

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Appeal of the Board of
Stewards Official Ruling #001, Del Mar
Thoroughbred Club, dated July 18, 2014

Case No. SAC 14-0051

JOE TALAMO
CHRB License #291800
Appellant

DECISION

The attached Proposed Decision is hereby 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 imposing a three (3) day riding suspension.

IT IS SO ORDERED ON October 23, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

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PROPOSED DECISION

This Appeal was heard by Steffan Imhoff, an Appellate Judge/ Hearing Officer designated under Rule 1414 by the California Horse Racing Board (CHRB), at Del Mar Race Track in the Stewards' office, Del Mar, California, August 29, 2014.

Rick Amieva, Supervising Investigator represented the CHRB.

Attorney Roger Licht, Beverly Hills, California represented the Appellant.

Mr. Talamo was present and testified on his own behalf.

Steward Scott Chaney testified for CHRB.

Steward Kim Sawyer and Steward Luis Jauregui were also present.

The Proceeding was transcribed by Michelle E. Derieg from Weinstein Court Reporters Company.

The Appeal was submitted for decision on August 29, 2014

BACKGROUND

The opening day feature at the Del Mar racetrack has always been the Oceanside stakes. The race is a black type contest for three year old thoroughbreds at one mile on the turf. The purse is \$100,000 added. This year the Oceanside was run on Thursday July 17, 2014 as the 8th race on an 11 race card. Because of the closing of Hollywood park and the coming of the Breeders Cup to Del Mar in 2016 the racing schedule was somewhat different. Opening day fell on a Thursday instead of the traditional Wednesday opening and the Oceanside stakes, which is always split because of over subscription, this year, was run in one division with 13 entries and 11 starters. The number of starters reflected the new wider turf course that was installed as part of the Breeders Cup preparations.

The appeal in this case concerns appellant's race riding during the stretch run of the Oceanside. Talamo rode the colt *Texas Ryano*. At issue was his potential contact with *Patriot's Rule* ridden by Fernando Perez. Somewhat unusual was the fact the race involved a rare trainer's claim of foul. Trainer Robertino Diodoro claim of foul against the winner of the race *Enterprising* ridden by jockey Mike Smith. However when the Stewards looked at the film they determine that whatever trouble occurred was a responsibility not of Smith but of Talamo. In fact the official charts note that the Stewards ruled that *Texas Ryano* was the cause of the trouble and he was disqualified and placed 10th in back of *Patriot's Rule*.

FILM REVIEW

Jockey JOE TALAMO came to the office to review his ride in the eight race after which his mount was disqualified for interference. Films revealed that Mr. Talamo allowed his mount to drift out in order to create running room. In so doing, he caused a rival to take up sharply. He was candid in explaining that he didn't know his rival was there. He was issued the following ruling.

The film review was conducted on July 18, 2014. After the review, the Stewards issued the following order (DMTD # 001).

DMTD Ruling # 001

Jockey JOE TALAMO, who rode TEXAS RYANO in the eight race at Del Mar Race track on July 17, 2014, is suspended for THREE (3) racing days (July 24, 25 and 26, 2014) for failure to make the proper effort to maintain a straight course in the stretch, causing interference which resulted in the disqualification of his mount from eight to tenth position. This constitutes a violation of California Horse Racing Board rule #1699 (Riding Rules – Careless Riding). Pursuant to California Horse rule #1766 (Designates Races). The term of suspension shall not prohibit participation in designated races. This ruling was dated July 18th, 2014 and was signed by all three Stewards.

DISCUSSION

The evidence in this case consisted of the testimony of Steward Scott Chaney, the testimony of Talamo and the DVD of the race. The DVD was marked no. 1 for identification and later admitted without objection. The parties agreed that the potential infraction occurred in the stretch run. Talamo testified that going into this stretch his horse was lugging in so he used his left handed whip to control his mount and straighten him out. Instead the horse ducked out and came close to running into Patriot's Rule, he further testified that any interference was unintentional and he admitted to the Stewards that he never saw Perez's horse coming. On the DVD Talamo's actions appear intentional not accidental. In any event it was careless riding under rule 1699. Chaney's testimony presented a more accurate picture of what would have been shown on DVD. He begins his narrative at the start of the stretch run.

"Mr Talamo is in the yellow and orange. He hits his horse one time, the horse goes pretty straight. He takes two more strides and he finds himself on the heels

of the horse in front of him in black. So he actually pulls his horse out to make running room, otherwise, he's going to run up on his heels and left to just put the brakes on. And in so doing, unfortunately, there was a horse to his outside about three-quarters of a length back, the horse in red, who has to take up sharply in order to avoid contact."

The court also has these observations of the stretch run. Talamo appears to direct his mount back and forth behind the horses in front of him. #12 Forever Juanita, and outside him #13 Sammy Mandeville. When he moves he cuts off Perez, causing him to stand up in the saddle to avoid clipping heels. Talamo bullied his way through a narrow lane not sufficient to safely pass through and interfered with #5 in the process. As steward Chaney said in his testimony Jockeys are required to try and obtain the best placing for their horses but they cannot do it in a way that interferes with their rivals. That unfortunately is what Talamo did in this case in violation of rule 1699.

B. Controlling Law

PROCEDURE

Appellant has filed a timely notice appealing case number SAC 14-0051. A request for stay of proceedings by appellant's attorney was granted by the executive director Rick Baedekar on July 21, 2014.

Riding Rules

The Stewards have authority and supervision over all licensed personal, including licensed jockeys such as a Talamo (Rule 1527). Included in that authority is the ability to impose a fine or suspension (Rule 1528) on the jockey. At issue in this appeal is Rule 1699, Riding Rules. Of specific interests is a question of whether or not Talamo rode carelessly as defined by that Rule 1699.

Rule 1699

- a. A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.
- b. A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.
- c. A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such horse is not at fault and when such interference occurs in a part of the race where the horse interfered loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.
- d. Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.
- e. Jockeys shall not willfully strike or strike another horse or jockey so as to impede, interfere with intimidate, or injure.
- f. If a jockey rides in a manner contrary to this Rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

The testimony and the DVD demonstrate that Talamo interfered with his rivals mount. Having violated rule 1699(d) the stewards were entitled to suspend Talamo Rule 1699(f).

There is substantial evidence to support the Stewards' Decision to suspend Talamo for careless riding. Shapiro v. San Diego City Council, (2002) 96 CA4th 904,912. Appellant has failed to meet his burden of proof to show by a preponderance of the evidence that the Stewards' decision should be reversed (Rule 1764).

ORDER

Official Ruling DMTD # 001 (SAC 14-0051), dated July 18, 2014, imposing a 3 day suspension on Appellant Joe Talamo License # 291800 for careless riding under rule 1699, in the 8th race at Del Mar Race Track on July 17, 2014 is hereby AFFIRMED.

Term of suspension shall not prohibit participation in designated races pursuant to CHRB Rule 1766 (Designated races).

The Stewards, the Executive Director, or the Chairman of the CHRB shall specify the days that this suspension shall be effective.

9-29-14

Dated



STEFFAN IMHOFF
Designated Appellate Judge/ Hearing Officer

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