9 May 2023

**DECISION**

**RACING VICTORIA**

**and**

**BRUCE PURCELL**

**and**

 **JEAN PURCELL**

**Date of hearing:** 2 May 2023

**Panel:** Judge John Bowman (Chairperson) and Judge Marilyn Harbison.

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

Mr Paul Maher represented Mr Bruce Purcell and Ms Jean Purcell.

**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: AR 240(2)**

1. You are, and were at all relevant times, trainers licensed as a partnership by Racing Victoria.

2. You are, and were at all relevant times, the trainers of Elfi (the Horse).

3. On 4 August 2022, the Horse was brought to the Cranbourne racecourse and ran in race 4 (the Race), finishing first.

4. On 4 August 2022, a post-race blood sample was taken from the Horse (the Sample).

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

6. Lignocaine 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 Bruce and Mrs Jean Purcell are a training partnership of long standing. Elfi, trained by them competed in Race 4 at Cranbourne on 4 August 2022. Elfi won that race and the post-race sample proved positive to the substance, Lignocaine. Accordingly, Mr and Mrs Purcell were charged with a breach of AR 240(2).

Mr and Mrs Purcell, who were represented by Mr Paul Maher, from the Australian Trainers Association, each pleaded guilty to the charge at the earliest opportunity. At the time of this occurrence, Mr Purcell was in ill health and was hospitalised, this being against a background of an acquired brain injury. He had taken a turn, and it was this that caused him to be hospitalised. Mrs Purcell was devoting much of her time to visiting him in hospital. The stables were being looked after by Ms Emma Astbury, their daughter, she being a licensed stablehand.

On veterinary advice, Elfi was being administered Neocort cream. Dr Gough, the relevant veterinarian, had given advice about the withhold period. There is no dispute but that the withhold period of 4 days was observed. The expert opinion now available is to the effect that the positive resulted from the use of the same rug that had been placed upon the horse each day after the application of the substance, this being done by Ms Astbury. We accept the likelihood that the positive swab resulted from this.

In relation to penalty, both Mr and Mrs Purcell have outstanding records. Mr Purcell has been a licensed trainer for 52 years and Mrs Purcell for 37 years. During that great length of registration neither committed an offence of any magnitude. Their combined record is of one failure to bring colours to the track. This is an absolutely remarkable record.

The nature of the actual offence itself is quite singular. There was the pressure of Mr Purcell’s hospitalisation on both he and his wife. There had been compliance with the veterinary surgeon’s instructions. There are a number of powerful references, including one from Mr Colin Alderson, the past president of the Australian Trainers Association and one from Mr Neil Bainbridge, Chief Executive Officer of the Cranbourne Turf Club, which is where Mr and Mrs Purcell train.

As submitted by Mr El-Asmar on behalf of the Stewards, the relevant penalty in two Victorian cases has been a fine of $4,000. We are of the view that the penalty is $4,000. However, in the unique circumstances of this case, we are of the view that part of that penalty should be suspended. The portion suspended we fix at $1,500. In other words, $2,500 is payable forthwith and the sum of $1,500 is suspended for 12 months. It is only payable if there is another breach of the provisions relating to prohibited substances. We are confident that there will not be.

Finally, Elfi is disqualified from Race 4 at Cranbourne on 4 August 2022 and the finishing order is amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal