8 September 2023

**DECISION**

**RACING VICTORIA**

**and**

**SCOTT BRUNTON**

**Date of hearing:** 31 August 2023

**Panel:** Judge John Bowman (Chairperson) and Judge Julie Nicholson.

**Appearances:** Mr Marwan El-Asmar appeared on behalf of the Stewards.

Mr Scott Brunton represented himself.

**Charges:** Australian Racing Rule (“AR”) 232(i) states:

***AR 232 Failure to observe processes and directions of PRAs or Stewards***

*A person must not:*

*(i) give any evidence at an interview, investigation, inquiry, hearing and/or appeal which is false or misleading.*

Australian Racing Rule (“AR”) 232(h) states:

***AR 232 Failure to observe processes and directions of PRAs or Stewards***

*A person must not:*

*(h) refuse or fail to attend or give evidence at an interview, investigation, inquiry, hearing or appeal when directed or requested to do so by a PRA, the Stewards or a person authorised by a PRA or the Stewards;*

**Particulars of charge:** **Charge 1 – AR232(i)**

1. You were, at all relevant times:
2. a trainer licensed by the Office of Racing Integrity in Tasmania;
3. a visiting trainer in Victoria; and
4. bound by the Rules of Racing of Racing Victoria.
5. You were, at all relevant times, the trainer of Tsunami Sam (the **Horse**).
6. On 4 May 2023, the Horse was engaged to race in Race 3 at Warrnambool racecourse (the **Race**). Prior to the running of Race, you were interviewed by Stewards with respect to the plating of the Horse (the **First Interview**).
7. During the First Interview, you provided the following evidence:
8. the Horse was racing in tips in front and bare behind; and
9. you had fitted the tips to the front hooves yourself.
10. On 9 May 2023, you were again interviewed by Stewards (the **Second Interview**), during which you admitted you had misled the Stewards in the First Interview and that you had not fitted tips to the Horse prior to the Race, with the Horse having been presented to race barefoot.
11. The evidence you provided during the First Interview (as noted in particular 4) was false and/or misleading.

**Charge 2 – AR232(h)**

1. You were, at all relevant times:
   1. a trainer licensed by the Office of Racing Integrity in Tasmania;
   2. a visiting trainer in Victoria; and
   3. bound by the Rules of Racing of Racing Victoria.
2. On 4 May 2023, following the running of Race 3 at Warrnambool racecourse, you were requested by Racing Victoria Stipendiary Steward, Georgina Lewis, to attend the Stewards’ Room immediately after the running of Race 6.
3. You failed to attend the Stewards’ Room on 4 May 2023 as requested by the Stewards.

**Pleas:** Guilty to both charges.

**DECISION**

Mr Scott Brunton, you have pleaded guilty to two charges. Both essentially arise from the one set of circumstances involving Race 3 at Warrnambool on 4 May 2023. Tsunami Sam, trained by you, was to perform in that race, but was scratched at the barrier.

The circumstances surrounding that scratching form the basis of the two charges laid. Firstly, you are charged with a breach of AR 232(i) – the giving of false or misleading evidence to the Stewards. In summary, prior to the race you told the Stewards that the horse was racing in tips in front and bare behind, and that you had fitted the tips to Tsunami Sam’s front hooves yourself. The horse was examined by Mr Adam Ryan, the farrier, behind the starting stalls and found to have no plates, no tips and no fresh nail holes. As a result of this, the horse was a late scratching.

Subsequent to that, Steward Ms Georgina Lewis, at the direction of Mr James Hitchcock who was chairing the Stewards that day, informed you that you were required to be present at the Stewards’ room following the running of Race 6. In breach of AR 232(h), you failed so to attend and in effect had left the course. That constitutes the second charge.

We accept that on 9 May 2023, five days later you did attempt to contact the Stewards and ultimately Mr Hitchcock and Mr Corie Waller rang you. Effectively, you admitted guilt in respect of both charges. We say now that we regard offences against these Rules as being serious matters, misleading the Stewards and hindering them in the execution of their duties.

We do take into account various matters that are in your favour or afford some explanation for your behaviour. Your background and relevant circumstances are as follows. You are 41 years of age. You have a partner and four children, their ages ranging from 5 years to 19 years. You are Tasmania’s leading trainer and have so been for some thirteen or fourteen years. At any one time you have fifty or more horses in work. Your wife is also licensed, as is your father in law, who is the owner of the 60 acre property on which your horses and stables are located.

Your record indicates a very large number of prior offences for what would be described as race day and administration matters, fines and reprimands being plentiful. Further, in June 2021 you were suspended for 3 months on a presentation charge. We note in passing that on 5 July 2020 at Hobart you were fined for presenting a horse without concussion plates. The bottom line is that you have a poor general record, but the only suspension appears to have been for the administration offence.

There is also no challenge to your evidence today that your father, who resides in Victoria, had been diagnosed with bone cancer and effectively you became aware of this in the morning of the day on which these events occurred. During the course of that day, you were struck very forcibly in the face by a horse’s head. We accept that you had a lot on your mind. That might explain your behaviour to some extent, but does not excuse it. You could have told the Stewards about these matters on the day or contacted them on the days immediately following, even if this was embarrassing for you. We consider that are there are some mitigating factors that help explain your behaviour and we take these into account.

As stated, these are serious offences. As we have said many times in cases such as this, the Stewards have a demanding work load without having to concern themselves with falsehoods and behaviour such as occurred in this matter. At least you did speak to them and accept your guilt comparatively quickly. Further, your behaviour took place in the midst of a particularly big and busy carnival.

Bearing all that we have heard in mind, we have arrived at the following penalties:

On Charge 1, you are suspended for a period of 6 months with 3 months suspended for a period of 24 months. The 3 month penalty will be activated should you commit a relevant offence during the period.

We regard Charge 2 as being closely linked with or a corollary of Charge 1, but, as stated, it is also a serious matter. You are suspended for a period of 6 months but with 5 months suspended for a period of 24 months. The remaining one month is cumulative upon the penalty in Charge 1.

The end result is that you are suspended for a period of 4 months. Further potential penalties totalling 8 months will be hanging over you for the next 2 years.

The suspension shall start on Thursday, 7 September 2023.

Mark Howard

Registrar, Victorian Racing Tribunal