15 June 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR TERRY FRENCH**

**Date of hearing:** 10 June 2020

**Panel:** Judge John Bowman (Chairperson) and Ms Maree Payne.

**Appearances:** Mr Russell Anderson appeared on behalf of the Stewards.

Mr Terry French 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 charges:**

**Charge 1**

1. On 17 October 2019, the horse ‘Nuclear Nikky’ was presented to race at the Kilmore harness racing meeting in Race 1, the ‘Triple Treat Harness @ Trackside Pace’;
2. At the relevant time you were the trainer of ‘Nuclear Nikky’;
3. Following Race 1, the ‘Triple Treat Harness @ Trackside Pace’, a urine sample was collected from ‘Nuclear Nikky’ with subsequent analysis of that sample revealing the presence of heptaminol, a prohibited substance;
4. As the trainer of ‘Nuclear Nikky’ on 17 October 2019, you presented that horse to race in the ‘Triple Treat Harness @ Trackside Pace’ at Kilmore not free heptaminol, a prohibited substance.

**Charge 2**

1. On 10 November 2019, the horse ‘Nuclear Nikky’ was presented to race at the St Arnaud harness racing meeting in Race 2, the ‘Hendy Transport Vicbred Platinum Mares Sprint Championship (1st Heat)’;
2. At the relevant time you were the trainer of ‘Nuclear Nikky’;
3. Prior to Race 2, the ‘Hendy Transport Vicbred Platinum Mares Sprint Championship (1st Heat)’ a urine sample was collected from ‘Nuclear Nikky’ with subsequent analysis of that sample revealing the presence of heptaminol, a prohibited substance;
4. As the trainer of ‘Nuclear Nikky’ on 10 November 2019, you presented that horse to race in the ‘Hendy Transport Vicbred Platinum Mares Sprint Championship (1st Heat)’ at St Arnaud not free heptaminol, a prohibited substance.

**Plea:** Guilty

**DECISION**

Mr Terry French, you have pleaded ‘guilty’ to two charges of breaches of Rule 190 (1). The prohibited substance involved is heptaminol. This is used to assist with horses that tie up.

The horse involved in each charge was Nuclear Nikky. It had been trained by you for only approximately a week at the time of the earlier offence. You had administered the substance 72 hours prior to the horse first running, but administered by way of injection into the muscle, rather than into a vein.

In the event, Nuclear Nikky raced at Kilmore in Race 1 on 17 October 2019. It won that race. That was the occasion of the first charge. It then raced at St. Arnaud on 10 November 2019 in Race 2, where it finished 6th, that being the subject of the second charge.

Nuclear Nikky was swabbed on each occasion. At the time of the swab on 10 November 2019, the result of the swab on 17 October 2019 had not been received. Being unaware of the result of the first swab, you had again injected Nuclear Nikky in the muscle, rather than the vein.

It is not alleged, and we accept, that you thought that you were administering the substance containing heptaminol in a proper fashion in accordance with the correct timetable. Had you known of the result from the Kilmore swab, you would not have again injected Nuclear Nikky in the same fashion or at all before the St Arnaud race, or would have scratched the horse.

You are a full-time trainer with 9 horses in work. You are a married man aged 56 and live and train in the Heathcote area. Training horses is your only source of income. You were in the mini skip business for some 14 years.

You do not have a spotless record, with one prior conviction in relation to illegal substances. That was in excess of 12 years ago. In the circumstances, we accept that you have a good record, with just the one relevant prior conviction. We also take into account the circumstances generally, including your early guilty plea and your co-operation throughout the enquiry.

We would add that general deterrence is a factor of importance. Trainers must be aware of the risks associated with the use of medication which contains illegal or prohibited substances.

In the circumstances, on the first charge you are fined $4,000, of which $1,000 is suspended for 12 months. In relation to the second charge, we accept that, had you known of the result of the first swab, this may well not have occurred. However, the obligations in relation to the use of prohibited substances remain. On the second charge, you are also fined $4,000, but $2,500 of that is suspended for a period of 12 months.

The end result is that you are fined a total of $8,000, but $3,500 is suspended for 12 months. Nuclear Nikky is disqualified from each race. The finishing order is amended accordingly and prize money to be refunded. A total of $4,500 is to be paid forthwith but there will be $3,500 hanging over your head for a period of 12 months.

Mark Howard
Registrar, Victorian Racing Tribunal