

RACING VICTORIA LIMITED

RACING APPEALS AND
DISCIPLINARY BOARD



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HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 24 May 2010

SUBJECT: HEARING RESULT – TRAINER: CLINTON McDONALD

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy Chair), Mr Geoff Ellis

Appearances Mr Chris Winneke, instructed by RVL's James Ogilvy and Dayle Brown, appeared as Counsel for the RVL Stewards.

Mr Anthony Lewis appeared as Counsel for Mr McDonald.

Charges Four breaches of AR 178 [prohibited substance].

The charges relating to a prohibited substance, being 3-Methoxytyramine (including both free 3-Methoxytyramine and 3-Methoxytyramine liberated from its conjugates) at a mass concentration in excess of 4.0 milligrams per litre in urine, detected in the following horses trained by Mr McDonald:

1. *Mr Crane* – winner of the *Honey Fashion SV 3YO Maiden Plate* (1100m) at Echuca on 3 November 2009
2. *Carleton* – winner of the *TAC 0-62 Handicap* (1400m) at Echuca on 3 November 2009
3. *Mr Crane* – winner of the *Mangalore Hotel Class One Handicap* (1200m) at Seymour on 19 November 2009
4. *Shabtis* – winner of the *Mitchelton Wines Maiden Plate* (1400m) at Seymour on 19 November 2009

Plea Guilty – all four charges.

Decision Mr McDonald convicted of all charges and fined the amount of \$3,500 for each charge – a total of \$14,000 due on or before 31 July 2010.

Decision (continued)

Mr Crane disqualified as winner of the *Honey Fashion SV 3YO Maiden Plate* (1100m) at Echuca on 3 November 2009 and the placings amended as follows:

1st – *Le Roi Charlemagne*, 2nd – *Immaculate Choice*, 3rd – *Roman Centreman*, 4th – *Coral Castle*, 5th – *High Street Road*, 6th – *Captangeorgi*, 7th – *Single Asha*.

Carleton disqualified as winner of the *TAC 0-62 Handicap* (1400m) at Echuca on 3 November 2009 and the placings amended as follows:

1st – *Jeuneys End*, 2nd – *King Crimson*, 3rd – *Singing Shadow*, 4th – *Great Grandeur*, 5th – *Liberty's Way*, 6th – *Elite Moxie*, 7th – *Olyball*, 8th – *Bee Bee Warrior*, 9th – *Prussia Island*.

Mr Crane disqualified as winner of the *Mangalore Hotel Class One Handicap* (1200m) at Seymour on 19 November 2009 and the placings amended as follows:

1st – *Xanthos*, 2nd – *Bartonelle*, 3rd – *Midnight Louie (NZ)*, 4th – *Arctic Light*, 5th – *Prowler*, 6th – *Tidal Spirit*, 7th – *Meetmeinkentucky*.

Shabtis disqualified as winner of the *Mitchelton Wines Maiden Plate* (1400m) at Seymour on 19 November 2009 and the placings amended as follows:

1st – *Eraset*, 2nd – *Starxaar*, 3rd – *Thorn Connery (NZ)*, 4th – *The Divine One (NZ)*, 5th – *Bluetooie (NZ)*, 6th – *Unreachable Star*, 7th – *Valley Forge*.

Georgie Curtis
Registrar - Racing Appeals and Disciplinary Board

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST, Deputy Chairman
MR G. ELLIS

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: CLINTON McDONALD

MELBOURNE

MONDAY, 24 MAY 2010

MR C. WINNEKE appeared on behalf of the Stewards

MR A. LEWIS appeared on behalf of Mr C. McDonald

CHAIRMAN: Clinton McDonald, you have pleaded guilty to four charges laid under Australian Rule of Racing 178. In each case, the prohibited substance was 3-methoxytyramine, hereinafter called 3-MT. The offences occurred in relation to the horse Mr Crane on 3 November 2009 at Echuca and on 19 November 2009 at Seymour, being charges 1 and 3; to the horse Carleton on 3 November 2009 at Echuca, charge 2, and to the horse Shabtis on 19 November 2009 at Seymour, charge 4.

3-MT, a metabolite of dopamine, in itself a prohibited substance, is a naturally occurring substance in horses and thus a threshold of 4.0 milligrams per litre in urine is allowable. When the mass concentration of 3-MT exceeds the threshold, it becomes a prohibited substance.

In the case of Mr Crane, on analysis, a post-race urine sample taken on 3 November 2009 produced a reading of 7.8. The referee sample showed 6.0. The post-race urine sample taken on 19 November 2009 produced a reading of 5.5, the referee sample being 5.6.

In the case of Carleton, it is said that on analysis or at least it was shown on analysis that the post-race urine sample taken on 3 November 2009 produced a reading of 9.8, the referee sample being 8.0. In the case of Shabtis, the post-race urine sample taken on 19 November 2009 produced a reading of 7.3, the referee sample being 7.3.

Dopamine is an endogenous substance; that is, it occurs naturally in humans and horses. Dopamine belongs to a group of substances referred to as catecholamines. Catecholamines are also naturally occurring substances and are synthesised mainly from amino acids which are contained in food, namely phenylalanine and tyrosine. Phenylalanine metabolises into tyrosine, which converts via a substance known as levodopa, used in the treatment of Parkinson's disease, to dopamine. Since 3-MT is a metabolite of dopamine, it follows that increased levels of 3-MT are related to increased levels of dopamine. In turn, increased levels of dopamine may be considered to be influenced by exogenous sources of dopamine, levodopa, or abnormally high levels of tyrosine or phenylalanine.

Since there is a plea of guilty to all charges in this matter, the only question for decision is that of penalty. It should be remembered that Mr Clinton McDonald is not charged with administering a prohibited substance, but with the lesser charge of bringing a horse to the races with a prohibited substance in its system. The Board is not required to decide how or by what means the prohibited substance was administered and in that regard, the Board does not make a finding.

Mr McDonald is entitled to a discount for pleading guilty in what would otherwise have been an expensive and perhaps lengthy case. The Board also takes into account the matters raised by Mr Anthony Lewis, who appeared on behalf of Mr McDonald, in mitigation. The Board has also had regard to Mr McDonald's letter of 24 May 2010.

The Board is not persuaded by the explanations provided by Mr McDonald. All the evidence discloses are a number of possibilities as to how the horses finished up with 3-MT in excess of the permitted levels in their system. Thus, the explanation provided by Mr McDonald does not represent a mitigating factor.

Mr McDonald has one previous relevant conviction which occurred in 2003 in relation to a different substance which apparently was administered by a veterinarian. Nevertheless, the Board regards these offences as serious. The principle of general deterrence is important, as well as the image of racing.

In the opinion of the Board, a substantial financial penalty is the only appropriate penalty. On each charge, Mr McDonald is fined the sum of \$3500, a total of \$14,000, to be paid on or before 31 July 2010. The horses concerned are disqualified pursuant to Australian Rule of Racing 177.

END OF EXTRACT