18 February 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR AHMED TAIBA**

**Date of hearing:** 14 February 2020

**Panel:** Judge John Bowman (Chairperson), Judge Graeme Hicks (Deputy Chairperson) and Ms Julie Nicholson.

**Appearances:** Mr Stephen Svanosio instructed by Mr Russell Anderson appeared on behalf of the Stewards.

 Mr Ahmed Taiba represented himself.

**Charge:** Australian Harness Racing Rule 190(1) states a horse shall be presented for a race free of prohibited substances.

**Particulars of charges: Charge 1**

1. On 3 April 2019, the horse ‘Ghadastar’ was presented to race at the Tabcorp Park Melton harness racing meeting in Race 7, the ‘Hydroflow Pace’;
2. At the relevant time you were the trainer of ‘Ghadastar’;
3. Following Race 7, the ‘Hydroflow Pace’, a urine sample was collected from ‘Ghadastar’ with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold;
4. As the trainer of ‘Ghadastar’ on 3 April 2019, you presented that horse to race in the ‘Hydroflow Pace’ at Tabcorp Park Melton whilst not free of arsenic, a prohibited substance when present at a concentration in excess of 0.30 micrograms per millilitre in urine.

**Charge 2**

1. On 21 April 2019, the horse ‘Nikitaras’ was presented to race at the Warragul harness racing meeting in Race 3, the ‘Winning Formula Pace’;
2. At the relevant time you were the trainer of ‘Nikitaras’;
3. Following Race 3, the ‘Winning Formula Pace’, a blood sample was collected from ‘Nikitaras’ with subsequent analysis of that sample revealing a plasma total carbon dioxide (TC02) concentration in excess of the allowable threshold;
4. As the trainer of ‘Nikitaras’ on 21 April 2019, you presented that horse to race in the ‘Winning Formula Pace’ at Warragul whilst not free of alkalinising agents, a prohibited substance when evidenced by total carbon dioxide (TC02) present at a concentration in excess of 36 millimoles per litre in plasma.

**Plea:** Guilty

**DECISION**

Mr Ahmed Taiba, you have pleaded guilty to two charges. Charge 1 is a breach of AHRR 190(1) which reads as follows ‘a horse shall be presented for a race free of prohibited substances’. On 3 April 2019, your horse ‘Ghadastar’ was presented to race at the Tabcorp Park Melton harness racing meeting in Race 7, the ‘Hydroflow Pace’. Following Race 7, a urine sample was collected from ‘Ghadastar’, with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold.

Charge 2. You have pleaded guilty to a breach of AHRR 190(1) which reads ‘a horse shall be presented for a race free of prohibited substances’. On 21 April 2019, your horse ‘Nikitaras’ was presented to race at the Warragul harness racing meeting in Race 3, the ‘Winning Formula Pace’. Prior to Race 3, a blood sample was collected from ‘Nikitaras’ with subsequent analysis of that sample revealing a plasma total carbon dioxide (TC02) concentration in excess of the allowable threshold.

We have heard submissions from the stewards and yourself. We have taken into account your plea of guilty to both charges and your co-operation with the stewards and have considered your training history and your record that was placed before us. We have also heard of your personal circumstances, including your good record in the industry for some 28 years. Stewards spoke highly of your record in the industry. Mr Anderson kindly put forward that these charges are having a devasting impact on you.

You started out as an accountant, but from a young age you fell in love with horses. At one stage you had 35 horses in work. Now it is mainly your own horses. You have 12 horses in work. Your partner also works in the harness racing industry in New South Wales. Tragically, you lost your father at about this time in 2019 and you said in your own words that you may not have kept your eye on the ball in terms of managing the property that you operate from. Recently you have had your first child. We accept that your main source of income is derived from the harness racing industry.

We have considered the purposes and objects of the Rules of Racing relating to prohibited substances. These are that the integrity of racing is protected, that harness racing is conducted on a level playing field, that horses race without assistance of drugs, that racing is conducted safely with regard to the horse itself and also with regard to the drivers of other horses involved in the race, and finally, that racing is conducted fairly with respect to the betting public.

We have considered current penalties that have been imposed in similar cases. Principles of general deterrence and, in your case to a lesser extent, specific deterrence also apply in determining the appropriate penalty. Though not determinative of the issues before us, we have had regard to the Minimum Penalty Guidelines.

We regard TC02 charges as serious offences. That is reflected in the Minimum Penalty Guidelines, which suggest 18 months disqualification. Of course, each case must be considered on its own special facts and circumstances.

We note with respect to arsenic cases that there have been at least five notices placed before trainers warning them of having treated arsenic posts located near or where a horse is stabled. In the statement from the Stewards, they confirmed that there were arsenic posts located in your stables.

In all the circumstances, we find that the appropriate penalty in respect of charge 1, the arsenic charge, is a $3,000 fine with $2,500 suspended for a period of 12 months and on charge 2, the TC02 charge, a 12 month suspension with 6 month of that period suspended for 12 months on both licences. The period of suspension shall start at midnight on 17 February 2020.

Pursuant to AHRR 195, ‘Ghadastar’ is disqualified from Race 7 at the Tabcorp Park Melton race meeting held on 3 April 2019. We order that the placings be amended accordingly and any prize money won be forfeited.

Pursuant to AHRR 195, ‘Nikitaras’ is disqualified from Race 3 at the Warragul Harness race meeting held on 21 September 2019. We order that the placings be amended accordingly and any prize money won be forfeited.

Mark Howard
Registrar, Victorian Racing Tribunal