1 September 2023

**DECISION**

**RACING VICTORIA**

**and**

**AUSTIN COFFEY**

**Date of hearing:** 24 August 2023

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

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

Mr Andrew Nicholl represented Mr Austin Coffey.

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

(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.

AR 104(1) states:

(1) A trainer must record any medication or treatment administered to any horse in the trainer’s care by midnight on the day on which the administration was given.

**Particulars of charges: Charge 1: AR 240(2)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and bound by the Rules of Racing.
2. You are, and were at all relevant times, the trainer of “Bannerton” (the horse).
3. On 26 January 2023, the Horse was brought to the Hanging Rock Racecourse and was engaged to race in the ‘Bet 365 Hanging Rock Cup’ (Race 6) over 1800 metres (the Race).
4. On 26 January 2023, following the running of the Race, a urine sample was taken from the Horse (V787436).
5. An analysis of the Sample detected the presence of Xylazine and 4-Hydroxy- xylazine.
6. Xylazine and 4-Hydroxy-xylazine are prohibited substances pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Australian Rules of Racing.

**Charge 2: AR 104(1)**

1. You are, and were at all relevant times, licensed by Racing Victoria.
2. You were at all relevant times a licensed Trainer.
3. On Friday the 3rd of March 2023, whilst conducting inquiries at your stables in Swan Hill. Racing Victoria Stewards requested to view your treatment records.
4. You were unable to provide any record of a medication or treatment provided to any of the horses currently in your care.

**Pleas:** Guilty to both charges

**DECISION**

Mr Austin Coffey, you are pleading guilty to two charges. The first is a breach of Australian Rule of Racing (“AR”) 240(2) – which is often described as a presentation charge. The second is a breach of AR 104(1) – a failure to provide records of medication or treatment of the horses in your care.

We shall now deal with the breach of AR 240(2). It concerns the horse “Bannerton”, which competed in Race 6, the Hanging Rock Cup, at Hanging Rock on 26 January 2023. A post-race urine sample showed the presence of the prohibited substances xylazine and 4-hydroxy-xylazine. We shall refer to them collectively as xylazine. As we understand it, it is a substance commonly used for short term sedation.

There is no clear or obvious explanation as to how Bannerton came to test positive to xylazine. You had a jar of the product “Xylazil” in your cabinet, this having been supplied by a veterinary surgeon, Dr Tim Russell of Swan Hill. You used it on certain horses with a leg problems. Bannerton was not one of them. We accept that how it came to test positive to xylazine is fundamentally a mystery. A statement obtained by the Stewards from Dr Russell was to the effect that he had never prescribed for or treated Bannerton with this substance. He also confirmed that it is a substance used for sedation. It would not appear to be a stimulant.

You do farrier work on your horses and have done farrier work for decades. You had done farrier work on Bannerton approximately eight days before it raced. As stated, you did farrier work on other horses at about that time. You did use xylazine on some of them, but not on Bannerton, which never required it. It is speculation, but some transference of the substance may have occurred at this time. Of course, strict liability applies.

You have two relevant prior offences, the decisions of the Racing Appeals and Disciplinary Board (“RADB”) in relation to them being in 2017 and 2019. Neither involved the present substance. In each instance, you were charged and convicted not of administration but of presentation, and fined accordingly.

The importance of these prior offences seems to us to be limited. The only speculative cause of the present reading is accidental transfer whilst shoeing other horses and administering the substance. It had never happened before. It does not seem that you were careless in what you did or in relation to the use of the product xylazil. Perhaps if you had been using a treatment book to record the administration, you would have been more alert to a possible risk. Even that has aspects of speculation to it.

Our conclusion is that you are fined the sum of $3,500 on the breach of AR 240(2). That includes a small allowance for the limited relevance of the prior offences.

The breach of AR 104(1) is a different matter. You had no treatment book at all. It may be that your horses receive minimal medication, but the keeping of a treatment book or records is compulsory and essential. This Tribunal from time to time sees cases of incomplete or inaccurate entries, but to have no book at all is a considerably larger step. Further, you have a record in this regard. In 2017, the RADB ordered that you be fined the sums of $500 for failing to keep adequate records. Further, a statement of the importance of adequate record keeping was contained in the decision of 11 December 2017. You do not seem to have learned from it. In the present case, you are pleading guilty to having no treatment book at all.

A clear message must be sent. In relation to the breach of AR 104(1), you are fined the sum of $1,500.

Thus, the total penalty is one of $5,000.

Further, Bannerton is disqualified from Race 6 at Hanging Rock on 26 January 2023 and the finishing order amended accordingly.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal