

RACING NSW – STEWARDS REPORT



HEARING OF CHARGES ISSUED AGAINST TRAINER MR MARK DAVIES IN RESPECT TO THE
POSSESSION AND SUPPLY OF SUBSTANCES FOUND TO CONTAIN ERYTHROPOIESIS-STIMULATING
AGENTS.

Racing NSW Offices

27 September 2019

**Druitt Street
Sydney**

**Stewards: M F Van Gestel (Chairman)
S T Matthews**

Racing NSW Stewards today conducted a hearing of charges issued against trainer Mr Mark Davies in respect to the possession and supply of substances found to contain erythropoiesis-stimulating agents. Further evidence today was provided by Mr Davies, ARFL General Manager Mr John Keledjian and Racing NSW Chief Veterinary Officer Dr Toby Koenig.

Background

1. Acting on information received from the NSW Police, Racing NSW Stewards conducted interviews with licensed trainer Mr Mark Davies and his wife Mrs Sarah Davies on 4 June 2019, in respect to the substance Eprex 10000 (EPO) being located during the execution of a search warrant at the residence of Mr and Mrs Davies.
2. During the interview Mrs Davies confirmed she obtained the said product from her employer and confirmed the substance had been in her possession. Mr Davies advised he was aware the EPREX 10000 was present in his residence but denied having supplied it to any person or having used Eprex 10000 on his horse or any other horse. A blood sample collected from the one horse Mr Davies was training at the time, Graceful Gift tested negative to EPO.
3. Acting on additional information received Stewards conducted an inspection of the premises of licensed trainer Mr Michael Tubman on 14 June 2019, where a number of products were seized for analysis by the ARFL. Analysis of two bottles labelled as containing a registered supplement, located in a fridge in Mr Tubman's residence, detected the following Erythropoiesis-stimulating agents.
 - T9-rhEPO (T9)
 - TITADTFR (T14)
 - VYSNFLR (T17)
4. On 20 June 2019 Mr Tubman and Mr Davies were interviewed in respect to their knowledge of the two bottles being present at Mr Tubman's residence. Both men denied any knowledge of the substance and Mr Tubman could offer no explanation as to how it was found to be present in his residence.

5. Mr Keledjian at today's hearing advised that the substances detected in both bottle, particularly T9-rhEPO, was indicative of Eprex 10000 being present in one supplement bottle.

Hearing of Charges

Charge 1 AR250(b) - Possession of a substance containing a prohibited substance on Prohibited List A namely an *Erythropoiesis-stimulating agent* at his residence at Kingston Town Drive Kembla Grange.

Plea: Not Guilty

Finding: Guilty

Charge 2 AR256(1)(a)(ii) – Supply of a substance containing a prohibited substance on Prohibited List A namely an *Erythropoiesis-stimulating agent* to the residence of trainer Mr M Tubman at Trifecta Place Kembla Grange.

Plea: Not Guilty

Finding: Guilty

Charge 3 AR232 – Failing to attend a Stewards inquiry at Racing NSW Offices on 9 September 2019.

Plea: Guilty

Finding: Guilty

Penalty

Stewards considered the following matters in respect to penalty.

- Mr Davies's good record having been licensed for many years as a trainer.;
- His not guilty plea's for charges 1 and 2 and guilty plea for charge 3;
- Circumstances of having the substance in his possession;
- Seriousness of the offence.

Charge 1 The Stewards determined that the starting point for the possession of a substance containing erythropoiesis-stimulating agents is a period of disqualification of 12 months. Having considered the special circumstances of this case, including mitigating factors listed above, the Stewards determined the appropriate penalty be a period of disqualification of 9 months.

Charge 2 The Stewards determined that the starting point for the supply of a substance containing erythropoiesis-stimulating agents is a period of disqualification of 15 months. Having considered the special circumstances of this case, including mitigating factors listed above, the Stewards determined the appropriate penalty be a period of disqualification of 12 months.

Charge 3 Having regard to the circumstances that led to Mr Davies failing to attend the inquiry, the Stewards issued a reprimand.

Stewards ruled that the penalties for charge 1 and charge 2 be served concurrently. Accordingly, Mr Davies was disqualified for a period to commence immediately and to expire on 27 September 2020.

Relevant Rules

AR 250 Possession of prohibited substance

A person must not have in his or her possession:

- (b) a substance or preparation containing a prohibited substance on Prohibited List A.*

AR 256 – Prohibition on supply and procurement of certain substances/preparations

- (1) A person must not:*

- (a) supply;*
- (ii) a substance or preparation containing a prohibited substance on Prohibited List A;*

- (3) For the purposes of this rule:*

- (a) “supply” includes the selling, giving, transporting, sending, delivering or distributing (or possessing for any such purpose) of a substance or preparation;*

AR 232 Failure to observe processes and directions of PRAs or Stewards

A person must not:

- (h) refuse or fail to attend or give evidence at an interview, investigation, inquiry, hearing or appeal when directed or requested to do so by a PRA, the Stewards or a person authorised by a PRA or the Stewards;*

**M F Van Gestel
Chairman of Stewards
General Manager - Integrity**