

BEFORE THE CALIFORNIA HORSE RACING BOARD  
OF THE STATE OF CALIFORNIA

In the Matter of the: )  
 )  
STIPULATED SETTLEMENT )  
AGREEMENT )  
 )  
KIM LEWIS KUHLMANN, D.V.M. )  
Appellant )  
\_\_\_\_\_ )

SAC 07-0093

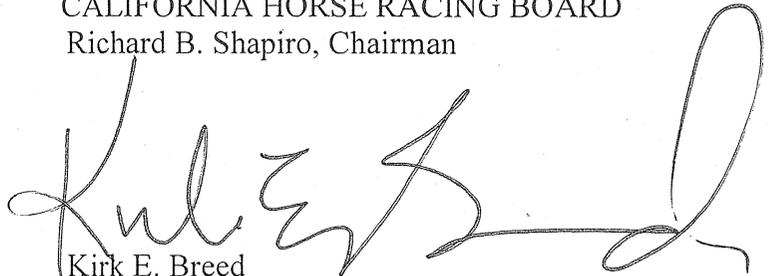
DECISION

The attached Stipulated Settlement Agreement between the California Horse Racing Board and Appellant Kim Lewis Kuhlmann, D.V. M. is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on October 16, 2008.

IT IS SO ORDERED ON October 15, 2008.

CALIFORNIA HORSE RACING BOARD  
Richard B. Shapiro, Chairman



Kirk E. Breed  
Executive Director

1 EDMUND G. BROWN JR.  
 Attorney General of the State of California  
 2 MIGUEL A. NERI  
 Supervising Deputy Attorney General  
 3 FIEL D. TIGNO  
 Supervising Deputy Attorney General  
 4 MARY S. CAIN-SIMON (State Bar No. 113083)  
 Deputy Attorney General  
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8 Attorneys for California Horse Racing Board

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10 CALIFORNIA HORSE RACING BOARD  
 11 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

12

13 In the Matter of,  
 14 CALIFORNIA HORSE RACING BOARD,  
 15 Complainant,  
 16 v.  
 17 KIM LEWIS KUHLMANN, D.V.M.  
 License No. 081351-01/2010,  
 18 Respondent.

OAH Case No.: 2008060175  
 CHRB Case No.: 07BM125  
 Horse: El Sierra Tahoe  
**STIPULATED SETTLEMENT  
 AGREEMENT**  
 [Business and Professions Code §19517;  
 Cal. Code of Regulations Title 4 §§1761,  
 1764.]  
 Date: August 25, 2008  
 Time: 9:00 a.m.

19

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21 The California Horse Racing Board hereby enters into the following Stipulated  
 22 Settlement Agreement for discipline with its licensee, Kim Kuhlmann D.V.M., with respect to  
 23 his appeal of the Board of Stewards Decision (CHRB Case No. 07BM125) pertaining to the  
 24 unlawful medication of the horse "El Sierra Tahoe." The Board of Stewards' written ruling and  
 25 decision in this matter dated January 28, 2008, are attached to this stipulated settlement  
 26 agreement.

27

STIPULATED FACTS

28

1. The horse El Sierra Tahoe (a registered lasix horse) trained by Jeff Bonde competed in

1 and was the winner of the ninth race at Bay Meadows Race Track on September 1, 2007.

2 2. El Sierra Tahoe's post race urine sample #BM02554 - Laboratory #070905-97435, when  
3 analyzed by the University of California Davis Equine Laboratory, showed the contents of 3-  
4 hydroxy lidocaine, a metabolite of lidocaine.

5 3. The split sample (#BM02554) was tested by Industrial Laboratory confirming the  
6 presence of 3-hydroxy lidocaine (metabolite of lidocaine).

7 4. University of California Davis reported that no furosemide was detected in the urine of  
8 test sample #BM02554, which was a discrepancy from the reported medications listed on the  
9 Test Sample Shipping Invoice.

10 5. At the request of Dr. Scott Stanley, Chief Chemist for Maddy Equine Analytical  
11 Chemistry Laboratory/University of California, a secondary test using Liquid Chromatography -  
12 Mass Spectrometry was conducted resulting in a negative finding of furosemide.

13 6. On September 19, 2007, a search was conducted of Jeff Bonde's barn, tack room/office  
14 (Pleasanton Fairgrounds) wherein two unused syringes were confiscated.

15 7. A Letter of Explanation from Steven L. Boyer, D.V.M., who is employed by San  
16 Francisco Equine, Inc., stated the syringes found in the possession of Jeff Bonde at Pleasanton  
17 Fairgrounds were dispensed for the purpose of administering Regu-Mate (oil based synthetic  
18 progestin) orally.

19 8. Dr. Kim Kuhlmann testified he believed he administered the drug lidocaine intravenously  
20 instead of furosemide to the horse El Sierra Tahoe four hours prior to race post time on  
21 September 1, 2007 with no malicious intent involved.

22 9. Dr. Kuhlmann stated the syringe with the drug lidocaine had been left in his tray from the  
23 previous day's (August 31, 2007) treatments after using it for a local anesthetic while stapling a  
24 laceration on the left eye of the horse Win By Win for trainer Jacob Aguilar.

25 10. Dr. Kuhlmann indicated that he had a new assistant helping on September 1, 2007 who  
26 must not have discarded the previous day's syringes.

27 11. Dr. Kim Kuhlmann has not been penalized by the California Horse Racing board since  
28 1998. Prior to that Dr. Kuhlmann had been penalized by the California Horse Racing Board for

1 giving unauthorized medications (furosemide and ketoprofen).

2 12. Dr. Kuhlmann testified that in his opinion his injection of lidocaine intravenously did not  
3 have any distal nerve analgesic effect; therefore it did not enhance the horse El Sierra Tahoe's  
4 performance.

5 13. Deputy Attorney General Mary Cain-Simon upon the agreement of counsel, moved to  
6 withdraw the complaint against Jeff Bonde, insofar as it related to the positive involving  
7 California Horse Racing Board rule #1887 (a) (Trainer to Insure Condition of Horse) and  
8 #1843(a)(b)(d) (Medication, Drugs and Other Substances).

9 Dr. Kuhlmann agrees and stipulates to discipline against his license, as set forth below,  
10 for violation of CHRB Rules 1887(a)(any person shown to have had the care or attendance of a  
11 horse which tests positive for a prohibited drug substance, may be fined, his/her license  
12 suspended, revoked, or be ruled off).

13 **STIPULATED PENALTY:**

14 1. Thirty days' suspension, with 15 days to be stayed pending, the stay to become permanent  
15 upon successful completion of one year probation with no further Class I, II, or III violations. The  
16 fifteen days suspension which is not stayed will be served commencing October 16, 2008.

17 2. Each party to bear their own attorneys' fees and costs.

18 3. The parties agree and stipulate this matter will be placed before the CALIFORNIA  
19 HORSE RACING BOARD for the purpose of review of this settlement agreement pursuant to  
20 Business and Professions Code §19517.5. The parties stipulate that the CHRB may, upon its  
21 approval, incorporate this settlement agreement into the record of the CHRB and issue a written  
22 ruling adopting this settlement agreement as a Ruling of the CHRB. In the event the CHRB

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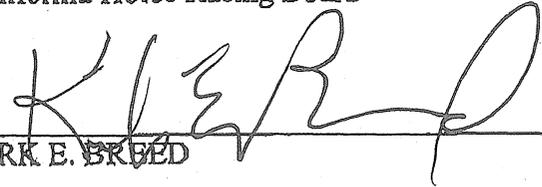
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1 declines to approve this stipulated settlement agreement, the settlement agreement will be  
2 withdrawn and the matter re-scheduled for hearing before the Office of Administrative Hearings.

3  
4 Dated: Oct 8, 2008 EDMUND G. BROWN JR.  
5 Attorney General of the State of California  
6 MIGUEL A. NERI  
7 FIEL D. TIGNO  
8 Supervising Deputy Attorneys General

9   
10 MARY S. CAIN-SIMON, Deputy Attorney General  
11 Attorneys for Complainant,  
12 California Horse Racing Board

13  
14 Dated: 10/02/08, 2008   
15 KIRK E. BREED  
16 Executive Director,  
17 California Horse Racing Board

18  
19 Dated: \_\_\_\_\_, 2008 ~~RICHARD B. SHAPIRO~~  
20 ~~Chairman,~~  
21 ~~California Horse Racing Board~~

22  
23 Dated: \_\_\_\_\_, 2008  
24 STEPHEN SCHWARTZ, WALLACE AND SCHWARTZ  
25 Attorneys for Respondent

26  
27 Dated: \_\_\_\_\_, 2008  
28 KIM KUHLMANN, DVM

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2 withdrawn and the matter re-scheduled for hearing before the Office of Administrative Hearings.

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4 Dated: \_\_\_\_\_, 2008 EDMUND G. BROWN JR.  
5 Attorney General of the State of California  
6 MIGUEL A. NERY  
7 FIEL D. TIGNO  
8 Supervising Deputy Attorneys General

9  
10 MARY S. CAIN-SIMON, Deputy Attorney General  
11 Attorneys for Complainant,  
12 California Horse Racing Board

13 Dated: \_\_\_\_\_, 2008  
14 KIRK E. BREED  
15 Executive Director,  
16 California Horse Racing Board

17 Dated: \_\_\_\_\_, 2008  
18 ~~RICHARD B. SHAPIRO~~  
19 ~~Chairman,~~  
20 ~~California Horse Racing Board~~

21 Dated: 10/7, 2008 HERBERT  
22 ~~SEYMOUR~~ SCHWARTZ, WALLACE AND SCHWARTZ  
23 STEVE R.  
24 Attorneys for Respondent

25 Dated: 10/7, 2008  
26 KIM KUELMANN, DVM