27 July 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JUSTIN TORNEY**

**Date of hearing:** 12 July 2023

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

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

Mr Justin Torney represented himself.

**Charges:** Australian Harness Racing Rule (“AHRR”) 190A(4) states:

(4) Any person who is in possession of a substance specified in sub-rule (2) or a metabolite, artifact or isomer of such substance is guilty of an offence.

**Particulars of charges:** 1. At all relevant times, you were a licensed trainer and driver with HRV and a person bound by the Australian Harness Racing Rules;

2. On 13 October 2021, HRV Investigative Stewards conducted a stable inspection at your stables, in Undera, Victoria; during which they located and confiscated four (4) vials of a white substance labelled ‘EquiGen’;

3. Subsequent analysis by Racing Analytical Services Limited confirmed that all four (4) vials contained equine somatotropin, which is a growth hormone;

4. By having equine somatotropin at your stables, you were in possession of a growth hormone, which is a prohibited substance specified in AHRR 190A (2).

**Pleas:** Guilty

**DECISION**

Mr Justin Torney, you are pleading guilty to a breach of Australian Harness Racing Rule (“AHRR”) 190A(4), which relates to possession of a prohibited substance. You are a licensed trainer and driver, but have not driven on any regular basis for some time. Essentially, you work full time as the resident manager of what could be described as a large breeding operation and have been so resident for in excess of 15 years.

The substance concerned is four vials containing somatotropin, a growth hormone. These were found during a stable inspection on 13 October 2021. They were in no way hidden or concealed. Indeed, we accept that the vials had been present during comparatively regular Stewards’ inspections over the years, but had escaped notice. We also accept that they were unopened and long out of date.

You accepted full responsibility for their presence. You freely admit that you should have removed or destroyed them years before, but it seems that they became what could be described as “part of the furniture”.

You have been a licensed person and involved in the industry for something in the region of 35 years. You have a very good record.

Mr Caruana helpfully referred us to four similar interstate cases and the penalties imposed in those, three of which were fines of $1,000 and one a fine of $400. The last mentioned matter bore some similarities to the present case, particularly in relation to the substance involved being out of date. In the present case, Mr Caruana suggested a fine of $1,000, but raised the possibility of a portion of that being suspended for a period.

We agree with that approach. You freely concede that you were careless in relation to not removing these vials years ago. However, we also accept that they had never been opened or used and were simply overlooked.

Bearing all of the above in mind, you are fined the sum of $1,000, but of that amount $500 is suspended for a period of 12 months. That would only be activated if you committed a relevant similar offence during that 12 month period. We are confident that you will not.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal