

21 April 2021

DECISION

HARNESS RACING VICTORIA

and

ZAC STEENHUIS

Dates of hearings:

28 July 2020
13 October 2020
14 October 2020
6 November 2020
13 November 2020
12 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 Zac Steenhuis represented himself.

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(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.

AHRR 245 states a person shall not direct, persuade, encourage or assist anyone to breach these rules or otherwise engage in an improper practice.

AHRR 194 states a person who administers, sells, supplies, distributes or attempts to administer, sell, supply or distribute any substance or preparation that has not been registered, labelled, prescribed or obtained in compliance with relevant State and Commonwealth Legislation is guilty of an offence.

AHRR 230 states except with the consent of the Controlling Body a person shall not associate or communicate for purposes relating to the harness racing industry with a disqualified person or a person whose name appears in the current list of disqualifications published or adopted by a recognised harness racing authority.

Particulars of charge:

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 B Trainer and Grade A Driver with full care and control of 'Bonnie Kash';
3. On 13 April 2019, at approximately 4:33pm, HRV Stewards observed you and licensed Grade A Driver Ryan Duffy 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 B Trainer and Grade A Driver with full care and control of 'Bonnie Kash';

3. On 13 April 2019, HRV Stewards observed two used syringes in close proximity to the horse 'Bonnie Kash';
4. You gave evidence that you had administered those two syringes to 'Bonnie Kash', which were 'Bleeder Shots';
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. On 13 April 2019, you were the registered trainer of the horse 'Countdown'; which was engaged to compete in Race 5 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Countdown' in a tie-up stall adjacent to a room where you were in possession of the equipment required to stomach tube a horse, inclusive of four (4) made up drench mixes containing bicarbonate and 'Restore';
3. You gave evidence that you had prepared those drench mixes, which were capable of being administered by stomach tube;
4. You attempted to stomach tube the horse 'Countdown', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 4

1. On 13 April 2019, you were the registered trainer of the horse 'Our Summer Bay'; which was engaged to compete in Race 6 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Our Summer Bay' in a tie-up stall adjacent to a room where you were in possession of the equipment required to stomach tube a horse, inclusive of four (4) made up drench mixes containing bicarbonate and 'Restore';
3. You gave evidence that you had prepared those drench mixes, which were capable of being administered by stomach tube;

4. You attempted to stomach tube the horse 'Our Summer Bay', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 5

1. On 13 April 2019, you were the registered trainer of the horse 'Braeview Bomber'; which was engaged to compete in Race 7 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Braeview Bomber' in a tie-up stall adjacent to a room where you were in possession of the equipment required to stomach tube a horse, inclusive of four (4) made up drench mixes containing bicarbonate and 'Restore';
3. You gave evidence that you had prepared those drench mixes, which were capable of being administered by stomach tube;
4. You attempted to stomach tube the horse 'Braeview Bomber', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 6

1. On 13 April 2019, you were the registered trainer of the horse 'Waterboy'; which was engaged to compete in Race 10 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Waterboy' in a tie-up stall adjacent to a room where you were in possession of the equipment required to stomach tube a horse, inclusive of four (4) made up drench mixes containing bicarbonate and 'Restore';
3. You gave evidence that you had prepared those drench mixes, which were capable of being administered by stomach tube;
4. You attempted to stomach tube the horse 'Waterboy', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 7

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 B Trainer and Grade A Driver with full care and control of 'Bonnie Kash';
3. On 13 April 2019 during a raceday stable inspection, HRV Stewards observed and confiscated a bottle of 'Super-C Intravenous High Potency L-Carnitine Injection', which was in your possession;
4. On 14 August 2019, you gave evidence you had administered 25ml of 'Super-C Intravenous High Potency L-Carnitine Injection' to 'Bonnie Kash' on 12 April 2019;
5. You administered an injection to the horse 'Bonnie Kash', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 8

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 B Trainer and Grade A Driver with full care and control of 'Bonnie Kash';
3. On 13 April 2019 during a raceday stable inspection, HRV Stewards observed and confiscated a bottle of 'Super-C Intravenous High Potency L-Carnitine Injection', which was in your possession;
4. On 14 August 2019, you gave evidence you had administered 25ml of 'Super-C Intravenous High Potency L-Carnitine Injection' to 'Bonnie Kash' on 13 April 2019;
5. You administered an injection to the horse 'Bonnie Kash', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 9

1. On 13 April 2019, you were the registered trainer of the horse 'Countdown'; which was engaged to compete in Race 5 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Countdown' in a tie-up stall adjacent to a room where you were in possession of seven (7) unused syringes which had been prepared to be administered to horses;
3. You gave evidence that you had prepared those syringes, which were capable of being administered by injection;
4. You attempted to administer an injection to the horse 'Countdown', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 10

1. On 13 April 2019, you were the registered trainer of the horse 'Our Summer Bay'; which was engaged to compete in Race 6 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Our Summer Bay' in a tie-up stall adjacent to a room where you were in possession of seven (7) unused syringes which had been prepared to be administered to horses;
3. You gave evidence that you had prepared those syringes, which were capable of being administered by injection;
4. You attempted to administer an injection to the horse 'Our Summer Bay', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 11

1. On 13 April 2019, you were the registered trainer of the horse 'Braeview Bomber'; which was engaged to compete in Race 7 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Braeview Bomber' in a tie-up stall adjacent to a room where you were in possession of seven (7) unused

syringes which had been prepared to be administered to horses;

3. You gave evidence that you had prepared those syringes, which were capable of being administered by injection;
4. You attempted to administer an injection to the horse 'Braeview Bomber', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 12

1. On 13 April 2019, you were the registered trainer of the horse 'Waterboy'; which was engaged to compete in Race 10 at the Mildura harness racing meeting that night;
2. On 13 April 2019 when HRV Stewards attended the Mildura Racing Club, Racecourse Road, Nichols Point; they observed the horse 'Waterboy' in a tie-up stall adjacent to a room where you were in possession of seven (7) unused syringes which had been prepared to be administered to horses;
3. You gave evidence that you had prepared those syringes, which were capable of being administered by injection;
4. You attempted to administer an injection to the horse 'Waterboy', a horse nominated for a race, within one (1) clear day of the commencement of that race.

Charge 13

1. At all relevant times you were a licensed Grade B Trainer and Grade A Driver;
2. On 13 April 2019, after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; Ryan Duffy ran away;
3. You gave evidence that it was registered owner Michael Steenhuis who ran away;
4. You gave this evidence knowing it to be false, in that you knew it was Ryan Duffy who ran away.

Charge 14

1. At all relevant times you were a licensed Grade B Trainer and Grade A Driver;

2. On 13 April 2019, after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; Ryan Duffy ran away;
3. On 18 April 2019, you gave evidence that you directed and encouraged registered owner Michael Steenhuis, who subsequently attended the scene, to give evidence that he ran away;
4. You directed and encouraged Michael Steenhuis to breach these rules, in that he gave false evidence to HRV Stewards.

Charge 15

1. At all relevant times you were a licensed Grade B Trainer and Grade A Driver;
2. On 13 April 2019 at the Mildura Racing Club, Racecourse Road, Nichols Point; you had in your possession the unregistered substance 'Super-C Intravenous High Potency L-Carnitine Injection';
3. On 14 August 2019, you gave evidence that you administered 25ml of 'Super-C Intravenous High Potency L-Carnitine Injection' to 'Bonnie Kash' on 12 April 2019 and 25ml on 13 April 2019;
4. You administered a substance to 'Bonnie Kash' which is not registered in compliance with relevant State and Commonwealth Legislation.

Charge 16

1. On 8 July 2016, you were the driver of the horse 'All Aussie Star' which ran fifth in Race 1 at the Ballarat harness racing meeting on that date;
2. On 13 April 2019 after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; your mobile phone was confiscated and the contents were subsequently forensically examined;
3. On 8 July 2016, at approximately 2:10pm, you sent a text message to registered owner Michael Steenhuis which states, "Il [sic] come there at 4:15 and give it a drench and we will chuck him on the float";

4. On 14 August 2019, you gave evidence confirming that 'All Aussie Star' was stomach tubed by you on 8 July 2016;
5. You have stomach tubed the horse 'All Aussie Star', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 17

1. On 7 February 2017, you were registered trainer of the horse 'Palanquin' which ran first in Race 3 at the Echuca harness racing meeting on that date;
2. On 13 April 2019 after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; your mobile phone was confiscated and the contents were subsequently forensically examined;
3. On 7 February 2017, at approximately 5:57pm, you sent a text message to licensed stablehand Donna Steenhuis which states, "Nah get there at 6:22 and already drenched the horse";
4. On 14 August 2019, you gave evidence confirming that 'Palanquin' was stomach tubed by you on 7 February 2017;
5. You have stomach tubed the horse 'Palanquin', a horse nominated for a race, within 48 hours of the commencement of that race.

Charge 18

1. At all relevant times you were a licensed Grade B Trainer and Grade A Driver;
2. On 13 April 2019, after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road, Nichols Point; your mobile phone was confiscated and the contents were subsequently forensically examined;
3. Shannon Wonson, a former licensed NSW Grade A Trainer, served a period of disqualification from 8 March 2017 until 31 July 2018;

4. Examination of your mobile phone revealed text message communications between yourself and mobile number 0438 240 952, listed in your phone as 'Chrissy Wonson', between 24 October 2017 and 27 July 2018 for purposes relating to the harness racing industry;
5. On 14 August 2019, you gave evidence that it was Shannon Wonson you were communicating with in those text messages;
6. Between 24 October 2017 and 31 July 2018, you associated and communicated with a disqualified person, which were for purposes relating to the harness racing industry.

Charge 19

1. At all relevant times you were a licensed Grade B Trainer and Grade A Driver with Harness Racing Victoria;
2. On 13 April 2019, after HRV Stewards observed you and licensed Grade A Driver Ryan Duffy stomach tube the horse 'Bonnie Kash' at the Mildura Racing Club, Racecourse Road Nichols Point; your mobile phone was confiscated and the contents were subsequently forensically examined;
3. Nathan Ford, a former licensed Tasmanian Grade A Trainer-Driver, is currently serving a period of disqualification from 11 January 2016 until 12 November 2022;
4. Examination of your mobile phone revealed communication via 'Messenger' between yourself and Mr Ford on 18 March 2019 for purposes relating to the harness racing industry;
5. On 14 August 2019, you gave evidence that you had spoken to Mr Ford about horses which were racing on or about the relevant time;
6. You associated and communicated with a disqualified person, which were for purposes relating to the harness racing industry.

Pleas:

Guilty to charges 1, 2, 7, 8, 13, 14, 15, 18 and 19

Not guilty to charges 3, 4, 5, 6, 9, 10, 11, 12, 16 and 17

PENALTY

Mr Zac Steenhuis, you have pleaded “guilty” to nine charge and been found guilty of a tenth charge to which you pleaded “not guilty”. You were facing a total of 19 charges and we found you not guilty of the other nine.

Of the ten charges concerning which penalties are now to be determined, seven arise out of occurrences at Mildura on 13 April 2019. You, a licensed person, were looking after “Bonnie Kash”, which was to race there that night. These charges are stomach tubing Bonnie Kash; administering two “bleeder shots”; possessing and administering (twice) an unregistered product, giving false evidence; and directing or encouraging your cousin, Mr Michael Steenhuis, to breach the Rules by giving false evidence.

You have also been found guilty of stomach tubing “Palanquin” at Echuca on 7 February 2017 (a charge which you unsuccessfully contested) and of twice communicating with disqualified persons.

We turn now to your background. You are aged 23 years and have been licensed for seven years. You have a partner and a two year old child. Your partner is also licensed and looks after some six horses. You live with you partner and child in a unit on the property of your parents, who also live in a house there. The dwellings are on a twenty acre property. Registered horses are stabled and worked there.

Your involvement in the industry was full time. You have driven, but in more recent times, you have been engaged more in the preparation and training of harness racing horses. You did not renew your licence on 1 September 2020 because of the upcoming hearing of these charges – a hearing which was delayed because of the Coronavirus.

You have been in receipt of the JobSeeker allowance. You have no other current employment. You have various debts and expenses, including \$6,000 in respect of car repairs; \$12,000 in respect of your car; and a bank loan of \$12,000.

You are very keen to remain involved in the industry. You have attended committee meetings at Maryborough and Ballarat. Your father, as well as your partner, have been engaged in it. However, you appreciated that a period of disqualification is inevitable.

It should be added that you have no prior convictions for behaviour of the kind involved in these charges.

We will now deal with the penalties for the charges of which you have been convicted. In relation to all charges, except Charge 17, you pleaded guilty at a very early stage of proceedings and will receive an appropriate reduction of penalty.

In relation to Charge 1 – the stomach tubing of Bonnie Kash – we are of the opinion that the penalty sought by the Stewards is fair and appropriate. Disqualification for 18 months seems to us to be the correct penalty for such an offence on race-day. As argued by Ms Amy Wood on behalf of the Stewards, such behaviour threatens the integrity and safety of the industry. But for your very early plea of guilty and your obvious remorse, a considerably longer period of disqualification could well have been considered.

In relation to Charge 2 – the “bleeder shot” injections – in our view a fine is appropriate. Again, deterrence is an important issue. Bearing in mind your early plea and what we have learned about your circumstances, we fix the amount of that fine at \$2,500.

Charges 7, 8 and 15 concern the possession and administration of an unregistered product. Again, you entered an early plea of guilty. We understand that you purchased the product in question because it was a cheaper “imitation” brand of a registered product. That is no excuse. This is another situation where the health and safety of horses is put at risk. We believe that a total period of disqualification for six months should be imposed, being two months’ disqualification of each charge. This is cumulative upon the 18 month disqualification for Charge 1.

Turning to Charge 13 – the giving of false evidence as to who it was who fled the scene on the afternoon of the stomach tubing – we agree with the Stewards that a fine of \$1,000 is appropriate. The Stewards have enough to do, particularly when a major cup is to be contested, without having to put up with false information.

Charge 14 is a serious offence. Directing or encouraging another person to give false or misleading evidence is dishonesty which, as argued by Ms Wood, compromises another person. It may be that the situation was remedied comparatively quickly, which is to your credit, but a substantial fine is appropriate. We fix that fine at \$1,500.

Charge 17 concerns the stomach tubing of Palanquin at Echuca on 7 February 2017. This occurred before the introduction of the Serious Offence Penalty Guidelines on 1 January 2019. This charge has an historical flavour to it and arose from messages found by the Stewards on your mobile phone. As is evident, the offence occurred in excess of four years ago. However, a period of disqualification is warranted. We fix that period at six months. In addition, “Palanquin” is disqualified from race 3 at Echuca on 7 February 2017. It is an entirely separate offence from those which we have been dealing and we fix the penalty as being cumulative upon the disqualification periods in relation to Charges 1, 7, 8, and 15.

Charges 18 and 19 relate to communications with disqualified persons. You are pleading guilty to these charges, which also arose from the seizure of your mobile phone. These are also serious offences. The Rule in question is also directed to the protection of the integrity of the industry. The Stewards have submitted that on each charge you should be fined the sum of \$1,000. We agree, and those penalties are imposed.

The above results in a total period of disqualification of two years and six months and fines totalling \$7,000.

The remaining issue is the date of commencement of the period of your disqualification. You did not renew your licence as at 1 September 2020. You believed that the case might be heard earlier than what in fact happened as a result of the COVID-19 situation. We believe that the commencement of your disqualification should be backdated to 1 September 2020.

In all the circumstances, that seems to us to be a fair and proper outcome. By our calculations, your disqualification will cease as at 1 March 2023.

Mark Howard
Registrar, Victorian Racing Tribunal