10 February 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RHYS NICHOLSON**

**Date of hearing:** 25 January 2022

**Panel:** Judge John Bowman (Chairperson) and Judge Kathryn Kings.

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr Rhys Nicholson represented himself.

**Charges:** Australian Harness Racing Rule (“AHRR”) 194(b) states:

A person who:

(b) Has in his possession or on his premises or under his control;

any substance or preparation that has not been registered, labelled, prescribed or obtained in compliance with relevant State and Commonwealth legislation is guilty of an offence.

AHRR 190B(1)(b) states:

(1) A trainer shall at all times keep and maintain a log book:-

(b) recording all details of treatment administered to any horse in his or her care and including as a minimum requirement:

(i) the name of the horse

(ii) the date and time of administration of the treatment

(iii) the name of the treatment (brand name of active constituent)

(iv) the route of administration

(v) the amount given

(vi) the name and signature of the person or persons administering and/or authorising treatment.

AHRR 231(2) states:

(2) A person shall not misconduct himself in any way.

AHRR 187(2) states:

(2) A person shall not refuse to answer questions or to produce a horse, document, substance or piece of equipment, or give false or misleading evidence at an inquiry or investigation.

**Particulars of charges: Charge 1: AHRR 194(b)**

You, a licensed trainer were found to have on your registered training premises the product “Bio Bleeder”, which is not registered in accordance with relevant State and Federal legislation, when Stewards conducted a stable inspection at your stables on Monday 19 July 2021.

 **Charge 2: 190B(1)(b)**

 That as a licensed trainer you have failed to keep a logbook recording details of treatments given to horses in your care.

 **Charge 3: AHRR 231(2)**

 That in a telephone interview conducted with Stewards on 2 August 2021 you misconducted yourself by directing inappropriate comments towards Senior Steward Adrian Crowther.

**Charge 4: AHRR 187(2)**

That you have not produced credit card statements for the period 1 August 2020 to 1 February 2021 when directed in writing on 2 August 2021 to do so as part of an investigation into your procurement and possession of the unregistered product “Bio Bleeder”.

**Charge 5: AHRR 187(2)**

That you have not produced credit card statements for the period 1 August 2020 to 1 February 2021 when directed in writing on 26 August 2021 to do so as part of an investigation into your procurement and possession of the unregistered product “Bio Bleeder”.

**Charge 6: AHRR 187(2)**

That when interviewed by Stewards by telephone on Monday 19 July 2021, and when again interviewed by telephone on Monday 2 August 2021 you have provided two directly conflicting accounts as to the circumstances of the purchase of the unregistered product “Bio Bleeder”, which constitutes providing false or misleading evidence during an investigation into your procurement and possession of the unregistered product Bio Bleeder.

**Pleas:** Guilty to all charges

**DECISION**

Mr. Rhys Nicholson, you have pleaded “guilty” to six charges. There have been discussions between you and the Stewards, with the result that penalties have been agreed in relation to each of the charges.

The parties are to be congratulated for coming to an agreement in relation to the six penalties. Of course, this is not binding and the ultimate decision in relation to penalties is one for this Tribunal. However, an agreement is a very helpful starting point. We say now, as the Tribunal has said before, that normally a penalty concerning which there is agreement will be adopted and applied, unless we are not satisfied that it is appropriate.

That has not happened to date and is not going to occur in this case. We are quite satisfied that the agreed penalties are appropriate and will order them.

Effectively, the six charges arise out of a stable inspection on 19 July 2021, the discovery of a bottle of “Bio Bleeder” on that occasion, and subsequent related events. We shall not go into the details of what occurred. We shall set out a summary of the Rules breached, the alleged offences and the agreed penalties.

**Charge 1 – a breach of Australian Harness Racing Rule (“AHRR”) 194(b)**

This concerns the presence at your stables of a prohibited substance. The agreed penalty is a fine of $750.

**Charge 2 – a breach of AHRR 190B(1)(b)**

This relates to your failure to keep an adequate logbook detailing treatments. The agreed penalty is a fine of $250.

**Charge 3 – a breach of AHRR 231(2)**

This concerns providing false information to the Stewards, using foul language and making personally derogatory comments directed at a Steward. The agreed penalty is a fine of $500.

**Charge 4 – a breach of AHRR 187(2)**

This involves a failure to provide to the Stewards credit card details relating to the purchasing of a certain product, a direction in this regard having been made. The agreed penalty is $1,000.

**Charge 5 – a further breach of AHRR 187(2)**

This relates to a failure to comply with a further direction to provide the documentation referred to in Charge 4. The agreed penalty is $1,500.

**Charge 6 – another breach of AHRR 187(2)**

This concerns giving to the Stewards a false and misleading account of the circumstances of the purchasing of the product. The agreed penalty is a fine of $500.

Thus, the total amount of the fines is $4,500.

The above are the penalties which we impose.

Mark Howard
Registrar, Victorian Racing Tribunal