Kitashima who presented the case, and Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Owner Ricardo Sepulveda was the owner of record for the horse "Truly Censored," who started in the fourth race at Los Alamitos Race Course on November 15, 2015. On December 3, 2015, Sacramento Headquarters emailed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Truly Censored" (Urine Sample #LA32623) tested positive for the class III prohibited drug Clenbuterol after finishing second in the fourth race on November 15, 2015. Owner Sepulveda was notified of the positive on December 3, 2015. On December 5, 2015 owner Sepulveda completed the forms for the split sample testing. Industrial Laboratory was selected as the lab to conduct the testing of the split sample. On December 31, 2015, investigators received a Final Report from Industrial Laboratories confirming that split sample #LA32623 contained the presence of Clenbuterol (103+/-15 pg/ml).

LIST OF EXHIBITS

Complainant / State California Horse Racing Board Complaint
 #15LA0287

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 "owner."

II.

Respondent was the owner of record for the horse "Truly Censored" when it raced in the fourth race on November 15, 2015 at Los Alamitos Race Course. "Truly Censored" finished second in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA32623) was taken from "Truly Censored" 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 #LA32623 from "Truly Censored" was uninterrupted.

V.

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

VI.

On December 3, 2015, Respondent was notified that "Truly Censored" had tested positive for Clenbuterol.

VII.

The Respondent elected to have a split sample sent to Industrial Laboratories.

VIII.

On December 31, 2015, Investigator Kitashima received confirmation from Industrial Labs that urine sample #LA32623 contained Clenbuterol(103+/-15 pg/ml)

APPLICABLE RULES

CHRB rule violations listed in the complaint

- Rule 1887 Trainer to Insure Condition of Horse
- Rule 1843 Medication, Drugs and Other Substances
- Rule 1902 Conduct Detrimental to Horse Racing
- Rule 1859.5 Disqualification Upon Positive Test Finding
- Rule 1843.1 Prohibited Drug Substances
- Rule 1844 Authorized Medication)(e)(6)

DISCUSSION

The first action required by California Horse Racing Board Rule #1859.5 (Disqualification upon positive test findings) was applied to this case on January 8, 2016 by the Los Alamitos Stewards in Ruling #10 disqualifying Truly Censored and ordering the redistribution of the purse.

Owner Ricardo Sepulveda chose to represent himself in person at the Los Alamitos Stewards office. These proceedings were recorded in a formal setting by court reporter Michelle Derieg. The original complaints filed by CHRB Investigators charged owner/respondent Sepulveda with two separate positive test findings for clenbuterol in the horses "Truly Censored" and "Balboa Dasher". The first as an owner, which is correct, and the second as a person responsible for the care of the horse "Balboa Dasher". Through testimony and questioning, the board of Stewards discovered that Mr. Sepulveda was not in fact the caretaker of Balboa Dasher since he left for Fresno to run on October 18th, 2015. Balboa Dasher, according to Mr. Sepulveda stayed up north in Fresno until November 28, 2015 when he was brought to his ranch with one other horse who was dropped off, waiting to qualify at Los Alamitos approximately one week later. Balboa Dasher stayed on the van and went on directly to Gerardo Amezcua's barn at Los Alamitos, scheduled to run the following day, November 29, 2015 in the fifth race. In light of this new discovery, the Stewards are only going to hold Mr. Sepulveda responsible for the positive test finding for the horse "Truly Censored" complaint # 15LA0287, who competed on November 15, 2015 at Los Alamitos Race Course, finishing, 2nd in the fourth race. The official urine post race test contained clenbuterol in the amount of 125 pg/ml. Mr. Sepulveda is the owner of record for this horse and did in fact have care and custody of him at his ranch in Long Beach, up to shipping into Gerardo Amezcua's barn at Los Alamitos on November 14, 2015, for his race on 11/15/2015. Mr. Sepulveda, did not admit to treating his horse with clenbuterol, however he said it may have been a case of contamination from another horses bridle and bit. Whether this is true or not, the Stewards informed Mr. Sepulveda of his responsibilities, being the owner of record and having had care and custody up until the day before race day.

It must now be determined if there is any or how much of a penalty that needs to be applied by weighing aggravating or mitigating circumstances in determining Mr. Sepulveda's culpability for the positive test finding on Truly Censored. Owner Sepulveda is also entitled to a defense of his responsibility of violating CHRB rule #1887 (trainer or owner to insure condition of horse) by incorporating CHRB rule #1888 Defense to trainer insurer rule, for which there are four defenses. Sections (a), (b), and (d) are procedural in nature and do not apply in this instance. However, section (C) does ask the trainer/owner to show by a preponderance of evidence that he made every reasonable

effort to protect this horse from tampering, by an unauthorized person or persons. In our judgment Mr. Sepulveda was remiss in not having, more control of his routine and medication procedures at his ranch prior to shipping in to race out of Gerardo Amezcua's stable at Los Alamitos.

The inquiry will now go to the penalty phase as outlined by CHRB 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 the 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:* Owner Sepulveda has one medication violation for Trenbolone in 2008. We consider this aggravating.
- (2) *The Potential of the Drug to Influence a Horse's Performance:* Clenbuterol can enhance a horse's performance; however, at the levels detected, it is very unlikely. It is still however illegal. Aggravating.
- (3) *The Legal Availability of the Drug:* Clenbuterol is available from any veterinarian as it is not an illegal drug to use, just to race on. Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* This board feels it is reasonable to believe that owner Sepulveda administered the Clenbuterol to "Truly Censored". "Truly Censored" was stabled at Sepulveda's ranch and he trained and cared for the horse. The only time "Truly Censored" was out of his control was when he was shipped to the track to race. Aggravating.
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* This is a neutral factor as it does not pertain to Sepulveda.
- (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:* The horse was transferred to a different trainer but only after Amezcua was ejected from the property by management. Aggravating
- (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 minimal, \$9870 and is 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* There is no evidenced of any unusual wagering patterns. Mitigating.
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian:* There is no evidence that neither the owner or the trainer were acting under advice of any Veterinarian to administer Clenbuterol to "Truly Censored". Aggravating.

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

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in urine sample #LA32623 taken from the horse "Truly Censored," the second place finisher in the fourth race at Los Alamitos Race Course on November 15, 2015. This finding requires the disqualification of "Truly Censored" 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

* * *

Owner Ricardo Sepulveda, who started the horse "Truly Censored" in the fourth race on November 15, 2015, is fined ten thousand dollars (\$10,000.00)* and suspended one hundred and fifty (150) days pursuant to California Horse Racing Board Rule #1887 (Trainer 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 (Prohibited Drug Substances), #1844 (e)(6) (Authorized Medication) and #1902 (Conduct Detrimental to Horse Racing).

During the term of suspension, all licenses and license privileges of Ricardo Sepulveda are suspended and pursuant to California Horse Racing Board Rule #1528 (Jurisdiction of Stewards to Suspend or Fine), Ricardo Sepulveda is denied access to 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# 268422-03/2018

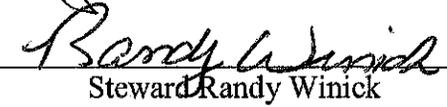
Case# 15LA0287

PROPOSED DECISION

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

Dated 03/26/16 by this Board of Stewards:


Steward James Dreyer


Steward Randy Winick


Steward Tom Ward

RECEIVED
CHRB
2016 MAR 35 AM 6:03