13 May 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JUSTIN BREWIN**

**Date of hearing:** 2 May 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Amanda Dickens.

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

Mr Justin Brewin represented himself.

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

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

**Particulars of charge:** 1. You were, at all relevant times, the trainer of horse “Colby Art”.

 2. On 9 November 2021, you presented Colby Art to race at the Terang harness racing meeting in Race 2, the “Murfett & Whiting Electrical Terang Maiden Pace”.

 3. After this race, a urine sample was collected from Colby Art with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold, being 0.30 micrograms per millilitre in urine.

 4. As the trainer of Colby Art on 9 November 2021, you presented that horse to race at the Terang harness racing meeting not free of arsenic, a prohibited substance when present at a concentration in excess of the allowable threshold.

**Plea:** Guilty

**DECISION**

1. Mr Justin Brewin is a licensed grade A harness racing trainer. On 9 November 2021, Mr Brewin presented “Colby Art” for Race 2 at Terang. A post-race swab revealed the presence of arsenic in excess of the permitted threshold of 0.30 micrograms per millilitre in urine. The reading in this case was 0.38.
2. The cause of the positive swab was the horse chewing treated pine fencing. It is notorious that chewing of treated pine by horses can lead to positive swabs for arsenic. Arsenic is a prohibited substance under the Rules of harness racing when found over the threshold level.
3. Stewards of Harness Racing Victoria (“HRV”) have charged Mr Brewin with breaching Australian Harness Racing Rule (“AHRR”) 190(1), which prohibits the presentation of a horse for an event with a prohibited substance in its system. Mr Brewin pleaded guilty to the offence at the earliest opportunity. It is a serious offence.
4. Mr Brewin has been a licensed trainer since 1987, first in South Australia (“SA”) and more lately in Victoria. He has a good record, apart from one prior offence concerning an unrelated prohibited substance in SA. Mr Brewin had stabled the horse temporarily in a paddock, where he was unaware of the presence of treated pine.
5. In setting a penalty, we take into account general deterrence and the importance of keeping an industry free of prohibited substances. We also take into account the guilty plea, Mr Brewin’s reasonably good record and recent penalties in like matters.
6. In all the circumstances, we impose a $3,000 fine on Mr Brewin, with $2,500 suspended for a period of 12 months pending no further breach in that time of the relevant Rule. In addition, Colby Art is disqualified from Race 2 at Terang on 9 November 2021.
7. We urge HRV to publicise this decision in its communications to trainers in order to refresh their memory about the problem of treated pine being chewed by horses.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal