

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

CONOR THOMAS CROOK

Date of hearing:	16 th February 2022
Stewards Panel:	Ross Neal (Chair); Steven Shinn and Roger Brown
Present:	Mr Conor Crook (Respondent)
Rule:	Australian Rules of Harness Racing (AHRR) 190 (1) <i>'A horse shall be presented for a race free of a prohibited substance'.</i>
Charge:	That you; Conor Crook, as the trainer of FULL SPEED AHEAD presented that runner for the purposes of participating in Race 5 at the Launceston Pacing Club meeting on Sunday 15 th August 2021 when a blood sample taken from the gelding following it winning Race 5 upon analysis was found to contain phenylbutazone and its metabolite, oxyphenbutazone.
Plea:	Admitted

1. Background

- (a) The Respondent, Conor Crook, is a licensed A Grade Trainer under the Australian Rules of Harness Racing.

- (b) He is 26 years old and has held a trainer's licence since November 2018.
- (c) FULL SPEED AHEAD is a 10YO gelding (Art Major USA –Maheer Princess) trained by Mr Crook and owned by Mr B J Elder.
- (d) FULL SPEED AHEAD was correctly entered for and presented to race in Race 5 (Tasmanian Horse Transport Pace) at the Launceston Pacing Club race meeting at Mowbray Racecourse on Sunday 15th August 2021.
- (e) FULL SPEED AHEAD was driven by Miss Tiarna Ford and won Race 5, earning a stake of \$5,863.00.
- (f) FULL SPEED AHEAD was not a favoured runner in the betting market, paying \$26.00 for the win.
- (g) FULL SPEED AHEAD was selected for a post-race swab which was undertaken by Office of Racing Integrity Steward Mr David Luttrell. Mr Luke Hooper represented Mr Crook throughout the swabbing process. The swabbing process was not contested.
- (h) The collection of the sample was concluded at 10:00pm with the sample being allocated the unique number V574599.
- (i) On 27th September 2021 Racing Analytical Services Limited issued a Certificate of Analysis reporting that Phenylbutazone and Oxyphenbutazone were detected in the sample. The control sample was clear.
- (j) Phenylbutazone, commonly known as "Bute", is a non-steroidal, anti-inflammatory drug commonly used to treat short term pain and fever in horses. Oxyphenbutazone is a metabolite of Phenylbutazone. "Bute" can be prescribed in powder form, as a paste and as an injectable.
- (k) Mr Crook was interviewed by Office of Racing Integrity officials at his training property on Tuesday 28th September 2021. During the interview Mr Crook acknowledged that he treated his horses (including FULL SPEED AHEAD) with `bute' however was at a loss to explain how the adverse result had come about.
- (l) A container labelled `Bute Paste' was in Mr Crook's medical cabinet.
- (m) Mr Crook has not previously breached the prohibited substance rules.

Mr Crook admitted the breach.

2. Submissions of the Respondent

2.1 Mr Crook stated that after racing at the Hobart meeting on Friday 6th August 2021 FULL SPEED AHEAD had, the following morning (7th Aug), been showing the effects of excursions and in consequence he had treated him with 20mg of `bute'. Mr Crook then stated that he had treated FULL SPEED AHEAD with a further 20mg of `bute' on Sunday evening. Mr Crook advised that no further treatments of bute occurred through until him racing on the 15th August- the subject race.

2.2 Mr Crook submitted that he saw the Sunday treatments as the only possible reason for the adverse test result.

3. Penalty Approach

3.1 Sentencing Principles -

- (i) Penalties are designed to punish the offender for his/her wrongdoing. They 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.
- (ii) 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.
- (iii) Penalties imposed upon those offending the prohibited substance rules should reflect the industry's disapproval of drugs being detected in racehorses.

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 However, because of the paucity of offending relating to phenylbutazone in Tasmania, guidance has been sought from historical interstate determinations.
- 3.2.3 The most helpful precedents to which the Stewards can refer are the *Alford* harness racing case of July 2015 and the *O'Brien* thoroughbred case (Victoria) of November 2021.
- 3.2.4 Both these cases involved the same two prohibited substances (Phenylbutazone and Oxyphenbutazone) as the present case.
- 3.2.5 With respect to Alford the HRV RAD Board stated in their determination "*...Mr Alford's excellent record throughout his lifetime involvement in the industry...and going on to say...in considering all of these matters the HRV RAD Board a fine of \$3,000*
It being clear from the decision that Mr Alford was afforded a significant discount for his record.
- 3.2.6 In the matter of O'Brien, the RVL RAD Board accepted that the adverse result most likely emanated from an error made in the general husbandry of horses trained at the respondent's stables. In this case Mr O'Brien was fined the sum of \$5,000. This penalty recognising Mr O'Brien's good record with respect to prohibited substances.
- 3.2.7 Having regard to both the Alford and O'Brien matters the Stewards have adopted a starting point for this matter of a \$5,000 fine. This reflecting both these decisions. Additionally, using a modest fine as a starting point also recognises the uniqueness and particular circumstances of the Tasmanian harness racing demographic.

4. Respondents Penalty Submissions

- 4.1 Mr Crook highlighted the `Alford' decision referred to above and that of Martin (Feb-21 in Victoria) where Mr Martin was fined \$4,000 (\$3,000 suspended for 12 months) for presenting a horse at the trials with phenylbutazone in its metabolism.

4.2 Mr Crook further submitted that the Stewards should recognise his early admission and his co-operation throughout the currency of the investigation.

5. Penalty Discussion:

5.1 Mr Crook has admitted a charge of presenting FULL SPEED AHEAD, to race when not free of prohibited substances- namely Phenylbutazone and its metabolite, Oxyphenbutazone.

5.2 He has demonstrated genuine remorse with respect to the matter, and we are sure he will take learnings from this episode and move forward positives and continue to be a valued contributor to harness racing in the state.

5.3 However, every time a harness racing 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.

5.4 Rigorous attention to detail is required in the management, treatment, and care of horses when they are being presented to race to ensure that the fundamental expectation of horses competing on a level playing field is maintained.

6. Factors in consideration of penalty.

6.1 The Stewards, notwithstanding Mr Crook's explanation that he treated FULL SPEED AHEAD with 40mg treatment of phenylbutazone on the 7th August 2021, have identified no aggravating factors which would necessitate an uplift from the starting point.

6.2 However, we do recognise the following factors in mitigation, and which are relevant to penalty discussions. These being -

(a) Mr Crook has been fully cooperative throughout the ORI investigation.

(b) Mr Crook's admission of the breach.

(c) Mr Crook's record – albeit that because of his limited duration as a trainer his record (to date) is not regarded as a factor which could afford him any significant discount- such has been applied in those

cases where the offender has had a long and relatively unblemished record with respect to drug and related matters.

6.3 Nonetheless we believe Mr Crook is entitled to a discount for his co-operation, his admission of the breach, and his clear record in the short period he has been licensed as a trainer prior to this offence occurring. We set this discount at 20%.

7. Outcome

7.1 Having regards to all circumstances the Stewards believe that a fine of \$4,000 will satisfy the accepted principles of sentencing. This being to hold Mr Crook accountable, to encourage in him a sense of responsibility for his actions, and to deter him and others from committing the same or similar offences.

Mr Crook is fined the sum of \$4,000.

8. Disqualification Of Horse

8.1 It is mandatory that if a horse competes in a race and is found to have competed with a Prohibited Substance in its system it must be disqualified from that race (AHHR 195). Accordingly, "FULL SPEED AHEAD" is disqualified from first place in the "Tasmanian Horse Transport Pace at the Launceston Pacing Club meeting at Mowbray Racecourse run on Sunday 15th August 2021. The placings are to be adjusted, and prize money redistributed, to reflect the disqualification of FULL SPEED AHEAD.

Decision Date: 16th February 2022