

BEFORE THE CALIFORNIA HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of:

Fitness for Licensure

EDGAR LYNN SPARKS
Applicant

Case No. SAC 10-0009

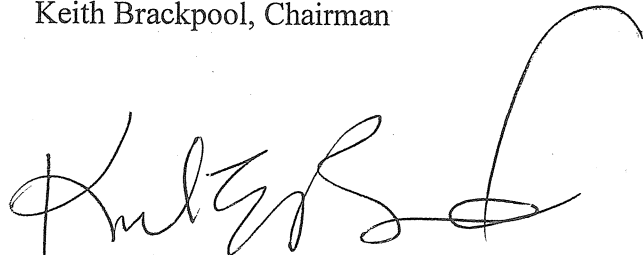
DECISION

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 March 23, 2010.

IT IS SO ORDERED ON March 19, 2010.

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:

Fitness for Licensure

Case No. 10SA-022

EDGAR LYNN SPARKS,
Applicant

PROPOSED DECISION

This matter came for hearing in the offices of the California Horse Racing Board (Board) at Santa Anita Race Track, Arcadia, California on February 18, 2010. Assistant Executive Director Richard Bon Smith acted as Referee for the Board pursuant to Section 1414, Title 4, California Code of Regulations.

Applicant Edgar Lynn Sparks (Sparks) appeared and was not otherwise represented by Counsel. Sparks was accompanied by his father, Roy Lynn Sparks (CHRB License # 28540) and brought no other witnesses or other documentary evidence. The proceedings were tape recorded; court reporter Barbara Weinstein transcribed as well.

Senior Special Investigator Frank Fink (Fink) appeared and presented evidence on behalf of the Board.

At the hearing the parties were afforded the opportunity to present evidence and respond to questions. Relevant documentation (Sparks' application package) was introduced as an exhibit (Exhibit A) to the matter and subjected to discussion, along with testimony from the applicant and his father. Upon receipt of the testimonial and documentary evidence, and concluding the discussion, the record was closed and the matter deemed submitted.

BACKGROUND

Edgar Sparks approached the CHRB licensing office at Santa Anita on January 9, 2010, seeking a license as a laborer. Applicant Sparks has never held a CHRB license in any capacity, but was assigned CHRB license #811124 as a placeholder in the CHRIS data base. He has a criminal record and history dating at least to November 2002 when he was arrested for multiple felonies: manufacture of a controlled substance, child endangerment, and burning an inhabited structure. His prison term commenced in

November 2003 and was to have ended January 2013, but for time served and good behavior he was paroled in December 2008 for a term through December 2011.

In January 2010, Sparks sought a license, but was denied under the terms of Directive 01-09, dated January 6, 2009. He was presented a Notice of Refusal of License (CHRB – 83) explaining the reason for the denial, and notified of his right to appeal the refusal. The hearing held February 18, 2010 was for the purpose of that appeal.

FINDINGS OF FACT

Pursuant to a review of materials submitted and subsequent testimony of applicant Sparks, his father, and CHRB Investigator Fink, and with no indication of evidence to the contrary, the following are taken as accepted findings of fact.

I.

Edgar Lynn Sparks, CHRB license #811124 (CHRIS placeholder) was arrested for multiple felonies in 2002 (HS 11379.6, PC 273(A), and PC 452 (B)), convicted, and served five years of his nine-year prison term from November 2003 through December 2008. The CHRB Investigative Report and court documents indicate that he was paroled and received an early discharge, effective December, 2008.

II.

CHRB Senior Special Investigator Fink entered the entire package of documents submitted by Sparks for his application as evidence. This included a completed application form and criminal history, the applicable CHRB Investigative documents, Notice of Hearing, Sparks' informal email request for a hearing, court and prison documents and records, a memo from a parole officer regarding Sparks' status, and a copy of CHRB Directive 01-09.

III.

Sparks was refused a license on January 9, 2010, in accordance with the terms of CHRB Directive 01-09. Under that Directive Sparks would not be eligible to be licensed until December 2016, five years past the termination of his parole. He appealed the refusal and was granted a hearing.

IV.

Sparks expressed his belief that he had changed his behavior and his intent to live a productive life. Further, he had been clean since his incarceration, and desires to go to work at the track as a means to support his children and to reinforce the positive influences in his life. Roy Sparks, the father asserted that he had worked for Santa Anita

for some twenty plus years and could facilitate Edgar Sparks' obtaining employment in the maintenance department.

V.

In a memo prepared at Sparks' request, his Parole Officer, Agent Rodriguez, Pomona #2, indicated that Sparks had tested clean, had followed parole directions, and had no violations during the term of his parole to date. Sparks indicated his parole included monthly visits, both in office and at his home with the parole officer, and random drug tests during the period.

APPLICABLE RULES

California Horse Racing Board Rule #1489 (Grounds for Denial or Refusal of License) states in part:

The Board ... may refuse a license ... to any person:

(a) Who has been convicted of a crime punishable by imprisonment in a California state prison or a federal prison, or who has been convicted of a crime involving moral turpitude.

CHRB Directive 01-09 "License Refusals and Denials", effective January 6, 2009, adds the following:

...A license applicant will not be considered for licensing and will be refused or denied a license based on the following minimum criteria:

- a. Felony Convictions for violations of California Penal Code Section 337 a-j: The license applicant is not eligible...at any time.
- b. Felony Convictions (except as noted above subsections "a": A license applicant is not eligible for licensing for a term of (5) years following the termination of the parole and/or probation of the felony conviction.

DETERMINATION OF ISSUES

Sparks was convicted of manufacturing a controlled substance; in this case, he was operating a meth lab in his home. While doing this, with his young children present, the house burned down. As a result, he ended up with child endangerment and burning a residence felonies as well. He accepted and served his sentence and expressed a willingness to comply with the terms of a restrictive permissive conclusion. He acknowledged Directive 01-09, but asked that it be waived in his case. Only Section "b" of the terms of Directive 01-09 apply, as Sparks' felony convictions were not for PC Sections 337 a-j.

Roy Sparks suggested that he could facilitate his son's hiring to the Grounds Maintenance crew at Santa Anita, and that it would allow Roy to "keep an eye" on him. Edgar agreed to contacting the Winners Foundation and to following the prescriptive program that they might require to meet and address his personal problems.

Given the punitive terms expressed in Directive 01-09 Section "a" (five years following the termination of the parole), ample grounds exist to recommend that the license refusal be upheld, and Sparks' appeal be denied, as his parole term is not even due to end until December 2011. Moreover, the question as to whether granting the appeal and allowing Sparks' licensure would endanger the public or horse racing participants must be considered.


Sparks was 24 years old when he was arrested. He is now 32 and has expressed his determination to be responsible for his actions, his children and family. His interest and effort suggest an individual worthy of a "second chance".

CONCLUSION

It is recommended that Edgar Lynn Sparks be allowed to apply to be licensed as a Laborer in accordance with CHRB Rules # 1481 and 1485. (d), under the following conditions:

- (a) In advance of any employment by a racing association, Mr. Sparks agrees to contact and agrees to comply with guidelines set forth by Winners Foundation.
- (b) Mr. Sparks agrees to submit to urine/blood testing at the discretion of an Enforcement staff member of the CHRB.
- (c) Recurrent licensure would be contingent on successful continuation and completion of the terms of his parole.

February 24, 2010
Sacramento, California


Richard Bon Smith, Hearing Officer

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