

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of:)	
)	
California Horse Racing Board)	
v.)	Case No. 16SA0042
DAN HENDRICKS,)	
Trainer)	
_____)	

STATEMENT OF DECISION

PROCEDURAL BACKGROUND

The California Horse Racing Board (hereinafter “CHRB” or “Complainant”) filed a complaint against trainer Dan Hendricks (hereinafter “Mr. Hendricks” or “Respondent”) alleging violation of CHRB rule 1634 (Claiming Option Entry). The complaint alleged that Mr. Hendricks entered an ineligible horse, “China Girl Lover” into the Super Bowl Party Handicap, which was run as the fifth race on February 7, 2016. The thoroughbred racehorse “China Girl Lover” won that race, and two days after that win, the Racing Secretary at Santa Anita brought the eligibility issue to the attention of this Board of Stewards. This Board then initiated an inquiry into the matter and published LATS Ruling #049 on February 13, 2016 memorializing that endeavor. We held a formal hearing into the matter on May 14, 2016 to determine (1) if the horse was eligible for the aforementioned race, and (2) if he was not, did Respondent violate any CHRB rules and should the horse be disqualified. Present at the hearing were this Board (Grant Baker, Scott Chaney, and Kim Sawyer), the Respondent Dan Hendricks with his attorney Darrell Vienna, and Investigator Phil Miyazaki representing the CHRB. The trainer, owner and jockey of the first five finishers were all notified, but none chose to attend the hearing. Court reporter Michelle Derieg recorded the proceedings. We opened the hearing at 11 a.m., took oral testimony from Respondent, but since there were no significant questions of fact, so most of the hearing involved arguments with respect to the law and regulations. We also labeled documentary evidence and entered it into evidence. Both parties made closing statements, the record was closed and we took the matter under consideration.

LIST OF EXHIBITS

- CHRB Exhibit 1* Complaint packet which included: face page; CHRB Report of Investigation; Governing Procedure for Disciplinary Hearing Before Board of Stewards; Copy of the CHRB Rule 1634; Report of Investigation; LATS Ruling #049 dated February 13, 2016; Santa Anita Condition book page for February 7, 2016; Daily Racing Form past performances for Race 5 on February 7, 2016;; result charts of the 1st Race at Del Mar on August 1, 2016, the 1st Race at Del Mar on November 8, 2016, the 5th Race at Del Mar on November 29, 2015, and the 5th Race at Santa Anita on February 7, 2016; Official Program pages of the 1st Race at Del Mar on November 8, 2015 and the 5th Race at Del Mar on November 29, 2015; DMTD Ruling #014 dated August 3, 2014; and CHRB license histories for Sheehy LLC, Patrick Sheehy, and Dan Hendricks.
- Resp. Exhibit A* Respondent's Hearing Brief (3 parts).

FACTUAL FINDINGS

I

At all times herein mentioned, Dan Hendricks was licensed by the CHRB in the license category of trainer.

II

On August 1, 2015, the thoroughbred racehorse "China Girl Lover" started in a \$16,000 claiming race, and took advantage of the protection afforded by CHRB Rule 1634 which allowed him to run in the claiming race without the possibility of being claimed.

III

On February 4, 2016, relying on the start on August 1, Respondent entered China Girl Lover into a race for four-years-old and upward which have started for a claiming price of \$25,000 or less in 2015-16.

IV

China Girl Lover won that race on February 7, 2016 earning \$16,200 in prize money.

V

A few days after that victory, Santa Anita racing office personnel alerted this Board of Stewards that China Girl Lover may not have been eligible for the race which he won on February 7.

VI

Based on this preliminary information, we published LATS Ruling #049 on February 13, 2016 which constituted formal notice that we were conducting an inquiry into the matter and at the same time directed the CHRB Investigative staff to gather the pertinent information.

APPLICABLE RULES AND REGULATIONS

California Horse Racing Board 1592. Ineligible Horse to Be Disqualified.

A horse ineligible to be entered for a race, or ineligible to start in any race, who competes in such race may be disqualified and the stewards may discipline anyone responsible therefor.

California Horse Racing Board rule 1634. Claiming Option Entry.

(a) At the time of entry into a claiming race, the owner may opt to declare a horse ineligible to be claimed provided:

(1) The horse has been laid off and has not started for a minimum of 180 days since its last race, and

(2) The horse is entered for a claiming price equal to or greater than the price at which it last started.

(b) Failure to declare the horse ineligible at the time of entry may not be remedied.

(c) Ineligibility shall apply only to the first start following each such layoff.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code.

Reference: Sections 19408.2 and 19562, Business and Professions Code.

HISTORY:

1. New rule filed 8-21-08; effective 9-20-08.

California Horse Racing Board rule 1752. Grounds for Objection.

An objection to a horse which is entered to race shall be made on the following grounds or reasons:

...

(c) That the horse is not qualified to enter under the conditions specified for the race, or that the allowances are improperly claimed or not entitled the horse, or that the weight to be carried is incorrect under the conditions of the race.

NOTE: Authority cited: Sections 19420, 19440, and 19562, Business and Professions Code. Reference: Sections 19420, 19440, and 19562, Business and Professions Code.

HISTORY:

1. Amendment filed 12-23-96; effective 1-22-97.

California Horse Racing Board rule 1755. Grounds for Protest.

A protest to the stewards may be made on any of the following grounds:

- (a) Any ground for objection as set forth in this Article.

...

NOTE: Authority cited: Sections 19420, 19440, 19562, Business and Professions Code.

Reference: Sections 19420, 19440, and 19562, Business and Professions Code.

HISTORY:

- 1. Amendment filed 9-18-95; effective 10-18-95.

California Horse Racing Board rule 1759. Horse to Be Disqualified on Valid Protest.

If a protest against a horse which has won or which has placed in any race is declared valid, that horse may be disqualified and other horses in the race are entitled to places in the order in which they finished. A horse so disqualified is a starter in the said race and may be placed last in the order of finish, or behind a horse interfered with.

California Horse Racing Board rule 1760. Purse Award or Prize to Be Withheld.

The stewards or the Board may order any purse, award or prize for any race withheld from distribution pending the determination of any protest; and in the event any purse award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award or prize, the stewards or the Board may order such purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be suspended until its return.

DISCUSSION OF ISSUES

There were no material disputes of fact in this case. The narrow issue is whether Mr. Hendricks entered an eligible horse. To be fair, the complaint is designed to answer three questions: (1) whether China Girl Lover was eligible for the starter handicap based on his race for which he employed the claiming option when he entered, if not; (2) should trainer Dan Hendricks be penalized for the error; and (3) should the horse be disqualified from the Starter Race and the purse redistributed? The threshold matter is whether entering a claiming race and declaring a horse ineligible to be claimed under rule 1634 makes the horse eligible for a future starter race. We unanimously conclude that it does not.

Counsel for Respondent provided a thorough and interesting history of the Claiming Entry Option rule (rule 1684), explaining that the original discussion and legislative history do not contemplate this particular issue. Respondent furthered argued that the definition of a claiming race under horse racing law is currently inconsistent with rule 1684. It seems clear that the intention behind starter races – creating a race from a pool of horses who are risked for a minimum claiming price is inconsistent with using the

Claiming Option Entry because the horse is not risked for that claiming price. However, there is no evidence that supports or debunks this theory. This Board of Stewards instead bases our decision on the plain language of the starter race conditions. The Super Bowl Party Starter Handicap was a race for horses “which have started for a claiming price of \$25,000 or less in 2015-16.” While Respondent correctly argues that China Girl Lover was entered for a claiming price for the August 1st race, he then availed himself of the option not to be claimed. Therefore on race day, the horse did not start for a claiming price, he merely started in a claiming race. While this distinction may seem insignificant, it makes all the difference when deciding whether China Girl Lover is a horse “which has started for a claiming price.” In no way can one argue that China Girl Lover started for a claiming price on August 1, 2016. Therefore, we unanimously find that China Girl Lover was not eligible for the Super Bowl Party Starter Handicap.

We also find that trainer Dan Hendricks should not be penalized for entering an ineligible horse. While it is Respondent’s duty as a trainer to ensure the eligibility of his horses to races in which he enters, it seems unfair to hold him responsible when on three separate occasions China Girl Lover ran in Starter races based on inaccurate eligibility. Further, the horse’s eligibility was never questioned until after the third starter race was completed. Lastly, the fact that this Board believed that a hearing was necessary to determine China Girl Lover’s eligibility, seems to relieve Respondent of any penalty based on that very eligibility.

The remaining issue at hand is whether China Girl Lover should be disqualified from the Starter Race and the purse be distributed accordingly because he was ineligible for said race. The majority finds that he should. This Board of Stewards considers this matter a grounds for a protest and therefore grounds for an objection. Under CHRB rule 1752 (c), a valid ground of objection is when a horse does not meet the conditions of a particular race. Since this Board finds that China Girl Lover did not meet the conditions, he should be disqualified pursuant to CHRB rule 1759. The majority further finds that CHRB rule 1592 specifically allows this Board to disqualify ineligible starters. Steward Chaney dissents with respect to this matter and would leave the result of the race undisturbed. He finds that although the horse was not eligible for the race, it seems unfair, after three months, to disqualify a horse when the wagering public was not impacted, where none of the participants objected before nor protested after the race, and further did not appear after being noticed for the eligibility hearing.

CONCLUSION

For the foregoing reasons, we unanimously find that China Girl Lover was not eligible for the starter handicap in question but that Respondent should not be penalized for the entry. The majority further finds that China Girl Lover should be disqualified from said race and the purse money be distributed based on the adjusted order of finish. This action is memorialized in the ruling that follows.

DATED: June 9, 2016.

State of California
CALIFORNIA HORSE RACING BOARD

Official Ruling
of the
Board of Stewards

SANTA ANITA SPRING MEET
(Association)

June 9, 2016
(Date)

LATS #169

Pursuant to a formal hearing held on May 14, 2016, it is hereby ordered that CHINA GIRL LOVER who finished first in the fifth race at Santa Anita on February 7, 2016, be disqualified and deemed unplaced in accordance with CHRB rule #1592 (Ineligible Horse to be Disqualified).

It is further ordered that the purse money being held by the Paymaster of Purses at Santa Anita be distributed in accordance with the revised order of finish.

Revised order of finish is as follows:

- 1st SMALL TOWN COP
- 2nd PERSUASIVE PAUL
- 3rd BUYMEABOND
- 4th COASTAL BREEZE
- 5th HOBBITS HERO

All records are ordered to reflect this ruling. In accordance with California Horse Racing Board rule #1856 (Race Declared Official) neither pari-mutuel payoffs nor the distribution of any pari-mutuel pool shall be affected.

CASE # 16SA0042

BY ORDER OF THE
BOARD OF STEWARDS
