17 June 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**EMMA STEWART**

**Date of penalty hearing:** 5 June 2024

**Date of decision:** 5 June 2024

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

**Appearances:** Mr Adrian Anderson instructed by Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Damien Sheales instructed by Mr Peter Morris represented Ms Emma Stewart.

**Charges:** Australian Harness Racing Rule (“AHRR”) 196B(1) states:

(1) A person shall not without the permission of the Stewards within one (1) clear day of the commencement of a race administer, attempt to administer or cause to be administered an injection to a horse nominated for that race.

Australian Harness Racing Rule (“AHRR”) 190B(1) states:

(1) A trainer shall at all times keep and maintain a logbook.

**Particulars: Charge 1 AHRR 196B(1)**

That as the licensed trainer of SHOW ME HEAVEN engaged in Race 3 at the Maryborough Harness Racing meeting on Sunday 17 September 2023, that on Saturday 16 September 2023, within one (1) clear day of the commencement of that race, you attempted to administer an injection to that horse, by way of an intravenous drip.

**Charge 2 AHRR 196(B)(1)**

That as the licensed trainer of ACT NOW engaged in Race 7 at the Maryborough Harness Racing meeting on Sunday 17 September 2023, that on Saturday 16 September 2023, within one (1) clear day of the commencement of that race, you administered an injection to that horse, by way of an intravenous drip.

**Charge 3 AHRR 190(B)(1)**

That as a licensed trainer between the calendar year of 2022 and 21 September 2023, you failed to thoroughly maintain a logbook, listing and recording all details of treatments administered to horses in your care.

 **Pleas:** Guilty to all charges.

**DECISION**

Ms Emma Stewart, you are appealing against the severity of penalties imposed upon you by the Stewards consequential upon a visit by them to your stables on Saturday, 16 September 2023.

The penalties were in relation to two breaches of Rule 196B(1) and one breach of Rule 190B(1). We shall deal firstly with the breaches of Rule 195B(1).

The breaches of Rule 196B(1) essentially involve administration or attempted administration of a substance within a 24 hour period before the two horses were to race. The horses, Show Me Heaven and Act Now, were to compete the following day at Maryborough – that is, on Sunday, 17 September 2023.

When the Stewards arrived, you were in the process of administering a substance to Show Me Heaven, this being done via a hose. The substance involved was a product called Hartmann’s Drip. It is a product used for hydration purposes. There is no suggestion that it is a prohibited substance or has the potential to either enhance or detract from performance. Essentially, as stated, it is used for hydration purposes. It is apparent that a similar procedure had been or was to be performed with Act Now.

Your explanation at the time was that you thought, erroneously, that the withhold period was 24 hours before the race, as opposed to being a ban on administration on the day prior to the race.

In any event, you accept full responsibility and have done so from the beginning. You co-operated with the Stewards without reservation throughout this inquiry.

You are a leading trainer, if not the leading trainer, in this State and have been for some years. Your horses have won a very large number of Group races, including over 100 Group 1 events. You employ a sizeable staff.

You do have a record of a prior offence involving a prohibited substance, namely arsenic, being found in a post-race swab taken on 26 June 2015. There is also an older offence. You have been a trainer, and a leading trainer, effectively for decades. Thus, whilst it cannot be said that you have a record free from blemish, your record is good.

We accept that, on this occasion, you should have known that the treatment which you administered or attempted to administer was a breach of the Rules. However, we again emphasise your full co-operation, your guilty pleas, and the fact that it is not suggested that any illegal substance was involved.

Bearing in mind all of the above, we allow your appeal. On the two administration charges we are imposing a financial penalty. We allow the appeal. We do not think that a period of disqualification is appropriate. We again refer to the nature of the administration, your full co-operation and your good record.

On each of the charges pursuant to Rule 190B(1) we impose a fine of $5,000, making a total of $10,000. We appreciate that this is a substantial amount for the administration of a substance that has no effect on performance, but Rules of this nature are important for the appearance of integrity and underline the necessity for close and significant supervision by the Stewards.

In relation to the appeal concerning the breach of 190B(1), you do have a history of a prior offence in this regard. The keeping of proper and accurate records, particularly of the administration of medication, an important to the image of the industry and particularly to the work of the Stewards. Their task is difficult enough without having to struggle with the absence or inadequacy of records.

Bearing all this in mind, we are of the view that the fine of $2,000 is warranted. The appeal in that regard is dismissed.

Thus, your appeal in relation to Rule 196B(1) is successful. We impose a penalty of $10,000.

Your appeal in relation to Rule 190B(1) is dismissed.

Mark Howard

Registrar, Victorian Racing Tribunal