

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:

Appeal of the Board of Stewards Official  
Ruling #025, Los Angeles Turf Club, Inc.,  
dated January 15, 2012

Case No. SAC 12-0002

JOEL ROSARIO  
CHRB License #288557  
Appellant

DECISION

The attached Proposed Decision is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on May 29, 2012.

IT IS SO ORDERED ON May 24, 2012.

CALIFORNIA HORSE RACING BOARD

Keith Brackpool, Chairman



Kirk E. Breed  
Executive Director

**BEFORE THE  
CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA**

**In the Matter of the Appeal of Stewards )  
Official Ruling #025, Los Angeles Turf )  
Club Inc. dated January 15, 201 )**

**Case No. LATS #025**

**JOEL ROSARIO )  
CHRB License #288557 )  
Appellant )**

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**PROPOSED DECISION**

This appeal was heard by attorney Steffan Imhoff, a Hearing Office/Appellate Judge designated under Rule 1414 by the California Horse Racing Board (CHRB), at Santa Anita Race Track, Arcadia, California, on March 25, 2012.

Rick Amieva, Special Investigator, represented the CHRB.

James Hamilton, Senior Investigator was also present for the CHRB.

Attorney Roger Licht, Beverly Hills, California represented the Appellant.

Mr. Rosario was present and testified on his own behalf.

Steward Scott Chaney testified for the CHRB.

Luis Jauregui, Safety Steward was also present.

The proceedings were transcribed by Barbara Weinstein, Hearing Reporter.

The appeal was submitted for decision on April 8, 2012.

## PROCEDURAL BACKGROUND

This Appeal concerns Appellant's race riding during the running of the 9<sup>th</sup> race at Santa Anita Race Track on January 14, 2012. Rosario rode the gelding Mon Coeur in a \$28,000 - \$30,000 maiden claiming race for three year old thoroughbreds. The race was run on the dirt track at the distance of six and one half furlongs. Approaching the finish line Mon Coeur "drifted out a bit" bumping Teasing Bernie and unseating his jockey Martin Pedroza. Mon Couer went on to finish first. Based on this incident the stewards conducted an inquiry into the running of the race. After reviewing the film the stewards voted unanimously to disqualify Mon Couer and placed him last, behind Teasing Bernie. In addition Mr. Rosario was invited to join the stewards the following day for a film review of the race.

## FILM REVIEW

The film review was conducted on January 15, 2012.

**Stewards Notes:** Jockey Joel Rosario met with the Stewards this morning to discuss the disqualification of his mount in the ninth race yesterday Mr. Rosario was on #5 Mon Coeur who finished first. Approaching the wire #5 Mon Coeur drifted out into the path of #7 Teasing Bernie (Martin Pedroza) causing the horse to stumble and fall. Jockey Guild Representative Darrell Haire accompanied Mr. Rosario for the hearing. After reviewing the videos it was the Stewards' opinion that when Mr. Rosario corrected his mount's inward drift, he caused his horse to move outward into the path of Teasing Bernie. Mitigating circumstances for the penalty were Mr. Rosario's impeccable riding style and record.

### **Therefore the Stewards' Issued the Following Order (LATS #025):**

Jockey **JOEL ROSARIO** WHO RODE "Mon Coeur" in the ninth race at Santa Anita Park on January 14, 2012, is suspended for FIVE (5) RACING DAYS (January 21, 22, 26, 27 and 28, 2012) for failure to make the proper effort to maintain a straight course in the stretch and causing interference which resulted in the disqualification of his mount. This constitutes a violation of California Horse Racing Board rule 1699 (Riding Rules-Careless Riding)...

The ruling was unanimous and was signed by Stewards Chaney, Ward and Sawyer and dated January 15, 2012.

Appellant, through counsel, has filed a timely notice appealing Order LATS #025.

The suspension has been stayed by Judge James Chalfant of the Los Angeles County Superior Court pending resolution of this appeal.

The hearing on appeal of Jockey Joel Rosario's suspension was conducted by Hearing Officer Steffan Imhoff at the Santa Anita Race Track on March 25, 2012. The Board presented the testimony of Steward Chaney and the film of the race. Respondent testified in his own behalf and also offered a disk of Pedroza being interviewed after the race. Both sides were given the opportunity to submit a Declaration from Pedroza and the record was kept open two weeks to allow for a submission. Neither side chose to do so.

This Appeal to the CHRB is authorized by Rule 1761. Appellant has the burden of proof on appeal under Rule 1764. The focus of the hearing was whether or not the films of the race showed careless riding, as defined by Rule 1699, and if so whether a 5 day suspension is justified.

Under the provisions of Business and Professions Code Section 19517, the CHRB may only overrule a Stewards' Decision if a preponderance of the evidence shows either that the Stewards mistakenly interpreted the law, new evidence of a convincing nature is produced or the best interest of racing may be better served.

## DISCUSSION

### *A. Summary of Evidence*

1. **THE RACE:** Both sides agreed that the relevant action took place inside the 1/16<sup>th</sup> pole. Appellant testified and was the only witness offered on his behalf. The film showed that nearing the finish line his mount is outside of and dueling for the lead with Tribal Dreams ridden by Alonso Quinonez. When Mon Coeur begins to drift inward towards Tribal Dreams, Rosario reacts by

pulling his reins to the right moving his mount away from his rival. Then, according to Rosario, Mon Coeur makes a quick "snake like" move to the outside where he bumps Teasing Bernie and puts horse and rider on the dirt. Respondent concedes that the disqualification was justified and that his horse was to blame for the unfortunate collision. However he blames his mount for making the unexpected snake move where the horse over reacted to the correction with the right rein. In short the blame falls on the horse and it happens too quickly for Rosario to prevent.

The interview with Jockey Martin Pedroza adds some credence to Rosario's position. Pedroza admits that the accident may have been partially his fault. Perhaps he could have avoided it.

Steward Chaney testified for the Board. His perception of the race was not significantly different from Appellant's. However in his view Rosario, who he has a lot of respect for, over corrected with his right rein. This caused Mon Coeur to move into Teasing Bernie's path. Chaney believes that Appellant had time to correct the outward drift and his failure to do so constituted careless riding.

Although it is a relatively close call the film of the race tends to support Steward Chaney. Rosario's mount is about 4 lanes out from Pedroza's. It appears that Rosario, one of the most talented jockeys in America, had sufficient time to stop his mount's outward drift and prevent the collision. His argument that he did not see Pedroza coming is not well taken. It is his responsibility to know when a rival is close by and to avoid cutting him off, clipping heels or bumping.

2. **THE PENALTY:** Steward Chaney was asked to explain how the number of days a Jockey is suspended for is calculated. Apparently the process is somewhat subjective. They do not automatically go from a warning to a 3 day

suspension to 5 days to 8 days and so on. Rather the whole *racing gestalt* is considered.

The court was especially concerned with how the consequences of careless riding are factored into the penalty. Steward Chaney testified that while it may not seem fair there normally will be a longer suspension if the careless ride, as in this case, results in a rider or horse going down. Even more days could be assessed if the fallen Jockey or his mount is injured.

### ***B. Controlling Law***

The Stewards have general authority and supervision over all licensees, including licensed jockeys such as Mr. Rosario (Rule 1527). That authority includes their ability to impose a fine or suspension (Rule 1528).

At issue in this appeal is Rule 1699, Riding Rules.

During the running of the race:

- a. A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.
- b. A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.
- c. A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such horse is not at fault and when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.
- d. Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.
- e. Jockeys shall not willfully strike or strike another horse or jockey so as to impede, interfere with intimidate, or injure.
- f. If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards.

### *C. Appellant's Contentions*

#### **1. Applying Rule 1699**

Appellant's sole contention is that he did not ride carelessly in the race at issue in violation of Rule 1699. As previously noted Martin Pedroza was willing to take on some of the blame. However it is apparent that most of the 1699 fault must attach to Rosario. He is responsible for the interference.

The evidence leads us to reject the defense. A perusal of that Rule 1699 in light of the evidence before the court reveals that Appellant in fact violated 1699a, 1699b, 1699c, 1699d and 1699f.

#### **2. Applying Penalty**

The Stewards wrote in their notes that they were showing leniency to Mr. Rosario because of his "impeccable riding style and record." We agree that these were proper mitigating circumstances to take into consideration. We also agree that the Stewards were correct in considering the fact that Appellant's careless ride, that caused both Teasing Bernie and Mr. Pedroza to go down, was an aggravating factor that justified additional days. We find therefore that the 5 day suspension was fully justified in this case.

Nothing is more important to the Board than the well-being of the race horse and the rider. We expect the Jockeys to ride aggressively and with heart. However, and most importantly, they must ride safely and not carelessly.

**Appellant has failed to meet his burden of proof to show by a preponderance of the evidence that the Stewards Decision should be reversed (Rule 1764). There is substantial evidence to support the Stewards Decision to suspend Appellant for careless riding, *Shapiro v. San Diego City Council* (2002) 96 CA4th 904, 912.**

**ORDER**

**Official Ruling LATS #025, dated January 15, 2012, imposing a 5 day suspension on Appellant Joel Rosario License #288557 for careless riding under Rule 1699, in the 9<sup>th</sup> race at Santa Anita Race Track on January 14, 2012 is hereby AFFIRMED.**

The Stewards shall specify the days that the suspension will be effective.

5-8-12

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**Dated**



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**STEFFAN IMHOFF**  
**Designated Appellate Judge**