

## **NEW SOUTH WALES HARNESS RACING APPEAL PANEL**

### **APPEAL BY TRAINER MR AARON GOADSBY**

#### **APPLICATION FOR STAY OF DISQUALIFICATION ORDER**

1. On 26 May 2023, the horse Luvareschs, trained by Mr Aaron Goadsby, won race 8 conducted at Newcastle. Subsequently the Australian Racing Forensic Laboratory reported that Phenylbutazone, oxyphenbutazone and gamma-hydroxyphenylbutazone had been detected in the post-race urine samples taken from Luvareschs.
2. On 6 December 2023 Harness Racing Stewards opened an inquiry into the circumstances in which the horse came to return these test results. After a lengthy hearing the Stewards were satisfied that the detection of these prohibited substances in the urine sample taken from Luvareschs, had resulted from contamination within the stable environment, rather than being a direct administration to that horse.
3. The Stewards then charged Mr Goadsby with breaching AHRR 190 (1), (2) and (4), namely, (1) a horse shall be presented for a race free of prohibited substances; (2) If a horse is presented for a race otherwise than in accordance with sub rule (1) the trainer of the horse is guilty of an offence; (4) An offence under sub rule (2)...is committed regardless of the circumstances in which the prohibited substance came to be present in or on the horse. The particulars of the charge were that Mr Goadsby, being the licensed trainer of the horse Luvareschs, did present that horse to race at Newcastle on Friday, 26 May 2023, not free of a prohibited substance, namely phenylbutazone and/or oxyphenbutazone and/or gamma-hydroxyphenylbutazone as reported by two laboratories approved by Harness Racing New South Wales.
4. Mr Goadsby promptly pleaded guilty to the charges laid by the Stewards. In considering the appropriate penalty the Stewards stated that they took into account the following matters: it was Mr Goadsby's first prohibited substance matter; this was a Class 3 Prohibited Substance; the circumstances surrounding this matter; Mr Goadsby's personal, financial and professional subjectives; Mr Goadsby's guilty plea; Mr Goadsby's involvement in the harness racing industry as a licensed trainer and sponsor; his harness racing offence record; and, HRNSW Penalty Guidelines. Having regard to these matters Mr Goadsby was disqualified for a period of three months that was to commence immediately.
5. Mr Goadsby's legal representatives quickly applied for a stay of these proceedings. Without going into the detail, some of the matters raised included the following: there had been no prior offence of this nature; he had quickly taken action to ensure that this type of offence would not happen again; a fine was available under Harness Racing Rules; there were mitigating factors to be considered; he had fully co-operated with the Stewards during this inquiry; he had a State of the Art equine property and a glass business that would be adversely affected by his disqualification; he had 6 staff who would lose their jobs; he was an industry sponsor and volunteer; and, under the present disqualification he would suffer serious reputational damage.
6. In response HRNSW queried the extent of co-operation by Mr Goadsby especially in relation to how these substances came to be in the system of the horse Luvareschs when it was not showing the symptoms that the other horses that were treated with these substances. A number of different possibilities were put forward. Further, the submission challenged the appropriateness of a fine as none of the criteria had been met by Mr Goadsby. It was also pointed out that many of the subjective matters relied upon by Mr Goadsby had already been

taken into account by the Stewards when coming to the decision on penalty. It was further pointed out that AHRR 190(1) breaches were absolute liability offences.

7. The powers of the Appeal Panel in relation to an application for a stay are laid down in NSWLR 181E (1) in the following terms: 'On the lodging of an appeal and an application for a stay of proceedings, the New South Wales Harness Racing Appeal Panel has the power to grant a stay of proceedings in circumstances where it considers that a substantial injustice may be caused to the appellant if the stay is not granted.' The width and scope of that power has not yet been established and that will occur over time as different cases come before the Panel for consideration. It is to be noted that the provision does not directly encompass the variety of stay provisions found in other legislation.
8. In this case neither party has directly addressed how a stay would be appropriate and in accordance with NSWLR 181E (1). Mr Goadsby appears to be a person of financial means. Inevitably the imposition of a disqualification has wide spread ramifications for the industry participant involved. Those are the severe consequences that serve as a deterrent and promote compliance with the rules of racing. Those measures also are prominent in maintaining public confidence and expectations that the industry is 'clean'.
9. Of the many arguments put forward on behalf of Mr Goadsby it appears that he primarily seeks a fine only or suspension rather than a disqualification. He accepts his guilt as set out in the charges. On the material before this Panel those matters are unlikely to be embraced at a full hearing. He has received a fair hearing before the Stewards and they have taken numerous matters into account in his favour. Having regard to those matters the Panel as convened is satisfied that a stay is not warranted in this case.

Hon Wayne Haylen KC – Principal Member  
18 December 2023