

BEFORE THE HORSE RACING BOARD

STATE OF CALIFORNIA

In the Matter of the Complaint Against:

JAMES G. HANSON
CHRB License #290069

Respondent

Case No. SAC 13-0014
CHRB Case #13LA0055

DECISION

The attached Proposed Decision in the Matter of the Complaint Against James G. Hanson is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on June 28, 2013, on which date James G. Hanson shall commence serving the thirty (30) day suspension and payment of the fine stated in the Adopted Decision be due and owing.

IT IS SO ORDERED ON May 23, 2013.

CALIFORNIA HORSE RACING BOARD
David Israel, Chairman



Kirk E. Breed
Executive Director

State of California

CALIFORNIA HORSE RACING BOARD

**PROPOSED DECISION
of the
BOARD OF STEWARDS**

Los Alamitos Race Course

April 26, 2013

In the Matter of the Accusation Against:

James G. Hanson
Respondent
Case #13LA0055

INTRODUCTION

This matter has been heard before the Board of Stewards, George Slender, James Dreyer, and Albert Christiansen, at the Los Alamitos Race Course Stewards Office on Saturday, April 6, 2013.

Present at the hearing was the respondent, Trainer James G. Hanson, who waived his right to an attorney and represented himself, Ryan Hanson, assistant trainer and son of James G. Hanson, Special Investigator Kevin Kitashima who presented the case for the complainant, Safety Steward Randy Winick and the Board of Stewards. Court Reporter Michelle Derieg recorded the proceedings.

PROCEDURAL BACKGROUND

Trainer James G. Hanson was the trainer of record for the horse "Wylie N Wyatt" who started in the first race at Los Alamitos Race Course on February 1, 2013. On February 21, 2013, Sacramento Headquarters faxed information to Supervising Investigator Tom Blake at Los Alamitos Race Course that "Wylie N Wyatt" (urine sample #LA22546) tested positive for the class III prohibited drug "Clenbuterol" after winning the first race on February 1, 2013. Trainer Hanson was notified of the positive the same day and a barn inspection found no further violations. James G. Hanson designated Iowa State University Racing Chemistry to conduct the testing of the split sample. On March 14, 2013, information was received from Iowa Sate University Racing Chemistry that urine sample #LA22546 was acquired in acceptable cold condition and the sample container was sealed. Chemical analysis "Final Report" of the urine sample reported that the sample contained "Clenbuterol" using liquid chromatography/mass spectrometry.

LIST OF EXHIBITS

Complainant/State Exhibit # 1 - California Horse Racing Board Complaint #13LA0055

Investigative Reports and Documents

Respondent/Defendant Exhibit # A - Trainer James Hanson Clenbuterol Information Package

E-mail Correspondence with California Horse Racing Board

Maddy Lab Results

Mitigating Information

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 "Wylie N Wyatt" when it raced in the first race on February 1, 2013 at Los Alamitos Race Course. "Wylie N Wyatt" finished first in the aforementioned race.

III.

A post-race urine sample (labeled sample #LA22546) was taken from "Wylie N Wyatt" following the running of the race in accordance with California Horse Racing Board Rule #1858 (Test Sample Required) and was sent to the Kenneth L. Maddy Equine Analytical Chemistry Lab at the University of California, Davis. This is the official testing lab of the California Horse Racing Board.

IV.

At all times herein mentioned, the chain of custody of sample #LA22546 from "Wylie N Wyatt" was uninterrupted.

V.

After analyzing the sample, Maddy Laboratory reported a finding of the prohibited drug Clenbuterol, a class III substance.

VI.

On February 21, 2013, Trainer James Hanson and Owner Ryan Hanson were notified that "Wylie N Wyatt" had tested positive for Clenbuterol (814 picograms/ml).

VII.

The Respondent requested that sample #LA22546 also be analyzed by Iowa State University Racing Chemistry Laboratory pursuant to California Horse Racing Board Rule #1859.25 (Split Sample Testing).

VIII.

Investigator Kevin Kitashima received a final report confirmation from Iowa State University Racing Chemistry Laboratory that urine sample #LA22546 was received in acceptable condition and that the sample contained Clenbuterol using liquid chromatography/mass spectrometry.

APPLICABLE RULES

California Horse Racing Board Rule 1887 (a) (Trainer to Insure Condition of Horse) states:

(a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in Rule 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off.

California Horse Racing Board Rule 1843 (a,b&d) (Medication, Drugs and Other Substances) states:

It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications and drug substances foreign to the horse. In this context:

(a) No horse participating in a race shall carry in its body any drug substance or its metabolites or analogues, foreign to the horse except as hereinafter expressly provided.

(b) No drug substance shall be administered to a horse which is entered to compete in a race to be run in this State except for approved and authorized drug substances as provided in these rules.

(d) A finding by an official chemist that a test sample taken from a horse contains a drug substance or its metabolites or analogues which has not been approved by the Board, or a finding of more than one approved non-steroidal, anti-inflammatory drug substance or a finding of a drug substance in excess of the limits established by the Board for its use shall be prima facie evidence that the trainer and his/her agents responsible for the care of the horse has/have been negligent in the care of the horse and is prima facie evidence that the drug substance has been administered to the horse.

California Horse Racing Board 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.

DISCUSSION

As the factual findings indicate, the Respondent trained a horse that tested positive for a drug substance, Clenbuterol, the presence of which is prohibited by California Horse Racing Board Rules and Regulations. The split sample the Respondent sent to Iowa State University also tested positive, however Trainer James Hanson informed us that the level detected by the U.C. Davis Maddy Lab was so minute (814 picograms/ml) that Iowa State had to re-calibrate its test to a lower level to detect the presence of Clenbuterol, which it did.

Trainer James Hanson was told by the Iowa State Testing Lab that in layman's terms, the minute amount of 814 picograms per milliliter is comparable if it were money to one cent to \$10,000,000,000 (ten billion dollars) or one square foot of floor tile on a floor the size of India.

Trainer James Hanson acknowledged that there is a zero tolerance policy by the California Horse Racing Board Rule and takes responsibility under the Trainer Insurer Rule, however he thinks that this could be a mitigating circumstance in light of the fact that previously Clenbuterol had an acceptable level of 5 nanograms, which is more than six times the 0.8 nanograms the lab "estimated" according to Dr. Rick Arthur, and therefore could have no performance enhancement properties. Trainer Hanson also offered several other mitigating factors on his behalf, such as he testified he did not give this horse Clenbuterol. The only Clenbuterol in his barn was under lock and key in his office at the time of the incident and thereafter under lock and key in an empty tack room that belongs to his son Ryan, the owner of "Wylie N Wyatt." There is only one key to this room and it is hidden. Trainer James Hanson said he does not give any of his horses Clenbuterol, except the two-year-olds who are not yet running. No horse that races in his barn receives Clenbuterol. Mr. Hanson thinks this is a case of possible outside contamination, possibly by the horse using a previously used bit from one of the two-year-olds and not rinsing it off, a rub rag from a groom getting near his nose or mouth that was tainted with Clenbuterol, a walking machine arm rope that horses commonly chew on, feed, a sponge or dose syringe used to give other legal medicine with, etc.

California Horse Racing Board Rule #1843.3 (b) lists eleven factors, either mitigating or aggravating, that should be considered in arriving at a penalty, which are outlined in Rule #1843.3. A minimum of thirty days to a maximum of sixty days suspension along with a fine of from \$500 to \$10,000 is the recommended penalty for a first offense.

1) Past Record

James Hanson had a warning for a high bute for a horse working to get off the Vet's List in 2008 and a \$500 fine for a high bute in 2009. Hanson has no class I, II or III violations on his record. This would be somewhat mitigating in our opinion, as far as a clean record goes.

2) The Potential of a Drug to Influence a Horse's Performance

Clenbuterol can enhance a horse's performance, however at the minute level of 814 picograms/ml, it is highly unlikely. Mitigating.

3) Legal Availability of the Drug

Clenbuterol is easily available from any veterinarian as this is not an illegal drug to use, just to race on. This is a neutral factor.

- 4) Whether There is Reason to Believe the Responsible Party knew of the Administration of the Drug or Intentional Administration of the Drug

Reviewing the testimony by Trainer James Hanson, it is our opinion that he did not intentionally administer Clenbuterol to "Wylie N Wyatt."

- 5) Steps by Trainer to Safeguard Horse

Trainer James Hanson had no video surveillance, however he had the Clenbuterol locked up in a refrigerator in his office, and then moved it to another tack room that no one used and locked it up with only one hidden key available. Mitigating to neutral factor.

- 6) Steps Taken by an Owner to Safeguard against Subsequent Medication Violation

The owner is Respondent's son, Ryan Hanson, and they moved the drug to another hidden, locked location. Mitigating.

- 7) Environmental Contamination

No evidence was presented on this issue.

- 8) Purse of the Race

\$6,000 prize to the winner was, in our estimate, not significant to provide incentive to cheat. Mitigating.

- 9) Was the Horse Receiving Treatment with the Drug

No; neutral.

- 10) Suspicious Wagering

No; neutral.

- 11) Was the Trainer Acting Under the Advice of a Licensed Vet

No; this horse was not prescribed Clenbuterol.

Calculation of Penalty

We made the following findings regarding penalty:

- A) Under Rule #1843.3 (b) (1-2), the mitigating circumstances in this case outweigh the aggravating factors.
- B) Respondent's past record indicates he should not receive the maximum penalty described in Rule 1843.3 (b).
- C) Keeping these points in mind, as well as all of the facts and circumstances of this case, we reach the following conclusion.

CONCLUSION

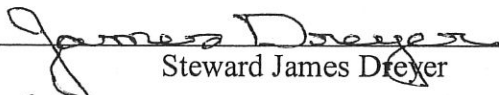
Complaint #13LA0055, charging Respondent, Trainer James Hanson (License #290069-09/2014) with violating California Horse Racing Board Rules #1843 (a,b&d), #1859.5 and #1887 (a), in that "Wylie N Wyatt," a gelding trained by the Respondent, ran in the first race at Los Alamitos Race Course, and finishing first on February 1, 2013, with the prohibited drug Clenbuterol in his system (814 picograms/ml) has been found true.

PROPOSED DECISION

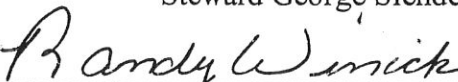
This Board of Stewards feel the mitigating factors slightly outweigh the aggravating factors in this case against Trainer James Hanson and are reasonably convinced that the evidence suggests there may have been contamination involved in this positive test finding and not an intentional administration of Clenbuterol. Therefore, after weighing the evidence and mitigating factors, the following proposed decision is recommended:

- 1) All California Horse Racing Board licenses held by Respondent shall be suspended for a period of thirty (30) days, beginning on a date to be determined by the California Horse Racing Board. During the term of suspension, Respondent shall perform no act for which a trainer's license is required by law.
- 2) Respondent shall pay a fine of \$3,000.00 (three thousand dollars), due on a date to be determined by the California Horse Racing Board.

Dated April 26, 2013 by this Board of Stewards:


Steward James Dreyer


Steward George Slender


Steward Randy Winick