

## HEARING RESULT

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**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 15 July 2014

**SUBJECT:** **HEARING RESULT – TRAINER: ADAM O'NEILL**

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**Panel** Judge Russell Lewis (Chair), Mr Stephen Curtain, Mr Darren McGee.

**Appearances** Mr Paul O'Sullivan of O'Sullivan Saddington Lawyers appeared on behalf of Mr O'Neill.

Mr James Ogilvy appeared on behalf of the Stewards.

**Charge** Two breaches of AR 178E(1)

*Notwithstanding the provisions of AR 178C(2), no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on race day prior to such horse running in a race.*

The particulars being that on 16 May 2014, Mr O'Neill administered a substance intravenously (Charge 1) and a BC5 paste orally (Charge 2) to the horse *Sleek Brahma* which was entered to race in the *Front Beach Cafe Maiden Plate* (1100m) at Geelong that day.

**Plea** Charge 1 – guilty.  
Charge 2 – guilty.

**Decision** Charge 1 – Mr O'Neill convicted and suspended for a period of 6 months.  
Charge 2 – Mr O'Neill convicted and suspended for a period of 3 months.

Each penalty to be served concurrently.

The Board orders that 3 months of the 6 month period of suspension for Charge 1 be suspended for a period of 12 months on the condition that Mr O'Neill does not commit a similar offence during that period.

That is, should Mr O'Neill commit a similar offence in the next 12 months, the period of 3 months suspension for Charge 1 which is held in suspense will be restored.

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**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman  
MR S. CURTAIN  
MR D. McGEE**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**TRAINER: ADAM O'NEILL**

**MELBOURNE**

**TUESDAY, 15 JULY 2014**

MR J. OGILVY appeared on behalf of the RVL Stewards

MR P. O'SULLIVAN of O'Sullivan Saddington Lawyers appeared on behalf of  
Mr A. O'Neill

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CHAIRMAN: On Friday, 16 May 2014, Sleek Brahma, a horse owned and trained by licensed trainer Adam O'Neill, was engaged to race in an 1100-metre maiden plate at the Geelong synthetic racecourse. At approximately 8.50 am on race morning, two members of the Compliance Assurance Team, Messrs Ashby and Vilella, arrived unannounced at O'Neill's stables. They arrived in time to see O'Neill orally administer medication to the horse. The medication was in the form of a paste known as BC5, a product apparently designed inter alia to assist in maintaining muscle tissue mass and to reduce muscle protein degradation during exercise.

O'Neill explained that the horse had an imbalance of muscle enzymes and he believed that the medication would therefore be beneficial to the horse. He explained that he had been out of luck recently and his actions were "just a little bit of last-minute desperation". He freely admitted that he knew that what he had done was in breach of the Rules of Racing and that he "totally understood the consequences". O'Neill was then asked the following question by Steward Ashby:

*Okay. Has the horse received anything else today?*

Answer:

*No, no, that's it, just - she's just here, mate.*

When further questioned, O'Neill admitted that he had injected the horse with a substance. It should be noted that neither administration contained a prohibited substance within the meaning of the Australian Rules of Racing.

Unsurprisingly, O'Neill now faces two charges laid under Australian Rule 178E(1) which is in the following terms:

*(1) notwithstanding the provisions of AR 178C(2), no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on race day prior to such horse running in a race.*

Mr O'Neill has pleaded guilty to each charge. Accordingly, the Board is now required to consider the question of penalty.

Under the provisions of AR 196(5), where a person is found guilty of a breach of AR 178E, a penalty of disqualification of not less than six months must be imposed, unless the Board finds that a special circumstance exists, whereupon the penalty may be reduced. In this case, Mr O'Sullivan, who appears on behalf of Adam O'Neill, submits that the Board should find that a special circumstance does exist and that the mandatory period of six months' disqualification should not be imposed. Mr O'Sullivan submitted that the Board should be satisfied that particulars (a) to (d) inclusive of LR 73A have been made out. The Board does not agree with this submission. The Board accepts that O'Neill has made an early plea of guilty but is of the opinion that the value of that plea is diminished because of the fact that O'Neill was in effect caught red handed.

The Board takes into account the fact that O'Neill is a first-time offender, having been a licensed trainer for 10 years and prior to that, a registered stablehand. The Board also takes into account O'Neill's financial situation and whilst it accepts that he has issues with his health, it does not accept that his actions relating to administration were significantly influenced by his state of health.

In all the circumstances, the Board has concluded that in the interests of justice, the mandatory period of disqualification should not be imposed. Nevertheless, it should be noted that the administrations were not accidental, nor inadvertent, but were carried out deliberately and with O'Neill's full knowledge that what he was doing was in breach of the Rules of Racing. An aggravating factor was his initial denial that he had injected the horse. The administrations were designed to optimise the horse's performance in the race in which it was engaged.

In a case such as this, the principle of general deterrence is the overriding consideration. These offences are difficult to detect and the seriousness of the offence is evidenced by the fact that the Australian Rules of Racing now impose a mandatory period of disqualification. Any penalty should also reflect the Board's denunciation of this type of conduct.

In relation to Charge 1, the Board is of the opinion that the appropriate penalty is a period of suspension of six months. In relation to Charge 2, the Board is of the opinion that a period of three months' suspension is appropriate, each penalty to be served concurrently. Three months of the suspended period of

six months itself is suspended. The period of operation of this order is 12 months. That is, should Mr O'Neill commit a similar offence in the next 12 months, the period of three months held in suspense will be restored.

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