14 August 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR BORIS DEVCIC**

**Date of hearing:** 5 August 2020

**Panel:** Judge John Bowman (Chairperson).

**Appearances:** Mr Brett Day appeared on behalf of the Stewards

Mr David Briggs appeared on behalf of Mr Devcic.

**Charge:** Australian Harness Racing Rule 250A(1)(a) states:

1. A person carrying on or purporting to carry on an activity regulated by licence at any time or carrying on official duties at a meeting commits an offence if:
2. A sample taken from him or her is found upon analysis to contain a substance banned by Rule 251A.

**Particulars of charge:** At the Mildura race meeting on the 26 June 2020, Mr Devcic performed the licenced activities of a trainer, Mr Devcic provided a urine sample which upon analysis was found to contain a banned substance namely 11-Nor-delta-9-tetrahydrocannabinol-9-carboxylic acid above the applicable threshold.

**Plea:** Guilty

**DECISION**

Mr Boris Devcic, you have pleaded ‘guilty’ to a breach of AR250A(1)(a). This follows testing carried out at the Mildura meeting on 26 June 2020, where you were performing licensed activities as a trainer. You provided a urine sample which was subsequently shown to be positive to a banned substance. Without going into the technical terms, that substance could be described as cannabis. You hold a trainer’s licence and a driver’s licence, but at the relevant time your driver’s licence was suspended. Accordingly, the offence occurred only in the context of training and not driving, which can have more serious ramifications. The reading was at the low end of the range.

You have pleaded guilty and co-operated fully from the outset. You do have a prior conviction for an offence of this nature and for one also involving cannabis. This occurred some 12 years ago. I bear that in mind, but the fact remains that you do have a prior conviction and it was quite proper for Mr Day, on behalf of the Stewards, to bring this to my attention.

You are aged 65. You are a married man with four children, three of them being at the secondary education level. You have no occupation other than being a trainer/driver. I accept that, since the present offence occurred, two horses have been removed from you. That has left you with eight, essentially all owned or part-owned by people outside your family. Suspension will create a number of logistical problems for you, in addition to having a severe impact upon your income. In these difficult times, I appreciate that the financial impact of suspension upon you could be very significant. Mr Briggs, assisting you and speaking on your behalf, has outlined the problems.

However, the bottom line I that, as emphasised by Mr Day, this case involves not just a prohibited substance, but an illicit or illegal one, and you have a prior conviction for this, albeit 12 years ago. Both general and specific deterrence are relevant. It is not a good look for the industry for trainers to be tested at a racetrack and return a positive to an illicit substance.

In my opinion, a period of suspension is warranted. The suspension that was imposed by the Stewards was one of six months, with three months being in turn suspended for two years – in other words, an immediate suspension of three months. This was backdated to 14 July 2020.

Given all the circumstances in which you find yourself in these difficult times, the financial impact upon you, being a full-time trainer with no other occupation, your family situation and your very early guilty plea and complete co-operation, I am prepared to reduce the period of suspension to be served by a very modest amount.

The suspension commenced on 14 July 2020. It will continue until 11.59pm on 30 September 2020, so that you can resume training on 1 October 2020. The remaining three months suspension will continue to hang over you for the balance of two years.

Mark Howard
Registrar, Victorian Racing Tribunal