22 February 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**STEVE MARTIN**

**Date of hearing:** 10 February 2021

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

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

Mr Steve Martin represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 190(1) states:

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

AHRR 190B states:

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

1. listing all therapeutic substances in his or her possession;
2. recording all details of treatment administered to any horse in his or her care and including as a minimum requirement:
3. the name of the horse
4. the date and time of administration of the treatment
5. the name of the treatment (brand name of active constituent)
6. the route of administration
7. the amount given
8. the name and signature of the person or persons administering and/or authorising treatment.

(2) For the purposes of this rule treatment includes:

1. all Controlled Drugs (Schedule 8) administered by a veterinarian
2. all Prescription Animal Remedies (Schedule 4)
3. all Prescription Only Medicines (Schedule 4) prescribed and/or dispensed by a veterinarian for off label use
4. all injectable veterinary medicines (intravenous, intramuscular, subcutaneous, intra-articular) not already included above
5. all Pharmacist only (Schedule 3) and Pharmacy Only (Schedule 2) medicines
6. all veterinary and other medicines containing other scheduled and unscheduled prohibited substances

(vii) all alkalinising agents

(viii) all herbal preparations.

(ix) shockwave therapy

(x) acupuncture (including laser treatment)

(xi) chiropractic treatment

(xii) the use of any electrical stimulation device (including transcutaneous electrical nerve stimulation (TENS))

(xiii) magnetic field therapy

(xiv) ultrasound

(xv) any form of oxygen therapy including hyperbaric oxygen therapy.

(3) Details of the treatment administered to any horse must be entered into the log book on the day of the administration.

(4) A trainer shall upon request produce such logbook or register for inspection by the Stewards.

(5) A trainer shall retain possession of a log book for a period of two years.

(6) A trainer who fails to comply with the provisions of sub-rule (1), (3), (4) or (5) is guilty of an offence.

**Particulars of charge: Charge 1**

1. On 30 June 2020, the horse ‘Bacardi Chardy’ was presented to race in Trial 5 at the Tabcorp Park Melton trial meeting;
2. At the relevant time you were the trainer of ‘Bacardi Chardy’;
3. During the trial meeting, a urine sample was collected from ‘Bacardi Chardy’ with subsequent analysis of that sample revealing the presence of heptaminol, phenylbutazone, oxyphenbutazone and gamma-hydroxyphenylbutazone;
4. As the trainer of ‘Bacardi Chardy’ on 30 June 2020, you did present that horse for a race at Tabcorp Park Melton whilst not free of the prohibited substances heptaminol, phenylbutazone, oxyphenbutazone and gamma-hydroxyphenylbutazone.

**Charge 2**

1. At all relevant times, you were a licensed trainer with Harness Racing Victoria;
2. When inspected by HRV Stewards on 10 August 2020, your log book failed to accurately record administration of ‘Bute’ on 26 June 2020 and ‘Enerselen’ on 27 June 2020 to the horse ‘Bacardi Chardy’;
3. When inspected by HRV Stewards on 10 August 2020, your log book failed to adequately record the administration of an Isotonic Saline Drench and Hemoplex to ‘Bacardi Chardy’ on 27 June 2020.
4. You have failed to keep and maintain a log book as required.

**Plea:** Guilty

**DECISION**

1. Mr Steve Martin is a licensed trainer/driver in the harness racing industry. At all material times he was the trainer of the horse “Bacardi Chardy”. Bacardi Chardy competed in trial 5 at the Melton trial meeting on 30 June 2020.
2. A pre-race swab taken from the horse showed the presence of heptaminol. It also showed the presence of phenylbutazone and its metabolites, oxyphenbutazone and gamma-hydroxyphenylbutazone.
3. Heptaminol is a stimulant. It aids in the working of muscles and reduces fatigue. It is present in a product called Enerselen, which is intended to be used as a preventative to stop muscle pain, known in the industry as “tying up”. It is a prohibited substance.
4. Phenylbutazone is a non-steroidal anti-inflammatory drug. It is used to inhibit inflammation and fever. It is also a prohibited substance, as are its metabolites mentioned above.
5. On the evening of 26 June 2020, Mr Martin gave Bacardi Chardy 20mls of Enerselen and 5mls of Bute. Bute contains phenylbutazone. It is prescribed by veterinarians for lameness resulting from soft tissue injuries. It was administered to treat “grassy heel”, which is dermatitis of the lower limbs.
6. Mr Martin administered Enerselen and Bute in the knowledge that the horse was intended to be entered at Ballarat on 3 July 2020 and that the treatment would have cleared the mare’s system by 3 July. Mr Martin was not expecting the horse to be swabbed at a trial meeting. However, Rule 190(1) of the Australian Harness Racing Rules (“AHRR”) provides that “a horse shall be presented for a race free of prohibited substances”. “Race” is defined in the AHRR to include an additional time trial or event in which harness racing horses race or participate.
7. Mr Martin has been charged under AHRR 190(1) in respect of the mare’s positive swab on 30 June 2020. He has pleaded guilty.
8. He has also pleaded guilty to a charge under AHRR 190B for failing to accurately record the administration to the mare of Bute on 26 June 2020 and Enerselen on 27 June 2020 in his log book and also the failure to record administration of Hemoplex and an Isotonic Saline Drench to the mare on 27 June 2020.
9. Mr Martin says he forgot to record the latter and wrote down the wrong date for the 26 June treatment, instead recording it as having been given on 28 June 2020.
10. In setting penalties, we take into account specific and general deterrence and the importance of maintaining a level playing field by having an industry free of prohibited substances. We also take into account the guilty plea and Mr Martin’s cooperation with the Stewards, as well as his good recent record. His prior transgressions go back 16 years and more. In all the circumstances, we impose the following penalties:
11. On the first charge we impose a fine of $4,000, with $3,000 suspended for 12 months pending no further breach of the relevant Rule. The effective fine reflects the fact that the offence occurred at a trial and that Mr Martin is in severe financial distress.
12. On the second charge, a fine of $250.
13. In addition, Bacardi Chardy is disqualified from trial 5 at Melton on 30 June 2020 under AHRR 195.

Kathleen Scully  
Assistant Registrar, Victorian Racing Tribunal