

9 June 2021

DECISION

HARNESS RACING VICTORIA

and

RYAN DUFFY

- Dates of hearings:** 28 July 2020
13 October 2020
14 October 2020
6 November 2020
13 November 2020
8 April 2021 (Penalty Hearing)
- Panel:** Judge John Bowman (Chairperson), Magistrate John Doherty (Deputy Chairperson) and Mr Des Gleeson.
- Appearances:** Ms Amy Wood, instructed by Mr Andrew Cusumano, appeared on behalf of the Stewards.
Mr Damian Sheales appeared on behalf of Mr Ryan Duffy.
- Charges:** Australian Harness Racing Rule (“AHRR”) 193(1) states a person shall not attempt to stomach tube or stomach tube a horse nominated for a race of event within 48 hours of the commencement of the race or event.
- AHRR 196B(1) states a person shall not without the permission of the Stewards within one (1) clear day of the commencement of a race administer, attempt to administer or cause to be administered an injection to a horse nominated for that race.
- AHRR 187(6) states a person shall not frustrate or endeavour to frustrate an inquiry or investigation.
- AHRR 187(2) states a person shall not refuse to answer questions or to produce a horse, document, substance or piece of equipment, or give false or misleading evidence or information at an inquiry or investigation.

Particulars of charges:

Charge 1

1. On 13 April 2019, the horse 'Bonnie Kash' was engaged to compete in Race 11 at the Mildura harness racing meeting that night;
2. At the relevant time you were a licensed Grade A Driver;
3. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you and licensed Grade B Trainer and Grade A Driver Zac Steenhuis stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point;
4. You stomach tubed the horse 'Bonnie Kash', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 2

1. On 13 April 2019, the horse 'Bonnie Kash' was engaged to compete in Race 11 at the Mildura harness racing meeting that night;
2. At the relevant time you were a licensed Grade A Driver;
3. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you and licensed Grade B Trainer and Grade A Driver Zac Steenhuis stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point;
4. HRV Stewards also observed two used syringes in close proximity to the horse 'Bonnie Kash'; and Zac Steenhuis later gave evidence that those two syringes, which were 'Bleeder Shots', had been administered to 'Bonnie Kash';
5. You administered two (2) injections to the horse 'Bonnie Kash', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 3

1. At all relevant times you were a licensed Grade A Driver;
2. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you and licensed Grade B Trainer and Grade A Driver Zac Steenhuis stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point;

3. You subsequently ran away, and continued to run away after HRV Steward Russell Anderson gave you an instruction to stop;
4. You frustrated an investigation by running away and not assisting HRV Stewards with their inquiries into the stomach tubing of 'Bonnie Kash'.

Charge 4

1. At all relevant times you were a licensed Grade A Driver;
2. On 13 April 2019, after HRV Stewards observed you and licensed Grade B Trainer and Grade A Driver Zac Steenhuis stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; you exited the vet room and ran away;
3. Michael Steenhuis subsequently attended the scene and gave evidence that he assisted Zac Steenhuis in the stomach tubing of 'Bonnie Kash' and that it was him who exited the vet room and ran away;
4. On 18 April 2019, you gave evidence that you did not discuss the matter with Michael Steenhuis at the Mildura harness racing meeting later on 13 April 2019;
5. On 8 January 2020, Michael Steenhuis gave evidence that he did discuss the matter with you at the Mildura harness racing meeting later on 13 April 2019;
6. You gave this evidence knowing it to be false, in that you did discuss the matter with Michael Steenhuis at the Mildura harness racing meeting on 13 April 2019.

Charge 5 (Alternative to Charge 1)

1. On 13 April 2019, the horse 'Bonnie Kash' was engaged to compete in Race 11 at the Mildura harness racing meeting that night;
2. At the relevant time you were a licensed Grade A Driver;
3. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you with licensed Grade B Trainer and Grade A Driver Zac Steenhuis at the Mildura Racing Club, Racecourse Road, Nichols Point; where Zac Steenhuis stomach tubed the horse 'Bonnie Kash' in your presence;

4. You assisted Zac Steenhuis to breach these rules, in that you were present with Zac Steenhuis when the horse 'Bonnie Kash' was stomach tubed, a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 6 (Alternative to Charge 2)

1. On 13 April 2019, the horse 'Bonnie Kash' was engaged to compete in Race 11 at the Mildura harness racing meeting that night;
2. At the relevant time you were a licensed Grade A Driver;
3. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you with licensed Grade B Trainer and Grade A Driver Zac Steenhuis at the Mildura Racing Club, Racecourse Road, Nichols Point;
4. HRV Stewards also observed two used syringes in close proximity to the horse 'Bonnie Kash'; and Zac Steenhuis later gave evidence that those two syringes, which were 'Bleeder Shots', had been administered to 'Bonnie Kash' in your presence;
5. You assisted Zac Steenhuis to breach these rules, in that you were present with Zac Steenhuis when two (2) injections were administered to the horse 'Bonnie Kash', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Pleas: Not guilty to charges 1, 2, 4, 5 and 6
Guilty to charge 3

PENALTY

Mr. Ryan Duffy, you have been found guilty of two charges which you contested. You pleaded guilty to a third charge. You were found not guilty of a fourth charge. We turn now to our findings in relation to penalty.

Ms Amy Wood of counsel appeared on behalf of Harness Racing Victoria. Mr Damien Sheales of Counsel appeared for you. Each made detailed and helpful submissions. We shall now set out our findings in relation to the individual remaining charges.

Charge 1

Charge 1 deals with the role that you played in the stomach tubing of *Bonnie Kash* at Mildura on 13 April 2019 – the breach of Rule 193(1). We shall not set the facts in detail. Suffice to say that you were not the principal participant in or instigator of what occurred. Nevertheless, you actively assisted Mr Zac Steenhuis in the attempted stomach tubing, which was interrupted by the arrival of the Stewards, and played an active role by reason of that assistance. This was on the afternoon of the day in question, with *Bonnie Kash* scheduled to race that night. This was what Ms Wood described as an egregious breach of the Rule. We also accept the submission of Mr Sheales that you were not the principal person or “mastermind” of what occurred. In essence, you were in the wrong place at the wrong time and lent assistance.

You are now 25 years of age. We accept that you are a talented driver, with bright prospects in the industry. You have no relevant prior convictions.

The image of harness racing is a very important consideration. The public perception of a level playing field and horses competing free of what could be described as illegal treatment is vital to the well-being of the industry. General deterrence has a large role to play.

Hopefully you have learned your lesson. Specific deterrence may be of lesser significance, but nevertheless is relevant. In the future, you should be not quite so ready to lend a hand to conduct which is breaching the Rules.

We are of the view that a period of disqualification for an offence of this nature is inevitable. We fix that period at 12 months.

Charge 2

We found you not guilty of Charge 2, which is dismissed.

Charge 3

Charge 3 concerns a breach of Rule 187(6). You frustrated the Stewards’ enquiry by running away immediately from the scene of the attempted stomach tubing. This caused confusion and led to the Stewards having to expend considerable time and energy in trying to ascertain what had occurred.

This was an important case. The investigative work of the Stewards is difficult and time consuming enough without licensed persons behaving in this fashion. We take into account

your guilty plea. Nevertheless, we are of the opinion that a period of disqualification is warranted. Again, general deterrence is an important consideration.

Bearing in mind your guilty plea, you are disqualified for a period of three months, such period to be cumulative upon the penalty imposed for Charge 1.

Charge 4

Charge 4 relates to a breach of Rule 187(2). It concerns false evidence which you gave to Stewards on the night of 13 April 2019. This is another, if lesser, instance of making the job of the Stewards more difficult. General deterrence is again to be borne in mind. Hopefully specific deterrence is of less significance.

In our opinion, a fine of \$1,000 is the appropriate penalty.

Conclusion

Thus, we have arrived at and impose the following penalties: -

Charge 1 – disqualification for a period of 12 months.

Charge 3 – disqualification for a period of three months, cumulative upon the penalty imposed in relation to charge 1.

Charge 4 – a fine of \$1,000

The total period of disqualification for 15 months is to commence immediately.

Mark Howard
Registrar, Victorian Racing Tribunal