

RULING #1

Jockey, **Juan M. Nunez** Permit #65373 DOB 07/15/1999 is fined **Two Hundred Fifty dollars (\$250.00)** for being in violation of **Rules 178-1-45.7.f.5.** applicable part which reads. A rider who elects to use a riding crop, may not: **45.7.f.5.A.** Use the crop more than six (6) times during the race; and **45.7.f.5.B.** Use the crop more than two (2) times without allowing the horse to respond

Jockey **Nunez** used his crop excessively in **Race 4** on **Friday January 5, 2024.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #2

Jockey, **Jason Simpson**; Permit #65668; DOB 07/16/1985, is hereby fined **One Hundred Dollars (\$100.00)** for violation of West Virginia Rule of Racing Number **178-1-46.3.h** which reads, "No person shall make a frivolous protest.

Jockey **Simpson** made an unwarranted claim of foul in the **First Race on Thursday January 11, 2024.**

All fines imposed by the Stewards shall be paid to the Racing Commission within seven (7) calendar days after the ruling is issued, unless otherwise ordered by the Stewards, Per Rule of Racing Number **178-1-8.5.n.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:


DENVER K. BECKNER


LENNY J. RERA


L. ROBERT LOTTS

RULING #3**Owner/Trainer, Joseph N. Pyke****Permit #62420**

On **Friday December 29, 2023** the Board of Stewards offered a hearing to **Owner/Trainer, Joseph N. Pyke Permit #62420, DOB 02/17/1971** to which he waived his right to a hearing regarding a medication violation pertaining to his horse **"Taptap" who finished First (1st) in the Eighth (8th) race on Thursday December 14, 2023.**

The Stewards hereby find the following: The official blood sample **#E605944** taken on **12/14/24** was reported by Industrial Laboratories, the official testing laboratory, to contain **Phenylbutazone** which is a Class 4 drug, with a C Penalty, designation. Sample **#E605944** contained **19.0 ug/ml of Phenylbutazone**, which is above the permissible threshold for this drug. The sample was taken from the **Eleven (11) horse, "Taptap"**, which ran in the **8th Race on 12/14/23, finishing first.**

Mr. Pyke elected not to have a split sample tested.

Pursuant to **178 W. Va. C.S.R. 1, section 24.11.o**, The Stewards are authorized to take disciplinary action against a permit holder for violating any provision of the Thoroughbred Racing Rule.

Pursuant to section **51.1.a, of the Thoroughbred Racing Rule, 178 W.Va.C.S.R.1**: "The trainer is the absolute insurer of and responsible for the condition of the horses he or she enters in an official workout or a race, regardless of the acts of third parties. If testing or analysis of urine, blood or other bodily substances or tissues prove positive showing the presence of any prohibited drug, medication or substance, the trainer of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined. In addition, the owner of the horse, the foreman in charge of the horse, the groom, and any other person shown to have had the care, attendance of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined."

Pursuant to **178 W. Va. C.S.R. 1, section 49.4.a.2.**, a finding by a Racing Commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse, and in the case of a post-race test, was present in the horse's body while it was participating. Prohibited substances included controlled therapeutic medications in excess of established threshold concentrations as set forth in the Association of Racing Commissioners International Controlled Therapeutic Medication Schedule, Version 3.2., contained in Table 178-1 F of the Thoroughbred Racing Rule

Pursuant to **178 W. Va. C.S.R. 1, Table 178-1 F.** Because the amount of **Phenylbutazone** in **"Taptap"** exceeded the acceptable threshold set forth in **Table 178-1 F, Mr. Pyke** may be held responsible and his occupational permit disciplined pursuant to **178 W. Va. C.S.R. 1, sections 49.4.a.2. and 51.1.a.**

This violation is **Mr. Pyke's** first in this category for a medication/substance violation in a 365 days period.

The permit holder has accumulated **0 points** under the multiple medication violation point system. **Mr. Pyke** is assessed **½ point** for this medication/substance violation pursuant to section **49.3.m. of 178 of W.Va.C.S.R.1.**

The Stewards determine the appropriate penalty for the underlying offense on a case by case basis by considering mitigating and aggravating factors. The following is an analysis of the factors set forth in section **49.1 of the Thoroughbred Racing Rule**:

1. **(Mitigating) The Permit holder's past record:** The permit holder has never had a medication violation in his life.
2. **(Mitigating) The potential of the drug to influence the horse's racing performance:** Pursuant to 178 W. Va. C.S.R. 1, section 49.2.d, Class 4 drugs may influence performance, but generally have a more limited ability to do so. This is a mitigating factor although it is always of concern to the Stewards when a horse tests in excess of a threshold set forth in the Thoroughbred Racing Rule inasmuch as such thresholds are designed to ensure that horses aren't racing under the effects of the medication, to allow a state veterinarian conducting a pre-race examination to have as clean a look at the horse as is possible to make sure that the horse does not have some condition that would cause it to harm itself if it races, and to ensure the integrity of racing so that horses aren't racing under the effect of a medication that could affect performance.
3. **(Mitigating) The legal availability of the drug: Phenylbutazone** is legally available.

4. **Whether there is reason to believe the permit holder knew of the administration of the drug or intentional administered the drug:** Inasmuch as there was no hearing in this matter it was not established whether or not the permit holder knew of the administration of the drug, or the circumstances under which the drug may have been given. Therefore this factor is not considered in weighing the penalty in this case.
5. **The steps taken by the trainer to safeguard the horse:** Inasmuch as there was no hearing in this case it is unknown what efforts the trainer made to ensure that the treatment of the horse with **Phenylbutazone** was done within the withdrawal guidelines and dosing specifications set forth in **178 W. Va. C.S.R. 1, Table 178-1 F**, so as to avoid a positive. Therefore this factor is not considered in weighing the penalty in this case.
6. **The probability of environmental contamination exposure due to human use:** This factor is not applicable to this case.
7. **The purse of the race:** The race in question was a **Maiden/Claiming** race with a **\$13,000** purse. The Stewards place no weight, either aggravating or mitigating, based upon the purse in this case.
8. **Whether the drug found was one for which the horse was receiving as a treatment as documented by the treating veterinarian licensed to practice in West Virginia and holding an occupational permit issued by the Racing Commission:** Inasmuch as there was no hearing in this matter it was not established whether or not the horse was being treated by a veterinarian with **Phenylbutazone**. Therefore, this factor is not considered in weighing the penalty in this case.
9. **Whether there was any suspicious betting pattern in the race:** There is no evidence of a suspicious betting pattern in this case and therefore, this factor is not considered in weighing the penalty in this case.
10. **Whether the trainer was acting under the advice of a veterinarian licensed to practice in West Virginia and holding an occupational permit issued by the Racing Commission:** Inasmuch as there was no hearing in this matter it was not established whether or not the horse was being treated with **Phenylbutazone** by a veterinarian. Therefore, this factor is not considered in weighing the penalty in this case.

Based on the above, the Stewards hereby impose the following penalty for the underlying offense: **Mr. Pykes' horse "Taptap", will be disqualified from all purse money and will have a total of .5 points on his record. Mr. Pyke will be fined One Thousand Dollars (\$1000.00) and assessed ½ point.**

"Taptap" is disqualified from all purse money; Re-Distribution is as following.

1. #10 Ninety Proof
2. #7 Crème de la Queen
3. #1 Rumorgoingaround
4. #5 Juniper Grace
5. #14 Baby Breeze
6. #4 Pretty Castle

All fines imposed by the Stewards shall be paid to the Racing Commission within **Seven (7) days** after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia Rule of Racing Number 178-1-8.5.n.

You have the right to appeal this Ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 Days of your receipt of this Ruling and must include a security fee in the amount of \$500.00.

Dated: January 13, 2024

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #4

On **January 19, 2024** the Board of Stewards conducted a hearing regarding allegations set forth in a notice of hearing issued on **January 17, 2024** to **Owner/Trainer Tina Malgarini-Mawing Permit #67943 DOB 11/24/1956**. **Ms. Malgarini-Mawing** was present in person and testified before the Board of Stewards. **Ms. Malgarini-Mawing** was not represented by council but had outside representation by the Charles Town HBPA Executive Director Maria Catignani, The Board of Stewards hereby finds the following:

The official sample **#E605887** taken on **December 2, 2023** was reported by Industrial Laboratories to contain **Fentanyl**. Pursuant to **Table 178-1 E** of the **Thoroughbred Racing Rule, 178 C.S.R. 1**, **Fentanyl** is a **Class 1 Drug**, carrying a **Category A** penalty. The sample was taken from **"Uncaptured Ruby"**, which ran in **Race Number 7** on **December 2, 2023**, finishing **First (1st)**. The horse is owned and trained by **Tina Malgarini-Mawing**.

After notification to **Ms. Malgarini-Mawing**, she declined split sample testing.

Pursuant to section **49.4.a.1.** of the **Thoroughbred Racing Rule, 178 C.S.R. 1**, a finding by a Racing Commission approved laboratory of a prohibited drug, chemical or other substance in a post-race test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was present in the horse's body while it was participating in a race. **Fentanyl**, confirmed to be present in **"Uncaptured Ruby's"**, body while it was participating in a race, is a drug or medication for which no acceptable threshold concentration has been established by the West Virginia Racing Commission.

Additionally, as the trainer of **"Uncaptured Ruby"**, **Tina Malgarini-Mawing** is the absolute insurer of and responsible for the condition of the horse she entered in the **7th race** at Charles Town ran on **December 2, 2023**. **178 C.S.R. 1, § 51.1.a.**

The Board of Stewards concludes that while **Ms. Malgarini-Mawing** is responsible for the positive in **"Uncaptured Ruby"**, under **§ 51.1.a.** and the presence of the drug has been established to have been in the horse during the **7th race** on **December 2, 2023** there are substantial mitigating factors which cause the Stewards to impose no penalty against **Ms. Malgarini-Mawing's** permit in this matter. Those factors are as follows:

Ms. Malgarini-Mawing past record as a permit holder is good in that she has no medication violations in any jurisdiction in the past 365 days. **Ms. Malgarini-Mawing** has never had a medication violation since her first license in 1993.

A person with an expired permit that had contact with **"Uncaptured Ruby"**, minutes before the race tested positive for **Marijuana** and admitted to the findings.

The amount of **Fentanyl** found in the horse is a trace level which lends credibility to the probability that the horse was inadvertently exposed to the drug in some manner. Based upon an evaluation of the evidence, the Stewards conclude that the positive is attributable to inadvertent exposure.

There is no reason to believe that **Ms. Malgarini-Mawing** knew of or caused the drug to be administered to the horse.

178 C.S.R. 1, §49.10.a, the Stewards are explicitly authorized to consider inadvertent exposure as a factor in determining medication violations. Further, pursuant to **§49.1.**, the Stewards are to determine medication violations on a case by case basis and may determine to impose no penalty against a trainer's permit, if warranted.

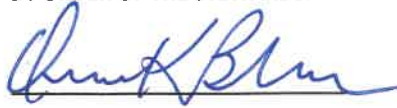
Weighing and balancing these factors, the Board of Stewards find that while **Ms. Malgarini-Mawing** is held responsible for the positive in this case, the Stewards shall impose no penalty against **Ms. Malgarini-Mawing's** permit. Therefore, the standard penalty for a first offense Class A medication violation (one year (1) suspension/\$10,000.00 fine) is not imposed in this matter. In addition, the Stewards do not impose the 6 Multiple Medication Violation points that would typically be imposed under **§ 49.3.m.** of the Thoroughbred Racing Rule.

Because "**Uncaptured Ruby**", was found to have carried Fentanyl in its system during the running of the race, the purse of the race is ordered to be **FORFEITED** and "**Uncaptured Ruby**", is **DISQUALIFIED** from its **(1st) first place** finish in **seventh (7th) race** on **December 2, 2023**. This disqualification is justified due to the irrefutable drug positive, even though **Ms. Malgarini-Mawing's** permit was not disciplined in this matter. Although it is likely that the horse carried the drug in its system due to inadvertent exposure, it nonetheless carried the drug in its system which necessitates the disqualification to ensure the integrity of racing and to instill confidence in the betting public. The order of finish is hereby re-ordered as follows:

1. #10 Midnight Heiress
2. #2 Lucky Blonde
3. #8 Silver Rules
4. #4 Save the Flag
5. #1 Somebody Loves Me
6. #6 Girls House

You have the right to appeal this Ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this Ruling and must include a security fee in the amount of \$500.00.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #5

Jockey, **Fredy Peltroche**, Permit #62074 DOB 02/07/1977 is fined **One Hundred Dollars (\$100.00)** for being in violation of **Rules 178-1-45.7.f.5.** applicable part which reads. A rider who elects to use a riding crop, may not: **45.7.f.5.A.** Use the crop more than six (6) times during the race; and **45.7.f.5.B.** Use the crop more than two (2) times without allowing the horse to respond

Jockey **Peltroche** used his crop excessively in **Race 3** on **Wednesday January 24, 2024.**

All fines imposed by the Stewards shall be paid to the Racing Commission within Seven (7) days after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia **Rule of Racing Number 178-1-8.5.n.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #6

Jockey, **Maximo Chilo**, Permit: #65667, DOB: 07/25/1982 is hereby fined **\$500.00 (FIVE HUNDRED)** for violation of **Rule of Racing, Number 178-1-45.7.c.1**, which reads: "When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul."

Jockey **Chilo** let his mount "**Stevethevandrider**" lug in down the back stretch, bumping with "**Grand Escape**" taking the room away from "**Jazz Man Do**" causing his rider to take up in the **Third Race, Thursday January 25, 2024**

"**Stevethevandrider**" was disqualified from **Second (2nd)** and placed **Fifth (5th)**

All fines imposed by the Stewards shall be paid to the Racing Commission within Seven (7) days after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia **Rule of Racing Number 178-1-8.5.n**.

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #7

Apprentice Jockey, **Andres Chavez**, Permit: #69146, DOB: 09/13/2001 is hereby fined **\$500.00 (FIVE HUNDRED)** for violation of **Rule of Racing, Number 178-1-45.7.c.1**, which reads: "When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul."

Jockey **Chavez** let his mount "**Spydylegs**" lug in down the back stretch, bumping with "**Juba's Yankee One**" causing his rider to take up in the **Second Race, Friday January 26, 2024**

"Spydylegs" was disqualified from First (1st) and placed Sixth (6th)

All fines imposed by the Stewards shall be paid to the Racing Commission within Seven (7) days after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia **Rule of Racing Number 178-1-8.5.n.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #8

Jockey, **Fredy Peltroche**, Permit #62074 DOB 02/07/1977 is fined **One Hundred Dollars (\$100.00)** for being in violation of **Rules 178-1-45.7.f.5.** applicable part which reads. A rider who elects to use a riding crop, may not: **45.7.f.5.A.** Use the crop more than six (6) times during the race; and **45.7.f.5.B.** Use the crop more than two (2) times without allowing the horse to respond

Jockey **Peltroche** used his crop excessively in **Race 4 on Wednesday January 31, 2024.**

All fines imposed by the Stewards shall be paid to the Racing Commission within Seven (7) days after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia **Rule of Racing Number 178-1-8.5.n.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #9

The Racing Official license of Jill Spangler, Permit #64186 DOB 07/16/1986 has been rescinded without prejudice upon her application as an exercise/pony person.

BY ORDER OF THE STEWARDS:

A handwritten signature in blue ink, appearing to read "Denver K. Beckner", written over a horizontal line.

DENVER K. BECKNER

A handwritten signature in blue ink, appearing to read "Lenny J. Rera", written over a horizontal line.

LENNY J. RERA

A handwritten signature in blue ink, appearing to read "L. Robert Lotts", written over a horizontal line.

L. ROBERT LOTTS

RULING #10

Jockey, **Wesley Ho**, Permit #65607 DOB 05/09/1986 is fined **One hundred dollars (\$100.00)** for being in violation of **Rules 178-1-45.7.f.5.** applicable part which reads. A rider who elects to use a riding crop, may not: **45.7.f.5.A.** Use the crop more than six (6) times during the race; and **45.7.f.5.B.** Use the crop more than two (2) times without allowing the horse to respond

Jockey **Ho** used his crop excessively in **Race 2** on **Wednesday February 7, 2024.**

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

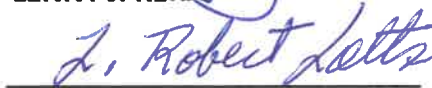
BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS

RULING #10

Apprentice Jockey, **Andres Chavez**, Permit: #69146, DOB: 09/13/2001 is hereby **fined \$1000.00 (ONE THOUSAND DOLLARS)** for violation of **Rule of Racing, Number 178-1-45.7.c.1**, which reads: "When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul."

Jockey **Chavez** let his mount "**Mark Did It**" lug in down the stretch, bumping with "**Happy Charlie**" causing his rider to take up in the **Third Race, Wednesday February 7, 2024**.

"Mark Did It" was disqualified from First (1st) and placed Third (3rd)

All fines imposed by the Stewards shall be paid to the Racing Commission within Seven (7) days after the ruling is issued, unless otherwise ordered by the Stewards, Per West Virginia **Rule of Racing Number 178-1-8.5.n**.

You have the right to appeal this ruling to the Racing Commission. Your appeal must be received in the Commission Office within 20 days of your receipt of this ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

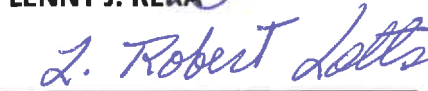
BY ORDER OF THE STEWARDS:



DENVER K. BECKNER



LENNY J. RERA



L. ROBERT LOTTS