

Registrar
Racing Appeals and Disciplinary
Board



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Hearing Result

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FROM : Registrar – Racing Appeals and Disciplinary Board

DATE : 16 January 2009

SUBJECT: HEARING RESULT: TRAINER – ANDREW HOMANN

Panel Judge Russell Lewis (Chair), Mr Bill Kneebone, Mr Ron Taylor

Charge Breach of AR 175 (h)(ii) [any person who administers, or causes to be administered, to a horse any prohibited substance: which is detected in any sample taken from such horse prior to or following the running of any race].

At Warrnambool on Tuesday 9th September 2008 during the period between 9am and 12.58pm alkalinising agents were administered to the horse *Irish Way* and a prohibited substance, being a TCO₂ concentration of greater than 36.0 millimoles per litre in plasma, was detected in a sample taken from the horse prior to its running in Race 2 the *Grand Annual Club Maiden Plate*.

Plea Guilty.

Decision Convicted and disqualified for a period of nine months. Period of disqualification to commence from midnight Friday 23rd January 2009.

The horse *Irish Way* disqualified as fifth place-getter of Race 2 the *Grand Annual Maiden Plate* at Warrnambool on 9th September 2008.

Georgie Curtis

Registrar
Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. KNEEBONE
MR R. TAYLOR**

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: ANDREW HOMANN

MELBOURNE

FRIDAY, 16 JANUARY 2009

MR D. BROWN appeared on behalf of the Stewards

MR A. HOMANN appeared on his own behalf

CHAIRMAN: Andrew Homann is the trainer of the horse, Irish Way. On Tuesday, 9 September 2008, stewards attended Homann's stables at Warrnambool and took a blood sample from the horse at 9 am. Upon analysis, the TCO₂ concentration was 31.7 millimoles per litre in plasma, well under the permitted level of 36 millimoles per litre in plasma, plus or minus 1.0 measurement of uncertainty.

On the same day at Warrnambool racecourse, where Irish Way was engaged to race, a blood sample was taken at 12.58 pm. Upon analysis, the TCO₂ concentration was 38.3 plus or minus 1.0 measurement of uncertainty. Analysis of the referee sample indicated a reading of 37.8. Thus, the sample taken at the racecourse contained a prohibited substance.

Mr Homann has been charged with committing a breach of Australian Rule of Racing 175(h)(ii). He has pleaded guilty to that charge, one of the particulars being that during the period between 9 am and 12.58 pm, alkalising agents were administered to the horse.

Shortly after the hearing commenced, Mr Brown, who appeared on behalf of the stewards, informed the Board that Mr Homann had, before the parties entered the hearing room, told him that he, Homann, had given the horse two handfuls of bicarbonate after 9 am. No other explanation was offered by Mr Homann for the probable cause of the elevated TCO₂ reading.

There has been no suggestion of foul play or third party involvement in relation to the care or custody of the horse between 9 am and 12.58 pm. Indeed, at all relevant times, the horse was under the personal care of trainer Homann.

The evidence of Dr O'Callaghan indicates that it is highly unlikely that the horse's naturally occurring TCO₂ levels could rise from 31.7 to 38.3, an increase of 6.6, over time, let alone in the space of approximately four hours. His opinion is reinforced by the fact that on two other occasions, samples taken on 29 April 2008 and subsequently on 12 September 2008 produced readings of 31.8 and 30.4 respectively.

The Board is satisfied that two handfuls of bicarbonate given to the horse after 9 am could not explain the high reading; see Dr O'Callaghan's evidence at tab 3, paragraph 22. Therefore the Board is left in the position where there is no explanation given by Mr Homann as to the cause of the elevated reading.

The Board is satisfied that the cause of the elevated reading was the deliberate administration by Mr Homann of alkalinising agents, either by means of a nasogastric tube or directly into the mouth. An aggravating feature of the case is that Mr Homann was aware of the warning in Inside Racing of the risk of administering alkalinising agents within 24 hours of racing. He was also aware of Australian Rule 178E which relates to medicating a horse on race day without permission of the stewards.

Although Mr Homann has pleaded guilty, he does not gain any mitigation or any benefit or credit, in that he has not offered any credible explanation for the elevated TCO2 reading. The Board takes into account the fact that Mr Homann has no previous convictions, nor has he had any warnings from the Stewards in relation to elevated TCO2 levels. The Board is not satisfied that there are any other matters of substance put by Mr Homann in mitigation of penalty.

Mr Homann has pleaded guilty to a serious charge. It is a far more serious charge than a breach of AR.178. In this case, the principles of general deterrence and the tarnishing of the image of racing are important sentencing principles. The Board is satisfied that Mr Homann well knew what he was about and was well aware of the consequences which would ensue should he be found out.

In the opinion of the Board, the only appropriate penalty is a period of disqualification. Mr Homann, you are disqualified for a period of nine months, the period of disqualification to commence from midnight on Friday, 23 January 2009, and the horse, Irish Way, is disqualified.

END OF EXTRACT