Victoria **12 November 2015**

RACING APPEALS AND DISCIPLINARY BOARD

(Original Jurisdiction)

RVL Stewards v Lee and Shannon Hope

Reasons for Decision

Judge R Lewis	Executive Member
Mr B Forrest	Deputy
Mr G Ellis	Member

Father and son Lee and Shannon Hope are licensed trainers and for approximately 5 years have been licensed to train as a training partnership.

They were at all relevant times the trainers of the horses *Windy Citi Bear*, *Best Suggestion* and *Choose* (the **Three Horses**).

On 25 June 2014, *Windy Citi Bear* ran fifth in Race 6 over 1300 metres at Geelong racecourse. Certificates of analysis of a pre-race urine sample were:

i. ChemCentre (**CC**) recording a cobalt concentration of 290 micrograms per litre (µg/l) with a measurement of uncertainty of 10%;
ii. Hong Kong Jockey Club (**HKJC**) Racing Laboratory recording a cobalt concentration of about 300µg/l.

On 5 July 2014, *Best Suggestion* ran eighth in Race 6 over 1400 metres at Caulfield racecourse. Certificates of analysis of a pre-race urine sample were:

i. CC recording a cobalt concentration of 510µg/l with a measurement of uncertainty of 10%;
ii. HKJC recording a concentration of about 550 µg/l.

On 28 September 2014, *Choose* ran fifth in Race 3 at Caulfield racecourse. Pre-race urine samples were:

i. CC recording a cobalt concentration of 450µg/l with a measurement of uncertainty of 10%;
ii. HKJC recording a concentration of about 440µg/l.

On 14 April 2014 Racing Victoria introduced Local Rule 68A, the effect of which was to make cobalt a prohibited substance if the mass concentration of cobalt exceeded 200µg/l in urine.

On 7 April 2014 the Stewards issued a Notice to all trainers of the pending introduction of the cobalt threshold on and from 14 April 2014. The Local Rule 68A was adopted by AR 178C(1)(l) which came into force on 1 January 2015.

Lee and Shannon Hope are each charged with 9 offences, that is 3 charges in respect of each of the Three Horses.

Charge 1 is laid under AR 175(h)(i) which relevantly reads:

> *The Stewards may penalise:*
>
> *(h) Any person who administers, or causes to be administered, to a horse any prohibited substance:*
>
> *(i) for the purpose of affecting the performance or behaviour of a horse in a race.*

Charge 2, which is in the alternative to Charge 1, is laid under AR 175(h)(ii) relevantly reads:

> *The Stewards may penalise:*
>
> *(h) Any person who administers or causes to be administered, to a horse any prohibited substance:*
>
> *(ii) which is detected in any sample taken from such horse prior to or following the running of any race.*

Charge 3 which is in the alternative to Charges 1 and 2 is laid under AR 178 and is in the following terms.

> *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.*

When the matter was called on for hearing on Thursday 15 October 2015 and formal responses to the respective charges were made, Mr Stitt QC who appeared on behalf of Lee and Shannon Hope, pleaded not guilty to all charges.

A formal change of plea to guilty to each offence under charge 2 was made by both Lee and Shannon Hope at the resumption of proceedings on Wednesday 4 November 2015. Accordingly Charge 3 falls away as it was laid in the alternative to Charge 2.

That being the situation, the remaining relevant issues for determination by the Board in this case are:

(a) did either or both Lee and Shannon Hope administer or cause to be administered the prohibited substance to the Three Horses, and if so;

(b) was such administration performed for the purpose of affecting the performance or behaviour.

The Standard of Proof

In proof of Charge 1 as it applies to each of the Three Horses, the Stewards represented by Mr Gleeson QC, with Mr Bennett, rely on facts proved by direct evidence and circumstantial evidence, that is, facts proved by a process of inference.

The charge is serious and the consequences flowing from a conviction are grave, there being a mandatory minimum penalty of 3 years disqualification in respect of each offence in the absence of a finding that a special circumstance exists: AR196(5) and LR73A.

The standard of proof requires the Board to be comfortably satisfied on the balance of probabilities that each element of the charge has been proved either by evidence or by inference consistent with the Briginshaw[1] principles.

In drawing an inference the approach the Board is required to adopt is to consider the weight of the combination of proven facts and circumstances and to determine whether the combined weight of those facts and circumstances supports an inference as a matter of probability[2].

The Stewards' Case

In summary the Stewards position is that it may be inferred that the presence of the prohibited substance in the Three Horses' systems was due to an administration of a substantial dose of cobalt close to or on race day. The Stewards allege that the Hopes administered cobalt beyond that disclosed to the Stewards in the Administration Spreadsheets and for the prescribed purpose by loading feed supplements and/or medications with cobalt or by substantially increasing the quantity of feed supplements and/or medications containing cobalt.

[1] *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362.
[2] *Transport Industries Insurance Co. Ltd. v Longmuir* [1997] 1 VR 125.

The Defence Case

The daily feeding regime of the Three Horses over time which included supplementary registered products and approved medications containing cobalt combined with other factors resulted in bioaccumulation, a steady and inexorable elevation in urine cobalt levels to levels approaching or exceeding the race day threshold. Any administration of cobalt other than that disclosed in the Administration Spreadsheets is denied.

Issues Not In Dispute

i. There is no challenge to the validity and integrity of the sample collection and identification, the documentary trail, the testing, screening and laboratory analyses and the recording of results of analytical testing.

ii. That by virtue of the plea of guilty to charge 2 at the commencement of Day 3 of the hearing, it is admitted that the Three Horses were administered a prohibited substance.

iii. That it is admitted on behalf of the Hopes that cobalt is performance enhancing.

iv. Details of the supplements and medications to each of the Three Horses including the date, time and route (oral feed or IV) of each administration, as disclosed by the Hopes to Stewards are as set out in the Administration Spreadsheets (Tab 13).

v. The document headed 'Exhibit O' is a table of the cobalt levels in urine samples taken from Hopes' trained horses in the period 5 April 2014 to 20 April 2015.

vi. Shannon Hope was the person responsible for the feeding and supplementation regime of the Hope trained horses, either by himself and/or his wife under his instructions. There is no suggestion of any third party involvement.

The Stewards' Evidence

The Stewards rely on documentary material in Vol 1-3 of the Stewards' Brief and on the reports and oral evidence of Dr Martin Wainscott, the regulatory veterinarian for the Emirates Racing Authority in Dubai, previously the Regulatory Veterinarian for Harness Racing NSW, Associate Professor Stuart Paine, Associate Professor of Veterinary Pharmacology at the University of Nottingham, Professor Brynn Hibbert, Emeritus Professor of Analytical Chemistry at the University of New South

Wales, Dr John Vine, Scientific Consultant and Dr Brian Stewart, Head of Equine Welfare and Veterinary Services at Racing Victoria.

Administration Trials

In 2015, Racing Victoria arranged a trial by the British Horseracing Authority (the **B**HA Trial) to replicate the feed and medication of the Hopes horses for the period of the trial.

Five horses were given two weeks of oral supplementation providing 4.6 mg of cobalt per day in the form of Sporthorse, Tri-cal and Activiron. This was followed by intravenous treatments consisting of Hemoplex, Cophos and Dynajac on one day followed by intravenous Tripart a day later. Urine samples were collected from the beginning of the oral supplementation period until 2-3 weeks after the last injection.

Another trial conducted by SCEC involved five horses fed Mitavite Sustaina from 15 April to 8 May 2015. Hemoplex was given orally on 27 and 30 April, VAM, Ferrocyl and Coforta were given intravenously on 28 April, 1 and 5 May. Coforta was administered by IV on 6 May.

Dr Wainscott

Dr Wainscott opined that both trials revealed that oral supplementation caused little increase over baseline (un-supplemented) levels in urinary cobalt levels. After intravenous treatment the maximum time any horse recorded a level above the threshold 200 µg/l was approximately 6.6 hours (BHA Trial result) and 5.5 hours (SCEC trial result).

The results of both trials show that the use of oral therapeutic cobalt containing products have little, if any, effect on urinary cobalt levels and any effect of parenteral products is short lived with levels returning to baseline within 24 hours.

A contention on behalf of the Hopes that the Trials had design faults which made the results inconclusive and misleading is discussed later in these reasons.

In April 2014, Dr Wainscott had performed a clinical trial for Harness Racing NSW in which five horses were administered 10ml of Hemo-15 intravenously for three consecutive days. The data showed some carryover of cobalt from one administration to the next and a general increase in cobalt concentrations over the next three administrations.

Following the third injection, cobalt levels ranged from 120-250µg/l with the peak occurring 6.09 hours post administrations.

Dr Wainscott observed that although this was an unusually intensive treatment regime, all levels returned to almost pre-treatment baseline levels within 24 hours after the last treatment.

Dr Wainscott noted a similar trial of the HKJC (Ho. et. al) using Hemo-15 intravenously for three consecutive days or VAM intramuscularly twice on alternate days showed that urinary cobalt levels remained above 200µg/l for about 8 hours maximum in the case of VAM and 4.2 hours maximum in the case of Hemo-15.

Both studies, Dr Wainscott noted, show that both oral and injectable cobalt containing supplements given at therapeutic doses have a rapid urinary clearance.

Dr Wainscott observed that three large population studies undertaken by Harness Racing NSW, the Australian Racing Board and the International Federation of Horse Racing Authorities, involving in excess of 11,000 samples showed that normal mean urinary cobalt levels were less than 10µg/l.

In his opinion, when the results of the administration trials and studies referred to above are considered the subject readings of 290µg/l for W*indy Citi Bear*, 510µg/l for *Best Suggestion* and 440µg/l for *Choose* are not consistent with the treatment regimes set out in the Administration Spreadsheets.

In commenting on the treatment regime as disclosed by the Hopes, Dr Wainscott said that while it would not be abnormal to see such a similar supplementation regime in the course of routine stable inspections, he does not suggest that the regime is either justified or advisable from a scientific perspective.

Dr Wainscott concluded that there appears to be only two possible explanations for the subject readings: a race day administration of a therapeutic cobalt containing product or administration of a high concentration form of cobalt at some time prior to the race day sample being taken.

Associate Professor Paine

Professor Paine reported that three studies (USA, Hong Kong and French) involving intravenous administration of cobalt revealed highly consistent cobalt urine concentrations which indicates that the processes that control the equine intravenous pharmacokinetics of cobalt such as tissue distribution and excretion are constant for doses of cobalt ranging from 1-49 milligrams.

The studies also show that for intravenous cobalt administration, urine concentrations drop below 200µg/l within six hours of last administration.

Professor Paine, using firstly cobalt population surveys, calculated the probability of each of the Three Horses 'positive' results belonging to the normal horse population (defined by the population study of 10,306 horses) to be less than 1 in 62,900 for a threshold breach of 100µg/l.

Secondly, by pharmacokinetic modelling and simulation using measured pharmacokinetic data as described in section 3.1.2 of his report (Exhibit G). Professor Paine stated there is a less than 1 in 10,000 chance that each of the subject samples came from the normal horse population based on the supplementation regime disclosed by the Hopes.

Both methodologies suggest that the race day urine concentrations of the Three Horses are highly improbable in the normal horse population.

In commenting on the BHA Trial and further trial results, Professor Paine stated that the statistical analysis of the Trials also suggest that the over threshold race day results for the Three Horses are highly improbable in the normal horse. This, he said, is entirely consistent with the results obtained from an international cobalt population survey and the use of pharmacokinetic modelling and simulation.

These results suggest, he said, that for the Three Horses, cobalt supplement dosing regimes were used that either involved a higher cobalt dose and/or administration nearer to competition than set out in the Administration Spreadsheets.

Asked to comment on the differences in the cobalt concentrations in the sample taken from *Windy Citi Bear* on 25 June 2014 (290µg/l) compared with 5 June 2014 (6µg/l); *Best Suggestion* on 5 July 2014 (510µg/l), 12 July 2014 (160µg/l) and 23 July 2014 (66µg/l) compared with 15 June 2014 (9µg/l) and *Choose* on 28 September 2014 (450µg/l) compared with 20 December 2014 (8µg/l), Professor Paine said the 'positive' results were highly improbable, while the latter comparisons were plausible, suggesting in the former either a higher dosing regime and/or administration near to race day.

Professor Hibbert

In his principal report (Exhibit K), Professor Hibbert said his opinion was based in part on his study 'Element Mass Concentration in Racing Thoroughbred Horses' – Final Report, 13 February 2015 (Tab 35).

In that study, he was briefed to provide data analysis and interpretation of mass concentrations of elements, including cobalt, in urine, using data of the cobalt concentration in 1,277 race day urine samples in Australia and 300 from New Zealand.

Professor Hibbert constructed a statistical model of the distribution of low valued data and ascribed this model to the regular population of horses having a normal diet and supplements. In doing so he calculated the probability of a horse from the regular population exceeding a cobalt concentration in race day urine to be:

a) 290µg/l or greater – *Windy Citi Bear* – 1 in 1,016,314;
b) 510µg/l or greater – *Best Suggestion* – 1 in 27,323,104; and
c) 450µg/l or greater – *Choose* – 1 in 12, 745, 272.

In oral evidence Professor Hibbert explained that he called the data that appeared to come from a population giving a low level of cobalt the 'normal' or the 'regular' population. He assumed from his discussions with Harness Racing NSW that cobalt measured in urine is mostly at a low level.

Professor Hibbert's analysis of data and administration studies Ho et al, Wainscott and Kynch, is that for a horse to reach urinary race day cobalt concentrations greater than 200µg/l it can be concluded that cobalt must have been administered in high dose on the day before racing (Kynch study) or a lower dose was administered on race day (Ho and Wainscott studies).

In commenting on the 'positive' results of the Three Horses, Professor Hibbert said that considering the extremely small probability of a horse returning results of 290µg/l, 510µg/l and 450µg/l, he concluded that cobalt in addition to the disclosed administrations was administered within approximately a 24 hour period before the samples were taken.

With both *Windy Citi Bea*r and *Best Suggestion*, Professor Hibbert observed the Administration Spreadsheets show no great difference in the amount of cobalt given to each horse in the days before their 'positive' samples and also in the days before their previous races.

As to *Choose*, considering the extremely small probability of a horse returning a result of 450µg/l (pre-race urine sample on 28 September 2014 at Caulfield) Professor Hibbert also concluded that cobalt, in addition to the disclosed administration, was administered within a 24 hour period before the sample was taken.

Dr Stewart

In a report (Exhibit E) Dr Stewart stated that population surveys, research investigations and results of regulatory reviews of cobalt research confirm that routine and commonly practised cobalt supplementation does not cause the elevations of race day urine cobalt levels to levels even approaching the regulatory threshold.

He noted the report of urine cobalt levels of 1,650 race day samples in Victoria from April 2014 to May 2015 with outliers included which showed a mean race day urine cobalt level of 11.5µg/l.

Of the 1,650 samples, 50 horses returned cobalt levels in excess of 50µg/l, 21 horses returned cobalt levels in excess of 100µg/l and of these 21 horses, 10 were trained by the Hopes.

Further, he noted a significant variation between the levels of the Hopes other stablemate horses and the levels of the Three Horses and also significant variation between the levels obtained from the same horses on different race days. This, he said, is not consistent with elevated urine levels beings the result of the routine supplementation which, if that were the case, should show consistent elevations across the entire group of horses.

Dr Stewart said the administration of cobalt in the form of proprietary vitamin/mineral supplements (4.5mg/day) to Hopes' horses is high and far in excess of the nutritional needs of a racehorse but not especially high when compared to the routine supplementation of Australian and International racehorses.

When questioned about the BHA cobalt administration trial, Dr Stewart acknowledged that although it did not exactly replicate the Hopes supplementation regime, he regarded the trial as adequate from which conclusions may be drawn.

Dr Vine

In his report (Exhibit D) and oral evidence, Dr Vine dealt with two issues raised by Professor Chapman in his report. First, the potential risk of contamination to the sample by reason of the use of a metal collection pan.

The Board regards this as a non-issue given the fact that no challenge was made by the Hopes to the sample collection procedure.

Second, that urine PH could influence the excretion and concentration of cobalt through the kidney and into urine which occurs in the case of phenylbutazone.

Dr Vine and Professor Paine both rejected this argument, noting that cobalt unlike phenylbutazone is neither a weak organic acid nor base and does not ionise like a weak acid or base.

The Hopes' Evidence

The Hopes provided written statements and gave oral evidence. In addition they rely on the report and oral evidence of Professor Colin Chapman, Emeritus Professor at Monash University who has tertiary qualifications in Pharmacy and Veterinary Science.

Lee and Shannon Hope

Lee Hope lives in Kilmore. There are stables at his residence but in 2014 all horses were stabled at Seymour where Shannon lives.

Lee Hope attends the Seymour stables daily and is actively involved with the training schedules of the horses.

All Hopes' horses, in addition to basic feeds, receive the same quantities of feed supplements and injectable medications.

Lee Hope was aware supplements were being fed but said he was not aware they contained cobalt.

After being informed by the Stewards on 27 October 2014 that *Windy Citi Bear* and *Best Suggestion* had returned 'positives' to cobalt, Lee told the Stewards he had no idea what cobalt was and had never checked the labels on the products that the stable was using.

The evidence of both Lee and Shannon Hope is that Lee does not have any responsibility for the food and supplements regimes. That is left to Shannon alone who confirmed that the cobalt supplements and medications given to the Three Horses were as detailed in the Administration Spreadsheets and on the advice of Dr Van Venendaal.

Both trainers denied any administration of cobalt containing supplements additional to those disclosed.

In his evidence Shannon Hope said that the feeding and supplementation of all the horses was his responsibility. He said that he read the labels on the products used but had not appreciated the significance of the references to cobalt.

He acknowledged receiving the Stewards' notice regarding the introduction of the cobalt threshold in April 2014.

Professor Chapman

In his report (Exhibit N) Professor Chapman concluded:

> *'It is possible to inadvertently have horses exceed the declared threshold of 200µg/l for cobalt in race day urine samples due solely to the long term and legal administration of cobalt containing feed supplements and injectable medicines.'*

In oral evidence he qualified that opinion by describing accumulation as but one of multiple factors.

On the topic of absorption of cobalt, Professor Chapman stated that that if administration is by IV injection, the cobalt enters directly into the circulatory system of the horse whereas if administered orally the extent of the absorption (bioavailability) is more complex and may vary according to various factors.

He opined that it is highly likely that the amount of cobalt absorbed in the Three Horses will have varied significantly over time and that there may have been large differences in bioavailability so contributing to the variable levels of cobalt detected.

Professor Chapman said there is compelling evidence that cobalt bioaccumulates in a horse over time. This was put forward as an explanation for the above threshold results – the contention being that repeated administration of oral and injectable cobalt will progressively fill up tissue storage sites to a point of saturation, whereupon any further cobalt administration is immediately excreted because the tissues are already saturated.

On this point, Professor Paine said that if a horse got to the point of cobalt saturation there would be serious toxic effects.

While the Three Horses had received administration of products containing cobalt over a lengthy period, there was no evidence before the Board of any manifestation of toxic effects suggestive of saturation.

Dr Stewart challenged the bioaccumulation contention advanced on behalf of the Hopes, that long term, normal and rational cobalt supplementation can result in elevating urinary cobalt levels approaching or exceeding the race day threshold level, which he said is not supported by any race day urine cobalt level survey or the result of any administration trials.

Dr Stewart also said that given the disclosed levels of supplementation to the Hopes horses, he would expect to see a very small degree of bioaccumulation consistent with what you would see in the horse population generally.

Dr Wainscott was unaware of any study or trial that established that accumulation over time could result in a concentration of cobalt at or near the threshold, 24 hours after administration.

Professor Chapman said urine is a very poor indicator of cobalt status in horses because urine PH, drugs and food, protein binding and fluid intake could influence excretion of cobalt. His view was that blood sampling is the only realistic way to obtain estimates of cobalt exposure.

Professor Paine and Dr Stewart disagreed with Professor Chapman that urine was a poor indicator of cobalt levels.

Professor Chapman raised dehydration as a possible factor in the elevated cobalt readings.

The Hopes evidence was that the Three Horses were fit and healthy during the relevant period which would suggest the Horses were not dehydrated.

On the possibility of protein binding as a factor, there was no evidence of acute ischaemia such as may cause the dumping of cobalt into urine at times of physical stress in horses resulting in spikes of cobalt.

As mentioned earlier, the BHA and SCEC trials were criticised by Professor Chapman for using too few horses, using horses which were not compatible in age and fitness to the Hopes horses, not replicating the feed and supplementation regime and for being held for insufficient time to induce bioaccumulation of cobalt. This he said, made the results misleading.

Dr Wainscott disagreed with the contention that trials using 3, 4 or 5 horses are an insufficient number for research purposes. He explained that for the Harness Racing NSW trial, he applied to use Three Horses. Five horses were ultimately used so as to satisfy the Department of Primary Industry's requirements that five was a suitable number to produce meaningful results from which conclusions may be drawn.

Dr Stewart also regarded the number of horses used in the BHA Trial and the length of the trial acceptable.

In oral evidence Dr Wainscott refuted the Hopes contention that the BHA Trial did not replicate the feed and medication program of the Hopes horses. For the period of the trial it did replicate the

program, Dr Wainscott said. He agreed that the SCEC trial was not a replication but another supplemental program involving cobalt.

Professor Chapman also said there are some compelling reasons to challenge the validity of the 200µg/l threshold. When asked what he thought should be the appropriate threshold – 'I don't have a figure in mind, quite frankly. I just think that you've got to take it case by case and consider the factors as to what the figure could or should be.'

Consideration

The circumstances of the cobalt level of the horse *Fenway* on 1 November 2014 as recorded (Exhibit A) do not assist the Board in determining the charges the subject of this hearing.

The Board does not draw any inference adverse to the Hopes from the failure to call Dr Roberts and Dr Brain. During the relevant period of the 'positive' samples, Dr Van Venendaal, now deceased, was the principal veterinary advisor on supplements and injectables. He attended the stables on a weekly basis. Dr Roberts was first consulted in November 2014.

There was evidence that cobalt concentrations may vary depending on the timing of the collection of the sample and kidney function. The Rules provide that samples may be taken pre or post-race and it is immaterial for the purposes of determining if a sample contains a prohibited substance whether the sample was pre or post-race.

The time race day samples were taken relative to race times was the subject of commentary by Mr Stitt who said that there is a strong correlation between the cobalt level and the time of sampling in that pre-race samples were higher than post-race. This was said in support of a submission that as cobalt levels are so variable as to be unknowable to the trainer, that a finding of intent on the part of a trainer within the meaning of AR 175(h)(i) is unsustainable.

The Board does not accept this submission and for the reasons outlined below as to the relevant intent within the meaning of AR 175(h)(i).

Mr Stitt submitted that upon a proper construction of AR 175(h)(i) it is necessary for the Stewards to establish an intention on the part of either or both Lee and Shannon Hope to exceed the 200µg/l threshold.

The Board does not agree that this interpretation is correct. The words of the Rule "…for the purpose of affecting performance…..' is the clearly stated purpose or intention, whereas exceeding the 200µg/l

threshold is not the intention but a consequence or risk (presumably unintended) of an administration of cobalt for the purpose of affecting the performance.

Reading Professor Chapman's report as a whole it is apparent that the opinions he expressed were possibilities – 'it is certainly possible,' 'it is possible' and 'it is far from certain' are frequently stated in his report when referring to the various factors that might have explained the Hopes horses' cobalt readings. His ultimate conclusions were, he agreed in cross examination, 'informed possibilities.' Only in re-examination did he express his views in terms of probability in what the Board regards was less than convincing.

The Administration Spreadsheets indicate that *Windy Citi Bear* and *Best Suggestion* were give oral supplements only on the day before race day. Two days before race day IV Tri-part was given. *Best Suggestion* was also given Cophos.

Choose was given oral supplements and IV Tri-part on the day before race day. The IV administration given on or two days prior to race day were of Tri-part in small doses of cobalt (0.43ml).

The Board accepts that the BHA Trial substantially replicated the Hopes' supplement program and with results that were not inconsistent with previous cobalt studies.

Findings

a. Likely cause of the above threshold cobalt levels

The Board accepts the evidence of the Stewards' experts and their conclusions that it was highly probable the subject cobalt readings of the Three Horses were the result of a higher than declared administration of cobalt on or before race day.

The Board does not accept Professor Chapman's evidence and conclusion. His opinion was characterised by speculation and possibilities, lacking in scientific support.

b. Intention for the purpose of affecting performance

Fundamental to this issue is the credibility of Lee and Shannon Hope. The Board considers the evidence of Lee and Shannon Hope, particularly when cross examined about their knowledge of cobalt, to be unsatisfactory.

Shannon Hope was in charge of the supplement and intravenous administrations.

In the Board's view, Shannon Hope knew far more about cobalt than he was prepared to concede. It beggars belief that he would not have known that cobalt was present in many of the supplements and medications and that he would not have appreciated that cobalt had the potential to become a problem.

Lee Hope knew what supplements Shannon was administering but denied any knowledge of cobalt, which to the Board seems odd, he being an experienced trainer in his own right for many years before entering into partnership with his son.

In the Board's opinion, Lee Hope also knew far more about cobalt than he was prepared to admit.

His denial that he had any discussion about cobalt with his son with whom he was working side by side, or with their veterinarian (who attended the stables on a weekly basis) especially after receiving the Stewards' notice and hearing radio reports of the cobalt threshold, strains credulity.

In the Board's opinion, both Lee and Shannon Hope, in their evidence concerning cobalt and the extent of its use on the Three Horses, were not credible witnesses.

Conclusion

In light of the evidence of the expert witnesses on behalf of the Stewards and of the results of the BHA and SCEC Trials, to attribute the 'positive' samples to the declared oral and IV supplementation, having regard to the stated timing of administration, is, in the opinion of the Board, not a credible explanation.

In the opinion of the Board, the weight of the evidence is such as to enable an inference be drawn that a prohibited substance, namely cobalt exceeding the 200µg/l threshold was administered or caused to be administered to the Three Horses by the Hopes on or before the race days when the subject samples were recorded.

The Board is satisfied to the requisite standard that Lee and Shannon Hope administered or caused to be administered a prohibited substance, namely cobalt, to each of the Three Horses for the purpose of affecting their performance in a race, in breach of AR 175(h)(i).