

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

ROBERTO DOMINGUEZ
CHRB License #276249
Respondent

CHRB Case #14LA0090

DECISION

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision is hereby remanded to the Board of Stewards to issue a ruling and order for payment of the five hundred dollar (\$500) fine and setting the thirty (30) day suspension, stayed on condition that the Respondent not be in violation of California Horse Racing Board Rule 1843 for a period of three (3) years.

IT IS SO ORDERED ON July 18, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Filed Against:

Case No. 14LA 0090

ROBERTO DOMINGUEZ
Trainer
CHRB License #276249

(PROPOSED) FINDINGS OF
FACT AND DECISION

COMES NOW DANIEL Q. SCHIFFER, Hearing Officer, appointed to hear the above case and presents his (Proposed) Findings of Fact and Decision, as follows:

On or about May 1, 2014 The California Horse Racing Board (CHRB) filed a Complaint (Exhibit "1", page 3) against ROBERTO DOMINGUEZ for violation of CHRB Rules 1843 (a,b&d), 1843.3(h), and 1887(a) for an offense that occurred on March 28, 2014, as follows:

Official urine sample #LA2552~ taken on 3/28/2014 at Los Alamitos from horse, "WEATHER WOMAN" contained Clenbuterol (267 pg/ml), a Class 3 prohibited drug substance, Penalty Class B. "WEATHER WOMAN" ran in the 4th race finishing 2nd. Roberto Dominguez is the trainer of record.

Pursuant to Business and Professions Code, sec. 19517.5(a), Mr. Dominguez elected to have his case heard by a hearing officer (Exhibit "1", page 25) and Daniel Q. Schiffer was appointed by the CHRB for that purpose.

A hearing was commenced on May 22, 2014 at 11:00 a.m., in the Executive Meeting Room at Los Alamitos Race Track, Los Alamitos CA. The hearing was transcribed by Michelle E. Derieg, Weinstein Court Reporters. Present at the hearing were CHRB Los Alamitos Investigative Supervisor, Thomas Blake, CHRB Investigator Kevin Katashima and Respondent Roberto Dominguez.

The following witnesses were duly sworn and gave testimony:

KEVIN KATASHIMA:

1. Roberto Dominguez is a trainer licensed by the CHRB bearing trainer's license # 276249- 1/2016. (Exhibit "1", at pages 33- 35)
2. On March 28, 2014, Mr. Dominguez was the trainer of the horse named "Weather Woman" (Exhibit "1", page 14) which ran in the fourth (4th) race at Los Alamitos Race Track finishing second (2nd) (Exhibit "1", page 16).
3. On April 11, 2014, CHRB Investigators received Notice that "Weather Woman" had tested positive for Clenbuterol (Urine Sample # LA 25528 / 267 pg/ml) (Exhibit "1", page 8-9).
4. On April 11, 2014, CHRB Investigators went to the barn of Mr. Dominguez and advised him of the positive test (Exhibit "1", page 7). Mr Camacho was also given information about his right to obtain a split sample of the test and concerning the disqualification procedures; both of which Mr. Dominguez stated he understood. (Exhibit "1", page 10).
5. On April 25, 2014, CHRB Investigators received the completed declaration forms from Receiving Barn Sample Custodian Peggy Lighthill (Exhibit "1", page 37) and Tester Jose Esparza (Exhibit "1", page 38) stating that there were no deviations from the normal post race testing procedures performed on "Weather Woman." (Exhibit "1", pages 30-31).
6. On April 13, 2014, Investigators had a conversation with the owner of "Weather Woman", Jose Camacho who stated that the horse was cared for at the ranch. He brought the horse to trainer Roberto Dominguez

to run at Los Alamitos Race Track and was only received by Mr. Dominguez one day prior to the race.

7. Los Alamitos Race Track Arrival/ Departure records verify that the horse "Weather Woman" was transported onto the racing enclosure on March 27, 2014, and departed the enclosure on March 29, 2014. (Exhibit "1", page 30).

8. On April 13, 2014, CHRB Investigators had a telephone conversation with Mr. Camacho wherein Mr. Camacho admitted: "he had no idea how "Weather Woman" could have gotten the Clenbuterol as he cares for the horse at the ranch and does not use Clenbuterol there. Mr. Camacho stated that he takes full responsibility for the problem as he knows that trainer Dominguez only received the horse the day prior to the race." (Exhibit "1", page 7).

9. The CHRB Investigative Report #14LA0090, marked as Exhibit "1" (39 pages) for purposes of this hearing, was duly authenticated by Investigator Katashima, reviewed by Mr. Dominguez, and admitted into evidence without objection.

ROBERTO DOMINGUEZ:

1. Mr. Dominguez stated that he is a trainer. He had a problem when the babies (young horses) come to the track because he does not have enough stalls. Therefore he runs them once and then rotates them out to make room for other runners.

2. Mr. Dominguez was advised by the racing office that a horse was needed to fill a race so he entered "Weather Woman" and, when the race was used as part of the program, she was shipped in to his barn from the ranch of its owner, Jose Camacho.

3. Mr. Dominguez was not aware that "Weather Woman" had been treated with Clenbuterol.

FINDINGS OF FACT:

1. CHRB Trainer Licensee Roberto Dominguez was the trainer of a certain horse, named "Weather Woman"; which horse was under the care of the owner, Jose Camacho, at his farm and was transported from his farm to Los Alamitos Race Track on March 27, 2014, when the horse was shipped to the barn of trainer Roberto Dominguez to race.
2. "Weather Woman" competed in the fourth (4th) race at Los Alamitos Race Track on March 28, 2014, finishing second (2nd).
3. Post race samples of the urine and blood from "Weather Woman" were duly drawn and transported from Los Alamitos Race Track to the University of California, Davis, where testing was conducted by the Equine Analytical Chemistry Laboratory.
4. Test samples detected and confirmed that the urine of "Weather Woman" contained 267 picograms per millimeter of Clenbuterol.

DECISION:

Respondent Roberto Dominguez, a licensed trainer (#276249-1.2016) was the trainer of that certain horse named "Weather Woman" which competed in the fourth (4th) race at Los Alamitos Race Course on March 28, 2014, finishing second. Post race urine samples detected and confirmed the presence of 267 picograms per millimeter of Clenbuterol, a prohibited substance.

"Weather Woman" had been in the possession of the owner, Jose Camacho up until March 27, 2014, when the horse was shipped to the barn of trainer Roberto Dominguez to race.

Based on the amount of Clenbuterol found in the post race sample it could only have been administered while in the possession of Mr. Camacho.

Therefore the Hearing Officer finds that the CHRB Complaint against trainer Roberto Dominguez for violation of CHRB Rules 1843(a & b),

1843.3(h) & 1887(a) have been proven. CHRBRule 1843(d) has not been proven because there was no showing that, at the time of the administration of the prohibited substance, owner Mr. Camacho was the agent of trainer Roberto Dominguez and therefore, as to this accusation, the Hearing Officer finds in favor of Mr. Dominguez.

PENALTIES:

Rule 1843.3(d) sets forth minimum penalties for a trainer of a horse which tests positive for a Class Three substance (which includes Clenbuterol). These are stated in Category "B" Penalties. Therefore Mr. Dominguez is subject for the first offense penalties stated in Rule 1843.3(d) (Category "B" Penalties) of minimum 30 day suspension absent mitigating circumstances. The presence of aggravating circumstances could be used to impose a maximum of a 60-day suspension. AND/OR minimum fine of \$500 absent mitigating circumstances. The presence of aggravating circumstances could be used to impose a maximum fine of \$10,000.

Pursuant to Rule 1843.3(b), the Hearing Officer considers the following mitigating circumstances and aggravating factors:

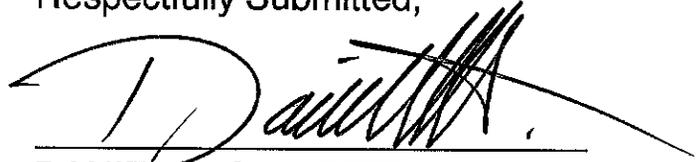
- 1) Prior violations: Mr. Dominguez has had only one prior violation, a high Phenylbutazone and is therefore a mitigating factor.
- 2) The potential influence of the drug: While Clenbuterol is clearly a very beneficial and therapeutic drug its steroidal potential has caused the CHRBR to prohibit its presence in post race testing. Test results, such as were found in this instance, indicate that the drug was administered inside the 21 day withdrawal period that the CHRBR recommends to avoid a positive test result; but the amount found clearly indicates that the substance was not administered during the time in which Mr. Dominguez was in possession and responsible for the horse. This is an mitigating factor.
- 3) Legal availability of the drug: Ventipullum is licensed by the FDA for use in horses. This is a mitigating factor.
- 4) Knowledge or intentional of administration of drug: Mr. Dominguez had no knowledge that the substance had been administered; nor was there any evidence that he was instrumental in the intentional administration of the substance. This is a mitigating factor.

- 5) Steps taken to safeguard the horse: Mr. Dominguez did not present testimony that he inquired of owner Camacho concerning his administration of Clenbuterol prior to the horse being entered to race. However it is fair to assume that he did obtain Mr. Camacho's approval to enter the horse and that Mr. Camacho should have advised him at that time that the horse had been treated. Since Mr. Camacho has stated he was unaware that the horse had been treated this is an neutral factor.
- 6) Subsequent steps: This is not a factor.
- 7) Environmental contamination: This is not a factor.
- 8) The purse: The purse was \$5770. Since Mr. Dominguez stood to make only a minimum percentage from the purse. This is a mitigating factor.
- 9) Reported drug: No. Neutral factor.
- 10) Suspicious wagering pattern: No evidence presented. Neutral factor.
- 11) Acting under advise of licensed veterinarian: Mr. Dominguez was unaware that the horse had been treated. This is an mitigating factor.

Based on the foregoing it is the Hearing Officer's conclusion that the the mitigating factors demonstrate a need to deviate from the minimum penalties stated in Rule 1843.3(d). Clearly Mr. Dominguez is responsible for the presence of the substance under Rule 1887(a). Although it would have been prudent for him to verify the condition of the horse prior to accepting it from the ranch to race, nonetheless he was accommodating the racing office and his owner by accepting the horse in this situation. Therefore it is recommended that the following penalties be assessed to Mr. Dominguez:

- 1.) Mr. Dominguez shall serve a 30 day suspension, which shall be stayed on condition that Mr. Dominguez not have a positive test for any substance prohibited under Rule 1843 for a period of three (3) years; and
- 2.) Mr. Dominguez shall be fined the sum of \$500.00 to be paid pursuant to order of the Los Alamitos Stewards.

Respectfully Submitted,



DANIEL Q. SCHIFFER
CHRB HEARING OFFICER

June 4, 2014

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