

**BEFORE THE HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of the Complaint Against:

**JOSE FLORES**  
**CHRB License #244643**

**Respondent**

CHRB Case #19LA0109

**DECISION**

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled matter, with the exception that the proposed penalty of a forty-five (45) day suspension is reduced to a thirty (30) day suspension conditioned upon the Respondent agreeing that all new employees are subject to drug testing; as provided by Government Code Section 11517 (c) (2) (B).

If Respondent does not agree to subjecting all new employees to drug testing, than the forty-five (45) day suspension is to be imposed by the Board of Stewards as stated in the initial Proposed Decision.

This Decision is hereby remanded to the Board of Stewards to issue a ruling and order setting the dates of suspension.

IT IS SO ORDERED ON February 24, 2020.

CALIFORNIA HORSE RACING BOARD  
Gregory L. Ferraro, DVM, Chairman



Rick Baedeker  
Executive Director

State of California  
CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION  
of the  
BOARD OF STEWARDS**

Los Alamitos Race Course

January 26, 2020

**In the Matter of the Complaint Against:**

Jose Flores, Respondent  
Case# 19LA0109

**INTRODUCTION**

This matter was heard before the Board of Stewards, Scott Chaney, Tom Ward, and James Dreyer, in the Los Alamitos Stewards' Office December 28, 2019.

Present at the hearing were the Respondent, Jose Flores, Investigator Kevin Kitashima and the Board of Stewards. Court Reporter Michelle Dierreg transcribed the proceedings.

## **PROCEDURAL BACKGROUND**

Trainer Jose Flores was the trainer of record for the horse "Look of Love MV," who started in the fifth race at Los Alamitos Race Course on May 17, 2019. On May 31, 2019, Sacramento Headquarters emailed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Look of Love MV" (Urine Sample #LA43731) tested positive for the class I prohibited substances D-Methamphetamine and Amphetamine after finishing first in the fifth race on May 17, 2019. Trainer Jose Flores was notified of the positive on June 6, 2019 and a barn inspection found no further violations. On June 7, 2019 Vincent Genao, Agent for owner Pablo Macedo, completed the forms for the split sample testing. UIC Analytical Forensic Testing Laboratory was selected as the lab to conduct the testing of the split sample.

On July 17, 2019, investigators received a Final Report from UIC Analytical Forensic Testing Laboratory, confirming that the split sample #LA43731 contained the presence of D-Methamphetamine and Amphetamine. The CHRB then filed this complaint against trainer Flores.



## **FINDINGS OF FACT**

### **I**

At all times herein mentioned, Respondent was licensed by the California Horse Racing Board in the license category of “trainer.”

### **II**

Respondent was the trainer of record for the horse “Look of Love MV” when it raced in the fifth race on May 17, 2019 at Los Alamitos Race Course. “Look of Love MV” finished first in the aforementioned race.

### **III**

A post-race urine sample (labeled sample #LA43731) was taken from “Look of Love MV” following the running of the race in accordance with California Horse Racing Board Rule #1858 (Test Sample Required) and was sent to Kenneth L. Maddy Equine Analytical Chemistry Lab at the University of California, Davis. This is the official testing lab of the California Horse Racing Board.

### **IV**

At all times herein mentioned, the chain of custody of urine sample #LA43731 from “Look of Love MV” was uninterrupted.

### **V**

After analyzing the sample, Maddy Laboratory reported a finding of the prohibited drug, D-Methamphetamine and Amphetamine, in the sample, a class I substance.

### **VI**

On June 6, 2019, Respondent was notified.

### **VII**

Respondent elected to have a split sample sent to the UIC Analytical Forensic Testing Laboratory in Chicago, IL.

### **VIII**

On July 17, 2019, Investigator Blake received confirmation from UIC Analytical Forensic Testing Laboratory that urine sample #LA43731 contained D-Methamphetamine and Amphetamine.

**XI**

Following the positive report, Respondent asked the CHRB to drug test all of the personnel in his stable, including himself. Those tests revealed one employee, Victor Arias, the groom of "Look of Love MV", tested positive for Methamphetamine.

**X**

A CHRB search of groom Victor Arias' living quarters found drug paraphernalia.

**XI**

The amount of D-Methamphetamine and Amphetamine found in the post-race sample of "Look of Love MV" indicated a purposeful, rather than accidental, administration.

**APPLICABLE RULES**

*CHRB rule violations alleged in the complaint*

Rule 1887	(Trainer or Owner to Insure Condition of Horse)
Rule 1843	(Medication, Drugs and Other Substances)
Rule 1902	(Conduct Detrimental to Horse Racing)
Rule 1843.1	(Prohibited Drug Substances)

## DISCUSSION

The first action required by California Horse Racing Board Rule #1859.5 (Disqualification Upon Positive Test Findings) was applied to this case on July 20, 2019 by the Los Alamitos Stewards' Ruling #190, disqualifying "Look of Love MV" and ordering the redistribution of the purse.

This matter concerns a possible penalty for trainer Flores. Trainer Jose Flores' past medication record is not exemplary. Along with a number of minor medication violations in 2012, Mr. Flores had a Class I Methamphetamine positive in that same year. In complaint #19LA0109, however, the Stewards believe he was not directly responsible for the medication positive. This does not mean he is without some culpability in this matter.

A few weeks prior to Look of Love MV's positive, trainer Flores contacted Supervising Investigator Tom Blake with a request that they shake his barn down and test his employees. Investigator Blake complied with his request to the extent that he searched Flores' shed rows and tack rooms down. Finding nothing, he did not feel he had probable cause to drug test his employees.

Following Look of Love MV's positive, his shed rows and tack rooms were again searched finding nothing. This time all of his employees were tested. All were negative with the exception of Victor Arias, the groom of Look of Love MV. He tested positive for Methamphetamine and Amphetamine- the same drugs that were in Look of Love MV's post-race blood and urine test. While the reason behind the violation may be unclear, the evidence is pretty compelling that he was the perpetrator. This evidence does not relieve Mr. Flores of some culpability. The Stewards feel that with the suspicions he expressed, he could have done more than he did to resolve his trepidations.

Dr. Rick Arthur, Equine Medical Director stated the Methamphetamine was reported in the microgram (mcg/ml) level in the urine. He also stated this level is very high since the level is reported is in the nanogram (ng/ml) range. 1000 nanograms = 1 microgram. The blood (serum) sample also had an unusually high level, which was in the nanogram level. Normal reported blood level is in picogram (pg/ml). 1000 picograms = 1 nanogram. Dr. Arthur stated the unusually high levels indicate a purposeful administration.

The inquiry will now turn to the penalty phase as outlined by California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations), which prescribes aggravating and mitigating factors that would permit deviation from the penalties outlined in the text of that rule.

A review of the aggravating and mitigating factors is now required:

- (1) *Past Medication Record of the Licensee:* Trainer Flores had a previous Class I violation, Methamphetamine, in 2012, and a number of minor medication violations. Aggravating.
- (2) *The Potential of the Drug to Influence a Horse's Performance:* The medications listed could enhance a horse's performance. Aggravating.
- (3) *The Legal Availability of the Drug:* The only way anyone could get those drugs would be illegally. To our knowledge, they would never be prescribed. Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* It is the opinion of the Stewards that Jose Flores is not directly responsible in this situation. Dr. Rick Arthur stated that the sample was unusually high and not an accidental positive test. The Stewards feel that groom Victor Arias was seeking revenge for something Mr. Flores had done or had some sort of agenda that we are unaware of. Mitigating.
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* Mr. Flores had a camera system in his barns which has been upgraded since this incident. Mitigating.
- (6) *Steps Taken by the Owner to Safeguard Against Subsequent Medication Violations, Including but not Limited to, the Transfer of the Horse(s) to an Unaffiliated Trainer:* There was no evidence on this factor and is therefore neutral.
- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors:* This is a neutral factor as there is no evidence of such.
- (8) *Purse of the Race:* The purse was \$8,500, which is not excessive and therefore mitigating.
- (9) *Whether the Drug Found to Be Present in the Official Sample was one for which the Horse was Receiving Treatment as Determined through the Process Described in Rule #1842 (Veterinary Report):* Veterinary reports do not indicate the horse having been prescribed either drug. Aggravating
- (10) *Whether there was any Suspicious Wagering Pattern on the Race:* Mitigating as there was no evidence of any unusual wagering pattern.
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian:* There is no evidence of any veterinarians advice for approval of these drugs to be administered to "Look of Love MV". Aggravating.

A review of the factors reveals that there are five aggravating, three mitigating and three neutral factors. However, the evidence of a third party administration is so strong that we are compelled to mitigate the penalty outlined in the guidelines.

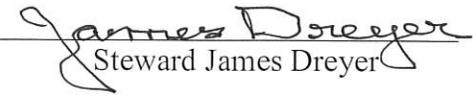
## CONCLUSION

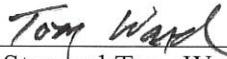
Following a formal hearing, this Board of Stewards concludes the class I prohibited drugs D-Methamphetamine and Amphetamine were found in Urine sample #LA43731 taken from the horse "Look of Love MV," the first place finisher in the fifth race at Los Alamitos Race Course on May 17, 2019. This finding requires the disqualification of "Look of Love MV" in accordance with California Horse Racing Board Rule #1859.5. This Board of Stewards took judicial notice of the penalty guidelines as defined in California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations). D-Methamphetamine and Amphetamine are a class I drug that falls in the class "A" penalty. Therefore, we recommend the following penalty:

TRAINER JOSE FLORES, WHO STARTED THE HORSE "LOOK OF LOVE MV", THE FIRST PLACE FINISHER IN THE FIFTH RACE AT LOS ALAMITOS RACE COURSE ON MAY 17, 2019, IS SUSPENDED FOR FORTY-FIVE (45) DAYS PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887 (A) (TRAINER OR OWNER TO INSURE CONDITION OF HORSE) FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES #1843 (A, B & D) (MEDICATION, DRUGS AND OTHER SUBSTANCES), AND #1843.1(A) (PROHIBITED DRUG SUBSTANCES- D-METHAMPHETAMINE AND AMPHETAMINE-CLASS I).

DURING THE TERM OF SUSPENSION ALL LICENSES AND LICENSE PRIVILEGES OF JOSE FLORES ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS TO SUSPEND OR FINE). JOSE FLORES IS DENIED ACCESS TO ALL PREMISES IN THIS JURISDICTION

Dated January 26, 2020 by this Board of Stewards:

  
Steward James Dreyer

  
Steward Tom Ward

  
Steward Scott Chaney

CHRB  
FEB 5 2020 PM 1:53