15 June 2021

**DECISION**

**RACING VICTORIA**

**and**

**KYLIE VELLA**

**Date of hearing:** 31 May 2021

**Panel:** Judge John Bowman (Chairperson).

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

Mr Ross Inglis represented Ms Kylie Vella.

**Charge:** Australian Rule of Racing (“AR”) 249 states:

 (1) Notwithstanding the provisions set out in Schedule 1, Part 2, Division 2, a person must not, without the permission of the Stewards:

(a) administer; or

(b) cause to be administered,

any medication to a horse at any time on race day prior to the commencement of a race in which the horse is engaged to race.

(“AR”) 245(1) states:

 (1) A person must not:

(a) administer; or

(b) cause to be administered,

a prohibited substance on Prohibited List A and/or Prohibited List B to a horse which is detected in a sample taken from the horse prior to or following the running of a race.

 (“AR”) 240(2) states:

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 charge: Charge 1**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *Admiral’s Joker.*
3. On 25 May 2019, *Admiral’s Joker* was scheduled to race in the Heritage Finance Handicap over 1800 metres (**the race**).
4. On 25 May 2019, prior to the commencement of the race, without the permission of the Stewards, you administered and/or caused to be administered, Diclofenac (using Voltaren), to *Admiral’s Joker*.
5. Diclofenac is considered to be a medication for the purposes of the Rules of Racing.
6. On 25 May 2019*, Admiral’s Joker* was brought to the Flemington racecourse andran in the race.
7. Diclofenac was detected in a post-race urine sample taken from *Admirals Joker* following the running of the race.
8. Your conduct, as set out in particular 4 above, was in contravention of AR 249(1).

**Charge 2**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *Admiral’s Joker.*
3. On 25 May 2019, *Admiral’s Joker* was scheduled to race in the Heritage Finance Handicap over 1800 metres (**the race**).
4. On, or around 25 May 2019, prior to the commencement of the race, you administered and/or caused to be administered, Diclofenac (using Voltaren), to *Admiral’s Joker*.
5. On 25 May 2019*, Admiral’s Joker* was brought to the Flemington racecourse andran in the race.
6. Diclofenac was detected in a post-race urine sample taken from *Admirals Joker* following the running of the race.
7. Diclofenac is listed as a prohibited substance pursuant to item 2(v) of Division 1 of Part 2 of Schedule 1 of the Australian Rules of Racing.
8. Your conduct, as set out in particular 4 above, was in contravention of AR 245(1).

**Charge 3**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *Admiral’s Joker.*
3. On 25 May 2019*, Admiral’s Joker* was brought to the Flemington racecourse andran in the Heritage Finance Handicap over 1800 metres (**the race**).
4. A prohibited substance, being Diclofenac, was detected in a post-race urine sample taken from *Admiral’s Joker* following the running of the race.
5. Diclofenac is listed as a prohibited substance pursuant to item 2(v) of Division 1 of Part 2 of Schedule 1 of the Australian Rules of Racing.

**Plea:** Guilty to charge 3.

Stewards withdrew charges 1 and 2.

**DECISION**

Ms Kylie Vella, you are pleading “Guilty” to a breach of AR 240(2), which could be described in summary form as being the presentation of a horse to a racecourse with a prohibited substance in its system. The horse was Admiral’s Joker, which raced at Flemington on 25 May 2019 in the Heritage Finance Handicap. It won the race. Subsequently, a swab taken from Admiral’s Joker proved positive to the prohibited substance, Diclofenac.

Diclofenac could be described as a pain reducing substance. It is found in Voltaren Osteo Gel. You husband, Mr Steven Vella, is a registered jockey. He also assists you in the conduct of your stable and accompanied Admiral’s Joker in the float on the trip from Linton to Flemington on 25 May 2019.

Mr Vella suffers from inflammatory medical conditions and, at the relevant time, was applying Voltaren Osteo Gel to parts of his body, and specifically to his hands. Admiral’s Joker was a bad traveller and Mr Vella stayed with the horse in the float and was handling the horse’s collar and lead rope. Mr Vella allowed the horse to chew on the lead rope as they travelled. It is not disputed but that this was the likely source of the positive reading to Diclofenac.

I accept that the finding of the prohibited substance in the swab resulted from the accidental course of events described above. You were aware of your husband’s use of Voltaren Osteo Gel, and the reason for its use. You were also aware of the fact that he was travelling in the float with the horse to Flemington. Whilst it is very easy to be wise after the event, personal medication and horses can be risky combination.

In relation to your personal circumstances and record, you do have two prior matters. There relevance is borderline, but each involves a fine in relation to the treatment of a horse within the prohibited period. It cannot be said that you have an unblemished record, but I do not regard these two previous offences as being of great significance.

You have been through hard times recently. Admiral’s Joker was probably the best horse in your stable and a Flemington winner. The horse died for reasons totally unassociated with this case. Further, you and your husband lost your house and all your possessions in a fire. I accept that your life has had more than its fair share of difficulties and distress in recent times.

I do not regard specific deterrence as being of great magnitude, and hindsight is a wonderful thing, but, knowing that your husband was applying a pain relieving substance, perhaps greater care should have been taken in the circumstances. General deterrence in relation to care and prohibited substances and the presentation of a level playing field are certainly relevant.

In summary, I am of the view that a penalty should be imposed. You are fined the sum of $2,000, but $1,500 of that amount is in turn suspended for a period of 12 months. If you offend again in relation to matters such as this in the next 12 months, the full amount becomes payable.

Admiral’s Joker is disqualified from the Heritage Finance Handicap at Flemington on 25 May 2019.

Mark Howard
Registrar, Victorian Racing Tribunal