



6 July 2023

STEWARDS REPORT

*Inquiry into two analyst's findings relative to a urine sample obtained from
Whatsin after it won at Orange on 15 January 2023*

Inquiry conducted at Bathurst Racecourse

Committee of Stewards: J D Walshe (Chairman), J P W Prior & S D Parkinson

Stewards today inquired into two analyst's findings relative to a urine sample obtained from *Whatsin* following that mare's win in Race 6 Breakout River Meats Cowra Japan Cup 1280m at Orange on 15 January 2023.

Evidence was taken from licenced trainer Mr D Mirfin, managing owner Mr J Condon and evidence was obtained via teleconference from Mr J Keledjian - General Manager of the Australian Racing Forensic Laboratory and Dr P Curl – Chief Veterinary Officer Racing NSW.

Evidence

During the inquiry the evidence established the following:

- 1) In June 2018 Racing NSW provided notification to the racing industry that injectable altrenogest products should not be administered to thoroughbreds following trendione, epitrenbolone and trenbolone being found at low levels due to impurities being present in altrenogest products. In conjunction with the introduction of NSW LR44A, Racing NSW advised that oral altrenogest products could be used but not within one clear day of racing. Further, trainers were advised they should not use oral altreneogest containing products within one clear day of racing and that these registered products must be used in accordance with the relevant manufacturer's guidelines.
- 2) In February 2020 Racing NSW provided notification to the racing industry that Regumate Oral Progestagen for Pigs is prohibited from being used in racing stables and trainers were advised that when the Stewards establish the administration of products such as Regumate Oral Progestagen for Pigs which is not manufactured or registered for use in horses which results in an elevated level of trenbolone, trendione or epitrenbolone in a sample, the provisions of LR44A do not apply. Mr Mirfin advised that he was not aware of the warnings in respect to the use of Regumate Oral Progestagen for Pigs and certain aspects of the use of oral altrenogest in horses.

- 3) During a stable inspection conducted by Stewards on 2 March 2023, Stewards took possession of a bottle of Regumate Oral Progestagen for Pigs (Pig Regumate) which was supplied to Mr Mirfin by the late Dr G Corones on or around 15 December 2022. The label on the Pig Regumate failed to record the name of the horse and directions for use.
- 4) During the stable inspection it was identified that Mr Mirfin had not recorded in his treatment diary the administration of the Pig Regumate at the relevant time.
- 5) The Stewards did not consider it appropriate to exercise the discretion under NSW LR44A in respect of this charge as the analysis by the ARFL confirmed the presence of trendione and epitrenbolone in the urine sample provided by *Whatsin* to be above 1ug/l as specified by NSW LR44A and, as set out above, the substance used was not a registered product for use in horses.

Charges

Stewards gave careful consideration to which of the prohibited substance Rules of Racing should be applied and considered that, given the circumstances of the matter and having regard to the veterinary and scientific evidence, AR240(2) was the Rule of Racing that most appropriately reflected the relevant conduct.

Mr D Mirfin was charged with the following offences:

Charge 1 – AR 240(2) Presented *Whatsin* to race at the Orange racecourse on 15 January 2023 and a post-race urine sample was found to contain the prohibited substances, trendione and epitrenbolone.

Plea: Guilty

Charge 2 – AR252(1) – He had in his possession Pig Regumate that had not been prescribed and dispensed in accordance with the Poisons and Therapeutic Goods Regulation 2008.

Plea: Guilty

Charge 3 – AR 104(1) – He did fail to record in his stable treatment records, the most recent administration of *Regumate Oral Progestagen for Pigs* to '*Whatsin*' prior to the mare competing at Orange on 15 January 2023.

Plea: Guilty

Penalty

Stewards gave consideration to the following matters when determining penalty:

- 1) Guilty pleas to each of the three charges.
- 2) Mr Mirfin having held a trainer's licence for 12 years.
- 3) Mr Mirfin's unblemished disciplinary record in respect to breaches under AR240(2) and AR252(1).
- 4) Mr Mirfin's personal and professional circumstances.
- 4) The principles of individual and general deterrence.
- 5) The nature of the substances detected being on prohibited substance List A.
- 6) Notifications issued by Racing NSW in respect to the use of altrenogest products and Mr Mirfin failing to make himself aware of such warnings.

7) Precedent penalties.

Penalty Charge 1 – AR 240(2) – Stewards determined that the appropriate starting point for the offence under AR240(2) be a fine in the sum of \$14,000. However, giving consideration to all relevant matters including Mr Mirfin’s guilty plea, Stewards determined that Mr Mifin be fined the sum of \$10,000.

Penalty Charge 2 – AR 252(1) – \$500 fine.

Charge 3 – AR 104(1) – \$750 fine.

Mr Mirfin was advised of his rights of appeal against the penalties imposed under AR240(2), AR252(1) and AR104(1).

Whatsin Disqualification

Stewards acting under the powers of AR240(1), disqualified Whatsin from its first placing in Race 6 Breakout River Meats Cowra Japan Cup 1280m at Orange on 15 January 2023 and amended the placings to:

- 1st Larynx
- 2nd Cheptegei
- 3rd Power Bank
- 4th Almost Persuaded
- 5th The Long Run
- 6th Petain
- 7th Classy Rebel
- 8th Westlink

Mr J Condon, being the managing part-owner of Whatsin, was advised of the owner’s right of appeal in respect to the Steward’s ruling to disqualify the mare from its first placing under the provisions of AR240(1).

JD Walshe
Chief Steward
South East Region – Racing NSW

Relevant Rules

AR 240(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.*

AR 240(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.

AR 252(1) *A person must not have in his or her possession or on his or her premises any medication, substance or preparation which has not been registered, labelled, prescribed, dispensed or obtained in accordance with applicable Commonwealth and State legislation.*

AR 104(1) *A trainer must record any medication or treatment administered to any horse in the trainer's care by midnight on the day on which the administration was given.*

LR 44A. *When a blood or urine sample taken at any time from a filly or mare has detected in it trenbolone, trendione or epitrenbolone below a mass concentration of 1 microgram per litre, together with altrenogest, it is open to Racing NSW (or the Stewards exercising powers delegated to them) to find that the provisions of AR 240(1) and (2), AR 241, AR 242, AR 243, AR 244, AR 248, AR 250, AR 253, AR 256, Schedule 1 – Prohibited Substances, do not apply if, on the basis of the evidence available to them, they are satisfied that the detected level of trenbolone, trendione or epitrenbolone in the sample was caused by contamination of the active ingredient altrenogest administered in accordance with the Rules of Racing and advice published by Racing NSW.*