9 August 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ROS ROLFE**

**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.

Ms Ros Rolfe represented herself.

**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 *Our Art Work*;

 3. On 4 December 2023, the horse *Our Art Work* was presented to race at the Mildura harness racing meeting in Race 5, the “Mallee Motorcycle Club Support S.C.R Pace”;

 4. Following Race 5, a urine sample was collected from *Our Art Work* with subsequent analysis of that sample revealing an arsenic concentration in excess of the allowable threshold;

 5. As the trainer of *Our Art Work* on 4 December 2023, you presented that horse to race in the “Mallee Motorcycle Club Support S.C.R Pace” at Mildura 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. Ms Ros Rolfe is a licensed trainer driver with Harness Racing Victoria. On 4 December 2023 she presented Our Art Work to compete in a race at Mildura, which it won.
2. A post-race sample of urine was collected. It was subsequently ascertained that the sample contained arsenic at a level of greater than 0.60mg/ml. Arsenic is a naturally occurring substance, so no offence is committed unless the threshold relating to that substance is reached. The threshold is 0.30mg/ml. Thus, Ms Rolfe has been charged with presenting the horse not free of a prohibited substance. She has pleaded guilty to this charge.
3. When interviewed by the Stewards, Ms Rolfe indicated that this horse and other horses were housed in yards fenced with pine posts. She had recently leased the property. It was the first time in her 35 years of experience in the industry that she had housed horses in facilities with pine posts. Prior to being charged with this offence, she had noticed her horses chewing posts and had done what she could to deter them, including painting the posts with a bitter tar and placing wire around some posts.
4. However, these measures did not solve the problem. Evidence of chewing was apparent from photographs taken by the Stewards during their visit. Chewing of treated fence posts is a common source of arsenic poisoning in horses. The Stewards noted that in this case they had taken samples from the fence and the samples had shown an extremely high count of arsenic, much higher than is usually discovered.
5. We acknowledge that Ms Rolfe has taken extensive steps to prevent her horses from chewing at fence posts. We further note that she has had a very long history within the industry and has had no prior offences of this nature. The Stewards acknowledged that she had a very good record indeed. She has pleaded guilty and is clearly mortified at having to face these charges.
6. However, the principle of general deterrence is however still of great significance and requires us to impose a penalty which is commensurate with the offending behaviour and consistent with fines imposed in like cases.
7. Having regard to all the circumstances, the penalty we impose is as follows.
8. We impose a fine of $2,000 with $1,500 of that fine suspended for 12 months.
9. We further disqualify Our Art Work from Race 5 at Mildura on 4 December 2023 and the finishing order is amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal