23 January 2020

**DECISION**

**RACING VICTORIA**

**and**

**MS TEGEN CAMPBELL**

**Date of hearing:** 22 January 2020

**Panel:** Judge John Bowman (Chairperson), Ms June Smith and Mr Josh Bornstein.

**Appearances:** Mr Daniel Bolkunwicz appeared on behalf of the Stewards.

 Ms Betty Andre appeared on behalf of Ms Campbell.

**Charges and Particulars:**

Charge One: (Australian Rule) AR 231(1)(b)(iv)

The Stewards charge you with breaching AR 231(1)(b)(iv) which reads as follows:

AR 231(1) A person must not

…

(b) if the person is in charge of a horse - fail at any time:

…

(iv) to provide proper and sufficient nutrition for the horse.

Particulars

1. You are, and were at all relevant times, a trainer licensed with Racing Victoria.

2. On 5 March 2019, the horse Victoria Lass was examined by a Geelong District Equine Practice Veterinarian and was found to be a body score of 1 out of 5.

3. Up to and including 4 March 2019, you were the person in charge of Victoria Lass and had responsibility for its care.

 4. Victoria Lass’ body score on 5 March 2019 resulted from your failure to provide proper and sufficient nutrition in the period you were responsible for its care.

5. Your conduct, as set out above, was in contravention of AR 231(1)(b)(iv).

Charge Two (Alternative to Charge One): AR 231(1)(b)(iii)

The Stewards charge you with breaching AR 231(1)(b)(iii) which reads as follows:

AR 231(1) A person must not

…

(b) if the person is in charge of a horse - fail at any time:

…

(iii) to provide veterinary treatment to a horse where such treatment is necessary for the horse.

Particulars

1. You are, and were at all relevant times, a trainer licensed with Racing Victoria.

2. On 5 March 2019, the horse Victoria Lass was examined by a Geelong District Equine Practice Veterinarian and was found to be a body score of 1 out of 5.

3. Up to and including 4 March 2019, you were the person in charge of Victoria Lass and had responsibility for its care.

4. Victoria Lass’ body score on 5 March 2019 resulted from your failure to seek veterinary treatment for Victoria Lass which was necessary to address the reason(s) for Victoria Lass’ poor body condition, in the period you were responsible for its care.

5. Your conduct, as set out above, was in contravention of AR 231(1)(b)(iii).

**Plea:** Not Guilty

**DECISION**

Ms Tegen Campbell, you have pleaded ‘not guilty’ to a charge of breaching AR231(1)(b)(iv) - failing to provide proper and sufficient nutrition for the horse Victoria Lass - and ‘not guilty’ to the alternative charge of breaching AR231(1)(b)(iii) – failing to provide necessary veterinary treatment. The offence is alleged to have occurred up to and including 4 March 2019, when the horse was sold by you.

The Stewards essentially rely upon the transcript of the record of interview with you, some photographs of the horse, and a report from Dr Emma Stella-Hall of 6 September 2019. Dr Stellar-Hall, veterinary surgeon, treated the horse after it had been sold by you to Ms Ellis Eastham on 5 March 2019.

When interviewed by the Stewards on 18 September 2019, you stated that the horse was not a good eater. She had been at Bannockburn in mid-2018. When she returned to Grovedale, where you live, you estimated her body score at 3. By the time the horse was sold to Ms Eastham, you agree that her body score was 1. Dr Stella-Hall, who saw the horse the day after the sale on 5 March 2019, described her as being in a terrible condition with a body condition score of 1 out of 5, attributable to no proteins and consistent with starvation. There is no dispute that this is a clear indication of a lack of proper and sufficient nutrition. There is no dispute that no veterinary surgeon was called by you. Had a veterinary surgeon been called, valuable assistance could have been obtained.

You were assisted in the presentation of your case by Ms Betty Andre, the mother of your partner and a woman with decades of experience with horses. Ms Andre had assisted with the attempts to feed the horse following its return from Bannockburn and before its sale. She also described the horse as a poor and difficult eater.

The bottom line is this. There is no contest but that you were the owner of the horse at the relevant time. You are a registered stablehand. You had an obligation pursuant to the Rule to provide necessary veterinary treatment and nutrition. You failed in both regards and the condition of Victoria Lass deteriorated. You noticed the drop in weight. By the time of the sale on 4 March 2019, the horse was, as described by Dr Stella-Hall, in terrible condition. The photographs show a horse in very poor condition indeed. We repeat that the responsibility was yours and you failed to discharge your responsibility.

We find both charges made out. We would add that we are not quite sure why there are alternative charges. This is not a situation like administering a drug for the purpose of enhancing performance or, alternatively, for the lesser offence of presentation of a horse which returns a positive swab – clearly a lesser offence.

In any event, in each instance we find that the charge has been made out. There is no dispute that a veterinary surgeon was not called or asked to provide treatment. That should have occurred. Proper feeding should have occurred. The charges are proven and we shall hear from the Stewards in regards to penalty.

**PENALTY**

Ms Tegen Campbell, we have found you “guilty’ of breaches of AR231(1)(b)(iv) and AR231(1)(b)(iii). The Stewards are seeking that the penalty imposed be on the charge of failing to provide proper and sufficient nutrition (iv) and in this case no penalty in relation to the failing to provide necessary veterinary treatment – (iii).

At the outset we would repeat the observation set out in the case of Andrew Benyan:

“Charges against people who look after racehorses and who fail to provide sufficient nutrition are very serious charges indeed. As we have said in earlier cases, the need for general deterrence is a very large factor. The failure to provide sufficient nutrition will not be tolerated. Apart from the sympathy that people quite properly and understandably have for underfed or mistreated horses, there is the whole question of the image of racing. The welfare of racehorses is always in the spotlight and this is also fully understandable. The penalty imposed should reflect this and should be imposed bearing in mind general deterrence and, if appropriate, individual or specific deterrence”.

In summary matters of both specific and general deterrence loom large in animal welfare cases. You pleaded ‘not guilty’ to the charges.

However, you did not have the benefit of legal representation. In your interview with the Stewards, effectively you look a took a large part of responsibility for what had occurred and in reality there has not been a great deal of contest about the ingredients of the charges. You had the assistance of Ms Andre, which we appreciate, but the reality of the situation is that there was no real contest about some of the essential ingredients of the charges.

To the Stewards, you showed remorse and co-operated fully. It was apparent to us today that you were quite affected emotionally by the situation and by what has occurred.

You are 23 years of age. You are a stable hand. Your partner, with whom you live, is a track rider. He is the son of Ms Andre. Your only source of income is your part-time work as a stablehand for Ms Danielle Loose, who has provided a very helpful and detailed reference in relation to you. The only horse you now own and look after is a Galloway one. There are no other horses under your control on your premises.

Loss of income, even for part time employment, will doubtless hit you hard. We would also point out that no previous offence of any nature was alleged against you. Further, this whole case has doubtless been very distressing for you.

There is a considerable difference between this case and that of Jody Thompson. We are not of the view that a disqualification is warranted. We are of the view that there should be a suspension.

You are suspended for a period of 15 months, but of that period 13 months in turn is suspended. In other words, you are suspended and cannot work as a stablehand in relation to registered racehorses for a period of 2 months. However, if you commit a relevant offence at any time in the next 15 months, the balance of the 15 month suspension could well be brought into operation. The suspension shall commence immediately.

Mark Howard
Registrar, Victorian Racing Tribunal