9 August 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**DARREN COLE**

**Date of hearing:** 6 August 2024

**Date of decision:** 6 August 2024

**Panel:** Judge Marilyn Harbison (Deputy Chairperson) and Ms Danielle Hikri.

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

Mr Darren Cole 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 *‘Aldebaranspartacus’*;

 3. On 27 September 2023, the horse *‘Aldebaranspartacus’* was presented to race at the Geelong harness racing meeting in Race 1, the ‘Aldebaran Park Vicbred Platinum Maiden Trot’;

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

 5. As the trainer of *‘Aldebaranspartacus’* on 27 September 2023, you presented that horse to race in the ‘Aldebaran Park Vicbred Platinum Maiden Trot’ at Geelong not free of cobalt, a prohibited substance when present at a concentration in excess of 100 micrograms per litre in urine.

**Plea:** Guilty

**DECISION**

1. Mr Darren Cole is a trainer and driver licenced with Harness Racing Victoria.
2. On 27 September 2023 he presented Aldebaranspartacus to race at Geelong. It won the race.
3. A post-race sample of urine showed the presence of cobalt at a concentration of 163mg/l. As cobalt is a naturally occurring substance an offence is not committed unless the reading is above the threshold of 100 mg/l.
4. Thus, Mr Cole is facing one charge of presenting Aldebaranspartacus in a race not free of a prohibited substance, namely cobalt.
5. When Mr Cole was interviewed by the Stewards he was not able to explain how the horse had such a high reading of cobalt. He could only surmise that the horse must have ingested it while licking soil or the remains of a metal structure in its paddock. He wondered whether the fact that the horse seemed dehydrated and out of sorts had contributed. A sample of soil taken from this area by Stewards was later analysed.
6. A sample was also taken by Stewards from soil near a metal structure in the area where the feed bin was located. Those samples returned levels of cobalt consistent with natural soil levels.
7. The only person other than himself who had access to the horse leading up to the race was a driver by the name of Mr Rory Coverdale. This driver was interviewed by the Stewards, but was unable to suggest any explanation as to how the cobalt came to be in the horse’s system.
8. When interviewed by the Stewards, Mr Cole described himself as being in complete shock at the cobalt result, particularly as it was the second time he had had a reading of cobalt in one of his horses. He denied ever having given a horse cobalt and he said he had no knowledge of why the cobalt reading had recurred. He said that he was particularly careful after having last been convicted of a cobalt offence.
9. Mr Cole faces a serious offence. It is important that offences such as these are dealt with firmly in order to ensure the integrity of harness racing as a sport. It is of particular concern that this is his second offence of this nature, with the same substance found in his horse as was found on the previous occasion.
10. The Stewards admitted that we should also take into account specific deterrence – that is, the need to deter Mr Cole from committing this offence again, having regard to the fact that this is the second time he has done so. We do not regard specific deterrence as being of major significance given that it appears that the presence of cobalt was unintentional. However, we do accept that it is important that there be consistency in sentencing and we have considered carefully all of the similar cases which have been presented to us by the Stewards.
11. Mr Cole was anxious to emphasise that he did not administer the cobalt to his horse, or know that it was present at the time that he presented the horse to race. We confirm that this is not an element of this offence and we sentence him on the basis that it is not possible for either himself or the Stewards to establish the cause of the presence of cobalt on this occasion.
12. We note also that Mr Cole is devastated by this Charge. He has sold his business because of the state of his health. He intended to retire and to continue harness racing in his retirement. He will be financially affected by not being able to earn some retirement income from harness racing.
13. In all the circumstances, the penalty which we impose is a penalty of 15 months suspension effective immediately.
14. We further disqualify Aldebaranspartacus from Race 1 at Geelong on 27 September 2023 and the finishing order is amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal