1 February 2024

**DECISION**

**RACING VICTORIA**

**and**

**JOHN ALLEN**

**Date of hearing:** 23 January 2024

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

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

Mr Paul Maher represented Mr John Allen.

**Charge:** 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.

**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 were, at all relevant times, the trainer of Suppose I Do (the Horse).

3. On 20 June 2023, the Horse was brought to the Pakenham Racecourse and was engaged to race in Race 4, the Sportsbet Bet with Mates Maiden Plate, over 1000 metres (the Race).

4. On 20 June 2023, following the Race, a urine sample (V804111) was taken from the Horse (the Sample).

5. An analysis of the Sample detected the presence of Metformin. 6. Metformin is a prohibited substances pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Australian Rules of Racing.

**Plea:** Guilty

**DECISION**

Mr John Allen, you are pleading guilty to a breach of AR 240(2). It relates to a positive swab returned by “Suppose I Do”, trained by you. The swab was taken after Suppose I Do ran in Race 4 over 1400 metres at Pakenham on 20 June 2023. Suppose I Do won the race. The post-race swab was positive to Metformin, a prohibited substance.

It is not alleged that it is established that Metformin either enhances or detracts from the performance of horses. Offences involving Metformin are comparatively rare. It is prescribed for medication in humans, and particularly for the treatment of diabetes. You suffer from diabetes, and take a Metformin tablet every morning and every evening.

The most likely source of the Metformin was from a glove worn by you, or from your hand. There is no suggestion that you were aware of the risk of such a transfer of the Metformin. It is, as stated, a prohibited medication not frequently encountered and a medication for diabetes.

We accept that you were totally unaware of the risks associated with it or the manner in which the medication could be transferred. We also accept that you have been associated with the racing industry for many decades and have an exemplary record, free from blemish. Your family has also been involved in the industry. You are continuing to train a modest number of horses. You are one of those persons, who, to use the cliché, could be described as an ornament to the game. This offence was a total accident. We accept that you have now taken measures in relation to your medication, handwashing and the like, in order to ensure that it does not happen again.

The concept of a level playing field is vitally important to racing. A drug free industry is a goal that, rightly, is constantly pursued by the Stewards.

The Stewards are seeking a penalty of a fine of $4,000, with none of that amount suspended.

We are not prepared to impose that penalty. In the case of Mr Gerard Egan, a similar case, the penalty imposed by the Tribunal was a fine of $4,000, with $3,000 of that suspended for a period of 12 months. That penalty was in essence agreed by the Stewards, as well as by Mr Egan. That penalty, virtually by consent was handed down on 11 October 2023, well after your offending in the present case.

The Stewards are fully entitled to seek a greater penalty than that previously imposed and sought in other cases. However, we think that some advance notice of a change in approach would be helpful. That is particularly so when the person charged is one with your exemplary record, and who has since taken various measures to ensure that the accidental occurrence is not repeated. The industry is now on notice that a greater penalty may be sought in future cases, however relatively uncommon they may be.

In summary, the penalty we impose is a fine of $4,000, but with $3,000 of that amount suspended for a period of 12 months subject to your not committing a relevant offence during that period. We are confident that you will not.

Further, Suppose I Do is disqualified from Race 4 at Pakenham on 20 June 2023 and the finishing order is amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal