2 July 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MICHAEL STANLEY**

**Date of hearing:** 20 June 2024

**Date of decision:** 20 June 2024

**Panel:** The Hon. Shane Marshall AM (Deputy Chairperson) and Mr Josh Bornstein.

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

Mr Michael Stanley represented himself.

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

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

**Particulars:** 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 Soho Lumine;

3. On 2 November 2023, the horse Soho Lumine was presented to race at the Maryborough harness racing meeting in Race 7, the “adam@lpmfinance.com.au Pace”;

4. Following Race 7, a urine sample was collected from Soho Lumine with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold;

5. As the trainer of Soho Lumine on 2 November 2023, you presented that horse to race in the “adam@lpmfinance.com.au Pace” at Maryborough not free of arsenic, a prohibited substance when present at a concentration in excess of 0.30 micrograms per millilitre in urine.

**Plea:** Guilty

**DECISION**

1. Mr Michael Stanley is a grade A licensed trainer and driver and a person bound by the Australian Harness Racing Rules (“AHRR”). At all material time he was the trainer of the horse, “Soho Lumine”.
2. Soho Lumine competed ion Race 7 at Maryborough on 2 November 2023. A post-race urine sample taken from the horse revealed the presence of arsenic at a level beyond the allowable threshold.
3. Stewards of Harness Racing Victoria (“HRV”) have charged Mr Stanley with an offence under AHRR 190(1). That sub-rule proscribes the presentation of a horse for an event while not free of a prohibited substance.
4. Arsenic is an element which occurs naturally in many substances, usually at low levels. It has the capacity to effect the condition or performance of a horse in an event. The effect is usually positive, except at very high levels.
5. The most probable cause of the positive swab is the chewing by the horse of Copper Chrome Arsenic (“CCA”) treated timber. CCA treated timber is a well known source of positive swabs to arsenic at impermissible levels under the Rules. Such is notorious in the industry. Stewards have issued several warnings on the topic in the recent past. The risks involved are also notorious in the industry.
6. In setting a penalty, we take into account general and specific deterrence and the importance of having a level playing field by keeping a drug-free industry. We also take into account the guilty plea, co-operation with the Stewards and penalties in recent like cases.
7. We take into account a prior matter involving Mr Stanley concerning a positive swab to arsenic for two of his horses within a three day period of each other in December 2018. The decision is one of the HRV Racing Appeals Disciplinary Board (“RADB”) and does not explain clearly the source of the prohibited substance. We now know the source to be CCA treated timber. Partially suspended financial penalties were imposed in that matter.
8. There is a further prior offence regarding a prohibited substance matter from 2012. Given the age of that matter, we have placed very little weight on it.
9. In all the circumstances, the appropriate penalty is a fine of $3,000 with $1,500 suspended for a period of 12 months pending no further relevant offending. Given the prior offending regarding arsenic, our penalty would have been higher but for the large expenditure undertaken by Mr Stanley since 2019 in order to address the issue and mitigate the risk of reoffending.
10. Further, Soho Lumine is disqualified from Race 7 at Maryborough on 2 November 2023 and the finishing order in that race are amended accordingly.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal