

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
AGENCY CASE NOS. 22-TB-003 and 22-TB-004

ROBERT A. BAFFERT and AMR F. ZEDAN

PETITIONERS

v.

KENTUCKY HORSE RACING COMMISSION

RESPONDENT

FINAL ORDER

This matter is before the Kentucky Horse Racing Commission (hereinafter “Commission”) following the appeal of two Stewards’ Rulings concerning trainer Robert A. “Bob” Baffert (“Baffert”) and owner Zedan Racing Stables (“Zedan”) (collectively “Appellants”). Baffert trained Medina Spirit, who was owned by Zedan Racing Stables and who finished first in the twelfth race at Churchill Downs on May 1, 2021, the 147th running of the Kentucky Derby. Medina Spirit was disqualified from that first-place finish by Steward’s Rulings 22-0009 and 22-0010 after testing concluded a post-race sample contained betamethasone at a level of approximately 21 pg/mL to 25 pg/mL. Betamethasone, classified as a Class C drug, is prohibited in any amount in a post-race sample by Commission regulation.

Stewards’ Rulings 22-0009 and 22-0010 required the horse’s disqualification, Zedan’s forfeiture of the purse money, a \$7,500.00 fine for Baffert, and a 90-day trainer suspension for Baffert. This appeal followed.

An administrative hearing was held on March 21, 2023, before Hon. Eden Davis Stephens. Appellants were represented by Clark Brewster and Craig Robertson. The Commission was represented by Jennifer Wolsing, Luke Morgan, and Shan Dutta. Hon. Clayton Patrick was initially assigned as Hearing Officer for the case, and conducted an evidentiary hearing on

August 22-25, and 29-30, 2022. Subsequently, Hearing Officer Stephens was assigned following Hearing Officer Patrick's recusal due to an actual or perceived conflict of interest. Hearings Officer Stephens issued a Recommended Order on May 26, 2023. The Commission, by counsel, filed exceptions on May 30, 2023. Appellants, by counsel, filed exceptions on June 10, 2023. The Commission filed a response to Appellants' exceptions on July 10, 2023, and Appellants filed a reply to the Commission's response on July 11, 2023.

This matter came before the consideration of the Commission on August 22, 2023. The Commission considered the record, the Recommended Order, and the Exceptions. Commission members also had the opportunity to consult with independent counsel that had not been involved in the prosecution of this matter on the Commission's behalf. Following the Commission's review, it now issues its Final Order, which adopts the Recommended Order in full.

BACKGROUND AND SUMMARY OF EVIDENCE

The Commission adopts the Recommended Order's background and summary of evidence in its entirety.

FINDINGS OF FACT

The Commission finds that the Findings of Fact contained in the Recommended Order are thorough and accurate. It adopts the Recommended Order's Findings of Fact in their entirety.

CONCLUSIONS OF LAW

The Commission adopts the Recommended Order's Conclusions of Law in their entirety.

FINAL ORDER

Based on the adopted Findings of Fact and the adopted Conclusions of Law, the Commission hereby **ORDERS** as follows:

1. The Hearing Officer's Recommended Order is approved, adopted, and incorporated herein by reference as a part of this Order.
2. Petitioners' appeal is therefore DISMISSED.

This is a **FINAL AND APPEALABLE ORDER**, and the effective date of this Order shall be the date reflected on the Certificate of Service attached to this Order.

NOTICE OF APPEAL RIGHTS

A Final Order of the Kentucky Horse Racing Commission may be appealed pursuant to KRS 13B.140(1), which states:

Except as provided in KRS 452.005, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

SO ORDERED this the 22nd day of August, 2023.



JONATHAN RABINOWITZ
CHAIRMAN
KENTUCKY HORSE RACING COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing was filed with the following on the 22nd day of August, 2023:

Mariah Dietz
Docket Clerk
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511

I further certify that a copy of the foregoing was sent to the following via regular mail on the 22nd day of August, 2023:

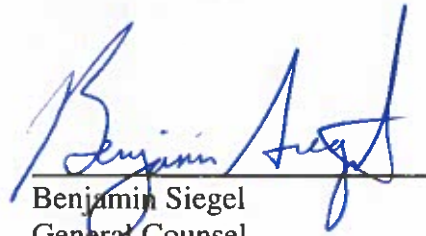
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