

20 September 2019

NORTHERN TERRITORY OF AUSTRALIA
RACING APPEALS TRIBUNAL

GEORGE COOKE
AND
THE STEWARDS OF THE
ALICE SPRINGS TURF CLUB

CHAIRMAN: TOM PAULING AO QC

PANEL: TERESA HALL
JAMES DE-BELIN

Mr Cooke represented himself

Mr Westover appeared on behalf of the stewards

This is an appeal from a decision which stewards made on 14 July 2019 to fine Mr Cooke the sum of \$6,000 for a breach of Australian Rule 240, in that he presented Lights in the Harbour for racing at the Alice Spring's Turf club at Pioneer Park with the prohibited substance lignocaine being detected in a post-race blood sample.

It is not contested that the likely source of the prohibited substance, lignocaine, came from an ointment that was prescribed by Dr Oliver, or rather given by Dr Oliver for Mr Cooke for temporary use before it could be replaced by another treatment, Ungvita, which was supposed to have occurred on the following day.

The level of lignocaine detected is very low and much less than if it was an injected substance and we do not see any reason to depart from what Dr Oliver said in that regard. The case really turns on the fact that there are a number of decisions, some of them going back nearly 20 years in relation to detection of drugs in horses and a couple of the given examples, administration of drugs in horses.

The stewards at the time seem to have taken into account carefully, a range of penalties that were imposed on city and metropolitan tracks mainly, in relation to such detection. It has come as a matter of deduction to appear that \$6,000 is an appropriate fine in that case.

We disagree that \$6,000 is an appropriate fine given a number of circumstances in this case; that Mr Cooke has a clear record. Mr Cooke is in the racing industry in a small way, indeed with only two horses. The impact financially on him would be very severe. The stewards took into account the fact that he did not record the treatment in his books in relation to his treatment record, but we note that this became the subject of a separate charge for which he was fined \$250.

I, and the members of the tribunal, think that the fines in relation to improper record keeping are too low and we would encourage stewards to be more severe in that regard. But, because the appeal here is only against the fine that was imposed for Australian Rule 178, we won't be able to do anything about that in this case.

We are of the view that the fine of \$6,000 was excessive. We would reduce the fine to \$2,500 and order the return of the deposit. We are generally of the view that consistency is a very desirable thing in relation to fines because of the expectations of the racing public.

But, we are also of the view that the personal circumstances in this matter require us to reduce the fine as we have already done.