3 February 2025

**DECISION**

**RACING VICTORIA**

**and**

**LUKE OLIVER**

**Date of hearing:** 21 January 2025

**Date of decision:** 21 January 2025

**Panel:** Judge Marilyn Harbison (Deputy Chairperson) and Magistrate Peter Reardon.

**Appearances:** Mr Scott Hunter appeared on behalf of the Stewards.

Mr Luke Oliver represented himself.

**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. 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 *Just Do It* (the **Horse**)*.*
3. On 3 August 2024*,* the Horse was brought to the Flemington Racecourse to run in Race 3, the Donate to RDA Australia, over 1410 metres (the **Race**).
4. On 3 August 2024, a post-race urine sample (R007082) was taken from the Horse (the **Sample**).
5. An analysis of the Sample detected the presence of Methamphetamine.
6. Methamphetamine is a prohibited substance pursuant to Division 1 of Part 2 of Schedule 1 (Prohibited list B) of the Rules of Racing.

**Plea:** Guilty

**DECISION**

1. Mr Luke Oliver is a racehorse trainer. He is charged with one presentation offence. On 3 August 2024, “Just Do It”, trained by him, was tested after it had participated in and won race 3 at Flemington. It was found to have the substance methamphetamine in its system. He has pleaded guilty to this charge.
2. Mr Oliver has been a licenced trainer for approximately 20 years. He trains approximately 40 horses in his stables at Cranbourne, although this number has fallen away as a result of his being charged with this offence.
3. His stables are of significant size. He employs approximately 16 persons in this operation. His second in charge is Ms Belinda Carlile.
4. Inquiries were made by the Stewards of Ms Carlile and of other stable employees who had been present on the day of the race as to how the substance may have been ingested by the horse. None could identify any source of contamination, except that it transpired that one of those employees was a past user of drugs, although she denied having ever used methamphetamines.
5. Mr Oliver was interviewed by the Stewards on 5 September 2024 at his stables. On that occasion all his staff were directed to provide urine samples and did so, with the initial exception of the staff member who had previously used drugs, who left the stable knowing that the direction had been given but without giving the sample. This staff member later contacted the Stewards and agreed to provide a urine sample, saying that she had been too scared to give a sample when initially asked. However, she provided the sample in suspicious circumstances – that is, it appears likely that the urine sample which she gave at that time may have been a substitute sample and not a fresh sample.
6. We do not know the result of that sampling, but it is fair to say that a question mark still hangs over the prospect of involvement by this staff member in the contamination.
7. Mr Oliver was understandably somewhat distracted on the day of the race, as his wife was in hospital in labour. He did not attend the stables for that entire day and for some days before and after the race because of the birth of his child. He made appropriate arrangements for other members of staff to take his place.
8. When he was interviewed, Mr Oliver thought that the contamination may have come about as a result of putting a tongue tie on the horse. This is a band that ties the horse’s tongue to the bottom jaw, to prevent the horse from getting its tongue over the mouthpiece of the bit.
9. This device is made of lycra and is reused after washing in a bucket of water. Mr Oliver believed it was more likely to have occurred through the use of this device because the device requires the person attaching it to put their hands directly in the mouth of the horse.
10. It appears from other evidence in the case that the staff member who was a past drug user attached the tongue tie to the horse before the race. She also assisted in taking off the tongue tie after the race. However, other employees also handled the horse on that day, and that staff member has emphatically denied ever using or being in contact with methamphetamines. We were not provided with any scientific evidence to indicate whether or not a horse could be contaminated through the oral ingestion of methamphetamines in this way.
11. Given the circumstances outlined, this Tribunal has no sure way of ascertaining how the horse came to be contaminated and can reach no conclusion as to whether any particular staff member was implicated. We are satisfied that Mr Oliver was not involved and that he had no reason to suspect that one of his staff may have been a drug user.
12. Methamphetamine is a human recreational drug and it is also sometimes prescribed to treat ADHD. It is not a prescribed veterinary medicine for any purpose and its possession is illegal except when obtained on prescription.
13. It is classified as a prohibited substance under the Rules.
14. Mr Oliver was before this Tribunal on 10 October 2024 on two charges relating to the presence of dexamethasone detected in a horse trained by him on 12 April 2024, some four months before the offence for which we are to sentence him today. On that occasion he was fined $3,000, having regard to the facts that he had no relevant prior convictions and had a long history in the industry.
15. On that occasion it appears to have been accepted by the Stewards that he inadvertently mixed up two vials and gave the wrong injection to a horse shortly before the race, leading to the presence of the prohibited substance in that horse.
16. In sentencing for this offence, the most significant issue is that of general deterrence. It is important that this Tribunal demonstrates that the presence of drugs in racing is absolutely forbidden and not to be tolerated under any circumstances. The Stewards submitted that this matter required a significant fine to demonstrate both general and specific deterrence.
17. However, there are some significant mitigating factors in this case.
18. Firstly, we do not consider that specific deterrence is relevant. We accept that Mr Oliver's previous offence arose out of inadvertence, and not by design. He comes before us with an otherwise excellent reputation over a long period of involvement in racing.
19. Further, we find that he had no reason to suspect that any of his employees had been involved in drugs. There is no evidence of him having had any concerns of this nature brought to his attention in the past. It is clear, that the particular employee who we have described in these reasons for decision took suspicious steps when challenged. We are told that this issue is still under investigation by the Stewards.
20. Mr Oliver gave evidence that this investigation has profoundly affected him both personally and financially. We accept that it has resulted in his reputation within the industry being tarnished. He submitted that no penalty should be imposed.
21. In our view such an outcome should be reserved for a completely exceptional case. In Mr Oliver's case, he comes before us with one prior conviction and does not appear to have made any significant efforts to guard against drug contamination arising from his employees.
22. To reflect both the force of the Stewards’ submissions and the mitigatory factors outlined above, we have decided that the appropriate sentence should be at the lower range of sentences to which we were referred.
23. Taking all these matters into account, the sentence which we impose is a fine of $2,000.
24. “Just Do It” is disqualified from race 3 at Flemington on 3 August 2024 and the finishing order is amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal