29 December 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RICKY RYAN**

**Date of hearing:** 16 December 2020

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Mr Greg Childs.

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

Mr Lance Justice appeared on behalf of Mr Ryan.

**Charges and Particulars:**

**Charge No. 1.**

The Stewards charge you with a breach of Rule 190 (1) which reads as follows:

# A horse shall be presented for a race free of prohibited substances.

**The particulars of the charge being:**

1. On 23 May 2019, the horse ‘Yankee Redback’ was presented to race at the Stawell harness racing meeting in Race 3, the ‘Stawell Joinery Trotters Handicap’;
2. At the relevant time you were the trainer of ‘Yankee Redback’;
3. Following Race 3, the ‘Stawell Joinery Trotters Handicap’, a blood sample was collected from ‘Yankee Redback’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
4. As the trainer of ‘Yankee Redback’ on 23 May 2019, you presented that horse to race in the ‘Stawell Joinery Trotters Handicap’ at Stawell not free of cobalt, a prohibited substance when present at a concentration in excess of 25 micrograms per litre in plasma.

**Charge No. 2.**

The Stewards charge you with a breach of Rule 190 (1) which reads as follows:

# A horse shall be presented for a race free of prohibited substances.

**The particulars of the charge being:**

1. On 20 June 2019, the horse ‘Rose Cooper’ was presented to race at the Kilmore harness racing meeting in Race 9, the ‘Triple Treat Harness @ Trackside Pace’;
2. At the relevant time you were the trainer of ‘Rose Cooper’;
3. Prior to Race 9, the ‘Triple Treat Harness @ Trackside Pace’, a urine sample was collected from ‘Rose Cooper’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
4. Prior to Race 9, the ‘Triple Treat Harness @ Trackside Pace’, a blood sample was collected from ‘Rose Cooper’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
5. As the trainer of ‘Rose Cooper’ on 20 June 2019, you presented that horse to race in the ‘Triple Treat Harness @ Trackside Pace’ at Kilmore not free of cobalt, a prohibited substance when present at a concentration in excess of 100 micrograms per litre in urine and 25 micrograms per litre in plasma.

**Charge No. 3.**

The Stewards charge you with a breach of Rule 190 (1) which reads as follows:

# A horse shall be presented for a race free of prohibited substances.

**The particulars of the charge being:**

1. On 20 June 2019, the horse ‘Yankee Redback’ was presented to race at the Kilmore harness racing meeting in Race 11, ‘The Bendigo Club Trotters Handicap’;
2. At the relevant time you were the trainer of ‘Yankee Redback’;
3. Prior to Race 11, ‘The Bendigo Club Trotters Handicap’, a urine sample was collected from ‘Yankee Redback’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
4. Prior to Race 11, ‘The Bendigo Club Trotters Handicap’, a blood sample was collected from ‘Yankee Redback’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;
5. As the trainer of ‘Yankee Redback’ on 20 June 2019, you presented that horse to race in ‘The Bendigo Club Trotters Handicap’ at Kilmore not free of cobalt, a prohibited substance when present at a concentration in excess of 100 micrograms per litre in urine and 25 micrograms per lite in plasma.

**Charge No. 4.**

The Stewards charge you with a breach of Rule 235B (1) which reads as follows:

# A trainer shall not place a bet on another horse in a race in which he has a starter.

**The particulars of the charge being:**

1. On 23 May 2019, the horse ‘Crompton Bay’ and the horse ‘Youaremy Sunshine’ were presented to race at the Stawell harness racing meeting in Race 1, the ‘David O Jones Mitre 10 2YO Pace’;
2. On 23 May 2019, the horse ‘Yankee Redback’ was presented to race at the Stawell harness racing meeting in Race 3, the ‘Stawell Joinery Trotters Handicap’;
3. At the relevant time you were the trainer of ‘Crompton Bay’ and ‘Yankee Redback’;
4. At the relevant time Damien Burns was the trainer of ‘Youaremy Sunshine’;
5. On 23 May 2019, you placed a $500 all-up bet at the Stawell harness racing meeting including ‘Youaremy Sunshine’ in Race 1 and ‘Yankee Redback’ in Race 3;
6. As the trainer of ‘Crompton Bay’ in Race 1 at Stawell on 23 May 2019, you placed a bet on another horse, ‘Youaremy Sunshine’.

**Charge No. 5.**

The Stewards charge you with a breach of Rule 190B which reads as follows:

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

 *(a) Listing all therapeutic substances in his or her possession;*

 *(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 of administration of 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 the treatment.*

**The particulars of the charge being:**

1. At all relevant times, you were a licensed trainer with Harness Racing Victoria;
2. You gave evidence on 20 June 2019 and 23 July 2019 that your treatment regime includes regular administration of ‘Enerselen’, ‘Neutradex’, and drenches containing ‘Salkavite’ and bicarbonate soda;
3. You gave evidence on 26 July 2019 and 10 December 2019 that your treatment regime also includes the use of intravenous drips containing ‘Salkavite’, glucose, ‘Vitamin B12’ and ‘V.A.M.’;
4. When inspected by HRV Stewards on 20 June 2019 and 23 July 2019, your log book failed to adequately list the minimum details required for regular administration of ‘Enerselen’, ‘Neutradex’, drenches containing ‘Salkavite’ and bicarbonate soda, and intravenous drips containing ‘Salkavite’, glucose, ‘Vitamin B12’ and ‘V.A.M.’;
5. You have failed to keep and maintain a log book as required.

**Charge No. 6.**

The Stewards charge you with a breach of Rule 187 (2) which reads as follows:

*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 or information at an inquiry or investigation.*

**The particulars of the charge being:**

1. At all relevant times you were a licensed trainer with Harness Racing Victoria;
2. On 20 June 2019 and 23 July 2019, HRV Stewards attended your registered training establishment of 501 Finchs Road, Bunkers Hill; as part of an investigation into swab irregularities concerning horses in your stable;
3. You gave evidence on 20 June 2019 and 23 July 2019 that your treatment regime only included regular administration of ‘Enerselen’, ‘Neutradex’, and drenches containing ‘Salkavite’ and bicarbonate soda;
4. You gave evidence on 26 July 2019 and 10 December 2019 that your treatment regime also included the use of intravenous drips containing ‘Salkavite’, glucose, ‘Vitamin B12’ and ‘V.A.M.’;
5. On 20 June 2019 and 23 July 2019, you gave misleading evidence, being that you failed to provide HRV Stewards with all of the details of your treatment regime.

**Charge No. 7.**

The Stewards charge you with a breach of Rule 187 (3) which reads as follows:

*A person shall comply with an order or direction given by the Stewards.*

**The particulars of the charge being:**

1. At all relevant times you were a licensed trainer with Harness Racing Victoria;
2. On 26 July 2019, HRV Stewards conducted a telephone interview with you in relation to swab irregularities concerning horses in your stable;
3. You were given a direction by the Stewards to provide any receipts you had for your purchases of Vitamin B12 and V.A.M. and to also provide account details you had with any feed or treatment store where products would be purchased from;
4. You did not comply with a direction given by the Stewards, by failing to provide any receipts or account details for purchases of these products.

**Charge No.8**

The Stewards charge you with a breach of Rule 231(1)(c) which reads as follows:

*231. (1) A person shall not:-*

 *(c) intimidate*

*anyone employed, engaged or participating in the harness racing industry or otherwise having a connection with it.*

**The particulars of the charge being:**

1. On 27 July 2019, an incident occurred resulting in security guards escorting you from the Scotch Notch Café at Tabcorp Park Melton;
2. Following this incident, whilst in discussion with Tabcorp Park Melton CEO Gayle Harvey, you made comments intimating that the following week you would bring your own security guards and meet Tabcorp Park Melton staff in the car park;
3. By making these comments you have intimidated Tabcorp Park Melton staff, people employed in the harness racing industry.

 **Pleas:** Guilty to all charges

**DECISION**

NOTE: The following is a redacted version of the oral decision given on 16 December 2020. As Mr Ricky Ryan was pleading guilty to all charges and there was no challenge as to the accuracy of the cobalt readings obtained, all details of the sampling and testing procedures have been omitted. They are available if required.

Mr Ryan is a licenced grade B trainer who has pleaded guilty to a total of 8 charges brought against him by the HRV Stewards. The charges and particulars of 1 to 8 are listed above. Mr Ryan was represented by Mr Lance Justice with Mr Andrew Cusumano appearing on behalf of the HRV Stewards.

The events which led to the charges being laid are set out as follows:

1. On Thursday 23 May 2019, licensed Grade B Trainer Mr Ryan presented ‘Yankee Redback’ to race at the Stawell harness racing meeting where it competed in Race 3, the ‘Stawell Joinery Trotters Handicap’, a race in which it finished in first placing. A urine sample obtained was tested and proved positive to cobalt above the prescribed limit.

**Notification Interview and Stable Inspection**

1. On Thursday 20 June 2019, at approximately 12:00pm, HRV Investigative Stewards Daniel Caruana and Stephen Svanosio attended 501 Finchs Road, Bunkers Hill, the location of the registered training establishment of Mr Ryan.
2. Mr Ryan could not offer any explanation for the high concentration of cobalt in the sample from ‘Yankee Redback’. Mr Ryan stated that ‘Yankee Redback’ would have received the below treatments and supplements leading up to the race at Stawell:
* Sunday 19 May 2019: 25ml of Enerselen (injected into the horse’s muscle) and 60ml of Neutradex;
* Monday 20 May 2019: 60ml of Neutradex;
* Tuesday 21 May 2019: 60ml of Neutradex and a drench containing 200g of Salkavite in 2L of water (administered by stomach tube) after fastwork.
1. None of the above treatments were documented in the log book of Mr Ryan.
2. Mr Ryan added that he sometimes sprinkles the feed of his horses with a product called ‘Harwood Grains Horse Premix’. A sample of this product was obtained (S00958).
3. Mr Ryan further added that he had a $500 all-up bet at the Stawell harness racing meeting on 23 May 2019, which was on the horses ‘Youaremy Sunshine’ in Race 1 into ‘Yankee Redback’ in Race 3. Mr Ryan explained that he included ‘Youaremy Sunshine’, which was trained by licensed Grade A Trainer-Driver Damien Burns, in the all up bet despite Mr Ryan also having a starter, ‘Crompton Bay’, in the same race.
4. As ‘Yankee Redback’ and ‘Rose Cooper’ were engaged to race at Kilmore on the evening of the Stewards visit, Mr Ryan was given the option of scratching both ‘Yankee Redback’ and ‘Rose Cooper’. Mr Ryan elected not to scratch ‘Yankee Redback’ and ‘Rose Cooper’ from Kilmore because he could not see why there would be any cobalt in those horses.

**Raceday Sample Collection – Rose Cooper**

1. On 20 June 2019, Mr Ryan presented ‘Rose Cooper’ to race at the Kilmore harness racing meeting where it competed in Race 9, the ‘Triple Treat Harness @ Trackside Pace’, a race in which it finished in seventh placing.

**Second Raceday Sample Collection – Yankee Redback**

1. On 20 June 2019, Mr Ryan presented ‘Yankee Redback’ to race at the Kilmore harness racing meeting where it competed in Race 11, ‘The Bendigo Club Trotters Handicap’, a race in which it finished in fifth placing.

**Notification Interview (Urine Samples from Rose Cooper and Yankee Redback)**

1. Both horses were tested on 20 June 2019.
2. On Tuesday 23 July 2019, at approximately 9:44am, Stephen Svanosio and Russell Anderson attended 501 Finchs Road, Bunkers Hill, the location of the registered training establishment of Mr Ryan. An interview was conducted with Mr Ryan before a stable inspection was undertaken.
3. Mr Ryan could not offer any explanation for the high concentration of cobalt in the samples from ‘Rose Cooper’ and ‘Yankee Redback’ and stated he would have scratched the horses from their engagements at Kilmore on 20 June 2019 if he thought he had an issue with the cobalt levels in his horses.
4. Mr Ryan stated that ‘Rose Cooper’ and ‘Yankee Redback’ would have received the below treatments and supplements leading up to the race meeting at Kilmore:
* Sunday 16 June 2019: 25ml of Enerselen (injected into the horses’ muscle) and 60ml of Neutradex;
* Monday 17 June 2019: 60ml of Neutradex;
* Tuesday 18 June 2019: 60ml of Neutradex and a drench containing Salkavite and 200g of bicarbonate soda (administered by stomach tube).
1. None of the above treatments were documented in the log book of Mr Ryan.

**Notification Interview (Blood Samples from Rose Cooper and Yankee Redback)**

1. On Friday 26 July 2019, at approximately 2:59pm, Stephen Svanosio and HRV Manager Investigations and Compliance John O’Halloran interviewed Mr Ryan by telephone.
2. Mr Ryan explained that he administered intravenous drips to ‘Rose Cooper’ and ‘Yankee Redback’ on 18 June 2019, two days prior to the Kilmore race meeting on 20 June 2019. Mr Ryan added that the drips contained 1L of glucose, 20ml of Vitamin B12 and 15ml of V.A.M.
3. Mr Ryan further added that the reason he did not previously advise HRV Stewards about the intravenous drips was because he thought intravenous drips were not allowed to be used at all. Mr Ryan said he did not record any intravenous drips he administered to his horses in his log book.
4. Mr Ryan was given a direction by the Stewards to provide any receipts he had for his purchases of Vitamin B12 and V.A.M. and to also provide account details he had with any feed or treatment store where products would be purchased.

**Additional Interview**

1. On Tuesday 10 December 2019, at approximately 12:51pm, Stephen Svanosio and Daniel Caruana interviewed Mr Ryan by telephone.
2. Mr Ryan was advised of the positive results of the analysis of the reserve blood and urine samples.
3. Mr Ryan confirmed that he got his intravenous drips through a contact at Ballarat Base Hospital, and also confirmed that got his Vitamin B12 and V.A.M. from PETstock in Ballarat and later from Hewitt and Whitty in Ballarat.
4. Mr Ryan also confirmed that the intravenous drips he administered to his horses varied from two to four days out from races, depending on how hard the horses had been worked. Mr Ryan added that the intravenous drips contained 1L of Salkavite, 500ml of glucose, 20ml of Vitamin B12 and 15ml of V.A.M.
5. Mr Ryan further added that the most likely cause for the elevated cobalt readings in his horses was due to the administration of intravenous drips, containing Vitamin B12 and V.A.M., to his horses.

In respect to charge 8, the summary is as follows:

1. On Saturday 27 July 2019, Mr Ryan was in attendance at the Tabcorp Park Melton harness racing meeting. Mr Ryan did not have any horses engaged at the meeting.
2. An incident involving Mr Ryan occurred in the Scotch Notch Café. Mr Ryan allegedly made inappropriate comments directed towards the venue supervisor and service crew.
3. Tabcorp Park Melton Chief Executive Officer (CEO) Gayle Harvey and Duty Manager Mary Carroll were notified by Lionheart Security Services Operations Manager Darren Cowley, who is also Head of Security at Tabcorp Park Melton, to attend. Ms Harvey attended the Scotch Notch Café with Mr Cowley and another security guard, as well as with Ms Carroll a short time later.
4. Mr Ryan was requested to leave the Scotch Notch Café and he was escorted from the venue by security guards.
5. After leaving the Scotch Notch Cafe, Ms Harvey heading towards the Raceday Office at Tabcorp Park Melton when Mr Ryan confronted her in the vicinity of the Raceday Office and a verbal exchange took place.
6. Mr Cowley was alerted by Ms Harvey by phone to attend the food van area, which is near the Raceday Office, immediately. Mr Cowley then called on his two-way radio for all security guards to meet there.
7. Whilst speaking to Ms Harvey, Mr Ryan expressed his displeasure at being requested to leave the Scotch Notch Café and whilst in discussion with Ms Harvey, made comments intimating that he would bring his own security guards the following week and meet Tabcorp Park Melton staff in the car park.
8. By this time, Tabcorp Park Melton Racing Coordinator Jake Germanchis and Tabcorp Park Melton Electrician Leo Curcio had attended and witnessed the discussion between Ms Harvey and Mr Ryan.
9. Mr Ryan continued to have discussions with Ms Harvey and other Tabcorp Park Melton staff before walking away towards the stalls building.
10. Ms Harvey alerted security guards to ensure that Mr Ryan had left Tabcorp Park Melton. Ms Harvey was subsequently advised by the security guards that Mr Ryan could not be located.
11. Ms Harvey later notified HRV Chairman of Stewards Brett Day about the situation with Mr Ryan.
12. Ms Harvey and Mr Cowley provided written statements to Stewards. Mr Germanchis and Mr Curcio were also interviewed by Stewards, as well as Mr Ryan.

Also tendered to the Tribunal as part of the Stewards case is the Offence Report for Mr Ryan. Of relevance is a disqualification for six months in April 1994 for a Rule breach involving a positive swab Nandrolone.

Charges 1 to 3 relate to the presentation of horses to race at a time when the horses were not free of cobalt, a prohibited substance, in excess of the quantity allowed by the rules. Mr Ryan was first notified of an excess concentration of cobalt on 20 June 2019 (Charge 1) which was the same day that he had runners (Charges 2 and 3) engaged at Kilmore. Despite given the option to scratch Rose Cooper Charge 2) and Yankee Redback (Charge 3). Mr Ryan elected to race both horses with resultant swabs positive in excess of the limit allowed for cobalt.

Mr Ryan’s explanation for a breach of these Rules is related to the feed he was giving his horses at the time. He says he did not realise that V.A.M and Vitamin B12, which he had been administering, could elevate a horse’s cobalt levels, particularly as he is illiterate and relies on others to inform him about such matters.

Charge 4 concerns Mr Ryan betting on another horse, Youaremy Sunshine, in a race in which he also had a horse also engaged, Crompton Bay. He did not train Youaremy Sunshine, but was the trainer of Crompton Bay. The bet was a $500 all up bet with Yankee Redback, also trained by Mr Ryan and engaged in a later race. The bet was successful, and Mr Ryan may have returned a profit of about $1,000.

For his Part, Mr Ryan says that he was unaware of this prohibition on betting on other horses engaged in the same race as himself, this Rule being effective from 1 March 2019 with notice being sent to participants about the provisions of the new rule by HRV.

Charge 5 relates to the failure to adequately maintain a log book and Charge 6 relates to not telling Stewards of his use of intravenous drips containing Vitamin B12 and V.A.M when originally questioned by them. The only explanation for Mr Ryan’s failure is that he thought that what he did with the I.V drips was not allowed. Clear directions by Stewards to produce receipts for used V.A.M and Vitamin B12 have not been forthcoming and constitute Charge 7.

Finally, after being evicted from the Scotch Notch Cafe at Tabcorp Park on 27 July 2019, Mr Ryan made intimidatory comments directed towards Gayle Harvey, CEO of Tabcorp Park and other industry staff, intimating that he would bring his own security guards to Melton the following week and meet Tabcorp Park staff in the car park.

Mr Ryan is aged 53 years and has been a trainer in the harness racing industry for about 23 years. He had a very long layoff (20 years) out of the sport and is relicensed as a B Grade trainer. Essentially, he is a hobby trainer, although he does not have any horses to train at present. He is illiterate and is medicated for depression, bi-polar disorder and schizophrenia. He is carer for his terminally ill 76 year old mother, whom he has been reliant on to assist him. Mr Ryan has not long returned to the harness racing industry after a very long time. In part, his failure to understand and comprehend Rule changes is due to his illiteracy. It is essential that, if and when relicensed, Mr Ryan thoroughly understands his responsibility to abide by the Rules. So much should have been understood by him, even allowing for his illiteracy and personal issues, when he was relicensed by HRV.

It is noted that Mr Justice has pointed out that the concentrations of cobalt in each of Charges 1 to 3 would not have infringed the original threshold for cobalt samples. However, the threshold has changed as more information has become aware for regulators to consider.

Principles of general and specific deterrence are important considerations in this case, as is the need for participants to play within the Rules on a level playing field for all.

Finally, the horses the subject of Charges 1, 2 and 3 are disqualified. Any prize money won is forfeited to HRV.

In relation to Charge 1, any licence held by Mr Ryan under the Rules of Harness Racing is suspended for 6 months.

Charge 2: Any licence held is suspended for 12 months, cumulative upon Charge 1, an effective suspension of 18 months.

Charge 3: Any licence held is suspended for 12 months, concurrent with Charge 2 (but not cumulative with Charge 1).

Charges 6 and 7: On each charge, a suspension of all licences for 2 months wholly suspended for 2 years.

Charge 4: $1,500 fine.

Charge 5: $200 fine.

Charge 8: $300 fine.

Mark Howard
Registrar, Victorian Racing Tribunal