



STEWARDS REPORT

Inquiry into analyst's findings relative to urine and blood samples obtained from three horses trained by licensed trainer Mr Todd Smart which competed in races on a total of five occasions in Canberra and New South Wales during April and May 2018.

South East Region – Racing NSW & Canberra Racing Club
Inquiry conducted at Thoroughbred Park, ACT on 20 July 2018.

Stewards Panel: J D Walshe (Chairman) and C G Polglase

Stewards today inquired into analysts' findings by the Australian Racing Forensic Laboratory (ARFL) and Racing Analytical Services (RASL) relative to the detection of caffeine in samples obtained from the following horses trained by Mr Todd Smart:

- 1) A post-race urine sample obtained from Spare Ticket which was placed first in Race 7 - Benchmark 55 Handicap 2000m at Canberra on 6 April 2018.
- 2) A post-race urine sample obtained from Ghost Rider which was placed first in Race 6 - Class 2 Trophy Handicap 1400m at Cootamundra (Picnic meeting) on 7 April 2018.
- 3) A post-race urine sample obtained from Ghost Rider which was placed first in Race 2 - Class 3 Handicap 1400m at Goulburn on 14 April 2018.
- 4) A pre-race blood sample obtained from Spare Ticket which was placed fifth in Race 4 - Benchmark 70 Handicap 2400m at Kensington on 18 April 2018.
- 5) A pre-race blood sample obtained from Attainment which was placed ninth in Race 4 - Benchmark 62 Handicap 1300m at Wagga on 4 May 2018.

Evidence was taken from licenced trainer Mr Todd Smart and Mr Kerry Burke – Importer, distributor and exporter of E3Live Racing Products and evidence was obtained via teleconference from Dr A Cawley - Science Manager of the Australian Racing Forensic Laboratory, Dr Toby Koenig - Senior Official Veterinarian Racing NSW, Mr Ben McAlister – part owner of Attainment and Dr Alex Willi veterinarian Canberra Equine Hospital, who assisted Mr Smart.

The Stewards established the following:

- 1) On 9 May 2018 the Stewards notified Mr Smart of the first three of the series of five irregularities to caffeine in samples taken from the abovementioned horses and Mr Smart was advised that until further notice, he was not to enter any horse for a race.
- 2) During a related inspection of Mr Smart's registered stable premises that morning, a sample was obtained from a black bucket labelled E3Live Racing and forwarded to the ARFL for analysis.
- 3) On 18 May 2018 a further sample was taken from the same black bucket.

4) Mr Smart and Mr Burke gave evidence that Mr Burke had been supplying Mr Smart with E3Live Racing for approximately two years prior which was fed as a nutritional product to Mr Smart's racing horses without issue up until April 2018.

5) It was established that due to Mr Smart requesting greater quantity of the product claimed by Mr Burke to be E3Live Racing, Mr Burke altered the method of supply of the product in that, rather than providing black labelled cannisters of the product, he supplied an appropriately labelled black bucket with a corresponding lot number and emptied into that bucket the contents of eight cannisters of the product claimed by Mr Burke to be E3Live Racing, over a period of two months commencing with a delivery of the contents of three canisters of E3Live on 1 April 2018 with the second delivery of the product consisting of the contents of five cannisters of E3Live being made on 1 May 2018.

6) Following ARFL advice on 23 May 2018 of the detection of caffeine in a sample of E3Live Racing obtained from Mr Smart's stables on 9 May 2018, on 25 May 2018, Mr Burke arranged for the delivery of six of the eight empty black canisters, which he had retained, to Stewards which were then forwarded onto the ARFL where the residual product within the cannisters underwent testing for the presence of caffeine.

7) The two samples taken from the same black bucket labelled E3Live Racing were ultimately found by the ARFL to contain very high levels of caffeine. Four of the six black canisters analysed by the ARFL were found to be negative to caffeine however one canister was found to have a high level of caffeine whilst the final canister was found to contain a very high level of caffeine present.

8) On the evidence the Stewards were satisfied that the source of the caffeine detected in the samples obtained from the aforementioned horses resulted from the feeding of the E3Live product which was delivered to the stables of Todd Smart by Mr Burke on 1st April 2018 and possibly contained in the supply of the product to the stables again by Mr Burke on 1st May 2018.

Stewards acting under the powers of AR177, disqualified Spare Ticket from its first placing in Race 7 - Benchmark 55 Handicap 2000m at Canberra on 6 April 2018 and amended the placings to:

- 1st Swindlers Miss
- 2nd Eden Road
- 3rd Big Albert
- 4th Biscuit
- 5th Missile Attack
- 6th Bond Of Faith
- 7th First Rose
- 8th Lord Elliot
- 9th Do Dar
- 10th Little Miss Chelsy

Stewards acting under the powers of AR177, disqualified Ghost Rider from its first placing in Race 6 - Class 2 Trophy Handicap 1400m at Cootamundra (Picnic meeting) on 7 April 2018 and amended the placings to:

- 1st Flying Fragments
- 2nd Getting Ready

3rd Tearful Kitty

Stewards acting under the powers of AR177, disqualified Ghost Rider from its first placing in Race 2 - Class 3 Handicap 1400m at Goulburn on 14 April 2018 and amended the placings to:

- 1st Dangerous Breeding
- 2nd Red Hot Tango
- 3rd Lasting Shadow
- 4th Solo Gypsy

Stewards acting under the powers of AR177, disqualified Spare Ticket from its fifth placing in Race 4 - Benchmark 70 Handicap 2400m at Kensington on 18 April 2018 and amended the placings to:

- 1st Hoof Hustler (NZ)
- 2nd Terwilliker
- 3rd Bon Equus
- 4th Only Tiger (NZ)
- 5th Red Dream
- 6th Jagger
- 7th Eden Road

Stewards acting under the powers of AR177, disqualified Attainment from its ninth placing in Race 4 - Benchmark 62 Handicap 1300m at Wagga on 4 May 2018 and amended the placings to:

- 1st Hemmerle
- 2nd Marco Man
- 3rd Newtown Is Coming
- 4th Only Choice
- 5th Te Ata
- 6th Noble Descent
- 7th Superoo
- 8th Delivered
- 9th I'm Peter
- 10th Boys Day Out

Mr Albert McAlister, part-owner of Attainment and Mr Smart, who also represented the interests of the owners of Spare Ticket and Ghost Rider today in respect to the provisions of AR177 were advised of the rights of appeal in relation to those matters.

Breaches

Breach 1

Mr Smart pleaded guilty to a breach of AR178 of presenting Spare Ticket at Canberra on 6 April 2018 for the purpose of engaging in Race 7 - Benchmark 55 Handicap 2000m when a prohibited substance, namely caffeine, was detected in the urine sample taken from the gelding following the event.

Breach 2

Mr Smart pleaded guilty to a breach of AR178 of presenting Ghost Rider at Cootamundra on 7 April 2018 for the purpose of engaging in Race 6 - Class 2 Trophy Handicap 1400m when a prohibited substance, namely caffeine, was detected in the urine sample taken from the gelding following the event.

Breach 3

Mr Smart pleaded guilty to a breach of AR178 of presenting Ghost Rider at Goulburn on 14 April 2018 for the purpose of engaging in Race 2 - Class 3 Handicap 1400m when a prohibited substance, namely caffeine, was detected in the urine sample taken from the gelding following the event.

Breach 4

Mr Smart pleaded guilty to a breach of AR178 of presenting Spare Ticket at Kensington on 18 April 2018 for the purpose of engaging in Race 4 - Benchmark 70 Handicap 2400m when a prohibited substance, namely caffeine, was detected in the blood sample taken from the gelding following the event.

Breach 5

Mr Smart pleaded guilty to a breach of AR178 of presenting Attainment at Wagga on 4 May 2018 for the purpose of engaging in Race 4 - Benchmark 62 Handicap 1300m when a prohibited substance, namely caffeine, was detected in the blood sample taken from the gelding following the event.

Consideration of Penalty

In issuing no penalty against Mr Smart in relation to the 5 aforementioned breaches under AR178 consideration was given to the following circumstances:

- 1) That prior to using E3Live Racing in his racing stables at or around July 2016, Mr Smart had made inquiries with his stable veterinarian about the use of the product and had received no adverse advice in respect to its use.
- 2) Evidence which revealed that Mr Smart had received certification from an internationally recognised analysis centre in respect to the E3Live Racing product, upon which he also based his decision to use E3Live.
- 3) That Mr Smart used E3Live Racing also on the basis that he was aware of other trainers using the product without issue.
- 4) The labelling on the product itself observed by Mr Smart, which contained no claims in relation to the product treating a disease, condition or injury and gave assurances with respect to its positioning under AR80E and its status in respect to the APVMA.
- 5) The fact that Mr Smart had used the product for approximately two years until April 2018 without issue.
- 6) That on the evidence, the Stewards were satisfied that the source of the detection of caffeine in the samples obtained from the aforementioned horses resulted from the ingestion of the E3Live Racing product which contained caffeine, and which was delivered in a supply of the product to Mr Smart's stables on 1 April 2018. It is possible that the second supply of the product on 1 May 2018, also contained caffeine.
- 7) That whilst Mr Smart had had no prior issues with the use of the E3Live product until April 2018, the detection of caffeine in the five samples from the aforementioned horses coincided with an alteration in the method in which Mr Burke had prepared the product prior to distribution to Mr Smart's racing stables on 1 April 2018.

Relevant Rule

AR 177. *Subject to AR 177C, any horse that has been brought to a racecourse and a prohibited substance is detected in any sample taken from it prior to or following its running in any race must be disqualified from any race in which it started on that day.*

J D Walshe
Chief Steward
South East Region Racing NSW & the Canberra Racing Club