

BEFORE THE CALIFORNIA HORSE RACING BOARD  
OF THE STATE OF CALIFORNIA

In the Matter of:

Appeal of the Board of Stewards Official Ruling  
#61, Hollywood Park Spring Racing  
Association, dated June 7, 2006

JERRY JAMGOTCHIAN  
Appellant

Case No. SAC 06-0043

DECISION

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

The Decision shall become effective on July 20, 2007.

IT IS SO ORDERED ON July 19, 2007.

CALIFORNIA HORSE RACING BOARD  
Richard B. Shapiro, Chairman



Ingrid J. Fermin  
Executive Director

BEFORE THE  
CALIFORNIA HORSE RACING BOARD  
STATE OF CALIFORNIA

In the Matter of:

Appeal From Rulings of the Board of  
Stewards, Hollywood Park Spring Racing  
Association, dated June 7, 2006,

JERRY JAMGOTCHIAN,

Appellant.

Case No. SAC 06-0043

OAH No. L2006110259

PROPOSED DECISION

This matter was scheduled for hearing before Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings, on April 12, 2007, and on May 30, 2007.

Mark R. Beckington, Deputy Attorney General, represented the California Horse Racing Board (CHRB).

Ronald S. Caswell, Attorney at Law, represented Jerry Jamgotchian (appellant). Appellant and Mr. Caswell appeared on April 12, 2007, but neither appeared on May 30, 2007.

On the first day of hearing, the parties raised numerous evidentiary issues, and presented exhibits and argument to support their respective positions. The Administrative Law Judge took the evidentiary issues under submission, and the parties agreed to continue the hearing in this matter to May 30, 2007, pending a ruling by the undersigned. On May 9, 2007, the Administrative Law Judge issued an "Evidentiary Ruling" which has been marked as exhibit 3 and made part of the record. On May 25, 2007, counsel for CHRB submitted a "Supplemental Brief of Appellee California Horse Racing Board." This brief is marked exhibit 4 and made part of the record.

On May 30, 2007, Mr. Beckington appeared on behalf of the CHRB and requested that the undersigned issue a proposed decision affirming Board of Steward's Ruling #61 and denying the appeal filed by appellant.

## FACTUAL FINDINGS

1. Appellant, a horse owner, entered horses in a number of races held at Santa Anita Race Track in March 2006.

2. Appellant filed a protest after the Baldwin Stakes on March 4, 2006, and thereafter filed objections for the following races: (1) the La Habra Stakes on March 5, 2006; (2) the 7th race at Santa Anita on March 5, 2006; (3) the 6th race at Santa Anita on March 10, 2006; (4) the 5th race at Santa Anita on March 18, 2006; and (5) the 9th race at Santa Anita on March 18, 2006. In his protest and objections, appellant asserted that the other entrants in those races did not comply with CHRB Rule 1582, and demanded that the Stewards disqualify all other entrants.<sup>1</sup>

3. The Santa Anita Stewards denied the objections in a series of rulings designated as LATS Rulings 99, 100, 103, 110 and 111. Mr. Jamgotchian appealed Rulings 99, 100, 110 and 111 to the CHRB, which remanded two of them (Rulings 99 and 100) because the Stewards failed to make a record of the proceedings. A hearing on remand of Rulings 99 and 100 as well as the protest was scheduled for May 17, 2006.

4. Rather than present evidence at the hearing before the Board of Stewards, Mr. Caswell, on behalf of appellant, made the following objections to the proceedings:

- (a) Appellant objected to two of the stewards assigned to hear the matter because they participated in the initial rulings denying the objections. In addition, appellant asserted that the third steward might be a percipient witness in future litigation involving appellant.
- (b) Appellant asserted that the makeup of that ruling body violated appellant's due process rights under the Fifth and Fourteenth Amendments to the United States

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<sup>1</sup> At the time of the races that were the subject of the objections and protest, Rule 1582 provided "Entries and declarations shall be in writing on forms provided by the association and signed by the owner of the horse, his authorized agent, the trainer of the horse or a representative delegated by the trainer. Entries made by telephone are valid if promptly confirmed in writing and no person shall fail to confirm an entry made by telephone." Rule 1582 has since been amended and now provides as follows: "(a) Entries and declarations shall be in writing on forms provided by the association and signed by the owner of the horse, his authorized agent, the trainer of the horse or a representative delegated by the trainer. (b) As a condition of the race meeting under Rule 1437 of this division, entries may be made by telephone, facsimile, or any other electronic method deemed appropriate by the association. The association may require written conformation of such entries."

Constitution because the Stewards were biased against appellant. Appellant also cited Code of Civil Procedure sections 170.1 and 170.6 to support his request for a new panel of stewards.<sup>2</sup>

5. In addition to appellant's objections set forth in Factual Finding 4, Mr. Caswell represented that he intended to call as witnesses the three presiding Stewards and two other Stewards to question them regarding their deliberations before issuing their original rulings on appellant's objections. Further, Mr. Caswell informed the Stewards that he intended to call as a witness Ingrid Fermin, the Executive Director of the CHRB, to question her regarding her "temporary suspension" of Rule 1582. Appellant claimed that her testimony was relevant because of his contention that Ms. Fermin actually issued the temporary suspension on March 3, 2006, but backdated it to March 1, 2006.

6. Appellant requested a continuance of the hearing before the Board of Stewards based on: (1) his objection to the Board of Stewards and his request to have another Board of Stewards hear the case; (2) the witnesses appellant intended to call were not present at the hearing and appellant did not issue and serve subpoenas on them; and (3) the CHRB had not acted on the appeal of Rulings 110 and 111, and appellant argued that it would be more efficient to await the CHRB's decision on Rulings 110 and 111 because those cases presented the same issues and would likely be remanded as well.

7. The Board of Stewards denied appellant's continuance request and Steward Scott Chaney set forth the reasons for the denial while on the record. Appellant had received proper notice of the hearing before the Board of Stewards, and the opposing party was prepared to go forward. Based on the record, including the transcripts of the proceedings, the Board of Stewards did not err in denying appellant's request for a continuance. Rather than going forward with a presentation of evidence, appellant's counsel set forth appellant's concerns with the composition of the Board of Stewards and stated, "So with that, we're leaving. We are not submitting to the jurisdiction of this particular Board." (Exhibit 1, Attachment 5, Transcripts, page 48, lines 3 and 4). Appellant and his counsel then left the hearing.

8. On June 7, 2006, the Board of Stewards issued a Statement of Decision dismissing appellant's protest and his objections corresponding to LATS Rulings 99 and 100, based on appellant's failure to present evidence.

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<sup>2</sup> Code of Civil Procedure section 170.1 sets forth grounds for disqualification of a judge, which include bias or prejudice. Code of Civil Procedure section 170.6 allows any party to file a motion for "peremptory challenge" against a judge assigned to hear a case. If such a motion is duly filed, the presiding judge shall assign another judge to hear the matter.

9. On the first day of the instant hearing before the ALJ, appellant made general assertions that the Board of Stewards were biased against him and reiterated many of the arguments he made before the Board of Stewards. However, appellant did not present specific facts to support his assertions, and nothing in the transcripts of the proceedings before the Board of Stewards indicates that they were biased against appellant.

10. On May 9, 2007, the undersigned issued an "Evidentiary Ruling" limiting the evidence that would be allowed in the administrative hearing. Specifically, the ruling stated: "Appellant shall not be allowed to present evidence that existed and was known to appellant at the time of the hearing before the Board of Stewards resulting in Ruling #61."

11. Neither appellant nor his attorney appeared before the ALJ on the May 30, 2007. Appellant did not introduce new evidence or evidence that existed but was not known to appellant at the time of the hearing before the Board of Stewards.

### LEGAL CONCLUSION

Grounds do not exist to overrule the decision of the Board of Stewards in Ruling #61 dismissing appellant's March 4, 2006 protest and his objections relating to LATS Rulings 99 and 100 (Races 4 and 7 at Santa Anita Park held on March 5, 2006) based on the following:

- (1) Appellant did not submit legal authority or prove facts showing that the Board of Stewards mistakenly interpreted the law pursuant to Business and Professions Code section 19517, subdivision (a)(1).
- (2) Appellant failed to introduce new evidence of a convincing nature as required by Business and Professions Code section 19517, subdivision (a)(2).
- (3) Appellant failed to introduce evidence or legal authority proving that the best interests of racing would be better served by overruling the decision by the Board of Stewards pursuant to Business and Professions Code section 19517, subdivision (a)(3).
- (4) The Board of Stewards correctly denied appellant's request for a continuance at the May 17, 2006 hearing.
- (5) Appellant had the burden to present evidence to support his objections and protest. He failed to do so at the hearing before the Board of Stewards and at the hearing before the ALJ.

**ORDER**

Ruling #61 issued by the Board of Stewards is affirmed. The appeal of Ruling #61 is denied and the matter is dismissed.

DATED: June 7, 2007

A handwritten signature in cursive script that reads "Humberto Flores".

HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings