15 March 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**DAVID AIKEN**

**Date of hearing:** 10 November 2020

**Panel:** Judge John Bowman and Mr Greg Childs.

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

Mr David Aiken represented himself.

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

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

**Particulars of charge:** 1. On 1 May 2020, the horse ‘Secret Identity’ was presented to race at the Shepparton harness racing meeting in Race 1, the ‘Equine After Care 3YO Pace’;

2. At the relevant time you were the trainer of ‘Secret Identity’;

3. Following Race 1, the ‘Equine After Care 3YO Pace’, a urine sample was collected from ‘Secret Identity’ with subsequent analysis of that sample revealing the presence of hyoscine;

4. As the trainer of ‘Secret Identity’ on 1 May 2020, you have presented that horse to race in the ‘Equine After Care 3YO Pace’ at Shepparton whilst not free of the prohibited substance hyoscine.

**Plea:** Guilty

**DECISION**

Mr David Aiken, you have pleaded guilty to a breach of Australian Harness Racing Rule (“AHHR”) 190(1) in relation to the horse “Secret Identity” which competed in Race 1 at Shepparton on 1 May 2020. A post-race urine sample proved positive to the prohibited substance Hyoscine.

Further analysis by Racing Analytical Services Limited (“RASL”) had shown that the result was consistent with the constituents of the plant thornapple. Previously you had told Stewards that the only explanation you could think of for the presence of the substance was that you had been slashing the yard where horses are housed and you had dug up thorns. It seems, unfortunately, that a heap of those thorns were left in the yard and Secret Identity may well have chewed them. It is the most likely explanation and is not challenged by the Stewards.

It was pointed out by the Stewards there are some similarities between your case and that of Ms Jess Tubbs (see the VRT decision of 2 July 2020). The positive return in that case related to a different prohibited substance, namely Aminorex. That very probably came from weeds chewed by the horse in question. Ms Tubbs was fined $750 but that was suspended for 12 months.

In its decision, the Tribunal warned the industry that trainers must be on their toes at all times. These cases of unusual ways of substances finding their way into horses do crop up and trainers must be very vigilant. We note from the decision that Ms Tubbs had been associated with the racing industry for most of her life and a trainer for a few years prior to what occurred. She had an excellent record.

You have also been in the industry for decades and are well respected and successful. You do have three relevant prior convictions in New South Wales in 2017 and 2018 when you were fined $100 on each.

Weighing up all the considerations, we are of the view that a fine of $1,500 should be imposed, but that $1,000 of that shall be suspended for a period of 12 months and will become payable if there is a breach of the relevant Rule in that time. In addition, Secret Identity is disqualified from Race 1 at Shepparton on 1 May 2020 and the finishing order is amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal