

Agenda Item #2

Ruling Log

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fines	Suspended From	Suspended To	Days Suspended
14003	3/19/2014	Mark Merritt	SB	11/26/2014	Failure to obtain lic.	\$500			
14501	2/5/2014	James Eilers	TB	5/31/2013	Restored - misc.				
14502	2/10/2014	Jennifer Adams	TB	12/23/2013	Conduct/behavior		12/23/2013	1/19/2014	28
14503	3/31/2014	Raul De La Mora	QH	6/6/2013	Restored - fine paid				

Agenda Item #3

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the Indiana Horse Racing Commission ("Commission"), by Joe Gorajec, Executive Director of the Indiana Horse Racing Commission Staff ("Commission Staff") and Darryl Kendall ("Kendall"), a licensee subject to regulation by the Commission. Collectively, the Commission Staff and Kendall shall be referred to herein as "the Parties." This Agreement is subject to the review and approval of the Commission.

RECITALS

1. The Indiana Horse Racing Commission is the administrative agency in the State of Indiana that regulates horse racing pursuant to provisions of the Indiana Code, Title 4, Article 31.
2. During all relevant periods, Hoosier Park maintained a contract with United Tote, pursuant to which United Tote is the exclusive provider of pari-mutuel equipment and services for all pari-mutuel activity related to horse racing conducted at Hoosier Park.
3. As the exclusive provider of aforementioned services, United Tote is required to annually obtain a vendor's license from the Indiana Horse Racing Commission.
4. All United Tote employees also are required to obtain IHRC licenses.
5. From on or about January 1, 2013 up to and including the present date, Darryl Kendall was an employee of United Tote. He worked at Hoosier Park during all periods relevant to this complaint.
6. From January 1, 2013 through October 24, 2013, Mr. Kendall *did not* have a valid IHRC license.
7. Pursuant to 71 IAC 5-1-1, everyone participating in pari-mutuel racing under the jurisdiction of the Indiana Horse Racing Commission must be licensed by the commission. 71 IAC 5-1-1(a) provides:

Sec. 1. (a) A person shall not participate in pari-mutuel racing under the jurisdiction of the commission without a valid license issued by the commission. License categories shall include the following and others as may be established by the commission:

(1) Racing participants and personnel (including owner, authorized agent, trainer, driver, assistant trainer, veterinary helper, farrier, stable employees, groom, pari-mutuel clerk, track employee, track security, vendor employee, starting gate crew, farrier's assistant, valet, track management, practicing or racing veterinarian, equine dentist, or other).

(2) Racing officials as listed in 71 IAC 3.

(3) *Persons employed by the association, or employed by a person or concern contracting with or approved by the association or commission to provide a pari-mutuel*

related service or commodity, with job duties which require their presence in a restricted area or which require their presence anywhere on association grounds.

(4) Sole proprietors and all partners of a partnership contracting with or approved by the association or commission to provide a service or commodity.

(5) Shareholders in a corporation, acting as a contractor or vendor, if required by the commission.

(6) Commission employees with job duties which require their presence in a restricted area or which require their presence anywhere on association grounds.
(emphasis added).

8. Pursuant to the authority provided by 71 IAC 10-3-20, the Commission's Executive Director issued Administrative Complaint No. 213007 on or about November 26, 2013. The Executive Director's Administrative Complaint proposed the following penalty: a \$1,000.00 fine and 15-day suspension

9. The Commission's Executive Director, given Mr. Kendall's willingness to enter into this Agreement, is executing this Agreement in lieu of prosecuting Administrative Complaint No. 213007.

10. Now, in full and complete resolution of any and all further administrative proceedings involving Darryl Kendall relative to the violations referenced in Administrative Complaint No. 213007, the Commission Staff and Kendall agree to the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and the promises and covenants to be performed as set forth herein, the Parties agree as follows:

1. Kendall admits the violations outlined in Administrative Complaint 213007, specifically violation of 71 IAC 5-1-1.
2. Kendall agrees to a fine of \$500.00.
3. Upon approval from the Indiana Horse Racing Commission, Commission Staff will enter a ruling consistent with this Agreement, which will make clear that the sanctions set forth herein are the total sanctions for the violations referenced in this Settlement Agreement.

4. Any waiver of any provision of this Agreement must be in writing and must be approved by the Commission or the Commission Staff. No waiver of any provision of this Agreement shall constitute either a waiver of any provision hereof (whether or not similar) or a continuing waiver.

5. The Parties agree that this Agreement shall be interpreted, enforced, and governed by the laws of the State of Indiana.

6. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, fully enforceable counterpart of all purposes, but all of which constitute one and the same instrument.

7. Kendall represents that he has carefully read and reviewed the foregoing Agreement, acknowledges its contents, has had the right to consult with his own counsel, and agrees to be bound by its terms. Kendall acknowledges that he has voluntarily entered into this Agreement as of the date and year herein set forth.

IN WITNESS HEREOF, the Parties have executed this Agreement on the dates listed below.

I swear, under penalties for perjury, that the foregoing representations that have been made by me are true and correct.

3-12-14
Date

Darryl Kendall
Darryl Kendall

Witnessed and Approved:

Chuck Sykes

ON BEHALF OF THE INDIANA HORSE RACING COMMISSION:

4/22/14
Date

Joe Gorajec
Joe Gorajec, Executive Director

Approved as to form:

Holly Newell, Deputy General Counsel

Agenda Item #4

TITLE 71 INDIANA HORSE RACING COMMISSION
Emergency Rule

LSA Document #14-____ (E)

DIGEST

Adds 71 IAC 1-1-42.2, "Foreign substance" defined. Amends 71 IAC 8-1-1.5 and 71 IAC 8.5-1-1.5 regarding medication. Repeals 71 IAC 8.5-1-1. Effective upon filing with the Publisher.

71 IAC 1-1-42.2
71 IAC 8-1-1.5
71 IAC 8.5-1-1
71 IAC 8.5-1-1.5

SECTION 1. 71 IAC 1-1-42.2 IS ADDED TO READ AS FOLLOWS:

71 IAC 1-1-42.2 "Foreign substance" defined

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 42.2. "Foreign substance" means all substances except those that exist naturally in an untreated horse at normal physiological concentration, and includes all narcotics, stimulants, depressants, or other drugs or medications of any type.

SECTION 2. 71 IAC 8-1-1.5 AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-1.5 Medication

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1.5. (a) No horse participating in a race or entered in a race shall carry in its body any foreign substance as defined in 71 IAC 1 or IC 4-31-2, except as provided for in this rule.

(b) No substance, foreign or otherwise, shall be administered to a horse entered to race by:

- (1) injection;
- (2) jugging;
- (3) oral administration;
- (4) tube;
- (5) rectal infusion or suppository;
- (6) inhalation; or
- (7) any other means;

within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule. The prohibitions in this section include, but are not limited to, injection or jugging of vitamins, electrolyte solutions, and amino acid solutions. The prohibition also includes, but is not limited to, the topical, oral, or nasal administration of compounds, such as Traileze, Vapol, Vicks vapor-rub, wind-aid, exhale ease, or containing methylsalicylate, camphor, potassium iodide, or products containing "caine" derivatives or dimethylsulfoxide (DMSO).

(c) Substances or metabolites thereof which are contained in equine feed or feed supplements that do not contain pharmacodynamic or chemotherapeutic agents are not considered foreign substances if consumed in the course of normal dietary intake (eating and drinking).

(d) The prohibition in subsection (b) notwithstanding, the use of nebulizers are permitted on an entered horse within twenty-four (24) hours of the scheduled post time for the horse's race until the horse's arrival in the paddock provided their use is restricted to water and saline solutions only.

(e) Topical dressings such as leg paints, liniments, ointments, salves, hoof dressings, and antiseptics which do not contain anesthetics or a pharmacodynamic or a chemotherapeutic agent may be administered at any time prior to a horse's arrival in the paddock. (*Indiana Horse Racing Commission; 71 IAC 8-1-1.5; emergency rule filed Apr 3, 2013, 10:37 a.m.: 20130410-IR-071130133ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

SECTION 3. 71 IAC 14.5-3-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-1.5 Medication

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1.5. (a) No horse participating in a race or entered in a race shall carry in its body any foreign substance as defined in 71 IAC 1.5 or IC 4-31-2, except as provided for in this rule.

(b) No substance, foreign or otherwise, shall be administered to a horse entered to race by:

- (1) injection;
- (2) jugging;
- (3) oral administration;
- (4) tube;
- (5) rectal infusion or suppository;
- (6) inhalation; or

(7) any other means;

within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule. The prohibitions in this section include, but are not limited to, injection or jugging of vitamins, electrolyte solutions, and amino acid solutions. The prohibition also includes, but is not limited to, the topical, oral, or nasal administration of compounds, such as Traileze, Vapol, Vicks vapor-rub, wind-aid, exhale ease, or containing methylsalicylate, camphor, potassium iodide, or products containing "caine" derivatives or dimethylsulfoxide (DMSO).

(c) Substances or metabolites thereof which are contained in equine feed or feed supplements that do not contain pharmacodynamic or chemotherapeutic agents are not considered foreign substances if consumed in the course of normal dietary intake (eating and drinking).

(d) The prohibition in subsection (b) notwithstanding, the use of nebulizers are permitted on an entered horse within twenty-four (24) hours of the scheduled post time for the horse's race until the horse's arrival in the paddock provided their use is restricted to water and saline solutions only.

(e) Topical dressings such as leg paints, liniments, ointments, salves, hoof dressings, and antiseptics, which do not contain anesthetics or a pharmacodynamic or a chemotherapeutic agent, may be administered at any time prior to a horse's arrival in the paddock. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-1.5; emergency rule filed Apr 3, 2013, 10:37 a.m.: 20130410-IR-071130133ERA*)

SECTION 4. 71 IAC 8.5-1-1 IS REPEALED.