13 December 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**STEVEN DUFFY**

**Date of hearing:** 30 November 2022

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Judge Julie Nicholson.

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

Mr Steven Duffy represented himself.

**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. At all relevant times, you were a licensed trainer and driver with HRV and a person bound by the Australian Harness Racing Rules;

2. At the relevant time you were the trainer of “Secret Identity”;

3. On 28 April 2022, the horse Secret Identity was presented to race at the Charlton harness racing meeting in Race 6, the “Gurri (Eastern Grey Kangaroo) Pace”;

4. Following Race 6, a urine sample was collected from Secret Identity with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold;

5. As the trainer of Secret Identity on 28 April 2022, you presented that horse to race in the Gurri (Eastern Grey Kangaroo) Pace at Charlton not free of arsenic, a prohibited substance when present at a concentration in excess of 0.30 micrograms per millilitre in urine.

**Plea:** Guilty

**DECISION**

Mr Steven Duffy has pleaded guilty to a breach of Australian Harness Racing Rule (“AHRR”) 190(1). The levels of arsenic found in both the primary and reserve samples in this case exceeded 0.60 micrograms per millilitre (“ug/mL”).

At a stable inspection on 31 May 2022, Stewards noted where the horse, “Secret Identity”, was housed and were told by Mr Duffy that he had observed the horse chewing on pine posts in the yard during the previous five months. Wood chip samples were taken from the pine posts in the yard by the Stewards and analysed by Racing Analytical Services Ltd (“RASL”). RASL reported that the wood chip samples had arsenic levels consistent with Copper Chrome Arsenic (“CCA”) treated timber.

It is very disappointing that this is the fifth case this year involving elevated arsenic levels. It is concerning that Harness Racing Victoria’s (“HRV”) notices to the industry about the risks of using treated timber is not getting through.

Mr Duffy has been an industry participant for many years, being first registered in 1979. He holds an A grade training and driving licence, but his driving is restricted to trials. He has now treated his fence posts to avoid the risk of another arsenic contamination.

HRV has reminded the Tribunal of its recent penalties handed down in the matters of Mr Bill White, Mr Justin Brewin, Mr Scott Garraway and Ms Maryanne Laffan. We accept that a financial penalty, part of which is to be suspended, is appropriate.

We impose a penalty of a $2,000 fine, with $1,500 suspended for a period of 12 months pending no further Rule breaches. In addition, Secret Identity is disqualified from Race 6 at Charlton and any prizemoney is forfeited to HRV.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal