

**BEFORE THE HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of the Complaint Against:

**WILLIAM J. DELIA**  
**Trainer, CHRB License #077663**

**Respondent**

CHRB Case #19GG0089

**DECISION**

The attached Proposed Decision is adopted by the California Horse Racing Board as its Decision in the above-entitled, except as follows: the Proposed Penalty of a fifteen (15) day suspension is adopted as stated in the Proposed Decision, and the fine of three thousand dollars (\$3000.00) stated in the Proposed Decision is reduced to one thousand dollars (\$1000.00) due presently, and the remaining two thousand dollars (\$2000.00) is stayed for a probationary period of one year. If there are no further violations of California Horse Racing Board Rules and Regulations, 1843, 1843.6 and 1887 regarding Class 1, 2, or 3 drug substances, the remaining two thousand dollars (\$2000.00) fine is waived; as provided by Government Code Section 11517 (c) (2) (B).

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

IT IS SO ORDERED ON March 26, 2020.

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

*FOR*   
Rick Baedeker  
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

PROPOSED DECISION  
of the  
BOARD OF STEWARDS

Pacific Racing Association  
Golden Gate Fields

DATED FEBRUARY 7, 2020

IN THE MATTER OF:

California Horse Racing Board

Vs.

Trainer William J. Delia

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CASE #19GG0089  
&  
CASE #19GG0110

INTRODUCTION

This matter came for hearing at Golden Gate Fields on January 7, 2020 before a Board of Stewards consisting of Mr. John Herbuveaux, Mr. Will Meyers and Mr. Dennis Nevin.

Present at the hearing was the Respondent, William J. Delia, and his attorney Jim Ghidella. Also in attendance was one of the owners of the horse Angelo's Pride Patricia George along with her husband Anthony George. Patricia George was also represented by attorney Ghidella. The ownership of the horse Angelo's Pride consisted of William J. Delia, Patricia George and Michael J. Stone. Mr. Stone was not in attendance. Dr. Kim Kuhlmann, D.V.M, Mr. Delia's attending veterinarian was present to act as Mr. Ghidella's expert witness.

Representing the California Horse Racing Board was Deputy Attorney General Michael Purcell and Supervising CHRB Investigator Louis Quezada who compiled the evidence in the case. Dr. Benjamin Moeller, Ph.D. of the University of California, Davis Maddy Laboratory was present to give testimony regarding the test results on the blood sample obtained from the horse Angelo's Pride. Sharyn Jolly and Amanda Brown, members of the California Horse Racing Board staff in Sacramento were present as observers. The proceedings were recorded by Christine Niccoli, C.S.R.

At the hearing the parties were allowed to introduce relevant exhibits, produce witnesses for examination and cross-examination and offer argument. Documentary evidence was submitted, oral testimony was heard, the hearing was then closed and the matter deemed submitted.

## BACKGROUND

The Respondent, William J. Delia (hereinafter Delia) was charged in complaint # 19GG0089, filed by CHRB Investigator Louis Quezada (hereinafter Quezada) with alleged violation of CHRB rules #1843 (a) & (d) (Medication, Drugs and Other Substances), #1843.1 (a) (Prohibited Drug Substances) and #1887 (Trainer or Owner to Insure Condition of Horse) of the California Code of Regulations, Title 4, Division 4. The complaint states in part:

*"The official Blood sample #GG33818 taken on March 28th, 2019 at Golden Gate Fields was reported to contain Xylazine (719 pg/ml). This sample was obtained from the horse Angelo's Pride which ran in the 7th race at Golden Gate Fields finishing 1st. The trainer of record is Mr. William John Delia. Xylazine in a horse's system at the time of the testing is a class 3, Penalty Class B violation"*

In a companion complaint, #19GG0110, Mr. Delia was charged, along with co-owners Patricia George and Michael Stone and jockey Silvio Amador with alleged violation of CHRB rule #1859.5 (Disqualification Upon Positive Test Finding) of the California Code of Regulations, Title 4, Division 4. The complaint states in part:

*"The official Blood sample #GG33818 taken on March 28th, 2019 at Golden Gate Fields was reported to contain Xylazine (719 pg/ml). This sample was obtained from the horse Angelo's Pride which ran in the 7th race at Golden Gate Fields finishing 1st. The trainer of record is Mr. William John Delia. Xylazine in a horse's system at the time of the testing is a class 3, Penalty Class B violation."*

*The purpose of this complaint is for Disqualification Purposes only."*

A hearing into both complaints was originally scheduled to be heard before a Board of Stewards on July 5, 2019 at the Alameda County Fairgrounds in Pleasanton, California. At that time a deficiency in notification protocols was discovered and the hearing was continued. Also on that date Patricia George, a part owner of Angelo's Pride, requested that a Lasix syringe used to treat the horse on the day of the race be tested by the California Horse Racing Board.

Since July 5, 2019 a scheduled hearing into the matter has been set and continued on numerous occasions for various reasons. On January 7, 2020 the hearing finally convened and all parties thereto agreed there was no reason why the matter should not be heard.

In a pre-hearing conference all parties agreed that both complaints would be heard on this date although there would be separate hearings for each of the complaints. While the hearing was being conducted into the disqualification of Angelo's Pride (Complaint #19GG0110) attorneys Purcell and Ghidella stipulated that, in the interests of brevity, the transcript for the hearing into the disqualification would be submitted as evidence for the Stewards' review in determining the culpability of Delia in the companion complaint, #19GG0089. The attorneys stipulated they would not present further evidence or testimony for complaint #19GG0089. For that hearing the Complaint packet and the Data packet from the Maddy Laboratory along with the transcript were received as evidence.

Following these hearings the Stewards determined there was, in fact, a prohibited substance (Xylazine) in test sample #GG33818, taken from the horse Angelo's Pride, on March 28, 2019 and issued ruling #18, dated January 10, 2020, disqualifying the horse from all purse monies and redistributing the purse pursuant to California Horse Racing Board rule #1859.5 (Disqualification Upon Positive Finding).

## EXHIBITS

### CHRB EXHIBITS FOR CASE #19GG0110:

- 1 Complaint Packet #19GG0110
- 2 Notice to Appear for George and Stone regarding complaint #19GG0110
- 3 Data Packet from University of California, Davis Equine Analytical Laboratory for Blood sample #GG33818.

**CHRB EXHIBITS FOR CASE #19GG0089:**

1. Complaint Packet for case #19GG0089
2. Data Packet from University of California, Davis Equine Analytical Laboratory for Blood sample #GG33818.  
  
Transcript from hearing #19GG0110

**FINDINGS OF FACT**

**I**

The horse Angelo's Pride started in and won the seventh race at Golden Gate Fields on March 28, 2019.

**II**

The trainer of record for the horse Angelo's Pride was William J. Delia.

**III**

Delia has been licensed as a trainer since 1985.

**IV**

The owners of record for Angelo's Pride are William J. Delia, Patricia George and Michael Stone.

**V**

Following the running of the seventh race at Golden Gate Fields on March 28, 2019 the horse Angelo's Pride was taken to the Test Barn located at Golden Gate Fields and blood sample #GG33818 was obtained from the horse.

**VI**

Blood sample #GG33818 was sent for analysis to the Maddy Equine Analytical Laboratory at the University of California, Davis, the official laboratory for the California Horse Racing Board.

**VII**

On April 12, 2019 Dr. Ben Moeller, Ph.D., Assistant Professor at the Equine Analytical Laboratory reported to Deborah Dugally, the Split Sample Custodian for the Board, that blood sample #GG33818 contained Xylazine at a concentration of 719 picograms per milliliter (pg/ml.).

**VIII**

On April 13, 2019 Board Investigator Louis Quezada received an e-mailed memorandum from Ms. Deborah Dugally that sample #GG33818 contained Xylazine at a level of 719 pg/ml.

**IX**

Pursuant to Board rule #1844 (f) (14) (Authorized Medication) a blood sample may contain Xylazine in an amount that does not exceed 200 picograms per milliliter.

**X**

The memorandum also stated that blood sample #GG33818 was obtained from the horse Angelo's Pride, winner of the seventh race at Golden Gate Fields on March 28, 2019 and that the trainer of record was Delia.

**XI**

On April 13, 2019 Quezada made contact with Delia, first telephonically and then personally at Delia's residence, to inform Delia of the positive test findings.

**XII**

Quezada informed Delia of his right to have the remaining blood split sample tested at a Board approved Equine Drug Testing Laboratory.

**XIII**

Delia stated that he was not sure at this time if he wanted to avail himself of the split sample testing program.

**XIV**

It was stipulated by Delia that no split sample request was made for sample #GG33818

**XV**

Delia stated that he had no idea how this (the positive test results) could have happened.

**XVI**

On April 18, 2019 Quezada received an e-mail memorandum from Deborah Dugally that the 72 hour time limit for Delia to request a split sample test had expired.

**XVII**

A hearing before the Board of Stewards was scheduled for July 5, 2019 at the Alameda County Fairgrounds in Pleasanton, California to address complaints #19GG0089 and #19GG0110.

**XVIII**

Complaint #19GG0110 concerned the disqualification of Angelo's Pride (alleged rule violation #1859.5) while complaint #19GG0089 dealt with Delia's role in the positive test finding (alleged rule violations #1843 (a) & (d), #1843.1 (a) and #1887 (a) ).

**XIX**

When the hearing was convened it was discovered that proper notification of the hearing was not made to owners Patricia George or Michael Stone. The hearing was then continued so that those parties could be served with proper notice of hearing.

**XX**

After the July 5, 2019 hearing was continued owner George requested that the needle and syringe used to administer the approved medication Lasix to Angelo's Pride on the day of the race be tested.

**XXI**

Lasix is permitted to be administered to authorized horses on race day, pursuant to Board rules, by independent veterinarians employed by the racing association.

**XXII**

According to a supplement report dated July 18, 2019, submitted by Board Investigator Jennifer Tolman (Exhibit 1), on April 13, 2019 she secured the Lasix needle and syringe used on Angelo's Pride prior to the seventh race on March 28, 2019.

**XXIII**

On July 11, 2019 Tolman transported the needle and syringe to Board Headquarters in Sacramento, California and gave it to Split Sample Custodian Deborah Dugally. The needle and syringe was subsequently sent to the Maddy Laboratory in Davis for analysis.

**XXIV**

In a letter to Investigator Tolman, dated September 11, 2019, Dr. Moeller of the Maddy Laboratory, reported that the Lasix syringe with needle attached was analyzed using Liquid Chromatography - Mass Spectrometry and a trace level of Xylazine was detected below 10 picograms per milliliter.

**XXV**

Hearings into the matter were then scheduled for November 8, 2019, and December 11, 2019 and each one was continued until the instant hearing convened on January 7, 2020.

**XXVI**

At the hearing Dr. Moeller testified that sample #GG33818 tested positive for Xylazine at a level of 719 pg/ml.

**XXVII**

The board allowed threshold for Xylazine is 200 pg/ml.

**XXVIII**

Moeller testified that a small amount of Xylazine was detected in the syringe and that was quantified at a level below 10 pg/ml.

**XXIX**

Moeller stated that no metabolites of Xylazine were detected in the sample taken from the syringe because the sample was too small for the lab's instruments to detect hydroxylated metabolites.

**XXX**

Moeller testified that in his opinion the Xylazine detected in the syringe was most likely the result of the injection process when Angelo's Pride received a lasix shot approximately four hours prior to the race on March 29, 2019.

**XXXI**

Moeller stated that normal procedure for an intravenous lasix injection would require the needle to be inserted in the vein located in the horse's neck and the plunger would then be retracted to draw blood into the syringe thus insuring that the needle was in a vein.

**XXXII**

In Moeller's estimation the Xylazine found in the syringe was present in the syringe because Angelo's Pride had Xylazine in his blood system prior to the Lasix injection and it was transferred to the syringe when the plunger was drawn back and the Lasix then injected

**XXXIII**

Moeller stated that the transfer of a substance from the blood stream to a syringe would occur anytime the blood is pulled back into the syringe prior to an injection.

**XXXIV**

Moeller testified that this type of transfer would be consistent with the low level of Xylazine found in the syringe.

**XXXV**

In Moeller's opinion if the Lasix syringe had been contaminated with Xylazine prior to the Lasix injection then the test results from the syringe would have been one million to ten million times higher.

**XXXVI**

Moeller stated that Angelo's Pride had Lasix in it's system when the original samples were tested so he concluded that Lasix was administered to the horse prior to the race on March 28, 2019 and that the syringe used in the Lasix injection did not contain just Xylazine.

**XXXVII**

Moeller testified that he did not test for Lasix in the Lasix syringe because it was not requested.

**XXXVIII**

Under cross examination by Delia, Moeller testified that on September 11, 2019, he sent a report to the Board stating that the Lasix syringe contained a trace amount (under 10 picograms per milliliter) of Xylazine.

**XXXIX**

Dr. Moeller stated that the data packet generated by the Maddy laboratory's analysis of the Lasix syringe was not forwarded to the Board because the Board did not request the data.

**XL**

Delia stated that he requested all data in the Board's possession produced by the Maddy lab's analysis of the Lasix syringe be provided to him and the September 11, 2019 letter from Dr. Moeller was all that he received.

**XLI**

Dr. Kim Kuhlmann, Delia's attending veterinarian, testified that if Angelo's Pride had Xylazine in it's system prior to the Lasix injection then Xylazine metabolites should have been present in the Lasix syringe.

**XLII**

Kuhlmann stated that since only the parent drug, Xylazine, and not the metabolites of Xylazine, were found in the Lasix syringe the Xylazine present in the syringe had not been in the horse's system because that is where metabolism occurs.

**XLIII**

Dr. Kuhlmann testified that he conducted an experiment to mimic the conditions experienced by Angelo's Pride on the day of the race.

**XLIV**

Kuhlmann obtained blood samples from a subject horse and forwarded them to the Maddy lab for analysis but that analysis was eventually refused by the lab until Kuhlmann obtained permission from the Board to allow the lab to analyze the samples.

**XLV**

Moeller testified that the lab had received a directive from the Board stating that licensees of the Board were not permitted to submit samples to the lab for analysis without Board permission.

**XLVI**

Moeller testified that the reason Board permission was required of licensees was for security purposes regarding the testing protocols of samples.

**XLVII**

The Board wanted to protect the analysis of samples submitted by individuals who may wish to circumvent the rules.

**XLVIII**

Kuhlmann testified that after the lab refused to analyze the samples he had submitted he did not seek the permission of the Board to have the samples analyzed.

**CALIFORNIA HORSE RACING BOARD RULES**  
California Code of Regulations, Title 4, Division 4

California Horse Racing Board rule 1843 states:

**MEDICATION, DRUGS AND OTHER SUBSTANCES.**

It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:

(a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.

(b) No drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided in these rules.

(c) No person other than a licensed veterinarian or animal health technician shall have in his/her possession any drug substance which can be administered to a horse, except such drug substance prescribed by a licensed veterinarian for a specific existing condition of a horse and which is properly labeled.

(d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal anti-inflammatory drug substance or a finding of a drug substance in excess of the limits established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered the horse.

California Horse Racing Board rule 1843.1 states:

#### **PROHIBITED DRUG SUBSTANCES**

For the purposes of this division, prohibited drug substances means:

- (a) any drug substance, medication or chemical foreign to the horse, whether natural or synthetic, or a metabolite or analog thereof, whose use is not expressly authorized in this article.
- (b) any drug substance, medication or chemical authorized by this article in excess of the authorized level or other restrictions as set forth in this article.

California Horse Racing Board rule 1859.5 states:

#### **DISQUALIFICATION UPON POSITIVE TEST FINDING**

A finding by the stewards that an official test sample from a horse participating in any race contained a prohibited substance as defined in this article, which is determined to be in class levels 1-3 under Rule 1843.2 of this division, unless a split sample tested by the owner or trainer under Rule 1859.25 of this division fails to confirm the presence of the prohibited drug substance determined to be in class levels 1-3, shall require disqualification of the horse from the race in which it participated and forfeiture any purse, award, prize or record for the race, and the horse shall be deemed unplaced in that race. Disqualification shall occur regardless of culpability for the condition of the horse.

California Horse Racing Board rule 1887(a) states:

#### **TRAINER OR OWNER TO INSURE CONDITION OF HORSE.**

- (a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of the urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off. The owner of a ship-in horse is the joint-absolute insurer of and is equally responsible for the condition of the horse entered in a race.
- (b) A ship-in horse is defined as any horse entered to race that has not been in the care of a Board-licensed trainer for seven consecutive calendar days prior to the day of the race for which it is entered.
- (c) Notwithstanding the above, if the Board or its agents fail to notify a trainer or the owner of a ship-in horse of a potential positive test within 21 calendar days from the date the sample was taken, the trainer or the owner of a ship-in horse shall not be deemed responsible under this rule unless it is shown by the preponderance of the evidence that the trainer or the owner of a ship-in horse administered the drug or other prohibited substance defined in rule 1843.1 of this division, caused the administration or had knowledge of the administration.

## DISCUSSION

As mentioned earlier in the background section of the statement the Stewards determined there was a positive test finding in that the test sample taken from Angelo's Pride contained Xylazine (Class 3) and the Stewards did disqualify the horse pursuant to Board rule #1859.5. Therefore this discussion will concern itself with complaint #19GG0089 and the responsibility of trainer Delia with respect to violations of rules #1843, #1843.1 and #1887 (a).

Rule #1887, the trainer insurer rule, comes into play because Delia, as the trainer of record, is ultimately responsible for the condition of any horse he entered to race, regardless of the acts of third parties. In the instant case there was no smoking gun which would point the finger at any one person or any particular action that would cause a positive test for Xylazine. There are possible explanations that could explain the presence of Xylazine but they fall into the category of theory or speculation rather than fact. Without definitive proof as to how the substance came to be present in the test sample Delia must then be held accountable for the positive test.

With the certainty that Xylazine was present in the test sample it falls easily into place that rules #1843 (a) & (d) and #1843.1 were violated. The finding that the sample contained 719 pg/ml of Xylazine is a violation because it exceeded the 200 pg/ml threshold level established by Board rule. The substance is foreign to the horse, in excess of the permitted level and therefore not authorized by the rules.

There are penalty guidelines in the Board rules and the Stewards must consider these guidelines when contemplating a penalty for violation of the medication rules. The rules also call for the Stewards to consider mitigating and aggravating circumstances before imposing any penalty.

In this case the Stewards find that of the eleven circumstances listed in the rules three could be considered mitigating and eight are not applicable.

The three that could mitigate a penalty are the fact that Delia has an exemplary medication record. In the thirty five years he has been training he has virtually no penalties for violations. Also the potential of the drug to influence is the opposite of what occurred. Xylazine is a sedative not a substance that would encourage a horse to race faster and yet Angelo's Pride won the race. The size of the purse also discounts the possibility that this was done intentionally as there was no great financial incentive to risk the possible penalties.

In the not-applicable category there was no evidence presented that the owners played any part in positive test finding. The steps taken by Delia to protect the horse were not extraordinary nor were they lax. The availability of the substance is such that a licensed veterinarian or physician needs to prescribe the medication. There was no evidence produced that it is easily available. Outside or environmental contamination did not occur as the substance would need to be intentionally administered. The Xylazine was not prescribed by any veterinarian and Delia was not acting on the advice of a veterinarian. There was no evidence submitted concerning suspicious wagering patterns.

However, other evidence and testimony gathered at the hearing comes into play when considering a severity of the penalty. Such considerations do not fall neatly into the factual category but rather deal with theories and speculation that was mentioned earlier. Chief among these is the phenomenon known as "drawback" or "pullback".

The testimony provided by Dr. Moeller stated that the blood sample taken from Angelo's Pride on March 28, 2019 contained Xylazine at 719 pg/ml. He also stated that the Lasix syringe he tested showed a minute amount of Xylazine. In his opinion the presence of Xylazine in the syringe was a result of drawback when the Lasix was administered to Angelo's Pride.

Dr. Kuhlmann testified that he would agree with Moeller's opinion if there had been hydrolyzed metabolites of Xylazine present in the sample taken from the syringe. Moeller stated the syringe sample was too small to detect such metabolites. Although all agree Xylazine was present in the horse's blood system how it came to be there is still subject to speculation. It could have been administered intentionally by someone, administered accidentally or could have come from a Lasix syringe that contained the substance.

Another factor to be considered concerned Dr. Kuhlmann's attempt/experiment at duplicating the conditions surrounding the Lasix shot given to Angelo's Pride, then drawing blood from a subject horse and forwarding the blood to the

Maddy Lab for analysis. Kuhlmann was attempting to discover if the metabolites in the blood from the Lasix syringe could be detected if the sample were larger.

That analysis was never conducted as the lab was restricted from doing so by previously established protocols between the lab and the Board. Testimony was presented that the protocols were in place to prevent unscrupulous people from circumventing the Board's rules and that the analysis could have been allowed if Kuhlmann had obtained permission from the Board. Kuhlmann stated that he did not ask the Board for that permission after his request was initially refused.

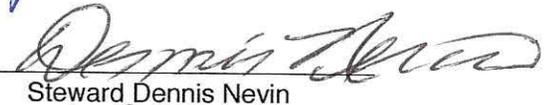
During the course of the hearing mention was made of the data packet prepared by the Maddy Lab when the Lasix syringe was tested by that facility. Delia argued that he asked for all documents in the Board's possession concerning the testing of the Lasix syringe and the data packet was not produced. Dr. Moeller testified that a data packet was produced for the test results of the syringe but he sent a letter to the Board stating the results of the tests on the syringe rather than forward the data packet. Moeller testified the Board never requested a copy of the data packet. Delia argued this process was unfair to his defense.

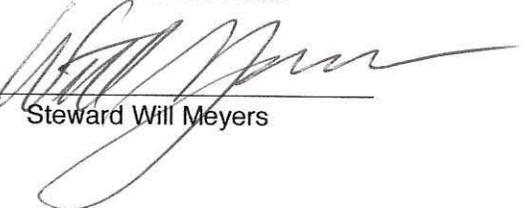
Considering all the facts, evidence and testimony the Stewards recommend the following:

### PROPOSED DECISION

Trainer William J. Delia, who started the horse Angelo's Pride, winner of the seventh race at Golden Gate Fields on March 28, 2019 is hereby suspended Fifteen (15) days and fined the sum of Three Thousand Dollars dollars (\$3000.00) 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) & (d) (Medication, Drugs and Other Substances; Xylazine, in excess of the permitted level - 719 pg/ml [Class 3] ) and #1843.1 (Prohibited Drug Substances).

  
Steward John B. Herbuveaux

  
Steward Dennis Nevin

  
Steward Will Meyers

Dated: February 7, 2020

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