

DATE: 30 December 2021

TRIBUNAL: Chairman: Tom Pauling AO QC
Deputy Chairman: Teresa Hall
Member: James De-Belin

APPELLANT: Mr Russell Bell

IN THE MATTER of an Appeal by Mr Russell Bell against a decision of Thoroughbred Racing Northern Territory Stewards.

BREACH OF RULE: AR 240(2)

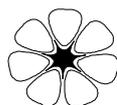
DETERMINATION

This is an appeal from a decision of the TRNT Stewards made on 31 August 2021 to fine Mr Russell Bell the sum of \$12,000 for a breach of Australian Rule of Racing 240(2). The charge being that, on 27 March 2021 he brought the horse Arrogant Miss to race at Alice Springs Turf Club at Pioneer Park with the prohibited substance Trendione and Epitebolone (both substances being anabolic androgenic steroids) being detected in a post-race urine sample.

Mr Bell made considered written submissions to the Tribunal as well as detailed oral submissions at the hearing. A brief summary of Mr Bell's submissions were that in all the circumstances the fine imposed by the Stewards was manifestly excessive. The reasoning provided for this was that compared to recent cases:

- the prohibited substance had been given to the horse by inadvertent contamination;
- there had been no intentional treatment with Ovumate (which Mr Bell alleged had inadvertently leaked into the feed of Arrogant Miss);
- there were low metabolite levels detected in the sample; and
- he had held a trainers license for 28 years.

The Stewards also provided written submissions to the Tribunal and Mr Hensler appeared and spoke further to those submission at the hearing. Mr Hensler submitted that a fine in the range of \$4000 - \$5,000 as proposed by Mr Bell was manifestly inadequate and does not meet the industry expectation or follow the precedent set by the recent decision in the Lefoe hearing.

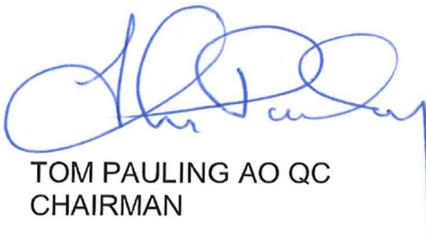


Ms Hensler further made submissions that at Mr Bell's hearing the Stewards had not accepted that theory of inadvertent contamination (although they accepted that there was no dishonest intention) in contrast to the Lefoe matter where the evidence in respect of how the prohibited substance came to be in horse was supported by the detailed treatment records as well as scientific evidence which was accepted by the stewards at the hearing. Further expanding as to the differences between the two penalties imposed the Stewards noted that Mr Bell had two prior convictions in comparison to Mr Lefoe who had none.

This Tribunal must after considering the circumstances of the matter and the submission from both parties, determine whether the fine imposed was outside the permissible range of sentences available to the Stewards.

This Tribunal does not have the on the ground contact with the racing industry that the Stewards have. It is the Stewards duty and function to weigh competing factors and arrive at appropriate penalties in the interests of the racing industry. Unless the Tribunal sees error in the treatment of the offence or the severity of the penalty, the Tribunal will not interfere. This appeal is such a case.

We are of the view that the Stewards gave proper consideration to the mitigating and aggravating factors in the matter as well as the recent decisions of Lefoe and the comments made by this Tribunal in that particular matter. On that basis we have determined that the fine imposed by the Stewards was within the parameters of recent fines and was appropriate in all circumstances and therefore we dismiss the appeal.



TOM PAULING AO QC
CHAIRMAN

