16 February 2024

**DECISION**

**RACING VICTORIA**

**and**

**BARRY GOODWIN**

**Date of hearing:** 8 February 2024

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Scott Hunter appeared on behalf of the Stewards.

 Mr Paul Maher represented Mr Barry Goodwin.

**Charges and particulars: Charge 1 of 2: 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.
2. You are, and were at all relevant times, the trainer of *Miss Santorini* (the **Horse**).
3. On 13 October 2023, the Horse was entered to run in Race 6, the Carlton Draught Handicap, over 1450 metres at the Tatura Racecourse (**the Race**).
4. On the morning of 13 October 2023, your staff member administered to the Horse 2ml of Omoguard (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 2: AR 104(1)**

AR 104(1) reads as follows:

**AR 104 Trainers must keep treatment records**

* 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.*
	2. *For the purpose of subrule (1), each record of administration must include the following information:*

*the name of the horse;*

*the date and time of administration of the treatment or medication;*

*the name of the treatment or medication administered (brand name or active constituent);*

*the route of administration including by injection, stomach tube, orally, topical application or inhalation;*

*the amount of medication given (if applicable);*

*the duration of treatment (if applicable);*

*the name and signature of the person/s administering and/or authorising the administration of the treatment or medication.*

*the reason for administering the treatment or medication.*

*[subrule amended 01/02/21]*

* 1. *For the purposes of this rule “treatment” includes:*
	2. *shock wave therapy;*
	3. *acupuncture (including laser treatment);*
	4. *chiropractic treatment;*
	5. *the use of any electrical stimulation device (including transcutaneous electrical nerve stimulation (TENS));*
	6. *magnetic field therapy;*
	7. *ultrasound;*
	8. *any form of oxygen therapy, including hyperbaric oxygen therapy;*
	9. *the taking of a blood sample.*
	10. *For the purposes of this rule “medication” includes:*
	11. *all Controlled Drugs (Schedule 8) administered by a veterinarian;*
	12. *all Prescription Animal Remedies (Schedule 4), including those listed in Schedule 1, Part 2, Division 2 to these Australian Rules;*
	13. *all Prescription Only Medicines (Schedule 4), prescribed and/or dispensed by a veterinarian for off-label use;*
	14. *all injectable veterinary medicines (intravenous, intramuscular, subcutaneous, intra-articular) not already referred to above;*
	15. *all Pharmacist Only (Schedule 3) and Pharmacy Only (Schedule 2) medicines;*
	16. *all veterinary and other medicines containing other scheduled and unscheduled prohibited substances;*
	17. *all alkalinising agents;*
	18. *all herbal preparations.*
1. *All records required to be kept in accordance with this rule must be retained by the trainer for at least 2 years.*
2. *When requested, a trainer must make available to the Stewards the record of any administration of a treatment and/or medication required under subrule (1).*

**Particulars of charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *Miss Santorini* (the **Horse**).

1. On 13 October 2023, you were requested by Stewards to produce treatment records for the Horse.
2. You were, at all relevant times, responsible for the maintenance of the treatment records for any horse in your care*.*
3. Your treatment records for the Horse had not been recorded since 12 September 2023 as required by AR 104(1).

**Pleas:** Guilty to both charges

**DECISION**

1. Mr Barry Goodwin is a licensed racehorse trainer of longstanding. Before the matter bringing him to the Tribunal today, he has never been charged with a serious offence and therefore has an excellent record. He has spent a lifetime in the industry and has held a trainer’s licence for almost 40 years.
2. Mr Goodwin is the trainer of the horse “Miss Santorini”. Miss Santorini had been entered to run in a race at Tatura on 13 October 2023. On the morning of the race, at about 4.00am, a stablehand gave the horse her usual dose of medication to deal with ulcers. The stablehand was relatively new to the industry and was filling in for the person who usually fed the horse and dispensed medications. The new stablehand was not aware that racehorses are not permitted to receive medication on race days without the permission of the Stewards. Mr Goodwin forgot to tell the new stablehand that the horse should not be given her usual daily medication as she was racing later that day. It was a mistake which was made honestly with no intention to flout the rule.
3. The Stewards, an inspection at Mr Goodwin’s stables on the morning of the race, noticed a white substance on the side of Miss Santorini’s mouth. The stablehand told them that it was Omoguard paste, as anti-ulceration medication. Mr Goodwin immediately told the Stewards that he was at fault in forgetting to tell the stablehand not to administer the medication on race day.
4. Australian Rule (“AR”) 249(1) prohibits the administration of medications to a racehorse prior to a race. Sub-rule 249(2) provides for a penalty of not less than 6 months disqualification except where special circumstances exist.
5. Special circumstances are defined in Local Rule 95 to include “the interests of justice” and where an early guilty plea has been given, as well as assisting the Stewards. All those matters are relevant here.
6. All things considered, we believe that the facts of this case demonstrate the existence of special circumstances such that we are not compelled to impose a penalty of 6 months disqualification. We have received submissions from both parties in support of that view.
7. Mr Paul Maher of the Australian Trainers Association has called for a $3,500 fine to reflect the seriousness of the matter.
8. In the matter of Payne [10 December 2022], the Tribunal fined the trainer $3,500 for race day administration of the same medication that was administered here. In that matter, the error which led to the substance being administered was that of the trainer herself. Here the fault was not directly that of the trainer, although he was at fault in not telling the new stablehand about the rule against race day administration. The Stewards submitted a $4,000 fine was appropriate. However, we consider the circumstances of this case to be not more blameworthy than in Payne. We impose a penalty of $3,500.
9. Mr Goodwin’s treatment book was not current when inspected by the Stewards on 13 October 2023. He has pleaded guilty to a charge under AR 104, which requires trainers to keep treatment records reflecting actual treatments. In light of the guilty plea, the rectification of the treatment book and lack of prior offending but for a caution 8 years ago, we impose a fine of $750 for a breach of AR 104. We do so having regard to the fact that Mr Goodman failed to keep his treatment records in a way directed by AR 104. The fact of a previous transgression leading to a reprimand 8 years ago should be reflected in a slightly higher penalty than the usual $500 fine for breaches of this Rule where the trainer has a better record.
10. The total fine imposed is one of $4,250, being $3,500 for breach of AR 249 and $750 for breach of AR 104.

Mark Howard

Registrar, Victorian Racing Tribunal