

Lou Pena Suspended For 1,700 Drug Violations

May 24, 2012

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The New York State Racing and Wagering Board, after a comprehensive and groundbreaking investigation with assistance from racing officials from New Jersey, has suspended harness trainer Luis (Lou) Pena immediately and indefinitely for illegally drugging horses in nearly 700 races in New York State and amassing more than 1,700 equine drug violations.

In addition to the immediate suspension, Pena faces a possible revocation of his license to participate in New York State and substantial fines (up to \$25,000 per violation). The Board's overall investigation into the matter is ongoing and further actions, including the recovery of more than \$2.5 million in purse monies won with horses that were illegally drugged and possible rule changes regarding access and disclosure of veterinary records, are possible.

Pena regularly raced horses between New York while stabling them in New Jersey. New York formed a partnership with New Jersey which allowed for a joint review of veterinarian records. This collaboration between the two state racing agencies led the Racing and Wagering Board to take this unprecedented action. The investigation determined that Pena amassed a total of 1,719 equine drug violations in 675 races between January 2010 and April 2012.

"I applaud and thank NJRC Executive Director Frank Zanzuccki and the entire Racing Commission for partnering with New York State on this important investigation and look forward to continuing the collaboration to bring increased integrity and accountability to horse racing," said Racing and Wagering Board Chairman John D. Sabini.

Pena's drug violations from 2010 to present included a litany of substances, most of which were administered to horses outside the permitted timeframe as set forth by Board rules. A full copy of the Notice of Suspension and Hearing, which includes a detailed list of the drugs administered, may be found at this link.

A hearing into the matter has been scheduled for May 30.

(New York State Racing and Wagering Board)

**NEW YORK STATE RACING AND WAGERING BOARD
DIVISION OF HARNESS RACING**

IN THE MATTER OF LUIS ("LOU") PENA

**NOTICE OF SUSPENSION
AND HEARING
(MO 141-2012)**

PLEASE TAKE NOTICE that the occupational licenses of you, Luis ("Lou") Pena, to participate in pari-mutuel harness racing as an owner, trainer, or otherwise are hereby **SUSPENDED IMMEDIATELY** pending the disposition by the Board of the scheduled hearing before the New York State Racing and Wagering Board or, if you refuse such hearing or default in appearing, **SUSPENDED** until such time as the Board in its discretion takes further action, including but not limited to license suspension or revocation or refusal to license.

YOU ARE FURTHER NOTIFIED that a hearing in this matter will be held at 10:00 a.m. on Wednesday, May 30, 2012, at Board offices located at One Broadway Center, Suite 600, Schenectady, New York, at which time you may be represented by counsel and present evidence and arguments on your own behalf.

This action is taken pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") §§ 309 and 321; 9 NYCRR §§ 4101.24, 4120.2, 4120.4, 4119.7, 4119.9, and State Administrative Procedure Act § 401, upon a finding of the Board that the public safety and welfare imperatively require this emergency action in that your continued participation in racing is a potential cause of civil unrest and public harm and further could result in an impairment of the public's confidence in pari-mutuel racing in New York State and have an adverse affect upon substantial State and public revenues and revenues to the industry in general generated by pari-mutuel racing, in that, under the present circumstances you lack the general character and fitness for continued participation in pari-mutuel racing and your continued participation in pari-mutuel racing is presently inconsistent with the public interest, convenience and necessity and with the best interests of racing generally, based upon the circumstances and charges stated more particularly hereinafter.

The disposition of these matters may result in the revocation or suspension of your license, your exclusion from all racetracks in New York State, and the imposition of fines. In particular, at the scheduled and any adjourned dates of your hearing you are notified to show

cause why, pursuant to Racing Law §§ 309 and 310, Article 3 of the State Administrative Procedure Act, and 9 NYCRR part 5402, the Board should not fine you in an amount not exceeding \$25,000 per violation, suspend and/or revoke your license(s) to participate in pari-mutuel racing, and exclude you from all New York State racetracks whether as a licensee, participant, or patron, pursuant to Section 309(2) of the Racing Law and the applicable Board rules at 9 NYCRR, because on 675 occasions between January 2010 and April 2012 you were responsible for the racing of illegally drugged harness horses in pari-mutuel races in New York State, as follows:

ADRENOCORTICOTROPIC (ACTH), HORMONE

1. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, the horse "Bluebird Dream," trained by you, having been administered adrenocorticotropic, e.g., ACTH or glandular peptide extract, less than 48 hours before the scheduled post time of the race, competed in two (2) races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(9) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

BETAMETHASONE (CELESTONE), STEROID

2. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, the horse "Delightful Diva," trained by you, having been administered betamethasone, e.g., celestone, less than 48 hours before the scheduled post time of its race, competed in a race at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(9) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

CLENBUTEROL (VENTIPULMIN)

3. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses trained by you, having been administered clenbuterol (ventipulmin) less than 96 hours before the scheduled post time of the race, competed in two (2) races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(g)(5) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

CROMOLYN SODIUM, NONSTEROIDAL ANTI-INFLAMMATORY DRUG ("NSAID")

4. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having been administered cromolyn sodium less than one week (in 46 instances within 48 hours) before the scheduled post time of each race, competed in 49 races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(h) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

FIROXIB, NSAID

5. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, the horse "The Rising N," trained by you, having been administered firoxib less than one week (and within 48 hours) before the scheduled post time of its race, competed in a race at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(h) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

FLUMETHASONE, STEROID

6. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, the horse "Lightning Dragon," trained by you, having been administered flumethasone less than 48 hours before the scheduled post time of its race, competed in a race at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(9) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

GLYCOPYRROLATE (ROBINUL)

7. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having been administered glycopyrrolate (e.g., Robinul) less than 96 hours before the scheduled post time of the race, competed in 632 in races at Yonkers Raceway or Saratoga Raceway (three races) as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(g)(8) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

GONADORELIN or GnRH (FACTREL), HORMONE

8. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having been administered gonadorelin (a/k/a gonadotropin-releasing hormone, GnRH, and/or Factrel), less than 48 hours before the scheduled post time of the race, competed in 360 races at Yonkers Raceway or Saratoga Raceway (one race) as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(9) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

HYALURONIC ACID DERIVATIVE

9. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having been administered a hyaluronic acid derivative (e.g., polyglycan, GEL-50) less than 48 hours before the scheduled post time of the race, competed in 11 races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(10) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

JOINT INJECTION OF STEROID (CELESTONE)

10. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having had a joint aspirated in conjunction with a steroid injection of betamethasone, e.g., celestone, less than five days before the scheduled post time of its race and racing program, competed in 17 races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(i) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

JOINT INJECTION OF STEROID (CORTISONE)

11. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation in that, the horse "Bluebird Dream," trained by you, having had a joint aspirated in conjunction with a steroid injection of cortisone less than five days before the scheduled post time of its race and racing program, competed in a race at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(i) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

LEVOTHYROXINE HORMONE

12. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, the horse "Lily's Hi Ho," trained by you, having been administered levothyroxine less than 48 hours before the scheduled post time of the race, competed in a race at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(e)(9) and 4120.4, and further, you knew and intended that the horse was illegally drugged and raced.

METHOCARBAMOL (e.g., ROBAXIN)

13.. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation, in that, a horse or horses, trained by you, having been administered methocarbamol (e.g., Robaxin) less than 72 hours before the scheduled post time of its race, competed in 639 races at Yonkers Raceway, Saratoga Raceway (four races), or Tioga Downs (one race) as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(f)(4) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

MAGNESIUM SULFATE (MAG)

14. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation in that, a horse or horses, trained by you, having been illegally drugged with magnesium sulfate (e.g., MAG), which has drug-like action and properties, less than 24 hours before the scheduled post time of each race and on race day, competed in two (2) races at Yonkers Raceway as set forth in the Appendix in violation of 9 NYCRR §§ 4120.2(a)(2) and/or 4120.2(c)(4) and 4120.4, and further, you knew and intended that each horse was illegally drugged and raced.

FRAUD AND MISREPRESENTATION

15. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation because through your participation in the foregoing misconduct you have committed a fraud and misrepresentation in connection with racing by knowingly, intentionally, and illegally drugging and racing horses in 776 pari-mutuel races at New York State harness racetracks between

January 2010 and April 2012, in violation of the foregoing statutes and rules and 9 NYCRR § 4119.7(a)(3).

16. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation because through your participation in the foregoing misconduct you have violated a New York law with respect to racing in violation of the foregoing statutes and rules and 9 NYCRR § 4119.7(a)(4), to wit, you violated New York laws by tampering with horses with intent to influence the outcome of their pari-mutuel horse races in violation of Penal Law § 180.50, and by willfully and unjustifiably interfering and tampering with horses used for racing and willfully engaging in and furthering such interference and tampering by your actions in violation of Agriculture and Markets Law § 361.

17. Your license(s) to participate in pari-mutuel racing should be suspended or revoked and you should be fined in an amount not to exceed \$25,000 for each violation because you have engaged in repeated fraudulent and illegal acts and you have demonstrated persistent fraud and illegality in the carrying on, conducting, and transaction of your business as a harness trainer involved in pari-mutuel racing in New York state, misconduct detrimental to the best interests of racing and in its nature fraudulent and corrupt and injurious to the character of the turf, to wit, through your foregoing misconduct and violations of the foregoing statutes and rules and/or 9 NYCRR § 4119.9(a).

CHARACTER AND GENERAL FITNESS

18. Your license(s) to participate in pari-mutuel racing should be suspended or revoked, based on the foregoing and your history of rule violations, because your character and general fitness are such that your participation in pari-mutuel racing is inconsistent with the public interest, convenience and necessity and with the best interests of racing generally, contrary to Racing Law § 309(2) and 9 NYCRR § 4119.7(b).

EXCLUSION FROM GROUNDS

19. Your aforesaid misconduct demonstrates you should be excluded from all New York State tracks whether as a licensee, participant, or patron because your conduct at a race track in New York and elsewhere has been improper, obnoxious, unbecoming, and detrimental to the best interests of racing, and you are an undesirable person who has engaged in a pattern of

fraudulent, corrupt, and unlawful conduct which has been detrimental to the best interests of racing, in violation of Racing Law § 309(2) and 9 NYCRR §§ 4119.7(a), 4119.7(d), 4119.8 and/or 4119.9(a).

PLEASE TAKE NOTICE that the hearing will be conducted pursuant to Section 321 of the Racing, Pari-Mutuel Wagering and Breeding Law, Article 3 of the State Administrative Procedure Act, and 9 NYCRR part 5402.

PLEASE TAKE NOTICE that you may be represented by counsel, cross-examine witnesses, and present evidence and arguments on your own behalf. Interpreter services will be made available to deaf persons at no charge. This should be requested in writing at least one week before the hearing date.

PLEASE TAKE NOTICE that the hearing may be adjourned at the discretion of the Hearing Officer for good cause shown upon the request of any party. Requests for adjournments must be submitted as soon as reasonably possible. Absent a serious emergency matter, apart from the initial hearing date of May 30, 2012, no requests for adjournments will be granted within two (2) business days of the scheduled hearing date. To request an adjournment, you should contact the main office of the Board at (518) 395-5400, ext. 1402, and speak with the Board's assigned counsel as soon as possible. Adjournments on consent of all parties are subject to the approval of the Hearing Officer.

PLEASE TAKE FURTHER NOTICE that, if you do not appear at the hearing and have not been granted an adjournment, then the hearing shall take place as scheduled and a decision, including by default, shall be made on the charges. The decision may result in fines, not to exceed twenty-five thousand dollars (\$25,000) for each violation, imposed against you; the suspension or revocation of your occupational license(s); and/or the expulsion of you from all pari-mutuel race tracks in New York State.

DATED: SCHENECTADY, NEW YORK
 May 24, 2012

FOR THE NEW YORK STATE RACING AND WAGERING BOARD,