



HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 14 July 2015

SUBJECT: **HEARING RESULT – TRAINERS IN PARTNERSHIP:
MATTHEW ELLERTON AND SIMON ZAHRA**

Heard By Judge Russell Lewis (Chair).

Appearances Mr Simon Zahra appeared on behalf of the training partnership of Matthew Ellerton & Simon Zahra.

Mr James Ogilvy appeared on behalf of the stewards.

Charge 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.

The particulars of the charge being that a prohibited substance, Clenbuterol, was detected in a post-race urine sample taken from the horse *Epic Saga* following its win in Race 6 the *Tatura Cup* (1600m) at Tatura on Saturday, 4 April 2015.

Plea Guilty.

Decision Mr Ellerton and Mr Zahra as trainers in partnership convicted and fined \$1,000 – fine due on or before 31 July 2015.

Pursuant to AR 177, *Epic Saga* disqualified as winner of Race 6 the *Tatura Cup* (1600m) at Tatura on Saturday, 4 April 2015 and the places amended accordingly.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE R.P.L. LEWIS, Chairman

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE TATURA CUP OVER 1600 METRES
AT TATURA ON 4/4/15**

TRAINERS: MATHEW ELLERTON AND SIMON ZAHRA

MELBOURNE

TUESDAY, 14 JULY 2015

MR J. OGILVY appeared on behalf of the RVL Stewards

MR S. ZAHRA appeared on behalf of Ellerton Zahra Racing

CHAIRMAN: Licensed trainers, Mathew Ellerton and Simon Zahra, have pleaded guilty to a charge laid under Australian Rule 178. In essence, the charge is that they brought a horse to the races with a prohibited substance in its system. The prohibited substance was clenbuterol.

Clenbuterol is registered for use in horses and is routinely used as a bronchodilator, an expectorant, in horses. It may be administered by intravenous, intramuscular, oral and intra-tracheal routes and via a nebuliser. It is contained in a commercial product known as Broncopulmin which may be obtained in powder form and, as it turns out from the evidence given today, in liquid form.

In this case, the high probability is that the horse, Epic Saga, was mistakenly given Broncopulmin in powder form in its feed, although clenbuterol-contaminated feed or environmental contamination could not be excluded. The facts are that a horse in an adjoining box, namely Face Forward, was receiving Broncopulmin powder mixed in its feed and inadvertently the wrong horse received it. This occurred because the system in place to prevent Epic Saga receiving the substance was inadequate. It is not up to the Board to provide advice on this aspect. However, the Board notes that administration of the substance may be achieved other than by mixing powder in feed and that more stringent measures to ensure that the right horse received the right supplements or additives were available. Indeed, Mr Zahra, who appeared today on behalf of the training partnership, has tendered a document setting out the changes which have been made to stable practice in relation to the

administration of medications.

In addition to the foregoing, in arriving at the appropriate penalty, the Board takes into account the plea of guilty and moral contrition, as evidenced by the distress which Ms Oakford has evidenced following the discovery that the wrong horse obtained the powder. The Board also takes into account the unblemished record of the partnership over many years and the cooperation by Mr Zahra with Stewards. That said, it is important that trainers comply with the rules so that horses are brought to the races drug free.

Principles of general deterrence and preservation of the image of racing are important sentencing principles. Monetary penalty, however, is the appropriate punishment in this case, and in the circumstances, it should be of modest degree. The Board imposes a fine of \$1000 to be paid on or before 31 July 2015.
