

**BEFORE THE CALIFORNIA HORSE RACING BOARD**  
**OF THE STATE OF CALIFORNIA**

**In the Matter of the Complaint against:**

**JOSE CASTILLO**  
**Trainer, CHRB License #404162**

Case No.: 23SW0007

**DECISION**

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter, with the Proposed Penalty being a two hundred and fifty dollar (\$250.00) fine and assessed no points in accordance with California Horse Racing Board Rule #1843.4 (Multiple Medication Violations).

This Decision is hereby remanded to the Board of Stewards to issue a ruling and order for setting the payment of the fine.

IT IS SO ORDERED ON August 18, 2023.



CALIFORNIA HORSE RACING BOARD  
Gregory L. Ferraro, DVM, Chairman



[Scott Chaney \(Aug 18, 2023 12:28 PDT\)](#)

Scott Chaney  
Executive Director

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**BEFORE THE CALIFORNIA HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of the Complaint against: ) Case No. **23SW0007**  
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) **PROPOSED DECISION**  
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**JOSE CASTILLO, Trainer, CHRB License** )  
**No. 404162,** ) Hearing Date: July 13, 2023  
) Time: 10:00 a.m.  
**Respondent.** )  
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**PROPOSED DECISION**

This matter was heard on July 13, 2023 by Shauna Weeks Avrith, a Hearing Officer designated under California Horse Racing Board rule 1414 (Appointment of Referee) remotely via Microsoft Teams audio and videoconference.

The Respondent Jose Castillo (hereinafter “Castillo” or “Respondent”) appeared and was unrepresented by counsel.

The California Horse Racing Board (hereinafter “CHRB” or “Respondent”) was represented by CHRB General Counsel Robert Brodnik.

CHRB Investigator Hunter Bartholomew, interpreter Leonor Preciado, and CHRB Administrative Hearings Unit representative Sydney Villareal also appeared.

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3 The proceedings were recorded by court reporter Michelle E. Derieg of Weinstein Court  
4 Reporters, LLC.

5 **PROCEDURAL BACKGROUND**

6 This matter arises from the California Horse Racing Board’s complaint filed on April 17, 2023  
7 against Trainer Jose Castillo, CHRB License No. 404162 (“Castillo”). Castillo was the trainer of record  
8 of the horse “Giggle Monster” who ran in the first race at Cal Expo on March 31, 2023, finishing eighth.  
9 A post-race urine sample, #CE32720, was tested by the CHRB official lab and was found to contain  
10 Minoxidil, a Class 3, Penalty B prohibited substance. Castillo did not request testing of a split sample.  
11 The complaint alleges that Castillo violated CHRB Rules 1843(a), (b) and (d), 1843.1(a), 1843.4, and  
12 1887(a).

13 **LIST OF EXHIBITS**

14 Exhibit 1: CHRB Complaint Packet, 47 pages

15 Exhibit 2: Laboratory Packet Prepared by UC Davis, 37 pages

16 **LIST OF WITNESSES**

17 CHRB Investigator Hunter Bartholomew

18 Trainer Jose Castillo

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20 **APPLICABLE LAWS AND REGULATIONS**

21 **Cal. Bus. & Prof. Code §19581**

22 No substance of any kind shall be administered by any means to a horse after it has  
23 been entered to race in a horse race, unless the board has, by regulation, specifically  
24 authorized the use of the substance and the quantity and composition thereof. The  
25 board may require that the official veterinarian approve, in writing, the  
26 administration of those substances in accordance with the regulations of the board.

27 Any medication or equipment used to dispense medication that is located within the  
28 inclosure is subject to search and inspection at the request of any board official.

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**CHRB Rule 1843 – Medication, Drugs and Other Substances.**

It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:

(a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.

(b) No drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided in these rules.

...

(d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal, anti-inflammatory drug substance or a finding of a drug substance in excess of the limits established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered to the horse.

**CHRB Rule 1843.1 – Prohibited Drug Substances**

For purposes of this division, prohibited drug substance means:

(a) any drug, substance, medication or chemical foreign to the horse, whether natural or synthetic, or a metabolite or analog thereof, whose use is not expressly authorized in this article.

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3 **CHRB Rule 1843.2 – Classification of Drug Substances.**

4 The Board, the board of stewards, the hearing officer, or the administrative law  
5 judge, when adjudicating a hearing for a violation of Business and Professions Code  
6 section 19581, shall consider the classification of the substance as referenced in the  
7 California Horse Racing Board (CHRB) Classification of Foreign Substances,  
8 Alphabetical Substances List (Rev. 02/21), hereby incorporated by reference, which  
9 is based on the Association of Racing Commissioners International (ARCI) Uniform  
10 Classification Guidelines for Foreign Substances (12/20), as modified by the Board.

11 **CHRB 1843.2 Alphabetical Substance List (Excerpt)**

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<b>Drug/Substance</b>	<b>Trade Name(s)</b>	<b>Drug Class</b>	<b>Penalty Class</b>
Minoxidil	<i>Loniten</i>	3	B

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15 **CHRB Rule 1843.3 – Penalties for Medication Violations**

16 (a) In reaching a decision on a penalty for a violation of Business and Professions  
17 Code section 19581, the Board, the board of stewards, the hearing officer or the  
18 administrative law judge shall consider the penalties set forth in subsections (d) and  
19 (e) of this Rule and any aggravating and mitigating circumstances. Deviation from  
20 these penalties is appropriate where the facts of the particular case warrant such a  
21 deviation, for example: there may be mitigating circumstances for which a lesser or  
22 no penalty is appropriate, and aggravating factors for which a greater penalty is  
23 appropriate.

24 (b) Mitigating circumstances and aggravating factors, which must be considered,  
25 include but are not limited to:

26 (1) The past record of the licensee regarding violations of Business and Professions  
27 Code section 19581;

28 (2) The potential of the drug(s) to influence a horse’s racing performance and the  
amount of the drug present;

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(3) The legal availability of the drug and whether the drug was prescribed to the horse by a California Horse Racing Board (CHRB) licensed veterinarian;

(4) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) The steps taken by the trainer to safeguard the horse;

(6) The steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer;

(A) “Unaffiliated trainer” means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed by the trainer from whose care such horse(s) were transferred.

(7) The probability of environmental contamination or inadvertent exposure due to human drug use or other factors;

(8) The purse of the race;

(9) Whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented through the process described in Rule 1842 of this division;

(1) Whether there was any suspicious wagering pattern on the race;

(11) Whether the licensed trainer was acting under the advice of a CHRB licensed veterinarian.

(c) The Board shall consider the classification of a drug substance as referred to in Rule 1843.2 of this division and the California Horse Racing Board (CHRB) Penalty Categories Listing by Classification (Revised 4/15), which is hereby incorporated by reference, if a determination is made that an official sample from a horse contained:

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this division, or

(2) Any drug substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in the article.

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(d) Penalties for violation of each classification level are as follows:

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**CATEGORY “B” PENALTIES**

<b>LICENSED TRAINER</b>
<b>1st Offense</b>
Minimum 30-day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60-day suspension.
<b>AND/OR</b>
Minimum fine of \$500 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$10,000.

...

**CHRB Rule 1843.4 – Multiple Medication Violations (MMV)**

(a) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 105 medication with Penalty Class A-D, pursuant to Business and Professions Code section 19581 and Rule 1843.3, shall be assigned points as follows:

...

[Penalty Class B Points if Non-Controlled Substance: 4]

If the Board determines that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

**CHRB Rule 1887 – Trainer to Insure Condition of Horse**

(a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of urine or blood test

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3 samples or other tests, prove positive showing the presence of any prohibited drug  
4 substance defined in Rule 1843.1 of this division, the trainer of the horse may be  
5 fined, his/her license suspended or revoked, or be ruled off. . .

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7 **CHRB Rule 1894 – Duties of Trainer**

8 Trainers are responsible for the condition of horses in their care and are presumed to  
9 know the rules . . .

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11 **FACTUAL FINDINGS**

12 I.

13 Castillo was trainer of record of the horse “Giggle Monster” which ran in the first race at Cal  
14 Expo on March 31, 2023, finishing eighth. The purse of the race was \$5,400. (Stipulation of parties;  
15 *see* Hearing Transcript at 11:5-9; Exhibit 1 at pp. 3, 25.)

16 II.

17 The horse “Giggle Monster” was post-race tested. (Stipulation of parties; *see* Hearing  
18 Transcript at 11:10-24; Exhibit 1 at pp. 3, 13.)

19 III.

20 The post-race urine sample labeled CE32720 was taken from the horse “Giggle Monster”  
21 following the race. (Stipulation of parties; *see* Hearing Transcript at 11:25-12:3; Exhibit 1 at pp. 13,  
22 18, 20.)

23 IV.

24 The urine sample labeled CE32720 was submitted to the Kenneth L. Maddy Equine Laboratory  
25 at University of California, Davis (“Maddy Equine Lab”) for analysis. (Stipulation of parties; *see*  
26 Hearing Transcript at 12:4-8; Exhibit 1 at pp. 13, 16-19; CHRB Rule 1859.)

27 V.

28 After analyzing the sample, on April 14, 2023, the Maddy Equine Lab reported that Minoxidil,  
a Class 3, Penalty B drug substance was detected in the urine sample CE32720. (Stipulation of  
parties; *see* Hearing Transcript at 12:10-21; Exhibit 1 at pp. 13, 16; Exhibit 2; CHRB Rule 1859.)

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VI.

The chain of custody for urine sample CE32720 was uninterrupted. (Stipulation of parties; *see* Hearing Transcript at 12:22-25; Exhibit 1 at pp. 4, 17-19; Exhibit 2; CHRB Rule 1859.)

VII.

On April 19, 2023, Castillo was notified that the Maddy Equine Lab had detected the presence of Minoxidil in the urine sample CE32720 taken from “Giggle Monster”. (Hearing Transcript at 17:3-17; Exhibit 1 at pp. 2-4.)

VIII.

On April 19, 2023, Castillo was notified that he had 72 hours within which to request a split sample analysis from a CHRB approved laboratory and acknowledged his understanding of that deadline. (Hearing Transcript at 18:11-16; 19:5-12, Exhibit 1 at p. 23.)

IX.

Mr. Castillo did not request a split sample analysis within 72 hours of being notified that Minoxidil had been detected in Giggle Monster’s post-race urine sample CE32720. (*See* Hearing Transcript at 8:9-25; Exhibit 1 at p. 3.)

X.

After receiving notice of the presence of Minoxidil in Giggle Monster’s post-race urine sample, the CHRB conducted an investigation, but did not discover any evidence of intentional or inadvertent administration of Minoxidil to Giggle Monster, or any means by which urine sample CE32720 taken from Giggle Monster could have been contaminated. (Hearing Transcript at 18:19-19:3; 20:2-22:16, Exhibit 1 at pp. 2-4.)

XI.

Castillo did not conduct his own investigation to determine how Minoxidil could have been intentionally or inadvertently administered to Giggle Monster, choosing instead to rely on the investigation conducted by the CHRB. (Hearing Transcript at 31:17-32:1; 32:20-33:9.)

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XII.

Castillo was provided the opportunity to examine witnesses Hannah Alger, Alanna Pena, and Dr. Ben Moeller regarding the collection and testing of, and the chain of custody for, urine sample CE32720, but elected not to do so. (Hearing Transcript at 13:17-14:17.)

XIII.

Castillo has been licensed by the CHRB as a groom, an owner and a trainer. Urine sample CE32720 is the only test sample taken from a horse owned or trained by Castillo that has tested positive for a prohibited substance. (Hearing Transcript at 26:23-27:1; *see* Exhibit 1 at p. 27.)

XIV.

There is no reason to believe Castillo knew of the administration of or intentionally administered Minoxidil to Giggle Monster. (Hearing Transcript at 22:12-16; 28:4-19; Exhibit 1 at pp. 3-4.)

**DISCUSSION OF ISSUES**

The relevant facts are undisputed. Minoxidil, a Class 3, Penalty B prohibited drug substance, was detected in a post-race urine sample properly collected from the horse Giggle Monster and tested by the Maddy Equine Lab.<sup>1</sup> The CHRB investigated but could not identify any intentional or accidental means of administration of Minoxidil to Giggle Monster. Castillo told the CHRB Investigator he had no idea how Minoxidil could have been administered to Giggle Monster, and the Investigator found him to be credible. Castillo has no prior medication violations.

As the absolute insurer of Giggle Monster's care and condition, Castillo may be fined or suspended upon a finding that a post-race test detected the presence of a prohibited substance, whether

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<sup>1</sup> Castillo was notified of his right to request that a split sample be tested by a CHRB approved laboratory, and further was notified, both orally and in writing, that he had 72 hours within which to make that request. Although Castillo testified that he did not request split sample testing because CHRB Investigator Hunter Bartholomew told him the sample would come back positive, Investigator Bartholomew denied making that representation. (*See* Hearing Transcript at 6:19-8:12; 9:4-25; 19:13-.20:1; 24:19-25:4.) Further, Castillo testified that he was advised by a veterinarian and a member of a horsemen's association that a split sample may or may not be positive, and in fact could provide evidence that the original sample was contaminated in the process of collection, transport, or testing. (*Id.* at 6:19-.8:12.) Castillo presented no evidence suggesting he was prevented from obtaining this information within 72 hours of the positive test notification, nor did he ever ask the CHRB to waive the 72 hour requirement and allow late testing of the split sample.

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3 or not he knew of or intentionally administered that substance. (CHRB Rule 1887.) The penalty  
4 guidelines for the medication at issue, Minoxidil, provide that Castillo may receive a 30 day  
5 suspension and/or a \$500 fine. (CHRB Rule 1843.3(d).) However, in determining the penalty to be  
6 administered, the Board must consider evidence of aggravating and mitigating factors, and may  
7 exercise its discretion to reduce or increase the penalty. (CHRB Rule 1843.3(a), (b).) The Board  
8 presented no evidence of any aggravating factors. The Board did present evidence of mitigating  
9 factors, including the following:

- 10 • Castillo’s license history (no prior medication violations);
- 11 • Lack of evidence of intentional administration;
- 12 • Lack of evidence of any negligence in the care and/or treatment of the horses under  
13 Castillo’s care;
- 14 • Castillo’s credible statement that he did not intentionally administer Minoxidil to  
15 Giggle Monster, and had no idea how Minoxidil was detected in Giggle Monster’s  
16 post-race urine sample;
- 17 • Lack of evidence that the presence of Minoxidil in Giggle Monster’s system could have  
18 impacted the horse’s performance;
- 19 • Evidence that Minoxidil may be purchased at any drugstore (including under the brand  
20 name Rogaine), thus creating a potential for accidental contamination;
- 21 • Lack of evidence of the amount of Minoxidil detected in Giggle Monster’s post-race  
22 urine sample, which could have tended to demonstrate that either contamination or  
23 intentional administration was more likely.

24 The CHRB’s Investigator appeared to believe Castillo’s representation that he had no  
25 knowledge of the administration of Minoxidil to Giggle Monster, and further that its presence in the  
26 post-race test sample appeared to be the result of accidental contamination from an unknown source.  
27 Nevertheless, Minoxidil is specifically identified as a Class 3, Penalty B prohibited substance pursuant  
28 to CHRB Rule 1843.2 The classifications in Rule 1843.2 are based on the ARCI Uniform  
Classification Guidelines, which identify Class 3 substances as “drugs that may or may not have  
generally accepted medical use in the racing horse, but the pharmacology of which suggests less

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potential to affect performance than drugs in Class 2. Drugs in this class include bronchodilators, anabolic steroids, and other drugs with primary effects on the autonomic nervous system, procaine, antihistamines with sedative properties, and the high-ceiling diuretics.”

Despite the presence of mitigating factors, Castillo, as the absolute insurer of Giggle Monster’s condition, was unable to explain the presence of Minoxidil in the horse’s post-race urine sample, and presented no evidence to suggest either inadvertent administration of Minoxidil to the horse, or of contamination of the post-race urine sample. As such, it is this Hearing Officer’s recommendation that Castillo receive a \$250 fine with no suspension and no points for prior medication violations under Rule 1843.4.

**CONCLUSION / PROPOSED DECISION**

For all the foregoing reasons, it is recommended that trainer Jose Castillo receive a \$250 fine for violation of CHRB Rules 1843 (a) and (d) and 1887(a), with no medication violation points pursuant to Rule 1843.4.

DATED: August 7, 2023

By Shauna Weeks Avrith  
Shauna Weeks Avrith  
Hearing Officer