20 July 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ANDREW FARRUGIA**

**Date of hearing:** 5 July 2021

**Panel:** Judge John Bowman (Chairperson) and Mr John Doherty (Deputy Chairperson).

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Lance Justice represented Mr Andrew Farrugia.

**Charge:** Australian Harness Racing Rule (“AHRR”) 190(1) states:

A horse shall be presented for a race free of prohibited substances.

**Particulars of charge:** 1. On 20 October 2020, you were the trainer of horse ‘Andrew Swagger’;

 2. On this day, you presented ‘Andrew Swagger’ to race at the Echuca harness racing meeting in Race 1, The Long May We Play Vicbred Maiden Plate’;

 3. Prior to this race, a urine sample was collected from ‘Andrew Swagger’ with subsequent analysis of that sample revealing a cobalt concentration reading of 128 micrograms per litre in urine, which is in excess of the allowable threshold, being 100 micrograms per litre in urine;

 4. As the trainer of ‘Andrew Swagger’ on 20 October 2020, you presented that horse to race at the Echuca harness racing meeting not free of cobalt, a prohibited substance when present at a concentration in excess of the allowable threshold.

**Plea:** Guilty

**DECISION**

On 21 October 2020, licensed B grade trainer Mr Andrew Farrugia presented the horse Andrew Swagger to race at the Echuca harness racing meeting, where it competed in the first race and finished in eighth placing. A pre-race urine sample had been obtained from the horse and was subsequently analysed by Racing Analytical Services Limited (RASL). It was found to contain cobalt at a level of 128 micrograms in urine. A reserve sample produced a reading of 150 micrograms in urine. Consequently, today, Mr Farrugia has pleaded guilty to the following charge bought against him by the Stewards. In breach of AHRR 190(1) on 21 October 2020 as the trainer of Andrew Swagger he presented that horse to race at Echuca not free of cobalt, a prohibited substance, when present at a concentration in excess of the allowable threshold. The concentration alleged is 128 micrograms per litre in urine, the allowable threshold being 100 micrograms per litre in urine.

During a Stewards’ interview, no explanation was given to explain the elevated reading above the threshold. However, the following possible theories were raised: -

(a) Andrew Farrugia’s’ estranged son and estranged brother to Joseph Farrugia had administrated ‘something’ to Andrew Swagger at the stable without their knowledge;

(b) Possibly the sample taken was contaminated as a result of a container being dropped on the ground before it was used;

(c) Andrew Swagger had arrived at the Echuca track two hours before the race, which is an hour earlier than usual and therefore the sample was taken an hour earlier than normal; and

(d) Andrew Swagger was dehydrated at the time the sample was taken.

It is noted that, during a stable inspection, Stewards observed several horse treatment and supplement products of which the active constituents include forms of cobalt. In his interview with Stewards, Andrew Farrugia denied using injections to his horse. However, his son Joseph, his stablehand, told Stewards that his father was present when he, Joseph injected their horses and that those injections may have included cobalt.

Stewards have submitted that a minimum period of 18 months suspension would be appropriate in this case. It would serve principles of general deterrence and also specific deterrence, particularly to Mr Farrugia who has a prior matter in 2016 for breaching the same Rule. Recent cases of Graham, Bourke and Schembri have been submitted by Stewards as cases that have helped set the bar in determining consistent penalties. It is noted that Andrew Swagger was Mr Farrugia 14th starter since re-engaging with the industry.

Mr Farrugia is 79 years old and is a hobby trainer, who usually has one or two horses in work and generally races only what he breeds. He is an ex V-line employee and has over 40 years involvement in the harness racing industry. He is assisted on a daily basis by his son, Joseph, who holds a stablehand licence. Mr Farrugia has pleaded guilty and obtains some benefit from that by way of sentence. This is his second infringement of the relevant Rule and, although the reading is not excessively high, a period of suspension is warranted. In our opinion, that period is 15 months. In addition, we order that the horse Andrew Swagger is disqualified from the race in question.

Mark Howard
Registrar, Victorian Racing Tribunal