6 May 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR HEATH BOURKE**

**Date of hearing:** 29 April 2020

**Panel:** Judge John Bowman (Chairperson) and Magistrate John Doherty (Deputy Chairperson).

**Appearances:** Mr Stephen Svanosio appeared on behalf of the Stewards.

Mr Heath Bourke represented himself.

**Charges:** Australian Harness Racing Rule (AHHR) 190(1) states a horse shall be presented for a race free of prohibited substances.

 AHHR 190B states a trainer shall at all times keep and maintain a log book:

1. Listing all therapeutic substances in his or her possession;
2. Recording all details of treatment administered to any horse in his or her care and including as a minimum requirement:
3. the name of the horse
4. the date of administration of treatment
5. the name of the treatment (brand name of active constituent.
6. the route of administration
7. the amount given
8. the name and signature of the person or persons administering and/or authorising the treatment.

**Particulars of charges:**

**Charge 1**

1. On 19 September 2019, the horse ‘Basha Bourke’ was presented to race at the Ballarat harness racing meeting in Race 4, the ‘Springfest Ballarat Pace’;
2. At the relevant time you were the trainer of ‘Basha Bourke’;
3. Following Race 4, the ‘Springfest Ballarat Pace’, a urine sample was collected from ‘Basha Bourke’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
4. As the trainer of ‘Basha Bourke’, on 19 September 2019 you presented that horse to race in the ‘Springfest Ballarat Pace’ at Ballarat not free of cobalt, a prohibited substance when present at a concentration in excess of 100 micrograms per litre in urine.

**Charge 2**

1. At all relevant times, you were a licensed trainer with Harness Racing Victoria;
2. On 22 November 2019, you gave evidence that in the lead up to the race on 19 September 2019, you administered ‘Tripart’, ‘Bromo TMPS’ and ‘Instant B’ to ‘Basha Bourke’, a horse in your care;
3. When inspected by HRV Stewards on 16 October 2019, your log book failed to adequately record these treatments;
4. You have failed to keep and maintain a log book as required.

**Plea:** Guilty

**DECISION**

Mr Heath Bourke, you have pleaded ‘guilty’ to a breach of Rule 190(1) and to a breach of Rule 190B.

In relation to the breach of Rule 190(1), it involves the horse ‘Basha Bourke’. That horse won Race 4 at Ballarat on 19 September 2019. A post-race urine sample proved positive to cobalt. The sample measured in excess of 200 micrograms per litre. Without going into the details, the positive reading would appear to be the result of the use of products containing vitamin B12. Cobalt is a prohibited substance.

Your situation is that you are aged 45 years and have been involved in the harness racing industry as a registered person since 1991. You have a very good record. You have some eleven acres at Portland, adjacent to a registered training track. You hold both a trainers and a drivers licence. However, you have had only about 10 drives in the last year. Your concentration has been more on training, pre-training, breeding and sales. You currently have some 30 horses in total, with 6 being in work. In addition to your work in harness racing, you are a Registered Nurse Division 1 – that is, an occupational health nurse. You have co-operated fully with the Stewards in this matter from the outset.

General deterrence is of particular importance in matters such as this. Matters to do with prohibited substances give the industry a bad name. The problems associated with cobalt are very well known and those in the industry must be alert at all times to the potential period of suspension for using substances containing it. It is important that harness racing be seen to be conducted fairly and on a level playing field.

Our penalty is that both your licences be suspended for a period of 12 months, that period of suspension to commence forthwith.

On the charge of failing to keep proper records – the breach of Rule 190B, you are fined $250. Basha Bourke is disqualified from Race 4 at Ballarat on 19 September 2019 and the finishing order amended accordingly. The prize money will be re-distributed.

Mark Howard
Registrar, Victorian Racing Tribunal