

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

CARMEN JIMENEZ
CHRB License #317208
Respondent

CHRB Case Nos. 17LA0197

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 fifteen hundred (\$1,500.00) fine and setting the thirty (30) days of suspension.

IT IS SO ORDERED ON November 16, 2017.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

Date: October 3, 2017

In the Matter of the Complaint Against:

Name

Carmen Jimenez

Case# 17LA0197

INTRODUCTION

This matter was heard before the Board of Stewards, Ronald Church, James Dreyer, and Tom Ward, in the Los Alamitos Stewards' Office July 21, 2017.

Present at the hearing was the Respondent, Carmen Jimenez, Sergio Lopez, Francisco Vallejo, and acting as interpreter and advocate Sergio Garcia. Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Owner Carmen Jimenez was the owner of record for the horse "Winger," who started in the 4th race at Los Alamitos Race Course on May 27, 2017. On June 15, 2017, Sacramento Headquarters faxed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Winger" (Urine Sample #LA37199) tested positive for the class III prohibited drug Clenbuterol after finishing 2nd in the 4th race on May 27, 2017. Owner was notified of the positive on June 15, 2017.

LIST OF EXHIBITS

Complainant / State Exhibits #1, #2, #3 California Horse Racing Board Complaint
#17LA0197

Exhibit #4 Agreement between defendants, U.C. Davis
and the California Horse Racing Board.

Respondent / Defendant No documents submitted

APPLICABLE RULES

CHRB rule violations listed in the complaint

- Rule 1887 (b) (Trainer to Insure Condition of Horse)
- Rule 1843 (a, b & d) (Medication, Drugs and Other Substances)
- Rule 1843.1 (b) (Prohibited Drug Substances)
- Rule 1844 (e)6 (Authorized Medication)
- Rule 1859.5 (Disqualification Upon Positive Test Finding)

FINDINGS OF FACT

I.

At all times herein mentioned, Respondent was licensed by the California Horse Racing Board in the license category of "owner."

II.

Respondent was the owner of record for the horse "Winger" when it raced in the 4th race on May 27, 2017 at Los Alamitos Race Course. "Winger" finished 2nd in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA37199) was taken from "Winger" 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 #LA37199 from "Winger" was uninterrupted.

V.

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

VI.

On June 15, 2017, Respondent was notified.

VII.

Respondent elected not to have the split sample tested.

DISCUSSION

With respect to Ms. Jimenez, it is our opinion that there is not much to discuss as we don't feel that she had much input into the care and treatment of the horse "Winger". It was mainly left to her husband, Sergio Lopez, and the trainer, Francisco Vallejo.

A review of the aggravating and mitigating factors is now required:

- (1) *Past Medication Record of the Licensee*: None - Mitigating
- (2) *The Potential of the Drug to Influence a Horse's Performance*: Clenbuterol can influence a horse's performance - Aggravating.
- (3) *The Legal Availability of the Drug*: Any veterinarian can prescribe Clenbuterol. Zero tolerance in the Quarter Horses – Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug*: Likely not - Mitigating
- (5) *Steps Taken by the Owner to Safeguard the Horse*: Trained horse at ranch then shipped day before race – aggravating.
- (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*: No evidence - neutral.
- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors*: No evidence – Neutral
- (8) *Purse of the Race*: \$11,065 – not large, therefore mitigating.
- (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)*: No reports of prescription, therefore aggravating
- (10) *Whether there was any Suspicious Wagering Pattern on the Race*: None, therefore mitigating
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian*: No evidence of such – aggravating.

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

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in urine sample #LA37199 taken from the horse "Winger," the 2nd place finisher in the 4th race at Los Alamitos Race Course on May 27, 2017. This finding requires the disqualification of "Winger" in accordance with California Horse Racing Board Rule #1859.5.

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). Clenbuterol is a class III drug that falls in the class "B" 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

* * *

OWNER CARMEN JIMENEZ WHO STARTED "WINGER" IN THE FOURTH RACE ON MAY 27, 2017 AT LOS ALAMITOS RACE COURSE IS FINE ONE THOUSAND FIVE HUNDRED (\$1,500.00)* AND SUSPENDED THIRTY (30) DAYS PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887(B) AND RULE #1859.5(DISQUALIFICATION UPON POSITIVE TEST) FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES #1843(A)(B) AND (D)(MEDICATION, DRUGS, AND OTHER SUBSTANCES) (CLENBUTEROL – CLASS III), #1843(1)(B)(PROHIBITED DRUG SUBSTANCES), AND #1844(E)(6)(AUTHORIZED MEDICATION).

DURING THE TERM OF SUSPENSION ALL LICENSES AND LICENSE PRIVILEGES OF CARMEN JIMENEZ ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528(JURISDICTION OF STEWARDS TO SUSPEND OR FINE) CARMEN JIMENEZ 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.

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PROPOSED DECISION

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

Dated 10-15-17 by this Board of Stewards:

James Dreyer
Steward James Dreyer

Ronald Church
Steward Ronald Church

Tom Ward
Steward Tom Ward

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