

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

WILLIAM JAMES NOLAN
CHRB License #075571
Respondent

CHRB Case #14GG0056

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 four thousand dollars (\$4,000.00) fine and setting the sixty (60) days of suspension.

IT IS SO ORDERED ON December 19, 2014.

CALIFORNIA HORSE RACING BOARD
Chuck Winner, Chairman



Rick Baedeker
Executive Director

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the
Complaint/Accusation against:

William James Nolan, (Trainer)
CHRB LICENSE NUMBER: 075571

Case No. 14GG0056

PROPOSED DECISION

This matter came for hearing at Golden Gate Fields before a Board of Stewards consisting of Mr. Dennis Nevin, Mr. Darrel McHargue and Mr. John Herbubeaux on August 30, 2014 and September 14, 2014.

Present at the hearing were Respondent William J. Nolan, David M. Walker (Witness), Safety Steward Vic Stauffer and California Horse Racing Board Investigator Louis Quezada. Mr. Quezada presented the case on behalf of the CHRB. The proceedings were recorded by Christine Niccoli, Certified Shorthand Reporter.

Respondent Nolan was advised of his right to be represented by counsel. Mr. Nolan waived that right and stated he was prepared to go forward without counsel.

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.

PROCEDURAL BACKGROUND

The Respondent, William J. Nolan (hereinafter Nolan) was charged in complaint #14GG0056, filed by California Horse Racing Board Investigator Louis Quezada (hereinafter Quezada) on behalf of the California Horse Racing Board (hereinafter CHRB) with alleged violations of CHRB Rules #1843 (a, b, c and d) (Medication, Drugs and Other Substances), #1887 (a) (Trainer to Insure Condition of Horse), #1890 (a) and (b) (Possession of Contraband) and #1902 (Conduct Detrimental to Horse Racing) of the California Code of Regulations, Title 4, Division 4.

The Complaint states in part:

"The official urine sample #GG19396 taken on May 8, 2014 at Golden Gate Fields was reported to contain a metabolite Pseudoephedrine and O-Desmethylpyrilame, a metabolite of Pyrilamine. This sample was obtained from the horse LUCY WIGGLES which ran in the third race at Golden Gate Fields, finishing first. The trainer of record is William James Nolan. These are Class 3 drugs with Category B penalties."

"On May 20, 2014 during a subsequent barn inspection on this matter, trainer Nolan was found to be in possession of several open injectable medications along with over 22 hypodermic needles

and syringes inside his personal vehicle." In addition, one needle was found in a pocket of the coat he was wearing.

LIST OF EXHIBITS

Complainant/CHRB Exhibits:

1. William J. Nolan complaint package.
2. Questions for Licensee not represented by counsel.
3. Contraband exhibits one through nineteen.
4. Notice of rescheduled hearing to owners.
5. Data package from University of California Davis Maddy Laboratory.
6. E-mail from Executive Director Rick Baedeker and Equine Medical Director Rick Arthur, D.V.M.

Respondent's Exhibits:

- A. Special Arubic Powder
- B. Tri- hist granules

Witness' List:

1. Safety Steward Vic Stuafter – for CHRB
2. Owner David Walker – for Respondent

FINDINGS OF FACT

I

At all relevant times herein Respondent Nolan was licensed as a trainer by the CHRB.

II

Nolan waived his right to be represented by Counsel and agreed to go forward with the hearing.

III

Nolan was the trainer of record for the horse LUCY WIGGLES, who finished first in the third race at Golden Gate Fields on May 8, 2014.

IV

A post race urine sample (#GG19396) was obtained from LUCY WIGGLES following the race and sent to The Equine Analytical Chemistry Laboratory at the University of California, Davis, the official testing laboratory for the CHRB.

V

At all times herein mentioned, the chain of custody of urine sample #GG19396, obtained from LUCY WIGGLES, was uninterrupted.

VI

Results of the tests conducted on urine sample #GG19396 was found to contain Pseudoephedrine, its metabolite Norpseudoephedrine and o-desmethylpyrilamine, a metabolite

of Pyrilamine, a Class III prohibited drug substance, as reported by U.C. Davis Laboratory Chief Chemist, Scott Stanley, Phd. on May 16, 2014.

VII

CHRB Investigator Louis Quezada received a memorandum on May 20, 2014 via e-mail from CHRB split sample custodian Deborah Mendricks that urine sample #GG19396 was reported to contain the aforementioned prohibited drug substance.

VIII

CHRB Investigator Quezada provided Nolan with the positive test notification form as well as the request for the split sample form on May 28, 2014.

IX

Nolan declined to have the split sample tested.

X

On May 20, 2014 several open injectable medications and twenty two (22) hypodermic needles and syringes were found inside the vehicle he was using and one (1) hypodermic needle inside his coat pocket.

XI

LUCY WIGGLES' owners Anthony Bilich and Charles Cline were not present at the hearing.

APPLICABLE CHRB RULES
CALIFORNIA CODE OF REGULATIONS, TITLE 4, DIVISION 4

CHRB rule violations listed in the complaint.

Rule 1843 (a, b, c & d)	Medication, Drugs and Other Substances.
Rule 1859.5	Disqualification Upon Positive Test Finding.
Rule 1887 (a)	Trainer to Insure Condition of Horse.
Rule 1888	Defense to Trainer Insurer Rule.
Rule 1890 (a & b)	Possession of Contraband.
Rule 1902	Conduct Detrimental to Horse Racing.

DISCUSSION OF ISSUES

The factual findings indicate that Respondent Nolan trained the mare LUCY WIGGLES and tested positive for the Class 3 prohibited drug substance Pseudoephedrine and O-desmethylypyrilamine following the third race at Golden Gate Fields on May 8, 2014. Therefore, the first action required in this case and all Class I, II and III drug substance violations is to address CHRB rule #1859.5 (Disqualification Upon Test Finding). Nolan and the owners (Anthony Bilich and Charles Cline) chose not to have the split sample tested.

The Board of Stewards, following the hearing, determined the urine test results constitute a violation of CHRB rule #1843 (Medication, Drugs and Other Substances) and pursuant to CHRB

rule #1859.5 (Disqualification Upon Positive test Finding) requires the disqualification of the mare LUCY WIGGLES. The Board of Stewards issued ruling #12 on September 14, 2014 memorializing the disqualification.

The remaining issue is whether, or to what extent, Respondent Nolan deserves to be penalized under the CHRB rules and regulations. There is a strict liability created by those rules and regulations (CHRB rule #1887 – Trainer to Insure Condition of Horse) but this may be mollified by the accused through the provisions of CHRB rule #1888 (Defense to Trainer Insurer rule). The procedural defenses (#1888 a, b and d) are not challenged. The fourth defense (1888 - c) fails as well since Nolan failed to show by a preponderance that he made every reasonable effort to protect the horses in his care. Nolan's only defense to the positive urine test was an accidental administration of Tri-hist granules that were not found during the barn search.

Regarding the excessive amount of contraband discovered in the truck he was driving when searched near his barn, Nolan and witness David Walker contend those materials (needles, syringes and injectable medications) belonged to the latter.

A review of the aggravating and mitigating factors is required prior to determining what, if any, penalty is appropriate.

1. Past medication record of the Licensee: no medication violations – two warnings (Bute) since 1997 – Mitigating.
2. The potential of the drug to influence a horse's performance: Pseudoephedrine – O – desmethypirylamine a metabolite of Pylramine is performance enhancing – Aggravating
3. The legal availability for the drug: readily available – Neutral.
4. Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug – Neutral.
5. The steps taken by the trainer to safeguard the horse: Respondents contention that this was an accidental treatment is negligent – Aggravating.
6. Steps taken by the owner to safeguard against subsequent medication violations, including but not limited to, the transfer of the horse to an unaffiliated trainer: there was no evidence on this factor – Neutral.
7. Probability of environmental contamination or inadvertent exposure due to human drug use or other factors: No evidence on this factor – Neutral.
8. The purse of the race: a relatively small total purse \$12,000.00 – 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): The drug was not prescribed by a licensed Veterinarian – Aggravating.
10. Whether there was any suspicious wagering pattern on the race: there was no evidence of an unusual wagering pattern – Neutral.
11. Whether the licensed trainer was acting under the advice of a licensed Veterinarian. There was no evidence that the Respondent was acting under the advice of a licensed Veterinarian – Aggravating.

CONCLUSION/DECISION

Only the issue of culpability remains and this Board of Stewards determined, following the hearing and considering all evidence and testimony along with consideration given to the mitigating and aggravating factors, that Respondent Nolan is responsible for the Class III positive detected in the urine sample obtained from the mare LUCY WIGGLES following her first place finish in the third race at Golden Gate Fields on May 8, 2014 pursuant to CHRB rule #1887 (Trainer to Insure Condition of Horse). We also determined that Respondent Nolan is in violation of CHRB rule #1890 (Possession of Contraband) and responsible for the injectable medications, needles and syringes discovered in the truck he drove to his barn at the Alameda County Fairgrounds when CHRB Investigator Quezada conducted a barn search on May 20, 2014.

Although the foregoing is not in the best interest of horse racing, there was no direct evidence or testimony to support a violation of CHRB rule #1902 (Conduct Detrimental to Horse Racing).

Given all of the foregoing this Board of Stewards makes the following recommendation with consideration given to CHRB rule #1843.3 (Penalties for Medication Violations).

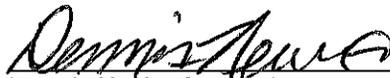
Trainer William J. Nolan, who started the mare LUCY WIGGLES, the winner of the third race at Golden Gate Fields on May 8, 2014 is suspended sixty (60) days and fined the sum of four thousand dollars (\$4000.00)* for violation of CHRB rule #1890 (Possession of Contraband – needles, syringes and injectable medications) and pursuant to CHRB rule #1887 (Trainer to Insure Condition of Horse) for violation of CHRB rule #1843 (a, b, c and d) (Medication, Drugs and Other Substances – Pseudoephedrine and o-desmethylypyrilamine, a metabolite of Pyrilamine – [Class 3]).

During the term of suspension all license privileges of William J. Nolan are suspended and pursuant to CHRB rule #1528 (Jurisdiction of Stewards) subject is denied access to all premises in this jurisdiction.

DATED: November 30, 2014

RECEIVED
CHRB

2014 DEC -3 PM 1:30


Dennis Nevin, Steward


John Herbuveaux, Steward


Darrel McHargue, Steward

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