9 May 2023

**DECISION**

**RACING VICTORIA**

**and**

**PRUDENCE MACONACHIE**

**Date of hearing:** 28 April 2023

**Panel:** Judge John Bowman (Chairperson) and Ms Heidi Keighran.

**Appearances:** Mr Marwan El-Asmar, instructed by Mr Jack Anderson, appeared on behalf of the Stewards.

Ms Prudence Maconachie represented herself.

**Charges and particulars:** **Charge One: AR 231(1)(a)**

AR 231(1)(a) reads as follows:

AR 231 – Care and welfare of horses (1) A person must not:

1. Commit or commission an act of cruelty to a horse, or be in possession of any article or thing which, in the opinion of the Stewards, is capable of inflicting cruelty to a horse;

**The particulars of the charge**

1. You are, and were at all relevant times, a Stable Employee registered with Racing Victoria.

2. You were, at all relevant times, the owner and person in charge of retired thoroughbred ‘Shadow Prey’ (the Horse).

3. On 21 April 2022, the Horse was observed to be recumbent and displaying signs consistent with Colic.

4. On 21 April 2022, you committed an act of cruelty to the Horse in that you euthanised the Horse in a inhumane manner.

**Charge Two: AR 231(1)(b)(ii)**

AR 231(1)(b)(ii) reads as follows:

AR 231 – Care and welfare of horses

(1) A person must not:

1. If the person is in charge of a horse – fail at any time:

(ii) To take such reasonable steps as are necessary to alleviate any pain inflicted upon or being suffered by the horse;

**The particulars of the charge**

1. You are, and were at all relevant times, a Stable Employee registered with Racing Victoria.

2. You were, at all relevant times, the owner and person in charge of retired thoroughbred ‘Shadow Prey’ (the Horse).

3. On 21 April 2022, at approximately 9:00 am, the Horse was recumbent and displaying signs consistent with Colic.

4. On 21 April 2022, at approximately 6:00 pm, the Horse continued to display signs consistent with Colic and was, by this stage, in severe pain, at which time you euthanised the Horse in an inhumane manner.

5. From approximately 9:00 am until the time the Horse was euthanised, you failed to take reasonable steps as were necessary to alleviate any pain being inflicted upon and/or being suffered by the Horse.

**Charge Three: AR 228(a)**

AR 228(a) reads as follows:

AR 228 – Conduct detrimental to the interests of racing A person must not engage in:

1. Conduct prejudicial to the image, interests, integrity, or welfare of racing, whether or not that conduct takes place within a racecourse or elsewhere.

**The particulars of the charge**

1. You are, and were at all relevant times, a Stable Employee registered with Racing Victoria

2. You were, at all relevant times, the owner and person in charge of retired thoroughbred ‘Shadow Prey’ (the Horse).

3. On 21 April 2022, you euthanised the Horse in a inhumane manner.

4. Your conduct, as set out in particular 3, was prejudicial to the image, interest and welfare of racing and in contravention of AR 228(a).

**Plea:** Guilty to all charges

**DECISION**

Ms Prudence Maconachie, you have pleaded guilty to three charges. What could be described as the first and probably most serious charge is a breach of AR 231(1)(a) – committing an act of cruelty and possessing an instrument capable of cruelty. Charge 2 is a breach of AR 231(1)(b)(iii), which could be summarised as failing to take reasonable steps to alleviate pain suffered by a horse. Charge 3 is engaging in conduct prejudicial to the image of racing, this being a breach of AR 228(a).

The sad, if not tragic, circumstances giving rise to these charges could be summarised as follows. You were effectively the owner in charge of the retired racehorse, Shadow Prey. You had been working as a licensed stablehand since March 2021. Apart from working as a teacher and a chef, you had a background in quarter horses and loved working with horses. Originally you worked for Mr Ciaron Mahar, but then transferred to Mr Henry Dwyer. Two things of significance happened whilst you were there. Firstly, you won a stablehand of the year award for the Ballarat district, an area with many stables and their employees. Secondly, and more importantly, you first encountered the horse Shadow Prey. You became very attached to it and, when it retired due to injury, you took it as a pet. We do not doubt but that you had real and genuine affection for the horse.

You next transferred to the stables of Mr Andrew Bobbin, near Stawell, taking Shadow Prey with you. You continued to look after it and were greatly attached to it. It was there that the offences were to take place on 21 April 2022.

On the morning of that day, the horse showed signs of colic. At one stage it struggled to get up. You paid a lot of attention to it. You gave it considerable medication, walked the horse and washed it down. It improved for a while, but then its condition deteriorated. By late afternoon, it could not get up. You had contacted a veterinary practice and had assistance from a workmate. There was a delay in the access to or availability of a veterinary surgeon. Ultimately you came to the conclusion that the horse was in great pain, assistance was not available and the horse would have to be put down.

It was at that stage that you made two very serious errors. You attempted to obtain a gun so that you could shoot the horse and put it out of its misery. When you could not get a gun, you decided to slit the horse’s throat with a knife and proceeded to do this. The other error that you made was not contacting Racing Victoria before taking this fatal step. Apparently, in your distressed state, it did not cross your mind.

Advice from that source, namely Racing Victoria, could have saved the day. However, you proceeded to euthanise the horse in the manner described. It was also some days before any contact was made with Racing Victoria, and this was ultimately done by Mr Bobbin.

We accept that you were greatly distressed, if not heart broken, by the loss of the horse. However, to take the law into your own hands and euthanise the horse in this fashion was a grave mistake, even if it did result in the rapid death of the horse. It was not an instant death, but one caused by bleeding over a very short period.

Turning to your circumstances, you are no longer licensed, having deliberately let your licence lapse approximately 12 months ago. You are effectively a single mother, with two adult daughters and a 17 year old son. You live in rented premises on a farm of approximately 350 acres. Any income which you do get is from shed construction.

We accept that you are filled with remorse. You are extremely sorrowful in relation to what occurred. Before us, you explained your circumstances, your love of horses and what has happened in your life, going through these matters in a tearful and sincere manner.

However, a period of disqualification is well and truly warranted. We repeat that you are filled with remorse and surrendered your licence approximately a year ago.

The image of racing which this whole episode conveys is one that has the potential to be damaging. That is in addition to the very important matters of the gravity of your behaviour in the way that you chose to finish the horse’s life and the fact that you did not contact Racing Victoria, but, in essence, took the law into your own hands. The outcome is serious offences deserving of condemnation, which you now appreciate, and for which you have shown genuine and very emotional remorse.

As stated, disqualification is inevitable. We agree with the Stewards that disqualification for a period at the lower end of the suggested five to seven year range is warranted. Given your extreme remorse, the evidence of good character that you have obtained and your pleas of guilty from the outset, we are of the view that an effective period of five years’ disqualification is warranted. We also bear in mind that you have already taken yourself out of the industry for a period of one year.

On Charge 1, you are disqualified for a period of five years, commencing from this day.

On each of Charges 2 and 3, and as suggested by the Stewards, you are disqualified for a period of two years to be served concurrently with the five year period of disqualification on Charge 1.

Mark Howard
Registrar, Victorian Racing Tribunal