



**Racing
Victoria**

**RACING APPEALS
AND
DISCIPLINARY BOARD**

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DECISION

**RACING VICTORIA STEWARDS
and
CLIVE BALFOUR**

Date of Hearing: 15 April 2019

Panel: Judge John Bowman (Chair)

Appearances: Ms Charlotte Landy appeared on behalf of the Stewards.
Mr Andrew Nicholl appeared on behalf of Mr Clive Balfour.

Charge: Breach of AR 249(1)

*(1) Notwithstanding the provisions set out in Schedule 1, Part 2,
Division 2, a person must not, without the permission of the
Stewards:*

(a) administer; or

(b) cause to be administered,

*any medication to a horse at any time on race day prior to the
commencement of a race in which the horse is engaged to race.*

Particulars: On 22 November 2018, *Alsimon* was entered to run in race 6, the
Nextra Benchmark 64 Handicap at Moe (**the race**). The
Stewards allege that prior to the commencement of the race, Mr
Balfour administered and/or caused to be administered, "Racing
Oil" orally to *Alsimon*.

Plea: Guilty.

Decision: The Board finds the charge proved.

Mr Balfour fined \$3500, with payment terms of 30 days.

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 -

CLIVE BALFOUR

RACING VICTORIA CENTRE, FLEMINGTON

MONDAY, 15 APRIL 2019

MS C. LANDY appeared on behalf of the RVL Stewards

MR A. NICHOLL appeared on behalf of Mr C. Balfour

CHAIRMAN: Mr Clive Balfour, the Stewards have charged you with a breach of what is now AR 249(1), in that on 22 November 2018 you administered or caused to be administered a medication called Racing Oil to the horse, Alsimon, trained by you prior to the running of race 6 in which it was engaged to run at Moe. You have pleaded guilty to the charge. As a result of your administration, the filly was scratched from the race.

A breach of what is now AR 249(1) and previously was AR 178C(2) is a serious matter. It attracts a period of disqualification of six months unless special circumstances exist. That is an indication of the gravity of the offence. In your case, you pleaded guilty at an early stage and have been fully cooperative with the Stewards. I am satisfied that special circumstances exist and that I am at large in fixing a penalty.

I accept that you had administered the Racing Oil which is a feed supplement by using a syringe to squirt the product over Alsimon's tongue. It was the way that you administered Racing Oil to this particular horse every day and on this occasion, without thinking, you followed your daily routine. There is no suggestion that Racing Oil is a type of illegal performance enhancer, it is simply a vitamin supplement and, as stated, I accept that you administered it as part of your daily routine with this particular horse. You take full responsibility for this error which, as part of the daily routine, represented a simple but careless slip of the mind.

Race-day administration of medications is understandably prohibited. It is very poor for the image of racing. General deterrence is an important factor which must be borne in mind. The image of racing has taken something of a battering in recent times and trainers must be on high alert to prevent breaches of the rule such as the one involved here.

In relation to specific deterrence, you do not come with a clean record. You were before this Board in October 2017 in respect of the injection of three horses on race day. In that instance, the substance involved was essentially a vitamin supplement, but I emphasise that it was administered by way of injection.

Following that, you should have been on high alert in relation to race-day administration, particularly as the horse involved here was one of the three injected in October 2017. For the previous offences, you were suspended for a six-month period for the race-day injection of those three horses in 2017.

I accept that, as pointed out by Mr Nicholl on your behalf, you have been a trainer in this state for some 40 years, having previously been in New Zealand. The breaches in October 2017 are the only blotch on your copybook. You are now aged 75 years and you are essentially a hobby trainer, effectively breeding, owning and training a modest number of horses. You have five in work at the moment. You are not engaged in any other form of income-producing work either in or out of racing and have a modest income of approximately \$52,000 a year from your training activities.

Because of your prior offences, I did consider a period of suspension.

However, given the somewhat unusual circumstances of this case, I have concluded that a fine is appropriate for what was an error involving a lack of care in relation to race-day administration of a harmless substance and not administration by way of injection. I accept that it was a forgetful following of your normal daily feeding routine of this particular horse and was not in any way an attempt to enhance performance.

However, as you do not have a completely clean record, a fine similar to that imposed on trainers with such a record is not appropriate. I note, for example, a fine of \$1500 was imposed on Mr Jim Cerchi for a similar type of offence, but he had a spotless record. A fine of \$1000, together with a suspended one-month suspension, was imposed on Mr Brian Jenkins.

Given the circumstances, I am not of the view that a suspended type of penalty is appropriate. I am of the view that a fine of \$3500 is appropriate, with time to pay of 30 days.
