

RACING APPEALS TRIBUNAL

RAT 12/2021

DATE OF HEARING: TUESDAY 23 NOVEMBER 2021

TRIBUNAL: **PRESIDENT:** MR TIM ANDERSON, QC

IN ATTENDANCE: MR J PETZER, CHAIRMAN OF STEWARDS,
RACING SA

APPELLANT: MR G YOUNG

IN THE MATTER of an Appeal by **MR GRANT YOUNG** against a decision of Racing SA Stewards.

BREACH OF RULE AR 240(2), which reads as follows:

(2) Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.

PENALTY: 3 MONTHS SUSPENSION

DETERMINATION

Mr Grant Young is a licensed trainer in South Australia. He appeals from a decision of the Stewards to suspend him from training for three months following a swab taken from the horse Santelmo Fuego at Naracoorte on 22 August 2021.

The swab revealed the presence of cobalt at a concentration greater than 100 micrograms per litre. The first sample revealed a reading of 127 micrograms per litre and the B sample a reading of 119.

Under the Rules of Racing, cobalt is a division 2 prohibited substance at concentrations greater than 100 micrograms per litre.

Mr Young was charged with a breach of AR240(2), which reads

Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.

The particulars provided by the Stewards were:

That you Mr Grant Young, being a licensed trainer and the trainer of the racehorse Santelmo Fuego, at all relevant times leading up to and including Sunday the 22nd August 2021, did bring the said racehorse to the Naracoorte Racecourse where it competed in and won race 4 The Sir Lion Butchers Benchmark 68 handicap over 1800 metres, after which a urine sample taken from the horse, sample number V735268 disclosed upon analysis, the substance cobalt at a level of 127 micrograms per litre, which level is above the threshold level being 100 micrograms per litre, which substance is a prohibited substance under the Rules of Racing.

In the hearing before the Stewards, after he was given his rights, Mr Young decided to plead guilty.

During the hearing before the Stewards and in submissions before the Tribunal, various suggestions were made as to how the offending level of cobalt could have occurred. This is a strict liability offence, and it is irrelevant as to how it occurred in relation to guilt or innocence but may play some part in the penalty imposed.

Mr Young's sole income is from racing. He has been in the industry since he was a teenager. He is a very successful trainer and has as many as 40 horses under his care. He has six regular staff.

He is married with four boys, three of whom are still dependent and living at home with he and his wife.

Mrs Young plays an important role in the business and is responsible for all the administration and financial accounts. Unfortunately, she has recently been diagnosed with a serious illness.

It was never suggested by the Stewards that there was any deliberate act by Mr Young which caused the cobalt reading to exceed the threshold. As I have said, many possibilities or combinations of possibilities were put forward, but they are all speculative.

Mr Young has a very good record, which the Stewards took into account. The Stewards took into account all the relevant factors when considering penalty.

They considered a disqualification would be too severe and a reprimand and/or fine too lenient.

Before the Tribunal, Mr Young submitted he should be given a monetary penalty. He argued that a suspension of three months would effectively shut his business down.

The Stewards used a starting point of six months' suspension and reduced that by half for all the factors, including his personal circumstances.

I consider that for Mr Young the three-month suspension is, on the face of it, a little harsh. Whilst it is within the range of reasonable penalties, I have revisited his personal circumstances, and as a result I consider that one month of those three months should be suspended.

I therefore allow the appeal for the sole purpose of allowing Mr Young to serve two months' suspension. I suspend the sentence in respect of one month on the condition that Mr Young is not involved in any similar offending for a period of 12 months, to operate from the time the two months expires.

Any breach by Mr Young in the period of 12 months will result in the immediate revival of the suspended sentence and also render him liable to such further penalty as may be appropriate.

The suspended portion of the sentence literally hangs over his head for 12 months, but it does enable him to get back to training his horses after two months.

The suspension will commence at midnight on Sunday, 28 November 2021 and finish at midnight on Friday, 28 January 2022.

I order that Mr Young be repaid the refundable portion of the bond lodged for the appeal.