

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

MR PETER DORNAUF

Date of hearing:	Wednesday 12 th June 2023
Stewards Panel:	Neil Finnigan (Chair); Roger Brown
Present:	Mr Peter Dornauf
Rule:	Australian Harness Racing Rules
Charge:	That Mr Peter Dornauf as the trainer of PACIFIC ROCK presented that gelding for the purposes of participating in Race 3 at the Launceston Pacing Club meeting on Sunday 26 th March 2023 when a post-race urine sample taken from the gelding revealed the presence of the prohibited substance DIBUCAINE.
Plea:	Guilty
Penalty:	\$4,000 fine with \$2,000 fully suspended for a period of 24 months pending another breach under Part 12 of the Australian Harness Racing Rules.

1. Background

- (a) The Respondent, Mr Dornauf is a licensed harness trainer based at Perth, Tasmania.
- (b) Mr Dornauf is the trainer of the registered gelding PACIFIC ROCK.
- (c) PACIFIC ROCK is a 6YO gelding owned by Mrs KJ Dornauf.
- (d) PACIFIC ROCK was stabled on the Carrick Paceway Complex, Carrick.

- (e) PACIFIC ROCK was correctly entered, and presented, for Race 3, the Find Us On Facebook Pace at the Launceston Pacing Club meeting on Sunday 26th March 2023.
- (f) A routine post-race urine sample was taken from PACIFIC ROCK. Mr Peter Dornauf signed as the witness of the swabbing procedure, confirming his presence throughout the procedure. The sampling process was not contested.
- (g) The sample collected from PACIFIC ROCK was allocated the unique number V796860.
- (h) PACIFIC ROCK was placed first in the event.
- (i) On Wednesday 26th April 2023 Racing Analytical Services Limited (RASL) issued a Certificate of Analysis reporting that DIBUCAINE had been detected in sample V796860. The control sample was clear.
- (j) RASL also advised that the reserve portion of the sample had been forwarded to Racing Analytical Services Limited (RASL) in New South Wales for referee analysis.
- (k) Mr Dornauf was notified in person of the discrepancy by Office of Racing Integrity Stewards Mr Neil Finnigan and Mr Gavin Griffin at his stables, where he was supplied with copies of the relevant correspondence, which included a list of products containing DIBUCAINE. A stable inspection was carried out at the time, where haemorrhoid cream was found. On questioning, Mr Dornauf acknowledged use of the haemorrhoid cream on PACIFIC ROCK for a greasy heel complaint.
- (l) On 30th May 2023 RASL advised that RASL had confirmed the presence of DIBUCAINE in the reserve portion of sample V796860.
- (m) On 12th July 2023 Mr Peter Dornauf was formally charged with a breach of Australian Harness Racing Rule 190(1), with the particulars being that he presented PACIFIC ROCK to race on Sunday 26th March 2023 at a meeting conducted by the Launceston Pacing Club when not free of a prohibited substance, namely DIBUCAINE.
- (n) Mr Dornauf pleaded guilty to the charge.

2. Penalty Approach

2.1 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 standardbreds.
- (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.

3. Respondents Penalty Submissions

- 3.1 Mr Dornauf submitted that he had treated PACIFIC ROCK for a "greasy heel" complaint.
- 3.2 Mr Dornauf submitted that he had treated the complaint with haemorrhoid cream, which had produced a good result.
- 3.3 Mr Dornauf submitted he was advised by an unnamed person to use the cream.
- 3.4 Mr Dornauf acknowledged he had not researched the haemorrhoid cream for contents/substance make-up of such cream.

4. Penalty Discussion:

- 4.1 In approaching the matter of penalty, if any, to be imposed, the Panel have reflected on previous penalties imposed for breaches of the prohibited substance rules. These being both Tasmanian and Interstate decisions.
- 4.2 We are guided by previous swab discrepancies, of particular note being that of Harness Racing trainer Ivan Belbin who was penalised \$4000 with \$2000 wholly suspended for 2 years pending no further breaches of Part 12 of the Australian Harness Racing Rules for presenting his horse not free of a prohibited substance, that being an analgesic.
- 4.3 Having regard to all circumstances, we believe there is no reason to depart from the aforementioned determination in this matter. This being a fine of \$4000 with \$2000 wholly suspended for 2 years pending no further breaches of Part 12 of the Australian Harness Racing Rules, which deals with prohibited substances.

- 4.4 In this case there is a reasonable degree of probability that the adverse result came about because of the application of the haemorrhoid cream to the heels of PACIFIC ROCK.
- 4.5 Through his own indication Mr Dornauf has failed to ascertain whether the haemorrhoid cream presented a risk that could give rise to an adverse sample result, and to this end we find Mr Dornauf negligent, in failing to assess the risk with the use of the haemorrhoid cream and therefore the risk of potential breach of the presentation rule in harness racing.

5. Factors in Mitigation

- 5.1 In determining the appropriate penalty, the Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions. These being -
- (a) Mr Dornauf has been fully cooperative throughout the ORI investigation.
 - (b) Mr Dornauf's admission of the breach.
 - (c) Mr Dornauf's previously clear record over a substantial period.
 - (d) Mr Dornauf's personal circumstances.

6. Outcome

- 6.1 Having regards to all circumstances the Stewards make the following orders.
- (i) Mr Dornauf be fine the sum of \$4,000 with \$2,000 wholly suspended for a period of 2 years, pending another breach under Part 12 of the Australian Harness Racing Rules.

7. Disqualification Of PACIFIC ROCK

- 7.1 Pursuant to AHR Rule 195, PACIFIC ROCK is disqualified from Race 3 at the Launceston Pacing Club meeting on Sunday 26th March 2023 with the placing to be adjusted accordingly and to reflect the disqualification of PACIFIC ROCK.

Decision Date: 26th July 2023