



HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 27 April 2016

SUBJECT: **HEARING RESULT – TRAINER: MARK RILEY**

Panel Judge Bowman (Chair).

Appearances Mr James Ogilvy appeared as counsel for the stewards.
Mr Mark Riley appeared on his own behalf.

Charge 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 charge relates to a prohibited substance, being Dexamethasone, which was detected in a post-race urine sample taken from the horse *Undercover Poet* after its running in Race 1 at Mornington on 1 January 2016.

Plea Guilty.

Decision Mr Riley convicted and fined \$3,500 – due in 28 days.

Pursuant to AR 177, *Undercover Poet* is disqualified as winner of Race 1 at Mornington on 1 January 2016 and the places amended accordingly.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: MARK RILEY

MELBOURNE

WEDNESDAY, 27 APRIL 2016

MR J. OGILVY appeared on behalf of the RVL Stewards

MR M. RILEY appeared on his own behalf

CHAIRMAN: Mr Mark Riley has pleaded guilty to breaching AR 178, in that on 1 January 2016, he brought the horse, Undercover Poet, to Mornington racecourse for the purpose in engaging in a race when a prohibited substance, dexamethasone or "dex" was detected in a sample taken from it post-race. The horse in fact won the race, the Super VOBIS Maiden Plate.

I accept that the administration of Dexafort, essentially a more powerful form of dex more frequently used than Dexapent, was given to Undercover Poet on 25 December 2015, seven days before the race by Mr Logan McGill, Mr Riley's assistant trainer.

Of course, this is a situation of strict liability. Pursuant to AR 178, Mr Riley is responsible for the actions of his staff. However, there are some extenuating circumstances which impact upon the size and the nature of the penalty.

Firstly, in November 2015, Dexafort had been administered to another horse of Mr Riley's, namely Grande Rosso, which had run and won at Benalla seven days later, returning a negative swab. Secondly, Mr Riley had been advised by Western Australian veterinarian, Dr Alan McGregor, that the safe withholding period of Dexafort was seven days.

Thirdly, Mr Riley contacted Dr Brian Stewart, the head of Equine Welfare and Veterinary Services for Racing Victoria, who stated that a withhold period of seven days could be appropriate in ideal circumstances. However, he claims to have advised caution. The precise words used in the conversation is a matter

of some dispute, but I accept that Mr Riley took some comfort in the conversation and proceeded to run the horse. Thus, he thought that he had reassurance from a number of sources that it was safe to do so.

However, given the publicity that surrounded the use of dex associated with the scratching of Amralah from the 2015 Melbourne Cup, and the materials sent out by Stewards concerning the use of dex in late 2015, it was unwise of Mr Riley to proceed without, for example, having some elective testing. There is also the fact that prior to the Benalla race, Dr Kelly, who provided the prescription for the Dexafort, had mentioned some concerns to Mr McGill concerning the withholding period.

Overall, I accept that some mitigating factors exist. However, as I said, strict liability applies. In my view, a financial penalty is appropriate. The following represents some of the factors to be considered: firstly, pursuant to AR 177, Undercover Poet must be disqualified as the winner of the race in question and the placings amended accordingly. The loss of prizemoney so involved is doubtless a disappointment to the owners and also doubtless represents a penalty in itself. Secondly, as Mr Riley has pleaded guilty, that should be taken into account. Next, there is Mr Riley's record. Unfortunately, he does not come with a clean slate in relation to AR 178. On 15 April 2015, he was convicted of a breach of AR 178 in relation to the substance of meloxicam and was fined \$5000. From that case, he could give no credible explanation for the presence of the substance in the horse's system. The present case is different because of the extenuating circumstances described.

Having weighed up all the circumstances, I am of the view that a fine of \$3500 is appropriate. There will be a stay of 28 days.
