



INQUIRY INTO THE ANALYST'S FINDING OF COBALT IN A URINE SAMPLE TAKEN FROM *INSURRECTION* AFTER RUNNING IN RACE 2 -3YO GRADUATION HANDICAP CONDUCTED AT WARWICK FARM RACECOURSE ON 3 OCTOBER 2022 AND ALSO A URINE SAMPLE TAKEN FROM *DAYTONA* AFTER RUNNING IN RACE 2 – CLASS 1 HANDICAP CONDUCTED AT GOULBURN RACECOURSE ON 4 OCTOBER 2022.

Racing NSW Offices
Druitt Street, Sydney

19 December 2022

Stewards: **S G Railton (Chairman)**
T P Moxon
S K Knight

Racing NSW Stewards today conducted an inquiry into the Analysts' findings of cobalt at a concentration above the level stipulated in paragraph 11 of Division 3 of the Prohibited List B in:

- a urine sample taken from *Insurrection* after running in in Race 2 – 3YO Graduation Handicap conducted at Warwick Farm Racecourse on 3 October 2022; and
- a urine sample taken from *Daytona* after running in Race 2 – Class 1 Handicap conducted at Goulburn Racecourse on 4 October 2022.

Cobalt was certified at the following levels:-

Insurrection – Warwick Farm 3 October 2022

Post-Race	National Measurement Institute (NMI)	8/11/2022	118 µg/L
Post-Race	Racing Analytical Services Limited (RASL)	1/12/2022	118 µg/L

Daytona – Goulburn 4 October 2022

Post-Race	National Measurement Institute (NMI)	8/11/2022	122 µg/L
Post-Race	Racing Analytical Services Limited (RASL)	1/12/2022	121 µg/L

Evidence was taken from Mr Michael Freedman the trainer of *Insurrection* and *Daytona*, Racing NSW Chief Veterinary Officer, Dr Peter Curl, and ARFL Manager, Mr John Keledjian. In addition, written evidence was tendered by Mr Freedman's stable veterinarian, Dr David Garth, and Ms Clare Oxley, Managing Director of EquaCare Pty Ltd.

The evidence disclosed the following:

- In February 2022, Mr Freedman commenced discussions with EquaCare Pty Ltd regarding the formulation of a custom mix feed supplement marketed as *EquaCare Vitamin, Mineral and Electrolyte Formula*. There was agreement between Mr Freedman and Equacare Pty Ltd regarding the product ingredients and an understanding that the formulation did not contain cobalt (as an added ingredient).
- After providing *EquaCare Vitamin, Mineral and Electrolyte Formula* as a feed supplement to certain horses in his stable for a trial period, Mr Freedman then commenced to provide the supplement more broadly to horses under his care.
- In May 2022, after consulting with his stable veterinarian, Dr Garth, Mr Freedman did specifically request that the formulation of the tailored custom mix feed supplement be

altered to include a higher level of calcium. EquaCare acknowledged this, with the formulation modified accordingly.

- When producing the modified custom mix feed supplement with additional calcium, cobalt sulphate was also added by the manufacturer. The addition of cobalt was not requested by Mr Freedman and was done without his knowledge.
- EquaCare provided evidence of having stated and displayed the presence of cobalt sulphate in the modified custom mix feed supplement by listing this ingredient on the label of the product container.
- On Friday 14 October 2022, Racing NSW Stewards were notified by the Australian Racing Forensic Laboratory that samples taken from horses in Mr Freedman's stable had, upon preliminary screening, shown the presence of cobalt at elevated levels.
- On Saturday 15 October 2022, Racing NSW Investigators conducted an inspection of Mr Freedman's stable, informing him of the elevated levels of cobalt in horses under his care. During the stable inspection, feed samples were obtained for the purpose of cobalt analysis.
- On Wednesday 19 October 2022, Mr Freedman alerted Stewards to a feed supplement that might give rise to an elevated cobalt level, whereupon a further stable inspection was conducted. At that time, Stewards seized *EquaCare Vitamin, Mineral and Electrolyte Formula* and *EquaCare Gut Balance Formula* for laboratory analysis.
- Following the analysis of feeds, feed supplements and blood samples taken from a number of horses in Mr Freedman's stable, it was established that the likely cause of elevated levels of cobalt being detected in samples collected from horses under Mr Freedman's care was as a consequence of being fed *EquaCare Vitamin, Mineral and Electrolyte Formula*. After being informed of this, Mr Freedman temporarily suspended the use of the product.

Having regard to the evidence above, Stewards accepted the evidence of Dr Curl that he was comfortably satisfied the detection of cobalt in the urine samples collected from *Insurrection* on 3 October 2022 and *Daytona* on 4 October 2022 was due to the ingestion of the feed supplement *EquaCare Vitamin, Mineral and Electrolyte Formula*.

Charge 1 – AR240(2)

Mr Freedman pleaded guilty to a charge under AR 240(2) in that, as the trainer of *Insurrection*, he brought that horse to Warwick Farm Racecourse on 3 October 2022 for the purpose of participating in Race 2 – 3YO Graduation Handicap and the prohibited substance cobalt was detected, above the level of 100 micrograms per litre excepted in paragraph 11 of Division 3 of the Prohibited List B, in a urine sample taken from the gelding after it ran on that day.

Charge 2 – AR240(2)

Mr Freedman pleaded guilty to a charge under AR 240(2) in that, as the trainer of *Daytona*, he brought that horse to Goulburn Racecourse on 4 October 2022 for the purpose of participating in Race 2 – Class 1 Handicap and the prohibited substance cobalt was detected, above the level of 100 micrograms per litre excepted in paragraph 11 of Division 3 of the Prohibited List B, in a urine sample taken from the gelding after it ran on that day.

Penalty

In assessing the penalty, Stewards were satisfied that this case did not warrant a period of disqualification or suspension of licence as had been the precedent penalties in NSW for cobalt-related offences. In arriving at that determination, as detailed above, Stewards were satisfied the cobalt finding was not due to any intentional administration of cobalt to *Insurrection* or *Daytona* either through supplementation or any unregistered product.

In addition, Stewards considered the following:

- Mr Freedman's full cooperation with Racing NSW Investigators and Stewards during the investigation process to determine the cause of the elevated cobalt levels in horses under his care.
- His low level of culpability, given cobalt was added to the custom mix feed supplement without his knowledge or instruction.
- The early entry of a guilty plea and his good disciplinary record.
- His personal and professional circumstances.
- Purpose of issuing penalties as a protective measure for the integrity of the thoroughbred industry.

Given the circumstances, Stewards considered a fine of \$8000 on each charge under AR 240(2) an appropriate penalty. Having regard to his guilty plea and other relevant considerations, Stewards ruled that the penalty applicable to each charge be reduced by 25% with a fine of \$6000 being imposed. Accordingly, Mr Freedman was fined a total of \$12,000.

Acting under the provisions of AR 240(1), *Insurrection* was disqualified from its 1st place in Race 2 – 3YO Graduation Handicap conducted at Warwick Farm Racecourse on 3 October 2022, with the placings amended as follows:

1 st	Wingardium
2 nd	Plymstock
3 rd	Veandechance
4 th	Spicy Hotpot
5 th	Marillier

Acting under the provision of AR 240(1), *Daytona* was disqualified from its 1st place in Race 2 – Class 1 Handicap conducted at Goulburn Racecourse on 4 October 2022, with the placings amended as follows:

1 st	Ningaloo Star
2 nd	Dubai Showgirl
3 rd	Acceber
4 th	Louie's Legacy
5 th	Elle Effess (NZ)

Relevant Rule

Division 2 – Prohibited substance in a sample taken from a horse

AR 240 Prohibited substance in sample taken from horse at race meeting

- (1)** *Subject to subrule (3), if a horse is brought to a racecourse 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 horse must be disqualified from any race in which it started on that day.*
- (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.*

- **S G Railton (Chairman of Stewards)**