

BEFORE THE HORSE RACING BOARD

OF THE STATE OF CALIFORNIA

In the Matter of:

Appeal of the Board of Stewards Official
Ruling #13, Del Mar Thoroughbred Club,
dated August 1, 2009

Case No. SAC 09-0054

MICHAEL BAZE
CHRB License # 271896
Appellant

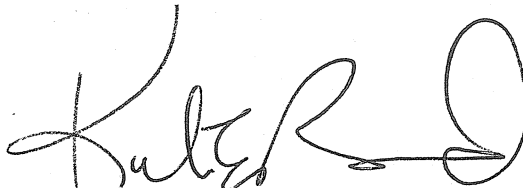
DECISION

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 November 19, 2009.

IT IS SO ORDERED ON November 17, 2009.

CALIFORNIA HORSE RACING BOARD
John C. Harris, Chairman

A handwritten signature in black ink, appearing to read "Kirk E. Breed", with a large, stylized flourish at the end.

Kirk E. Breed
Executive Director

BEFORE THE
CALIFORNIA HORSE RACING BOARD
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In the Matter of the Appeal of Stewards)
Official Ruling No. 13, Del Mar)
Thoroughbred Club, dated Aug. 1, 2009)
MICHAEL BAZE)
CHBB License # 271896)
Appellant.)
_____)

Case No. SAC 09-0054

PROPOSED DECISION

This appeal was heard by attorney Steffan Imhoff, an Appellate Judge designated under Rule 1414 by the California Horse Racing Board, at Del Mar, California, on September 5, 2009.

Rick Amieva, Investigator, represented the California Horse Racing Board.

Attorney Bing Bush represented Appellant Michael Baze, who was present.

Barbara Weinstein was the reporter.

Alexandra DeKoster acted as court clerk.

Present for Appellant was jockey agent Ronnie Ebanks

Also present were Stewards Scott Chaney and Tom Ward.

The appeal was submitted for decision on October 19, 2009.

PROCEDURAL BACKGROUND

On July 31, 2009 Appellant Baze rode #2, Self Insured to victory in the 9th contest, a \$25,000 claiming race, run at 6 ½ furlongs at the Del Mar race track. Finishing 2nd was Smooth and Savvy, ridden by Alonzo Quinonez and trained by Peter Miller. Self Insured was trained by Jack Carava and was claimed out of the race by trainer John Sadler. Self Insured and Smooth and Savvy had ridden close to each other for virtually the whole race with Baze's mount running just to the outside of his rival. Following the race the Stewards did not call for an Inquiry. However, before the results became official either Jockey Quinonez or Trainer Miller lodged a claim of foul against the winner, Self Insured, for interference during the stretch run. After speaking to the

jockeys involved, taking account reports from the patrol judges and conducting a lengthily film review the Stewards ruled, in a majority decision ,(Judge Ward dissenting), that Self Insured's number would come down and he would be disqualified and placed second in back of Smooth and Savvy. Smooth and Savvy was moved up to first position. In addition Appellant's name was put on the jockey room board; a summons, in effect, for Mr. Baze to meet with the Stewards the following day.

On August 1, 2009 Mr. Baze met with Del Mar Stewards Tom Ward, Scott Chaney, and Ingrid Fermin for a Film Review/Hearing concerning his ride the previous day on Self Insured. After reviewing the film of the race the Stewards concluded that Appellant failed to make a proper effort to maintain a straight course in the stretch and caused interference with Smooth and Savvy, the mount to his inside. The Stewards ruled that Appellant's ride constituted careless riding as defined and prohibited by rule 1699. Therefore on August 1, 2009 the Board of Stewards issued official ruling # 13 which states that:

Jockey MICHAEL BAZE., who rode Self Insured in the ninth race at Del Mar Thoroughbred Club on July 31, 2009 is suspended for THREE RACING DAYS (3) (August 8,9and 12, 2009) for failure to make the proper effort to maintain a straight course in the stretch and causing interference which resulted in the disqualification of his mount from first to second position which is a violation of California Horse Racing Board Rule # 1699 (d)(Riding Rules-Careless Riding) Terms of suspension shall not prohibit participation in designated races pursuant to California Horse Racing Board rule #1766 (Designated Races).

Appellant, through counsel has filed a timely notice appealing Order DMTC # 13. The suspension has been stayed by the Board pending resolution of this appeal.

The hearing on appeal of Order #13 was conducted in Del Mar, California on September 5, 2009. This Appeal to the CHRB is authorized by Rule 1761. Appellant has the burden of proof on appeal under Rule 1764. The focus of the hearing was whether or not the films of the race showed Jockey Baze guilty of careless riding as defined by Rule 1699.

Under the provisions of Business and Professions Code Section 19517, the CHRB may only overrule a Stewards' Decision if a preponderance of the evidence shows either that the Stewards mistakenly interpreted the law, new evidence of a convincing nature is produced or the best interest of racing may be better served.

DISCUSSION

A) Summary of Evidence

Appellant Michael Baze testified on his own behalf. He strongly denied riding carelessly in the race. He has been a jockey for six years and has ridden in about six thousand races. He is, of course, from a legendary family of jockeys. He felt that he

never put any other horse or rider in danger. The only contact was a slight brushing caused by his rival coming out on him..

Jockey Agent Ronnie Ebanks also testified for Appellant. He had been a jockey for ten years prior to becoming an agent and was qualified as an expert in race riding. It was his opinion that Mr. Baze was not riding carelessly. He stated three reasons for his opinion. Initially he argued that Garrett Gomez, ridding the favorite, #3, A Cat Named Snipe, committed flagrant interference coming out of the gate and was not penalized by the Stewards. Secondly, on the far turn, just before the stretch the two horses inside him, Smooth and Savory and #14, Corenal Moldes, ridden by Cory Nakatani, push on Appellant's mount, bringing him from five lengths out to ten lengths out going into the stretch. His third point was that there was no serious contact by Appellant with any of his rivals during the stretch run.

Steward Scott Chaney testified for the California Horse Racing Board. He was on the Del Mar Board of Stewards that issued this suspension against Mr. Baze. In his opinion this was a pretty straight forward case of careless riding. Concerning the incident on the turn approaching the stretch the Stewards were bothered by Mr. Nakatami drifting out, forcing Appellant wide and being responsible for causing some contact. Nakatami was brought in the same morning as Mr. Baze for a film review. However the Stewards felt that Mr. Nakatami's conduct was not sufficiently serious to warrant a suspension for careless riding and he was released with a warning. Conversely Appellants' careless riding was sufficiently serious, in the opinion of the Stewards, to warrant the 3 day suspension.

The film of the race in question was entered as exhibit A.

B) Controlling Law

The Stewards have general authority and supervision over all licensees, including licensed jockeys such a Mr. Baze. (Rule 1527) That authority includes their ability to impose a fine or suspension. (Rule 1528)

At issue in this appeal is Rule 1699 - Riding Rules.

During the running of the race;

- (a) A leading horse is entitled to any part of the course but when another horse is attempting to pass in a clear opening the leading horse shall not cross over so as to compel the passing horse to shorten its stride.
- (b) A horse shall not interfere with or cause any other horse to lose stride, ground or position in a part of the race where the horse loses the opportunity to place where it might be reasonably expected to finish.
- (c) A horse which interferes with another and thereby causes any other horse to lose stride, ground or position, when such horse is not at fault and

when such interference occurs in a part of the race where the horse interfered with loses the opportunity to place where it might, in the opinion of the Stewards, be reasonably expected to finish, may be disqualified and placed behind the horse so interfered with.

(d) Jockeys shall not ride carelessly, or willfully, so as to permit their mount to interfere with or impede any other horse.

(e) Jockeys shall not willfully strike or strike another horse or jockey so as to impede, interfere with intimidate, or injure.

(f) If a jockey rides in a manner contrary to this rule, the mount may be disqualified and the jockey may be suspended or otherwise disciplined by the Stewards. (emphasis added)

C) Appellant's Contentions

Appellant's principal contention is that the Stewards and this Board should apply a comparative carelessness analysis under 1699(d). If other jockeys in the race are more careless than Appellant, and are not suspended, then Appellant should not be suspended. We decline the invitation to take this approach. Such an analysis would result in the consideration of random and irrelevant evidence under Evidence Code Section 352. Therefore we reject Appellant's request that we consider the fact that A Cat Named Snipe may have bothered horses coming out of the gate, and his jockey, Garrett Gomez was not disciplined.

We can consider the sequence of events starting with the turn into the stretch and continuing to the finish line because they connect directly with Appellant's disqualification and suspension. Appellant came into the stretch about seven paths wide with his rivals, ridden by Quinonez and Nakatami respectively just inside him. The two inside horses float Appellant out another three or four paths turning into the stretch. Then Nakatami's mount brushes slightly with Quinonez' mount who in turn comes out on Appellant's mount. At that point it becomes a two horse dash to the finish line. At around the 1/8 pole Smooth and Savvy comes out slightly and lightly brushes Self Insured. Appellant continues to urge his mount with a right handed whip but is also correcting his path with the reigns. Appellant prevails by a nose, but is then disqualified by the Stewards following a claim of foul.

Appellant argues that it was the slight brushing in the stretch that was the reason Self Insured was disqualified and Mr. Baze was suspended. That is incorrect. Steward Chaney made it clear that the suspension was based on the Stewards view that Mr. Baze allowed his mount to drift in and interfere with Smooth and Savvy. After a careful review of film showing the stretch run of this race, particularly the head-on shot, we are unable to sustain the Stewards' ruling.

After Smooth and Savvy brushes Self Insured the two horses assume a lockstep angle toward the rail, which is, after all, the shortest way home. At this point it appears that both horses are saving ground moving toward the rail as opposed to losing ground when Self Insured was floated wide in the turn. In addition, as Steward Chaney testified

to, Baze used his reins from the 1/16 pole to control his mounts direction and keep him from brushing the horse to his inside. It should be noted that in a previous Del Mar case Michael Baze was suspended for using his whip to control his mount, instead of the reins, which the Stewards had established as the preferred tool.(Michael Baze, Appellant TMTC #24, 2006). We are also mindful of the fact that the record contains no evidence that Appellant had previously received a warning from the Stewards for careless riding. It appears that there was an informal policy by the Stewards to issue such a warning prior to handing out days. Finally we find that at no point did Appellant cause his rival to "shorten his stride or lose stride, ground or position." (Rule 1699)

In sum, we find that Appellant Baze while riding aggressively did not ride carelessly under Rule 1699(d).

Appellant has met his burden of proof to show by a preponderance of the evidence that the Stewards Decision should be overturned. (Rule 1764)

ORDER

Official Ruling # 13, Del Mar Thoroughbred Club, dated August 1, 2009 imposing a three (3) day suspension on Appellant Michael Baze., (Lic. # 271896) for careless riding under Rule 1699, in the 9dth race at Del Mar on July 31, 2009 is hereby REVERSED

DATED: 10-12-09



STEFFAN IMHOFF
Designated Appellate Judge