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CHRB NEWS RELEASE

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BOARD ADOPTS RECOMMENDATION IN VALENZUELA APPEAL

ARCADIA, CA – The seven commissioners on the California Horse Racing Board voted unanimously Friday to adopt an administrative law judge's recommended decision to grant jockey Patrick Valenzuela's appeal of a suspension issued by the racetrack stewards last summer through the term of his conditional license (December 31, 2004).

The Board action clears the way for Valenzuela to go through the licensing process to resume riding. He took the first step by filing a license application, which will be reviewed by the CHRB. Following the closed executive session Friday at Santa Anita Park, the commissioners asked newly appointed Executive Director Ingrid Fermin, who did not attend the session, to expedite this process.

Fermin then asked Deputy Attorney General Derry Knight to assist in drawing up a contract that could be required as a condition of the jockey's conditional license for 2005. Valenzuela and his attorney, Neil Papiano, are scheduled to meet with Fermin and the stewards at Santa Anita on Thursday to review the possible settlement case. The stewards could approve the contract or require Valenzuela to participate in a fitness hearing.

Valenzuela has been riding for several years under the terms of a conditional license agreement, which was amended in May by the racing commissioners to include additional conditions upon his early return from a previous suspension. One of the additional conditions was that he submit to hair follicle testing. However, when CHRB investigators asked Valenzuela for hair samples on July 1, they determined that he had shaved his head and other parts of his body from which a sufficient number and length of hairs would normally be collected for the hair strand test that the commissioners had originally envisioned. The Hollywood Park stewards suspended Valenzuela on July 2. Following a subsequent hearing, the Del Mar stewards ruled on August 6 to extend the suspension.

Valenzuela's appeal was heard by H. Stuart Waxman, an administrative law judge with the California Office of Administrative Hearings, who conducted a hearing on November 12. In his recommended decision to the CHRB, Waxman ordered that the July 2 and August 6 rulings by the stewards be vacated and overruled.

Waxman based his recommendation on the distinction between a hair follicle (a small cavity in the skin, from which a hair develops) and hair itself. Waxman wrote, "The Board issued an order requiring Appellant to submit to hair follicle testing. It did not require Appellant to maintain any of his hair at a specified minimum length. The order was clear, specific and unequivocal. However, the Board does not seek to enforce its order for hair follicle testing, but rather, it seeks to enforce an order for hair

strand or hair shaft testing. Hair strand or hair shaft testing requires a minimum length of hair. Hair follicle testing does not.”

In approving Waxman’s recommended decision, the commissioners added clarifying language indicating it was the Board’s intent and expectation that hair follicle testing would include hair strand testing.

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