

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JOSE CAMACHO
CHRB License #312526
Respondent

CHRB Case #14LA0111

DECISION

The attached Proposed Decision is 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 setting the days of the thirty (30) day suspension and payment of the two thousand dollar (\$2000.00) fine.

IT IS SO ORDERED ON July 18, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Filed Against:

JOSE CAMACHO
Owner
CHRB License #312526

CHRB Case No. 14 LA 0111

(PROPOSED) FINDINGS OF
FACT AND DECISION

COMES NOW DANIEL Q. SCHIFFER, Hearing Officer, appointed to hear the above case and presents his (Proposed) Findings of Fact and Decision, as follows:

On or about May 1, 2014 The California Horse Racing Board (CHRB) filed a Complaint (Exhibit "1", page 2) against JOSE CAMACHO for violation of CHRB Rules 1843(a,b&d), 1843.3(h), and 1887(a) for an offense that occurred on March 28, 2014, as follows:

Official urine sample #LA25528 taken on 3/28/2014 at Los Alamitos from horse, "WEATHER WOMAN" contained Clenbuterol (267 pg/ml), a Class 3 prohibited drug substance, Penalty Class B. "WEATHER WOMAN" ran in the 4th race finishing 2nd. Roberto Dominguez is the trainer of record. J. Camacho owns the horse & cares for it at his ranch.

Pursuant to Business and Professions Code, sec. 19517.5(a), Mr. Camacho elected to have his case heard by a hearing officer (Exhibit "1", page 23) and Daniel Q. Schiffer was appointed by the CHRB for that purpose.

A hearing was commenced on May 22, 2014, pursuant to Notice, but was continued, at Mr. Camacho's request, to May 23, 2014. The hearing was re-commenced at 10:00 a.m., on May 23, 2014, in the Executive Meeting Room at Los Alamitos Race Track, Los Alamitos CA. The hearing was transcribed by Michelle E. Derieg, Weinstein Court Reporters. Present at the hearing were CHRB Los Alamitos Investigative Supervisor, Thomas Blake, CHRB Investigator Kevin Katashima and Respondent Jose Camacho.

The following witnesses were duly sworn and gave testimony:

KEVIN KATASHIMA:

1. Jose Camacho is an owner licensed by the CHRB bearing owner's license # 312526- 8/2016. (Exhibit "1", at page 35)

2. On March 28, 2014, Mr. Camacho was the owner of the horse named "Weather Woman" (Exhibit "1", page 13) which ran in the fourth (4th) race at Los Alamitos Race Track finishing second (2nd) (Exhibit "1", page 15).

3. On April 11, 2014, CHRB Investigators received Notice that "Weather Woman" had tested positive for Clenbuterol (Urine Sample # LA 25528 / 267 pg/ml) (Exhibit "1", page 7,8).

4. On April 13, 2014, CHRB Investigators had a telephone conversation with Mr. Camacho wherein Mr. Camacho admitted: "he had no idea how "Weather Woman" could have gotten the Clenbuterol as he cares for the horse at the ranch and does not use Clenbuterol there. Mr. Camacho stated that he takes full responsibility for the problem as he knows that trainer (of record) Dominguez only received the horse the day prior to the race." (Exhibit "1", page 6). Mr Camacho was also given information about his right to obtain a split sample of the test and concerning the disqualification procedures. (Exhibit "1", page 10).

5. On April 25, 2014, CHRB Investigators received the completed declaration forms from Receiving Barn Sample Custodian Peggy Lighthill (Exhibit "1", page 37) and Tester Jose Esparza (Exhibit "1", page 38)

stating that there were no deviations from the normal post race testing procedures performed on "Weather Woman." (Exhibit "1", pages 30-31).

6. Los Alamitos Race Track Arrival/ Departure records verify that the horse "Weather Woman" was transported onto the racing enclosure on March 27, 2014, and departed the enclosure on March 29, 2014. (Exhibit "1", page 29).

7. The CHRB Investigative Report #14LA0111, marked as Exhibit "1" (38 pages) for purposes of this hearing, was duly authenticated by Investigator Katashima, reviewed by Mr. Camacho, and admitted into evidence without objection.

JOSE CAMACHO:

1. Mr. Camacho admitted that he owned the horse "Weather Woman" and kept the horse at his ranch. He brought the horse to trainer Roberto Dominguez to run at Los Alamitos Race Track.

2. Mr. Camacho stated that he is aware of the rules and regulations of the CHRB and takes full responsibility for Clenbuterol being present in the horse "Weather Woman"; although he does not know how that substance came to be present in the horse. He further stated that he did not want to put trainer Dominguez into this position.

FINDINGS OF FACT:

1. CHRB Owner Licensee Jose Camacho was the owner of a certain horse, named "Weather Woman"; which horse was under the care of Mr. Camacho at his farm and was transported from his farm to Los Alamitos Race Track on March 27, 2014, when the horse was shipped to the barn of trainer Roberto Dominguez to race.

2. "Weather Woman" competed in the fourth (4th) race at Los Alamitos Race Track on March 28, 2014, finishing second (2nd).

3. Post race samples of the urine and blood from "Weather Woman" were duly drawn and transported from Los Alamitos Race Track to the

University of California, Davis, where testing was conducted by the Equine Analytical Chemistry Laboratory.

4. Test samples detected and confirmed that the urine of "Weather Woman" contained 267 picograms per millimeter of Clenbuterol.

DECISION:

Respondent Jose Camacho, a licensed owner (#312525-8.2016) was the owner of the horse named "Weather Woman" which competed in the fourth (4th) race at Los Alamitos Race Course on March 28, 2014, finishing second. Post race urine samples detected and confirmed the presence of 267 picograms per millimeter of Clenbuterol, a prohibited substance.

"Weather Woman" had been in the possession of Mr. Camacho up until March 27, 2014, when the horse was shipped to the barn of trainer Roberto Dominguez to race.

Based on the amount of Clenbuterol found in the post race sample it could only have been administered while in the possession of Mr. Camacho.

Therefore the Hearing Officer finds that the CHRB Complaint against owner Jose Camacho for violation of CHRB Rules 1843(a & b), 1843.3(h) & 1887(a) have been proven. CHRB Rule 1843(d) has not been proven because there was no showing that at the time of the administration of the prohibited substance, owner Mr. Camacho was the agent of trainer Roberto Dominguez and therefore, as to this accusation, the Hearing Officer finds in favor of Mr. Camacho.

PENALTIES:

Rule 1843.3(d) sets forth minimum penalties for an owner of a horse which tests positive for a Class Three substance (which includes Clenbuterol). These are stated in Category "B" Penalties. Therefore, this being Mr. Camacho's first violation, it is mandatory that "Weather Woman" be disqualified and Mr. Camacho shall lose all purse moneys earned AND "Weather Woman" must pass a Board approved examination pursuant to

Rule 1846 before becoming eligible to be entered AND be subject to drug testing at Mr. Camacho's expense and be negative for prohibited drug substances as defined in Rule 1843.1.

In addition Rule 1843.3(h) provides that any licensee found to be responsible for the administration of any drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer. Since the substance was administered while at Mr. Camacho's farm, this case requires application of this Rule.

Therefore Mr. Camacho is subject for the first offense penalties stated in Rule 1843.3(d) (Category "B" Penalties) of minimum 30 day suspension absent mitigating circumstances. The presence of aggravating circumstances could be used to impose a maximum of a 60-day suspension. AND/OR minimum fine of \$500 absent mitigating circumstances. The presence of aggravating circumstances could be used to impose a maximum fine of \$10,000.

Pursuant to Rule 1843.3(b), the Hearing Officer considers the following mitigating circumstances and aggravating factors:

- 1) Prior violations: This is Mr. Camacho's first violation and is therefore a mitigating factor.
- 2) The potential influence of the drug: While Clenbuterol is clearly a very beneficial and therapeutic drug its steroidal potential has caused the CHRB to prohibit its presence in post race testing. Test results, such as were found in this instance, indicate that the drug was administered inside the 21 day withdrawal period that the CHRB recommends to avoid a positive test result. This is an aggravating factor.
- 3) Legal availability of the drug: Ventipullum is licensed by the FDA for use in horses. This is a mitigating factor.
- 4) Knowledge or intentional of administration of drug: Mr. Camacho denied knowledge or intentional administration of the drug. He could not explain how the substance came to be present in the horse. This is an aggravating factor.
- 5) Steps taken to safeguard the horse: Mr. Camacho presented no testimony of security he used to insure that the horse would be

safeguarded. He could not show that he took reasonable precautions to safeguard against the administration of the substance to the horse. Since the horse was housed on a farm, and outside the racing enclosure, it is reasonable to conclude that there was little or no security in place. This is an aggravating factor.

- 6) Subsequent steps: This is not a factor.
- 7) Environmental contamination: This is not a factor.
- 8) The purse: The purse was \$5770. "Weather Woman" was claimed by Mr. Camacho four races prior for \$6,250 and had yet to win (running third in each subsequent race). She was entered for \$3,200 in the race in question so winning the purse would have made a substantial difference to Mr. Camacho's bottom line. This is an aggravating factor.
- 9) Reported drug: No. Neutral factor.
- 10) Suspicious wagering pattern: No evidence presented. Neutral factor.
- 11) Acting under advise of licensed veterinarian: No evidence presented. This is an aggravating factor.

Based on the foregoing it is the Hearing Officer's conclusion that the the aggravating factors stated in factors # 4, 5, 8 & 11 demonstrate a need to deviate from the minimum penalties stated in Rule 1843.3(d). It is unfair to the horses, wagering public and other participants when owners, who house race horses outside of the racing enclosure, keep those horses in settings where there is little or no security and/or allows for the use of prohibited substances, such as Clenbuterol, outside the auspices of a licensed veterinarian or other oversight. Therefore it is recommended that the following penalties be assessed to Mr. Camacho:

- 1.) "Weather Woman" is disqualified from the fourth (4th) race at Los Alamitos Race Track on March 28, 2014, and Mr. Camacho shall lose all purse moneys earned;
- 2.) "Weather Woman" must pass a Board approved examination pursuant to Rule 1846 before becoming eligible to be entered;
- 3.) "Weather Woman" is subject to drug testing at Mr. Camacho's expense and shall be negative for prohibited drug substances as defined in Rule 1843.1;

- 4.) Mr. Camacho shall serve a 30 day suspension on dates to be determined and ordered by the Los Alamitos Stewards; and
- 5.) Mr. Camacho shall be fined the sum of \$2,000.00 to be paid pursuant to order of the Los Alamitos Stewards.

Respectfully Submitted,



DANIEL Q. SCHIFFER
CHRB HEARING OFFICER

June 3, 2014

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