

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Appeal from the Board
of Stewards Official Ruling #140, Santa
Anita Winter/Spring Meet, dated April 14,
2018

Case No. SAC 18-0011

EDWIN MALDONADO
CHRB License #304542
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 September 28, 2018.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

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8 **BEFORE THE CALIFORNIA HORSE RACING BOARD**

9 **STATE OF CALIFORNIA**

10 **In the Matter of:**

Case No.: SAC 18-0011

11 **Appeal of the Board of Stewards Official**
12 **Ruling No. 140, Santa Anita Winter/Spring**
13 **Meet, Dated April 14, 2018**

PROPOSED DECISION RE: APPEAL
OF THE BOARD OF STEWARDS'
OFFICIAL RULING NO. 140, SANTA
ANITA WINTER/SPRING MEET
DATED APRIL 14, 2018

14 **EDWIN MALDONADO**
15 **CHRB LICENSE NO. 304542**
16 **APPELLANT**

Hearing Date: July 13, 2018
Time: 10:00 a.m.

17 **I. INTRODUCTION**

18 This matter arises from an appeal of the Board of Stewards' Official Ruling No. 140, Santa
19 Anita Winter/Spring Meet, dated April 14, 2018 (the "Ruling").

20 Appellant, Edwin Maldonado ("Appellant") personally appeared and was represented
21 Roger H. Licht, Esq. The California Horse Racing Board ("Respondent" or the "CHRB") was
22 present and represented by Robert Brodник, Esq.

23 Pursuant to California Horse Racing Board Rule 1414, Hearing Officer Patrick J. Kane
24 ("Officer") presided over this Appeal.

25 This Appeal came for hearing on July 13, 2018 at 10:04 a.m. at Los Alamitos Race
26 Course located in Los Alamitos, California 90720 (the "Hearing"). Michelle Derieg recorded all
27 testimony presented during the Hearing.

28 This matter's evidentiary record closed at the conclusion of the proceedings on May 10,
2018 at approximately 11:15 a.m.

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II. EXHIBITS ADMITTED INTO EVIDENCE

A. Exhibits Entered into Evidence by the CHRB.

The CHRB entered the following exhibits into evidence:

- Exhibit "1A" NOTICE OF HEARING, CASE NO. SAC 18-0011;
- Exhibit "2A" LOS ANGELES SUPERIOR COURT STAY (CASE NO. BS173381);
- Exhibit "3A" ORDER DENYING STAY, DATED APRIL 16, 2018;
- Exhibit "4A" APPEAL AND STAY REQUEST FOR JOCKEY EDWIN MALDONADO FROM ATTORNEY ROGER H. LICHT;
- Exhibit "5A" BOARD OF STEWARDS OFFICIAL RULING #140, SANTA ANITA WINTER/SPRING MEET, DATED APRIL 14, 2018;
- Exhibit "6A" BOARD OF STEWARDS MINUTES FOR APRIL 13, 2018 AND APRIL 14, 2018;
- Exhibit "7A" C.H.R.B. RULES 1699-RIDING RULES, 1766-DESIGNATED RACES;
- Exhibit "8A" APRIL 13, 2018, RESULTS FOR 1ST RACE, SANTA ANITA PARK; AND
- Exhibit "2" DVD SANTA ANITA RACE #1, APRIL 13, 2018 (ALSO IDENTIFIED AS 9A PER HEARING OFFICER).

B. Exhibits Entered into Evidence by Appellant.

Appellant did not enter any exhibits into evidence.

III. LIST OF TESTIFYING WITNESSES

A. Witnesses Testifying on Behalf of Appellant.

Appellant called the following the witnesses:

- Edwin Maldonado.

B. Witnesses Testifying on Behalf of the CHRB.

The CHRB called the following the witnesses:

- The Hon. Kim Sawyer; and

- The Hon. Grant Baker.

IV. FACTUAL FINDINGS

After admitting all exhibits and testimony into evidence, this Officer makes the following findings of fact:

I.

On April 13, 2018 Appellant rode the number four (4) horse, Hackleton (“Hackleton” or the “Horse”), to a first-place finish in the first race at Santa Anita (the “Subject Race”). (Ex. 8A.) The Subject Race was a \$6,250.00 claiming race run at one mile. (Id.)

II.

During the Subject Race’s stretch run, Hackleton failed to maintain a straight course, severely drifted, and impeded the number three horse (3) “Orejas” (the “Conduct”). (Hearing Transcript (“H.T.”) at p. 37-38; Ex. 8A., 2.) Specifically, Hackleton progressively drifted out from the “four path” until reaching the “eight or nine path” while impeding Orejas on three separate occasions. (Id.) Indeed, Hackleton’s Conduct caused Orejas to change direction on three separate occasions so as to avoid “clipping heels” with Hackleton. (H.T. at p. 41-43; Ex. 2.)

III.

Immediately after the Subject Race concluded, the Board of Stewards (“Stewards”) posted an inquiry concerning Hackleton’s Conduct. (H.T. at p. 44; Ex. 6A.) After reviewing the Subject Race, the Stewards unanimously determined that:

Race replays show...Hackleton drifts out continuously from the “one eighth (1/8) pole.” This action not only herds out...Orejas, but causes [Orejas] to change paths to stay off heels...[T]he interference to...Orejas was quite significant. After film review, speaking to the jockeys and reviewing all camera angles, the Stewards, in a unanimous decision, disqualified Hackleton and placed the Horse second. (Ex. 6A at p. 4.)

IV.

On April 14, 2018, Appellant appeared before the Stewards to review film of his ride during the Subject Race. (H.T. at p. 45; Ex. 6A at p. 6.) After analyzing the Subject Race’s replay and discussing the Conduct with Appellant, the Stewards unanimously determined that: (1) Hackleton was “lugging out in the stretch”; (2) Appellant “took very little corrective action while

1 his mount was lugging out and causing interference”; (3) Appellant used “his riding crop (right
2 handed) and observed a fast closing rival [Orejas] on the giant infield monitor”; and (4) “just
3 before the finish, after ‘getting out’ for almost an eighth of a mile, [Appellant] straightened his
4 mount.” (Ex. 6A at p. 6.)

5 Accordingly, on April 14, 2018, the Stewards unanimously issued Official Ruling LATS
6 No. 140 (the “Ruling”), which stated the following:

7 Jockey EDWIN MALDONADO, who rode HACKLETON in the first race at Santa
8 Anita Park on April 13, 2018 is suspended for THREE (3) racing days (April 21,
9 22, and 26, 2018) for failure to make the proper effort to maintain a straight course
10 and causing interference in the stretch resulting in a disqualification from first to
11 second position. This constitutes a violation of California Horse Racing Board rule
12 #1699 (Riding Rule–Careless Riding). Pursuant to California Horse Racing Board
13 rule #1766 (Designated Races), the term of suspension shall not prohibit
14 participation in designated races. (Ex. 5A).

12 **V.**

13 On April 16, 2018, Appellant timely filed a “Notice of Appeal” with the CHRB and
14 simultaneously sought a stay of the Ruling’s three-day suspension. (Ex. 4A.) Appellant identified
15 the following issues as to why the CHRB should grant both the Appeal and request for a stay:

16 (1) [T]he Stewards’ assessment of failing to maintain a straight course may well
17 have been accurate, but it was not due to jockey malfeasance; (2) Appellant was
18 unable able to properly prepare for the hearing; (3) the Ruling was issued without
19 substantial basis in fact; and (4) that there was no violation of Cal. Code Regs. Tit.
20 4 § 1699. (Ex. 4A.)

19 **VI.**

20 On April 16, 2018, the CHRB denied Appellant’s request for a stay. (Ex. 3A.) As a result,
21 Appellant subsequently filed an Ex Parte Application in the Superior Court of California for the
22 County of Los Angeles seeking a stay of the Ruling. (Ex. 2A.) On April 25, 2018, the Court
23 granted Appellant’s Ex Parte Application. (Id.)

24 **VII.**

25 On June 27, 2018, the CHRB set this Appeal for hearing on July 13, 2018 at Los Alamitos
26 Race Course. (Ex. 1A.)

27 **V. ISSUES ON APPEAL AND CONTROLLING LAW**

1 The issue before this Officer is whether Appellant met the required burden proof needed
2 to overrule the Stewards' unanimous decision, that during the stretch run of the Subject Race,
3 Appellant failed to make proper effort to ensure Hackleton maintained a straight course resulting
4 in the Horse interfering with Orejas, in violation of Cal. Code Regs. Tit. 4 § 1699 ("Section
5 1699").

6 Section 1699 states, in pertinent part, that during the running of the race:

7 (a) A horse shall not interfere with any other horse. Interference is defined as
8 bumping, impeding, forcing or floating in or out or otherwise causing any other
horse to lose stride, ground, momentum or position.

9 (b) A horse which interferes with another as defined in subsection (a) may be
10 disqualified and placed behind the horse so interfered with if, in the opinion of the
11 Stewards, the horse interfered with was not at fault and due to the interference lost
the opportunity for a better placing.

12 (c) Jockeys shall not ride carelessly, or willfully, so as to permit their mount to
interfere with any other horse.

13 (d) Jockeys shall not strike or strike at another horse or jockey so as to impede,
14 interfere with, intimidate, or injure.

15 (e) 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. (f)
16 When suspending a jockey for riding contrary to this rule, the Stewards shall issue
a minimum suspension of two riding days, and shall issue a suspension greater than
17 the minimum for (1) more than one infraction of this rule by the jockey within any
contiguous 60 day calendar period or (2) any infraction which, in the opinion of the
18 stewards, jeopardized the safety of another horse or jockey.

19 Moreover, Business and Professions Code Section 19517(a) states, in relevant part, that:

20 The board, upon due consideration, may overrule any steward's decision...if a
21 preponderance of the evidence indicates any of the following: (1) the stewards
mistakenly interpreted the law; (2) new evidence of a convincing nature is
22 produced: (3) the best interests of racing and the state may be better served.

23 However, if an appellant solely disputes whether the evidence supports a stewards' official
24 ruling, said ruling will not be disturbed on appeal, unless the appellant demonstrates the Stewards'
25 official ruling is not supported by substantial evidence.

26 Moreover, if substantial evidence supports a stewards' ruling, then it cannot be overturned
27 simply because a contrary finding would have been equally or more reasonable. (See e.g., *In the*
28 *Matter of the Appeal of Brian Koriner*, C.H.R.B. Case No. SAC98-033, OAH No. N1998070296

1 ["An appeal pursuant to Rule 1761 from a stewards' decision following a...hearing, the standard
2 of review to be applied concerning the evidence is the substantial evidence test."]; *Ogundare v.*
3 *Department of Industrial Relations* (2013) 214 Cal.App.4th 822, 829 [If a decision is supported
4 by substantial evidence, it will not be overturned "merely because a contrary finding would have
5 been equally or more reasonable."].)

6 "In general, substantial evidence has been defined in two ways: first, as evidence of
7 ponderable legal significance... reasonable in nature, credible, and of solid value; and second, as
8 relevant evidence that a reasonable mind might accept as adequate to support a conclusion"
9 (*Ogundare*, supra, 214 Cal.App.4th at 830, citations omitted.).

10 Appellant has the burden of proving facts necessary to sustain the appeal. (See, Cal. Code
11 Regs. Tit. 4 § 1764 ["The burden shall be on the appellant to prove the facts necessary to sustain
12 the appeal."].)

13 Because this Appeal only concerns whether the evidence presented supports the Stewards'
14 Ruling, that Appellant failed to ensure Hackleton maintained a straight course in the stretch of
15 the Subject Race resulting in violation of Section 1699, Appellant must demonstrate that
16 substantial evidence does not support the Ruling.

17 VI. SUMMARY OF EVIDENCE PRESENTED

18 A. Summary of Testimony Presented by Appellant.

19 In support of his Appeal, Appellant testified concerning his belief as to why he did not
20 violate Section 1699. Appellant is a Southern California based jockey who has held a jockey's
21 license for twenty years (20) while being licensed in California for eight years (8). (H.T. at p. 9.)
22 Over the course of his career, Appellant has ridden in "thousands of races." (H.T. at p. 22.)

23 While conceding Hackleton was "getting out" in the Subject Race's final stages, Appellant
24 contended he did "everything possible to straighten Hackleton out" short of "pulling the Horse
25 up." (H.T. at p. 14, 17.) Specifically, Appellant testified he took the following actions in an
26 attempt to correct Hackleton's Conduct: (1) Appellant "grabbed the Horse" with the left rein three
27 times throughout the Subject Race's stretch; and (2) Appellant used the riding crop to "flag the
28 Horse" with his right hand (H.T. at p. 13-14, 21.) Despite "grabbing Hackleton," the Horse

1 continued "floating outward" eventually impeding Orejas. (Id. at p. 20.) Indeed, Appellant
2 conceded that Hackleton's head position changed each time he pulled his left rein while drifting
3 out. (Id. at p. 24.)

4 Appellant separately explained that Hackleton "jumped from his right lead to his left lead
5 and back to his right again," which further caused the Horse to drift out significantly during the
6 Subject Race's final stages. (H.T. at p. 16.)

7 In further support that no Section 1699 violation occurred, Appellant, while watching the
8 Subject Race's replay, explained the Conduct did not create any danger to the Subject Race's
9 other participants. Specifically, Appellant did not believe there was any danger of Hackleton
10 "clipping heels" with Orejas despite the fact Hackleton significantly drifted out towards Orejas.
11 (H.T. at p. 29-30.)

12 Lastly, Appellant testified the next time Hackleton raced, the Horse was fitted with an
13 extension bit, which helps prevent a horse from "lugging out." (H.T. at p. 11.) Appellant stated
14 Hackleton still "lugged out" in his next race despite the extension bit, but not "as bad as the Horse
15 did in the Subject Race." (Id.)

16 **B. Summary of Testimony Presented by the CHRB.**

17 In support of its position that Appellant violated Section 1699, the CHRB called Stewards
18 Kim Sawyer ("Sawyer") and Grant Baker ("Baker"). Both Sawyer and Baker were the on-duty
19 stewards during the Subject Race and issued the unanimous Ruling, along with Steward Scott
20 Chaney.

21 Regarding Steward Sawyer's testimony, while viewing the Subject Race's replay, she
22 explained that:

23 (1) Appellant's mount progressively drifts outward impeding [Orejas] three
24 separate times (H.T. at p. 38); (2) the only "corrective action" Appellant employed
25 was when he "grabbed the Horse" near the finish line, which the Horse responded
26 to and "straightened out" (Id.); (3) Appellant should have "pulled" Hackleton until
27 he responded even if it caused the Horse to lose the Subject Race, which he failed
28 to do (Id. at p. 40-41, 48); (4) Appellant's Conduct created the possibility of Orejas
"clipping heels" with Hackleton (Id. at p. 43); (5) the Stewards expect to see more
of an effort to correct a horse's "drift" (Id. at p. 50); and (6) Appellant exhibited a
"lack of effort" in attempting to maintain a straight course in violation of Section
1699 (Id. at p. 45).

1 Furthermore, Steward Baker provided the following testimony:

2 (1) That Hackleton drifted out significantly and floated two rivals to the middle of
3 the racetrack (H.T. at p. 55-56); (2) the only corrective action taken by Appellant
4 occurred fifteen (15) to twenty (20) yards from the finish line (Id. at p. 58); and (3)
5 Appellant was capable of controlling Hackleton at all relevant times during the
6 Subject Race (Id. at p. 59).

7 **VII. DISCUSSION**

8 Based upon the evidence presented, the Stewards' unanimous Ruling that Appellant's
9 Alleged Conduct violated Section 1699 is supported by substantial evidence. Specifically,
10 Appellant failed to meet the required burden of proof for several reasons.

11 Initially, the evidence presented reveals that Appellant failed to take enough corrective
12 action in light of the severity of Hackleton's Conduct. The fact Appellant "flagged" and "grabbed
13 Hackleton three times" was not enough due to the extent Hackleton "drifted out" during the
14 Subject Race's later stages. As the Stewards stated, Appellant is expected to take deliberate
15 corrective action until a horse corrects its running path to avoid causing a "spill" even if such
16 action causes Appellant to lose a race. (H.T. at p. 40-41.).

17 Nor is Appellant's position advanced via his claim that Hackleton: (1) was subsequently
18 fitted with an extension bit; (2) is a "cheap horse"; or (3) was a "bleeder." Rather, the evidence
19 shows Appellant controlled Hackleton during the Subject Race, including when Appellant
20 "straightened the Horse out" just before the finish line. (H.T. at p. 38, 58; Ex. 2.) For this reason
21 also, Appellant's Appeal fails.

22 Accordingly, substantial evidence supports the Stewards' unanimous Ruling that
23 Appellant was careless in allowing Hackleton to "drift out" throughout the stretch of the Subject
24 Race in violation of Section 1699.

25 **VIII. CONCLUSION**

26 Because substantial evidence supports the Stewards' finding that Appellant had control of
27 Hackleton at all relevant times, and because Appellant failed to take enough corrective action in
28 light of Hackleton severely drifting out and impeding the Subject Race's other runners, Appellant
failed meet the burden of proof necessary to sustain his Appeal.

