24 June 2020

**DECISION**

**RACING VICTORIA**

**and**

**MR CIARON MAHER & DAVID EUSTACE**

 **Date of hearing:** 16 June 2020

**Panel:** Judge John Bowman (Chairperson) and Judge Graeme Hicks (Deputy Chairperson).

**Appearances:** Mr Daniel Bolkunowicz appeared on behalf of the Stewards.

Mr Andrew Wiles appeared on behalf of Mr Maher and Mr Eustace.

**Charge:** Australian Rule (AR) 240 - Prohibited substance in sample taken from horse at race meeting

(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 charges:**

1. You are, and were at all relevant times, a training partnership licensed by Racing Victoria (RV). Pursuant to AR 98(2), you are jointly responsible for any breach of the Rules (subject to the exemptions in AR 98).
2. You are, and were at all relevant times, the co-trainers of *Piccatric.*
3. On 28 February 2020, *Piccatric* was brought to the Sale Racecourse and ran in the Fiducian Financial Services Maiden Plate over 1427 metres (the race).
4. A prohibited substance, being Frusemide, was detected in a post-race blood sample taken from *Piccatric* at the Sale Racecourse after winning the race.
5. Frusemide is 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 Ciaron Maher and Mr David Eustace, you have each pleaded guilty to a breach of AR240(2) which for relevant purposes reads as follows:

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.

Each of you was at all relevant times, part of a training partnership licensed by Racing Victoria Pursuant to AR98(2), you are jointly responsible for any breach of the Rules. You are, and were at all relevant times, the co-trainers of Piccatric. On 28 February 2020, Piccatricwas brought to the Sale Racecourse and ran in the Fiducian Financial Services Maiden Plate over 1427 metres. A prohibited substance, being Frusemide, was detected in a post-race blood sample taken from Piccatricat the Sale Racecourse after winning the race. Frusemide is a prohibited substance. Frusemide is sold under the brand name Lasix and is used to treat fluid build-up in a horse. It is a diuretic.

We have heard submissions from the Stewards, Mr Wiles and Mr Eustace on behalf of the partnership. We have taken into account your plea of guilty and your cooperation with the Stewards. We have considered your training history and your record, which was placed before us, and also heard of your personal circumstances.

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 racing is conducted on a level playing field, that horses race without the assistance of drugs, that racing is conducted safely with regard to the horse itself and also with regard to the riders involved in the race and finally that racing is conducted fairly with respect to the betting public.

Principles of general deterrence and, in the case of each of you, to a lesser extent specific deterrence have some application in determining the appropriate penalty.

Your partnership does have a subsequent conviction for a similar offence, which has some relevance to the need to have proper stable procedures in operation. It is clear that the obligation is on the trainer to present his horse at a race meeting free of a prohibited substance.

The Stewards accept, as does this Tribunal, that Piccatric was administrated Lasix as a result of human error by Mr Stephen McFarlane, foreperson for the partnership’s Caulfield stables, when he identified the wrong horse for the administration. Piccatric is usually trained at Ballarat. Prior to Piccatric’s race on 28 February 2020 at Sale, Piccatric was sent from Ballarat to the Caulfield stables of the partnership. On the morning of the race two separate email lists were prepared by the partnership as to which horses stabled at Caulfield should receive Lasix and a second list, being the racing list, as to what should happen to those horses. Mr McFarlane was not familiar with Piccatric, which was listed on the racing list and was also not familiar with another horse which was on the Lasix list. Unfortunately, Mr McFarlane confused the two horses he was unfamiliar with and ended up administering Lasix to Piccatric.

Mr Eustace who appeared before us, stated that new procedures have now been put in place to ensure that this mistake does not occur again. These include that each box a horse is in has its name clearly displayed on the box. Importantly, the racing list is now given a special colour to distinguish it from any list concerning the treatment of other horses at the stable.

We have heard briefly in relation to the personal circumstances that relate to the partnership. Mr Maher and Mr Eustace have been in partnership for approximately 2 years. They have 250 horses in work. They have stables in Victoria and New South Wales and have staff of 120 people.

We also take into account that the horse in question has not been able to race in a maiden race in the intervening time.

We have taken into account the matters to be considered. We impose a fine of $7,500 and we order the disqualification of the horse. Piccatric is disqualified from the Fiducian Financial Services Maiden held at Sale on 28 February 2020 and the placings are amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal