15 July 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**LUKE WATSON**

**Date of hearing:** 20 June 2024

**Date of decision:** 20 June 2024

**Panel:** The Hon. Shane Marshall AM (Deputy Chairperson) and Mr Greg Childs.

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Luke Watson represented himself.

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

(1) A horse shall be presented for a race free of prohibited substances.

AHRR 190B(1)(b) states:

1. A trainer shall at all times keep and maintain a log book:-

(b) recording all details of treatment administered to any horse in his or her care and including as a minimum requirement:

(i) the name of the horse

(ii) the date and time of the administration of the treatment

(iii) the name of the treatment (brand name of active constituent)

(iv) the route of administration

(v) the amount given

(vi) the name and signature of the person or persons administering and/or authorising the treatment.

**Particulars: Charge 1: AHRR 190(1)**

1. At all relevant times, you were a licensed trainer and driver with HRV and a person bound by the Australian Harness Racing Rules;

2. At the relevant time you were the trainer of the horse Online Model;

3. On 3 January 2023, Online Model was presented to race at the Mildura harness racing meeting in Race 1, the “Euston Club Resort 3yo & Older Maiden Pace”;

4. Following Race 1, a urine sample was collected from Online Model with subsequent analysis of that sample revealing a cobalt concentration in excess of the allowable threshold;

5. As the trainer of Online Model on 3 January 2023, you presented that horse to race in the “Euston Club Resort 3yo & Older Maiden Pace” at Mildura not free of cobalt, a prohibited substance when present at a concentration in excess of 100 micrograms per litre in urine.

**Charge 2: AHRR 190B(1)(b)**

1. At all relevant times, you were a licensed trainer and driver with HRV and a person bound by the Australian Harness Racing Rules;

2. On 9 February 2023, you were interviewed by HRV Investigative Stewards, during which you gave evidence to the effect that you do not use a log book and had not used one for two years;

3. On 30 November 2023, you were interviewed by HRV Investigative Stewards, during which you gave evidence to the effect that you administered injections to horses in your care, including injections of “Tripart” and “V.A.M”, and that the treatments were not recorded anywhere;

4. You failed to keep and maintain a log book as required.

**Pleas:** Guilty

**DECISION**

1. On 14 June 2024, the Tribunal suspended Mr Watson's trainer's licence for an effective period of two months after a penalty hearing regarding a prohibited substance charge.
2. Near the conclusion of the hearing, Mr Watson raised the issue regarding whether it followed that his driver's licence would also be suspended for the time his trainer's licence was suspended. The Tribunal adjourned the further hearing of that matter until today to hear submissions and make a decision about whether Mr Watson's licence to drive harness racing horses should also be suspended, with effect from the same time as the time his trainer's licence commenced to be suspended.
3. We are referred by Mr Watson and Mr Cusumano, who appeared for HRV, to several decisions of this Tribunal and those of its predecessor, being the HRV Racing Appeals and Disciplinary Board (“RADB”), where, on some occasions, both licences were suspended and, on other occasions, where only one licence was suspended. None of what we say should be taken as dealing with the situation where a driver loses a driver's licence for any period of time as a result of a purely driving-related offence and that person is also a trainer.
4. In none of those cases referred to by the parties was there an examination of the appropriateness or otherwise of a training licence suspension also resulting in the person affected losing his driver's licence for the same period. We now consider that issue by reference to the National Rules of Harness Racing, noting that the Local Rules in Victoria do not address the issue.
5. In the AHRRs, "training" is defined as:

*The education and exercising a horse to race, but not the process of keeping a horse in good health.*

1. The duties of a driver under the Rules include driving a horse in trackwork, under AHRR 90A(1.9). AHRR 90(8) provides that:

*The type, grade or class of a licence held by a person may only be varied by the Controlling Body or the Stewards.*

1. Under the Rules, the ability of a licensed driver to carry out trackwork can overlap with the duties of the ability of the trainer to prepare, educate and exercise a horse.
2. Accordingly, we consider it inconsistent with the suspension of a trainer's licence for a person who is also the holder of a driver's licence to continue that licence during the term of the suspension of that person's training licence.
3. We have given consideration to whether, under AHRR 90(8), the holder of a driver's licence might apply to have that licence varied to exclude any activity other than driving in races and official trials. However, the better view of the effect of that sub-rule is that it merely allows a driver to apply to vary the grade or class of the licence held and not to seek to have restrictions put on the existing licence.
4. Having regard to our view of the operation of the AHRRs, we consider it is appropriate to record and order that Mr Watson's driver's licence is also suspended for a period of 12 months, with 10 months suspended for a period of 24 months, pending no further offending.
5. The suspension is taken to have commenced at the same time as the commencement of the suspension of his trainer's licence, that is, 12.00 AM on 15 June 2024.
6. In coming to our view, we did not find it necessary to deal with the submission that the loss of both licences assists with general deterrence. A trainer without a driver's licence would not be subject to deterrence of the same kind as would arise when one holds both licences. Our decision is based solely on our construction of the National Rules and their application to the facts of this case.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal