15 December 2023

**DECISION**

**RACING VICTORIA**

**and**

**AARON LAING**

**Date of hearing:** 6 December 2023

**Panel:** Judge John Bowman (Chairperson) and Dr June Smith.

**Appearances:** Mr Marwan El-Asmar instructed by Mr Scott Hunter appeared on behalf of the Stewards.

 Mr Aaron Laing represented himself.

**Charges and particulars: Charge 1 of 3: AR 249(1)**

Australian Rule of Racing (“AR”) 249(1) reads as follows:

 **AR 249 Administration of medication on race day**

1. *Notwithstanding the provisions set out in Schedule 1, Part 2, Division 2, a person must not, without the permission of the Stewards:*
2. *administer; or*
3. *cause to be administered,*

*any medication to a horse at any time on race day prior to the commencement of a race in which the horse is engaged to race.*

1. *If a person breaches subrule (1), a disqualification for a period of not less than 6 months must be imposed, unless there is a finding that a special circumstance exists, in which case that penalty may be reduced.*
2. *The Stewards may order that a horse which has received a medication in breach of subrule (1) be scratched from a race engagement*.

**Particulars of charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and a person bound by the Rules of Racing.
2. You are, and were at all relevant times, the trainer of *Ninyo* (the **Horse**).
3. On 10 March 2023, the Horse was entered to run in Race 6, the Beraldo Coffee BM58 Handicap, over 2000 metres at the bet365 Park Kilmore Racecourse (**the Race**).
4. Prior to the Race, you administered or caused to be administered to the Horse a product known as Electro Paste (the **Medication**).
5. You did not obtain permission from the Stewards to administer, or cause to be administered, the Medication to the Horse prior to the Race.

**Charge 2 of 3: AR 249(1)**

AR 249(1) reads as follows:

**AR 249 Administration of medication on race day**

1. *Notwithstanding the provisions set out in Schedule 1, Part 2, Division 2, a person must not, without the permission of the Stewards:*
2. *administer; or*
3. *cause to be administered,*

*any medication to a horse at any time on race day prior to the commencement of a race in which the horse is engaged to race.*

1. *If a person breaches subrule (1), a disqualification for a period of not less than 6 months must be imposed, unless there is a finding that a special circumstance exists, in which case that penalty may be reduced.*
2. *The Stewards may order that a horse which has received a medication in breach of subrule (1) be scratched from a race engagement*.

**Particulars of charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and a person bound by the Rules of Racing.
2. You are, and were at all relevant times, the trainer of *Too Viennese* (the **Horse**).
3. On 10 March 2023, the Horse was entered in, and ran, in Race 8, the MC Labour BM58 Handicap, over 1100 metres at the bet365 Park Kilmore Racecourse (**the Race**).
4. Prior to the Race, you administered or caused to be administered to the Horse a product known as Electro Paste (the **Medication**).
5. You did not obtain permission from the Stewards to administer, or cause to be administered, the Medication to the Horse prior to the Race.

**Charge 3 of 3: AR 232(i)**

AR 232(i) reads as follows:

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

*A**person must not:*

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

**Particulars of the charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and a person bound by the Rules of Racing.
2. On 10 March 2023, Stewards at Kilmore Races inspected the float used to transport your horses to the races that day, and located an empty Electro Paste tube on the ground of the float (the **Inspection**).
3. Following the Inspection, you attended an interview with the Racing Victoria Stewards (the **First Interview**), during which you were questioned about the empty Electro Paste tube found in the float. In response, you gave the following evidence:

In relation to the use of the Electro Paste:

*“We use it [Electro Paste] every day. We use it on horses that are working, so I’ve obviously used it in the morning and left it there”.*

*And*

In relation to stopping on the way to the racecourse:

*Chairman: …did you stop anywhere for fuel or food”?*

*Mr. Laing: No, we couldn’t*

*Chairman: No. Did you stop anywhere?*

*Mr. Laing: I wanted to. I couldn’t*

*Chairman: So you didn’t stop at all?*

*Mr. Laing: No*

1. On 7 July 2023, you were further interviewed by Racing Victoria Stewards (the **Second Interview**), during which you admitted you had not been truthful during the First Interview, in particular, you stated the following:

In relation to the use of the Electro Paste:

 *“That’s not the truth, no. I don’t- I don’t use ‘em everyday day either, no. I use ‘em here and there, like, sparingly [In relation to using the Electro Paste everyday on horses working]”*

In relation to stopping on the way to the racecourse:

*Chairman: Would you like to reconsider any of the evidence that was tendered on the day by yourself?*

*Mr. Laing: Just the part where I did stop on the way – oh, well, not stop, we flew past the feed store to get the poultice. I panicked on the day when you asked me about that, so that was false.*

5. The evidence you provided during the First Interview (as noted in particular 3), was false and/or misleading.

**Pleas:** Guilty to all charges

**DECISION**

Mr Aaron Laing, you are pleading “Guilty” to three offences. They are as follows:

Charge 1 is pursuant to AR249(1). It involves the administration of a product, namely Electro Paste, to a horse, namely Ninyo, which was entered to run at Kilmore in Race 6 on 10 March 2023. The administration is said to have been on the course prior to the race. There is no suggestion that the administration was with the permission or knowledge of the Stewards.

Charge 2 is similar to Charge 1, being on the same day at Kilmore, save that the horse involved was Too Viennese, which competed in Race 8. Again, there is no suggestion that the administration was with the permission or knowledge of the Stewards.

Charge 3 concerns a breach of AR232. In essence, it prohibits the giving of false or misleading evidence at an inquiry, investigation, hearing or the like. This charge also has its origins in the events at Kilmore on 10 March 2023.

A summary of what occurred is as follows. You were making the trip from Clyde, where you live and train, to Kilmore races with the two horses in a float. You were running late due to diversions caused by a motor accident. You rang ahead to the Stewards to say that you may be late and there was a discussion about the latest that you would arrive.

Ultimately you did arrive in time, but we accept that you were in a state of anxiety and confusion when you did so arrive. A pre-race veterinary check of Ninyo resulted in the observation of a substance around the horse’s mouth. A float inspection revealed an empty tube of a product called “Electro Paste” on the floor.

You denied using the medication on either horse.

You stated that it was a product which you used and that must have been left over from such an occasion, and not used on either horse on the day.

Subsequently, DNA found under the cap of the ‘Electro Paste’ tube matched findings on Ninyo and Too Viennese.

We would add that Ninyo was scratched, but Too Viennese competed and ran seventh.

We accept that you made various false and misleading statements to the Stewards and also varied significantly your description of what occurred.

On 12 October 2023, you completed a Plea Notification Form. In it, you made clear your intention of pleading guilty to the three Charges and you did so plead before us today.

In relation to the offences, we accept that the false information was given to the Stewards at Kilmore on 10 March 2023 and your so doing resulted considerably from panic. You in fact did administer some of the substance to Ninyo and a very small amount to Too Viennese. You admitted subsequently that you had given false evidence to the Stewards. As stated, after some early attempts at evasion and false evidence, ultimately you admitted what had occurred and pleaded guilty, this being almost two months before todays hearing and well prior to the Directions Hearing on 23 November 2023 when you repeated those pleas. Accordingly, we accept that special circumstances as set out in LR105(b) do exist.

Turning to Charge 1 and 2, the Rule against raceday administration is in place for good reason. The image of racing as a level playing field and a fair contest is at risk by behaviour such as this. The giving of false or misleading evidence is an offence which makes the work of the Stewards that much more difficult, in addition to adding to the risk of damaging the image of racing.

Your background is that you are 32 years of age. You and your partner live on approximately 15 acres near Clyde, where there is a house and accommodation for approximately 20 or more horses. You do not own this property, but are paying rental. At the moment, 21 horses, not all of which are racing, are stabled on the property.

You come from a racing background. You have worked as an electrician, but essentially love racehorses and have always been involved with them. You have held a trainer’s licence for approximately four years. You try to purchase promising horses for a modest price. As a rule, you try to maintain a small proprietary interest in them, whilst training for others. It is not alleged that you have previously been in trouble with the Stewards and we take your record as being very good.

A bundle of 14 references has been put before us. These are very supportive of you and speak highly of your character.

We appreciate how disqualification will impact upon your life. We are of the opinion that a period of disqualification is appropriate. However, we also bear in mind the circumstances that were prevailing and the pleas of guilty which you made almost two months ago.

The penalties which are imposed are as follows:

On Charge 1, you are disqualified for a period of six months.

On Charge 2, you are also disqualified for a period of six months, but that is concurrent with the penalty in Charge 1.

On Charge 3, you are disqualified for a period of three months, concurrent with the penalty in Charge 1.

The bottom line is disqualification for 6 months commencing immediately. Too Viennese is disqualified from Race 8 at Kilmore on 10 March 2023 and the finishing order is amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal