

RACING APPEAL PANEL OF NEW SOUTH WALES

APPEAL OF LICENSED TRAINER, MR M. CATTELL

Appeal Panel: **Mr R. Beasley SC (Presiding Member); Mrs J. Foley; Mr J. Murphy**

Appearances: **Racing New South Wales: Mr W. Birch, Deputy Chairman of Stewards**
Appellants: Mr P. O’Sullivan, Solicitor

Date of Appeal: **9 December 2020**

Date of Orders: **9 December 2020**

Date of Reasons: **8 April 2021**

REASONS FOR DECISION

The Panel

1. On 27 October 2020, Licensed Trainer Mr Mike Cattell pleaded guilty to three breaches of AR249(1)(a) relating to giving race day administrations of “Ranvet Potassium Plus” to the horses “Jenessa”, “Al Qaab” and “Justify”, without permission of the Stewards, on a day that they were engaged to race (20 September 2020 at Nowra).
2. AR 249 is relevantly in the following terms:

AR 249 Administration of medication on race day

(1) Notwithstanding the provisions set out in Schedule 1, Part 2, Division 2, a person must not, without the permission of the Stewards:

- (a) administer; or*
(b) cause to be administered,

any medication to a horse at any time on race day prior to the commencement of a race in which the horse is engaged to race.

(2) If a person breaches subrule (1), a disqualification for a period of not less than 6 months must be imposed, unless there is a finding that a special circumstance exists, in which case that penalty may be reduced.

3. The Appellant pleaded guilty to each breach. Pursuant to AR283(6)(i) (and see AR249(2) above), there is a minimum mandatory penalty for a breach of AR249(1) of a 6 month disqualification unless special circumstances exist.
4. Taking into account Mr Cattell's personal circumstances, his immediate guilty plea, and the commonality between the offending, the total penalty imposed by the Stewards was a 9 month disqualification, which would expire on 27 July 2021.
5. Mr Cattell appealed to the Panel on 9 December 2020 challenging the severity of the penalty imposed upon him. He was represented by Mr P. O'Sullivan, Solicitor, while the Stewards were represented by Mr W. Birch, the Deputy Chairman of Stewards.
6. Orders were made on the date of the Appeal hearing reducing the disqualification period from a period of 9 months to a period of 5 months. There was insufficient time, however, to produce written reasons for decision despite the orders being made.
7. There were no disputed facts in this appeal. The Appellant was aware of the rule prohibiting him from giving race day administrations to horses. It was however his belief that in doing what he did he was not breaching the rule. He thought he was administering nothing more than a "salt", rather than what falls within the Rules as a "medication".
8. The Ranvet Potassium Plus is marketed as a "supplement to aid muscle and nerve function in horses" (Exhibit 17). It is commonly added by the Appellant to his horses' feed the day before races. Unfortunately, on this occasion the mixer he uses to mix the Potassium Plus with the horses' feed had not worked properly and they had hence not consumed the Potassium Plus in the manner that they ordinarily would have prior to race day. This is why the Appellant sought to administer the Potassium Plus on a race day. This is unfortunate, but the evidence of Dr T Koenig, the Chief Veterinarian of Racing NSW, established that the Potassium Plus is a "medication"

under the Rules, and hence the Appellant's conduct was clearly in breach of AR249(1).

9. As to personal circumstances, the Appellant has a good record and like every licensed person who is the subject of a substantial disqualification, that penalty will have a severe financial impact upon him.
10. Mr Birch correctly submitted that the offending was objectively serious and emphasised the importance of a "level playing field" when it comes to horse racing, which is one of the reasons why race day administrations are prohibited.
11. For the Appellant, as indicated above, he was not aware that the Potassium Plus fell within the definition of "medication" within the Rules, and did not think he was breaching the Rules by adding it to the horses' feed on a race day. It is also noted that he pleaded guilty to the offending immediately, and co-operated fully with the Stewards.
12. While the Panel does consider this to be, as a matter of obviousness, an objectively serious breach of the Rules - given that it relates to a race day administration of medication - we are of the view that in all the circumstances a total disqualification of 5 months is appropriate.
13. The Orders made on 9 December 2020 were as follows:
 - (1) Appeal against severity of penalty allowed.
 - (2) In lieu of a 9 month disqualification, a penalty of a 5 month disqualification is imposed. Such disqualification ends on 27 March 2021, on which day the Appellant may re-apply for his licence.
 - (3) Appeal deposit to be refunded.