

RULING #51**Owner/Trainer, John L. Stahlin****Permit #33351**

On **September 3, 2020**, the Board of Stewards offered a hearing to **Owner/Trainer, John L. Stahlin, Permit #33351, DOB 11/11/1946** to which he waived his right to a hearing regarding a medication violation pertaining to his horse "**Homemade Moonshine**" who finished first (1st) in the eighth (8th) race on **Thursday, August 20, 2020**.

The Stewards hereby find the following: The official blood sample #E363619, taken on **08/20/20** was reported by Industrial Laboratories, the official testing laboratory, to contain **Methocarbamol** which is a Class 4 drug, with a C Penalty, designation. The permissible threshold for **Methocarbamol** is **1 ng/ml in plasma or serum**. Sample #E363619 contained **6.9 +/- 0.2 ng/ml** of the drug, which is above the permissible threshold for this drug. The sample was taken from the **Six (6) horse, "Homemade Moonshine"**, which ran in the **8th Race on 08/20/20**, finishing first.

Mr. Stahlin 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**, the post-race threshold for **Methocarbamol** is **1 ng/ml in plasma or serum**. Because the amount of **Methocarbamol** in "**Homemade Moonshine**" exceeded the acceptable threshold set forth in **Table 178-1 F**, **Mr. Stahlin** 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.**

The **Methocarbamol** positive in "**Homemade Moonshine**" is **Mr. Stahlin's First Offense** 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. Stahlin** is assessed $\frac{1}{2}$ **point** for this **Methocarbamol** 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 no violations in the last 365 days
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

aces, and to ensure the integrity of racing so that horse's aren't racing under the effect of a medication that could affect performance.

3. **(Mitigating) The legal availability of the drug: Methocarbamol** 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 **Methocarbamol** 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 **Claiming** race with a **\$11,000** 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 **Methocarbamol**. 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 **Methocarbamol** 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. Stahlin's horse "Homemade Moonshine" will be disqualified from all purse money and Mr. Stahlin will have a total of ½ points on his record. With the Methocarbamol positive being the first medication violation in 365 day. Mr. Stahlin is fined \$1000 dollars.

The horse "Homemade Moonshine" is disqualified from all purse money; The distribution is as follows.

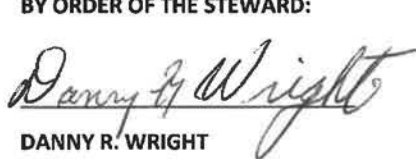
1. #8 Man of Chrome
2. #3 Dusky
3. #5 U. S. Millennium
4. #9 Thisisthetimetowin
5. #7 Village Prince
6. #4 Battle Royale

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: September 3, 2020

BY ORDER OF THE STEWARD:


DANNY R. WRIGHT

Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #52**Owner Anthony Fulco**

Permit #37754; DOB 06/07/1980

Mr. Fulco's license has been summarily suspended as of September 10, 2020 pending the outcome of a Board of Stewards hearing. During the suspension Mr. Fulco will be denied his privileges to all grounds under the jurisdictions of the West Virginia Racing Commission.

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:
DANNY R. WRIGHT
DENVER K. BECKNER
L. ROBERT LOTTS

RULING #53

On **September 16, 2020** the Board of Stewards conducted a hearing regarding allegations set forth in a notice of hearing issued on **September 11, 2020** to Owner/Trainer **Michael G. Atkins** Permit #36078 DOB 3/15/1956. **Mr. Atkins** was present in person and testified before the Board of Stewards. **Mr. Atkins** was not represented by council. The Board of Stewards hereby finds the following:

The official sample #E363496 taken on **July 24, 2020** were reported by Industrial Laboratories to contain **Fentanyl**, approx. **23 pg/ml**. 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 samples were taken from "**Ask Me How Iknow**", which ran in **Race Number 8** on **July 24, 2020**, finishing **First (1st)**. The horse is owned and trained by **Michael G. Atkins**.

After notification to **Mr. Atkins**, he 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 "**Ask Me How Iknow'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 "**Ask Me How Iknow**" **Michael G. Atkins** is the absolute insurer of and responsible for the condition of the horse he entered in the **8th race** at Charles Town ran on **July 24, 2020**. **178 C.S.R. 1, § 51.1.a.**

The Board of Stewards concludes that while **Mr. Atkins** is responsible for the positive in "**Ask Me How Iknow**" under **§ 51.1.a.** and the presence of the drug has been established to have been in the horse during the **8th race** on **July 24, 2020** there are substantial mitigating factors which cause the Stewards to impose no penalty against **Mr. Atkins.**' permit in this matter. Those factors are as follows:

Mr. Atkins' past record as a permit holder is good in that he has no medication violations in any jurisdiction in the past 365 days. **Mr. Atkins** has had one medication violation (Phenylbutazone/\$300.00 fine) since his first license in 1988.

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.

A licensee that had contact with "Ask Me How I know" hours before the race tested positive for Fentanyl and admitted to the findings. He has since been suspended.

There is no reason to believe that Mr. Atkins 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 Mr. Atkins is held responsible for the positive in this case, the Stewards shall impose no penalty against Mr. Atkins' permit. Therefore, the standard penalty for a first offense Class A medication violation (1 year 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.

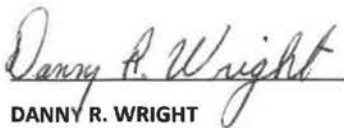
Because "Ask Me How I know" was found to have carried Fentanyl in its system during the running of the race, the purse of the race is ordered to be FORFEITED and "Ask Me How I know" is DISQUALIFIED from its (1st) first place finish in eighth (8th) race on July 24, 2020. This disqualification is justified due to the irrefutable drug positive, even though Mr. Atkins' 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. #2 I'moverthemoon
2. #1 Wish in the Castle
3. #4 Thorn of Rose Hill
4. #8 Eleanor's Diamond
5. #3 Rum Runner Red
6. #5 Igotitinthepocket

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: September 18, 2020

BY ORDER OF THE STEWARD:


DANNY R. WRIGHT

Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #54

Owner **Anthony Fulco**Permit #**37754**DOB **06/07/1980**

Having had a Board of Stewards hearing on September 12, 2020, **Mr. Fulco** is hereby found guilty of being in violation of **Rule of Racing 178-1-24.3.w**. A permit holder who is a first time violator under this subsection shall be required to undergo a professional assessment before the stewards and/or the Racing commission determine whether or not the permit holder's condition is such that he or she may hold a permit and participate in racing. In the discretion of the board of stewards and/or the racing commission a first time violator may be required to produce a negative test result; may be required to submit to further testing; and/or may be required to successfully complete a certified drug/alcohol rehabilitation program as a condition of holding a permit and participating in racing.

Owner, Anthony Fulco will be suspended and denied privileges of the grounds under the jurisdiction of the **West Virginia Racing Commission** and is ineligible to seek reinstatement in racing until he gets professionally evaluated and if needed, completes a certified alcoholic and drug rehabilitation program.

Mr. Fulco will also have to present a clean drug test upon completion.

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:



DANNY R. WRIGHT

Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING NUMBER #55

Jockey, **Christian Hiraldo**, Permit #37993; DOB 08/16/1992 is hereby fined **Fifty** (\$50.00) Dollars for being late to the paddock in the **Sixth Race on Friday, September 18, 2020**.

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.

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 the ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:


DANNY R. WRIGHT
Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

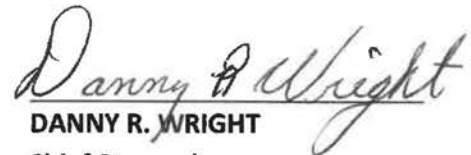
RULING NUMBER #56

Jockey, **Carlos Delgado**, Permit #38377; DOB 07/31/1995 is hereby fined **Fifty (\$50.00)** Dollars for being late to the paddock in the **Sixth Race on Friday, September 18, 2020**.

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.

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 the ruling and must include a security fee in the amount of Five Hundred (\$500.00) Dollars.

BY ORDER OF THE STEWARDS:


DANNY R. WRIGHT
Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #57

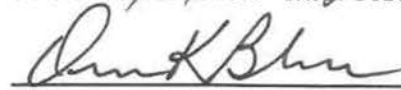
Jockey, **Wladimir Rocha** Permit #37516 DOB; 08/22/1979 is fined **Fifty dollars (\$50.00)** for being in violation of **Rule 178-1-45.5d** applicable part which reads. Any overweight shall be declared by a jockey to the clerk of scales at the time appointed in advance of a race. The clerk of scales shall report to the stewards any failure on the part of any jockey to comply with this subdivision.

Jockey **Wladimir Rocha** failed to make his reported weight on **Friday September 25, 2020**.

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:


DANNY R. WRIGHT Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #58

Jockey, **Darius Thorpe** Permit #38884 DOB; 05/08/1995 is fined **Fifty dollars (\$50.00)** for being in violation of **Rule 178-1-45.5d** applicable part which reads. Any overweight shall be declared by a jockey to the clerk of scales at the time appointed in advance of a race. The clerk of scales shall report to the stewards any failure on the part of any jockey to comply with this subdivision.

Jockey **Darius Thorpe** failed to make his reported weight on **Friday September 25, 2020**.

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:


DANNY R. WRIGHT Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #59

Trainer, **Elvis Trujillo**, Permit #34585; DOB 10/7/1983, having complied with **WVRC rule 26.1.b.** which reads:

An applicant for a trainer's occupational permit who has not previously held a trainer's permit shall provide the following or undergo the following in connection with his or her application so that the Racing Commission and/or the stewards may determine whether or not the applicant is qualified to hold a trainer's permit: and **WVRC rule 26.1.b.4.** which reads: a written and/or oral and/or practical skills examination administered by the stewards and/or their designee.

Having complied with **Ruling #12** dated **February 7, 2020** Mr. Trujillo's trainers license has **been reinstated.**

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: September 29, 2020

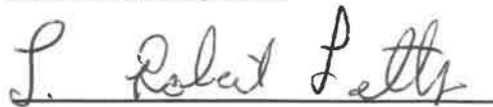
BY ORDER OF THE STEWARDS



DANNY R. WRIGHT Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING #60

Owner/Trainer, **Mark A. Shanley** Permit #38620; DOB 06/10/1983. The official sample #E363815 taken from the runner "**Reyana Reya Dreams**" who finished third (3rd) in the second (2nd) race on Friday **September 18, 2020**, was reported by Industrial Testing Laboratory to contain **Flunixin** above the authorized levels. Specifically, the blood sample contained **36.2 nanograms**. The threshold is **20 ng/mL**.

The Stewards conclude that **Mr. Shanley** has violated section(s) **178-1-49.6.a.1** and **178-1-49.6.a.1.A**, which reads, "Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least twenty four (24) hours before post time for the race in which the horse is entered.

However, the Stewards determine the appropriate penalty on case by case basis by considering the mitigating/aggravating factors.

Based on the above, the penalty on **Mr. Shanley** will be a warning with no suspension, fine, or points.

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.

Dated: October 07, 2020

BY ORDER OF THE STEWARDS:


DANNY R. WRIGHT


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #61**Owner/Trainer Joseph Alsbrook III****Permit #36489**

On **October 6, 2020** the Board of Stewards offered a hearing to **Owner/Trainer, Joseph Alsbrook III, Permit #36489, DOB 02/11/1959** to which he waived his right to a hearing regarding a medication violation pertaining to his horse **"Eclipticals Viski"** who finished first (1st) in the second (2nd) race on Friday, September 18, 2020.

The Stewards hereby find the following: The official blood sample **E363814** taken on **9/18/20** was reported by Industrial Laboratories, the official testing laboratory, to contain **Methylprednisolone** which is a **Class 4 drug**, with a **C Penalty**, designation. The permissible threshold for **Methylprednisolone** is **100 pg/ml in plasma or serum**. Sample **E363814** contained **239 pg/ml** of the drug, which is above the permissible threshold for this drug. The sample was taken from the **Nine (9) horse, "Eclipticals Viski"**, which ran in the **Second (2nd) Race on 9/18/20 finishing First**.

Mr. Alsbrook 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**, the post-race threshold for **Methylprednisolone** is **100 pg/ml in plasma or serum**. Because the amount of **Methylprednisolone** in **"Eclipticals Viski"** exceeded the acceptable threshold set forth in **Table 178-1 F**, **Mr. Alsbrook** 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.**

The **Methylprednisolone** positive in **"Eclipticals Viski"** is **Mr. Alsbrook's First Offense** 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. Alsbrook** is assessed **½ point** for this **Methylprednisolone** 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 no violations in the last 365 days
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

aces, and to ensure the integrity of racing so that horse's aren't racing under the effect of a medication that could affect performance.

3. **(Mitigating) The legal availability of the drug:** Methylprednisolone 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 **Methylprednisolone** 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 **\$5000.00 claiming** race with a **\$10,000 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 **Methylprednisolone**. 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 **Methylprednisolone** 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. Alsbrook's horse "Eclipticals Viski" will be disqualified from all purse money and Mr. Alsbrook will have a total of ½ points on his record. With the Methylprednisolone positive being the first medication violation in 365 days. Mr. Alsbrook is fined \$1000 dollars.

The horse "Eclipticals Viski" is disqualified from all purse money; The distribution is as follows.

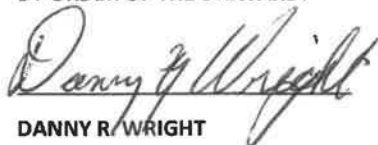
1. #3 Rainbow River
2. #2 Reyana Reya Dreams
3. #6 Maidu
4. #5 Venetian Drive
5. #8 Rich Image
6. #1 Play Charades

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: October 7, 2020

BY ORDER OF THE STEWARD:


DANNY R. WRIGHT

Chief Steward


DENVER K. BECKNER


L. ROBERT LOTTS

RULING #62

Unlicensed Groom, **Fredrick L. Tarmon Jr.** DOB: **04/19/1994** is hereby ineligible for **West Virginia Racing Commission** license pending a hearing before the Board of Stewards.

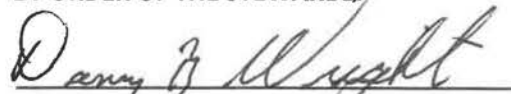
The Stewards conclude that **Mr. Tarmon** has violated section(s) **178-1-24.1.a.** which reads: Racing participants and personnel; racing officials (excluding those employed by the Racing Commission); and, persons employed by the association or employed by a person or concern contracting with or approved by the association or Commission to provide a service or commodity on association grounds, shall have a valid occupational permit issued by the Racing Commission, unless otherwise specifically exempted from this requirement, and **24.3.n.** which reads: If a permit holder refuses to submit to urine or drug testing under this subsection or if a permit holder tests positive, his or her permit may be summarily suspended at the discretion of the stewards and/or may be subject to other disciplinary action in accordance with this rule.

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.

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.

Dated: October 9, 2020

BY ORDER OF THE STEWARDS:



DANNY R. WRIGHT Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING #63

Unlicensed Groom, **Fredrick L. Tarmon Jr.** DOB: **04/19/1994** is hereby ineligible for **West Virginia Racing Commission** license for failing to appear at a scheduled hearing before the Board of Stewards on **October 14, 2020**.

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. 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.

Dated: October 14, 2020

BY ORDER OF THE STEWARDS:



DANNY R. WRIGHT Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING #64**Trainer Jack Hurley****Permit #36517**

On **October 10, 2020** the Board of Stewards offered a hearing to **Trainer, Jack Hurley, Permit #36517, DOB 01/29/1997** to which he waived his right to a hearing regarding a medication violation pertaining to his horse **"Merry Merry Mojo" who finished fourth (4th) in the third (3rd) race on Thursday, September 10, 2020.**

The Stewards hereby find the following: The official blood sample **E363772** taken on **9/10/20** was reported by Industrial Laboratories, the official testing laboratory, to contain **Methylprednisolone** which is a **Class 4** drug, with a **C Penalty**, designation. The permissible threshold for **Methylprednisolone** is **100 pg/ml in plasma or serum**. Sample **E363772** contained **393 pg/ml** of the drug, which is above the permissible threshold for this drug. The sample was taken from the **Five (5) horse, "Merry Merry Mojo"**, which ran in the **Third (3rd) Race on 9/10/20 finishing Fourth.**

Mr. Hurley 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**, the post-race threshold for **Methylprednisolone** is **100 pg/ml in plasma or serum**. Because the amount of **Methylprednisolone, "Merry Merry Mojo"** exceeded the acceptable threshold set forth in **Table 178-1 F, Mr. Hurley** 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.**

The **Methylprednisolone** positive in **"Merry Merry Mojo"** is **Mr. Hurley's First Offense** 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. Hurley** is assessed **½ point** for this **Methylprednisolone** 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 no violations in the last 365 days
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

aces, and to ensure the integrity of racing so that horse's aren't racing under the effect of a medication that could affect performance.

3. **(Mitigating) The legal availability of the drug: Methylprednisolone** 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 **Methylprednisolone** 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 **\$5000.00 claiming race** with a **\$10,000 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 **Methylprednisolone**. 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 **Methylprednisolone** 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. Hurley's horse "Merry Merry Mojo" will be disqualified from all purse money and Mr. Hurley will have a total of ½ points on his record. With the Methylprednisolone positive being the first medication violation in 365 days. Mr. Hurley is fined \$1000 dollars.

The horse "Merry Merry Mojo" is disqualified from all purse money; The distribution is as follows.

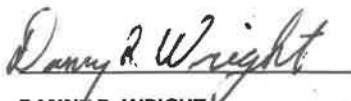
1. #2 Frathouse Music
2. #3 Top Hat Scrutiny
3. #1 Samadi Blue
4. #8 Castlefinn
5. #7 Just a Lil Lukey
6. #6 Man of Chrome

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: October 16, 2020

BY ORDER OF THE STEWARD:



DANNY R. WRIGHT

Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING #65

On **October 21, 2020** the Board of Stewards conducted a hearing regarding allegations set forth in a notice of hearing issued on **October 16, 2020** to Trainer **Jack Hurley Permit #36517 DOB 1/29/1997**. **Mr. Hurley** was present in person and testified before the Board of Stewards. **Mr. Hurley** was not represented by council. The **Board of Stewards** hereby finds the following:

The official sample **#E363804** taken on **September 17, 2020** was reported by Industrial Laboratories to contain **Fentanyl**, approx. **23 pg/ml** and **Eutylone**, approx. **66 pg/mL** Pursuant to **Table 178-1 E** of the **Thoroughbred Racing Rule, 178 C.S.R. 1**, **Fentanyl** and **Eutylone** are **Class 1** Drugs, carrying a **Category A** penalty. The sample was taken from "**Morality Clause**", which ran in **Race 2** on **September 17, 2020**, finishing **First (1st)**. The horse is trained by **Jack Hurley**.

After notification to **Mr. Hurley**, he 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** and **Eutylone**, confirmed to be present in "**Morality Clause'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 "**Morality Clause**" **Jack Hurley** is the absolute insurer of and responsible for the condition of the horse he entered in the **2nd race** at Charles Town ran on **September 17, 2020**. **178 C.S.R. 1, § 51.1.a.**

The Board of Stewards concludes that while **Mr. Hurley** is responsible for the positive in "**Morality Clause**" under **§ 51.1.a.** and the presence of the drug has been established to have been in the horse during the **2nd race** on **September 17, 2020** there are substantial mitigating factors which cause the Stewards to impose no penalty against **Mr. Hurley's** permit in this matter. Those factors are as follows:

Mr. Hurley's past record as a permit holder is good in that he has one medication violation in this jurisdiction in the past 365 days.

The amount of **Fentanyl** and **Eutylone** 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.

A licensee that worked for **Jack Hurley**, who had contact with "**Morality Clause**" for hours leading up to the race refused a drug test for **Fentanyl**. He has since been suspended.

There is no reason to believe that **Mr. Hurley** 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 **Mr. Hurley** is held responsible for the positive in this case, the Stewards shall impose no penalty against **Mr. Hurley's** permit. Therefore, the standard penalty for a first offense **Class A** medication violation (1 year 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 "**Morality Clause**" was found to have carried **Fentanyl** and **Eutylone** in its system during the running of the race, the purse of the race is ordered to be **FORFEITED** and "**Morality Clause**" is **DISQUALIFIED** from its (**1st**) **first place** finish in **second (2nd)** race on **September 17, 2020**. This disqualification is justified due to the irrefutable drug positive, even though **Mr. Hurley'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. #7 Trinni Sunset
2. #8 Unexpectedly
3. #9 I Am Aine
4. #3 Rumourist
5. #2 Anshi
6. #1 Flicker's Princess

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: October 22, 2020

BY ORDER OF THE STEWARD:



DANNY R. WRIGHT

Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS

RULING #66

On **October 21, 2020** the Board of Stewards conducted a hearing regarding allegations set forth in a notice of hearing issued on **October 16, 2020** to Trainer **Timothy C. Kreiser Permit #34416 DOB 10/23/1963**. **Mr. Kreiser** was present over the phone and testified before the Board of Stewards. **Mr. Kreiser** was not represented by council. The **Board of Stewards** hereby finds the following:

The official sample **#E363807** taken on **September 17, 2020** was reported by Industrial Laboratories to contain **Fentanyl**, approx. **6 pg/ml** and **Eutylone**, approx. **27 pg/mL** Pursuant to **Table 178-1 E** of the **Thoroughbred Racing Rule, 178 C.S.R. 1**, **Fentanyl** and **Eutylone** are **Class 1 Drugs**, carrying a **Category A** penalty. The sample was taken from "**Take Me Home**", which ran in **Race 4** on **September 17, 2020**, finishing **First (1st)**. The horse is trained by **Timothy C. Kreiser**.

After notification to **Mr. Kreiser**, he 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** and **Eutylone**, confirmed to be present in "**Take Me Home'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 "**Take Me Home**" **Timothy C. Kreiser** is the absolute insurer of and responsible for the condition of the horse he entered in the **4th race** at Charles Town ran on **September 17, 2020**. **178 C.S.R. 1, § 51.1.a.**

The Board of Stewards concludes that while **Mr. Kreiser** is responsible for the positive in "**Take Me Home**" under **§ 51.1.a.** and the presence of the drug has been established to have been in the horse during the **4th race** on **September 17, 2020** there are substantial mitigating factors which cause the Stewards to impose no penalty against **Mr. Kreiser's** permit in this matter. Those factors are as follows:

Mr. Kreiser's past record as a permit holder is good in that he has no medication violations in any jurisdiction since April 2010.

The amount of **Fentanyl** and **Eutylone** 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.

Because of PNGI Covid 19 protocols **Mr. Kreiser** could not enter the backside so **"Take Me Home"** ran out of the barn of **Jack Hurley**. **Mr. Kreiser** and **Mr. Hurley** were not acquaintances but were brought together by a mutual owner. A licensee that worked for **Jack Hurley**, who had contact with **"Take Me Home"** for hours leading up to the race refused a drug test for **Fentanyl**. He has since been suspended.

There is no reason to believe that **Mr. Kreiser** 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 **Mr. Kreiser** is held responsible for the positive in this case, the Stewards shall impose no penalty against **Mr. Kreiser's** permit. Therefore, the standard penalty for a first offense **Class A** medication violation (1 year 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 **"Take Me Home"** was found to have carried **Fentanyl** and **Eutylone** in its system during the running of the race, the purse of the race is ordered to be **FORFEITED** and **"Morality Clause"** is **DISQUALIFIED** from its (1st) first place finish in fourth (4th) race on **September 17, 2020**. This disqualification is justified due to the irrefutable drug positive, even though **Mr. Kreiser'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. #8 Aussie Gold
2. #1 Allison K
3. #4 Alpine Moon
4. #9 Bird Traffic
5. #2 Sherwood Lady
5. #6 Floating By

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:



DANNY R. WRIGHT

Chief Steward



DENVER K. BECKNER



L. ROBERT LOTTS