

**BEFORE THE CALIFORNIA HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of:

**FITNESS FOR LICENSURE**

**RAUL VALENZUELA**  
**Appellant**

Case No. SAC 19-0096

**DECISION**

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

The Decision shall become effective on January 23, 2020.

IT IS SO ORDERED ON January 22, 2020.

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



Rick Baedeker  
Executive Director

BEFORE THE  
CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA

In the Matter of: )  
FITNESS FOR LICENSURE )

RAUL VALENZUELA )  
CHRB License #311715, )  
Appellant )

Case No. SAC 19-0096

**PROPOSED DECISION**

This matter was heard on December 5, 2019 by C. Scott Chaney, a Hearing Officer designated under California Horse Racing Board rule 1414 (Appointment of Referee) at Los Alamitos Race Track in Cypress, California.

The Appellant, formerly licensed jockey Raul Valenzuela, (hereinafter "Appellant" or "Mr. Valenzuela"), represented himself with help from his father Raul Valenzuela, Sr.

The California Horse Racing Board (hereinafter "CHRB") was represented by CHRB Staff Attorney Robert Brodnik, and observed by CHRB Hearings Administrator Sharyn Jolly.

The proceedings were recorded by court reporter Michelle Derieg.

**PROCEDURAL BACKGROUND**

On October 12, 2019, Valenzeula applied for and was refused a CHRB license in the category of "jockey—QH". That refusal was based on the fact that Valenzuela was suspended five years for possessing an electrical device in New Mexico (Ruling #2014-Zia-187). He was also convicted of a misdemeanor in New Mexico. After serving the five year suspension, the New Mexico Racing Commission restored his license to good standing. The misdemeanor was also expunged from his record after completing probation and community service. The purpose of this hearing therefore is to take evidence concerning whether Appellant should be considered for a CHRB license. Both parties were noticed and the hearing was scheduled for December 5, 2016 at 11:30 am at Los Alamitos Race Course. On that day, the hearing was called to order at approximately 11:30 am in accordance with the notice supplied to all parties. The CHRB submitted

documentary evidence relevant to the matter as well as oral testimony by CHR B Investigator Kevin Kitashima, while the Appellant presented his own testimony, oral testimony from his father, Raul Valenzuela Sr., as well as documentary evidence. The record was closed and the matter deemed submitted that afternoon.

### LIST OF EXHIBITS

*CHR B Exhibit #1* – Administrative Hearing Packet which contained: Notice of Hearing; text of CHR B Rules 1489.2 and 1489; Declaration of Service; Investigations File; Notice of Refusal of License; New Mexico Racing Commission Ruling #2014-ZIA-187; New Mexico Racing Commission Order dated September 26, 2019; and CHR B License History of Raul Valenzuela.

*Appellant Exhibit A* – Letter from Raul Valenzuela to the CHR B requesting reinstatement of license.

*Appellant Exhibit B* – List of Horsemen signatures that would employ Appellant should he be granted a license.

### FACTUAL FINDINGS

#### **I**

Jockey Raul Valenzuela Jr. was first licensed as a jockey in Arizona in 2009 at the age of 16. He eventually came to California where he rode quarterhorses at Los Alamitos.

#### **II**

In August, 2014, at the age 21, Valenzuela traveled to New Mexico to ride a horse from California in a stakes race. While there, before his scheduled mount, Valenzuela was discovered to be in possession of an electrical device in the Jockeys' Room.

#### **III**

On October 20, 2014, the New Mexico Racing Commission suspended Mr. Valenzuela's license for five years. Ten days later, the CHR B reciprocated that suspension.

#### **IV**

On September 26, 2019, the New Mexico Racing Commission restored Raul Valenzuela's jockey license to good standing.

On October 12, 2019, Valenzuela applied for an jockey's license in California and was denied based on CHRB policy. Mr. Valenzuela then requested the fitness for license hearing which is being heard in this proceeding.

APPLICABLE LAWS AND REGULATIONS

**California Horse Racing Board Rule 1489. Grounds for Denial or Refusal of License.**

(a) The Board, in addition to any other valid reason, may refuse to issue a license or deny a license to any person:

(1) Who has been convicted of a crime punishable by imprisonment in a California state prison or a federal prison, or who has been convicted of a crime involving moral turpitude.

(2) Who has been convicted of a crime in another jurisdiction which if committed in this state would be a felony.

.....

(7) Who has committed an act involving moral turpitude, or intemperate acts which have exposed others to danger...

....

**California Horse Racing Board Rule 1489.2 Criteria to Evaluate Rehabilitation of a Person When Considering Denial, Suspension or Revocation of an Occupational License.**

(a) When considering the denial of a license under Business and Professions Code section 480, or the suspension or revocation of licensure under Business and Professions Code section 490, on the grounds that the person has committed an act or been convicted of a crime, the California Horse Racing Board will evaluate the rehabilitation of such person and his or her eligibility for licensure, and shall consider the following criteria:

(1) The nature and severity of the act(s) and/or offense(s), including its relation to horse racing or pari-mutuel wagering and the protection of the public.

(2) The total criminal record, including evidence of any act(s) and/or offense(s) committed subsequent to the act(s) or offense(s) under consideration as grounds for denial, suspension or revocation which also could be considered grounds for denial, suspension, or revocation under Business and Professions Code sections 480 or 490.

(3) The time that has elapsed since commission of the act(s) or offense(s).

- (4) The extent to which the person seeking licensure or the licensee has complied with any terms of parole, probation, restitution or any other sanction lawfully imposed against the person or licensee.
- (5) The credibility of the person seeking licensure or the licensee, and his or her acceptance of responsibility and remorse for the conduct.
- (6) Evidence, if any, of rehabilitation submitted by the person seeking licensure or by the licensee. If the evidence of rehabilitation consists of written statements by third parties in support of the person seeking licensure or the licensee, the written statements shall include a description of their relationship to the person or licensee, a description of the length of time their relationship has existed, a description of the rehabilitative efforts of the person seeking licensure or the licensee and should contain the following sentence at the end: "I declare under the penalty of perjury, under the laws of the State of California, that the foregoing is true and correct." The written statement should be signed by the third party making the statement and dated.

#### DISCUSSION OF ISSUES

The purpose of this hearing is decide whether Raul Valenzuela Jr. should be granted a jockey's license. CHR B Rule 1489.2 provides direction in terms of factors to consider when evaluating an individual's fitness for license. Ultimately this decision is a judgment call based upon the factors laid out in CHR B Rule 1489.2 as well as an evaluation of the potential licensee's character and demeanor at hearing.

Therefore, an examination of the factors that 1489.2 establishes is the first piece of analysis. *(1) The nature and severity of the act(s) and/or offense(s), including its relation to horse racing or pari-mutuel wagering and the protection of the public.* Clearly the possession (and potential use) of an electrical device by a jockey or exercise rider is one of the most serious offenses that the rules and regulations contemplate. Frankly, there is not much more to express on this point, other than the evidence for reinstatement must be compelling in order to overcome this underlying violation. *(2) The total criminal record, including evidence of any act(s) and/or offense(s) committed subsequent to the act(s) or offense(s) under consideration as grounds for denial, suspension or revocation which also could be considered grounds for denial, suspension, or revocation under Business and Professions Code sections 480 or 490.* This second factor doesn't really apply to the case at hand because Appellant was charged with a misdemeanor which was eventually expunged and the first factor already considers the seriousness of the behavior. *(3) The time that has elapsed since commission of the act(s) or offense(s).* This factor weighs heavily on the side of reinstatement. Not only did the violation occur more than five years ago, but additionally, Mr. Valenzuela was 21 years old at the time. From the testimony at hearing, it is fair to conclude that he has matured both by the passage of time and by dealing with the consequences of his actions. *(4) The extent to which the person seeking licensure or the licensee has complied with any terms of parole, probation, restitution or any other sanction lawfully imposed against the*

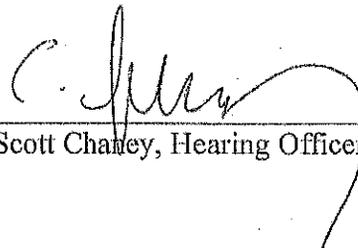
*person or licensee.* The fourth factor also weighs heavily in favor of reinstatement. Appellant completed the terms of the racing commission discipline (in New Mexico) and the terms of the discipline imposed by the New Mexico penal system. To take this a step further, the New Mexico Racing Commission, in whose jurisdiction the violation occurred, has already restored Mr. Valenzuela's license to good standing. While the CHRB can certainly be more strict than the original jurisdiction, the fact that it has chosen to grant Appellant a jockey's license is an important factor when considering the same decision here. (5) *The credibility of the person seeking licensure or the licensee, and his or her acceptance of responsibility and remorse for the conduct.* This factor is purely a judgment call on the part of this hearing officer. Both Mr. Valenzuela and his father appeared credible and remorseful. It was clear that Mr. Valenzuela Jr.'s actions have negatively impacted both of their lives and that they were sorry for the behavior and the repercussions. (6) *Evidence, if any, of rehabilitation submitted by the person seeking licensure or by the licensee.* Evidence of this final factor was a bit thin at hearing. Other than completing the suspension and doing some community service, testimony regarding actual rehabilitation was non-existent. To be fair, it is not exactly clear what that would entail, other than perhaps volunteering at a horse rescue facility or the like. Mr. Valenzuela stated that he was rehabilitated and currently works with horses at his father's farm. He also offered signatures of California horsemen who would employ him should he be reinstated, but of course these offerings don't exactly establish concrete evidence of rehabilitation.

Ultimately this is a judgment call with respect to whether Appellant deserves a second chance in California racing and whether he is worth the risk that may come with re-licensure. On the one hand is the very serious violation he committed in New Mexico. On the other hand is his age at the time, the completion of his punishment, the reinstatement of his license in New Mexico and his credible remorse for his behavior.

#### CONCLUSION/PROPOSED DECISION

Given all of the foregoing, I recommend that Mr. Valenzuela be licensed at this time.

DATED: December 31, 2020.

  
C. Scott Chaney, Hearing Officer

CHRB  
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