

DATE: 20 March 2024

TRIBUNAL: Chairperson: Teresa Hall

APPELLANT: Graeme (Dick) Leech

Stay Application by Mr Graeme Leech against a decision of Thoroughbred Racing Northern Territory Stewards (Stewards).

BREACH OF RULE: AR254

### **DETERMINATION**

Mr Leech is a licensed trainer with Thoroughbred Racing Northern Territory (TRNT). He plead not guilty to an offence against AR254 in that on 3 February 2024 the horse Envenomate was injected on race day or not less than one clear day prior to 12.00am on the day of the scheduled race.

Although I do not have the transcript of the hearing, I have been provided with the transcript of the investigation hearing on 3 February 2024 and the evidence that was produced at the March hearing including the veterinarian letter provided by Mr Leech.

The decision of the Stewards found Mr Leech guilty and the reasons for the decision were published on 18 March 2024.

The Tribunal received a Notice of Appeal on 18 March 2024, the initial appeal was against the severity of the penalty only and requested a stay of the penalty. On 19 March 2024, the Tribunal received an updated Notice of Appeal which was an appeal against the conviction and the severity of the penalty and again requesting a stay of the penalty.

It is within the power of the Chairman to grant a stay under section 145W of the *Racing and Betting Act 1983*.

#### **145W Stay of proceedings**

- (1) *Subject to subsection (2), the Chairman may, pending the determination of an appeal, order, subject to such conditions as the Chairman thinks fit, a stay of the execution of the penalty, decision or order appealed against.*
- (2) *Before making an order under subsection (1) the Chairman shall invite submissions from the appellant and the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and shall take into account any submissions received in determining whether or not to make an order under that subsection.*

Both the Stewards and Mr Leech were invited to make submissions. Mr Leech provided the following submissions:

I am applying for a Stay of Proceedings as I will be disadvantaged while the appeal is being heard.

I have twenty - one (21) horses in work in Alice Springs to run at the carnival  
I have engaged jockeys to fly from Darwin to ride on Saturday  
I construct horse swimming pools interstate – this decision impacts on this business and my staff

Should my appeal be successful and the Stay of Proceedings not be allowed I could not recover this time

The Stewards provided the following submissions:

Mr Leech was found guilty of the serious charge of injecting one of his runners on race day – AR254.

***AR 254 Injections prohibited at certain times***

- (1) *A person must not, without the permission of the Stewards:*
- (a). *inject;*
  - (b). *cause to be injected;*
  - (c). *attempt to inject; or*
  - (d). *be a party to the injection or attempted injection of,*  
*a horse engaged to run in any race:*
    - (i). *at any time on the day of the scheduled race and prior to the start of that race; and/or*
    - (ii). *at any time during the 1 clear day prior to 12.00am on the day of the scheduled race.*
- (2) *If a person breaches subrule (1), or the Stewards reasonably suspect that such a breach has been committed, they may order the scratching of the horse from the relevant race.*
- (3) *If a person breaches subrule (1), but the horse competes in the race, the horse may be disqualified from the race.*
- (4) *For the purposes of this rule:*
- (a). *“inject” includes, but is not limited to, the insertion of a hypodermic needle into a horse;*
  - (b). *it is not necessary to establish whether any substance was injected, or the nature of any substance injected.*

This is the first occasion that a trainer has been prosecuted and sanctioned in the NT for a breach of this particular rule. The penalty sets an important precedent.

As you will read in the attached reasons for decision there is compelling evidence, including expert veterinary opinions, that support the finding of guilt on the balance of probabilities.

It is our position that when considering the precedents in other jurisdiction's, as detailed in the reasons for decision, successfully arguing that a term of disqualification is not appropriate is low.

By way of comparison on penalty I refer to the provisions of AR249 below:

**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.*

This rule stipulates that a mandatory disqualification of 6 months must be imposed for an administration on race day. This offers some guidance for a race day injection under the terms of AR254. Whilst there is no mandatory penalty for AR254, the Stewards also accept that there is no requirement to establish that a substance was administered to find a breach of rule AR254. The fact remains that there are only 2 reasons to inject a thoroughbred on race day, either take blood or inject a substance. Not knowing what was injected can be argued as more serious.

It is our position that if Mr Leech is granted a stay of proceedings until the appeal is heard and continues to train the 28 thoroughbreds he has in work through the Alice Springs Carnival, it will have a high risk of reflecting negatively on the image, interest and integrity of racing in the NT given the gravity of this offense. Owners in thoroughbreds currently trained by Mr Leech will be able to continue to race their horses as the Stewards will actively support the relocation and transfer of ownership arrangements required to limit the impact on current racing preparations.

For all of the above reasons the Stewards respectfully submit that a stay of proceedings ought not to be granted.


If this matter involved only an appeal against penalty I would not grant the stay on the basis that a disqualification of some period is a likely outcome for this offence. The current circumstances are that the amended notice of appeal also included an appeal against the finding of guilt. The reasons for the stay put forward by Mr Leech are essentially of the financial impact that the decision will have on his ability to train and operate his other business. Whilst I accept that if I refuse the stay, it will financially disadvantage the appellant if the appeal is ultimately successful, the grounds must be compelling for me to exercise my discretion. Mr Leech has provided a small number of photos and videos of loose wire in a truck, which in my view would not be likely to cause the mark on the horses' neck. There are no other submissions regarding adducing further evidence at the hearing or any submissions regarding errors in finding of guilt.

Without prejudging what the outcome might be at the hearing, on the facts before me there is no compelling argument that the decision of the Stewards is incorrect in respect of the guilt of the appellant. Further it is the case that the decision of the Stewards is to be regarded as correct unless it is shown to be in error.

In my opinion, balancing the competing considerations of financial hardship of the appellant, the importance of the Stewards role in upholding the integrity of racing and the fact that the Tribunal can

expedite a hearing, I do not find the appellants submissions provide compelling circumstances in which I am justified in using my discretion to grant a stay.

The application for a stay is refused.



TERESA HALL  
CHAIRMAN