

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

And

CRAIG HAYES

Decision Date: 26th June 2024

Stewards Panel: Mr N Finnigan (Chair), Mr R Brown, Mr M Castillo

Respondent: Mr Craig HAYES

Rule: Australian Harness Racing Rules
AHR Rule190(1) reads: -
A horse shall be presented for a race free of prohibited substances.

Charge: Craig Hayes, as the trainer of NURSE ANNA you failed to present NURSE ANNA to race (trial) not free of prohibited substances namely *PHENYLBUTAZONE, OXYPHENBUTAZONE and GAMMA-HYDROXYPHENYLBUTAZONE*

Plea: Guilty

Decision: \$3000 fine with \$500 suspended for a period of 24 months pending any breach within Part 12 of the Australian Harness Racing Rules

1. Background

- (a) The respondent, Craig Hayes, is an A Grade licensed trainer under the Australian Rules of Harness Racing.
- (b) Mr Hayes has held a trainer's licence since October 2005.
- (c) NURSE ANNA was correctly entered for and presented to race in Trial 2 at the Burnie Pacing Club's trial meeting on Sunday 29th January 2024.
- (d) NURSE ANNA placed 2nd in the event.
- (e) NURSE ANNA was swabbed Pre-Trial which was undertaken by Office of Racing Integrity Steward Mr Michael Castillo. Mr Hayes presented the horse and witnessed the sampling process. The sampling process was not contested.
- (f) The collection of the sample was concluded at 5:30pm with the sample being allocated the unique number V820382.
- (g) On the 29th February 2024, Racing Analytical Services Limited (RASL) issued a Certificate of Analysis reporting that *PHENYL BUTAZONE*, *OXYPHEN BUTAZONE* and *GAMMA-HYDROXYPHENYL BUTAZONE* had been detected in sample V820382 taken from NURSE ANNA on the 29th January 2024.
- (h) RASL advised the reserve portion of the sample had been forwarded to Australian Racing Forensic Laboratory (ARFL) in NSW for referee analysis.
- (i) The outcome of the reserve sample was provided by ARFL on the 19th April 2024. ARFL confirmed the presence of *PHENYL BUTAZONE*, *OXYPHEN BUTAZONE* and *GAMMA-HYDROXYPHENYL BUTAZONE*.
- (j) On the 13th June 2024, Office of Racing Integrity Chief Harness Steward issued a charge under the provisions of AHR Rule 190(1) which states:

“A horse shall be presented for a race free of prohibited substances”
- (k) Mr Hayes has not previously breached the prohibited substance rules.

2. Submissions of the Respondent

- 2.1 When asked to explain the irregularity, Mr Hayes submitted that he was careless, stating the findings were not designed to deceive the industry or the 'punting public'.

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 \$3000 fine as a starting point. This being consistent with penalties handed down for similar offences in Tasmania.

4 Respondents Penalty Submissions

- 4.1 Mr Hayes submitted that his record be considered, having no prohibited substance violations recorded in his involvement in the Harness Racing Industry.
- 4.2 Mr Hayes submitted that the findings were as a result of his carelessness.
- 4.3 Mr Hayes submitted that as the findings were unintentional he felt a fine would be the appropriate penalty.

5 Penalty Discussion:

- 5.1 The Prohibited Substance Rules impose an absolute obligation on trainers to ensure that they present 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 the *PHENYLBUTAZONE, OXYPHENBUTAZONE and GAMMA-HYDROXYPHENYLBUTAZONE* finding was not intended to deceive, rather it was through the carelessness of trainer Hayes. However, 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.

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 Hayes has admitted a charge of presenting NURSE ANNA to race with *PHENYLBUTAZONE, OXYPHENBUTAZONE and GAMMA-HYDROXYPHENYLBUTAZONE* in the horse's system.
- 6.2 Stewards accept trainer Hayes' evidence provided by trainer Hayes was that he did not set out to deceive the industry that the findings have been bought about through his carelessness. Stewards have no reason to believe that this is not the case, taking into account both Mr Hayes time and participation in the industry.
- 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 Hayes' cooperation throughout the investigation.
 - (b) Mr Hayes' guilty plea.
 - (c) Mr Hayes' record since being licenced as a trainer. During this time, Mr Hayes has not recorded any offences of presenting a horse to race while not free of prohibited substances.
 - (d) Mr Hayes' involvement within the industry at a Club level .
 - (e) The findings were at a trial meeting.

Having considered all circumstances, Stewards assess that some relief be applied to the starting penalty of a \$3000 fine.

7 Outcome

Mr Hayes is to be fined \$3000 with \$500 to be suspended for a period of 2 years pending a breach of section 12 of the AHR Rules.

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 Trial 2 at the Burnie Pacing Club’s trial meeting on the 7th January 2024 are to be adjusted to reflect the disqualification of NURSE ANNA.

9. Appeal

Mr Hayes was advised of his right of appeal.

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