

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

GUILLERMO MORALES
CHRB License #283625
Respondent

CHRB Case #17LA0064

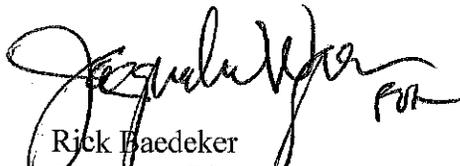
DECISION

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 three thousand dollars (\$3000.00) fine and setting the ninety (90) days of suspension.

IT IS SO ORDERED ON June 26, 2017.

CALIFORNIA HORSE RACING BOARD
George Krikorian, 1st Vice-Chairman


Rick Baedeker
Executive Director

State of California
CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

Date: April 28, 2017

In the Matter of the Complaint Against:

Name

Respondent: Guillermo Morales

Case# **17LA0064**

INTRODUCTION

This matter was heard before the Board of Stewards, Tom Ward, Randy Winick, and James Dreyer, in the Los Alamitos Stewards' Office April 28, 2017.

Present at the hearing was the Respondent, Guillermo Morales, represented by Attorney John Cogorno, Senior Investigator Dennis Drulius, Supervising Investigator Tom Blake and Court Reporter Michelle Derieg transcribed the proceedings.

PROCEDURAL BACKGROUND

Trainer, Guillermo Morales was the trainer of record for the horse "Love That Dream," who started in the sixth race at Los Alamitos Race Course on February 11, 2017. On March 1, 2017, Sacramento Headquarters faxed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Love That Dream" (Urine Sample #LA36530) tested positive for the class III prohibited drug Clenbuterol after finishing third in the sixth race on February 11, 2017. Trainer Morales was notified of the positive on March 2, 2017, and a barn inspection found no further violations. On March 3, 2017, trainer Morales completed the forms for the split sample testing. University of Florida was selected as the lab to conduct the testing of the split sample. On April 1, 2017, investigators received a Final Report from University of Florida confirming that split sample #LA36530 contained the presence of Clenbuterol (372 pg/ml +/-30 pg/ml).

LIST OF EXHIBITS

Complainant / State California Horse Racing Board Complaint #17LA0064

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 "Love That Dream" when it raced in the sixth race on February 11, 2017 at Los Alamitos Race Course. "Love That Dream" finished third in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA36530) was taken from "Love That Dream" 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 #LA36530 from "Love That Dream" 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 March 2, 2017, Respondent was notified.

VII.

The respondent elected to have a split sample sent to the University of Florida Laboratory.

VIII.

On April 1, 2017, Investigator Blake received confirmation from University of Florida Laboratory-via CHRB Headquarters, that urine sample #LA36530 contained Clenbuterol.

APPLICABLE RULES

CHRB rule violations listed in the complaint

- Rule 1887 (a) (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 (c)6 (Authorized Medication)
- Rule 1859.5 (Disqualification Upon Positive Test Finding)

DISCUSSION

The first question that must be posed is why. "Love That Dream" ran on December 3, 2016 at Los Alamitos Race Course in an \$8000 Claiming race and finished first. The post race test was clear. On January 17, 2017 "Love That Dream" ran at Los Alamitos Race Course in a \$10,000 claiming race and again finished first. Once more the post race test came back clear. On Saturday, February 11, 2017 "Love That Dream" ran in the sixth race at Los Alamitos Race Course in a \$10,000 claiming race placing third. This time the post race test was positive for Clenbuterol. In the Stewards opinion there appears to be no plausible reason why trainer Guillermo Morales would have had any incentive to give "Love That Dream" Clenbuterol nor to give any other party instructions to treat the gelding with the medication.

Trainer Morales does have a rather dubious medication record. On October 24, 2009 Morales had a high Clenbuterol and was fined \$3,000 dollars. On August 10, 2012 he had an additional high Clenbuterol and was suspended sixty days and fined \$3,000 dollars. On December 1, 2013 Mr. Morales had a horse test positive for Cetrizine, a class 4 prohibited substance and Hydroxyzine a class 2 prohibited substance. For that violation he was suspended sixty days and fined \$5,000 dollars. Since that date he has had four high butes but has been major penalty free.

During the hearing Guillermo testified that all of his bad tests have come from ship in horses. He admitted that he had been a fool to perpetuate the situation up to and including the most recent one.

"Love That Dream" had been shipped to him from owner Jose Perez's ranch in Long Beach, Ca. Mr. Perez's ranch is a public riding facility and heavily traveled. Perez recently moved to Corona so the property is not as scrutinized as closely as when he was in residence.

Former trainer Sergio Fiscal frequents the property according to Morales but there is absolutely no evidence of any involvement by him.

In the opinion of this Board of Stewards it is unlikely that Morales is the perpetrator in this incident. However, he must be held accountable having allowed "Love That Dream" to be shipped in and out rather than insisting the horse remain in his barn at all times. This is just another classic case of program training.

The inquiry will now go to the penalty phase as outlined by California Horse Racing Board Rule #1843.3 (Penalties for Medication Violations), which allows for aggravating and mitigating factors that would permit deviation from the penalties outlined in the text of that rule.

This is a class III violation with a class "B" penalty.

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

- (1) *Past Medication Record of the Licensee:* Since 2012 Morales has five high Butes. In addition, in 2009 and 2012 Morales had Clenbuterol positives. In 2014 he was fined and suspended for Cetrizine/Hydroxyzine. Aggravating.
- (2) *The Potential of the Drug to Influence a Horse's Performance:* Clenbuterol can enhance a horse's performance and the level was quite high. Aggravating.
- (3) *The Legal Availability of the Drug:* Clenbuterol is available from any veterinarian, however, in Quarter Horses it is a zero tolerance drug. Aggravating.
- (4) *Whether There is Reason to Believe the Responsible Party Knew of the Administration of the Drug or Intentionally Administered the Drug:* It is reasonable to assume that trainer Morales did not administer nor was he aware that "Love That Dream" had been administered Clenbuterol. "Love That Dream" was shipped to trainer Morales the day prior to the race and was transported out the day following the race. "Love That Dream" was shipped from and returned to owner Jose A. Perez's ranch. This is an aggravating factor, due to Mr. Morales' acceptance of a "ship in" horse.
- (5) *Steps Taken by the Trainer to Safeguard the Horse:* This is a neutral factor as the horse was shipped to trainer Morales the day prior to the race.
- (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:* There was no evidence on this factor and is therefore neutral.
- (7) *Probability of Environmental Contamination or Inadvertent Exposure Due to Human Drug Use or Other Factors:* This is a neutral factor as there is no evidence of such.
- (8) *Purse of the Race:* The purse was minimal, \$9085 and is 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):* Veterinary reports do not indicate the horse having been prescribed Clenbuterol. Aggravating.
- (10) *Whether there was any Suspicious Wagering Pattern on the Race* Mitigating as there was no evidence of any unusual wagering pattern.
- (11) *Whether the Licensed trainer was Acting under the Advice of a Licensed Veterinarian:* There is no evidence of any Veterinarians advice for approval of this drug to be administered to "Love That Dream". Aggravating.

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

CONCLUSION

Following a formal hearing, this Board of Stewards concludes the class III prohibited drug Clenbuterol was found in urine sample #LA36530 taken from the horse "Love That Dream," the third place finisher in the sixth race at Los Alamitos Race Course on February 11, 2017. This finding requires the disqualification of "Love That Dream" 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

* * *

TRAINER GUILLERMO MORALES WHO STARTED THE HORSE "LOVE THAT DREAM" IN THE SIXTH RACE ON FEBRUARY 11, 2017 AT LOS ALAMITOS RACE COURSE IS FINED THREE THOUSAND DOLLARS (\$3,000.00)* AND SUSPENDED NINETY (90) DAYS) PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1887(a) AND RULE #1859.5 (DISQUALIFICATION UPON POSITIVE TEST) FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULES #1843 (a , b & d) (MEDICATION, DRUGS AND OTHER SUBSTANCES) (CLENBUTEROL - CLASS III) #1843.1 (b) (PROHIBITED DRUG SUBSTANCES AND #1844 (c)(6) (AUTHORIZED MEDICATION).

DURING THE TERM OF SUSPENSION ALL LICENSES AND LICENSE PRIVILEGES OF GUILLERMO MORALES ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS TO SUSPEND OR FINE) GUILLERMO MORALES 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# 283625-10/2019

Case# 17LA0064

PROPOSED DECISION

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

Dated June 1, 2017 by this Board of Stewards:

James Dreyer
Steward James Dreyer

Randy Winick, J.D.
Steward Randy Winick

Tom Ward
Steward Tom Ward

RECEIVED
SHR
2017 JUN - 6 AM 7:28