17 June 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR ROBERT KING**

**Date of hearing:** 11 June 2020

**Panel:** Judge John Bowman (Chairperson) and Ms Judy Bourke.

**Appearances:** Ms Lucy Lingard-Smith appeared on behalf of the Stewards.

Mr Robert King represented himself.

**Charges:** Australian Harness Racing Rule (AHRR) 96A(4)(a), states the owner or trainer of a registered horse at the time of its death shall:

In the case of a horse which dies within fourteen (14) days of being entered for or participating in a race notify the Controlling Body of the death within 24 hours of its occurrence.

 AHHR 243 states a person employed, engaged or participating in the harness racing industry shall not behave in a way which is prejudicial or detrimental to the industry.

**Particulars of charges: Charge 1**

1. As the registered trainer and Managing Owner of the gelding ‘Gerry Giraffe’ you were at all times responsible for the gelding;
2. ‘Gerry Giraffe’ was engaged to race in the Russell Waring Landscaping 3yo Maiden Pace at Stawell on 1 September 2019,
3. At 6.58pm on 31 August 2019, you scratched ‘Gerry Giraffe’ from the Russell Waring Landscaping 3yo Maiden Pace;
4. On 31 August 2019, ‘Gerry Giraffe’ was taken from your registered training stables and transported to a private property at Lewis Lane Chepstowe, where the gelding was euthanized;
5. On Monday 2 September 2019, ‘Gerry Giraffe’ was located deceased on the private property at Lewis Lane, Chepstowe Victoria;
6. ‘Gerry Giraffe’ died on 31 August 2019 and you failed to notify the controlling body within 24 hours of its occurrence.

**Charge 2**

1. As the registered trainer and Managing Owner of the gelding ‘Gerry Giraffe’ you were at all times responsible for the gelding;
2. On 30 August 2019, you were advised by the Veterinarian Dr Annemarie Kemmink, that ‘Gerry Giraffe had suffered an injury to its left-hind fetlock and would no longer be able to race;
3. On 30 August 2019, you made arrangements with Gregory Burns to have ‘Gerry Giraffe’ euthanized;
4. On 31 August 2019, ‘Gerry Giraffe’ was taken from your registered training stables and transported to a private property at Lewis Lane Chepstowe, where the gelding was euthanized;
5. On Monday 2 September 2019, ‘Gerry Giraffe’ was located deceased on private property at Lewis Lane, Chepstowe Victoria;
6. As a person engaged in the harness racing industry, by arranging for the injured gelding ‘Gerry Giraffe’ to be removed from your stables, and euthanized on private property without the permission of the owner of that property you have behaved in a manner that is detrimental to the industry.

**Plea:** Guilty

**DECISION**

Mr Robert King, you have pleaded ‘guilty’ to two charges. One is a breach of Rule 96A(4)(a), the other a breach of AR 243.

The breaches arise out of your conduct in relation to the horse, Gerry Giraffe, which was owned by you. It was to race at Stawell on 1 September 2019. However, it sustained a serious injury to its left hind fetlock. A certificate from a veterinary surgeon was obtained, and it was scratched on 31 August 2019. There is no argument but that the injury was a major one and no dispute but that euthanasia was appropriate. These offences arise out of that euthanasia and the circumstances surrounding it.

Firstly, you did not notify the controlling body of the euthanasing of the horse. This is a clear breach of Rule 96A(4)(a). The penalty sought by the Stewards is a fine of $500.

Secondly, you have pleaded guilty to a breach of Rule 243. You have engaged in conduct prejudicial to harness racing. You arranged for your co-accused, Mr Gregory Burns and Mr Tyson Burns, to euthanise Gerry Giraffe. That involved the removal of freeze brands. You did not take part in the putting down of the horse and what occurred, but effectively euthanased it.

You are aged 75 years. You held a drivers licence for some 22 years. You live on some 14 acres a short distance out of Ballarat. Your present involvement in the industry consists of a part ownership of one harness racing horse trained by another person and you have a couple of retired brood mares on your property. You were last registered as a driver in 2009 and have a good record.

Participants in the industry must be aware of the importance of animal welfare and the public perception of how horses are looked after and treated. What occurred in this case had a very unfortunate appearance. It may be that it was inevitable that Gerry Giraffe be put down, but to deal with the situation in this way, involving the euthanasing of the horse on a property without the owner’s permission and the removal of freeze brands was clearly a breach of Rule 243 and you have pleaded guilty to it. We also bear in mind your plea and ultimate co-operation.

On the breach of Rule 243, you are suspended for a period of 6 months, with 3 months of that in turn being suspended for 12 months. In other words, if you again breach this Rule during the next 12 months, you will be suspended for an additional 3 months over and above the 3 months suspension which you shall serve immediately. The Stewards have confirmed that, this penalty being a suspension as opposed to a disqualification, you can continue to maintain your part-ownership of Indigo Dancer.

Mark Howard
Registrar, Victorian Racing Tribunal