

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

Mr TODD RATTRAY

Date of hearing:	14 th September 2022
Stewards Panel:	Ross Neal (Chair); Roger Brown and Gavin Griffin
Present:	Mr Todd Rattray (Respondent)
Rule:	Australian Rules of Harness Racing AHRR190(1) <i>'A horse shall be presented for a race free of a prohibited substance'</i> .
Charge:	That Mr Rattray as the trainer of SZABOLSKI LEIS presented that runner for the purposes of participating in Race 3 at the Tasmanian Trotting Club meeting on Sunday 3 rd July 2022 when a pre-race urine sample taken from the mare revealed the presence of the prohibited substance HYDROCHLOROTHIAZIDE
Plea:	Admitted

1. Background

- (a) The Respondent, Mr Rattray is a licensed Grade A trainer pursuant to the Australian Harness Racing Rules.
- (b) Mr Rattray is 32 years of age and has held a trainer's licence continually since January 2015.
- (c) Mr Rattray has had more than 2,100 starters in races and has trained 352 winners.
- (d) Mr Rattray is the registered trainer of SZABOLSKI LEIS.

- (e) SZABOLSKI LEIS is a 4YO mare (Betterthancheddar- Azarenka Leis) and owned by TJ and MJ Leis.
- (f) SZABOLSKI LEIS was correctly entered for, and presented for Race 3, the Meeker Fillies and Mares Series at the Tasmanian Trotting Club at Elwick Racecourse on Sunday 3rd July 2022.
- (g) SZABOLSKI LEIS was selected for a pre-race urine test which was undertaken by Office of Racing Integrity Steward Ms M Robinson. Mr Liam Older represented Mr Rattray throughout the sampling process. The sampling process was not contested.
- (h) The collection of the pre-race urine sample was concluded at 5:25pm with the sample being allocated the unique number V765042.
- (i) SZABOLSKI LEIS was driven in the race by Mr Rattray and was unplaced.
- (j) On 29th July 2022 Racing Analytical Services Limited (RASL) issued a Certificate of Analysis reporting that HYDROCHLOROTHIAZIDE had been detected in sample V765042.
- (k) RASL also advised that the reserve portion of the sample had been forwarded to the Australian Racing Forensic Laboratory (ARFL) in NSW for referee analysis.
- (l) On 2nd August 2022, the Stewards attended Mr Rattray's training property at Pateena Road, Longford, where Mr Rattray was advised of the irregularity, and an inspection of his training operation was undertaken. During the currency of the inspection of Mr Rattray's employees were questioned in relation to whether they were taking personal medications which could have contributed to the adverse sample result detected. One of Mr Rattray's employees stated that he was taking numerous medications, with him undertaking to forward to ORI, a complete list of his prescribed medications.
- (m) On 15th August 2022 the said employee delivered to the Stewards a list of his medications. This list being provided by his doctor. One of the medications listed was Hydrochlorothiazide.
- (n) On the 22nd of August 2022 the ARFL reported that presence of HYDROCHLOROTHIAZIDE in the reserve portion of sample V765042 The control sample was clear, with Mr Rattray being advised of this outcome.

2. Submissions of the Respondent

- 2.1 When initially interviewed about the irregularity on the day of him being advised, Mr Rattray was unable to explain the reasons as to why SZABOLSKI LEIS returned an adverse result.
- 2.2 However, Mr Rattray has subsequently alerted the Stewards to the possibility that one of his employees was taking HYDROCHLOROTHIAZIDE

medication. With this employee admitting that he had on occasions, firstly not washed his hands after taking his medications, and secondly had urinated in the stall occupied by SZABOLSKI LEIS.

- 2.3 Mr Rattray demonstrated that he has taken affirmative measures with respect to educating his staff as to the importance of ensuring they follow proper hygiene protocols to avoid the possibility of medication transference.
- 2.4 Mr Rattray has also erected signage at his property alerting staff and visitors alike to follow strict hygiene protocols when at his stables.

3. Penalty Approach

3.1 Turning to the matter of penalty the Stewards are cognisant of the following Sentencing Principles –

- (i) That 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 harness 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 prohibited substances being detected in those performing duties which put at risk, both the health and wellbeing of other licence holders and racehorses.
- (iv) In determining what, if any penalty, that is to be imposed, the Stewards endeavour to reach a proportionate balance between: the public interest; the interests of the offender; the interests of the industry as a whole; the seriousness of the offending; and any aggravating/mitigating factors.

4. Respondents Penalty Submissions

4.1 When addressing the Panel on penalty Mr Rattray asked the Panel to consider his good record, his co-operation, that racing provided his sole source of income, and that this irregularity had caused him, and his family embarrassment and distress.

5. Penalty Considerations:

5.1 In approaching the matter of penalty, if any, to be imposed, the Panel are mindful of the recent decision of *ORI vs. Belbin* where a fine of \$4,000 was imposed with 50% suspended for 2 years pending no further breaches of the prohibited substance rules.

5.2 The Panel is also aware of penalties imposed in other jurisdictions; however, these are wide ranging, and provide no clear or definitive guidance with respect to accepted penalties involving cases with circumstances such as this.

6. Discussion

6.1 The Prohibited Substance Rules impose an absolute obligation on trainers to ensure that they presented their runners free of prohibited substances.

6.2 In consequence, trainers must take all reasonable steps, must be vigilant, and must take proper care, always, to avoid presenting a horse which could give rise to an adverse test result.

6.3 Resultantly, where there is a breach of the drug negligence rules trainers must expect to be levied with penalties commensurate to the offending.

6.4 While the exact cause of the irregularity has not been established, it is believed that the probable cause was contamination resulting from Mr Rattray's employee either not washing his hands after taking his medications, or him urinating in SZABOLSKI LEIS stall. This explanation is rational, and for want of any other plausible reasons being established, the most likely cause of the irregularity.

6.5 In fixing penalty, we have regard to the need to uphold the integrity of racing, not only in harness racing, but in all racing, codes have long been at the forefront of disciplinary decision-making. 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 ensuring appropriate standards of professional behaviour.

6.6 After considering all relevant factors the Panel has determined that a starting point of a \$4,000.00 fine is appropriate in this matter. In assessing this starting point we have recognised the following factors:

- i. Penalties imposed in Tasmania and other Australian jurisdictions.
- ii. The need for penalties to be meaningful and to have a strong deterrent component.
- iii. The negative impact every drug positive has on the industry and its reputation.

7. Factors in Mitigation

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

- (a) Mr Rattray has been fully cooperative throughout the ORI investigation.
- (b) Mr Rattray's admission of the breach.
- (c) Mr Rattray's previous clean record.
- (d) Mr Rattray's personal circumstances and the submissions made by him with respect to the measures adopted to reduce the risk of possible medication transference.
- (e) That, given the acceptance that this irregularity, more likely than not resulted from contamination, it was not Mr Rattray himself who erred in his hygiene processes, but rather it was his employee. This factor differentiating him from the *Belbin* matter where Mr *Belbin* himself was taking the prescribed medications.

7.2 Given all factors the Stewards assess that a discount of 25% from the starting point should be applied.

8. Outcome

8.1 Having regards to all circumstances the Stewards make the following orders.

- (a) Mr Rattray is fined \$3,000.00 with 50% (\$1,500.00) to be fully suspended for 24 months, pending no further breaches of the prohibited substance provisions of the Australian Harness Racing Rules. This being to hold Mr Rattray accountable, and to deter others from committing the same or similar offences.

9. Disqualification Of Horse

9.1 Pursuant to AHRR 195 SZABOLSKI LEIS is disqualified from Race 3, the Meeker Fillies & Mares Pace, at the Tasmanian Trotting Club meeting on Sunday 3rd July 2022, with the placing to be adjusted accordingly and to reflect the disqualification of SZABOLSKI LEIS.

Decision Date: 14th day of September 2022