22 February 2023

**DECISION**

**RACING VICTORIA**

**and**

**DANIEL McCARTHY**

**Date of hearing:** 13 February 2023

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Jack Anderson appeared on behalf of the Stewards.

Mr Andrew Nicholl represented Mr Daniel McCarthy.

**Charge:** Australian Rule of Racing (“AR”) 240(2) states:

(2) Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.

**Particulars of charge:** 1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.

2. You are, and were at all relevant times, the trainer of Lunar Solar (the Horse).

3. On 13 June 2022, the Horse was brought to the Mornington racecourse and ran in race 4-3-Y-O Fillies BM64 HCP over 1000M (the Race).

4. On 13 June 2022, prior to the running of the Race, a blood sample was taken from the Horse (the Sample).

5. An analysis of the Sample detected the presence of Flunixin.

6. Flunixin is considered a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Australian Rules of Racing.

**Plea:** Guilty

**DECISION**

Mr Daniel McCarthy, you have pleaded guilty to a breach of Australian Rule of Racing (“AR”) 240(2). It concerns a positive return to flunixin, in a pre-race sample taken from Lunar Solar, trained by you, prior to the running of Race 4 at Mornington on 13 June 2022. Lunar Solar ran third in the event.

Flunixin is pain killing medication which has the potential to enhance performance. It is also a medication used reasonably regularly by you. You always allow a withholding period of five days as your standard, and this has always been satisfactory. On this occasion you made a mistake and effectively only four days were allowed.

You co-operated fully with the Stewards, including ringing them to inform them of the mistake that you had made. You have an outstanding record as a trainer. You have been a licensed trainer for 30 years and were in the industry for a few years as a young man prior to that. You have been a successful mid-level trainer, based now for some years near Wangaratta and racing horses in both sides of the border. You have absolutely no prior convictions of any substance or for any prohibited substance offence. You also are skilled horse chiropractor and masseur and doubtless your services are much in demand. All in all, your record and character are entirely without blemish, despite your years in the industry, that is an excellent record indeed.

Rules of this nature play a very important role. The frequently mentioned desirability of a level playing field, and the appearance of a level playing field, are something that cannot be stressed enough.

We have had over attention directed to previous penalties in cases here and interstate involving flunixin. The penalty we have arrived at is marginally below the previous lower because of the singular nature of your outstanding record and your complete co-operation. We have fixed a fine of $3,500, but that is reflexive of your record and your reputation.

In addition, Lunar Solar is disqualified from Race 4 at Mornington on 13 June 2022 and the finishing order is amended accordingly.

Mark Howard  
Registrar, Victorian Racing Tribunal