

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

PAUL MEDHURST

Date of hearing:	15 th April 2024
Stewards Panel:	Mr N Finnigan (Chair), Mr B. Free and Mrs T Canham
Present:	Mr Paul Medhurst (Respondent)
Rule:	Australian Harness Racing (AHR) Rule 190(1) <i>(1) A horse shall be presented for a race free of prohibited substances.</i> <i>(2) If a horse is presented for a race otherwise than in accordance with sub-rule (1) the trainer of the horse is guilty of an offence.</i>
Charge:	Mr Paul Medhurst, the trainer of PETREA BROMAC NZ presented that horse to compete in Race 6 at the Tasmanian Trotting Club's meeting on the Friday 5 th April 2024, when a pre-race blood sample taken from the mare revealed a TC02 level above the permitted threshold.
Plea:	Admitted

1. Background

- (a) The respondent, Paul Medhurst, is an A Grade licensed trainer under the Australian Rules of Harness Racing.
- (b) Mr Medhurst is 69 years of age and has held a trainer's licence for a period of 52 years.
- (c) PETREA BROMAC NZ was correctly entered for and presented to race in Race 5 at the Tasmanian Trotting Club's meeting on the 5th April 2024.
- (d) PETREA BROMAC NZ placed 9th in the event and did not earn any stake money.
- (e) PETREA BROMAC NZ was not a favoured running in the betting market, closing with a price of \$15.
- (f) PETREA BROMAC NZ was selected for a pre-race blood test which was undertaken by Office of Racing Integrity Steward Mr R Simpson. Mr Medhurst presented the horse and witnessed the sampling process. The sampling process was not contested.
- (g) The collection of the sample was concluded at 7:37pm with the sample being allocated the unique number V693422.
- (h) On the 9th April 2024, Racing Analytical Services Limited (RASL) issued a Certificate of Analysis reporting that TCO₂ above the permitted threshold had been detected in sample V693422 taken from PETREA BROMAC NZ on the 5th April 2024. The level reported was 38.2 mmol/L.
- (i) RASL advised the reserve portion of the sample had been forwarded to Australian Racing Forensic Laboratory (ARFL) in NSW for referee analysis.
- (j) The outcome of the reserve sample was provided by ARFL on the 11th April 2022. ARFL reported a TCO₂ level of 37.8 mmol/L.
- (k) On the 11th April 2024, Office of Racing Integrity Stewards called on Mr Medhurst at his property in Colebrook to advise him of the irregularity.
- (l) The threshold for TCO₂ under the rules is 36.0 mmol/L.
- (m) Mr Medhurst has not previously breached the prohibited substance rules.

2. Submissions of the Respondent

- 2.1 When asked to explain the irregularity, Mr Medhurst submitted that he had been using Carbalene as an additive to assist with hydration.
- 2.2 Mr Medhurst submitted that he was advised to use the supplement of a morning rather than of an evening as he had previously done.
- 2.3 Mr Medhurst submitted it was bad management on his part that he had doubled up at times by adding Carbelene to both morning and evening feeds.
- 2.4 Mr Medhurst admitted to possessing equipment required for drenching, however the equipment is only used in cases of colic, and not to administer any supplements.

3. Penalty Approach

3.1 Sentencing Principles –

- 3.1.1 Penalties are designed to punish the offender for their wrongdoing. Penalties are not meant to be retributive in the sense that the punishment is disproportionate to the offence, but the offender must be met with a punishment.
- 3.1.2 In a racing context it is very important that a penalty has the effect of deterring others from committing similar offences through the consideration of both general and specific deterrence.
- 3.1.3 Penalties imposed upon those offending the prohibited substance rules should reflect the industry's disapproval of drugs being detected in horses.

3.2 Stewards Approach

- 3.2.1 The Stewards have resolved to approach the matter of penalty from the perspective of the desirability of consistency with previous penalties in dealing with similar offenders committing similar offences in similar circumstances.
- 3.2.2 We are guided in our approach to penalty by those imposed, not only in Tasmania, but also within other Australian jurisdictions.

3.2.3 With respect to this matter, Stewards have adopted a six-month disqualification as a starting point. This being consistent with penalties handed down for similar offences in Tasmania.

4 Respondents Penalty Submissions

- 4.1 Mr Medhurst submitted that his record be considered, having no prohibited substance violations recorded in his 52-year involvement in the Harness Racing Industry prior to the PETREA BROMAC NZ findings from the Tasmanian Trotting Club's meeting on the 5th April 2024.
- 4.2 Mr Medhurst further submitted that the increased TCO2 level was unintentional and due to mismanagement of supplements.
- 4.3 Mr Medhurst submitted his lifelong involvement in the Harness racing industry, his commitment to caring for his animals during times when he was suffering chronic illness himself, and his desire to continue his involvement in the Harness Racing Industry should be considered.

5 Penalty Discussion:

- 5.1 The Prohibited Substance Rules impose an absolute obligation on trainers to ensure that they presented their runners free of prohibited substances.
- 5.2 In consequence, trainers must take all reasonable steps, and must take proper care, always, to avoid presenting a horse which could give rise to an adverse test result.
- 5.3 Resultantly, where there is a breach of the drug rules, trainers must expect substantial penalties, because every time a racing animal is presented to race with a prohibitive substance in its metabolism, then the integrity of not only, as in this case, Harness Racing, but racing in general is compromised.
- 5.4 In this matter we approach the imposition of penalty on the basis that elevated TCO2 level was not intentional. However, as admitted by Mr Medhurst, the onus under AHR Rule 190(1) is on the trainer to present a horse free of any prohibited substance, the rule is absolute. Hence the respondents' admission of the breach.
- 5.5 In fixing penalty, we have regard to the need to uphold the integrity of racing, not only in Harness Racing, but in all codes of racing. Penalty precedents have long been at the forefront of disciplinary

decision-making, albeit with each case being decided on its own merits. It is wrong to suggest otherwise. Accordingly, the penalty that is imposed upon the respondent must be at a level that protects the public by encouraging the highest of standards of professional behaviour and that the respondent is dealt in a fair and just manner.

- 5.6 The substance detected in the sample taken from PERTREA BROMAC on the 5th April 2024 was TCO2 at a very high level. TCO2 being a substance with no legitimate use in Harness Racing.

6 Factors in consideration of penalty.

In determining the appropriate penalty, the Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions.

- 6.1 Mr Medhurst has admitted a charge of presenting PETREA BROMAC NZ to race with a TCO2 level above the permitted threshold.
- 6.2 Stewards believe it to be most probable that Mr Medhurst did not intentionally present PETREA BROMAC NZ to race with elevated TCO2 and thereby accept that the elevated level was most likely from mismanagement of the supplement Carbalene.
- 6.3 However, every time a horse is presented to race with a prohibitive substance in its metabolism then the integrity of not only Harness Racing but racing in general is compromised.
- 6.4 The Stewards have identified no aggravating factors which would necessitate an increase from the starting point.
- 6.5 Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions.
 - (a) Mr Medhurst's cooperation throughout the investigation.
 - (b) Mr Medhurst's guilty plea.
 - (c) Mr Medhurst's record since being licenced as a trainer. During this time, Mr Medhurst has not recorded any offences of presenting a horse to race while not free of prohibited substances.
 - (d) Stewards also considered Mr Medhursts personal circumstances and believe it to be most probable that the elevated TCO2 level was not intentional, as a result of the mismanagement of the supplement Carbalene.

Having considered all circumstances, Stewards assess that a discount be applied to the starting penalty of a six-month disqualification.

7 Outcome

Mr Medhurst is suspended for a period of six months pursuant to the Australian Rules of Harness Racing. The period of suspension will commence from Monday 15th April 2024.

8 Disqualification Of Horse

It is mandatory that if a horse competes in a race and is found to have competed with a prohibited substance in its system that it must be disqualified from that race.

AHR Rule195 reads

A horse which has been presented for a race shall be disqualified from it if blood, urine, saliva, or other matter or sample or specimen taken from the horse is found to contain a prohibited substance.

As a consequence, the placings for Race 6 at the Tasmanian Trotting Club's meeting on the 5th April 2024 are to be adjusted to reflect the disqualification of PETREA BROMAC NZ.

Decision Date: 15th April 2024