12 August 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MARTY MILES**

**Date of hearing:** 4 August 2022

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Ms Heidi Keighran.

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

Mr David Miles represented Mr Marty Miles.

Mr Marty Miles 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 with HRV and a person bound by the Australian Harness Racing Rules;

2. At the relevant time you were the trainer of the horse “Cocora”;

3. On 11 February 2022, Cocora was presented to race at the Kilmore harness racing meeting in Race 4, the “Jet Roofing 3YO Pace”;

4. Following Race 4, a urine sample was collected from Cocora with subsequent analysis of that sample revealing the presence of diclofenac;

5. As the trainer of Cocora on 11 February 2022, you presented that horse to race in the Jet Roofing 3YO Pace at Kilmore not free of the prohibited substance diclofenac.

**Plea:** Guilty

**DECISION**

Mr Marty Miles is an A grade trainer, having first been registered in 1979. He has never been charged with a prohibited substance offence and Stewards concede that he has an excellent record in the harness racing industry.

Following the finding of the swab sample positive for diclofenac, Stewards conducted interviews and a stable inspection at Mr Miles’ property. It was established that there could be three hypotheses for the positive sample. Firstly, Mr Miles wife, Laurel, used voltaren on horses from time to time. Diclofenac is a substance forming part of voltaren. Secondly, both Jayden Barker and David Miles, who work on the property, use voltaren periodically. Thirdly, an old septic tank which was overflowing was divulging water into paddocks where “Cocora” was agisted.

Subsequent analysis by Racing Analytical Services Limited (“RASL”) conclusively determined that groundwater samples taken from the paddocks were positive for diclofenac.

It is our opinion that there was cross contamination rather than direct human input which caused the presence of diclofenac in Cocora’s post-race urine sample.

Notwithstanding the above this serious offence is proven. Mr Miles has been cooperative with Stewards and pleaded guilty. Stewards and Mr David Miles have cited the cases of Ms Kylie Vella, Mr Trevor Monk, Ms Jess Tubbs and Mr Terry French in relation to penalty and submit that if a fine is imposed it should be wholly suspended.

The submissions of the Stewards and of Mr David Miles are fair and appropriate given the unique circumstances of the case and mitigating factors. In the event, Mr Miles is fined $500. The fine is not immediately payable and is suspended for 12 months pending no further breach of the relevant Rule in that time.

In addition, Cocora is disqualified from Race 4 at Kilmore on 11 February 2022 and any prizemoney is to be returned to Harness Racing Victoria (“HRV”).

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal