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CHRB NEWS RELEASE

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BOARD WINS FEDERAL APPEAL IN BAFFERT CASE

SACRAMENTO, CA – In what amounts to a vote of approval for the California Horse Racing Board’s administrative law process and the state judicial system, a federal appellate court has decided that trainer Bob Baffert’s appeal of a 60-day suspension should never have gone to the United States District Court and dismissed that court’s injunction against the CHRB.

In a ruling filed Friday by the United States Court of Appeals for the Ninth Circuit, the three-member appellate panel “reversed and remanded with instructions to vacate the award of attorney fees to Plaintiff (Baffert) and to dismiss the action.”

Still pending is Baffert’s administrative appeal of a June 17, 2001, ruling by the stewards to suspend Baffert for 60 days after a urine sample taken from a horse he was training, Nautical Look, tested positive for morphine after finishing first in the seventh race at Hollywood Park on May 3, 2000.

Baffert and his attorney, Neil Papiano, bypassed the usual appellate process by taking the case to federal court, where they won an injunction. Represented by Deputy Attorney General Jerald Mosley, the CHRB appealed, leading to the decision Friday that “California’s administrative process provides sufficient judicial review so as to constitute an adequate forum to litigate constitutional issues.”

Commenting on the lower court’s conclusion that the CHRB had acted in “bad faith,” the appellate panel wrote, “The Board had a reasonable expectation of obtaining a valid ‘conviction.’ In California, the trainer ‘is the absolute insurer of and responsible for the condition of the horses entered in a race...’ If a sample of bodily fluid taken from a horse tests positive, that test is prima facie evidence that the trainer has been negligent in the care of the horse and is prima facie evidence that the drug found has been administered to the horse.”

The appellate opinion continued, “Nor does the fact that the Board destroyed Nautical Look’s blood samples prove bad faith. Nautical Look’s blood samples were not singled out for destruction. The samples were destroyed (a) pursuant to a random practice of destroying one-third of the blood samples at the laboratory, and (b) pursuant to the Board’s policy of destroying split samples after 45 days if no request for testing has been made.”

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