

**NEW SOUTH WALES
HARNESS RACING
APPEAL PANEL**

APPEAL PANEL MEMBERS

**B Skinner
P Kite SC
Ms J Moore**

12 DECEMBER 2023

APPELLANT LEON JURD

RESPONDENT HRNSW

**AUSTRALIAN HARNESS RACING RULES
190(1), (2) & (4)**

DECISION

- 1. The appeal of Mr Leon Jurd is dismissed. The decision of the Stewards to disqualify Mr Jurd for a period of 3 months is confirmed.**
- 2. The appeal deposit is to be forfeited.**

1. On Tuesday, 31 January 2023, a pre-race blood sample was taken from Melpark Magic prior to race 1, the Chariots of Fire 18 Feb Trotters Mobile conducted at Tabcorp Park Menangle. The Australian Racing Forensic Laboratory reported that Flunixin was detected. The "B" sample was confirmed by Racing Analytical Services Limited in Victoria.
2. An Inquiry was conducted by HRNSW Stewards on 24 October 2023. Mr Leon Jurd, a licensed trainer was present and provided evidence to the Inquiry together with stable employee Mrs Stephanie Morris. The certificate of analysis was presented, and Dr Annie Knox gave evidence. Mr Jurd was unable to provide an explanation for the detection of Flunixin in the blood sample.
3. Flunixin is a Class 3 prohibited substance. It is a nonsteroidal anti-inflammatory drug. It is one of 31 products registered for veterinary use in Australia. It is utilised for musculoskeletal conditions, trauma, gut pain as in colic and in some ocular condition such as inflammation in the eye. The main mode of administration for Flunixin is IV injection.
4. Mr Jurd pleaded guilty to a charge issued by the HRNSW Stewards pursuant to Australian Harness Racing Rule (AHRR) 190 (1), (2), & (4) as follows:
AHRR 190. (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) or (3) is committed regardless of the circumstances in which the prohibited substance came to be present in the horse.
5. Mr Jurd was disqualified for a period of three months to commence immediately.
6. The Stewards in considering penalty took into account the following matters:
 - Mr Jurd's first prohibited substance matter;
 - Class 3 Prohibited Substance.
 - Mr Jurd's personal and financial subjectives;
 - Mr Jurd's guilty plea;
 - Mr Jurd's involvement in the harness racing industry for approximately 40 years as a licensed trainer and driver;
 - Mr Jurd's harness racing offence record;
 - HRNSW Penalty guidelines.
7. Dr Annie Knox was called to give evidence at the appeal. Initially, Mr Morris who appeared for Mr Jurd made reference to an article entitled "Drug contamination of the equine racetrack environment: a preliminary examination" by S. A. Barker of Louisiana State University in Baton Rouge USA. Dr Knox confirmed that a concentration of 1.68 nanograms per ml in the blood would correspond with administration somewhere between 48 hours and 72 hours prior to the sample being taken. After it was made clear that the manner of administration was unknown, Mr Morris asked no further questions and withdrew the tender of the article.
8. An appeal against the severity of the penalty was received on 25 October 2023.
9. Mr Morris appeared on the severity appeal. Two references as to good character were admitted into evidence. An outline of submissions was submitted. The core submission was to the effect that "the failure of HRNSW to provide timely information resulted in the appellant being at a significant forensic disadvantage.

Therefore, on the balance of probabilities the presentation has resulted from contamination.”

10. The submission regarding delay was dealt with by Ms Chua for HRNSW by reference to the chronology of events which demonstrated that the Certificate of Analysis was issued on 20 April 2023 (Exhibit 3). Mr Jurd was interviewed 8 days later on 28 April 2023.
11. It was argued for HRNSW that contamination was not an issue. The Panel agrees. The starting point in the Penalty Guidelines for a Class 3 first offence is 12 months disqualification. It was submitted that a total discount of 75% was not inappropriate having regard to the plea of guilty and the good fame and character of Mr Jurd. The Panel agrees.
12. The submission made for Mr Jurd that a fine of \$2,500 was appropriate is accordingly rejected.
13. It was accepted by the Panel that the three-month disqualification imposed by the Stewards struck the right balance under the Guidelines and the Appeal was dismissed following the hearing. The appeal deposit fee was forfeited.

Mr B. Skinner Chairman
Mr P. Kite SC – Panel member
Ms J. Moore – Panel Member

12 December 2023