22 May 2023

**DECISION**

**RACING VICTORIA**

**and**

**MICHELLE PAYNE**

**Date of hearing:** 11 May 2023

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Jack Anderson appeared on behalf of the Stewards.

Mr Ross Inglis appeared on behalf of Ms Michelle Payne.

**Charge:** Australian Rule of Racing (“AR”) 240(2) states:

(2) 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: AR 240(2)**

1. You are, and were at all relevant times, a trainer bound by the Rules of Racing.

2. You were, at all relevant times, the trainer of ‘Jukila’ (the Horse).

3. On 26 October 2022, the Horse was presented at Apiam Bendigo Racecourse and ran in race 3 – No Fuss Event Hire BM64 Handicap over 2400 metres.

4. On 26 October 2022, a pre-race urine sample was taken from the Horse Jukila (V778420).

5. An analysis of the sample detected the presence of Dexamethasone above the relevant threshold.

6. Dexamethasone is a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Rules of Racing (Prohibited List B), subject to the threshold in Item 11 of Division 3 of Part 2 of Schedule 1 of the Rules of Racing.

**Plea:** Guilty

**DECISION**

Ms Michelle Payne, you are pleading guilty to a charge pursuant to a breach of AR 240(2), what could be described as a presentation charge. It relates to a pre-race swab taken from the horse Jukila, which ran in Race 3 at Bendigo on 26 October 2022. Jukila won the race in question.

The swab proved positive to the prohibited substance dexamethasone, commonly referred to as dex.

We accept that you had been administering dex in an endeavour to deal with a twitch which had developed. This was on veterinary advice and you only allowed a withhold period of approximately two days. This would appear to have been insufficient. Dr Andrew Cust was the veterinary surgeon in question. He is an experienced equine vet and had previous dealings with this horse. In any event, he is of the view that a withhold period of approximately five days is appropriate for this medication.

We note that you have pleaded guilty at the earliest opportunity. We also note your complete co-operation with the Stewards and your good record. Further, you had sought veterinary advice prior to using the dex in the manner that you did.

Mr Anderson, on behalf of the Stewards, has suggested that, because of the circumstances involved, the penalty of a fine is appropriate. Mr Inglis, on your behalf, agrees. We do not agree with his proposition that your loss of earnings is a result of the inevitable disqualification of the horse, involving both a loss as the trainer and the jockey. We do not agree that this should be taken into account.

In our opinion, the appropriate penalty is a fine of $5,000.

Jukila is disqualified from Race 3 at Bendigo on 26 October 2022 and the finishing order and prize money is adjusted accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal