15 November 2024

**DECISION**

**RACING VICTORIA**

**and**

**KANE HARRIS**

**Date of hearing:** 14 November 2024

**Date of decision:** 14 November 2024

**Panel:** Judge John Bowman (Chairperson), Ms Judy Bourke and Ms Danielle Hikri.

**Appearances:** Mr Marwan El-Asmar instructed by Mr Scott Hunter appeared on behalf of the Stewards.

Mr Rob Harris represented Mr Kane Harris.

**Charge:** **AR 240(2)**

AR 240(2) reads as follows:

**AR 240 Prohibited substance in sample taken from horse at race meeting**

**…**

1. *Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.*

**The particulars of the charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and a person bound by the Rules of Racing.

2. You were, at all relevant times, the trainer of Dawn County (the Horse).

3. On 17 February 2023, the Horse was brought to the Wodonga Racecourse to run in Race 3, the Yackandandah Park Maiden Plate, over 1300 metres (the Race).

4. On 17 February 2023, a post-race urine sample (V792374) was taken from the Horse (the Sample).

5. An analysis of the Sample detected the presence of Dexamethasone. 6. Dexamethasone is a prohibited substances pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Australian Rules of Racing.

**Plea:** Not Guilty

**DECISION**

Mr Kane Harris, in a decision of this Tribunal on 11 October 2024 you were found guilty of a breach of AR 240(2). It concerns a prohibited substance, namely Dexamethasone or “Dex”, being detected in a post-race urine sample taken from Dawn County, trained by you, at the Wodonga races on 17 February 2023.

You had pleaded Not Guilty to this Charge, which was fully and vigorously contested. We would refer to that decision. On each occasion you have appeared with your father, with both of you taking on an active role in the conduct of the hearing. Mr Marwan El-Asmar has appeared on behalf of the Stewards.

A considerable amount of your submissions, by both you and particularly by your father, was directed to procedures relating to the testing for Dex and the like. A substantial amount of this was not of great relevance to the penalty hearing that was conducted this day.

The fact of the matter is that this is your fifth breach of Rule AR 240(2) and Dex has now featured in three of them. It is a quite powerful substance which has the potential to injure both horses and jockeys. These five breaches of the Rule date back to 2016, so that they are all comparatively recent.

Your situation is that you live with your partner, who is also involved in the industry, in a property which you are paying off on the Mornington Peninsula. You and your partner do a large amount of pre-training and like work and you also race a few horses, Dawn County being one of them. However, the bulk of your work relates to pre-training.

You are paying a substantial amount in excess of $25,000 each month in respect of the property. You also have two children from a prior relationship and doubtless there are some financial demands in that regard. You also have other demands relating to the operation of your business.

You have had major health problems and we also take this into account.

As stated, you do not have the benefit of any allowance for a guilty plea.

However, we also take into account that you have put in place some measures in relation to Dex and, with your father, are pursuing various matters in relation to it.

We bear in mind the decisions in other cases. However, because of your repeated offending, the penalties involved in at least some of them are of limited assistance.

We also bear in mind elements of animal welfare and the safety of jockeys. As submitted by Mr El-Asmar, Dex is a powerful substance which can mask injury. Animal welfare and jockey safety are indeed important issues to take into consideration.

We have also borne in mind the penalties imposed in like cases, although your repeat offending places you in a different category.

Weighing up all of the above, including that repeat offending, we are of the view that there must be interference with your licence.

We do not accept that, as urged by Mr El-Asmar, there should be a penalty of disqualification for six months. We are of the view that the penalty should be a period of suspension for six months.

Accordingly, the penalty which we impose is suspension for six months. We shall hear any discussion concerning the commencement date.

After some discussion between the parties, the commencement date of the suspension was extended to 21 November 2024.

Mark Howard

Registrar, Victorian Racing Tribunal