

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of:)	
)	
California Horse Racing Board)	
v.)	Case No. 14LT006
JOSE VALDEZ SANCHEZ,)	
Assistant Trainer)	
_____)	

STATEMENT OF DECISION

PROCEDURAL BACKGROUND

The California Horse Racing Board (hereinafter “CHRB” or “Complainant”) filed a complaint against assistant trainer Jose Valdez Sanchez (hereinafter “Mr. Sanchez” or “Respondent”) alleging violation of CHRB rule 1902.5 (Animal Welfare). The complaint alleged that while under Mr. Sanchez’s care, a pony horse (hereinafter “the pony”) developed an injury or condition known as *fistulous withers* due to neglect. The complaint further alleged that said pony was ridden on the racetrack while lame. This Board of Stewards held a formal hearing into the matter on April 3, 2015. Present at the hearing were this Board (Scott Chaney, Kim Sawyer, and Tom Ward), the Respondent Jose Sanchez with his attorney Roger Licht, Deputy Attorney General Michael Yi representing the CHRB, and CHRB Investigator Jim Hamilton. Certified interpreter Alex Velasco interpreted Spanish/English and court reporter Michelle Derieg recorded the proceedings. We opened the hearing at 10 a.m., took oral testimony from witnesses Celso Munoz, Dr. John Araujo, Rodolfo Marquez, Jim Hamilton, and Hector Palma. We also labeled documentary evidence and entered it into evidence. The hearing was closed and continued the following day. On April 3 at approximately 11 a.m., we reopened the hearing. We took additional oral testimony from Dr. Araujo, Dr. Vincent Baker and from Respondent. We also entered an additional document into evidence. We closed the record and took the matter under consideration.

LIST OF EXHIBITS

CHRB Exhibit A Complaint Packet including: cover page, Governing Procedures, Report of Investigation, EquiMed Webpage printout, seven photographs, CHRB regulation, and License History for Respondent.

CHRB Exhibit B Stipulated Facts for Administrative Hearing.

CHRB Exhibit C Report of Investigation.

CHRB Exhibit D Picture of entire horse.

CHRB Exhibit E Picture of withers.

CHRB Exhibit F Picture of withers.

Respondent Exhibit #1 Photograph of nystatin cream.

FACTUAL FINDINGS

I

At all times herein mentioned, Jose Sanchez was licensed by the CHRB in the license category of assistant trainer.

II

Pony rider Celso Munoz gave or loaned the pony to Respondent shortly before the beginning of the Del Mar meeting in July of 2014.

III

The pony did not have any sores or lameness when Respondent acquired it.

IV

Respondent used the pony for approximately one month at Del Mar Race Track while ponying horses for trainer Hector Palma. During that time, Respondent had complete care and control over the pony.

V

During its time under Mr. Sanchez' care, the pony developed a sore on the withers.

VI

On the day that the silver dollar sized sore arose, it was treated with anti-biotic ointment and oral anti-inflammatories.

VII

Around that same time, Mr. Sanchez was ordered off the racetrack because the pony was lame.

VIII

The following day, the pony's original owner Celso Munoz, picked up the horse.

IV

Five days later, Mr. Munoz contacted Dr. John Araujo to examine the pony for lameness. During that examination, Dr. Araujo discovered that the sore had become infected and developed into the condition known as *fistulous withers*. He began treating the wound immediately.

APPLICABLE RULES AND REGULATIONS

California Horse Racing Board rule 1902.5 Animal Welfare

No person under the jurisdiction of the Board shall alone, or in concert with another person, permit or cause another animal under his control or care to suffer any form of cruelty, mistreatment, neglect or abuse. Nor shall such person abandon; injure; maim; kill; administer a noxious or harmful substance to; or deprive an animal of necessary care, sustenance, shelter or veterinary care. NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19460 and 19580, Business and Professions Code. HISTORY: 1. New rule filed 1-9-06; effective 2-8-06.

DISCUSSION OF ISSUES

This is a difficult matter for this Board because it involves what is clearly some form of animal neglect but at the same time, the evidence presented at hearing was, at times, convoluted at times and even nonexistent. The CHRB has alleged that Mr. Sanchez violated rule 1902.5 Animal Welfare in two ways: (1) by allowing a horse in his care to develop the *fistulous withers* and (2) riding a horse that was lame on the racetrack. This Board of Stewards takes allegations of animal abuse very seriously; but at the same time we are compelled to rigorously protect and promote the concept of due process with respect to licensees.

First, the CHRB alleges that Mr. Sanchez violated rule 1902.5 by allowing the *fistulous withers* to develop. Certainly, the photographs of the condition are horrifying. The question, however, is whether the preponderance of the evidence indicates that Respondent's care or lack thereof, caused the *fistulous withers* as shown in the

photographs. The answer is yes, but only to an extent. At hearing, evidence was uncontroverted that when the pony left Mr. Sanchez' care, he had a silver dollar sized rub mark on his withers which was being treated with medication. The sore was caused by an improperly fitted saddle. After leaving Respondent's care, five days later the full-blown *fistulous withers* condition was present. Both veterinarians who testified explained that it could have deteriorated to the ultimate condition as seen in the exhibits in that period of time. The CHRB did not ask Mr. Munoz what condition the pony was in when he picked it up from Mr. Sanchez. Furthermore, it was five days later that Mr. Munoz even sought veterinary care, and that was for lameness not the withers. We therefore find that while Mr. Sanchez created the initial injury through the ill-fitting saddle, a preponderance of the evidence does not indicate that Mr. Sanchez can be held responsible for the condition of the pony once it left his care.

Secondly, the CHRB alleges that Respondent violated rule 1902.5 when he rode a lame pony to the track. On this point, the evidence is clear. All evidence indicated that the horse was lame when ordered off the track by outrider Rudy Marquez. What is not clear is whether this was the only time this occurred and how long the horse had been lame when Respondent received the order. However, while riding a lame horse is a violation of rule 1902.5, the extent and degree of the penalty associated with such an act should be tempered by the extent and degree of the violation. Given the lack of evidence of the extent and degree of said lameness, this Board is compelled to apply a minimal penalty for this violation.

Therefore, we believe that the CHRB has met its burden in demonstrating that there was a violation of CHRB but the result and degree of the violation fell short of what the CHRB was attempting to prove. At this point, it should also be noted that Mr. Sanchez has a spotless record during his 22 years as a licensee.

CONCLUSION/PROPOSED DECISION

Given all of the foregoing, we issue the following ruling/decision:

State of California
CALIFORNIA HORSE RACING BOARD

Official Ruling
of the
Board of Stewards

Del Mar Thoroughbred Club
(Association)

July 26, 2015
(Date)

DMTD #022

Assistant trainer JOSE SANCHEZ is fined FIVE HUNDRED DOLLARS (\$500.00)* for violation of California Horse Racing Board rule #1902.5 (Animal Welfare– creating a saddle sore and riding a lame horse).

DOB:
LIC #: 312888 exp.08/2015
CASE #: 14LT006

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

DATED: July 26, 2015.

BOARD OF STEWARDS

C. Scott Chaney

P. Kim Sawyer

Tom Ward