

Racing Appeals and Disciplinary Board 400 Epsom Road Flemington VIC 3031 Telephone: 03 9258 4260 Fax: 03 9258 4848

radboard@racingvictoria.net.au

APPEAL DECISION

CLIVE BALFOUR and RACING VICTORIA STEWARDS

Date of Hearing: 17 October 2017

Panel: Judge Bowman (Chair), Brian Forrest (Deputy), Dr June Smith.

Appearances: Daniel Bolkunowicz appeared on behalf of the stewards.

Ross Inglis of Ryan Carlisle Thomas appeared on behalf of Mr Balfour.

On Thursday 5 October 2017, the stewards concluded an inquiry into the attempted race day treatment of 3 horses trained by Mr Balfour, *Rexmont, Alsimon and Tarpeia,* prior to their engagements at Moe on 25 September 2017.

Mr Balfour pleaded guilty to 3 charges under AR 178AB in relation to each horse and was disqualified for a period of 6 months on each charge, to be served concurrently.

AR 178AB states that:

(1) A person must not, without the permission of the Stewards, inject a horse, cause a horse to be injected or attempt to inject a horse, which is engaged to run in any race: (a) at any time on the day of the scheduled race, prior to the start of such event; and (b) at any time during the One Clear Day prior to 12.01am on the day of the scheduled race.

A Notice of Appeal against the **severity of the penalty** was lodged on Thursday, 5 October 2017.

A stay of proceedings was refused.

DECISION: Appeal allowed.

Penalty varied to a suspension for a period of 6 months, commencing on 5 October 2017.

TRANSCRIPT OF

PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman MR B. FORREST, Deputy Chairman DR J. SMITH

EXTRACT OF PROCEEDINGS

DECISION

CLIVE BALFOUR

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

TUESDAY, 17 OCTOBER 2017

MR R. INGLIS (instructed by Ryan Carlisle Thomas) appeared on behalf of Mr C. Balfour

MR D. BOLKUNOWICZ appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Clive Balfour, you have appealed against the decision of the Stewards of 5 October 2017 that you be disqualified for six months on each of three charges, an attempted race-day administration in breach of AR 178AB, those penalties to be served concurrently.

After initially giving the Stewards a false version of events, it is apparent that you comparatively quickly admitted guilt. There is some truth in the suggestion that you were caught red-handed but the bottom line is that you pleaded guilty at a very early stage of the inquiry. As stated, the effective end result is that you were disqualified for six months. You gave immediate notice of your intention to appeal against the severity of the penalty and that remains the situation.

The background is that on 25 September 2017, Stewards carried out a race-day stable inspection at your premises in Tyabb. You had three runners, Alsimon, Tarpeia and Rexmont engaged at Moe on that day. When the Stewards arrived, you had a syringe in your hand and you were standing next to Alsimon. Syringes were subsequently located in the stalls with the other two horses. As stated, after initially giving the Stewards a false reason for the offence, you admitted that you were about to carry out race-day administration to the three horses. That you had not yet done so is why you are charged with attempt.

The substance in each syringe was a mixture of Cophos B and Mitachondral.

We accept that these are basically vitamin and amino acid supplements for which no prescription is required and they are freely available over the counter.

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We take that into account but the fact remains that any race-day administration or an attempt so to do is a breach of the rules. As Mr Bolkunowicz pointed out on behalf of the Stewards, there have been a number of these cases in recent years and a message must be sent to those in the industry that race-day administration will not be tolerated. Administration by a syringe creates a particularly bad impression. It is damaging to the image of racing and erodes public confidence in the fairness and integrity of racing.

In determining this appeal, we have taken that into account. We have also taken into account that this case involves three horses. We note your explanation, that you believed the administration of these substances was for the purpose of assisting post-race recovery. The horses had not run for some weeks and were about to race on a heavy track. That may be an explanation, but it is no excuse for three clear breaches of the rule.

We have also taken into account some factors in your favour. You made an early plea of guilty. You have been training for 47 years, eight in New Zealand and 39 in Australia. You have an unblemished record which is quite an achievement. You are 73 years of age. You train only a very small number of horses and have some involvement with broodmares. Further, you are far from in the best of health. Your son and son-in-law are also licensed persons in the racing industry. You have also put before us some powerful references, including one from a former Chairman of Stewards, Mr Pat Lalor. We also note that you were charged with attempts, rather than administration, although it must be said that at least one attempt was very close to becoming a reality

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when Stewards intervened.

The Stewards are urging that the period of six months' disqualification be maintained, although giving an assurance that you could still mix with family members engaged in racing and maintain broodmares on your property, perhaps giving the disqualification something of the flavour of a suspension, but of course the sting of disqualification remains.

We have looked at some of the previous decisions of this board that were put before us by Mr Inglis on your behalf. We note that Messrs Gelagotis and McCarthy each received a three-month suspension for actual administration, one count each, and accept that neither had the unblemished record you have. Recently, Messrs Green and Dyer were also suspended for three months, each on one count of administration.

In the particular circumstances and having weighed them up, we are of the view that suspension rather than disqualification is appropriate. We again emphasise your early plea of guilty and your 47-year unblemished record. However, we are also of the view that the period of six months is appropriate. The charges involved the attempted administration of three horses. So you are suspended for six months on each charge with the penalties to be served concurrently. Thus, we allow the appeal and you are suspended for a period of six months from 5 October 2017.
