

KENTUCKY HORSE RACING COMMISSION  
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**NOTICE OF APPEAL**

IN ORDER FOR AN APPEAL TO BE DEEMED EFFECTIVE AND FILED, THE NOTICE OF APPEAL MUST BE COMPLETED, SIGNED, DATED AND FILED WITH THE KENTUCKY HORSE RACING COMMISSION OFFICE, ATTENTION: MARGI STOUT. ALL APPEALS MUST BE RECEIVED DURING REGULAR BUSINESS HOURS, MONDAY-FRIDAY FROM 8:00 A.M. TO 4:30 P.M. ANY APPEAL RECEIVED AFTER 4:30 P.M. ON A REGULAR BUSINESS DAY, OR ON A WEEKEND OR STATE HOLIDAY, WILL BE DEEMED FILED THE NEXT REGULAR BUSINESS DAY.

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Date of Infraction: May 4, 2019



I hereby appeal the Order/Ruling of Stewards Barbara Borden, Brooks Becraft, & Tyler Picklesimer  
(Steward, Judge or Other Official)

issued on May 12, 2019 regarding Ruling No. 19-0044; suspension of Luis Saez; &  
(Date of Order/Ruling) (Decision being appealed)  
all findings, determinations, &  
conclusions related thereto for the following reasons (attach additional page(s) if necessary):

See attached page for the reasons for this appeal.

I request a hearing before the Kentucky Horse Racing Commission (check one)  Yes  No

<u>Luis Saez</u>	<u>c/o Ann B. Oldfather, Oldfather Law Firm, 1330 South 3rd Street</u>	<u>Louisville</u>	<u>KY</u>	<u>40208</u>
(Printed Name)	(Address)	(City)	(State)	(ZIP)

email: aoldfather@oldfather.com

X Luis P. Saez  
(Signature)

May 15, 2019

(Date)

Kentucky Horse Racing Commission

**Appeal by Luis Saez of Ruling No. 19-0044**

**Reasons for Appeal (continued from Notice of Appeal form):**

The Stewards' decision (Ruling No. 19-0044) determines a foul by citation to 810 KAR 1:016, Section 12 and Section 13, as a result of which the ruling suspends Luis Saez for fifteen (15) racing days. This appeal is brought for the following reasons:

1. A foul under 810 KAR 1:016 Section 12 is not in and of itself a determination of a foul chargeable to the jockey. That section provides no basis for the Stewards' ruling against Luis Saez.
2. A foul under 810 KAR 1:016 Section 13 requires a determination of the jockey's failure to use "best effort to control and guide his mount to avoid a foul," due to intent, carelessness and/or incompetence. The Stewards made no such determination, nor could they have based on the evidence heard by them. The replay of the race itself provided no support for such determination.
3. The Stewards were presented with a timely claim of foul by another jockey against the jockey of #1 War of Will. That claim of foul is not mentioned after the race, and that jockey was not interviewed by the Stewards on the day of the race. The Stewards failed to address this claim of foul against a different rider. Had they done so, in all likelihood the Stewards would have determined that Luis Saez made a remarkable effort to steady his horse and prevent the potential for calamity initiated by another rider.
4. The Stewards did not conduct a thorough or adequate review of the events due to their refusal to use regularly available and normally utilized technology (slow motion and stop frame) in analysis of digital films.
5. The Stewards did not provide written notice of an alleged violation nor did they provide an evidentiary hearing to Luis Saez prior to issuing the ruling.
6. The Stewards' lack of understanding of the actual events is illustrated by the Stewards' statement of May 4, 2019 stating a finding that Luis Saez's mount caused interference with #21 Bodexpress, when in fact Bodexpress was impeded by the declared winner, #20 Country House before Maximum Security moved out from his position.
7. The Stewards declared publicly that all affected jockeys were interviewed. That is incorrect.
8. The Stewards in effect validated Luis Saez's ride by their failure to initiate an inquiry as they are required to do in the event they observe any foul riding (*see* Title 810, Chapter 1:016 Section 13).
9. The Stewards' ruling is in error, it is unsupported by facts and the law, it was not rendered in conformance with KAR Title 810, and as a result, the process utilized did not comply with applicable statutes and administrative regulations, and failed to provide Luis Saez due process of law.

**Kentucky Horse Racing Commission  
Appeal by Luis Saez of Ruling No. 19-0044  
Reasons for Appeal (continued)**

While the Stewards' decision should be set aside and rendered void and of no further force or effect for one or more of the above reasons, Luis Saez states in the alternative that even had the Stewards' ruling been correct and correctly reached, a suspension of fifteen (15) racing days is unduly harsh, and not supportable by facts and law, nor by customary practice.

In issuing the ruling and the disciplinary action against Luis Saez, the Stewards unconstitutionally deprived Luis Saez of due process of law, they unconstitutionally deprived him of equal protection of the law, and their actions were arbitrary and capricious. The Stewards' ruling and disciplinary action are not supported by substantial evidence. Indeed, the ruling and suspension have no evidentiary support whatsoever. Further, 810 KAR 1:016, Section 12 and Section 13 are unconstitutional, vague, and cannot be enforced or serve as a basis for any suspension or other disciplinary action against Luis Saez.

Luis Saez reserves that right to identify any additional reasons for this appeal that might become known to him at a later date as a result of discovery, the hearing, any pre-hearing proceedings, and any other means.