18 September 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR ROSS GRAHAM**

**Date of hearing:** 1 September 2020

**Panel:** Judge John Bowman (Chairperson) and Dr Andrew Gould.

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

Mr Peter Randles appeared on behalf of Mr Graham.

**Charge:** Australian Harness Racing Rule (AHRR) 190(1) states a horse shall be presented for a race free of prohibited substances.

**Particulars of charge:** 1. On 9 November 2019, the horse ‘Animated’ was presented to race at the Tabcorp Park Melton harness racing meeting in Race 5, the ‘Keilor East Probus Group Pace’;

2. At the relevant time you were the trainer of ‘Animated’;

3. Prior to Race 5, the ‘Keilor East Probus Group Pace’, a blood sample was collected from ‘Animated’ with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;

4. As the trainer of ‘Animated’ on 9 November 2019, you presented that horse to race in the ‘Keilor East Probus Group Pace’ at Tabcorp Park Melton not free of cobalt, a prohibited substance when present at a concentration in excess of 25 micrograms per litre in plasma.

**Plea:** Guilty

**DECISION**

Mr Ross Graham, you have pleaded ‘guilty’ to a breach of Rule 190(1). This relates to the presentation of the horse ‘Animated’ to compete in Race 5 at Tabcorp Park Melton on 9 November 2019. You were the trainer of Animated at the relevant time. A pre-race blood sample showed a cobalt concentration in excess of the specified threshold. Cobalt is a prohibited substance.

It is suspected by you that the elevated reading may have resulted from the horse licking a particular type of salt block, and various investigations were carried out in this regard. Whilst this product had contained a considerable amount of cobalt some five or so years ago, the situation has altered. Whilst it may be advertised now as containing no cobalt, testing shows that it does contain a very small amount. In the opinion of Professor Paul Mills this could not have been responsible for the concentration of 28 nanograms per litre which was obtained, even if part of the block was ingested, rather than being licked, as is done by horses.

Without going into the science, there is simply no evidence that a small block or like product could have produced the relevant reading.

We accept that the exact cause of the elevated reading is unknown. What is known is that in a pre-race swab, Aminated returned a positive return to cobalt in excess of the prescribed limit. There are no other relevant circumstances in relation to the presentation, whether they be circumstances that may reduce culpability or increase it.

Unfortunately, you have a prior conviction for a breach of this Rule and indeed also involving cobalt. On 27 July 2016 you were suspended for a period of 15 months, but it would appear that this was a suspension of your trainer’s licence only. You continued to drive and to look after horses without actually training them.

Your involvement in the industry is full time, and has been so since you left school. You did a course and went straight into training and driving horses and have been an industry participant for something approaching thirty years. There is a training track on your property. We also take into account your plea of guilty and the matters that Mr Randle has put on your behalf.

Offences of this nature are serious. General deterrence is very important. Matters to do with prohibited substances give the industry a bad name. The problems associated with cobalt are very well known and those in the industry must be alert at all times to the potential period of suspension for using substances containing it. It is important that harness racing be seen to be conducted fairly and on a level playing field.

Bearing in mind your prior conviction for a breach of the same Rule and involving the same substance, it seems to us that, on this occasion, suspension of both licences is definitely required. Weighing up all these matters, including that prior conviction and the fact that how this reading came to occur is unknown, we are of the view that both licences shall be suspended for a period of 12 months to commence forthwith or as arranged in conjunction with the Stewards. Animated is disqualified from Race 5 at Tabcorp Park Melton on 19 September 2019 and the finishing order amended accordingly.

Mark Howard  
Registrar, Victorian Racing Tribunal