

APPEAL PAUL GARDNER – STAY OF PROCEEDINGS REASON FOR DECISION

On 15 July 2019 Mr Paul Gardner, a licensed trainer, pleaded guilty to four separate breaches of AR 240(2) which deals with the detection of prohibited substances in samples taken from horses presented to a racecourse for racing. Prohibited substance includes therapeutic substances (see AR 257) except in particular circumstances not applicable in this matter.

Therapeutic substances have screening limits (AR 257) and for the substance flunixin found in the first three matters the limit is 1 ng/ml in plasma. For lignocaine found in the fourth matter the limit is 0.05 ng/ml in plasma. The swabs were taken over a six week period. The level of substance detected substantially exceeded the limits and in the fourth matter to the highest level for lignocaine detected in the NT.

The stewards imposed penalties as follows;

- Bit of a Flirt (30 March 2019) 3 months suspension;
- Roughly (4 May 2019) 3 months disqualification;
- Bit of a Flirt (6 May 2019) 6 months disqualification; and
- Hurry Home Harry (date not noted) 12months disqualification.

The stewards ordered that the penalties for the first three offences be served concurrently but the penalty in the fourth matter be cumulative upon the effective six months penalty for the first three resulting in 18 months disqualification. Had the stewards not made the penalties for the first three concurrent the operation of AR 283(4) would have resulted in 24 months combined suspension and disqualification.

From these penalties Mr Gardener appealed to this Tribunal. He now seeks a stay of proceedings. The stewards oppose the stay and put forward a number of Tribunal decisions most recently that of Stuart Gower where a stay was refused. Mr Gardiner will no doubt have a difficult time putting his affairs in order as he lives on the Alice Springs racecourse and will not be permitted to enter once the disqualification begins on 23 July after the deferral granted by the stewards expires. However the offences are extremely serious and the integrity of the racing industry requires protecting. The matters raised by Mr Gardiner do not suggest a strong case on appeal such that the refusal of a stay would render the appeal futile or negatory. In those circumstances I refuse to stay the proceedings

TOM PAULING AO QC
CHAIRMAN
18 July 2019

