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CHRB NEWS RELEASE DECEMBER 9, 2020

# Stewards Dismiss Complaints Against Justify and Hoppertunity

SACRAMENTO, CA – After a hearing on October 29, 2020, the Board of Stewards at Santa Anita Racetrack today issued the attached Statement of Decision to dismiss complaints filed by the current California Horse Racing Board (CHRB) in the combined cases of the horses Justify and Hoppertunity, both of whom had scopolamine detected in post-race samples following the 2018 Santa Anita Derby (Justify) and the Tokyo City Cup Race (Hoppertunity). CHRB filed the complaint as part of a settlement of a lawsuit filed by Ruis Racing LLC, owner of Santa Anita Derby runner-up Bolt d'Oro.

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**State of California**

CALIFORNIA HORSE RACING BOARD

**STATEMENT OF DECISION**
**of the**
**BOARD OF STEWARDS**

Santa Anita Racetrack
Arcadia, California

Dated December 9, 2020

| | | |
|---|---|---|
| **IN THE MATTER OF:** | ) | |
| | ) | |
| **The Disqualification of the Horses** | ) | |
| | ) | **CHRB CASE: 20SA0195** |
| **JUSTIFY** | ) | |
| | ) | **and** |
| **and** | ) | |
| | ) | **CHRB CASE: 20SA0196** |
| **HOPPERTUNITY** | ) | |
| | ) | |

## INTRODUCTION

This matter came for hearing before a Board of Stewards consisting of Ms. Kim Sawyer, Mr. Ronald Church and Mr. John Herbuveaux at Santa Anita Racetrack on Thursday October 29, 2020. The hearing was conducted via teleconference/Microsoft Teams.

Two hearings were held simultaneously at the request of both the Complainant, the California Horse Racing Board, and the Respondents. The Respondents were Mr. Bob Baffert, Mr. Mike Smith, China Horse Club, Head of Plains Partners, LLC, Starlight Racing, WinStar Farm, LLC, Mr. Flavien Prat, Mr. Michael Pegram, Mr. Karl Watson and Mr. Paul Weitman.

The California Horse Racing Board (hereinafter CHRB) was represented by California Deputy Attorney General Robert D. Petersen. Respondents WinStar Farm, LLC, China Horse Club, Head of Plains Partners, LLC, Starlight Racing and Mr. Mike Smith were represented by Ms. Amanda L. Groves. Respondents Mr. Michael Pegram, Mr. Karl Watson, Mr. Paul Weitman and Mr. Flavien Prat were represented by Mr. Richard C. Yarmuth and Ms. Lynn Engel. Respondent Mr. Bob Baffert was represented by Mr. Craig Robertson III.

At the hearing the parties were allowed to introduce relevant exhibits, produce witnesses for examination and cross examination and offer arguments. After documentary evidence was submitted, oral testimony was heard and arguments concluded the hearing was then closed and the matter deemed submitted.

## BACKGROUND

On August 25, 2020 the CHRB filed complaint #20SA0195 against Bob Baffert, Mike Smith, China Horse Club, Head of Plains Partners, LLC, Starlight Racing and WinStar Farm(s) for alleged violation of CHRB rule 1859.5 (Disqualification Upon Positive Test Finding). The persons named in the complaint were the owners, trainer and jockey of a horse named Justify which competed at Santa Anita Racetrack on April 7, 2018.

The complaint reads as follows:

*The official urine sample #SA27989 taken on April 7, 2018, was reported by Ben Moeller, PhD of the Maddy Equine Analytical Laboratory at UC Davis to contain Scopolamine. This sample was obtained from the horse "Justify" which ran in the ninth race at Santa Anita finishing 1st. A split sample was requested and confirmed in accordance to 1859.25. The trainer of record was Bob Baffert (#087698-01/2022). Scopolamine at the time of the race was a prohibited drug substance, Class 3, penalty class B. The owners of the horse were China Horse Club (#317272-12/2020), Head of Plains Partners LLC (#317920-12/2020), Starlight Racing (#299972-12/2021), and WinStar Farms (#270464-12/2020). The jockey was Mike Smith (#175978-08/2021). Per Rule 1859.5 the horse shall be disqualified, and any purse money forfeited.*

On August 25, 2020 the CHRB filed complaint #20SA0196 against Bob Baffert, Flavien Prat, Michael Pegram, Karl Watson, and Paul Weitman for alleged violation of CHRB rule 1859.5 (Disqualification Upon Positive Test Finding). The persons named in the complaint were the owners, trainer and jockey of a horse named Hoppertunity which competed at Santa Anita Racetrack on April 8, 2018.

The complaint reads as follows:

*The official urine sample #SA28011 taken on April 8, 2018 was reported by Ben Moeller, PhD of the Maddy Equine Analytical Laboratory at UC Davis to contain Scopolamine. This sample was obtained from the horse "Hoppertunity' which ran in the fifth race at Santa Anita finishing 1st. The trainer of record was Bob Baffert (#087698-01/2022). Scopolamine at the time of the race was a prohibited drug substance, Class 3, penalty class B. The owners of the horse were Michael Pegram (#09912-02/2021)(sic), Karl Watson (#262072-09/2021), and Paul Weltman (sic) (#253196-03-2023). The jockey was Flavien Prat (#303225-08/2021). Per Rule 1859.5 the horse shall be disqualified, and any purse money forfeited.*

Prior to the opening of the record for this hearing the Complainant and the Respondents submitted Joint Stipulations of Facts which were then read into the record after the hearing was opened. The stipulations were marked as CHRB Exhibit #1 and CHRB Exhibit #2 and were subsequently received into the record as evidence.

## EXHIBITS

CHRB EXHIBITS:

1. JOINT STIPULATION OF FACTS FOR CASE #20SA0195 (JUSTIFY)
2. JOINT STIPULATION OF FACTS FOR CASE #20SA0196 (HOPPERTUNITY)
3. COMPLAINT PACKET, NOTICE TO APPEAR AND LAB DATA PACKET FOR CASE #20SA0195
4. COMPLAINT PACKET, NOTICE TO APPEAR AND LAB DATA PACKET FOR CASE #20SA0196
5. REQUEST FOR OFFICIAL NOTICE CASE #20SA0195 AND CASE #20SA0196
6. REQUEST FOR OFFICIAL NOTICE CASE #20SA0195 AND CASE #20SA0196

RESPONDENT'S EXHIBITS:

1. JUSTIFY COMPLAINT PACKET

2. HOPPERTUNITY COMPLAINT PACKET

3. APRIL 26, 2018 CHRB REPORT OF INVESTIGATION FOR JUSTIFY

4. PHOTO OF EVIDENCE BAG AND LABEL FOR CASE NO. 18SA0114 AND 18SA0115 - BAG CONTAINING BRANCHES AND PODS, JUNE 7, 2018; PHOTO OF EVIDENCE BAG AND LABEL FOR CASE NO. 18SA0114 AND 18SA0115 - BAG CONTAINING LEAFY SUBSTANCE, JUNE 7, 2018; RECEIPT FOR PROPERTY, BAFFERT, JUNE 7, 2018, BAGS CONTAINING BRANCH AND PODS AND GREEN LEAFY SUBSTANCE; UC DAVIS REPORT RE SUBMITTED PLANT MATERIAL IN TWO BAGS COLLECTED FROM SANTA ANITA, JUNE 13, 2018; ADDENDUM VERSION 1 OF UC DAVIS REPORT RE SUBMITTED PLANT MATERIAL IN TWO BAGS COLLECTED FROM SANTA ANITA, JUNE 14, 2018.

5. JULY 25, 2018 EMAIL FROM RICK M. ARTHUR TO RICK BAEDEKER RE "DIETARY/ENVIRONMENTAL CONTAMINATION

6. DECLARATION OF DR. STEVEN BARKER AND EXHIBIT

7. DECLARATION OF CHUCK WINNER

8. CAL BUS. & PROF. CODE, DIVISION 8, CHAPTER 4 - HORSE RACING

9. LOUISVILLE COURIER JOURNAL ARTICLE - "CHRB REJECTS BOLT D'ORO TRAINER'S REQUEST FOR HEARING ON JUSTIFY'S FAILED DRUG TEST"

10. REPORT OF SANTA ANITA STEWARDS FOR THE WEEK OF MONDAY MAY 11, 2020 THROUGH SUNDAY, MAY 17, 2020

11. CAL. CODE REGS. TIT. 4, 1843.2 CLASSIFICATION OF DRUG SUBSTANCES

12. ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL - UNIFORM CLASSIFICATION GUIDELINES FOR FOREIGN SUBSTANCES (JANUARY 2020)

13. SUPPLEMENTAL DECLARATION OF CHUCK WINNER

14. CAL. CODE REGS. TIT. 4 1843.2 (sic) CLASSIFICATION OF DRUG SUBSTANCES

15. SEPTEMBER 12, 2019 BLOODHORSE ARTICLE - "SOME QUESTION, SOME PRAISE CHRB PROCESS IN JUSTIFY CASE" AND DRF ARTICLE - "WINNER: CHRB FOLLOWED PROTOCOLS IN SCOPOLAMINE POSITIVES FOR JUSTIFY, SIX OTHERS"

16. VERIFIED PETITION FOR WRIT OF MANDATE AND DAMAGES IN RUIS RACING, LLC v. CALIFORNIA HORSE RACING BOARD, CASE NO. 20STCP00144

17. DOCKET IN RUIS RACING, LLC v. CALIFORNIA HORSE RACING BOARD, CASE NO. 20STCP00144

18. AUGUST 27, 2020 CHRB NEWS RELEASE - "CHRB SEEKS DISQUALIFICATIONS, PURSE REDISTRIBUTIONS."

19. SEPTEMBER 12, 2019 PAULICK REPORT ARTICLE - "FORMER CHRB CHAIRMAN DEFENDS ACTIONS ON POSITIVE TEST DISMISSAL; ARCI ADVISORY CONTRADICTS STATEMENT ON POTENTIAL PENALTY"

20. AUGUST 27, 2020 NBC SPORTS ARTICLE - "RACING BOARD SEEKS DQ OF JUSTIFY IN SANTA ANITA DERBY"

21. MAY 26, 2020 LA TIMES ARTICLE - "HORSE RACING NEWSLETTER: OH NO, SCOPOLAMINE!"

22. SEPTEMBER 25, 2019 NBC SPORTS ARTICLE - "THE STORY BEHIND JUSTIFY'S POSITIVE DRUG TEST: A MISLEADING BOMBSHELL SCOOP, A DAMNING LACK OF TRANSPARENCY AND ANOTHER UNFORCED ERROR BY RACING OFFICIALS"

23. DECLARATION OF MIKE LEVY

## WITNESSES

1. Dr. Rick Arthur, Equine Medical Director, University of California Davis School of Veterinary Medicine

2. Dr. Steven Barker, Professor Emeritus, School of Veterinary Medicine, Louisiana State University

## FINDINGS OF FACT

### I

On April 7, 2018 the horse Justify ran in the ninth race at Santa Anita Racetrack and finished first.

### II

A post race urine sample (#SA27978) was taken from the horse and analyzed at the UC Davis Maddy Equine Analytical Laboratory and showed the presence of Scopolamine, a substance prohibited by the rules and regulations of the California Horse Racing Board (hereinafter CHRB).

### III

The owners of the horse Justify were China Horse Club, Head of Plains Partners, LLC, Starlight Racing and WinStar Farms. The trainer was Bob Baffert and the jockey was Mike Smith.

### IV

On April 8, 2018 the horse Hoppertunity ran in the fifth race at Santa Anita Racetrack and finished first.

## V

A post race urine sample (#SA28011) was taken from the horse and analyzed at the UC Davis Maddy Equine Analytical Laboratory and showed the presence of Scopolamine, a substance prohibited by the rules and regulations of the CHRB.

## VI

On August 25, 2020 the CHRB filed complaint #20SA0195 seeking the disqualification of the horse Justify for alleged violation of CHRB rule 1859.5 (Disqualification Upon Positive Test Finding).

## VII

On August 25, 2020 the CHRB filed complaint #20SA0196 seeking the disqualification of the horse Hoppertunity for alleged violation of CHRB rule 1859.5 (Disqualification Upon Positive Test Finding).

## VIII

At all times contained herein the Respondents were duly licensed by the CHRB.

## IX

It was stipulated that the presence of the prohibited substance Scopolamine in the two test samples was due to environmental contamination and that the levels found in each of the tests would have no performance enhancing effect on either horse.

## X

It was stipulated that five other horses had detectable levels of Scopolamine in April/May 2018 and that no complaints have been filed in those cases.

## XI

CHRB rule 1859.5 states a horse shall be disqualified from a race if a test sample from a horse participating in a race contained a prohibited drug substance which is determined to be in class levels 1-3 under CHRB rule 1843.2 (Classification of Drug Substances).

## XII

At the times of the races in 2018 rule 1843.2 stated that the classification of any substance will be determined by the CHRB Penalty Categories Listing by Classification (Revised 04/15), herein incorporated by reference, which is based on the ARCI Uniform Classification Guidelines for Foreign Substances (12/14), as modified by the CHRB.

## XIII

At the times of the races in 2018 the CHRB Penalty Categories Listing by Classification has Scopolamine listed as a class 3 substance.

## XIV

At the times of the races in 2018 the ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule, Version 8.00 (12/14), referenced in rule 1843.2 listed Scopolamine as a class 3 substance.

## XV

At the times of the races on April 7, and April 8, 2018 Scopolamine was listed by the Association of Racing Commissioners International (hereinafter ARCI) as a class 4 prohibited substance.

## XVI

The ARCI changed the classification of Scopolamine from a class 3 to a class 4 in December of 2016.

## XVII

The CHRB formally adopted the 2018 guidelines referenced in rule 1843.2 at a CHRB meeting in Del Mar California on August 20, 2015.

## XVIII

The California Office of Administrative Law approved the rule change on October 5, 2015.

## XIX

At a CHRB meeting in Del Mar California on August 23, 2018 the CHRB formally amended rule 1843.2 by adopting the current CHRB Classification of Foreign Substances Alphabetical List (New 05/18) which lists Scopolamine as a class 4 substance.

## XX

At the August 23, 2018 CHRB meeting rule 1843.2 was also amended to incorporate the ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule, Version 13.4 (01/18), which listed Scopolamine as a class 4 substance.

## XXI

The California Office of Administrative Law approved the change on October 18, 2018 and the rule took effect in January of 2019.

## XXII

It was stipulated that in August 2018 the CHRB knew that the ARCI classified Scopolamine as a class 4 substance.

## XXIII

At the CHRB meeting in Del Mar in August 2018 Mr. Rick Baedeker, the executive Director of the CHRB and Dr. Rick Arthur, Equine Medical Director of the CHRB, recommended to the CHRB, in executive session, that the scopolamine positive tests be dismissed due to environmental contamination.

## XXIV

At the August 2018 CHRB meeting the attending Commissioners voted unanimously , in executive session, to follow staff recommendations and formally declined to move forward with any charges in the Justify matter.

## XXV

It was stipulated that no new facts have been discovered since the CHRB made a decision not to pursue the complaints against Justify and Hoppertunity in August 2018.

## XXVI

It was stipulated to by the parties that the filing of the complaint on August 25, 2020 against the trainer, owners and jockey of Justify was a condition of a settlement agreement between the Board and Ruis Racing, LLC.

# DETERMINATION OF ISSUES

The central issue to be determined in this matter is whether the horses Justify and Hoppertunity should be disqualified for violation of CHRB rule 1859.5 (Disqualification Upon Positive Test Finding). Other collateral issues were raised during the hearing and will be addressed here to determine if they merit consideration.

Foremost is the issue if mitigating circumstances. The Respondents spent great time and effort to promote the theory that the Stewards should consider a host of criteria which would mitigate the consequences of any penalty imposed by this panel. CHRB rule 1843.3 (Penalties for Medication Violations) was cited as the basis for this contention. This rule however refers to a penalty, i.e. a fine or suspension, that may be imposed on any licensee who is found to be culpable and or responsible for a horse competing in a race with a prohibited substance in its system.

The rule 1843.3 states that mitigating or aggravating circumstances shall be considered before any penalty against a licensed trainer or licensed owner is imposed. Rule 1859.5, on the other hand, is absolute in that if a horse is found to be in violation of the rule the horse shall be disqualified. No circumstances, mitigating or otherwise need be considered.

Respondents contended that the Scopolamine in the two horses' systems had no pharmacological effect on the horses competing in their particular races. Dr. Steven Barker testified at length to this position. It was already stipulated that the level of Scopolamine found in either test sample would have no performance enhancing effect on either horse.

Whether the Scopolamine in the horses' systems did or did not have a performance enhancing or pharmacological effect on their performance is irrelevant when considering rule 1859.5 as long as the substance detected by the official laboratory is considered to be in class 1-3 by the rules of the Board.

Another issue raised by the Respondents centered around a statute of limitations and whether the filing of the complaints over two years after the races in question violated the Respondents' due process. While points on the subject were raised by the Respondents, then debated and argued by both parties during the hearing, no applicable statute or rule was referenced and no legal authority was cited upon which the Stewards could base a decision that was not speculative.

Having addressed these particular issues this panel will now concentrate on the application of rule 1859.5 the only alleged violation listed in the complaints.

## CALIFORNIA HORSE RACING BOARD RULES
California Code of Regulations, Title 4, Division 4

Rule 1859.5 (Disqualification Upon Positive Test Finding) states:

*A finding by the stewards that an official test sample from a horse participating in any race contained a prohibited drug substance as defined in this article, which is determined to be in class levels 1-3 under rule 1843.2 of this division, unless a split sample tested by the owner or trainer under rule 1859.25 of this division fails to confirm the presence of the prohibited drug substance determined to be in class levels 1-3, shall require disqualification of the horse from the race in which it participated and forfeiture of any purse, award, prize or record for the race, and the horse shall be deemed unplaced in that race. Disqualification shall occur regardless of culpability for the condition of the horse.*

Rule 1843.2 Classification of Drug Substances in 2018 states:

*The Board, the board of stewards, the hearing officer, or the administrative law judge, when adjudicating a hearing for violation of Business and Professions Code section 19581, shall consider the classification of the substance as referenced in the California Horse Racing Board (CHRB) Penalty Categories Listing by Classification (Revised 04/15), hereby incorporated by reference, which is based on the Association of Racing Commissioners International (ARCI) Uniform Classification Guidelines for Foreign Substances (12/14), as modified by the Board.*

## DISCUSSION

The two rules referenced above are at the center of the matter when considering the possible disqualifications of Justify and Hoppertunity. It was stipulated to that both horses showed levels of Scopolamine in their respective post race urine samples. The question to be resolved by this Board of Stewards is whether, at the times of the races, Scopolamine was a class 3 or a class 4 prohibited substance as classified by the CHRB.

Evidence submitted and testimony heard are conflicting as to what class Scopolamine was listed in April of 2018. Rule 1843.2 mentions two different sources of classification, The first is the CHRB Penalty Categories Listing by Classification (Revised 04/15). The second is the ARCI Uniform Classification Guidelines for Foreign Substances (12/14).

According to the CHRB's Penalty Categories (Revised 04/15) in 2018 Scopolamine was listed as a class 3 substance. According to the ARCI Uniform Classification Guidelines (12/14) Scopolamine was listed as a class 3 substance in 2018. This information is contained in Complainant's exhibits 5 and 6.

The CHRB formally adopted the two guidelines contained in the 2018 version of the rule book at a regular CHRB meeting on August 20, 2015 in Del Mar, California. So at the time of the races in April of 2018 the CHRB rules considered Scopolamine a class 3 prohibited substance. The California Office of Administrative Law approved the amendment on October 5, 2015.

Testimony indicated that the ARCI Uniform Guidelines for Foreign Substances was changed in December of 2016 to list Scopolamine as a class 4 substance. If this change in the ARCI Guidelines were to prevail in the interpretation of the 2018 version rule 1843.2 then the disqualification of the two horses would not be necessary as the prohibited substance would not fall into a class 1-3 category.

Complainant argued that the CHRB cannot automatically incorporate the ARCI Guidelines every time that organization updates its categories because all CHRB rules must go through the Administrative Procedures Act rule making process and failure to do so would amount to an underground regulation.

Respondent argued that the CHRB was well within its authority to consider the change to the ARCI guidelines without the rule being amended as the rule stated the guidelines are incorporated by reference, as modified by the CHRB.

Complainant exhibits 5 and 6 show that that at the regular CHRB meeting in Del Mar, California on August 23, 2018 the CHRB formally adopted an amendment to rule 1843.2 which, among other things, changed Scopolamine from a class 3 to a class 4 prohibited drug substance.

In addition the amendment changed the CHRB Penalty Categories Listing by Classification (Revised 04/15) to the CHRB Classification of Foreign Substances, Alphabetical List (New 05/18). The amendment also updated the ARCI Uniform Classification Guidelines for Foreign Substances from version 12/14 to version 01/18. The Office of Administrative Law approved that rule amendment on October 18, 2018 and the rule became effective on January 1, 2019.

Testimony by Dr. Arthur indicated that he felt the change in the ARCI Guideline Classifications for Scopolamine from a class 3 to a class 4 in December of 2016 was sufficient enough for him to consider the rule amended because the rule changing process in California is cumbersome and inefficient.

He went on to explain that the California rule making process was so gummed up that if the CHRB had started in January of 2017 to change the Scopolamine class level adopted by the ARCI in December of 2016 it would not have become effective until January of 2018 under a best case scenario.

Arthur added that, in the past, he had recommended that the CHRB adopt the ARCI Classifications by reference but that the Office of Administrative Law would allow that.

As part of the CHRB packet regarding the amendment to rule 1843.2 at the August 23, 2018 meeting (Complainant exhibits 5 and 6) the Informative Digest/Policy Review Statement Overview states that:

*The Board proposes to amend rule 1843.2 to replace the CHRB Penalties Category Listing by Classification, which is incorporated by reference in rule 1843.2, with the form CHRB 1843.2 Classification of Foreign Substances Alphabetical Substance List. The Alphabetical Substance List of Foreign Substances will bring Rule 1843.2 in line with ARCI Uniform Classification Guidelines for Foreign Substances which has been updated by the ARCI several times since the CHRB Penalty Categories Listing was last amended in 2015.*

It is the opinion of this panel that the evidence and the testimony reflect the fact that the CHRB must formally adopt a rule change to 1843.2 before any changes in drug substance classifications can become effective. With this in mind the Stewards have determined that, at the time of the races for Justify and Hoppertunity on April 7, and 8, 2018, Scopolamine was a class 3 prohibited substance.

It is the Stewards opinion that had this Board of Stewards heard the Justify and Hoppertunity complaints prior to August 23, 2018 both horses would have been disqualified.

It is also this Board of Stewards' belief that at the August 23, 2018 CHRB meeting in Del Mar, California the attending Commissioners unanimously voted, in executive session, to accept the staff recommendation of Mr. Baedeker and Dr. Arthur and formally declined to move forward with any charges in the Justify matter.

Evidence and testimony show that the matter was dismissed by the CHRB at that August 23, 2018 meeting. Dr. Arthur testified that he and Baedeker, executive Director of the CHRB, both recommended to the CHRB that the matter be dismissed. Dr. Arthur's testimony is corroborated by the declaration of Mr. Chuck Winner (Respondent's exhibit 6) who was Chairman of the CHRB at the time of the August 23, 2018 meeting.

Respondent's exhibit 8 is a copy of California Business and Professional Code, Division 8, Chapter 4 - Horse Racing, in particular, 19577 (d) which states:

*The executive director shall report to the board a finding of a prohibited drug substance in an official test sample within 24 hours of the confirmation of that prohibited drug substance in the split sample by the independent laboratory, or within 24 hours of a waiver of split sample testing by the owner or trainer. Any recommendation to the board by the executive director to dismiss the matter shall be by mutual agreement with the equine medical director. The authority for the disposition of the matter shall be the responsibility of the board.*

Dr. Arthur was of the opinion that the Scopolamine found in Justify and Hoppertunity, as well as five other horses tested in April and May 2018, was the result of environmental contamination and that the matters should be dismissed. He believed it was the right thing to do.

Dr. Arthur went on to state that he also told the CHRB at the August 23, 2018 meeting that there might be a perceived lack of transparency should the CHRB fail to go public with the decision and that it would probably not remain a secret.

It was stipulated to by the parties that the CHRB knew in August of 2018 that the ARCI had changed its classification guidelines to reflect that Scopolamine was now a class 4 prohibited substance.

Dr. Arthur testified that it was his recommendation to the CHRB that the Justify matter be dismissed completely and that Baedeker shared his opinion. Arthur testified that he and Baedeker submitted that signed recommendation to the CHRB in executive session of the August 23, 2018 CHRB meeting. Chairman Winner's declaration affirmed such an occurrence.

Even if this panel were to disagree with the CHRB's decision to dismiss these matters or the way the CHRB handled the situation it cannot be argued that the CHRB lacked the authority to do so. The law specifically allows such actions to take place and the CHRB followed the law.

## ORDER

After considering the evidence and testimony presented Complaint #20SA0195 and Complaint #20SA0196 are both dismissed. The CHRB has already ruled on this matter, in executive session, at the August 23, 2018 CHRB meeting in Del Mar, California and voted to not move forward with complaints.

John B. Herbuveaux

Steward John B. Herbuveaux

Kim Sawyer

Steward Kim Sawyer

Ron Church BY SEAT

Steward Ron Church

Dated: December 9, 2020