



HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 23 May 2013

SUBJECT: **HEARING RESULT – TRAINER: DARREN WEIR**

Panel Mr Brian Forrest (Deputy Chair), Mr Stephen Curtain, Ms Claire Quin.

Appearances Mr Patrick Wheelahan appeared as Counsel for Mr Weir.
Mr James Ogilvy appeared on behalf of the Stewards.

Charge Breach of AR 178 – prohibited substance.

The particulars of the charge are that a prohibited substance, Frusemide (a diuretic), was detected in a urine sample taking from the horse *Doing Our Best* following its win in Race 1 the *Porter Plant Maiden Plate* (1200m) at Ballarat on Saturday, 16 February 2013.

Plea Guilty.

Decision Mr Weir convicted and fined the amount of \$7,000.

Pursuant to AR 177 *Doing Our Best* disqualified as winner of Race 1 the *Porter Plant Maiden Plate* (1200m) at Ballarat on Saturday, 16 February 2013 and the places amended accordingly:

1st – *Kingdom of Caid*, 2nd – *Think to Myself*, 3rd – *Fighting Flyer*,
4th – *Sweet Agi (NZ)*, 5th – *Footprint*, 6th – *Plum Bob*,
7th – *Nodeposit Noreturn*, 8th – *Mors Et Vita*, 9th – *Real Boost*,
10th – *Should Be Dancin'*, 11th – *Kerlinski Girl*.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

MR B. FORREST, Chairman
MR S. CURTAIN
MS C. QUIN

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE PORTER PLANT MAIDEN PLATE
OVER 1200 METRES AT BALLARAT ON 16/2/13**

TRAINER: DARREN WEIR

MELBOURNE

THURSDAY, 23 MAY 2013

MR J. OGILVY appeared on behalf of the RVL Stewards

MR P. WHEELAHAN appeared on behalf of the Mr D. Weir

CHAIRMAN: Licensed trainer, Mr Darren Weir, is the trainer of the horse, Doing Our Best, which was taken to the Ballarat racecourse and won the Porter Plant Maiden Plate over 1200 metres on 16 February 2013. Following the running of the race at 2 pm on 16 February 2013, a urine sample was taken from Doing Our Best and analysed by Racing Analytical Services Ltd.

On 5 April 2013, RASL reported to Racing Victoria that the post-race urine sample was shown to contain frusemide, a prohibited substance under the Rules of Racing. RASL referred the sample to the Racing Science Centre in Queensland for confirmatory analysis. On 18 April 2013, RASL reported to Racing Victoria that the Racing Science Centre had confirmed the presence of frusemide in the reserve portion of the sample.

Mr Weir has pleaded guilty to a charge under AR 178 which relevantly provides that:

When any horse 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.

As set out in Dr Brian Stewart's statement, frusemide is a diuretic agent, a drug that increases urine output. It acts directly on the kidneys, increasing water and electrolyte excretion which increases urine production and so reduces the

amount of fluid in the body. This leads to a decrease in blood volume and reduces the circulatory pressures in the heart and lungs.

Frusemide is a Schedule 4 drug. Schedule 4 drugs are prescription-only medicine or prescription animal remedies, the usual supply of which should be by or on the order of persons permitted by state or territory legislation to prescribe and should be available from a pharmacist on prescription.

Frusemide is registered for use in horses and is also known by its brand name, Lasix. Among other reasons, it is used to prevent or reduce exercise-induced pulmonary haemorrhage, bleeding, in racing horses. Frusemide is a prohibited substance in accordance with AR 178B(2) as it is a diuretic. Further, it is a prohibited substance in accordance with AR 178B(1), as it acts directly or indirectly on the urinary, cardiovascular, respiratory, blood and nervous systems.

Mr Weir provided the following evidence to the stewards: where a horse that is a bleeder is being trained, his stable has a policy of galloping the horse four or five days prior to racing. When galloping a horse that is a bleeder four or five days before racing, Mr Weir's stable, usually one of two foremen, treats the horse with frusemide approximately two or three hours before the gallop. The pre-gallop frusemide is administered, five millimetres intravenously and five millimetres intramuscularly, and water is then taken away from the horse until the horse goes to the walker and then does its work. The above process has been followed for horses trained by Mr Weir for a long time and is based on advice from the veterinarian.

The last reported administration of frusemide to Doing Our Best was on 12 February 2013 at 5 am, being four days and nine hours prior to the collection of the sample at Ballarat. Stable foreman John Bower performed that administration. That is the statement of the facts which, as I have indicated, the Board accepts.

The decision as to which horses are treated with frusemide is Mr Weir's. He delegates to two staff the responsibility for frusemide treatment with either staff member performing the injection and the recording of the treatment.

The established fact is Doing Our Best returned a positive swab and responsibility for that, first of all, rests with Mr Weir under AR 178. The stable practice for staff to perform frusemide treatment does not detract from the trainer's obligation to present the horse for racing free of a prohibited substance.

A 2007 study of frusemide in horses reported a detection time up to 48 hours in blood in urine after intravenous administration of nine mls of frusemide, and for an additional 24 hours after peri-vascular administration. On the basis of the scientific evidence which the Board accepts, if the frusemide was administered to Doing Our Best when Mr Weir said it occurred, some four days, nine hours prior to the sample being taken, that evidence does not provide a satisfactory explanation as to how or why the post-race sample was positive.

On the most favourable view to Mr Weir, there appears to have been a degree of carelessness in the timing and/or the recording of the administration of frusemide to the horse in the period leading up to the race.

On the question of penalty, it is important to take into account personal and general deterrence to trainers in relation to prohibited substances. Mr Weir has a prior conviction in 2007 for a prohibited substance. In mitigation, the Board takes into account his guilty plea.

Having considered these matters and the submissions of counsel, Mr Wheelahan for Mr Weir and Mr Ogilvy for the Stewards, the Board imposes a fine of \$7000. In this case, the Board does not regard the loss of prizemoney as a mitigating factor in penalty.

Finally, under AR 177, the horse, Doing Our Best, is disqualified from the race run at Ballarat on 16 February 2013.
