15 January 2020

**DECISION**

**RACING VICTORIA**

**and**

**MR TONY ROMEO**

**Date of hearing:** 13 January 2020

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall (Deputy Chairperson) and Ms Heidi Keighran.

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

 Mr Damian Sheales appeared on behalf of Mr Romeo.

**Charges and Particulars:**

Charge One: 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 July 2019, the now deceased horse Rinaldo was examined by an Inspector of the RSPCA and an equine veterinarian from Lancefield Equine Clinic and was found to be a body score of less than 2 out of 5.

3. Up to and including 5 July 2019, you were the person in charge of Rinaldo and had responsibility for its care.

4. Rinaldo’s body condition score on 5 July 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 July 2019, the now deceased horse Rinaldo was examined by an Inspector of the RSPCA and an equine veterinarian from Lancefield Equine Clinic and was found to be a body score of less than 2 out of 5.

3. Up to and including 5 July 2019, you were the person in charge of Rinaldo and had responsibility for its care.

4. Rinaldo’s body score on 5 July 2019 resulted from your failure to seek veterinary treatment for Rinaldo which was necessary to address the reason(s) for Rinaldo’s 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).

Charge Three: 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 9 July 2019, the horse French Blue was examined by a Racing Victoria Veterinarian and was found to be a body score of less than 2 out of 5.

3. Up to and including 6 July 2019, you were the person in charge of French Blue and had responsibility for its care.

4. French Blue’s body condition score on 9 July 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 Four (Alternative to Charge Three): 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 9 July 2019, the horse French Blue was examined by a Racing Victoria Veterinarian and was found to be a body score of less than 2 out of 5.

3. Up to and including 6 July 2019, you were the person in charge of French Blue and had responsibility for its care.

4. French Blue’s body score on 9 July 2019 resulted from your failure to seek veterinary treatment for French Blue which was necessary to address the reason(s) for French Blue’s 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).

Charge Five: 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 9 July 2019, the horse We’re Gonna Rock was examined by a Racing Victoria Veterinarian and was found to be a body score of less than 2 out of 5.

3. Up to and including 6 July 2019, you were the person in charge of We’re Gonna Rock and had responsibility for its care.

4. We’re Gonna Rock’s body condition score on 9 July 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 Six (Alternative to Charge Five): 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 9 July 2019, the horse We’re Gonna Rock was examined by a Racing Victoria Veterinarian and was found to be a body score of less than 2 out of 5.

3. Up to and including 6 July 2019, you were the person in charge of We’re Gonna Rock and had responsibility for its care.

4. We’re Gonna Rock’s body score on 9 July 2019 resulted from your failure to seek veterinary treatment for We’re Gonna Rock which was necessary to address the reason(s) for We’re Gonna Rock’s 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:** Guilty to charges 2, 4 and 6

Charges 1, 3 and 5 were withdrawn by the Stewards

**DECISION**

Mr Tony Romeo, you have pleaded ‘guilty’ to breaches of AR231(1)(b)(iii) in respect of 3 horses under your care, those horses being Rinaldo, French Blue and We’re Gonna Rock. Essentially, the charges relate to failing to provide necessary veterinary treatment for each horse. Charges in relation to breaches of AR231(1)(b)(iv) – failure to provide sufficient nutrition to the 3 horses – were withdrawn by the Stewards and play no part in our thinking in decision making.

The offending occurred leading up to and including 6 July 2019. In other words, as we observed during the hearing, it occurred prior to the large amount of publicity the issue of thoroughbred and animal welfare received late in 2019. That in no way excuses your behaviour but it would be unfair to suggest that, despite such publicity and in the face of it, you persisted with behaviour which constituted a breach of the Rules relating to animal welfare. We repeat that there is no excuse, but you should not suffer an additional penalty for your behaviour because of matters that occurred and attracted publicity after your offending.

Animal welfare is an issue of vital importance to the whole racing industry, whether it be in relation to thoroughbreds, standardbreds or greyhounds. Breaches of the Rules relating to it by licensed persons must be viewed as very serious offences.

In your favour, as outlined by Mr Sheales on your behalf, is that you have been in what could be described as the horse business for some 35-40 years. The vast bulk of this has been in connection with harness racing, but in the last 5 years you have been a registered trainer of thoroughbreds and have concentrated more on that industry. No prior offending of any magnitude, and particularly none in relation to animal welfare, has been alleged against you. That is all to your credit, as is the reference from veterinarian Dr Glen Robertson-Smith.

Considerable references has been made to the decision of this Tribunal in the case of Andrew Henderson [25 October 2019]. In our view, there are some parallels, but also some differences, Mr Henderson did not own the horses involved. He took horses from others, horses essentially for which no home or adequate feed could be found. He had the best of intensions, but as stated in that decision, “bit off more than he could chew’. He was trying to save them. He was a registered stablehand and track work rider. This Tribunal disqualified him from owning or housing racehorses on his property for 18 months. His licence as a stable employee was suspended for 12 months, but that period of suspension was in turn suspended for 2 years. He had no other source of income other than that earned by reason of his work as a stable employee. We repeat that he did not own the horses in question and was trying to do his best to keep them alive.

Yours is a quite a different situation. You have substantial acreage in Diggers Rest. You also are an owner or joint owner of a restaurant in Caroline Springs. In other words, you have alternative sources of income, a factor which loomed large in the case of Henderson.

Further, you were either the owner of the horses in question or behaved as if you were. Rinaldo died, but you sold the other two horses as part of a package – admittedly a very cheap package – to a third party.

You should have been aware that the 3 horses in question needed veterinary attention and assistance.

However, as appears in the interview with the Stewards, the only attention which you personally seem to have given to them, or at least to Rinaldo, which died, was to monitor them as you went up and down your driveway. It should have been apparent to you that these 3 horses were in poor condition and needed veterinary treatment.

The Stewards have submitted that you be suspended for a period of 12 months, but with 9 months of that term being in turn suspended for 2 years. Mr Sheales has argued that there should be either a monetary penalty or a suspension which is wholly suspended.

For the reasons set out above, we are of the view that the penalty submitted by the Stewards is a fair and proper one. We are comfortably satisfied that the penalty should be one of 12 months suspension, 9 months of which is in turn suspended for a period of 2 years. If you commit any relevant offence during that period, the period of the remaining 9 month suspension will be reactivated.

Mark Howard
Registrar, Victorian Racing Tribunal