10 August 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**LISA MILES**

**Date of hearing:** 8 July 2021

**Panel:** Judge John Bowman (Deputy Chairperson) and Mr Robert Abrahams.

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

Ms Angela Eeles represented Ms Lisa Miles.

**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;

2. At all relevant times, you were the registered trainer of the horse “Shes a Hovercraft”;

3. On 23 September 2020, “Shes A Hovercraft” was presented to race at the Bendigo harness racing meeting in Race 1, the “TAB Long May We Play 3YOPace”;

4. Following Race 1, the “TAB Long May We Play 3YOPace”, a urine sample was collected from “Shes A Hovercraft” with subsequent analysis of that sample revealing the presence of synephrine;

5. As the trainer of “Shes A Hovercraft” on 23 September 2020, you presented that horse to race in the “TAB Long May We Play 3YOPace” at Bendigo whilst not free of the prohibited substance synephrine.

**Plea:** Guilty

**DECISION**

Ms Lisa Miles, you have pleaded guilty to a breach of Australian Harness Racing Rule (“AHRR”) 190(1) – presenting a horse not free of a prohibited substance. The substance in this instance was synephrine. It was detected in a post-race sample taken on 23 September 2020 after the horse “Shes A Hovercraft” competed in and won Race 1 at Bendigo. You are the trainer of the horse.

Synephrine is a substance found in various forms of weeds and hay. It has the potential to enhance performance. How it found its way into Shes A Hovercraft’s system is unknown. You had changed merchants in relation to hay supplies, but testing of the hay proved negative. The testing of some samples of weeds and the like from your property also proved negative. Thus, how the synephrine got into the horse’s system remains a mystery, but some weeds somewhere on your 70 acre property are the most likely cause.

Mr Andrew Cusumano, on behalf of the Stewards, very fairly emphasised that there is no suggestion that this substance was knowingly or willingly put into the horse’s system. Nor is it suggested that it occurred as the result of any negligence or carelessness on your part.

At this hearing, you have been very capably represented by Ms Angela Eeles. She highlighted that you have been in the industry since 1992 and have an impeccable record. There are no prior offences in relation to this Rule. Further, as a result of the positive finding, you outlaid $1,525 employing contractors who engaged in weed removal and the like from your substantial property. They return on a bi-monthly basis.

You have some 30 horses on your property, along with a track, dams and the like. You are a very successful trainer and driver, training for others, as well for yourself. You have pleaded guilty at the earliest opportunity after identification of the substance and the issues. You have cooperated fully with the Stewards and, as stated, gone to considerable trouble and expense to prevent this happening again.

As pointed out by Mr Cusumano, whilst specific deterrence is not of great relevance in this case, general deterrence is always important. The maintaining of a level playing field where all horses compete fairly is always a very important issue in these cases involving prohibited substances.

Ms Eeles referred us to the decision in the case of Jess Tubbs, heard in July 2020. There are certainly some parallels to the present case. We are of the view that the penalty imposed in that case – a fine of $750, fully suspended for a period of 12 months – is applicable in the present case. You had no idea or intention in relation to the provision of the prohibited substance and have taken very considerable and expensive measures to try and prevent it re-occurring.

Thus, the penalty imposed is a fine of $750, fully suspended for a period of 12 months. It will be activated if you commit a similar offence during that period, but we are confident that this will not occur.

Finally, Shes A Hovercraft is disqualified from Race 1 at Bendigo on 23 September 2020 and the finishing order is amended accordingly.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal