

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 13 February 2014

SUBJECT: **HEARING RESULT – TRAINER: RAY CLEAVER**

Panel Judge Russell Lewis (Chair), Ms Sara Hinchey & Mr Darren McGee.

Appearances Mr Cleaver appeared on his own behalf.
Mr James Ogilvy appeared on behalf of the Stewards.

Charge Breach of AR 178

When any horse that has been brought to a racecourse for the purpose of engaging in a race and a prohibited substance is detected in any sample taken from it prior to or following its running in any race, the trainer and any other person who was in charge of such horse at any relevant time may be penalised.

The charge relates to a prohibited substance, being Lignocaine and 3-Hydroxylignocaine, being detected in a urine sample taken from the horse *Hilton Miss* following its run in Race 2 the *Sita Australia F&M Maiden Plate* (1200m) at Ballarat on Monday, 4 November 2013.

Plea Guilty.

Decision Mr Cleaver convicted and fined \$4,000 – due on or before 31 July 2014.

In accordance with AR 177, *Hilton Miss* disqualified as 3rd place-getter in Race 2 the *Sita Australia F&M Maiden Plate* (1200m) at Ballarat on Monday, 4 November 2013 and the places amended accordingly:

3rd – Heirlooms, 4th – Must You Go, 5th – Bianco Cruise, 6th – Host Me, 7th – Horse Power (NZ).

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MS S. HINCHEY
MR D. McGEE**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE SITA AUSTRALIA FILLIES AND MARES
HANDICAP OVER 1200 METRES AT BALLARAT ON 4/11/13**

TRAINER: RAY CLEAVER

MELBOURNE

THURSDAY, 13 FEBRUARY 2014

MR J. OGILVY appeared on behalf of the RVL Stewards

MR R. CLEAVER appeared on his own behalf

CHAIRMAN: Ray Cleaver, you have pleaded guilty to a charge laid under Australian Rule of Racing 178 of bringing a horse to the races with a prohibited substance in its system, namely lignocaine, and its metabolite 3-hydroxylignocaine.

Lignocaine is a local anaesthetic and is commonly used on horses being applied topically to reduce pain and itching. According to Dr Stewart:

It has serious potential for abuse in horse racing because of its capability for desensitising painful areas of the body which may result in injury to the desensitised structures during racing or training.

Lignocaine is contained in certain proprietary veterinary products, one of which is Neocort cream. Neocort cream is an anti-inflammatory, local anaesthetic and antibiotic cream produced by Troy Laboratories Pty Ltd for the treatment of skin wounds and irritations.

At all material times you were the trainer of the horse, Tankster, and the horse, Hilton Miss. Tankster was suffering from a skin condition and acting on veterinary advice, you or your employee, Mr McMullen, applied Neocort cream which had been prescribed by a veterinarian on 10 October 2013. The cream came in a 200-gram tub with instructions for use clearly set out on the label. Significantly, the following appeared:

Apply to affected areas daily. Stop four days pre-race. This contains a prohibited substance.

According to Dr Stewart, this advice was reasonable and consistent with the pharmacokinetics of lignocaine and the application of an appropriate margin of safety. Tankster was duly treated and the skin condition cleared up.

Hilton Miss was engaged to race and did race on 4 November 2013.

Occasionally she would speedy-cut one or both hind legs in the fetlock area.

On 2 or 3 November, Neocort cream from the same tub was applied by you or Mr McMullen to a nick on the hind leg of Hilton Miss. It was done in the absence of veterinary advice and it seems from what you told the stewards that you were ignorant of what was on the tub label. At page 6, line 38 of the record of interview the following appears:

MR CLEAVER: I didn't realise it had a prohibited - well, I knew it had a cortisone in it but I didn't know what the withholding period was.

Then at page 7, lines 36 to 37:

Is there a label on it other than the name?

MR CLEAVER: I'd have to have a look at it.

In the event, Hilton Miss, not unsurprisingly, returned a positive to lignocaine when she was post-race sampled on 4 November.

In the opinion of the Board, this is a serious breach of Australian Rule 178.

This is not a case of contamination or of a mix-up in instructions, or the mistaken identity of the horse to be treated, or a case involving some other form of misadventure. The present case is an example, at best, of gross

incompetence or, at worst, reckless conduct on the part of an experienced licensed trainer.

Special deterrence and general deterrence are important sentencing considerations, as well as harm to the image of racing. The Board notes that you have a previous conviction in relation to a prohibited substance in 2010.

However, in arriving at an appropriate penalty, the Board does have regard to established mitigating factors. These are your plea of guilty, your cooperation with the stewards and your precarious financial position. Mr Cleaver, you are fined the sum of \$4000 to be paid on or before 31 July 2014. If you so desire, providing the stewards agree, you can make appropriate arrangements for how that amount is to be paid.

Pursuant to the Australian Rule of Racing, the horse, Hilton Miss, must be and is disqualified.
