18 February 2025

**DECISION**

**RACING VICTORIA**

**and**

**ANDREW HOMANN**

**Date of hearing:** 4 February 2025

**Date of decision:** 4 February 2025

**Panel:** Magistrate Peter Reardon (Deputy Chairperson), Dr June Smith and Dr Andrew Gould.

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

Mr Damian Sheales appeared on behalf of Mr Andrew Homann.

**Charges and particulars:**

**Charge One: AR 244**

AR 244 reads as follows:

AR 244 Administration of prohibited substance to affect race performance

 (1) A person must not:

1. administer; or
2. cause to be administered

a prohibited substance on Prohibited List A and/or Prohibited List B to a horse for the purpose of affecting the performance or behaviour of the horse in a race, or of preventing it starting in a race.

If a person breaches subrule (1), a disqualification for a period of not less than 3 years must be imposed, unless there is a finding that a special circumstance exists, in which case that penalty may be reduced.

**Particulars of Charge**

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

1. You are, and were at all relevant times, the trainer of Cable Glow (the Horse).

1. On 11 June 2023, the Horse ran in Race 3, the Swan Hill Sire Drought Breaker Maiden, over 1600 metres (the Race) at the Swan Hill racecourse.

1. On or about 11 June 2023, you administered, or caused to be administered, to the Horse a prohibited substance, being alkalinising agents, for the purpose of affecting its performance or behaviour in the Race.

1. Alkalinising agents are a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Australian Rules of Racing, subject to the threshold in Item 1 of Division 3 of Part 2 of Schedule 1 of the Australian Rules of Racing.

**Charge Two: AR 245 (Alternative to Charge One)**

AR 245 reads as follows:

AR 245 Administration of prohibited substance in sample taken from horse before/after running in race

(1) A person must not:

1. administer; or
2. cause to be administered

a prohibited substance on Prohibited List A and/or Prohibited List B to a horse which is detected in a sample taken from the horse prior to or following the running of a race.

**Particulars of Charge**

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

1. You are, and were at all relevant times, the trainer of Cable Glow (the Horse).

1. On 11 June 2023, the Horse ran in Race 3, the Swan Hill Sire Drought Breaker Maiden, over 1600 metres (the Race) at the Swan Hill racecourse.

1. On or about 11 June 2023, you administered, or caused to be administered, to the Horse a prohibited substance, being alkalinising agents, before running in the Race.

1. Alkalinising agents are a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Australian Rules of Racing, subject to the threshold in Item 1 of Division 3 of Part 2 of Schedule 1 of the Australian Rules of Racing.

**Charge Three: AR 247 (Alternative to Charges One & Two)**

AR 247 reads as follows:

AR 247 Administration of Alkalinising Agents

(1) A person must not:

1. administer; or
2. cause to be administered,

(c) attempt to administer, or:

(d) be a party to the administration or attempted administration of, an alkalinising agent in any manner to a horse which is engaged to run in any race, official trial or jump-out:

1. at any time on the day of the scheduled race, official trial or jump-out and prior to the start of that event; and/or
2. at any time during the 1 clear day prior to 12.00am on the day of the scheduled race, official trial, or jump-out.

**Particulars of Charge**

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

* 1. You are, and were at all relevant times, the trainer of Cable Glow (the Horse).

* 1. On 11 June 2023, the Horse ran in Race 3, the Swan Hill Hire Drought Breaker Maiden Handicap, over 1600 metres (the Race) at the Swan Hill racecourse.

* 1. On or about 11 June 2023, you administered to the Horse an alkalinising agent, being bi-carbonate soda.

* 1. Alkalinising agents are prohibited from being administered to a horse at any time on the day of the race or at any time on the clear day prior to the race day.

**Charge Four: AR 240 (Alternative to Charges One, Two & Three)**

AR 240 (2) reads as follows:

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

(2) 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.

**Particulars of Charge**

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

1. You are, and were at all relevant times, the trainer of Cable Glow (the Horse).

1. On 11 June 2023, the Horse was brought to the Swan Hill racecourse and ran in Race 3, the Swan Hill Hire Drought Breaker Maiden, over 1600 metres (the Race).

1. On 11 June 2023, prior to the Race, a blood sample (V679391) was taken from the Horse (the Sample).

1. An analysis of the Sample detected the presence of an alkalinising agent.
2. Alkalinising agents are a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 of the Australian Rules of Racing, subject to the threshold in Item 1 of Division 3 of Part 2 of Schedule 1 of the Australian Rules of Racing.

**Pleas:** Guilty to both Charges.

**DECISION**

1. Mr Andrew Homann, you were at all times was a trainer licensed by Racing Victoria.
2. You have pleaded guilty to two charges.
3. Charge 1 is pursuant to Australian Rules of Racing (AR) 249(1), which could be described as an administration charge, namely, that you presented at Moe a horse trained by you and without the Stewards permission administered or caused to be administered a medication to a horse on race day prior to the commencement of the race in which the horse was engaged to run.
4. Charge 2 is pursuant to AR 247. A person must not administer or cause to administer an alkalising agent in any manner to a horse which is engaged to run in any race, official trial or jump out:
5. At any time on the day of the scheduled race, official trial or jump out prior to the start of the event and/or
6. At any time during one clear day prior to 12.00am on the day of the scheduled race, official trial or jump out.
7. Both offences constitute a serious offence as defined by the Rules of Racing, with the offence under AR 249 carrying with it a mandatory disqualification period of not less than 6 months unless there is a finding that special circumstances exist. In that case the penalty may be reduced.
8. You were at all relevant times the licensed trainer of Aberlady, a 10 year old mare, which on 27 August 2023 was entered to run in Race 5, the Ladbrokes Communities BM58 Handicap over 2088 metres at Moe.
9. Your training base was then situated at 39 Bluff Road, Bass, where at this time you were training 10-15 horses, including Aberlady, having taken over training of the mare in May 2021. The mare has since been retired as of 20 March 2024.
10. On Sunday, 27 August 2023, Aberlady was to be transported from your training stables by prearrangement with licensed stablehand, Mr Paul Eden, to Moe Racecourse.
11. You had another horse entered in a race at Moe earlier in the day which you had transported in your float. Aberlady was not to race until later in the day, namely, Race 5. The preceding day it was organised with Mr Eden a person you knew to convey Aberlady with another horse he was taking to the Moe Racecourse and you would collect her from his float upon arrival.
12. In your interviews with the Stewards later that day, 30 November 2023, and on 20 February 2024 you stated that all your horse’s were fed around 7.00am, including Aberlady, with their normal feed of grain, vitamins and bicarbonate soda, a prohibited alkalising agent under AR 247, a Rule of which you apparently were ignorant. Ignorance of rules is no defence and as a licensed trainer it is your responsibility to ensure that there is compliance with the Rules and keep updated on what substances or feeds can be given to a horse under your care. Hence the obligation to keep a treatment book to contain and record what treatments are given and when they are administered.
13. You further stated in those interviews that the water drains were emptied around then so that Aberlady had no further water from approximately 7.15am.
14. When you left to go to Moe Racecourse Aberlady had no residue around her mouth area and she had not been given any citric acid since her last gallop the preceding Tuesday.
15. Mr Paul Eden, in his interviews with the Stewards later that day and on 20 February 2024, stated that on Sunday, 27 August 2023, he arrived at your property in Bass around 12.45pm with his float containing one horse at that time. He collected Aberlady from the paddock and did not see any sign of residue around the horse’s mouth area.
16. Aberlady was placed on the float and conveyed to the Moe racecourse. Mr Homann was already in the car park awaiting Aberlady’s arrival.
17. Mr Eden stated that the float drop was operated by Mr Homann and he had nothing more to do with the horse as Mr Homann attended the horse and lead the horse away to be stalled prior to the race.
18. Mr Eden stated that he never saw any residue around the mouth of Aberlady either at Bass or on arrival at Moe racecourse. It only came to his attention when Stewards intervened.
19. Prior to Race 4 Stewards were informed that a white substance was found on the mouth of Aberlady.
20. Ms Vivien Tomrend, Racing Victoria’s Swabbing Agent and a qualified veterinary nurse of many years, saw the substance residue and described it as follows:

“Something that had been administered, like paste, that had dried”.

Her view was that it was definitely not saliva.

1. Photographs were taken and exhibited at this hearing. Mr Homann acknowledged the presence of the substance, but claimed to be at a loss to explain what it was.
2. A swab was taken from the horse and later analysed by RASL.
3. When speaking to the Stewards, Mr Homann told them about administering the alkalising agent, namely bicarbonate soda, and the horse was then scratched prior to the race.
4. When interviewed on the three occasions at the racecourse later that day after the visit to his stables on 30 November 2023 and 20 February 2024, Mr Homann maintained that he never administered or caused to be administered a prohibited substance under AR 249(1), namely, citric acid, and did not know how this positive reading occurred.
5. RASL analysed the swab taken from Aberlady and it was confirmed that the swab contained citric acid.
6. Mr Homann admits that he had citric acid on his property, but had not administered it since the horse’s last gallop on the preceding Tuesday and had no explanation as to how it was administered to the horse. When he gave the citric acid to the horse, it would be put in its feed.
7. He stated that Mr Eden would not have done it and denied the allegation that he had the opportunity to administer a paste or slurry when collecting the horse in the car park of Moe Racecourse.
8. In relation to the inspection of the stables on 30 November 2023, the Stewards described them as being dirty and untidy. They located citric acid amongst other sundry items in a bag on the floor of the stables.
9. The Stewards do not allege that the drug either enhances or detracts from the potential performance of the horse on race day.
10. That is a summary of the facts in this case. Both charges are strict liability offences and Charge 1 carries a mandatory 6 month disqualification period unless Mr Homann can demonstrate that there are special circumstances.
11. At the first directions hearing on 16 October 2024, Mr Homann sought and obtained an adjournment to get legal advice.
12. At the second directions hearing on 14 November 2024, he was legally represented and pleaded guilty to both charges.
13. He pleaded guilty today to the two charges and special circumstances was argued on his behalf in relation to Charge 1.
14. Under Local Rule (LR) 105(b) the Tribunal found that his plea of guilty was an early plea and accepted that there were special circumstances in relation to Charge 1.
15. In the plea made on behalf of Mr Homann, it was submitted that he administered the substance somehow but did not know how it was administered.
16. There is no direct evidence as to how, when and where this substance was administered and in what form. The Tribunal can only be satisfied that it was administered by Mr Homann, most likely on race day.
17. It is admitted by his legal representative that his antecedents do not assist Mr Homann and that the charges warrant a suspension, not a disqualification.
18. On behalf of the Stewards, it was submitted that in order to protect the integrity of racing and provide a level playing field, and bearing in mind the poor record of Mr Homann, the penalty for Charge 1 should be disqualification.
19. Mr Homann has a significant history of administration offences, including disqualification in 2008 and 2009 in Queensland. His last offence for administering a prohibited substance (Meloxicam) was heard on 9 June 2022. This incurred a fine of $5,500.
20. Mr Homann is aged 54 years and has been in the racing industry, mainly as a trainer, for over 30 years. For a range of offences, he has incurred multiple penalties, including severe reprimands, fines and disqualifications.
21. He has now moved his training base and leases training facilities. He has 12 horses currently in his care, 8 of which he owns himself.
22. Mr Homann could not be described as not an overly successful trainer and has little assets. He does not own any property. He could be described as a one man operation and has no employees. He does not make a significant living as a trainer.
23. The Tribunal is of the opinion that both general and specific deterrence are relevant and of major importance. In racing it is aware of the need to maintain a clean image of the sport by having a level playing field and a drug free industry.
24. Mr Homann admitted the offence set out in Charge 2. It is the responsibility of the trainers to be aware and have knowledge of what substances that can be administered to their horses and when.
25. This responsibility also applies to Charge 1, pursuant to which the trainer is obligated to ensure that the horse is drug free. This is the Tribunal’s finding this applies particularly to Mr Homann, he has a poor record of administering prohibited substances.
26. The penalties to be handed down by the Tribunal are unanimous.
27. On Charge 1, Mr Homann is suspended for 6 months from 12.01am on 9 February 2025.
28. On Charge 2, Mr Homann is fined the sum of $2,000.

Mark Howard

Registrar, Victorian Racing Tribunal