29 August 2022

**DECISION**

**RACING VICTORIA**

**and**

**AARON PETERSON**

**Date of hearing:** 16 August 2022

**Panel:** Judge John Bowman (Chairperson) and Mr Josh Bornstein.

**Appearances:** Mr Marwan El-Asmar appeared on behalf of the Stewards.

Mr Ross Inglis represented Mr Aaron Peterson.

Mr Aaron Peterson attended the hearing.

**Charges:**  Australian Rule of Racing (“AR”) 245(1) states:

(1) A person must not:

a) administer; or

b) cause to be administered,

a prohibited substance on Prohibited List A and/or Prohibited List B to a horse which is detected in a sample taken from the horse prior to or following the running of a race.

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.

AR 104 states:

(1) A trainer must record any medication or treatment administered to any horse in the trainer’s care by midnight on the day on which the administration was given.

(2) For the purpose of subrule (1), each record of administration must include the following information:

(a) the name of the horse;

(b) the date and time of administration of the treatment or medication;

(c) the name of the treatment or medication administered (brand name or active constituent);

(d) the route of administration including by injection, stomach tube, paste, topical application or inhalation;

(e) the amount of medication given (if applicable);

(f) the duration of treatment (if applicable);

(g) the name and signature of the person/s administering and/or authorising the administration of the treatment or medication.

(3) For the purposes of this rule “treatment” includes:

(a) shock wave therapy;

(b) acupuncture (including laser treatment);

(c) chiropractic treatment;

(d) the use of any electrical stimulation device (including transcutaneous electrical nerve stimulation (TENS));

(e) magnetic field therapy;

(f) ultrasound;

(g) any form of oxygen therapy, including hyperbaric oxygen therapy;

(h) the taking of a blood sample.

(4) For the purposes of this rule “medication” includes:

(a) all Controlled Drugs (Schedule 8) administered by a veterinarian;

(b) all Prescription Animal Remedies (Schedule 4), including those listed in Schedule 1, Part 2, Division 2 to these Australian Rules;

(c) all Prescription Only Medicines (Schedule 4), prescribed and/or dispensed by a veterinarian for off-label use;

(d) all injectable veterinary medicines (intravenous, intramuscular, subcutaneous, intra-articular) not already referred to above;

(e) all Pharmacist Only (Schedule 3) and Pharmacy Only (Schedule 2) medicines;

(f) all veterinary and other medicines containing other scheduled and unscheduled prohibited substances;

(g) all alkalinising agents;

(h) all herbal preparations.

(5) All records required to be kept in accordance with this rule must be retained by the trainer for at least 2 years.

(6) When requested, a trainer must make available to the Stewards the record of any administration of a treatment and/or medication required under subrule (1).

**Particulars of charges:** **Charge 1: AR 245(1)**

1. You are, and were at all relevant times, a trainer bound by the Rules of Racing.
2. You were, at all relevant times, the trainer of Approved Anger (the Horse).
3. On 26 December 2020, the Horse ran in the Bet365 Protest Promise 0-58 Handicap over 1500 metres at Geelong Racecourse (the Race).
4. Prior to the Race, you administered or caused to be administered Cobalt to the Horse, which was detected to be present and above the relevant threshold in a pre-race urine sample taken from the Horse.
5. Cobalt is a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Rules of Racing (Prohibited List B), subject to the threshold in Item 11 of Division 3 of Part 2 of Schedule 1 of the Rules of Racing.

**Charge 2: AR 240(2)**

1. You are, and were at all relevant times, a trainer bound by the Rules of Racing.
2. You were, at all relevant times, the trainer of Approved Anger (the Horse).
3. On 26 December 2020, the Horse was brought to the Geelong Racecourse and ran in the Bet365 Protest Promise 0-58 Handicap over 1500 metres (the Race).
4. On 26 December 2020, prior to the Race, a urine sample was taken from the Horse, which detected the presence of Cobalt above the relevant threshold (the Sample).
5. Cobalt is a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Rules of Racing (Prohibited List B), subject to the threshold in Item 11 of Division 3 of Part 2 of Schedule 1 of the Rules of Racing.

**Charge 3: AR 104**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You were, at all relevant times, responsible for the maintenance of the treatment records for any horse in your care.
3. On 1 February 2021, you were interviewed by Stewards from Racing Victoria’s Compliance Assurance Team at your stables in Miners Rest with respect to a pre-race urine sample collected from your horse, Approved Anger, on 26 December 2020 (the Interview). During the Interview, when questioned about your treatment records, you conceded they had not been updated.
4. From 1 December 2020 to 31 January 2021, your treatment records did not contain any medication or treatment administered to any horse in your care as required by AR 104(2).

**Pleas:** Guilty to Charges 1 and 3

Charge 2 withdrawn by the Stewards

**DECISION**

Mr Aaron Peterson, you have pleaded guilty to two charges. They are a breach of Australian Rule of Racing (“AR”) 245(1), which could be summarised as administration of a prohibited substance, namely cobalt, and a breach of AR 104, which could be summarised as being a failure to maintain appropriate treatment records. An alternative charge of breaching AR 240(2), being a presentation charge, was withdrawn by the Stewards.

The factual context of the breach of AR 245(1) is as follows. “Approved Anger”, trained by you, raced at Geelong on 26 December 2020, finishing ninth. A pre-race urine sample taken from the horse proved positive to cobalt in excess of 200ug/L. Indeed, the estimate of the cobalt content was estimated to be in the vicinity of 500ug/L. There is no challenge to the manner in which the sample was obtained or to the fact that the reading was in excess of 200ug/L.

The possible explanation provided by you included reference to products, such as Farriers Formula and Fiber Fresh, which had been given to the horse. Essentially, the cause of the elevated reading remains unclear. However, you have taken responsibility for it by your plea of guilty.

Your situation is that at the moment you have only one horse in work and have some six others on your 13 acre property. You are currently otherwise unemployed, your part time work for another Ballarat trainer having recently come to an end. Thus, your financial position sounds precarious.

We have taken into account the various, quite powerful references that have been put before us by Mr Ross Inglis on your behalf. We have also taken into account your years in racing and your good record.

Further, we note that you have had something of a struggle with your mental health and that you are receiving professional assistance in that regard.

We agree with Mr Marwan El-Asmar that specific deterrence may not be a great factor. However, those involved in the industry have been warned repeatedly about cobalt and about prohibited substances generally. The importance of the image of a level, drug free playing field has been explained time and time again. General deterrence is a very significant factor. We also take into account your guilty plea and the other matters in your favour advanced by Mr Inglis.

In all the circumstances, our penalty in relation to the breach of AR 245(1) is an immediate period of suspension for three months.

In relation to the breach of AR 104 – the failure to maintain proper records – we accept that you were recording matters to do with the administration of medication and substances in a notebook, but not on the proper sheets, where such entries should have been made. The work of the Stewards is difficult enough without having to deal with inadequate recording systems. On that charge, you are fine $500.

Finally, Approved Anger is disqualified from the Bet365 Protest Promise which it participated in at Geelong on 26 December 2020 and the finishing order is amended accordingly.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal