



**Racing
Victoria**

**RACING APPEALS
AND
DISCIPLINARY BOARD**

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DECISION
RACING VICTORIA STEWARDS
and
MICHAEL MORONEY

Date of Hearing 9 August 2018

Panel Judge John Bowman (Chair)

Appearances Daniel Bolkunowicz appeared on behalf of the Stewards.
Andrew Nicholl appeared on behalf of Michael Moroney.

Charge 1 AR 178

Subject to AR 178G, when any horse that has been brought to a racecourse for the purpose of engaging in a race and a prohibited substance is detected in any sample taken from it prior to or following its running in any race, the trainer and any other person who was in charge of such horse at any relevant time may be penalised.

Summary The Stewards allege that on 6 March 2018, *Equestria* was brought to the Bendigo racecourse where it won the National Hotel BM64 Handicap over 1100 metres. A prohibited substance, being Dexamethasone (a short acting corticosteroid), was detected in a post-race urine sample taken from *Equestria* on 6 March 2018.

Plea Guilty

Penalty Charge 1 – Mr Moroney is convicted and fined \$1,000

Payment terms 30 days.

Pursuant to AR 177, *Equestria* is disqualified from Race 5 at Bendigo on 6 March 2018 and the places amended accordingly.

Grace Gugliandolo
Registrar
Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

RACING VICTORIA STEWARDS

and

MICHAEL MORONEY

RACING VICTORIA CENTRE, FLEMINGTON

THURSDAY, 9 AUGUST 2018

MR D. BOLKUNOWICZ appeared on behalf of the RVL Stewards

MR A. NICHOLL appeared on behalf of Mr M. Moroney

CHAIRMAN: Mr Michael Moroney, you have been charged with a breach of AR 178, in that on 6 March 2018, you brought the horse Equestria to Bendigo racecourse for the purpose of engaging in a race, namely the National Hotel Benchmark 64 Handicap over 1100 metres, and a prohibited substance, namely dexamethasone or "dex" was detected in the post-race urine sample taken from the horse. You have pleaded guilty to the charge.

This is a serious offence pursuant to the Rules of Racing. General deterrence and the potential of damage to the image of racing need to be borne in mind. The industry has recently undergone a period of adverse publicity in relation to the use of substances and that period of adverse publicity was already under way when this offence occurred.

Dex is a substance concerning the use of which trainers have been warned. The industry generally should be aware of this. A considerable amount of publicity surrounded the Amralah case and its withdrawal as favourite from the 2015 Melbourne Cup. Further, in May 2015, this Australian Racing Board had circulated to the industry a notice concerning dex. This notice suggested that its use in racehorses should be avoided, highlighting its possible long and unpredictable excretion period.

Turning to the present case, firstly, Equestria is disqualified as the winner of the race in question and the finishing order is to be amended accordingly. This is something of a penalty in itself. There is the loss of prizemoney to the owners, the loss of the thrill of winning the race and potentially loss of the

trainer's winning percentage. Even though Equestria is now sadly deceased, doubtless all of this to do with the disqualification represents a considerable disappointment.

There are other mitigating factors. There is your early plea of guilty and your full cooperation with the Stewards at all times. Further, I accept what Mr Nicholl said on your behalf in relation to your standing in the industry, the success and reputation the stable has enjoyed and the awards that you have received. There is also the question of your record. We have to go back to 2005 to find anything at all similar, and offences that you have subsequently committed are comparatively minor, the use of club colours, absence of a tongue tie or other items of gear, late into the mounting yard and the like.

I also take into account the argument advanced by Mr Nicholl in relation to your use at all times of a well-known and respected veterinary practice, Advantage Equine Veterinary Practice, and in particular Dr Emma Wood, who administered all injections. There is the further argument that the reading obtained on 6 March 2018 was approximately 28 days after Dr Wood's injection and should have represented a safe withholding period. The horse subsequently was diagnosed, in essence, as suffering from cancer and had to be put down. It is submitted, although disputed, that this could well have affected the rate of drug metabolism.

In short, I accept that there are many factors operating in your favour.

Mr Nicholl submitted that in all the circumstances, I should find the charge proven but impose no penalty. He referred to some previous decisions, including those in the last few years of Matthew Laurie and Darryl Blackshaw. I presided at each of those hearings and in each, no penalty was imposed. Mr Bolkunowicz, on behalf of the Stewards, has argued that a penalty should be imposed and suggested a minimum fine of \$2000 and pressed for perhaps something higher.

There seems to me to be an important difference between the factual situation in this case and that in Laurie and Blackshaw. In Matthew Laurie's case, it seemed possible that the prohibited substance had been passed on by a stablehand, later sacked, who may have had a drug problem, or from some other unidentified source. There was no suggestion that Mr Laurie had any knowledge of any administration. The amount of substance involved was minuscule and would have had no impact on the horse's performance. In the case of Darryl Blackshaw, the most likely cause of the positive sample was that Mr Blackshaw's son, having applied some gel to his wife's neck, failed to wash his hands before handling the horse's feed. The Board described it as "a most unusual and unlucky event". There was no suggestion that Mr Blackshaw could possibly have known or could have prevented the accidental administration.

In the present case, the administration was known to you and effectively authorised by you. You should have been aware of the warning circulated to

the industry and the advice of the risks associated with the use of dex. Whether or not its use should be banned completely is not to the point. What occurred may have been unlucky but it was not an accidental administration or one involving a positive reading of unknown cause.

In short, I am of the view that a penalty should be imposed. A message must be sent. Trainers have been warned about the risks associated with the use of dex. If they run that risk and a positive reading results, a penalty should be imposed. However, as stated, there are a very large number of mitigating factors in your favour. After some consideration, I have formed the view that a penalty of \$1000 is appropriate and, as stated, Equestria is disqualified as the winner of the race in question and the finishing order amended accordingly. There will be 30 days in relation to the payment of the penalty.
