

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of:	)	
	)	
California Horse Racing Board	)	
v.	)	Case No. 12HP0074
	)	
JULIO CANANI,	)	
Trainer	)	
_____	)	

STATEMENT OF DECISION

PROCEDURAL BACKGROUND

The California Horse Racing Board (hereinafter “CHRB” or “Complainant”) filed a complaint against trainer Julio Canani (hereinafter “Mr. Canani” or “Respondent”) alleging violation of CHRB rules 1902 (Conduct Detrimental to Racing) and 1489(g) (Grounds for Denial or Refusal of License). The complaint alleged that Mr. Canani was found to be civilly liable by the United States District Court for the Central District of California for breach of fiduciary and agency duties, fraud, civil conspiracy and unjust enrichment. These findings and the resulting judgment involved the sale of several horses in his care owned by Everest Stables Inc. The CHRB relied solely on documentary evidence from the result of the civil court trial. Present at the hearing were this Board (Scott Chaney, Kim Sawyer, and Tom Ward), the Respondent Julio Canani representing himself, Deputy Attorney Darren Shaffer representing the CHRB, and CHRB Supervising Investigator Rick Amieva. Court reporter Michelle Derieg recorded the proceedings. The formal hearing took place on July 29, 2015. At approximately 11:00 a.m. we took documentary testimony from the CHRB and heard oral testimony from Respondent. All documents were appropriately marked and entered into evidence. The hearing was closed and the matter taken under consideration.

LIST OF EXHIBITS

<i>CHRB Exhibit 1</i>	CHRB Complaint
<i>CHRB Exhibit 2</i>	CHRB license record of Julio Canani
<i>CHRB Exhibit 3</i>	Report of Investigation
<i>CHRB Exhibit 4</i>	Third Amended Complaint, <i>Everest Stables, Inc. v. Julio Canani individually and dba Tarma Corp., and Roger Licht</i> , United States District Court of California, Los Angeles, Case No. 2:09-cv-09446-DSF-VBK (hereinafter referred to as the “Horse Fraud Case”)
<i>CHRB Exhibit 5</i>	Verdict in Horse Fraud Case
<i>CHRB Exhibit 6</i>	Judgment on Special Verdict in Horse Fraud Case
<i>CHRB Exhibit 7</i>	Amended Judgment in Horse Fraud Case
<i>CHRB Exhibit 8</i>	Notice of Appeal in Horse Fraud Case
<i>CHRB Exhibit 9</i>	Memo dated December 7, 2012 from Ninth Circuit Court of Appeals
<i>CHRB Exhibit 10</i>	Order dismissing appeal in Horse Fraud Case
<i>CHRB Exhibit 11</i>	Request for Official Notice by Complainant CHRB
<i>CHRB Exhibit 12</i>	Complainant CHRB’s Hearing Brief

FACTUAL FINDINGS

I

At all times herein mentioned, Mr. Canani was licensed by the CHRB in the license category of trainer. Respondent also holds an owners license and does business as Tarma Corporation.

II

Before June 2012, Everest Stable Inc., (hereinafter “Everest”) a licensee of the CHRB, filed a civil court claim against Respondent (and others) under several causes of

action with respect to the sale of thoroughbred racehorses owned by Everest and trained by Mr. Canani.

III

On June 28, 2012, a U.S. District Court jury found Respondent liable for fraud, breach of fiduciary duty, conspiracy and unjust enrichment. The jury awarded both actual damages and punitive damages for these findings.

IV

Specifically, the jury found Mr. Canani liable because he misrepresented and concealed the true physical condition of horses owned by Everest in order to benefit financially.

APPLICABLE RULES AND REGULATIONS

California Horse Racing Board rule 1489(g). Grounds for Denial or Refusal of License.

The Board, in addition to any other valid reason, may refuse to issue a license or deny a license to any person:

...

(g) Who has committed an act involving moral turpitude, or intemperate acts which have exposed others to danger, or acts in connection with horse racing and/or a legalized gaming business which were fraudulent or in violation of a trust or duty.

...

NOTE: Authority cited: Sections 19440, Business and Professions Code. Reference: Sections 19460, 19510 and 19572, Business and Professions Code. HISTORY: 1. Amendment filed 4-21-83. 2. Amendment subsection (a), new subsection (b) and relettering, and amendment of newly designated subsection (g) filed 1-6-93; effective 2-5-93. 3. Amendment filed 12-6-99; effective 12-6-99.

California Horse Racing Board rule 1902. Conduct Detrimental to Horse Racing.

No licensee shall engage in any conduct prohibited by this Division nor shall any licensee engage in any conduct which by its nature is detrimental to the best interests of horse racing including, but not limited to:

- (a) knowing association with any known bookmaker, known tout, or known felon.
- (b) indictment or arrest for a crime involving moral turpitude or which is punishable by imprisonment in the state or federal prison, when such indictment or arrest is the subject of notorious or widespread publicity in the news media, and when there is probable cause to believe the licensee committed the offenses charged.
- (c) solicitation of or aiding and abetting any other person to participate in any act or conduct prohibited by this Division.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code.
Reference: Sections 19440 and 19460 and 19572, Business and Professions Code.
HISTORY: 1. Amendment filed 2-22-93; effective 3-24-93.

DISCUSSION OF ISSUES

In July of 2012, the CHRB became aware of Respondent's adverse civil court decision. Complainant waited until all appeals had been exhausted and the case and its judgment were considered final. Clearly, part of the reason the CHRB chose to wait to this point was to be sure that Mr. Canani received due process and more importantly, for the Board's purposes, it was necessary to fulfill one of the requirements in order to assert collateral estoppel. Collateral estoppel prevents relitigation of an issue litigated to final judgment in a prior case. In order for collateral estoppel to be successfully asserted, the moving party must show: (1) that the issues raised in the present proceeding are identical to those in the prior case; (2) that the prior case resulted in a final judgment; and (3) the party against whom the doctrine is being asserted was a party to the prior case. In layman's terms, in order to promote judicial and administrative efficiency, one set of facts and findings can be used from a nearly identical proceeding without having to relitigate those findings. We find that collateral estoppel applies in the instant matter. Consequently, we take administrative notice of the jury's findings, and now must decide whether these findings violate the CHRB Regulations cited in this case. Given that the jury found Mr. Canani liable for fraud, breach of fiduciary duty, conspiracy and unjust enrichment involving the sale of racehorses in his care, we find that Complainant has met its burden. The CHRB filed this case under two regulations: CHRB rule 1902 (Conduct Detrimental to Racing) and 1489 (Grounds for Denial or Refusal of License). With respect to the Conduct Detrimental to Racing allegation, the CHRB specifically cites subsection (c) "solicitation of or aiding and abetting any other person to participate in any act or conduct prohibited by this Division." While the jury did find Respondent was liable for conspiracy, to this Board of Stewards, conspiracy is not enough to trigger a "solicitation of or aiding and abetting" finding that subsection (c) requires. Rather, the jury findings do seem to prove a violation of the general introduction to this rule which states that "[n]o licensee shall engage in any conduct prohibited by this Division nor shall any licensee engage in any conduct which by its nature is detrimental to the best interests of horse racing..." After all, one licensee defrauding and breaching a fiduciary duty to another licensee seems to embody the definition of conduct detrimental to horse racing.

The CHRB also alleged violation of rule 1489(g), averring that Respondent "has committed an act involving moral turpitude, or intemperate acts which have exposed others to danger, or acts in connection with horse racing and/or a legalized gaming business which were fraudulent or in violation of a trust or duty." This requires scant analysis because a civil fraud and breach of duty finding in connection with the sale of horses mirrors the exact language found in rule 1489(g). Therefore we find a clear violation of this rule. Having said that, this Board of Stewards is not permitted by rule to deny or revoke a licensee's license; that power is instead reserved to the Board. Rule

1900 (Grounds for Suspension or Revocation) provides that “[a]ny provision of any rule is a ground for denial of a license is also a ground for suspension or revocation of a license.” This Board, under the rules, does have the ability to suspend licenses.

Respondent’s licensure record is fairly void of serious violations and his reputation as a horse trainer speaks for itself. However, the civil court jury findings leave us no choice in this matter. We are somewhat troubled by the fact that Mr. Canani was not represented by counsel in our hearing but this shortcoming is not consequential to our decision for two reasons: (1) the record demonstrates that we took great pains in giving Mr. Canani the opportunity to be represented and in impressing upon him the seriousness of the allegations; and (2) Mr. Canani was competently represented in the civil case and frankly, that decision is the foundation for our decision. Respondent’s defense was twofold: (1) he asserted that he won the civil case—which is simply untrue; and (2) that he did not commit the violations alleged—which is clearly at odds with the findings of the jury. It is also at odds with what we find in the matter at hand.

CONCLUSION

Given all of the foregoing, we issue the following ruling:

DATED: October 4, 2015.

State of California
CALIFORNIA HORSE RACING BOARD

Official Ruling

of the
Board of Stewards

SANTA ANITA AUTUMN MEET
(Association)

October 4, 2015
(Date)

LATC #012

Trainer JULIO CANANI is suspended pursuant to California Horse Racing Board rule #1489 (Grounds for Denial or Refusal of License) and for violation of California Horse Racing Board rule #1902 (Conduct Detrimental to Racing) for a civil court judgment for fraud, breach of fiduciary duty and agency, conspiracy and unjust enrichment. The

eriod of suspension will begin on October 26, 2015, and continue through the term of his license (November 30, 2016). Before being relicensed Mr. CANANI is ordered to participate in a fitness for license hearing.

During the term of suspension, all licenses and license privileges of JULIO CANANI are suspended and pursuant to California Horse Racing Board rule 1528 (Jurisdiction of Stewards to Suspend or Fine), Mr. CANANI is denied access to all premises in this jurisdiction.

LIC#: 084983 exp. 11/2016; 101896 exp. 11/2015; 260180 exp. 12/15
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BY ORDER OF THE
BOARD OF STEWARDS

C. Scott Chaney

Kim Sawyer

Tom Ward