

BEFORE THE CALIFORNIA HORSE RACING BOARD
OF THE STATE OF CALIFORNIA

In the Matter of the:)
)
STIPULATED SETTLEMENT)
AGREEMENT)
) SAC 07-0093
KIM LEWIS KUHLMANN, D.V.M.)
Appellant)
_____)

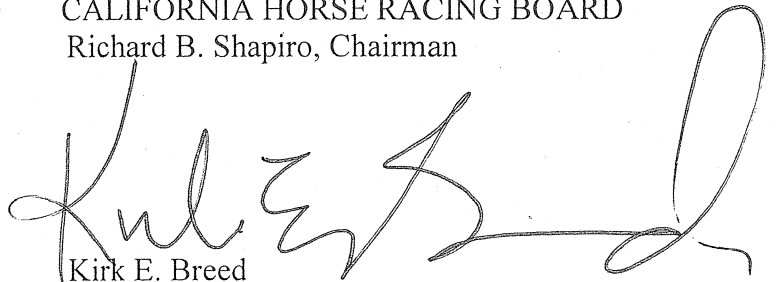
DECISION

The attached Stipulated Settlement Agreement between the California Horse Racing Board and Appellant Kim Lewis Kuhlmann, D.V. M. is hereby adopted by the California Horse Racing Board as its Decision in the above-entitled matter.

The Decision shall become effective on October 16, 2008.

IT IS SO ORDERED ON October 15, 2008.

CALIFORNIA HORSE RACING BOARD
Richard B. Shapiro, Chairman



Kirk E. Breed
Executive Director

1 EDMUND G. BROWN JR.
 Attorney General of the State of California
 2 MIGUEL A. NERI
 Supervising Deputy Attorney General
 3 FIEL D. TIGNO
 Supervising Deputy Attorney General
 4 MARY S. CAIN-SIMON (State Bar No. 113083)
 Deputy Attorney General
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8 Attorneys for California Horse Racing Board

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10 CALIFORNIA HORSE RACING BOARD
 11 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

12

13 In the Matter of,
 14 CALIFORNIA HORSE RACING BOARD,
 15 Complainant,
 16 v.
 17 KIM LEWIS KUHLMANN, D.V.M.
 License No. 081351-01/2010,
 18 Respondent.

OAH Case No.: 2008060175
 CHRB Case No.: 07BM125
 Horse: El Sierra Tahoe
STIPULATED SETTLEMENT AGREEMENT
 [Business and Professions Code §19517;
 Cal. Code of Regulations Title 4 §§1761,
 1764.]
 Date: August 25, 2008
 Time: 9:00 a.m.

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21 The California Horse Racing Board hereby enters into the following Stipulated
 22 Settlement Agreement for discipline with its licensee, Kim Kuhlmann D.V.M., with respect to
 23 his appeal of the Board of Stewards Decision (CHRB Case No. 07BM125) pertaining to the
 24 unlawful medication of the horse "El Sierra Tahoe." The Board of Stewards' written ruling and
 25 decision in this matter dated January 28, 2008, are attached to this stipulated settlement
 26 agreement.

27

STIPULATED FACTS

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1. The horse El Sierra Tahoe (a registered lasix horse) trained by Jeff Bonde competed in

1 and was the winner of the ninth race at Bay Meadows Race Track on September 1, 2007.

2 2. El Sierra Tahoe's post race urine sample #BM02554 - Laboratory #070905-97435, when
3 analyzed by the University of California Davis Equine Laboratory, showed the contents of 3-
4 hydroxy lidocaine, a metabolite of lidocaine.

5 3. The split sample (#BM02554) was tested by Industrial Laboratory confirming the
6 presence of 3-hydroxy lidocaine (metabolite of lidocaine).

7 4. University of California Davis reported that no furosemide was detected in the urine of
8 test sample #BM02554, which was a discrepancy from the reported medications listed on the
9 Test Sample Shipping Invoice.

10 5. At the request of Dr. Scott Stanley, Chief Chemist for Maddy Equine Analytical
11 Chemistry Laboratory/University of California, a secondary test using Liquid Chromatography -
12 Mass Spectrometry was conducted resulting in a negative finding of furosemide.

13 6. On September 19, 2007, a search was conducted of Jeff Bonde's barn, tack room/office
14 (Pleasanton Fairgrounds) wherein two unused syringes were confiscated.

15 7. A Letter of Explanation from Steven L. Boyer, D.V.M., who is employed by San
16 Francisco Equine, Inc., stated the syringes found in the possession of Jeff Bonde at Pleasanton
17 Fairgrounds were dispensed for the purpose of administering Regu-Mate (oil based synthetic
18 progestin) orally.

19 8. Dr. Kim Kuhlmann testified he believed he administered the drug lidocaine intravenously
20 instead of furosemide to the horse El Sierra Tahoe four hours prior to race post time on
21 September 1, 2007 with no malicious intent involved.

22 9. Dr. Kuhlmann stated the syringe with the drug lidocaine had been left in his tray from the
23 previous day's (August 31, 2007) treatments after using it for a local anesthetic while stapling a
24 laceration on the left eye of the horse Win By Win for trainer Jacob Aguilar.

25 10. Dr. Kuhlmann indicated that he had a new assistant helping on September 1, 2007 who
26 must not have discarded the previous day's syringes.

27 11. Dr. Kim Kuhlmann has not been penalized by the California Horse Racing board since
28 1998. Prior to that Dr. Kuhlmann had been penalized by the California Horse Racing Board for

1 giving unauthorized medications (furosemide and ketoprofen).

2 12. Dr. Kuhlmann testified that in his opinion his injection of lidocaine intravenously did not
3 have any distal nerve analgesic effect; therefore it did not enhance the horse El Sierra Tahoe's
4 performance.

5 13. Deputy Attorney General Mary Cain-Simon upon the agreement of counsel, moved to
6 withdraw the complaint against Jeff Bonde, insofar as it related to the positive involving
7 California Horse Racing Board rule #1887 (a) (Trainer to Insure Condition of Horse) and
8 #1843(a)(b)(d) (Medication, Drugs and Other Substances).

9 Dr. Kuhlmann agrees and stipulates to discipline against his license, as set forth below,
10 for violation of CHRB Rules 1887(a)(any person shown to have had the care or attendance of a
11 horse which tests positive for a prohibited drug substance, may be fined, his/her license
12 suspended, revoked, or be ruled off).

13 **STIPULATED PENALTY:**

14 1. Thirty days' suspension, with 15 days to be stayed pending, the stay to become permanent
15 upon successful completion of one year probation with no further Class I, II, or III violations. The
16 fifteen days suspension which is not stayed will be served commencing October 16, 2008.

17 2. Each party to bear their own attorneys' fees and costs.

18 3. The parties agree and stipulate this matter will be placed before the CALIFORNIA
19 HORSE RACING BOARD for the purpose of review of this settlement agreement pursuant to
20 Business and Professions Code §19517.5. The parties stipulate that the CHRB may, upon its
21 approval, incorporate this settlement agreement into the record of the CHRB and issue a written
22 ruling adopting this settlement agreement as a Ruling of the CHRB. In the event the CHRB

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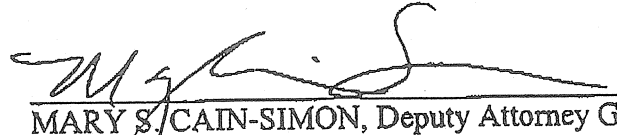
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1 declines to approve this stipulated settlement agreement, the settlement agreement will be
2 withdrawn and the matter re-scheduled for hearing before the Office of Administrative Hearings.

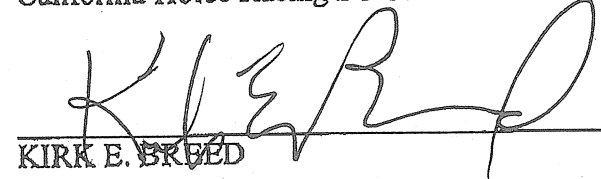
3
4 Dated: Oct 8, 2008

EDMUND G. BROWN JR.
Attorney General of the State of California
MIGUEL A. NERI
FIEL D. TIGNO
Supervising Deputy Attorneys General

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8 
MARY S. CAIN-SIMON, Deputy Attorney General

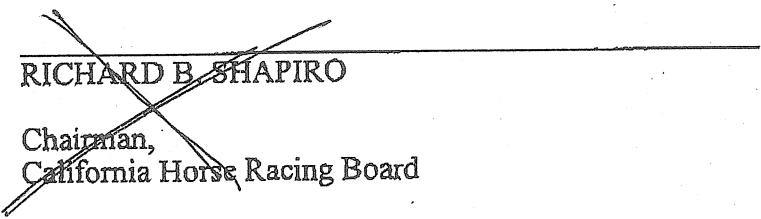
9 Attorneys for Complainant,
10 California Horse Racing Board

11
12 Dated: 10/02/08, 2008

13 
KIRK E. BREED

14 Executive Director,
California Horse Racing Board

15
16 Dated: _____, 2008

17 ~~~~
RICHARD B. SHAPIRO
18 Chairman,
California Horse Racing Board

19
20 Dated: _____, 2008

21 STEPHEN SCHWARTZ, WALLACE AND SCHWARTZ
22 Attorneys for Respondent

23
24 Dated: _____, 2008

25 KIM KUHLMANN, DVM

26
27
28

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 2 withdrawn and the matter re-scheduled for hearing before the Office of Administrative Hearings.

3
 4 Dated: _____, 2008
 5 EDMUND G. BROWN JR.
 6 Attorney General of the State of California
 7 MIGUEL A. NERY
 8 FIEL D. TIGNO
 9 Supervising Deputy Attorneys General

10
 11
 12 _____
 13 MARY S. CAIN-SIMON, Deputy Attorney General
 14 Attorneys for Complainant,
 15 California Horse Racing Board

16 Dated: _____, 2008
 17 _____
 18 KIRK E. BREED
 19 Executive Director,
 20 California Horse Racing Board

21 Dated: _____, 2008
 22 _____
 23 ~~RICHARD B. SHAPIRO~~
 24 ~~Chairman~~
 25 ~~California Horse Racing Board~~

26 Dated: 10/7, 2008
 27 _____
 28 SCHWARTZ, WALLACE AND SCHWARTZ
 STEVE R.
 Attorneys for Respondent

29 Dated: 10/7, 2008
 30 _____
 31 KEM KUHLMANN, DVM