10 February 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**LEROY O’BRIEN**

**Date of hearing:** 27 January 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Ms Maree Payne.

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

Mr Danny O’Brien represented Mr Leroy O’Brien.

Mr Leroy O’Brien attended the hearing.

**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. At all relevant times, you were a licensed trainer and driver with Harness Racing Victoria (“HRV”) and a person bound by the Australian Harness Racing Rules (“AHRR”);

2. At the relevant time you were the trainer of “Im Sir Blake”;

3.On 10 December 2020, the horse Im Sir Blake was presented to race at the Bendigo harness racing meeting in Race 4, the “Alabar Vicbred Super Sires (4YO Entires and Geldings) (1stHeat)”;

4. Prior to Race 4, the Alabar Vicbred Super Sires (4YO Entires and Geldings) (1stHeat), a blood sample was collected from Im Sir Blake with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;

5. As the trainer of Im Sir Blake on 10 December 2020, you presented that horse to race in the Alabar Vicbred Super Sires (4YO Entires and Geldings) (1stHeat) at Bendigo not free of cobalt, a prohibited substance when present at a concentration in excess of 25 micrograms per litre in plasma.

**Plea:** Guilty

**DECISION**

Mr Leroy O’Brien, you have pleaded guilty to breaching Australian Harness Racing Rule (“AHRR”) 190(1), in that you presented your horse “Im Sir Blake” in Race 4 at the Bendigo harness race meeting held on 10 December 2020 when it was not free of a prohibited substance, namely cobalt in excess of 25 micrograms per litre in plasma.

On 12 January 2021, Investigative Stewards Mr John O’Halloran and Mr Stephen Svanosio attended at your registered address and interviewed you. You were unable to explain the elevated cobalt reading. An inspection by the Stewards at your premises located injectable treatments that contain cobalt, namely “V.A.M”, “B- Complex”, “Vitamin B12”, “Hemoplex” and “Folic B12”.

Your logbook showed that your horse received a stomach drench containing energetic isotonic and FBC Blood Food on 6 December 2020, some four days before the horse was due to race. The Stewards accept that the likely cause of the elevated cobalt reading was the stomach drench given on 6 December 2020.

You were registered as a licensed driver in 2009 and in 2014 as a licensed trainer. You are currently both an A grade driver and trainer. You are 29 years of age and work as a plumber. Your partner is a midwife. Together with your father, you work some 12 horses at present. You have found it difficult being engaged in full-time employment and having to work the horses very early each morning.

You have an impeccable record in the industry and have no prior offences whatsoever. We accept that there has been considerable delay in this matter, which has caused you stress. Principles of general deterrence and, to a lesser extent, specific deterrence have a part to play in arriving at an appropriate penalty.

Several warnings have been given to those engaged in the harness racing industry of the dangers involved in the feeding and treating of horses and cobalt. It is vital to the integrity of the harness racing industry that horses compete on a level playing field without prohibited substances being in their system.

We have taken into account your plea of guilty, your history within the harness racing industry, your personal circumstances and the fact that this matter has been hanging over your head for some considerable period of time.

In all the circumstances, we impose a penalty of 12 months suspension, with three months of that suspension being wholly suspended for a period of 12 months. We order that Im Sir Blake be disqualified from Race 4 at the Bendigo harness race meeting held on 10 December 2020 and that the finishing order be amended accordingly.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal