9 September 2019

**DECISION**

**RACING VICTORIA**

**and**

**MS HANNA POWELL**

**Date of hearing:** 30 August 2019

**Panel:** Judge John Bowman (Chairperson) and Mr. Greg Childs.

**Appearances:** Ms Charlotte Landy appeared on behalf of the Stewards.

Mr Andrew Nicholl represented Ms Hanna Powell at the hearing.

**Charge:** Australian Rules 240 (2) states:

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:** (Charge 1) On 2 November 2018, Kissee Mee was brought to the Kilmore racecourse and ran in the Bet365 Racing Cashback 0-58 Handicap over 1100 metres (the race). A prohibited substance, being o-desmethylvenlafaxine (a metabolite of venlafaxine, an anti-depressant), was detected in a post-race urine sample taken from Kissee Mee following the running of the race. O-desmethylvenlafaxine is a prohibited substance pursuant to Prohibited List B of the Australian Rules of Racing.

(Charge 2) On 6 December 2018, Kissee Mee was brought to the Kyneton racecourse and ran in the RMBL Investments Rising Stars BM64 Handicap over 1200 metres (the race). A prohibited substance, being o-desmethylvenlafaxine (a metabolite of venlafaxine, an anti-depressant), was detected in a post-race urine sample taken from Kissee Mee following the running of the race. O-desmethylvenlafaxine is a prohibited substance pursuant to Prohibited List B of the Australian Rules of Racing.

**Plea:** Guilty

**DECISION**

Ms Hanna Powell, you have pleaded guilty to two breaches of AR 240. You are the owner and trainer of Kissee Mee, which firstly won at Kilmore in an 1100 metre race on 2 November 2018. A post-race urine sample showed the presence of a prohibited substance, namely O-desmethylevenlafaxine.

Unfortunately, due to the pressures of the spring carnival, there was a longer delay than usual in relation to the analysis of the urine.

In the meantime, on 6 December 2018, Kissee Mee ran again, this time at Kyneton over 1200 metres. She won again. A post-race urine sample revealed the presence of the same prohibited substance. We fully accept that, had you known of the 2 November 2018 sample, you would not have run the horse on 6 December 2018, either at all or without further testing.

There is no argument but that Kissee Mee’s contact with the prohibited substance came as a result of eating grass in the area of a septic tank and where there was a sewage overflow. Your husband had regularly taken anti-depressant medication, which contains the prohibited substance. No other cause of the positive return has been suggested by the Stewards and we accept that all of these factors combined to form what Mr Nicholl, on your behalf, called a perfect storm. We accept that you were extremely unlucky and that there was no intention to give the horse any prohibited substance or to try and gain any unfair advantage. As soon as you found out about the positive return, you scratched the horse from its next engagement.

You have been training since 2000, having a small team. You have a blameless record. There is no suggestion that you have been anything other than a model trainer. Unfortunately, and for good reason, strict, if not absolute, liability applies.

This is a rare case that the Stewards and yourself, with the assistance of Mr Nicholl, all agreed upon the appropriate penalty. That penalty is that a conviction be recorded but with no other penalty imposed.

We agree. We also point out that you will be hit with a substantial penalty by reason of the inevitable disqualification of Kissee Mee from both races. You are the 100% owner of her. This will cost you in excess of $20,000 and spoil what has been one of your most successful years.

In conclusion, we find the charge proven. A conviction, relating to both races, will be recorded, but no other penalty imposed.

Pursuant to AR 177, Kissee Mee is disqualified as the winner of race 4, the Bet365 Racing Cashback 0-58 Handicap at Kyneton on 2 November 2018 and the places amended accordingly.

Kissee Mee is also disqualified as the winner of Race 6, the RMBL Investments Handicap at Kyneton on 6 December 2018 and the places amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal