

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the

Accusations Against:

ADAN FARIAS
CHRB License #268424

CHRB Case Numbers
11LA0156, 11LA0341,
11LA0346, 11LA0347,
11LA0348, 11LA0349,
and 11LA0350

DECISION

The attached Stipulated Settlement Agreement and Mutual Release between the California Horse Racing Board and licensed Trainer Adan Farias is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on July 19, 2012.

IT IS SO ORDERED ON July 19, 2012.

CALIFORNIA HORSE RACING BOARD
Keith Brackpool, Chairman



Kirk E. Breed
Executive Director

CALIFORNIA HORSE RACING BOARD
1010 HURLEY WAY, SUITE 300
SACRAMENTO, CA 95825
(916) 263-6000
FAX (916) 263-6042



SETTLEMENT AGREEMENT AND MUTUAL RELEASE

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and responsibility of the CALIFORNIA HORSE RACING BOARD (hereinafter "CHRB"), the parties, Respondent ADAN FARIAS, license #268424, and the Complainant CHRB, hereby agree to the following Stipulated Settlement which shall be submitted for consideration, approval and adoption as the final disposition of the prosecution and defense of CHRB Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.

RECITALS

1. Respondent was the trainer of record for the horse In a Separate Class, which was entered in the fourth race and finished first on May 15, 2011, at the Los Alamitos Race Track. On that same day, official urine and blood samples, both numbered LA17946, were taken from In a Separate Class. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that sample LA17946 of blood contained 76 pg/ml of clenbuterol and sample LA17946 of urine contained 10 ng/ml of clenbuterol. These results are both in excess of the then authorized clenbuterol levels of 25 pg/ml blood and 5.0 ng/ml urine. Chief Chemist, Dr. Scott Stanley, reported this finding to the Board on or about May 27, 2011. On or about May 27, 2011, CHRB Investigator Tom Blake notified Respondent of the positive test results.

2. Respondent was the trainer of record for the horse In a Separate Class, which was entered in the fourth race and finished first on October 23, 2011, at the Los Alamitos Race Track. On that same day, official urine sample LA19242 was taken from In a Separate Class. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that urine sample LA19242 contained zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 1, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.
3. Respondent was the trainer of record for the horse Azshecanfly, which was entered in the second race and finished second on October 29, 2011, at the Los Alamitos Race Track. On that same day, official urine sample LA19275 was taken from Azshecanfly. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that urine sample LA19275 contained zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 8, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.
4. Respondent was the trainer of record for the horse Illegal Smile, which was entered in the eighth race and finished first on October 29, 2011, at the Los Alamitos Race Track. On that same day, official blood and urine samples numbered LA19289 were taken from Illegal Smile. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that the blood and urine samples LA19289 contained

zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 8, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.

5. Respondent was the trainer of record for the horse FDD Moon, which was entered in the eighth race and finished third on October 29, 2011, at the Los Alamitos Race Track. On that same day, official urine sample LA19290 was taken from FDD Moon. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that urine sample LA19290 contained zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 8, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.
6. Respondent was the trainer of record for the horse T Gold J, which was entered in the ninth race and finished first on October 29, 2011, at the Los Alamitos Race Track. On that same day, official urine sample LA19291 was taken from T Gold J. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that urine sample LA19291 contained zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 8, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.

7. Respondent was the trainer of record for the horse Deep Creek Bobbie, which was entered in the twelfth race and finished first on October 29, 2011, at the Los Alamitos Race Track. On that same day, official blood and urine samples numbered LA19300 were taken from Deep Creek Bobbie. The Equine Analytical Chemistry Laboratory at University of California, Davis, identified and confirmed that the blood and urine samples LA19300 contained zilpaterol, a beta-2 agonist. Dr. Stanley reported this finding to the Board on or about November 8, 2011. At that time, zilpaterol was unclassified under CHRB Rule 1843.2 and therefore constituted a Class 1 drug with a Category "A" penalty under CHRB Rule 1843.3, subdivision (f). On or about November 10, 2011, CHRB Investigator Dennis Drulias notified Respondent of the positive test results.
8. On or about February 15, 2012, the CHRB executed Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350 against Respondent for violations of CHRB rules 1843 and 1887(a).
9. Hearings were scheduled with Hearing Officer Scott Chaney for May 23, 2012 on Accusation No. 11LA0156 (clenbuterol) and May 29-30, 2012, on Accusation Nos. 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350 (zilpaterol) at Los Alamitos Race Track, Los Alamitos, California.
10. The hearing on Accusation No. 11LA0156 came on regularly on May 23, 2012, at 10:00 a.m. Respondent testified that he and his father were the only individuals with access to the medications and that only he and his assistant are authorized to administer clenbuterol to the horses in his barn. He further testified that he administered clenbuterol to the horse In a Separate Class and the amount of clenbuterol administered was only as prescribed by his barn veterinarian. The CHRB Investigative Report noted that all the clenbuterol in Respondent's barn was the official brand of Ventipulmin, clearly marked and stored away in a tack room, prescribed by and purchased from his track vet, and marked for each horse.

11. Respondent acknowledged responsibility as defined in California Code of Regulations, Title IV, Rule 1887 (Trainer to Insure Condition of Horse).
12. Respondent has been licensed as a trainer by the CHRB since June 2000. At the time of the instant Accusations, Respondent raced one of the largest quarterhorse barns in California. In 2011, Respondent had approximately 800 starters. Since 2008, Respondent has maintained between 80-110 horses in his barn and was among the national leaders in starts, races won and purses earned.
13. Since being licensed, Respondent has had twenty Class 6 violations, one Class 4 violation, five Class 3 violations, and the current pending matters which include one Class 3 violation and six Class 1 violations. The last previous finding of violation was a Class 4 violation based on a July 16, 2011, race, resulting in a \$1000 fine. The penalty for Respondent's last Class 3 violation in 2008 was a \$10,000 fine and one-year suspension (9 mos. stayed). Accusation No. 11LA0156 is Respondent's first Class 1, 2, or 3 violation since 2008. He started horses in a race approximately 2000 times in that period.
14. At the May 23, 2012, hearing on the clenbuterol violation, Accusation No. 11LA0156, the CHRB, based on Respondent's prior record, made a penalty recommendation of a six-month suspension and a \$10,000 fine. The parties agree to waive any inconsistency between the penalty recommendation and the provisions of Rule 1843.3 and agree to proceed as set forth herein.

AGREEMENT

For valuable consideration, and in order to resolve and settle finally, fully and completely, all matters that now exist between the parties to this AGREEMENT, Respondent ADAN FARIAS and Complainant CHRB, agree to bring all disputes and controversies to a conclusion, to avoid further costs and expenses incident to the prosecution and defense of CHRB Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.

15. Respondent and the CHRB both agree that the above paragraphs one through fourteen correctly state the evidence entered into the record in CHRB Accusation No. 11LA0156, and the allegations contained in CHRB Accusations 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.
16. For purposes of this Agreement only, Respondent agrees that he is in violation of CHRB Rules 1843 and 1887(a). All applicable purse monies have been returned.
17. The parties agree that the terms set forth as follows will resolve all pending issues identified and set forth herein fully and completely and no other actions shall be filed in any tribunal in relation to any of the issues resolved herein.
18. Complainant agrees to dismiss Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350 pending before Hearing Officer Scott Chaney. The request for dismissal shall be filed within ten (10) days of the adoption of this AGREEMENT by the CHRB.
19. Upon execution by the parties, the parties to this Agreement mutually release, acquit, waive and forever discharge each other of and from any and all costs, fees, claims, debts, obligations or any other damages of whatever nature which either may have, or henceforth discover, resulting from or relating to CHRB Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.
20. Respondent further agrees that the facts agreed to and the record of this agreement, including the stipulated penalties, shall be included in Respondents' CHRB and ARCI license history.
21. Complaint agrees not to impose any additional penalties or fines on Respondent, other than those set forth in this AGREEMENT, resulting from CHRB Accusation Nos. 11LA0156, 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.

22. In consideration of the promises and representations set forth herein, upon receipt of (1) an executed copy of this AGREEMENT and (2) approval of this AGREEMENT by the CHRB, based on the grounds that the parties have stipulated to the following settlement and mutual release:

- (a) Respondent agrees to a license suspension of one hundred and eighty (180) days and agrees to pay a fine of \$10,000 in relation to Accusation No. 11LA0156;
- (b) Respondent agrees to revocation of license #268424, agrees not to apply for renewal for at least 24 months; and agrees to pay a fine of \$25,000 in relation to Accusation Nos. 11LA0341, 11LA0346, 11LA0347, 11LA0348, 11LA0349, and 11LA0350.

23. The fine and suspension penalties for Accusation No. 11LA0156 shall be stayed. Respondent shall be placed on probation for the first year after his license is re-issued subject to the following terms and conditions:

- (a) The year of probation shall begin on the first date Respondent's license is renewed or issued.
- (b) During the period of probation, Respondent Adan Farias must not violate CHRB Rules, 1843, 1843.6 or 1887 regarding Class 1, Class 2, or Class 3 substances.
- (c) If Respondent violates his probation terms, the above-referenced stay of the \$10,000 fine and 180 days suspension of his license is automatically lifted. A violation of the probation terms occurs if a Hearing Officer or the Board of Stewards makes a finding of violation of CHRB Rules, 1843, 1843.6 or 1887 regarding Class 1, Class 2, or Class 3 substances by Respondent during the one-year probation period. The suspension will become effective and the fine shall be due and owing immediately upon issuance of the ruling finding a violation. This

fine and suspension will be separate and apart from any penalty imposed for the newly determined violation.

(d) If Respondent triggers the probation penalties, or if, at the end of the one-year probation period, Respondent has not violated CHRB Rules, 1843, 1843.6 or 1887 regarding Class 1, Class 2, or Class 3 substances, Respondent's license shall be released from probation automatically with no further action by the Respondent. The CHRB shall then cause Respondent's license to reflect that he is no longer on probation in relation to Accusation No. 11LA0156.

24. This AGREEMENT shall be construed as though all parties participated equally in its drafting.
25. This AGREEMENT contains all the terms and conditions agreed upon by the parties hereto regarding the subject matter of this AGREEMENT. Any prior agreements, promises, negotiations, or representations, either oral or written, relating to the subject matter of this AGREEMENT, not expressly set forth in this AGREEMENT, are of no force or effect.
26. Respondent waives the prohibition against *ex parte* communications between CHRB personnel and the CHRB Commissioners for the purpose of discussing this settlement.
27. Respondent agrees the CHRB personnel may discuss the merits of this matter with the CHRB Commissioners without notice and without the opportunity for all parties to participate. Any such *ex parte* communication shall not prevent the CHRB from hearing this matter should a subsequent hearing before the CHRB be required.
28. Respondent has no objection to CHRB staff presenting this Settlement Agreement to the Commissioners of the CHRB in Closed Session.
29. Respondent states he enters into this agreement freely and voluntarily and waives any right of appeal in this matter and waives any claim under federal or state law.

30. By signing this AGREEMENT, the parties certify that they have had the opportunity to consult with legal counsel about its effect and that all parties fully understand and agree to the contents thereof.
31. This AGREEMENT may be executed in one or more counterparts, each of which together shall constitute one and the same instrument. A photocopy of this AGREEMENT will have the same force and effect as the original. The date of the last signature placed hereon shall be known as the "date of execution" of this AGREEMENT.

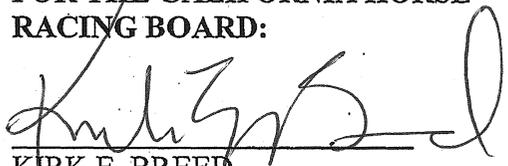
RESPONDENT:

Dated: _____

ADAN FARIAS

**FOR THE CALIFORNIA HORSE
RACING BOARD:**

Dated: 7/24/12



KIRK E. BREED
Executive Director

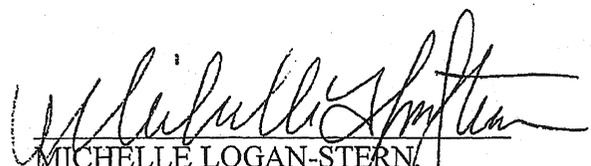
APPROVED AS TO FORM:

Dated: _____

CARLO FISCO
Attorney for Respondent Adan Farias

KAMALA D. HARRIS
Attorney General of the State of California

Dated: 7/18/12



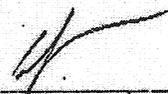
MICHELLE LOGAN-STERN,
Deputy Attorney General
Attorney for Complainant California
Horse Racing Board

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Dated: 7-18-12

RESPONDENT:



ADAN FARIAS

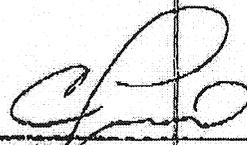
FOR THE CALIFORNIA HORSE RACING BOARD:

Dated: _____

KIRK E. BREED
Executive Director

APPROVED AS TO FORM:

Dated: 7/18/12



CARLO FISCO
Attorney for Respondent Adan Farias

KAMALA D. HARRIS
Attorney General of the State of California

Dated: _____

MICHELLE LOGAN-STERN,
Deputy Attorney General
Attorney for Complainant California
Horse Racing Board