

RACING APPEALS AND DISCIPLINARY BOARD

DECISION RACING VICTORIA STEWARDS and AUSTY COFFEY

Date of Hearing 1 February 2019

acino

Panel Judge John Bowman (Chair)

<u>Appearances</u> Simonette Foletti (RVL Legal Counsel) appeared on behalf of the Stewards.

Andrew Nicholl (ATA) appeared on behalf of Austy Coffey.

Charge 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.

<u>Summary</u> On 31 October 2018, *Our Mallee Hoff* was brought to the Bendigo racecourse and raced in the Bet365 0-78 Handicap over 1100 metres. A prohibited substance, being Triamcinolone Acetonide, (a corticosteroid), was detected in a pre-race blood sample taken from *Our Mallee Hoff* on 31 October 2018.

Plea Guilty.

<u>Penalty</u> Mr Coffey is convicted and fined \$3,000. Payment terms 90 days.

Pursuant to AR 177, *Our Mallee Hoff* is disqualified from Race 6 at Bendigo on 31 October 2018.

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 -

AUSTY COFFEY

RACING VICTORIA CENTRE, FLEMINGTON

FRIDAY, 1 FEBRUARY 2019

MS S. FOLETTI appeared on behalf of the RVL Stewards

MR A. NICHOLL appeared on behalf of Mr A. Coffey

CHAIRMAN: Mr Austy Coffey, you have pleaded guilty to a breach of AR 178. In summary, the charge is that a post-race blood sample was taken from Our Mallee Hoff, trained by you, at Bendigo racecourse on 31 October 2018. Our Mallee Hoff ran in race 6 and in fact finished last. In any event, upon analysis, that blood sample was shown to contain a prohibited substance, triamcinolone acetonide, which is a corticosteroid. AR 178 is a rule which imposes strict liability.

There is no dispute concerning the following facts: (1) a corticosteroid was administered by way of injection by veterinarian Dr Tim Russell on 22 October 2018; (2) this was in accordance with Dr Russell's longstanding practice. He is and was clearly aware of the withhold period of eight clear days as set out in AR 64M and routinely gave such intra-articular injections 10 days before race day; (3) as strict liability applies, the ultimate responsibility rests with the trainer. You have effectively acknowledged this from the outset and pleaded guilty from an early stage. If there was any doubt about what occurred, Dr Russell has removed that doubt.

The problem here seems to be, explained by Mr Nicholl on your behalf, that every now and then, there can be a positive reading obtained, even when the relevant injection has been given eight clear days or more prior to race day. Occasionally an injection on a horse, for example, into a fat pad, can affect the outcome. This is an unfortunate situation but, as stated, strict liability applies. You do have a previous offence in relation to a prohibited substance, namely caffeine, that offence being ruled upon in September 2016. On that occasion you were fined \$2000.

I agree that both specific and general deterrence are relevant. However, I note that in the present case you relied upon your usual longstanding veterinarian Dr Russell. Nevertheless, given the nature of the rule and the nature of corticosteroid injections, you would be well advised to err on the side of caution. I also appreciate that every now and then, there are what could be described as surprising or rogue results. This is easier said than done. Nevertheless, whilst the rules read as they do, a large amount of caution would be wise.

You are a comparatively small, longstanding country trainer based at Swan Hill. You have been training for some 21 years and overall have a good record. You have 10 horses in work and another 10 on your books. You have a staff of three, including your son, and in the current racing year, your horses have won a total of just under \$70,000 in prizemoney. As Mr Nicholl said, times are tough.

Ms Foletti, on behalf of the Stewards, directed my attention to the penalty I imposed in the case of Danielle Loos, involving the same offence. She, like you, pleaded guilty at the earliest possible opportunity. She had a clean and excellent record, obviously better than yours, not that yours is particularly bad. She was fined \$3000. Parity in sentencing is something that should be borne in mind. Despite the fact that your record is not as good as hers, given the length of time that you have been training and the financial pressures currently upon you, I will impose the same penalty as she suffered. In other words, in the circumstances a fine of \$3000 is imposed. I appreciate that this is a lot of money to you, and in circumstances where you followed the normal practice with your veterinarian. The results and effects of strict liability can sometimes be very unfortunate, particularly where there has been reliance upon an experienced vet who was following his normal practice. Perhaps a situation such as this can be considered by the powers that be in relation to the operation of the rule in question.

However, in fairness, and bearing in mind parity of sentencing, a fine of \$3000 seems appropriate and whilst Our Mallee Hoff ran last, it is nevertheless disqualified. There will be 90 days for payment of the fine.
