27 July 2023

**DECISION**

**RACING VICTORIA**

**and**

**ANDREW BOBBIN**

**Date of hearing:** 19 July 2023

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Mr Robert Abrahams.

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

Mr Andrew Nicholl represented Mr Andrew Bobbin.

**Charge:** Australian Racing Rule (“AR”) 240(2) states:

 **AR 240 Prohibited substance in sample taken from horse at race meeting …**

*(2) Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules*

**Particulars of charge:** **Charge 1 – AR240(2)**

1. You are, and were at all relevant times, licensed by Racing Victoria.
2. 2. You were at all relevant times the trainer of ‘Muddy Puddles’ (the Horse).
3. 3. On 6 November 2022, the Horse was brought to the Ararat Racecourse and ran in race 1 the ‘Gorst Rural Maiden Plate’ over 1600 metres (the Race).
4. 4. On 6 November 2022, following the running of the Race, a blood sample was taken from the Horse (the Sample).
5. 5. An analysis of the Sample detected the presence of Lignocaine.
6. 6. Lignocaine is a prohibited substances pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Australian Rules of Racing.

**Plea:** Guilty

**DECISION**

1. Mr Andrew Bobbin is a licensed trainer registered with Racing Victoria (“RV”). On 6 November 2022 he presented the racehorse “Muddy Puddles” for an event at Ararat. A post-race blood sample taken from the horse showed the presence of lignocaine.
2. Stewards of RV have charged Mr Bobbin under Australian Racing Rule (“AR”) 240(2) with bringing a horse to a racecourse for the purpose of participating in a race from which horse a sample has been taken and was shown to contain a prohibited substance. Mr Bobbin has pleaded guilty to the offence. For the reasons set out below, we are comfortably satisfied that the charge is made out and that the offence is one of absolute liability.
3. Lignocaine is a prohibited substance under the rules of racing. The drug is an anti-inflammatory one which can be used to allow a horse to compete in less discomfort than otherwise would have been the case.
4. The most likely case of the positive swab to lignocaine was transmission from a person who came into contact with the horse after using cream containing lignocaine for personal medical reasons. In any event, in a presentation charge under AR 240(2) it is not necessary to prove the source of the prohibited substance, but only that it was shown to have been present in a sample taken from the horse.
5. In setting a penalty, we taken into account general and specific deterrence, animal welfare and the importance of maintaining a level playing field by having a drug free industry. We also take into account previous penalties given in recent like cases, as well as the good record of Mr Bobbin and his guilty plea and co-operation with the Stewards.
6. In this matter, the Tribunal considers it appropriate to impose a fine of $4,000. However, we suspend $1,500 of that penalty pending no further breach in the next 24 months of any provision of the rules of racing regarding prohibited substances. The suspension of part of the fine is made in consideration of the fact that the transgression of the prohibited substances is more likely than not to have been inadvertent. Further, a consideration in the suspension of part of the fine is the absence of any prior relevant offence. Suspension of part of the fine assists in stressing the importance of specific deterrence.
7. In addition, Moody Puddles is disqualified from Race 1 at Ararat on 6 November 2022.

Mark Howard

Registrar, Victorian Racing Tribunal