

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 23 April 2015

SUBJECT: **HEARING RESULT – TRAINER: DAVID O'PREY**

Panel Judge Russell Lewis (Chair), Mr Stephen Curtain, Prof Raymond Harbridge.

Appearances Mr O'Prey appeared on his own behalf.
Mr Rhys Melville appeared on behalf of the stewards.

Charge 1 Breach of AR 178

'Subject to AR 178G, 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.'

Charge 2 Breach of AR 178F(1)

'A trainer must record treatment and medication administered to each horse in his or her care by midnight on the day on which the administration was given...'

Charge 1 relates to a prohibited substance, being Methocarbamol, detected in a pre-race urine sample taken from the horse *Providential* prior to its win in Race 8 the *Mitchelton Wines BM64 Handicap* (1612m) at Seymour on Thursday, 22 January 2015.

Plea Charge 1 – guilty.
Charge 2 – guilty.

Decision Charge 1 – Mr O'Prey convicted and fined \$1,000.
Charge 2 – Mr O'Prey convicted and fined \$500.

A total of \$1,500 due on or before 30 June 2015.

Pursuant to AR 177, *Providential* disqualified as winner of Race 8 the *Mitchelton Wines BM64 Handicap* (1612m) at Seymour on Thursday, 22 January 2015 and the places amended accordingly.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR S. CURTAIN
PROF R. HARBRIDGE**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE MITCHELTON WINES BENCHMARK 64
HANDICAP OVER 1612 METRES AT SEYMOUR ON 22/1/15**

TRAINER: DAVID O'PREY

MELBOURNE

THURSDAY, 23 APRIL 2015

MR R. MELVILLE appeared on behalf of the RVL Stewards

MR D. O'PREY appeared on his own behalf

CHAIRMAN: David O'Prey, you have pleaded guilty to a charge laid under Australian Rule 178 and also a charge laid under Australian Rule 178F. In essence, the first charge alleges that you, as the trainer of the horse, Providential, brought that horse to the races on 22 January 2015 with a prohibited substance in its system. The substance was methocarbamol, a potent skeletal muscle relaxant. It is used as an adjunct therapy for the condition known as "tying up" and for muscular trauma or muscular and ligamentous sprains or strains. The veterinary terms of "tying up" is exertional rhabdomyolysis.

Apparently Providential was inclined to suffer from tying up and was administered methocarbamol for this condition. The last reported but undocumented administration was on 20 January 2015. On that occasion, Mr O'Prey told stewards that he had administered 40 mils, that is, 4000 micrograms, in a 500-kilogram horse of the substance by injection. Mr O'Prey told Stewards that he administered the substance midmorning on 20 January 2015 on veterinary advice.

The methocarbamol was prescribed by Mr O'Prey's regular veterinarian, Dr Fielding. However, according to Mr O'Prey, he obtained advice from another veterinarian, Dr Russell, relating to treatment for the horse's tying-up problem. Mr O'Prey told Stewards that he was advised by Dr Russell that it was safe to administer the drug up to 48 hours prior to racing. Mr O'Prey told Stewards that based on this evidence, he used 48 hours for intravenously administered methocarbamol as the withdrawal period prior to racing.

Dr Grace Forbes, an RVL veterinarian, in paragraph 21 of her statement, see tab 2B, said:

Based on the dosage regime described, Mr O'Prey's withdrawal period seems unreasonable. It is equivalent to detection time and allows no safety margin.

Earlier in her statement, the following appears at page 3, paragraphs 11 to 14 inclusive, The Pharmacokinetics of Methocarbamol in Horses, paragraph 11:

The pharmacokinetics, the study of what the body does with a drug, including the clearance of the drug from the body of methocarbamol in the horse have not been extensively studied. There is limited information on the detection of methocarbamol in the urine.

Paragraph 12:

Cunningham et al 1992 studied the administration of a single intravenous dose of 10 milligrams per kilogram, 5000 micrograms in a 500-kilogram horse in six horses. On page 97, column 2, paragraph 2, Cunningham et al 1992 reported that, "Total urinary methocarbamol concentrations were below detectable limits at 48 hours."

Paragraph 14:

It must be noted that detection times are not equivalent to safe recommended withdrawal periods. There are numerous factors that may affect the clearance of a drug from a horse's system. In making any decision regarding the administration of a prohibited substance to a horse that is entered to race, industry participants are responsible for undertaking the appropriate level of due diligence and risk analysis in researching the available information on detection periods, including the seeking of veterinary advice and adding an adequate safety margin. Participants are advised to take a conservative approach when calculating withdrawal times for therapeutic substances where information on detection times is available (appendix D and E).

Dr Russell was interviewed by stewards and confirmed that Mr O'Prey had sought advice relating to the horse's tying-up problem. He was unable to recall whether Mr O'Prey had contacted him directly or via Dr Fielding. In any event, Dr Russell said that from time to time, he did some work for the Albury Equine Clinic and that clinic had been using methocarbamol, employing a 48-hour withdrawal period. He said that after he and others were informed that Mr O'Prey's horse had returned a positive, it "put the wind up everybody and so we really don't use it".

At page 3 of his interview, see tab 3C, about line 15, he was asked by the Steward, Mr Melville:

You said it was 48 hours, what you believed to be the withhold?

Answer:

Yeah.

Question:

Where do you normally sort of get that information from?

The answer to that question and what follows is illuminating and indeed alarming. I read:

Look, unfortunately exactly the same place we get them all from. Somebody pulls it out of thin air and it's tested for a while - well, tested in the sense that somebody pulls it out of thin air. They see where they get with it and if nobody gets swabbed up, then that becomes common law. I mean, you know, without - I mean, you would know this yourself. Most of the - there's no particularly clear guidance on swab times.

MR MELVILLE: Yes.

DR RUSSELL: A lot of the ones that come up are basically word of mouth. I think this is probably the best way that I can put it, you know.

MR MELVILLE: Yes. So post this sample coming back positive, are you still using the drug?

DR RUSSELL: No, we've pretty much taken it off. I mean, we have a few bottles of it on the shelf. Look, I think it's a good drug. Like, it was absolutely a revelation for the treatment of tying up in horses. It's a muscle relaxant, as I'm sure you'd all be too well aware.

MR MELVILLE: Yes.

DR RUSSELL: And it works super well. Some of the other clinics that we know use it have now gone out to using it at five days, but being one of the men pretty much in the gun about it, I sort of think I could probably do without it in my life, so I've just stopped using it.

The Board is satisfied that Mr O'Prey has provided a credible explanation for the drug being in the horse's system. That explanation, together with his plea of guilty, his good record and other discounting factors referred to during the hearing, justifies the Board in imposing only a moderate financial penalty.

In relation to charge 1, Mr O'Prey, you are fined the sum of \$1000. In relation to charge 2, you are fined the sum of \$500. A total of \$1500 is therefore imposed and is to be paid on or before 30 June 2015. Pursuant to Australian Rule 177, the horse must be and is disqualified.
