29 June 2023

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**TONY PEACOCK**

**Date of hearing:** 28 June 2023

**Panel:** Judge Kathryn Kings (Acting Deputy Chairperson) and Judge Marilyn Harbison.

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

Mr Tony Peacock 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 Harness Racing New South Wales and a person bound by the Australian Harness Racing Rules;

2. At the relevant time you were the trainer of ‘Illawong Kellie’;

3. On 20 November 2022, the horse ‘Illawong Kellie’ was presented to race at the St Arnaud harness racing meeting in Race 2, the ‘Hendy Transport Pace’;

4. Following Race 2, a urine sample was collected from ‘Illawong Kellie’ with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold;

5. As the trainer of ‘Illawong Kellie’ on 20 November 2022, you presented that horse to race in the ‘Hendy Transport Pace’ at St Arnaud not free of arsenic, a prohibited substance when present at a concentration in excess of 0.30 micrograms per millilitre in urine.

**Plea:** Not Guilty

**DECISION**

Mr Tony Peacock, you came before us on a charge of presenting your horse “Illawong Kellie”, at the St Arnaud harness racing meeting on 20 November 2022, in Race 2, when it was not free of a prohibited substance, namely arsenic. You did not enter a plea, but advised us that you did not contest any facts upon which the Stewards relied. We have therefore dealt with this case as a plea of not guilty. Arsenic is a prohibited substance that can affect the performance of a racehorse.

On Tuesday 13 December 2022, Harness Racing Victoria (“HRV”) Investigative Stewards conducted an audio recorded telephone interview with you. You informed the Stewards you had not treated your horse with any products that contained arsenic. However, you did inform the Stewards that your horse may have chewed on some pine posts at the stables at Longlea, a property owned by Mr Brian Gath, where the horse had been stabled since October 2022 due to your own stables having been flooded and your own immobility as a result of a recent knee replacement.

For our purposes it does not matter where the arsenic came from. It was the fact that the horse was presented to a race containing levels of arsenic over the threshold.

Analysis of the wooden fence post and feed disclosed the presence of arsenic. At the hearing before us you thought it more likely that the seaweed contained high levels of arsenic.

Trainers in the harness racing industry have been informed on many occasions of the dangers of their horses being stabled or located near any treated wooden fence posts or railings.

The principal of general deterrence has a part to play in arriving at an appropriate penalty. It is vital that harness horses race on a level playing field without prohibited substances in their system.

Turning to your personal circumstances. You are 74 years of age and have been in the harness racing industry for in excess of 40 years. You have 2 previous offences, one of which is very old and a more recent offence. At the time of this offence, you were recovering from a knee surgery and the effects of flooding on your property.

We have taken into account your personal circumstances and your long history within the harness racing industry, together with your cooperation with the Stewards.

In all the circumstances, we impose a fine of $2,500 with $2,000 suspended for a period of 12 months.

We order that Illawong Kellie be disqualified from race 2 at the harness race meeting conducted at St Arnaud on 17 November 2022, and that the finishing order be amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal