

**BEFORE THE HORSE RACING BOARD**

**STATE OF CALIFORNIA**

In the Matter of the Appeal from the  
Board of Stewards Official Ruling #022,  
Santa Anita, dated October 8, 2018

Case No. SAC 18-0037

**MATT GARCIA**  
**CHRB License #222955**  
**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 shall become effective on August 26, 2019.

IT IS SO ORDERED ON August 22, 2019.

CALIFORNIA HORSE RACING BOARD  
Chuck Winner, Chairman



Rick Baedeker  
Executive Director

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CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA

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|--|---|----------------------|
| In the Matter of:                          | ) |                      |
|  | ) |                      |
| Appeal of the Board of Stewards Official   | ) |                      |
| Ruling #022, Santa Anita, dated October 8, | ) |                      |
| 2018                                       | ) | Case No. SAC 18-0037 |
|  | ) |                      |
| <b>MATT GARCIA</b>                         | ) |                      |
| <b>CHRB License #222955</b>                | ) |                      |
| _____                                      | ) |                      |

**PROPOSED DECISION**

This matter was heard by written brief from May 28, 2019 to July 2, 2019 by C. Scott Chaney, a Hearing Officer designated under California Horse Racing Board rule 1414 (Appointment of Referee) in Los Angeles County, California.

The Appellant, Matt Garcia (hereinafter "Garcia") represented himself.

The California Horse Racing Board (hereinafter "CHRB" or "Respondent") was represented by CHRB Staff Counsel Robert Brodnik.

PROCEDURAL BACKGROUND

On October 7, 2018, the Board of Stewards at Santa Anita Race Track held a formal hearing into case numbers 18DM0075 and 18DM0076 which were complaints filed against Jockeys Matt Garcia and Tiago Pereira (hereinafter "Periera"), respectively. These complaints were combined because they involved common issues of law and fact. In fact, each complaint alleged a violation of CHRB rule 1876 (Disorderly Conduct) for an incident involving an altercation between the two licensees. After conducting the hearing, and careful consideration, the Board of Stewards at Santa Anita published rulings fining each of the jockeys two hundred dollars on October 8, 2018. Jockey Matt Garcia appealed the ruling and requested a stay of its imposition. The stay was denied and the appeal is the being heard here. Both parties requested a hearing by brief, which was granted and a briefing schedule established. Appellant's Brief, Respondent's Brief and Appellant's Response Brief were entered into evidence with other documentary evidence. The record was closed on July 3, 2019 and the matter deemed submitted.

## LIST OF EXHIBITS

*Appellant Exhibit #1* – Opening Brief submitted May 28, 2019.

*Appellant Exhibit #2* – Response Brief submitted July 2, 2019.

*Appellant Exhibit #2* – San Diego County Sheriff’s Report, Public Records Request, Victim Copy.

*Respondent Exhibit #1* – Case packet including Table of Contents and (1) Order Denying Stay dated October 10, 2018; (2) Appeal and Stay Request from Appellant; (3) Board of Stewards’ Official Ruling #022 dated October 8, 2018; (4) Board of Stewards’ Minutes – October 4, 2018-October 8, 2018; (5) Statement of Decision dated November 4, 2018; (6) Transcript of Hearing; (7) Exhibit 1 – Matthew Garcia’s Statement; (8) Exhibit A – Complaint Packet against Matthew Garcia., Case number 18DM0075; and (9) Exhibit B – Complaint packet against Tiago Pereira, Case number 18DM0076.

*Respondent Exhibit #2* – Respondent’s Brief submitted June 16, 2019.

## FACTUAL FINDINGS

### I

At all times herein mentioned, Matt Garcia was licensed by the CHRB in the license category of jockey.

### II

On September 3, 2018 an incident took place between Appellant and jockey Tiago Pereira on the grounds of Santa Anita Race Track.

### III

On October 7, 2018, the Santa Anita Board of Stewards held a hearing into a complaint (case number 18DM0075) which was filed against Mr. Garcia by the CHRB. (At the same time, the Board of Stewards addressed a complaint against Mr. Pereira). Both complaints alleged violation of CHRB Rule 1874 (Disorderly Conduct).

### IV

On October 8, 2018, the Board of Stewards published a ruling fining Mr. Garcia two hundred dollars for what it determined to be a violation of CHRB rule 1874.

### V

Mr. Garcia appealed LATC Ruling #022 dated October 8, 2018, setting forth several grounds for said appeal.

## APPLICABLE LAWS AND REGULATIONS

### **California Horse Racing Board rule 1874. Disorderly Conduct.**

No licensee, shall be under the influence of any alcoholic beverage, and/or any illegal substance while performing their respective duties while within the inclosure [sic] of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board—approved training facility. Nor shall any licensee conduct themselves in a disorderly or boisterous manner at any time while within the inclosure [sic] of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board—approved training facility including but not limited to:

1. Fighting;
2. Threatening, abusive or aggressive behavior toward another person;
3. Any behavior that impedes others from performing their duties; and/or
4. Any other behavior that is detrimental to the public and racing.

NOTE: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19460 and 19580, Business and Professions Code. HISTORY: 1. New rule filed 1-9-06; effective 2-8-06.

### **Horse Racing Law, Division 8, Chapter 4, Business and Professions Code, Section 19517**

(a) The board, upon due consideration, may overrule any steward's decision other than a decision to disqualify a horse due to a foul or a riding or driving infraction in a race, if a preponderance of the evidence indicates any of the following:

- (1) The steward mistakenly interpreted the law.
- (2) New evidence of a convincing nature is produced.
- (3) The best interests of racing and the state may be better served.

(b) However, any decision pertaining to the finish of a race, as used for purposes of pari-mutuel fund distribution to winning ticketholders, may not be overruled. Furthermore, any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the board by one of the involved owners or trainers, and a preponderance of the evidence clearly indicates to the board that one or more of the grounds for protest, as outlined in regulations adopted by the board, has been substantiated. The chairperson of the board may issue a stay of execution pending appeal from the steward's decision if the facts justify the action.

## DISCUSSION OF ISSUES

California Business & Professions Code section 19517 states that a stewards' decision may be overruled by the Board on appeal "if a preponderance of the evidence indicates any of the following: (1) The steward mistakenly interpreted the law. (2) New evidence of a convincing nature is produced. (3) The best interest of racing and the state may be served." Appellant alleged three grounds (with subsections) for appeal, each of which will be examined here.

The first ground for appeal was that Appellant did not violate rule 1874 (Disorderly Conduct) and points out several pieces of evidence to support that fact. None of this evidence was new, so presumably Appellant is arguing that the Board of Stewards mistakenly interpreted the law. Unfortunately, Mr. Garcia is actually arguing that the Board of Stewards mistakenly interpreted the facts at hearing. This is not a ground for appeal under the Business & Professions Code and more importantly not a task for an appellate body. This hearing is not *de novo* and therefore an interpretation of the facts at hearing is not appropriate, much less permitted. The trier of fact in this matter was the Board of Stewards, and it determined that the facts indicated that Appellant had violated the regulation.

The second ground for appeal was a procedural or due process argument. Appellant alleged that at hearing, the other licensee who was involved in the altercation, jockey Tiago Pereira, whose first language is Portuguese, did not have a certified translator to ensure an accurate translation. The transcript of the hearing indicates that at times Mr. Pereira spoke English and, at times, the Safety Steward, Luis Jauregui provided a translation. As Respondent correctly argues, California Government Code requires certain state agencies to use certified translators in administrative adjudications, and the CHRB is not one of those agencies. A review of the record and transcript indicates that Mr. Pereira's testimony was understandable and if anything, he would been in a position to request a certified translation should he not understand what was happening during the hearing. Mr. Pereira did not make such a request and the Board of Stewards was satisfied with the evidence and testimony they received at the hearing. Therefore, this reason for appeal does not reach the level – best interests of state or racing – necessary to be sustained.

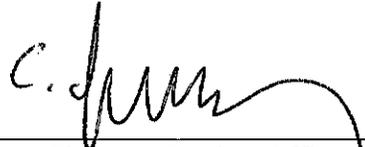
Lastly, Appellant presented a police report regarding the altercation as "new evidence of a convincing nature." While it is certainly new because it was not presented at hearing, it suffers from two infirmities. First, this document could have been produced at hearing and therefore does not qualify under this ground for appeal. Implicit in the language of the Government Code is the idea that new evidence must not have been presentable at the time of hearing. To wit, the evidence must be new to existence or unobtainable at the time of hearing, not additional evidence that was not put forth at hearing. Secondly, the evidence must be convincing. This police report is simply another report of the incident and not as good as direct testimony under the penalty of perjury presented at hearing. Therefore, the evidence presented was neither new nor convincing and does not qualify as a ground for appeal.

In summary, none of the grounds for appeal put forward by the Appellant meet the preponderance of evidence standard for sustaining the appeal and therefore it must be dismissed.

CONCLUSION/PROPOSED DECISION

Given all of the foregoing, it is recommended that the appeal of LATC Ruling #022 against Matt Garcia dated October 8, 2018 published at Santa Anita be denied and the Stewards' decision upheld.

DATED: July 28, 2019.

A handwritten signature in black ink, appearing to read "C. Chaney", written over a horizontal line.

C. Scott Chaney, Hearing Officer