

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JORGE FARIAS
CHRB License #276060
Respondent

CHRB Case #14LA0205

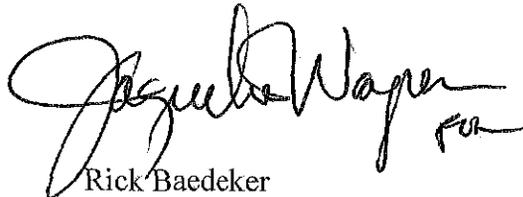
DECISION

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 for payment of the five thousand dollar (\$5000.00) fine and setting the one hundred and eighty (180) day suspension.

IT IS SO ORDERED ON November 20, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman

A handwritten signature in black ink, appearing to read "Rick Baedeker", with a small "RB" monogram to the right.

Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint/Accusation
against:

JORGE FARIAS,
Respondent

License Type: Trainer
License No. 276060-06/2016

Case No. 14LA0205

PROPOSED DECISION

INTRODUCTION

This matter was heard on September 27, 2014 before the Board of Stewards, George Slender, Ruben Moreno, and James Dreyer, in the Los Alamitos Stewards' Office.

Present at the hearing was the Respondent, Trainer Jorge Farias, Investigator Kevin Kitashima, Stable Agent Jose Alonso, Supervising Investigator Tom Blake, Stewards George Slender, Ruben Moreno, James Dreyer, and Safety Steward Randy Winick. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Trainer Jorge Farias was the trainer of record for the horse "Ima Fire Lover," who started in the second race at Los Alamitos Race Course on August 16, 2014. On August 28, 2014, Sacramento Headquarters emailed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Ima Fire Lover" (Urine Sample #LA26496) tested positive for the class III prohibited drug zilpaterol after finishing second in the second race on August 16, 2014. Trainer Farias was notified of the positive on August 28, 2014, and a barn inspection found no further violations. Both Trainer Farias and Owner Villalobos declined to submit the split sample to be tested.

LIST OF EXHIBITS

Complainant / State California Horse Racing Board Complaint #14LA0205

Respondent / Defendant No documents submitted

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 "Ima Fire Lover" when it raced in the second race on August 16, 2014 at Los Alamitos Race Course. "Ima Fire Lover" finished second in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA26496) was taken from "Ima Fire Lover" 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 of the California Horse Racing Board. 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 #LA26496 from "Ima Fire Lover" was uninterrupted.

V.

After analyzing the sample, Maddy Laboratory reported a finding of the prohibited drug, zilpaterol, a class III substance, in the sample.

VI.

On August 28, 2014, Trainer Jorge Farias was notified that "Ima Fire Lover" had tested positive for zilpaterol.

APPLICABLE RULES

- California Horse Racing Board Rules:
 - 1887 (Trainer to Insure Condition of Horse)
 - 1843 (Medication, Drugs and Other Substances)
 - 1902 (Conduct Detrimental to Horse Racing)
 - 1859.5 (Disqualification Upon Positive Test Finding)

DISCUSSION

Initially, it was explained to Trainer Jorge Farias that, in addition to this hearing concerning the positive test for zilpaterol, the Stewards would also disqualify the horse in question, "Ima Fire Lover," as all class I, II, and III medication violations are required to be disqualified under California Horse Racing Board Rule #1859.5 (Disqualification Upon Positive Test Finding). The disqualification was memorialized in Ruling #169 of the Los Alamitos Quarter Horse Racing Association, which also contained a provision for the purse redistribution of all monies earned by the connections of "Ima Fire Lover," the second place finisher in the second race at Los Alamitos Race Course on August 16, 2014. The owner of record, George Villalobos, and Trainer Jorge Farias declined to have the split sample tested.

Trainer Jorge Farias represented himself in these proceedings, and Owner George Villalobos did not attend the hearing. Trainer Farias testified that the first time he saw "Ima Fire Lover" was when he shipped in for the race. Arrival and departure slips confirm the horse arrived the day prior to the race and left the evening following the race. Farias stated he had never met the owner, and this was confirmed in a telephone conversation with Owner Villalobos when he told investigators he did not know who Jorge Farias was. He stated that Stable Agent Jose Alonso trained "Ima Fire Lover" and handled all of the pertinent business concerning the gelding.

Farias testified that he was contacted by Stable Agent Alonso and asked to take "Ima Fire Lover" and run him in his name even though he had been warned by Director of Racing Ronald Church about the risks of taking ship-in horses. This was the first horse he had taken for either Stable Agent Alonso or Owner Villalobos.

Investigators interviewed Trainer Farias during the positive test notification. He stated he does not use zilpaterol in his barn or on his horses nor does he possess any. No zilpaterol was found at the barn. Two feed samples were collected from barrels with sweet feed, and a sample from a Calf-Manna bag in the presence of Farias. All samples tested negative for any drugs. Mr. Alonso also brought feed samples from the ranch, which also tested negative. It should be noted, however, that Stable Agent Alonso delivered the samples so their origin could be questionable.

Stable Agent Alonso also testified that he had been feeding "Ima Fire Lover" a "green liquid" which had been purchased from a "guy" selling feed supplements. He was advised by the "guy" to stop feeding the "green liquid" two weeks prior to a race and there should be no problems. This should have raised a red flag. Alonso surrendered the "green liquid" and, when tested, it was a positive for Clenbuterol. "Ima Fire Lover" tested negative for Clenbuterol.

Before arriving at a penalty, any mitigating and/or aggravating factors must be considered and

discussed by this Board of Stewards. Trainer Farias was suspended for one year for a possession of an electrical device but has no medication violations during his rather short tenure as a trainer. There is no direct evidence that he gave zilpaterol or any feed supplement containing zilpaterol to this horse in the twenty-four hours he was in his custody, and he took appropriate steps to protect the horse once he had him. It should also be noted that if Trainer Farias was negligent in any area, it was that he did not insure that the horse was under his care and custody for a longer period of time. It appears he is guiltier of very poor judgment rather than any malicious intent. Rule #1887 (Trainer to Insure Condition of Horse) is very specific that the trainer is the absolute insurer for the condition of a horse in a race regardless of the acts of third parties. Although Trainer Farias testified he did not give "Ima Fire Lover" zilpaterol, he was unable to supervise the horse and prevent anyone else from giving illegal medications or substances to him.

Now we must take into account the eleven questions outlined in California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations) regarding mitigating and aggravating factors to arrive at a penalty conclusion if appropriate.

- (1) *Past Medication Record of the Licensee:* Trainer Jorge Farias has no previous medication violations. **Mitigating.**
- (2) *The Potential of the Drug to Influence a Horse's Performance:* Zilpaterol has been shown in studies to have an anabolic (muscle growth) effect. It also may increase heart rate, muscle tremors, sweat profusion, tachycardia, and anxiety. **Aggravating.**
- (3) *The Legal Availability of the Drug:* This drug is available in feed as an additive in a product called Zilmax over the counter. It is not a controlled substance. **Mitigating.**
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* Through the investigation and testimony, it is believed trainer Jorge Farias was unaware "Ima Fire Lover" was fed or given zilpaterol as this was the first horse he had run in his name for Owner Villalobos and Stable Agent Alonso, and the horse was shipped to him the day prior to the race. Zilmax or zilpaterol usually takes a period of time (20-40 days) to be of maximum use. **Mitigating.**
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* The horse was only in his care for twenty-four hours. **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:* The owner has this horse stabled at his ranch in Norco and ships in to run. **Neutral.**

- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors:* Feed samples from Farias' barn were tested, and no drugs were detected. **Neutral.**
- (8) *Purse of the Race:* This race had a purse of \$8,800, which is rather small. **Neutral.**
- (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):* "Ima Fire Lover" was not prescribed zilpaterol, however, this drug is readily available over the counter. **Aggravating.**
- (10) *Whether there was any Suspicious Wagering Pattern on the Race:* There was no unusual wagering detected. **Mitigating.**
- (11) *Whether the Licensed Trainer was Acting under the Advice of a Licensed Veterinarian:* There is no evidence Trainer Farias was acting on any veterinarian's advice to feed this supplement. **Neutral to aggravating.**

A review of the factors reveals that there are more mitigating and neutral factors than aggravating ones.

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug zilpaterol was found in urine sample #LA26496 taken from the horse "Ima Fire Lover," the second place finisher in the second race at Los Alamitos Race Course on August 16, 2014. This finding requires the disqualification of "Ima Fire Lover" in accordance with California Horse Racing Board Rule #1859.5 (Disqualification Upon Positive Test Finding).

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). Zilpaterol is a class III drug that falls in the class "A" penalty.

PROPOSED DECISION

Given all of the foregoing, this Board of Stewards makes the following recommendation in this matter:

State of California
CALIFORNIA HORSE RACING BOARD

* * *

Trainer Jorge Farias who started the horse "Ima Fire Lover" in the second race on August 16, 2014 at Los Alamitos Race Course, is fined five thousand dollars (\$5,000.00)* and suspended one hundred and eighty (180) days pursuant to California Horse Racing Board Rules #1887 (Trainer to Insure Condition of Horse) and #1859.5 (Disqualification Upon Positive Test) for violation of California Horse Racing Board Rules #1843 (a,b,&d) (Medication, Drugs and Other Substances – Zilpaterol – Class III) and #1902 (Conduct Detrimental to Horse Racing).

During the term of suspension, all licenses and license privileges of Jorge Farias are suspended and pursuant to California Horse Racing Board Rule #1528 (Jurisdiction of Stewards to Suspend or Fine), Jorge Farias is denied access to all premises in this jurisdiction.

*California Horse Racing Board Rule #1532 states that all fines shall be paid to the paymaster of purses within seven (7) days of imposition [-----] or the license of the person upon whom the fine was imposed shall be suspended.

Lic# 276060-06/2016

Case# 14LA0205

DATED: October 31, 2014

By the Los Alamitos Board of Stewards:

George Blended
Ruben M. ...
James ...

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