BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA

In the Matter of:

PROPOSED DECISION RE: APPEAL OF THE BOARD OF STEWARDS' OFFICIAL RULING NO. 12, SANTA ANITA, DATED OCTOBER 6, 2024

LORENZO RUIZ,
Appellant

Case No. SAC 24-0034

NOTICE OF NON-ADOPTION OF PROPOSED DECISION AND ORDER FOR CONSIDERATION OF ADDITIONAL EVIDENCE

Attached is a copy of the Proposed Decision in the above-titled matter submitted to the California Horse Racing Board ("Board") under provisions of Government Code section 11517. The Board considered the Proposed Decision of the Hearing Officer during closed session of the regularly noticed Board Meeting on February 20, 2025.

By vote of the Board, the Proposed Decision was not adopted, and the matter is referred to the original Hearing Officer, if available, to consider additional evidence pursuant to the provisions of Government Code section 11517, subdivision (c)(2)(D).

This Notice and the non-adopted Proposed Decision will be filed as a public record and copies will be served on each party and the attorneys of record.

IT IS SO ORDERED
Dated: February 21, 2025

Gregory L. Ferraro, DVM
Digitally signed by Gregory L. Ferraro, DVM
Date: 2025.02.21 12:44:41 -08'00'

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

C. Scott Chaney
Digitally signed by C. Scott Chaney
Date: 2025.02.21 12:15:46 -08'00'

Scott Chaney
Executive Director

Patrick J. Kane, Esq.
440 Stevens Ave., Suite 200
Solana Beach, California 92075
Telephone: (858) 381-7860

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

IN THE MATTER OF: **APPEAL OF THE BOARD OF STEWARDS OFFICIAL L.A.T.C RULING NO. 12, SANTA ANITA, DATED OCTOBER 6, 2024,** **LORENZO RUIZ,** **Appellant.**	Case No.: SAC 24-0034 **PROPOSED DECISION RE: APPEAL OF THE BOARD OF STEWARDS' OFFICIAL RULING NO. 12, SANTA ANITA, DATED OCTOBER 6, 2024** Hearing Date: November 15, 2024 Time: 10:00 a.m.

I. INTRODUCTION

This matter arises from an Appeal of the Board of Stewards' Official Ruling No. 12, Santa Anita, Dated October 6, 2024 (the "Appeal").

This Appeal came for hearing on November 15, 2024, at 10:00 a.m. via video conference. Michelle Derieg recorded all testimony presented during the proceeding. Pursuant to California Horse Racing Board Rule 1414, Hearing Officer Patrick J. Kane ("Officer") presided over the Appeal.

Carlo Fisco and Darrell Vienna represented Appellant Lorenzo Ruiz ("Appellant"). The California Horse Racing Board ("Respondent" or the "CHRB") (collectively, with Appellant, referred to as the "Parties") was present and represented by Robert Petersen.

The Appeal's evidentiary record closed at the conclusion of the proceedings on November 15, 2024, at approximately 11:00 a.m.

II. EXHIBITS ADMITTED INTO THE RECORD.

A. Exhibits Entered into the Record.

The following exhibits were into the Appeal's record:

Exhibit "1" The Hearing Transcript concerning the June 27, 2024, Hearing before the Board of Stewards at Los Alamitos Racecourse and Related Exhibits;

Exhibit "2" The Board of Stewards' Official Ruling No. 12, Santa Anita, Dated October 6, 2024;

Exhibit "3" Appellant's Opening Appeal Brief;

Exhibit "4" The CHRB's Response Brief; and

Exhibit "5" Appellant's Reply Brief.

III. FACTUAL FINDINGS

After admitting all exhibits and testimony into evidence, this Officer makes the following findings of fact:

A. The HISA Arbitration.

I.

On August 21, 2023, the Horse Racing Integrity Welfare Unit ("HIWU") initiated a binding arbitration ("Arbitration") against Appellant stemming from three Adverse Analytical Findings ("AAFs") relating to the presence of Diisopropylamine ("DIPA"), a prohibited substance under applicable federal law, detected in the three separate horses ("Horses"), which Appellant was the trainer of record for at that time. (See Ex. 1 at p. 137 at ¶ 1.1, p. 141 at ¶ 3.1.) Appellant's undersigned counsel represented Appellant during the Arbitration. (Id. at ¶ 1.3)

II.

On March 19, 2024, the in-person Arbitration went forward, but no one appeared on behalf of Appellant (the "Arbitration Hearing"). (See Ex. 1 at p. 137 at ¶ 3.24.) Apparently, on March 13, 2024, Appellant informed the Arbitration's parties that: (1) neither Appellant nor his counsel of record intended to appear at the Arbitration; and (2) Appellant would solely rely on his pre-hearing brief and related pre-hearing submissions. (Id. at ¶ 3.20.) This is despite the fact that on

February 6, 2024, Appellant was ordered to personally appear at the Arbitration Hearing. (Id. at ¶ 3.17.)

III.

On April 2, 2024, the Arbitration's arbitrator issued a "Corrected Final Decision ("Decision")" finding that:

> (1) The HIWU met its burden in demonstrating that DIPA was detected in the Horses while under Appellant's care in violation of Rule 3212; (2) the consecutive nature of Appellant's violations merit each violation be treated as a separate violation, as opposed to a single violation; and (3) Appellant failed to demonstrate any mitigating circumstances because Appellant "failed to provide anything resembling sufficient evidence to show how the [DIPA] entered the Covered Horse's systems." (Ex. 1 at p. 162-164 at ¶ 8.3-8.4, 8.8, 8.15.)

IV.

The Decision separately found Appellant breached his provisional suspension as well as made a finding of aggravating circumstances permitting increased penalties under the Horse Racing Integrity and Safety Act of 2020, 15 U.S.C. §§ 3051-306 ("HISA") as:

> (1) Documents presented at the [Arbitration] hearing, including surveillance and photo evidence, indicated [Appellant] was working as an outrider at Los Alamitos six days a week and that his employment in that capacity commenced almost immediately after his provisional suspension came into effect; (2) on the day of the hearing neither [Appellant] nor his counsel appeared at the hearing…not only did [Appellant] not appear, but evidence was presented…confirming that [Appellant] was outriding at Los Alamitos Race Track at the very time that the hearing was set to commence; and (3) [b]y breaching the terms of his provisional suspension and by not attending the hearing called at his request, [Appellant] is essentially thumbing his nose at the ADMC program…[i]f left unchecked, [Appellant's] behavior would send a message that there are no consequences when he ignores the regime…[s]uch conduct threatens the credibility of the ADMC program. (Ex. 1 at p. 165-166 at ¶ 8.20, 8.22, 8.26.)

V.

In accordance with the Decision, the Arbitrator proceeded to issue the following award: (1) suspending Appellant for a period of seven years (7) with no time served for his provisional suspension; (2) fining Appellant $80,000.00, including a $5,000.00 fine enhancement pursuant to Rule 3223(b); and (3) ordering Appellant to separately contribute $15,000.00 towards HIWU's arbitration costs pursuant to Rule 3223(b) (collectively, the "Award"). (Ex. 1 at p. 167.)

VI.

At no time did Appellant contest or appeal the Decision or Award meaning the Decision

and Award became final judgments for the purposes of this Appeal.

B. The CHRB's Complaint Against Appellant and Subsequent Hearing.

VII.

On April 5, 2024, the CHRB filed a Complaint ("Complaint") against Appellant asserting violations Cal. Code Regs. Tit. 4 § 1484 and 1528 alleging the following:

> Trainer Lorenzo Ruiz: has a period of ineligibility of seven (7) years (from April 2, 2024, to April 1, 2031) as outlined in HISA rule #3323 in relation to Equine Anti-Doping violations regarding the covered horse FACTS MATTER, AMERICAN CAT, and KANT BEAT THE ROCK. During this period of ineligibility Lorenzo Ruiz cannot participate in any Racetrack or Training Facility as a Covered Person under HISA. Due to Lorenzo Ruiz being otherwise banned from participating in any racing occupation he is also in violation of CHRB Rule #1484 - Evidence of Unfitness for License and #1528 Jurisdiction of Stewards to suspend or fine. (Ex. 1 at p. 171.)

VIII.

On June 27, 2024, the Board of Stewards heard the Complaint as well as evidence of Appellant's fitness to retain his outrider's license, despite the Decision. (Ex. 1 at p. 1, 50.)

IX.

Relevant to this Appeal, the CHRB called CHRB Safety Steward Paul Atkinson ("Atkinson") as a witness who provided the following testimony:

> (1) He explained the function and duties of an outrider; (2) an outrider working at Los Alamitos comes into contact with both quarter horses and thoroughbreds; (3) there is only one type of outrider license provided for by the CHRB; and (4) he observed Appellant acting as an outrider, and does not question Appellant's ability as an outrider. (Ex. 1 at p. 38-40, 42-43, 44-45.)

X.

In support of demonstrating his fitness to retain his outrider's license, Appellant called Monty Arrossa ("Arrossa") and Paul Jones ("Jones").

Arrossa provided the following testimony: (1) Arrossa is a quarter horse trainer with 52 quarter horses currently stabled at Los Alamitos; and (2) Appellant "is the best outrider [he has] seen work at a racetrack." (Ex. 1 at p. 52-53, 54-55.)

XI.

Jones separately provided the following testimony: (1) Jones is a quarter horse trainer who has been based at Los Alamitos for over thirty (30) years; (2) Jones has known Appellant for at

least twelve (12) years; and (3) Jones believes Appellant is one of the best outriders at Los Alamitos (Ex. 1 at p. 59-60.)

XII.

Appellant also called Jordan Gary Castaneda ("Castaneda") to testify on his behalf. Casteneda is currently employed as both the Director of Racing and Racing Secretary at Los Alamitos. (Ex. 1 at p. 62.) Castanea testified that he believes Appellant is Los Alamitos' best outrider "in the morning." (Id. at p. 64.) Castaneda separately noted that: (1) both quarter horses and thoroughbreds train at Los Alamitos; and (2) Appellant trained thoroughbreds exclusively prior to the Decision. (Id. at p. 66, 69.)

XIII.

Appellant testified separately on his own behalf. Appellant stated he has been an outrider at Los Alamitos for the last eighteen years and currently holds a trainer, authorized agent, and outrider's license with the CHRB. (Ex. 1 at p. 71.)

Concerning his duties as an outrider, Appellant explained he works with both thoroughbreds and quarter horses during Los Alamitos' training hours. (Ex. 1 at p. 73, 78.) Appellant further explained he believed the Complaint concerned "[w]hether [he is] good to continue working as an outrider or not." (Id. at p. 75.)

XIV.

As to the Decision and the Award, Appellant stated the following: (1) after receiving the Decision and Award, Appellant stated he did not speak with anybody from HIWU; (2) the racing secretary employed by Los Alamitos informed Appellant he could continue to work as an outrider at Los Alamitos; and (3) Appellant was advised to not attend Arbitration Hearing because his counsel did not believe he would get a fair hearing "unless [Appellant was] able to prove were that banned substance came from." (Ex. 1 at p. 78, 80-81, 84-85.)

XV.

On October 6, 2024, the Board of Stewards ("Stewards") issued "Official Ruling No. 12, Santa Anita (the "Ruling")," finding the following:

/ / /

> Trainer LORENZO RUIZ is suspended pursuant to California Horse Racing Board Rule #1484 (Evidence of Unfitness of License) and Rule #1528 (Jurisdiction of Stewards to Suspend or Fine) in reciprocation with a HIWU (Horseracing Integrity and Welfare Unit) sanction. The period of suspension will begin on October 13, 2024, and continue through the term of his license. Furthermore, LORENZO RUIZ must participate in a Fitness for License hearing before being permitted to reapply for a California Horse Racing Board license. During the term of suspension all license privileges of LORENZO RUIZ are suspended and pursuant to California Horse Racing Board Rule #1528 (Jurisdiction of Stewards) subject is denied access to all premises in this jurisdiction. (See Ex. 2.)

XVI.

Appellant subsequently appealed the Ruling, with the Parties filing their respective briefs. (Exs. 3, 4, 5.) The CHRB proceeded to set the Appeal for hearing on November 15, 2024, via video conference.

V. ISSUES ON APPEAL AND CONTROLLING LAW

Business and Professions Code Section 19517(a) ("Section 19517") states, in relevant part, that:

> The board, upon due consideration, may overrule any steward's decision…if a preponderance of the evidence indicates any of the following: (1) the stewards mistakenly interpreted the law; (2) new evidence of a convincing nature is produced; (3) the best interests of racing and the state may be better served.

Appellant has the burden of proving facts necessary to sustain this Appeal. (See, Cal. Code Regs. Tit. 4 § 1764 ["The burden shall be on the appellant to prove the facts necessary to sustain the appeal."].) In reviewing an administrative decision "that substantially impacts a fundamental vested right, [this Officer shall]…exercise [his] independent judgment upon the evidence." (*Alberda v. Board of retirement of Fresno County Employers' Retirement Assn.* (2013) 214 Cal.App.4th 426, 433, citations omitted.)

"In carrying out this independent review, [this Officer] must afford the agency's decision a strong presumption of correctness and must impose upon [Appellant] the burden of showing that the agency's findings are contrary to the weight of the evidence, i.e., the decision was not supported by the preponderance of the evidence." (*Alberda*, supra, 214 Cal.App.4th at 433, citations omitted.) "Preponderance of the evidence means what it says, *viz.*, that the evidence on one side outweighs, preponderates over, is more than, the evidence on the other side, not

necessarily in number of witnesses or quantity, but in its effect on those to whom it is addressed." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 325, citations omitted.)

"[W]hile [this Officer] begins [his] review with a presumption of the correctness of the [agency's decision], the presumption is rebuttable and may be overcome by the evidence." (*Alberda*, supra, 214 Cal.App.4th at 433, citations omitted.) "When applying the independent judgment test, [this Officer] may reweigh the evidence and substitute [his] own findings for those of the [agency], after first giving due respect to the [agency's] findings." (*Breslin v. City and County of San Francisco* (2007) 146 Cal.App.4th 1064, 1077.)

Because the instant Appeal essentially concerns whether the Stewards mistakenly interpreted the law, Appellant must demonstrate that the Stewards did so via the preponderance of the evidence standard.

VII. DISCUSSION

A. The Stewards Correctly Enforced the Decision and Award Against Appellant.

Appellant's main argument is the Stewards and CHRB mistakenly applied the law in issuing the Ruling because there is no reciprocity "in the enforcement of rulings between [the CHRB] and HIWU." (Ex. 3 at p. 9.) Unfortunately, Appellant is mistaken as he is unsuccessfully attempting to sidestep the Decision and Award by somehow arguing the CHRB is not required to enforce the HISA. As discussed below, the Stewards did not mistakenly interpret the law meaning Appellant's Appeal should be denied.

At the heart of the parties' arguments is whether Cal. Code Regs. Tit. 4 § 1484 ("Section 1484") requires the CHRB to enforce penalties imposed by the HISA. Section 1484 provides:

> If any applicant for a license or any licensee is under suspension, set down, ruled off, excluded from the inclosure, or otherwise barred from any racing occupation or activity requiring a license, it is prima facie evidence that he or she is unfit to be granted a license or unfit to hold a license or participate in racing in this State as a licensee during the term of any suspension or exclusion from racing imposed by any competent racing jurisdiction.

Initially, it is indisputable that the CHRB entered into an agreement with the Horseracing Integrity and Safety Authority to implement and enforce the HISA. By doing so, the CHRB explicitly agreed to enforce the HISA and its Equine Anti-Doping and Controlled Medication

Protocol. 15 U.S.C. § 3060 permits HISA's enforcement to be delegated to state racing commissions, such as the CHRB, as Section 3060 provides, in pertinent part:

> The Authority may enter into an agreement with a State racing commission to implement, within the jurisdiction of the State racing commission, a component of the racetrack safety program or, with the concurrence of the anti-doping and medication control enforcement agency under section 3054(e) of this title, a component of the horseracing anti-doping and medication control program, if the Authority determines that the State racing commission has the ability to implement such component in accordance with the rules, standards, and requirements established by the Authority.
>
> …
>
> A State racing commission or other appropriate regulatory body of a State may not implement such a component in a manner less restrictive than the rule, standard, or requirement established by the Authority.
> (15 U.S.C. § 3060(a).)

15 U.S.C. § 3054(e)(2) separately provides:

> Agreements for Enforcement by State Racing Commissions:
>
> > (A) State racing commissions:
> >
> > > (i) Racetrack safety program: The Authority may enter into agreements with State racing commissions for services consistent with the enforcement of the racetrack safety program; (ii)Anti-doping and medication control program: The anti-doping and medication control enforcement agency may enter into agreements with State racing commissions for services consistent with the enforcement of the anti-doping and medication control program.

Because the CHRB entered into an agreement with the Horseracing Integrity and Safety Authority, the CHRB is required to enforce the HISA pursuant to 15 U.S.C. §§ 3054 and 3060. (See also, Rule 3710 of the ADMC Program, 88 Fed. Reg. 5,120 (January 26, 2023.))

As a result, this Officer must determine whether the Decision and Award apply to Appellant in the context of the outrider's license at issue. The following definitions provided by 15 U.S.C. § 3051 provide the necessary guidance in making such a determination:

> (4) **Covered Horse** means any Thoroughbred horse, or any other horse made subject to the Act by election of the applicable State Racing Commission or the breed governing organization for such horse under section 3054(1), during the period: (A) beginning on the date of the horse's first Timed and Reported Workout at a Racetrack that participates in Covered Horseraces or at a training facility; and (B) ending on the date on which the horse is deemed retired pursuant to Rule 3050(b).

> (5) **Covered Horserace** means any horserace involving Covered Horses that has a substantial relation to interstate commerce, including any Thoroughbred horserace that is the subject of interstate off-track or advance deposit wagers.
>
> (6) **Covered Person** means all Trainers, Owners, Breeders, Jockeys, Racetracks, Veterinarians, Persons licensed by a State Racing Commission, and the agents, assigns, and employees of such Persons; any other Persons required to be registered with the Authority; and any other horse support personnel who are engaged in the care, treatment, training, or racing of Covered Horses.
>
> (15) **Racetrack** means an organization licensed by a State Racing Commission to conduct Covered Horseraces.

Based upon testimony Appellant provided and evidence the CHRB submitted, Appellant's duties as outrider include, but are not limited to, working with thoroughbred horses during training hours at Los Alamitos. Because Appellant is working with thoroughbreds, which are defined as "Covered Horses" under the HISA, at a Racetrack conducting "Covered Horseraces," Appellant is a "Covered Person" pursuant to 15 U.S.C. § 3051.

Because the Decision's and Award's terms explicitly bar Appellant from "participat[ing] in any capacity in any activity involving Covered Horses, or in any other activity (other than authorized anti-doping education or rehabilitation programs) taking place at a Racetrack or Training Facility" covered by the HISA, his employment as an outrider at Los Alamitos, r, and related CHRB license, violate the Decision and Award. (See Rule 3229 of the ADMC Program, 88 Fed. Reg. 5,104 (January 26, 2023).)

In fact, and as further evidence the CHRB correctly issued the Ruling, is the fact the Arbitration found that Appellant acting as an outrider at Los Alamitos violated his provisional suspension under the HISA. (See Ex. 1 at p. 165-166 at ¶ 8.20, 8.22, 8.26.) Moreover, Appellant is barred by *res judicata* from collaterally attacking the Arbitration's finding in this Appeal. (See e.g. *Gallardo v. AT & T Mobility, LLC* (N.D. Cal. 2013) 937 F.Supp.2d 1128, 1134 ["Three elements must be present in order for res judicata to apply: (1) an identity of claims; (2) a final judgment on the merits; and (3) the same parties or their privies…[f]inal arbitration awards can have preclusive effect.]")

Pursuant to the above, there is no need to engage in a reciprocity analysis because the CHRB is required by federal law to enforce the Decision and Award in accordance with the HISA.

The fact the CHRB chooses to do so through Section 1484 is permissible under the HISA.

Therefore, Appellant's argument that the Decision and Award cannot be enforced against state licensees under these circumstances fails. Indeed, if Appellant's argument is accepted, it would effectively render the HISA unenforceable. This Officer is in no position to interfere with the enforcement of federal law no matter how unjust the Award against Appellant may or may not be.

Finally, it is not in the best interests of racing to decline to enforce the HISA and applicable federal law. Indeed, HISA is a federal statutory scheme created with the best interests of racing in mind, despite Appellant's contentions otherwise. (See 15 U.S.C. §§ 3051, *et. seq.*)

Because the evidence presented during this Appeal undoubtedly supports the Stewards' Ruling, it should be upheld as a matter of law, and thus Appellant's Appeal should be denied.

B. Appellants' Other Arguments are Equally Unavailing.

Appellant separately argues the penalty levied by the Ruling is "abusive and capricious." (Ex. 3 at p. 16.) While Appellant's claim this argument is directed at the Ruling, in reality it is nothing more than an impermissible collateral attack on the final judgment issued in the Arbitration. Therefore, Appellant's argument is again barred by res judicata. (See e.g., *Gallardo v. AT & T Mobility, LLC* (N.D. Cal. 2013) 937 F.Supp.2d 1128, 1134.)

To the extent Appellant argues the CHRB failed to provide due process by not specifically listing Appellant's outrider's license as being subject to revocation, it fails. Specifically, Appellant indisputably was aware his outrider's license was at issue during the Hearing as he put on substantial evidence concerning his fitness to maintain said license. Thus, Appellant's due process argument lacks merit. (See e.g., *Margarito v. State Athletic Com*. (2010) 189 Cal.App.4th 159, 170 ["Due process is the opportunity to be heard at a meaningful time and in a meaningful manner."].)

Because the evidence presented during this Appeal undoubtedly supports the Stewards' Ruling, it should be upheld as a matter of law, and thus Appellant's Appeal should be denied.

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VIII. CONCLUSION

Because the Ruling is supported by a preponderance of the evidence, and because the Stewards did not mistakenly apply the law, Appellant failed to meet the burden of proof necessary to sustain the instant Appeal.

WHEREFORE, it hereby recommended that Appellant's Appeal of SAC 24-0034 be overruled, and that the Decision and Award issues by the HIWU be enforced by the CHRB via Section 1484.

Dated: January 9, 2025

Patrick J. Kane
Hearing Officer