

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

MIGUEL GONZALEZ
CHRB License #283245
Respondent

CHRB Case #15GG0118

DECISION

The attached Revised 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 twenty thousand dollar (\$20,000.00) fine and setting the one year suspension.

IT IS SO ORDERED ON June 20, 2016.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

REVISED PROPOSED DECISION
of the
BOARD OF STEWARDS

Pacific Racing Association
Golden Gate Fields

DATED MAY 13, 2016

IN THE MATTER OF:

California Horse Racing Board

Vs.

Trainer Miguel Gonzalez &
Owner Candido Galeote

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CASE # 15GG0118 &
15GG0126

INTRODUCTION

This matter came for hearing before a Board of Stewards at Golden Gate Fields consisting of Mr. John Herbuveaux, Mr. Darrel McHargue and Mr. Dennis Nevin on December 9, 2015.

Present at the hearing were the Respondents, Trainer Miguel Gonzalez and Owner Candido Galeote. Miguel Gonzalez was represented by attorney Brian Pitnick and Candido Galeote retained the services of attorney Vikas Bhatnagar. Also present were California Horse Racing Board Investigator Louis Quezada and CHRB counsel Philip Laird (hereinafter Laird) who presented the case on behalf of the California Horse Racing Board. The proceedings were recorded by Christine Niccoli, C.S.R. Ms. Karla Romero acted as interpreter when needed.

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

Respondent Miguel Gonzalez (hereinafter Gonzalez) was charged in complaint, #15GG0118, filed by CHRB Investigator Louis Quezada (hereinafter Quezada) on behalf of the California Horse Racing Board (hereinafter Board), with alleged violations of Board rules #1843 (a)(b)&(d) (Medication Drugs and Other Substances), #1843.1 (a) (Prohibited Medication), #1844 (a) and (e)(6) (Authorized Medication), #1859.5 (Disqualification Upon Positive Test Finding), #1887(a) (Trainer to Insure Condition of Horse) and #1894 (Duties of Trainer) pursuant to the California Code of Regulations, Title 4, Division 4.

Respondent Candido Galeote (hereinafter Galeote) was charged in complaint #15GG0126, filed by Quezada on behalf of the Board, with alleged violation of Board rules #1843 (a)(b)&(d) (Medication, Drugs and Other Substances), #1843.1(a) (Prohibited Medication), #1844(a) and (e)(6) (Authorized Medication), #1859.5 (Disqualification Upon Positive Test Finding), #1887(a) (Trainer to Insure Condition of Horse) and #1902(c) (Conduct Detrimental to Horse Racing).

The complaint filed against Gonzalez states in part:

“Trainer Miguel Gonzalez allowed two horse owners, Samuel and Candido Galeote, to enter two horses under his name at the San Joaquin County Fair without him actually seeing or training the horses. He was unaware who transported the horses to the track or who paddocked them prior to the race. The two horses subsequently tested positive for Clenbuterol. The horses were apparently brought directly to the track on race day from a ranch and were not stabled 24 hours prior to the race at a CHRB authorized auxiliary racing facility.”

The complaint filed against Galeote states in part:

“Owners Samuel and Candido Galeote medicated their two horses, Bowyer and SparkIn One, with Clenbuterol three days prior to racing them at the San Joaquin County Fairgrounds. The horses were never under the care of a licensed trainer with them being taken directly to the track from a private ranch. Both owners bypassed the need for the horses to be stabled at a CHRB Auxiliary track at least 24 hours prior to racing. Both Quarter Horses tested positive for Clenbuterol in their system.”

It should be noted that both Gonzalez and Galeote were originally cited with a violation of Board rule #1588 (j) (Horse Ineligible to Start in a Race) but that alleged violation was withdrawn by Laird on the record at the outset of the hearing.

The Stewards submitted Proposed Decisions for both Owner Candido Galeote and Trainer Miguel Gonzalez to the California Horse Racing Board on February 7, 2016. On March 1, 2016 Mr. Rick Baedeker, Executive Director of the California Horse Racing Board, sent this Board of Stewards an **Order Directing Additional Evidence** on behalf of the California Horse Racing Board with respect to the cases pending against Owner Candido Galeote and Trainer Miguel Gonzalez.

On May 5, 2016 a Board of Stewards consisting of Mr. Dennis Nevin, Mr. Darrel McHargue and Mr. John Herbuveaux convened a formal hearing for the purpose of accepting additional evidence in the Galeote/Gonzalez matters. Present at the hearing was Candido Galeote who appeared without counsel but was in the company of his brother, Samuel Galeote. Also present was Mr. Philip Laird, Counsel for the California Horse Racing Board and Mr. Louis Quezada a Board Investigator. Neither Manuel Gonzalez nor his attorney Brian Pitnick chose to attend the proceedings after having been duly notified of same in writing.

The record was opened but neither Candido Galeote nor Counsel Laird presented any new or additional evidence for consideration. The record was then closed and the matter deemed submitted.

EXHIBITS

CHRB EXHIBITS:

- 1 Transcript from the Miguel Gonzalez/ Samuel Galeote hearing (case #15GG0117 and #15GG0125) at Golden Gate Fields racetrack on December 9, 2015.
- 2 Complaint packet for Trainer Miguel Gonzalez (Case #15GG0118)
- 3 Complaint packet for Owner Candido Galeote (Case #15GG0126)
- 4 Data Packet from University of California, Davis Equine Analytical Laboratory, for urine sample #F13645 taken from the horse Sparkin One

FINDINGS OF FACT

I

On September 12, 2015 the quarter horse Sparkin One ran in the third race at the San Joaquin County Fair in Stockton and finished second.

II

The trainer of record for Sparkin One was Miguel Gonzalez. The owner of record for Sparkin One was Candido Galeote.

III

At all relevant times herein Gonzalez was licensed by the Board as a trainer; license #283245- 09/2016.

IV

At all relevant times herein Galeote was licensed by the Board as an owner; license #305454-03/2016.

V

Following the running of the third race the horse Sparkin One was taken to the test barn at the San Joaquin County Fair and urine sample #F13645 was obtained from the horse. The urine sample was subsequently sent to the University of Davis Maddy Analytical Laboratories for analysis.

VI

On September 18, 2015 Dr. Scott Stanley, Chief Chemist for the Maddy Laboratories, notified the Board that sample #F13645 tested positive for the prohibited substance Clenbuterol at a level of 427 picograms per milliliter.

VII

Clenbuterol is listed as a class 3 prohibited substance when found at any level in a post race urine sample taken from a Quarter Horse who has competed in a Board sanctioned race.

VIII

Pursuant to Board rules and regulations the threshold level for Clenbuterol in Quarter Horses which have competed in a Board sanctioned race is zero.

IX

For thoroughbreds competing in a Board sanctioned race the allowable limit for Clenbuterol in a post race urine sample is 140 picograms per milliliter.

X

A finding of a class 3 prohibited substance in a post race test sample taken from a horse in a Board sanctioned race requires the disqualification of such horse from all purse monies earned in that race pursuant to Board rule #1859.5 and for such horse to be deemed unplaced.

XI

On September 24, 2015 Board Investigator Louis Quezada was notified by Board headquarters in Sacramento, California of the test results from urine sample #F13645 and Quezada opened an investigation.

XII

Sparkin One was shipped to the San Joaquin County Fair in Stockton from a ranch in Morgan Hill, California by Galeote.

XIII

Three days prior to the race in Stockton the horse Sparkin One was administered Clenbuterol by Galeote's brother, Samuel Galeote at the ranch in Morgan Hill.

XIV

Samuel Galeote obtained the Clenbuterol on the internet and administered the substance because the horse had flu like symptoms for approximately one to two weeks prior to the race.

XV

Samuel Galeote administered 3cc's of Clenbuterol orally to Sparkin One in the days leading up to the race in Stockton.

XVI

There was conflicting testimony between the brothers concerning the number of times (between one and four) that the Clenbuterol was administered to Sparkin One

XVII

Galeote learned of the Clenbuterol administration from his brother Samuel two days prior to the race but neither Galeote nor his brother considered scratching Sparkin One from the race in Stockton on September 12, 2015.

XVIII

At no time did Galeote or his brother, Samuel, inform Gonzalez that Clenbuterol had been administered to Sparkin One three days prior to the race.

XIX

Galeote admitted that brother Samuel was actually training Sparkin One at the ranch in Morgan Hill.

XX

Gonzalez acknowledged that he was the trainer of record for Sparkin One but that he did not actually train the horse.

XXI

Gonzalez admitted he was letting the Galeote brothers use his name as a trainer while they were actually in charge of the care, the training and the custody of the horse prior to the race in Stockton.

XXII

Gonzalez did not see the horse before the race until it appeared in the paddock shortly before post time.

XXIII

Gonzalez had two other horses entered in the same race as Sparkin One.

XXIV

Gonzalez was to receive 10% of the purse money if the horse won the race.

XXV

Gonzalez did not specifically ask Galeote if the horse had been administered any medications prior to the race but rather relied on a conversation months before with the Galeote brothers in which Gonzalez stated he did not want to have any problems with their horses.

XXVI

Gonzalez acknowledged that he had, in the past, entered in to a similar arrangement with another owner to lend his name as a trainer when Gonzalez did not actually have that horse in his care or under his custody.

XXVII

Gonzalez' license history with the Board indicates he received a 180 day suspension for rule infractions as a result of that arrangement.

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

Alleged rule violations by Trainer Miguel Gonzalez:

1843 (a) (b) & (d)	Medication, Drugs and Other Substances
1843.1 (a)	Prohibited Drug Substances
1844 (a)	Authorized Medications
1844 (e) (6)	Authorized Medications - Clenbuterol

1859.5	Disqualification Upon Positive Test Finding
1887 (a)	Trainer to Insure Condition of Horse
1894	Duties of Trainer

Alleged rule violations by Owner Candido Galeote:

1843 (a) (b) & (d)	Medication Drugs and other Substances
1843.1	Prohibited Drug Substances
1844 (a)	Authorized Medications
1844 (e) (6)	Authorized Medications - Clenbuterol
1859.5	Disqualification Upon Positive Test Finding
1887 (a)	Trainer to Insure Condition of Horse
1902 (c)	Conduct Detrimental to Horse Racing

DISCUSSION

The first order of business in this matter is to determine if, in fact, there was a positive test finding for the Quarter Horse Sparkin One when that horse ran second in the third race at the San Joaquin County Fair in Stockton on September 12, 2015. The data packet from the University of California, Davis Maddy Laboratory (CHRB Exhibit 4) indicates that urine sample #F13645 showed the presence of Clenbuterol at a level of 427 pg/ml. CHRB rules and regulations do not allow for any Clenbuterol to be present in a post race urine sample taken from a quarter horse.

The data packet from the Maddy Laboratory was uncontested by the respondents and the only conclusion this Board of Stewards could reach was that Sparkin One competed in the third race at Stockton with the class 3 prohibited substance Clenbuterol in its system. This violated Board rules regarding racing with prohibited Class 1, 2 or 3 substances and required the horse to be disqualified pursuant to Board rule #1859.5 (Disqualification Upon Positive Test Finding). The disqualification of Sparkin One was effected by the stewards on December 11, 2015 in Pacific Racing Association ruling #48. The ruling required that all monies earned by owner Candido Galeote, trainer Miguel Gonzalez and jockey Salvador Ibarra be returned to the Paymaster of Purses for redistribution and that Sparkin One be deemed unplaced in that race.

It should be noted for the record that Sparkin One originally finished second in the race in question but was moved up to first place in Pacific Racing Association ruling #29, dated November 22, 2015, when the original winner, Snowy Gaddafy, was disqualified after Clenbuterol was detected in that horse's system in a post race urine sample. The owner and trainer of Snowy Gaddafy are in no way involved in the instant case.

The next matter for the stewards to consider is the culpability of Gonzalez and Galeote, and determine what penalty, if any, should be imposed for their actions leading up to the positive test finding. Neither party denied their part in the scenario as it played out and were cooperative with investigator Quezada in getting to the truth of the matter.

Galeote let his brother Samuel train the horse at a ranch in Morgan Hill. Galeote did nothing to prevent Sparkin One from competing in the race at Stockton on September 12, even after Samuel told him the horse had been treated with Clenbuterol three days before the race. Galeote either didn't know or didn't care that racing with Clenbuterol in the horse's system was a violation of Board rules.

Gonzalez, for his part, ignored the promise he had made last year not to allow an owner to borrow his name as a trainer when, in fact, the owner was doing the training and Gonzalez did not have the horse in his custody or under his care prior to the race. For that previous transgression Gonzalez received a 180 day suspension.

As the record will show in the transcript from an earlier hearing on December 9, 2015 (CHRB Exhibit #1) Gonzalez was also the trainer of record for another horse which tested positive for Clenbuterol the day before Sparkin One competed. The owner of that horse, Bowyer, was Samuel Galeote, Candido's brother. The circumstances which led to that horse showing the presence of Clenbuterol in a post race urine sample are almost identical to the circumstances in this case.

Gonzalez has laid the blame for the positive test finding on his inability to say no to owners who are asking him to do them a favor. Those two owners wanted Gonzalez to race their horses in his name as trainer when Gonzalez did not have those horses under his care or in his custody until just shortly before the race. While Gonzalez shrugged his shoulders and promised, once more, that it won't happen again the stewards see a pervasive pattern developing here which is grossly detrimental to the best interests of horse racing.

Galeote was charged with alleged violation of numerous Board rules and we will consider them here. Board rules #1843 (a) (b) & (d) (Medication Drugs and Other Substances), #1843.1(a) (Prohibited Drug Substances), and #1844 (a) and (e) (6) (Authorized Drug Substances) all deal with the fact that Sparkin One showed the presence of Clenbuterol in a post race test sample at a level of 427 pg/ml. Since Galeote knew the horse had been administered Clenbuterol prior to the race he is guilty of violating those rules whether he knew it was a violation to race a horse with Clenbuterol in its system or was ignorant of that fact. Board rule #1510 (Knowledge of Rules) points out, "... Every licensee is presumed to know the rules."

Another rule Galeote is cited with violating is Board rule #1887 (a) (Trainer to Insure Condition of Horse). This rule holds the trainer responsible for the condition of a horse entered in a race regardless of the acts of third parties. The rule goes on to say that the trainer will be liable for a positive test finding in a post race test sample but also states in pertinent part "...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." Galeote's actions place him in violation of this provision.

The complaint against Galeote also cites a violation of Board rule #1902 (c) (Conduct Detrimental to Horse Racing). Paragraph (c) states that no licensee shall engage in any conduct which by its nature is detrimental to the best interests of horse racing including "...solicitation of or aiding and abetting any other person to participate in any act or conduct prohibited by this division." The fact that Galeote aided and abetted his brother, Samuel, in actions which resulted in a positive test finding for Clenbuterol would fall under this category.

The complaint also cites rule #1859.5 (Disqualification Upon Positive Test Finding). This rule is not one a licensee can violate but merely sets forth the procedures by which a horse must be disqualified if the stewards determine that a post race test sample taken from that horse showed the presence of a prohibited substance classified as a level 1, 2, or 3 drug substance. In this instance that disqualification has already taken place as noted earlier.

With respect to Gonzalez, his complaint alleges violation of Board rules similar to those cited against Galeote. Rules #1843 (a) (b) & (d) (Medication Drugs and Other Substances), 1843.1 (a) (Prohibited Drug Substances) and #1844 (a) and (e)(6) (Authorized Medication) relate to the positive test finding for Clenbuterol in Sparkin One's post race urine sample. Testimony indicated that Gonzalez had no knowledge that Clenbuterol had been administered to Sparkin One but that does not absolve Gonzalez from responsibility for the test results because Board rule #1887(a) (Trainer To Insure Condition of Horse) was also listed in the complaint. That rule holds the trainer of a horse responsible for the positive results of a post race test sample regardless of the acts of third parties.

While Gonzalez did not administer the Clenbuterol he did not prevent that administration by Samuel Galeote. Such administration most likely would have been prevented if Gonzalez had Sparkin One under his care and in his custody prior to the time the horse was entered to race. Instead he allowed the Galeote brothers to maintain care and custody of the horse up until the time the horse competed in the third race on September 12.

Gonzalez' complaint further alleges he violated Board rule #1894 (Duties of Trainer). That rule states in part "...No trainer shall delegate or sublet his duties as a trainer except as provided in this article..." Gonzalez did more than delegate or sublet his duties in this instance, in fact, he ignored them completely. Gonzalez should have had this horse, or any horse given to him by an owner, under his care and custody prior to the time the horse was entered in a race to protect not only himself but also the wagering public from the acts of unscrupulous and/or ignorant third parties. Had Gonzalez been cited in the complaint with violation of Board rule #1902 (Conduct Detrimental to Horse Racing) the evidence would support a finding that he violated that rule as well.

Although Board rule #1859.5 (Disqualification Upon Positive Test Finding) was cited in Gonzalez' complaint, as it had been in Galeote's, it is deemed irrelevant here for the same reasons stated previously.

Board rule #1843.3 (Penalties for Medication Violations) stipulates that in reaching a penalty for a medication violation the trier of fact must consider the penalty guidelines set forth in this section and must also consider aggravating and mitigating circumstances. With such instructions in mind the circumstances pertaining to each respondent's case will be considered individually.

Respondent Galeote:

Mitigating circumstances include respondent's license history with the Board which indicates that he has been licensed since 2010 and has no prior rule violations. The purse of the race was \$8000 which is not a large sum and there was no suspicious wagering pattern detected.

Aggravating factors include Clenbuterol's potential to influence a horse's racing performance. The medication will, at minimum, impact a horse's respiratory system in a positive way and may also act as a steroid by building muscle mass which would allow a horse to perform at a higher level. The drug is legal to obtain through a veterinarian but in this instance it was obtained over the internet by respondent's brother without any involvement by a veterinarian. Galeote was told by his brother two days before the horse ran that the brother had administered the substance three days before the race. Galeote took no action to safeguard the horse or to prevent the horse from running. He allowed his brother to handle all the details in this respect.

Although the penalty guidelines for a Category B penalty contained in rule #1843.3 (Penalties for Medication Violations) do not call for a fine or suspension for the owner of a horse that tested positive on a first violation beyond loss of purse, in this instance Galeote was not acting solely as an owner. In the vacuum left by Gonzalez' dereliction of duty Galeote was acting in concert with his brother Samuel to train Sparkin One and it seems only fitting that he should be treated as a trainer with a first Class 3 offense.

Respondent Gonzalez:

Mitigating circumstances include the fact that Gonzalez was not informed by either of the Galeote brothers that Clenbuterol had been administered to Sparkin One three days prior to the race. The purse of the race was \$8000 which is not a large sum and no suspicious wagering patterns were detected.

Aggravating factors include Gonzalez' license history with the Board which includes a 180 day suspension in 2014 for delegating his duties as a trainer to an owner. This is Gonzalez' third Class 3 Clenbuterol violation in the last 30 days. There were also some medication violations in 2008 and 2011. Clenbuterol has the potential to influence a horse's performance but Gonzalez was not aware of the administration. That in itself is an aggravating factor because Gonzalez delegated his duties as a trainer and took no steps to protect the horse from the administration of the drug substance nor to protect the public who wagered on the race.

RECOMMENDATIONS

Recommendations were made by the Executive Director of the California Horse Racing Board through Board Counsel Philip Laird with respect to the penalties the Board felt each respondent should receive. For Galeote the Board recommended a Sixty (60) day suspension and a Five Thousand Dollar (\$5000.00) fine. For Gonzalez the recommendation was a suspension of One (1) Year and a fine of Twenty Thousand Dollars (\$20,000.00) for a third Class 3 medication violation within one year.

PROPOSED DECISIONS

Trainer Miguel Gonzalez, who started the horse Sparkin One, winner of the third race at the San Joaquin County Fair (Stockton) on September 12, 2015, is hereby suspended One Year and fined the sum of Twenty Thousand Dollars (\$20,000.00) pursuant to California Horse Racing Board rule #1887(a) (Trainer to Insure Condition of Horse) for violation of California Horse Racing Board rules #1843 (a) (b) & (d) (Medication, Drugs and Other Substances; Prohibited Substance - Clenbuterol [Class 3] - Third Offense), #1843.1 (a) (Prohibited Medication), #1844 (a) and (e) (6) (Authorized Medication) and #1894 (Duties of Trainer)

During the term of suspension all licenses and license privileges of Miguel Gonzalez are suspended and pursuant to California Horse Racing Board rule #1528 (Jurisdiction of Stewards) subject is denied access to all premises in this jurisdiction.

Owner Candido G. Galeote, who owned the horse Sparkin One, winner of the third race at the San Joaquin County Fair (Stockton) on September 12, 2015, is hereby suspended Sixty (60) Days and fined the sum of Five Thousand Dollars (\$5,000.00) pursuant to California Horse Racing Board rule #1887(a) (Trainer to Insure Condition of Horse) for violation of California Horse Racing Board rules #1843 (a) (b) & (d) (Medication, Drugs and Other Substances; Prohibited Substance - Clenbuterol [Class 3]), #1843.1 (Prohibited Medication), #1844 (a) and (e) (6) (Authorized Medication) and #1902 (Conduct Detrimental to Horse Racing).

During the term of suspension all licenses and license privileges of Candido G. Galeote are suspended and pursuant to California Horse Racing Board rule #1528 (Jurisdiction of Stewards) subject is denied access to all premises in this jurisdiction.

RECEIVED
CHRB
2016 MAY 16 AM 10:03


Steward John B. Herbuveaux


Steward Dennis Nevin


Steward Darrel McHargue

Dated: 5-13-2016