# BEFORE THE HORSE RACING BOARD

# STATE OF CALIFORNIA

In the Matter of the Complaint Against:

**JACK CARAVA**
**Trainer, CHRB License #104674**

**Respondent**

CHRB Case #20SA0075

## 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 an official warning.

This Decision is hereby remanded to the Board of Stewards to issue a ruling and order for the official warning.

IT IS SO ORDERED ON October 27, 2020.

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

C. Scott Chaney

Scott Chaney
Executive Director

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of: )
California Horse Racing Board )
v. ) Case Number 20SA0075
JACK CARAVA, )
Trainer )
)

# STATEMENT OF DECISION

## PROCEDURAL BACKGROUND

This matter was heard on July 24, 2020 by the Board of Stewards, Ron Church, David Nuesch and Kim Sawyer at Del Mar Race Track in Del Mar, California.
The California Horse Racing Board (hereinafter "CHRB" or "Complainant") filed a complaint against trainer Jack Carava, (hereinafter "Respondent " or "Mr. Carava"), for alleged violation of California Horse Racing Board rules 1843 (a)(b)(d) (Medications, Drugs and Other Substances), 1843.1 (a)(b) (Prohibited Drug Substances), 1844 (f) (17) (Authorized Medication) 1866 (e) (Veterinarian's List) and 1887(a) (Trainer or Owner to Insure Condition of Horse).
This complaint was filed in conjunction with a positive result of blood sample NC42515 which contained 169 ng/ml of cetirizine (prohibited if detected to be more than 6 ng/ml).
The Respondent trainee “Harper's Gallop” was tested after a required workout to be removed from the Veterinarian's List because it had not raced within twelve months.
Present at the hearing were Mr. Carava, representing the California Horse Racing Board, Supervising Investigator Kevin Kitashima and court reporter Michelle Derieg recorded the proceedings.

The hearing was opened at 11:30 A.M., oral testimony from the Respondent and California Horse Racing Board Equine Medical Director, Dr. Rick Arthur, (hereinafter Dr. Arthur) who testified by telephone. Two exhibits were entered into evidence, the record was closed and all matters were taken under consideration.

## LIST OF EXHIBITS

CHRB Exhibit 1: COMPLAINT #20SA0075
CHRB Exhibit 2: CHRB Non-represented Hearing Questionnaire for Respondent

## FACTUAL FINDINGS

I

At all times herein mentioned, the Respondent was licensed by the CHRB in the category of trainer.

II

Mr. Carava was issued a Notice to Appear by the CHRB to answer to alleged violation of CHRB Rules 1843(a)(b)(d) (Medication, Drugs and Other Substances), 1843.1(a)(b) (Prohibited Drug Substances), 1844 (f)(17) (Authorized Medication) 1866(e) (Veterinarian's List) and 1887(a) (Trainer or Owner to Insure Condition of Horse).

III

Mr. Carava appeared in person, answered the Non-represented Hearing Questionnaire for Respondents and agreed to go forward without representation.

IV

Respondent was the trainer of record for the horse "Harper's Gallop" when it performed in a workout on January 23. 2020 at Santa Anita, in accordance with CHRB Rule 1588 (14) (Horse Ineligible to Start in a Race).

V

A post workout urine sample (labeled NC42515) was taken from "Harper's Gallop" following the work out in accordance with California Horse Racing Board Rule 1858 (Test Sample Required) and was sent to the Kenneth L. Maddy Equine Analytical Chemistry Laboratory (hereinafter Maddy Lab) at the University of California, Davis. This is the official testing laboratory of the California Horse Racing Board.

VI

At all times herein mentioned, the chain of custody of urine sample NC42515 from "Harpers Gallop" was uninterrupted.

VII

After analyzing the sample, "Maddy Lab" reported that the post-work blood sample NC42515, which came from "Harper's Gallop" was positive for, hydroxyzine/cetirizine at a level of 169 ng/ug which is above the permitted level of 6 nanograms per milliliter. Hydroxyzine is a Class II category B penalty and cetirizine is a Class IV category C penalty. Cetirizine is a metabolite of hydroxyzine.

VIII

A split sample was not requested by the Respondent.

## APPLICABLE RULES

| Rule No. | Rule Title |
|---|---|
| 1843 | Medication, Drugs and Other Substances. |
| **Rule Text** | 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:<br>(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.<br>(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.<br>(c) No person other than a licensed veterinarian or animal health technician shall have in his/her possession any drug substance which can be administered to a horse, except such drug substance prescribed by a licensed veterinarian for a specific existing condition of a horse and which is properly labeled.<br>(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.<br>(e) Nothing in this Article shall prevent a racing association or fair from setting eligibility conditions, as agreed to with the acknowledged horsemen's organization(s), for individual races, or for its entire race meet, that prohibit the use and/or presence of drug substances or medications in biological test samples collected from participating horses at detection levels lower than what is authorized by the Board. Such conditions, if established in accordance with Rule 1581, shall not be deemed in conflict with the rules and regulations of the Board.<br>NOTE: Authority cited: Sections 19440, 19580, 19581 and 19582, Business and Professions Code. Reference: Sections 19401, 19440, 19580, 19581 and 19582; Sections 337f, g and h, Penal Code. |

|  |  |
|---|---|
|  | HISTORY:<br>1. Repealer and new rule filed 10-29-81; effective 11-28-81.<br>2. Amendment of subsections (a), (c) and (d) filed 8-19-92; effective 9-18-92.<br>3. Amendment filed 7-25-16, as an emergency; effective through 1-24-17.<br>4. Amendment filed 7-26-17; effective 7-26-17. |

| Rule No. | Rule Title |
|---|---|
| 1843.1 | Prohibited Drug Substances. |
| **Rule Text** | 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. (b) any drug, substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in this article. NOTE: Authority cited: Sections 19440, 19562, 19580 and 19581, Business and Professions Code. Reference: Sections 19440, 19562, 19580 and 19581, Business and Professions Code. HISTORY: 1. New rule filed 10-7-94; effective 11-6-94. |

| Rule No. | Rule Title |
|---|---|
| 1844 | Authorized Medication. |
| **Rule Text** | Consistent with the intent of these rules, drug substances and medications authorized by the Board for use may be administered to safeguard the health of the horse entered to race provided that:<br>(a) No person shall administer a drug substance to any horse entered to race except upon authorization of the official veterinarian in conformance with these rules.<br>(b) No drug substance, other than authorized bleeder medication, shall be administered to a horse entered to race within 24 hours of the race in which entered.<br>(c) Official urine test samples may contain one of the following drug substances, their metabolites and analogs, in an amount that does not exceed the specified levels:<br>(1) Acepromazine; 10 nanograms per milliliter<br>(2) Mepivacaine; 10 nanograms per milliliter |

(3) Albuterol; 1 nanograms per milliliter

(4) Procaine; 25 nanograms per milliliter

(5) Salicylates; 750 micrograms per milliliter

(6) Detomidine; 2 nanograms per milliliter

(7) Nandrolone; 1 nanograms per milliliter for geldings, fillies and mares; 45 nanograms for males other than geldings.

(8) Boldenone; 15 nanograms per milliliter in males other than geldings.

(9) Testosterone; 20 nanograms per milliliter in geldings.

(A) Testosterone at any level in males other than geldings is not a violation of this regulation.

(10) Testosterone; 55 nanograms per milliliter in fillies or mares (unless in foal)
(11) Butorphanol 300 nanograms per milliliter

(d) Official blood test samples may contain the following drug substances, their metabolites and analogs, in an amount that does not exceed the specified levels in serum or plasma:

(1) Dantrolene; 100 picograms per milliliter

(2) Detomidine; 1 nanogram per milliliter

(3) Dimethylsulfoxide (DMSO); 10 micrograms per milliliter

(4) Lidocaine; 20 picograms per milliliter

(5) Methocarbamol; 1 nanogram per milliliter

(6) Glycopyrrolate; 3 picograms per milliliter

(7) Xylazine; 200 picograms per milliliter

(8) Butorphanol; 2 nanograms per milliliter

(9) Cetirizine; 6 nanograms per milliliter

(10) Cimetidine; 400 nanograms per milliliter

(11) Guaifenesin; 12 nanograms per milliliter

(12) Omeprazole; 10 nanograms per milliliter

(13) Ranitidine; 40 nanograms per milliliter

(e) Official blood test samples shall not contain any of the drug substances, or their metabolites or analogs listed in subsection (c)(1) to (5) and (c)(7) to (10).

(f) Procaine, following administration of procaine penicillin, is an authorized medication provided:

(1) Official blood test samples shall not contain any procaine, or its metabolites or analogs in excess of 25 nanograms per milliliter.

(2) all procaine penicillin administrations have been reported pursuant to Rule 1842 of this division,

(3) procaine penicillin was not administered after entry to race,

(4) the horse was under surveillance for a minimum of six hours prior to racing.

(g) All expenses related to surveillance and testing for procaine under subsection (h) of this regulation shall be paid by the owner of the horse.

NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19580 and 19581, Business and Professions Code.

HISTORY:
1. Repealed and new rule filed 10-29-81; effective 11-28-81.
2. Amendment filed 2-9-84; effective 2-9-84.
3. Amendment filed 8-3-95; effective 9-2-95.
4. Amendment filed 6-16-97; effective 6-16-97.
5. Amendment filed 4-28-99; effective 5-28-99.
6. Amendment filed 1-28-02; effective 1-28-02.
7. Amendment filed 4-27-05; effective 5-27-05.
8. Amendment filed 9-20-07; effective 10-20-07.
9. Amendment filed 5-1-08; effective 5-31-08.
10. Amendment filed 10-26-10; effective 11-25-10.
11. Amendment filed 2-14-12; effective 2-14-12.
12. Amendment filed 9-15-14; effective 9-15-14

| | |
|---|---|
| | 13. Amendment filed 7-31-15, as an emergency; effective through 1-28-16.<br>14. Amendment filed 8-31-15; effective 10-1-15.<br>15. Amendment filed 7-19-16; effective 7-19-16.<br>16. Amendment filed 11-16-17; effective 1-1-18.<br>17. Amendment filed 10-10-19; effective 1-1-20.<br>18. Amendment filed 2-26-2020; as an emergency; effective through 8-25-2020.<br>19. Amendment filed 6-4-2020; effective 6-4-2020. |

| **Rule No.** | **Rule Title** |
|---|---|
| 1866 | Veterinarian's List. |
| **Rule Text** | (a) The official veterinarian shall maintain a Veterinarian's List of those horses determined to be unfit to compete in a race due to veterinary treatment, physical distress, injury, lameness, unsoundness or infirmity. (1) When a horse is placed on the Veterinarian's List, the trainer of such horse shall be notified within 72 hours. (b) A horse placed on the Veterinarian's List as: (1) sick; (2) having received veterinary treatment-shockwave therapy; (3) injured; (4) unsound; or (5) lame, may not workout for 72 hours after being placed on the list without the permission of the official veterinarian. (c) The official veterinarian may require any horse placed on the Veterinarian's List to undergo a veterinary examination prior to resuming training at any facility under the jurisdiction of the Board. (d) A horse placed on the Veterinarian's List shall be removed from the list only after having established or demonstrated to the satisfaction of the official veterinarian or the racing veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race. (1) A horse placed on the Veterinarian's List as lame or unsound for the first time within a 365 day period must stay on the Veterinarian's List for a minimum of 10 days before the horse is eligible to be removed from the list. (2) A horse placed on the Veterinarian's List as lame or unsound for the second time in 365 days must stay on the Veterinarian's List for a minimum of 30 days before the horse is eligible to be removed from the list. (3) A horse placed on the Veterinarian's List as lame or unsound for the third time in 365 days must stay on the Veterinarian's List for a minimum of 60 days before the horse is eligible to be removed from the list. (4) A horse placed on the Veterinarian's List as lame or unsound for the fourth time in 365 days must stay on the Veterinarian's List for a minimum of 180 days before the horse is eligible to be removed from the list. (e) A horse may be required to perform satisfactorily in a workout or standardbred qualifying race to demonstrate its physical fitness, and if so a blood and/or urine post-work test sample shall be taken from the horse and the provisions of this article shall apply to such official workout in the same manner as to a scheduled race. (f) For the purpose of this regulation, "workout" |

| | |
|---|---|
| | means an exercise session near full speed, or close to full speed. NOTE: Authority cited: Sections 19440 and 19562, Business and Professions Code. Reference: Sections 19440 and 19562, Business and Professions Code. HISTORY: 1. New rule filed 2-9-84; effective 2-9-84. 2. Amendment filed 12-16-85; effective 1-15-86. 3. Amendment filed 1-29-10; effective 2-28-10. 4. Amendment filed 3-4-15; effective 7-1-15. 5. Amendment filed 8-6-19; effective 10-1-19. |

| Rule No. | Rule Title |
|---|---|
| 1887 | Trainer or Owner to Insure Condition of Horse. |
| **Rule Text** | (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 samples or other tests, prove positive showing the presence of any prohibited drug substance defined in Rule 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off. The owner of a ship-in horse is the joint-absolute insurer of and is equally responsible for the condition of the horse entered in a race.<br>(b) A ship-in horse is defined as any horse entered to race that has not been in the care of a Board-licensed trainer for seven consecutive calendar days prior to the day of the race for which it is entered.<br>(c) Notwithstanding the above, if the Board or its agents fail to notify a trainer or the owner of a ship-in horse of a potential positive test within 21 calendar days from the date the sample was taken, the trainer or the owner of a ship-in horse shall not be deemed responsible under this rule unless it is shown by the preponderance of the evidence that the trainer or the owner of a ship-in horse administered the drug or other prohibited substance defined in Rule 1843.1 of this division, caused the administration or had knowledge of the administration.<br>NOTE: Authority cited: Sections 19440, 19580 and 19581, Business and Professions Code. Reference: Sections 19440, 19577, 19580 and 19581 Business and Professions Code.<br>HISTORY:<br>1. Amendment filed 7-9-92; effective 8-8-92.<br>2. Amendment filed 10-25-94; effective 11-24-94.<br>3. Amendment filed 12-6-99; effective 12-6-99. |

4. Amendment filed 8-8-05; effective 9-7-05.
5. Amendment filed 12-29-15; effective 4-1-16.

## DISCUSSION

Mr. Carava testified the horse “Harper’s Gallop” was continually treated with the allergy medication (hydroxyzine/cetirizine) as prescribed via a prescription by his practicing veterinarian. Respondent stated the medication was always withdrawn prior to racing. Mr. Carava also affirmed he was well aware that NSAIDS were not allowed to be in the horse’s system to be removed from the Veterinarian’s List. He was “not” aware Maddy Lab, had recently modified their testing procedure criteria for post workout testing to be specifically equivalent to race day testing.

Dr. Arthur testified, prior to the suspension of steroidal and non-steroidal anti-inflammatories in the spring of 2019, Maddy Lab screening for “work bloods” focused on non-steroidal anti-inflammatories and drugs that could mask pain that would compromise the post-work veterinary soundness examination. He also stated that hydroxyzine/cetirizine would have no effect on the horse’s soundness as the workout was required to determine the soundness of the horse. In the past, a finding such as hydroxyzine in a work blood would not have been confirmed in the lab and would have resulted in a warning to the trainer. While horsemen were told, they needed to look at official works for the Veterinarian‘s List removal as if they are running in a race, it was “not” made clear what that really meant with commonly used medications such as hydroxyzine. It was Dr. Arthur’s opinion the complaint should never have been filed as he did not agree with the Executive Director to do so which is required in the California Horse Racing Board, Horse Racing Law (2020) 19577 (2)(b). “*If the official test sample is found to contain a prohibited drug substance, the executive director, after consulting with and agreeing with the equine medical director that the official test sample contains a prohibited substance, shall confidentially inform the owner and trainer of those results”.* Dr. Arthur stated he “did not agree” this complaint should be filed.

## MITGATING/AGGRAVATING FACTORS

(1) The past record of the licensee regarding violations of Business and Professions Code section 19581; one medication (BC2A paste) violation in the last three years. MITIGATING

(2) The potential of the drug(s) to influence a horses racing performance and the amount of the drug present; Possibility to influence performance in a race, this was a workout to prove soundness. NEUTRAL

(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; Medication obtained by prescription from a CHRB licensed veterinarian, MITIGATING

(4) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug; Trainer administered and did not realize the medication had to be withdrawn for an AM workout. AGGRAVATING

(5) The steps taken by the trainer to safeguard the horse; Trainer administered and did not realize the medication had to be withdrawn for an AM workout. AGGRAVATING

(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; NOT APPLICABLE

(7) The probability of environmental contamination or inadvertent exposure due to human drug use or other factors; Trainer administered and did not realize the medication had to be withdrawn for an AM workout. AGGRAVATING

(8) The purse of the race; AM workout, NOT APPLICABLE

(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; Medication obtained by prescription from a CHRB licensed veterinarian, noted on the veterinarians confidential, MITIGATING

(10) Whether there was any suspicious wagering pattern on the race; AM workout, NOT APPLICABLE

(11) Whether the licensed trainer was acting under the advice of a CHRB licensed veterinarian; Obtained by prescription from a CHRB licensed veterinarian, MITIGATING

## CONCLUSION

While this complaint was filed as a medication violation and standard recommended medication penalties are usually memorialized in ruling form, this Board of Stewards believed the appropriate penalty was an official warning. The substantial mitigating circumstances, most of which came from Dr. Arthur’s expert testimony, revealed convoluted facts that made it problematic to apply a standard penalty.

DATED: Saturday, October 3, 2020

BY ORDER OF THE
BOARD OF STEWARDS

Kim Sawyer, Steward

Ron Church, Steward

David Nuesch, Steward