



DECISION

RACING VICTORIA STEWARDS and AUSTY COFFEY

Date of Hearing: 11 January 2017

Panel: Judge Bowman (Chair).

Appearances: Ms Simonette Foletti appeared as counsel for the stewards.
Mr Andrew Nicholl of the ATA appeared on behalf of Mr Coffey

Charge 1: Breach of 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.

The particulars of the charge are that a prohibited substance, caffeine and its metabolite Theophylline, was detected in a post-race urine sample taken from the horse *Burrum's Buzz* following its win in the *Hygain Maiden Plate* (1200m) at Swan Hill on 23 September 2016.

Charge 2: Breach of AR 178F(1)

(1) "A trainer must record treatment and medication administered to each horse in his or her care by midnight on the day on which the administration was given..."

The particulars of the charge are that Mr Coffey failed to record the treatment of ITZ MAGIC, a medication administered orally to *Burrum's Buzz*, in accordance with AR 178F(1).

Plea: Guilty - both charges.

Decision: Charge 1 - Mr Coffey convicted and fined \$2,000.
Charge 2 - Mr Coffey convicted and fined \$500.
A total of \$2,500 due within 30 days.

Pursuant to AR 177, *Burrum's Buzz* is disqualified as winner of Race 3 the *Hygain Maiden Plate* (1200m) at Swan Hill on 23 September 2016 and the places amended accordingly.

**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

WEDNESDAY, 11 DECEMBER 2017

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 two charges pursuant to AR 178, that charge for bringing the horse, namely Burrum's Buzz, to Swan Hill racecourse on 23 September 2016 to contest the Hygain Maiden Plate and a prohibited substance, namely caffeine, and theophylline, its metabolite, were detected in the sample taken from that horse after the race. Burrum's Buzz in fact won the race.

Secondly, you are charged under AR 178F that in essence you failed to record the treatment given to Burrum's Buzz which resulted in the positive sample being taken. As stated, Burrum's Buzz was the winner.

There are a number of matters to be taken into account. Firstly, Burrum's Buzz is disqualified as the winner of the Hygain Maiden Plate and the placings in finishing order are amended accordingly. This is quite a penalty in itself. Apart from any immediate financial penalty, doubtless there is a disappointed owner to be dealt with and considerable embarrassment as to what has occurred. I note you were in fact a 50 per cent owner of the horse and therefore will be forfeiting 50 per cent of the stakemoney.

Secondly, you pleaded guilty to both charges and have cooperated fully with the stewards and that is to your credit.

Thirdly, in relation to the prohibited substance charge, I have looked at the penalties handed down in recent cases. I do not view your offence as being as serious as those penalised as a result of positive swabs involving

dexamethasone, concerning which trainers have been well and truly warned. I do regard it as more serious than the ibuprofen offences where the withhold period is particularly hard to predict.

You effectively admitted that the caffeine was in a substance called Itz Magic and that the label on the container referred to a withhold period of 10 days.

You administered the substance seven days prior to the race. I accept that this was essentially due to carelessness and a calculation based on administering a smaller dose, rather than any deliberate intent to affect the outcome of the race.

However, carelessness or miscalculation is no defence. Strict liability applies and that is for very good reason. Further, principles of deterrence must be borne in mind. With your very good record and your attitude to what occurred in this case, specific deterrence has no great application but general deterrence is a factor. Trainers must be aware that they are strictly liable for positive returns and must act accordingly.

In all the circumstances, it seems to me that a fine of \$2000 is appropriate.

That is the penalty which I impose for the breach of AR 178.

In relation to the second charge, you frankly admitted that your failure to record the administration of this product which was new to you was due to laziness. It was a medicinal product not previously used by you and was not used as a performance enhancer but to treat a case of what could be called the sniffles.

The fine will be \$500 but I will add this: I give due notice now that whilst \$500 has been the penalty frequently imposed, that situation may change. The accurate recording of substance administration is particularly important and of real assistance to the stewards. I refer to the observations of Judge Russell Lewis in the case of Brendan McCarthy. Trainers should be on notice that the penalty for breaches of AR 178F is not automatically \$500 but that, at least in some cases, a greater range of penalties may be considered in the future. In any event, the fines in the present case are \$2000 for the AR 178 breach and \$500 for the AR 178F breach, a total of \$2500. Time to pay will be 30 days.
