

## **RACING NEW SOUTH WALES APPEAL PANEL**

### **IN THE MATTER OF THE APPEAL OF KYM HEALY**

Appeal Panel: **Mr T Hale SC – Convenor**

**Mr J Murphy**

**Mrs J Foley**

Appearances: **Racing NSW: Mr M Van Gestel, Chairman of Stewards**

**Appellant: Mr D O’Dea, Solicitor**

Date of Hearing: **14 & 15 August 2018**

Date of Reasons **17 September 2018**

### **REASONS FOR DECISION**

#### **INTRODUCTION**

1. Mr Kym Healy (the Appellant) is a licensed trainer. He holds a license in South Australia. He trains at Strathalbyn.
2. On Saturday 17 March 2018 he had twelve runners entered to race at the Broken Hill Race meeting. These included *Alitaka* in race 5 and *Aussie Jack* in race 6.
3. As a result of information the Stewards received, they suspected that one or more of the horses trained by the Appellant and intended to race at Broken Hill on 17 March 2018, were to be stomach tubed on race day or on the day before race day in breach of AR64G. As a result of this information, the Stewards conducted an investigation at the stables at Broken Hill, at which the horses were stabled, at or about midday on Saturday 17 March, 2018. This then led to an inquiry by the Stewards at the Broken Hill race course on Saturday 17 March, 2018. As a result of that inquiry, *Aussie Jack* was scratched from race 6.

4. An inquiry was conducted by Stewards on 4 June 2018 which led to the Appellant being charged with three charges which may be summarised as follows:
- (i) Charge 1: A breach of AR178E. It was alleged that the Appellant administered or caused to be administered medication to *Aussie Jack* on race day prior to the horse running in a race and without the permission of the Stewards;
  - (ii) Charge 2: A breach of AR178AB. It was alleged that without the permission of the Stewards the Appellant injected or caused to be injected or attempted to inject *Aussie Jack* on the day of the scheduled race prior to the start of the event;
  - (iii) Charge 3: A breach of AR175(L). It was alleged that the Appellant attempted to commit or conspire to commit with another person to breach the rules of racing. It was alleged that the Appellant entered into an arrangement that a Mr Michael Honson was to stomach tube *Aussie Jack* and *Ali Taka* on 17 March 2018 prior to those horses racing, such an arrangement being in contravention of AR64G(i)(a) and AR178E.

The charges are attached as Annexure "A".

5. The Appellant pleaded guilty to charge 3 but pleaded not guilty to charges 1 and 2. The Stewards found the Appellant guilty of all three charges. In relation to charges 1 and 2, the Appellant was disqualified on each charge for a period of 6 months to be served concurrently. The period of disqualification was to commence on 4 June 2018 and expire on 4 December 2018. In relation to charge 3 he was disqualified for a period of 4 months. The period of disqualification was reduced from 6 months to 4 months due to his plea of guilty. The period of disqualification was to commence on 4 December 2018 and to expire on 4 April 2019.
6. The Appellant has appealed to this Panel from the decision of the Stewards, both on conviction and penalty. Pursuant to s.42 of the *Thoroughbred Racing Act, 1996*, the appeal is by way of a new hearing. Fresh evidence may be received in addition to or in substitution for the evidence on which the decision appealed against was made. As he is entitled to do, the Appellant changed his plea in respect of charge 3 from the

plea of guilty before the Stewards to a plea of not guilty before this Panel. He maintained his plea of not guilty in respect of charges 1 and 2.

7. At the hearing of the appeal, Mr Van Gestel appeared on behalf of the Stewards and Mr O’Dea, solicitor, appeared with leave on behalf of the Appellant.
8. The appeal was heard over two days, Tuesday 14 August and Wednesday 15 August, 2018. We received into evidence a substantial amount of evidence. Exhibit A was comprised of the transcript and evidence before the Stewards on 4 June 2018. That evidence included 18 exhibits including the transcript of the inquiry by stewards at the Broken Hill race course on 17 March 2018. We also received the following exhibits (set out). The following also gave oral evidence:
  - Mr Shane Stutley, licensed stable hand (by video link);
  - Mr Matthew Schembri (by video link);
  - Mr Mark Honson (by video link);
  - Mr Nathan Hayward, Chief Investigator, Surveillance and Investigation Unit at Racing NSW;
  - Doctor Koenig, Chief Veterinary Officer, Racing NSW;
  - Doctor Ginifer, (by video link) Veterinary Officer, Racing NSW;
  - Mr Sam Fitzgerald, Steward;
  - Mr Ian Grimes, Steward; and
  - the Appellant, Mr Kym Healy.

### **Some procedural matters**

9. This appeal was originally listed for hearing on 31 July 2018. Shortly before the hearing date, Mr O’Dea, the solicitor for the Appellant, advised the Stewards of the Appellant’s intention to make application to adjourn the hearing. The application for an adjournment was made at a hearing on 31 July. Mr O’Dea, on behalf of the Appellant, appeared by telephone. The Stewards did not oppose the adjournment. The hearing was then adjourned to a mutually convenient date, being 14 and 15 August (16 August was held in reserve).
10. At the hearing on 31 July, I made further directions for the conduct of the appeal. One of the directions I made concerned new veterinary evidence, which both parties

had stated they intended to call. Notice had been given that Dr Toby Koenig was to give evidence for the Stewards. Mr Michael Taylor was to give evidence for the Appellant. Local Rule LR106(11) provides that any fresh evidence to be relied upon by any party to an appeal must be served on the Appeals Co-Ordinator at least five clear days prior to the date set down for the hearing of the appeal. Consistent with that rule, I directed that an outline of the evidence of Mr Taylor and an outline of the evidence of Dr Tony Koenig be provided to the Appeals Co-Ordinator by 4pm on 7 August 2018. There was also discussion as to whether the evidence of Mr Taylor, or indeed any other witnesses, might be given by telephone. I determined that evidence could not be given by telephone but could be given by video link. Indeed, a number of witnesses were to give their evidence by video link.

11. In accordance with the direction I made, the Stewards provided an outline of the evidence to be given by Dr Koenig by 7 August 2018. The Appellant, however, did not provide an outline of the evidence to be given by Mr Taylor. In correspondence between Mr O’Dea, for the Appellant, and the Stewards, Mr O’Dea maintained that he proposed to call Mr Taylor to give evidence. As a result of this, the Stewards asked that the matter be relisted before me on Monday 13 August. I agreed to this and relisted the matter for later that day. Mr O’Dea appeared at the directions hearing by telephone. At that hearing, I said that unless and until an outline of the evidence to be given by Mr Taylor was provided, neither I nor the Stewards were in a position to determine what prejudice, if any, might be occasioned by the late service of the outline of evidence. I said that until such an outline of evidence was provided, I did not propose to reconsider my direction. Accordingly, I ruled that the hearing would proceed on the basis that Mr Taylor would not be giving evidence.

12. On the evening of 13 August 2018, Mr O’Dea provided a letter to the Stewards. The letter identified topics about which it was proposed Mr Taylor would give evidence. It did not conform to the direction that I had made that an outline of evidence be provided.

13. At the outset of the hearing on 14 August, Mr O’Dea made two applications on behalf of the Appellant. The first application was that Charge 3 be summarily dismissed on

the basis that the charge as formulated could not amount to a breach of AR175(I). The argument was that the particulars did not identify any overt act consistent with the conspiracy. Further, it was said that the evidence could not support such a charge. I rejected both arguments and gave my reasons for doing so in summary form. I said I would give more detailed reasons in the final decision. As events unfolded, it was not necessary for me to do so. In final submissions on behalf of the Appellant, Mr O'Dea conceded that an overt act is not a necessary element of the offence.

14. The second application was that Mr Taylor be permitted to give evidence. I reiterated what I had said at the directions hearing the previous day, namely, that unless and until an outline of the evidence to be given by Mr Taylor was provided, I would not amend the directions I had previously made with respect to his evidence. I said that if an outline of evidence or a statement were obtained from Mr Taylor, I would reconsider the position. I pointed out that the letter of 13 August could not constitute an outline of evidence. It gave no indication of what evidence would be given. It only identified topics. No outline of evidence of Mr Taylor was provided and no further application was made that he give evidence.

### **The Background Facts**

15. The St Patrick's Day race meeting is one of two significant race meetings held at Broken Hill. The other is the Silver City Meeting. This year the St Patrick's Day meeting was run on St Patrick's Day, Saturday 17 March 2018. *The Outback Cup* is the feature race.

16. As I have mentioned, the Appellant is licensed as a trainer in South Australia. As he usually does, he had horses accepted to race in the St Patrick's Day meeting. He entered a total of twelve horses to run at the meeting. They included *Aussie Jack* in the feature race, *the Outback Cup*, which was race 6.

17. The horses were driven to Broken Hill on Friday 16 March. They were transported in three vehicles: a six-horse truck driven by the Appellant; a Land Cruiser, towing a four-horse float driven by Ken Malone, and a two-horse float driven by Mr Stutley,

the Appellant's stable hand. They left Strathalbyn at approximately 6:30 a.m. They drove in convoy. They arrived in Broken Hill in the early afternoon on Friday between 2 and 3 p.m. The Appellant and Mr Stutley gave evidence that on Thursday afternoon the Appellant administered medication to the horses by injection to assist them travelling. The Appellant said that he injected each of them with 50 mls of Aminolite.

18. When they arrived in Broken Hill, some of the horses were stabled at the race course itself. The other horses were stabled at stables known as Fort Courage, which were leased and occupied by a Mr Slater. These stables were on Racecourse Road, approximately one kilometre from the race course. Mr Slater is a harness race trainer. Five of the Appellant's horses were stabled at the rear of Mr Slater's stables and three at the front. Those at the rear included *Aussie Jack* and *Alitaka*. The Appellant, Mr Malone and Mr Stutley stayed at a motel.

19. That Friday evening, the Appellant went to a harness racing meeting at Broken Hill with Mr Stutley, Mr Malone and others. The Appellant usually attended that harness race meeting on the night before the Saturday St Patrick's Day race meeting. At the Friday night meeting, the Appellant met up with a Mr Matthew Shembri. Mr Shembri holds a licence as a harness racing driver and trainer. For some time, Mr Shembri had been supplying the Appellant with products for treating his horses, such as Pentosan and Meloxicam. They had not previously met but had been communicating by phone and text message. Exhibit 15 before the Stewards provides the phone records, including copies of text messages, between the Appellant and Mr Shembri from 4 January 2018 to 17 March 2018. Further reference will be made to these messages. The Appellant and Mr Shembri had spoken by phone on 13, 15 and 16 March. In the conversation on 16 March, the Appellant made an arrangement to meet Mr Shembri at the Friday night harness race meeting.

20. On that Friday evening at the harness races, Mr Shembri introduced the Appellant to a Mr Honson. Mr Honson is a service station attendant who also owns, trains and races harness racing horses. He is also a driver. When the Appellant met with Mr Shembri, they had a conversation about the possibility of stomach tubing two of the Appellant's horses the next morning, race day. Mr Shembri then spoke to Mr Honson.

Mr Shembri asked him if he would stomach tube two horses trained by the Appellant the next morning. He asked him to administer a drench to the two horses. Mr Honson said that he was not told what the substance was. Nonetheless, Mr Honson agreed. Mr Honson said that the Appellant was alongside during the course of the conversation. The Appellant said that the conversation was not in his presence but that he left it to Mr Shembri to make the arrangements with Mr Honson: "I spoke to Matt Schembri and I think I left (it to) him and he obviously asked". In his evidence before the Stewards and before this Panel, the Appellant said that he agreed to the arrangement. He said that the two horses to be treated were *Aussie Jack* and *Alitaka*.

21. In his evidence before the Stewards and his evidence before this Panel, the Appellant was quite candid about his agreement for the two horses to be stomach tubed. He said he had twelve horses starting that day. He was trying to get a winner. The reason he wanted to stomach tube *Alitaka* and *Aussie Jack* was because he owned one of the horses and the other was in the *Outback Cup*. He, together with his father and brother-in-law, owned *Alitaka*. *Aussie Jack* was entered in the *Outback Cup*. The Appellant said he did not know what the substance was that Mr Shembri was providing for the stomach tubing but he was hoping that it would improve the horses' performance in the hope that he might "win the cup" and win another race as well. He said that Mr Shembri had told him that the substance that was to go into the horses' system was "non-swabable".

22. The admissions that the appellant made before this Panel include the following:

- a. **M F VAN GESTEL:** You gave some evidence today before the Panel. Can I deal with, firstly, the charge relating to conspiracy to stomach-tube horses? You gave evidence to the Panel today that you approached Mr Schembri at the Broken Hill harness meeting that evening?

**K HEALY:** Yes.

**M F VAN GESTEL:** You said words to the effect, "I mentioned to Mr Schembri whether he could tube a couple of horses for me."

**K HEALY:** Yes.

**M F VAN GESTEL:** Is that what you did?

**K HEALY:** When I spoke to him, yeah, something like that.

**M F VAN GESTEL:** You did say that, didn't you? You asked Mr Schembri whether he could tube two horses for you?

**K HEALY:** I mentioned it.

**M F VAN GESTEL:** Yes, and the intention was for Mr Schembri to arrange for *Alitaka* and *Aussie Jack* to be stomach-tubed the following morning, the following day before they raced?

**K HEALY:** I don't think I told him the horse.

**M F VAN GESTEL:** But that was your intention?

**K HEALY:** Yes.

**M F VAN GESTEL:** To have *Alitaka* and *Aussie Jack* stomach-tubed the following day?K

**HEALY:** Yes.

**M F VAN GESTEL:** Prior to them racing and you had asked Mr Schembri whether he could do that?

**K HEALY:** Yes.

- b. **M F VAN GESTEL:** I'll start the question again because it has been interrupted. It's an important question. You had a conversation with Mr Schembri. You asked him to stomach-tube two horses the following day. You said to this Panel the two horses that you were going to stomach-tube were *Alitaka* and *Aussie Jack*.

**K HEALY:** Yes.

**M F VAN GESTEL:** And then Mr Schembri approached Mr Honson with you and Mr Schembri spoke to Mr Honson and asked him to stomach-tube those two horses.

**K HEALY:** I don't believe I contact with Mr Honson.

**CONVENOR:** That's not the question.

**K HEALY:** Sorry.

**M F VAN GESTEL:** The question is Mr Schembri then approached Mr Honson and Mr Schembri asked Mr Honson to stomach-tube those two horses on your behalf?

**K HEALY:** Yes.

**M F VAN GESTEL:** That's the case, isn't it?

**K HEALY:** Yes.

**CONVENOR:** In your presence?

**K HEALY:** No. I spoke to Matt Schembri and I think I left him and he obviously asked.

**M F VAN GESTEL:** There was an arrangement made with Mr Schembri and Mr Honson and yourself the following day to have those two horses stomach-tubed?

**K HEALY:** We had spoken about it, yes.

**M F VAN GESTEL:** That was your aim, wasn't it?

**K HEALY:** That's what we spoke about.

**M F VAN GESTEL:** Yes. That was your aim though, wasn't it, Mr Healy?

**K HEALY:** I didn't know who was doing it. Mr Honson was obviously the one who was doing it, but I spoke to Matt Schembri.

**M F VAN GESTEL:** That was the arrangement in place between the parties?

**K HEALY:** Yes.

23. In addition to the stomach tubing, the horses were also to be injected. This was to improve their performance, the Appellant admitted in evidence before the Stewards. In evidence before this Panel, the Appellant was taken to the evidence before the Stewards and gave the following additional evidence:

So you were aware that the horse was going to get a yellow substance injected by Mr Schembri that following day as well, weren't you?

**K HEALY:** Yes, I would have said that.

**M F VAN GESTEL:** You agree with that evidence that that was discussed as well?

**K HEALY:** It must have been, yes.

**M F VAN GESTEL:** Yes, it was?

**K HEALY:** It must have been, yes.

24. The evidence also establishes that the Appellant consumed a substantial amount of alcohol at the Friday night harness race meeting. I will return to this. Mr O'Dea made submissions based upon the Appellant's intoxication.

25. Mr Honson gave evidence before the Panel that he did not know which horses were to be stomach tubed. The arrangement that Mr Honson had with Mr Shembri was that Mr Shembri would collect Mr Honson from the service station, at which Mr Honson worked, and drive him to the stables where he was to stomach tube the horses. Mr Honson said he was to begin work at 6am on Saturday at a Caltex service station. The evidence establishes that Mr Shembri was to collect Mr Honson in time to stomach tube the horses between 11:30am and 12:10pm.

26. The harness racing stewards inspected Mr Shembri's stables either on Friday night or early Saturday morning. Mr Honson said that it was on Friday night. Having been

alerted to the stewards' inspection, Mr Honson decided the arrangement "was too risky". On Saturday morning he rang Mr Shembri to say he would not proceed. Mr Shembri then texted the Appellant at approximately 9am on Saturday to say that Mr Honson would not proceed with the arrangement. In relation to this the Appellant gave the following evidence before us:

**M F VAN GESTEL:** Going forward, you then the following morning received a message?

**K HEALY:** Yes.

**M F VAN GESTEL:** From Mr Schembri?

**K HEALY:** Yes.

**M F VAN GESTEL:** To tell you that Mr Honson wasn't going to be able to do the stomach-tubing?

**K HEALY:** Yes.

**M F VAN GESTEL:** And that arrangement at that point in time would no longer go ahead?

**K HEALY:** That's correct.

**M F VAN GESTEL:** Between the time of the harness meeting when the arrangement was made until the following morning it was clear in your mind that the following day those two horses were going to be stomach-tubed?

**K HEALY:** Yes.

27. On Friday 16 March Ms Natasha Ackland, an investigator with Harness Racing NSW, sent a text to Nathan Hayward, Chief Investigator Surveillance & Investigation Unit of Racing NSW. The text said:

We have a harness trainer tubing horses in Broken Hill. He is booked to do horse/s for at least one Thoroughbred trainer tomorrow. My informant is trying to get a name and I'll send it on. We might catch him this arvo, I'll let you know.

28. Mr Hayward had a later telephone conversation with Ms Ackland, who told him that the informant had said the person tubing the horses was going to do a harness horse that night and the harness stewards were hopeful of catching them. Mr Hayward then telephoned Mr Sam Fitzgerald, the steward who was going to oversee the Broken Hill race meeting on the Saturday, to inform him of this information. On the

morning of Saturday 17 March, Ms Ackland telephoned Mr Hayward and informed him that a Michael Honson was going to be tubing the Thoroughbred horses and Matthew Shembri would be supplying a substance and injecting the substance into those horses as well. Ms Ackland said that she was still trying to get the name of the Thoroughbred trainer.

29. On Saturday morning 17 March, the Appellant and Mr Stutley left their motel at approximately 7am and drove to Mr Slater's Stables to feed and water the horses. They remained there until about 9.30am or 10am. They had a BBQ breakfast there with six other people. They then returned to the motel. They returned to the stables a little after 11.30am.

30. At 11am on Saturday 17 March 2018, Mr Hayward received a text from Ms Ackland:

To be treated at Broken Hill today with a drench and injection:

R5 *Alitaka* R6 *Aussie Jack*

Jockey Justin Potter. Already in possession of substances. To be done at Slaters Stables, Race Course Road, Broken Hill at 11.30am and 12.10pm.

(I should add that it is now accepted that Jockey Justin Potter did not have possession of the substances).

31. Mr Hayward did not read the message until 11.30am (I infer Eastern Standard Time).

Mr Hayward immediately telephoned Mr Fitzgerald with this information. his would have been shortly after 11am central standard time.

32. Surveillance of the stables was undertaken from 11.15am to 12.04pm. At 12.07pm, Mr Fitzgerald and Mr Grimes entered the Fort Courage Stables to conduct inspection of the horses trained by the Appellant that were engaged to race at Broken Hill on that day. Mr Fitzgerald inspected 3 horses in the front of the complex and Mr Grimes went to the back. Mr Grimes motioned to Mr Fitzgerald to come to the rear of the stables to inspect two horses which he understood to be *Alitaka* and *Aussie Jack*. Mr Fitzgerald had the microchip scanner with him and ran it over both horses and was able to positively identify *Alitaka* and *Aussie Jack*. Mr Fitzgerald observed some red congealed blood on the nearside neck over the jugular vein of *Aussie Jack*. When he touched the area, there appeared to be some localised swelling around a puncture

wound that felt different to the muscle around the area. There was also broader, more general swelling. Based upon his experience, Mr Fitzgerald formed the opinion that *Aussie Jack* had been treated with a needle quite recently. The congealed blood appeared to be fresh and not having had time to oxidise. Mr Grimes gave evidence before the Stewards and before this Panel that he also inspected *Aussie Jack*. He observed what appeared to be an injection or puncture mark in the jugular area. He observed localised swelling and dried blood. It was red in colour, which indicated to him that it was relatively recent.

33. At 12.27pm, the official race day veterinarian, Dr Megan Ginifer, arrived at the stables to inspect the two horses. By this stage, congealed blood that had been observed by Mr Fitzgerald and Mr Grimes had been wiped off by Mr Stutley. However, Mr Fitzgerald had taken a photograph of it on his phone, which Dr Ginifer inspected. It seems that the dried blood had been wiped off when Mr Stutley rubbed the horse's neck just after the photographs were taken. When Dr Ginifer inspected *Aussie Jack* she observed a puncture mark on the near side jugular area. She observed a small lump over the jugular vein. In the photographs that had been taken, she saw the blood that had been wiped from the area of the lump. She concluded that there had been a puncture wound within the last 24 hours.

34. At 12.43pm on Saturday 17 March, an inquiry commenced at the race course into whether *Aussie Jack* received treatments in breach of the rules, during which the Appellant denied that either *Alitaka* or *Aussie Jack* had been injected on race day or on the Friday. The inquiry was held over a good part of the afternoon. It had to be adjourned on a number of occasions due to the races that were taking place. At 3.15pm, the Chairman of Stewards, Mr Fitzgerald, ordered that *Aussie Jack* be scratched from race 6, the St Patrick's Day Cup. *Alitaka* was permitted to run.

35. On Tuesday 4 June 2018, the Stewards (Mr Van Gestel, Chairman of Stewards) and Mr Dingwall, conducted an inquiry in Sydney. It was this inquiry that led to the Appellant being charged with the three offences and being found guilty.

36. It is against this background I turn to consider the specific charges.

**Charge 3 – Breach of AR175(l) – conspiring to commit breaches of AR64G(1a) and AR178E(1)**

37. It is convenient to consider Charge 3 first, pursuant to which the Appellant is charged with conspiring with Matthew Schembri and Michael Honson to commit breaches of AR64G(1a) and AR178E(1). The particulars of the charge are: being that you licensed trainer Mr Kym Healy, the trainer of Aussie Jack and Alitaka, did with Mr Matthew Schembri at the Broken Hill harness meeting conducted on the evening of 16 March 2018, enter into an arrangement that Mr Michael Honson was to stomach tube Aussie Jack and Alitaka on 17 March 2018, prior to racing in their respective engagements on the 17 March 2018 at the Broken Hill race meeting, such arrangement being in contravention of AR64G(1)(a) and AR178E.

38. AR175(l) is in these terms:

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise; Any person who attempts to commit, or conspires with any other person to commit, or any person who connives at or is a party to another committing any breach of the Rules.

39. The word “conspire” is a word of clear meaning. Its meanings include “to agree together, especially secretly, to do something reprehensible or illegal”<sup>1</sup>.

40. The evidence of the arrangement reached on Friday 16 March establishes an agreement to breach AR64G(1) and AR178E(1). The Appellant clearly stated in evidence before the Stewards and before this Panel that he reached an agreement with Mr Schembri for Mr Honson to stomach tube the two horses on race day.

41. In submissions, references were made to conspiracy in the criminal law. As mentioned, the Appellant initially argued that Charge 3, as particularised, could not amount to a breach of AR175(l), because of the absence of a particular as to an overt act pursuant to the agreement. The submission made by the Appellant was based upon the decision of the High Court in *The Queen v LK, The Queen v RK* (2010) 241 CLR 177 [2010] HCA 17. In *The Queen v LK* the requirement for an overt act arose

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<sup>1</sup> The Macquarie Dictionary Revised 3<sup>rd</sup> Ed

from the terms of s.11.5 of the *Criminal Code (Cth)*. Under Part 2.4 of the *Criminal Code* entitled “Extensions of criminal responsibility”, s.11.5(2) sets out the matters that must be established for a person to be guilty of conspiracy. One of those requirements is “the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement”. No such equivalent provision is contained in AR175(l).

42. Further, French CJ at [59]-[67] set out the requirements to establish conspiracy at common law. An overt act was not an element of the common law offence.

43. *In Agius v R; Abibadra v R; Jandagi v R; Zerafa v R* [2011] NSWCA 119, Hall J (with whom the other members of the court agreed), accepted at [48] and [49] that whilst overt acts are frequently the basis of proof of the crime of conspiracy they themselves did not at common law constitute the actus reus of conspiracy. The offence of conspiracy depends upon the existence of, or participation in, an agreement. Similarly, in *R v Jenkin (No 18)* [2018] NSWSC 978, Hamell J observed at [208] that “overt acts do not need to be proved as elements of the offence of conspiracy. However, the overt acts provide evidence of the existence of the conspiracy”.

44. In these circumstances, Mr O’Dea, on behalf of the Appellant, was correct to concede that an overt act was not a necessary element in establishing a breach of AR175.

45. A breach of AR175(l) is not, of course, a criminal offence. Nonetheless, the analysis of the requirements of the common law set out by French CJ at [62]-[64] of *The Queen v LK* provides some assistance to the approach to be adopted in determining a breach of AR175(l). The submissions on behalf of both the Stewards and the Appellant referred to these passages which state:

A concise enunciation of the elements of conspiracy was given by the Court of Queen's Bench in *Mulcahy v The Queen* [182] in 1868 in answer to questions proposed by the Lord Chancellor in relation to a prosecution under the Crown and Government Security Act [183]. Willes J, delivering the opinion of the judges, said [184]:

“A conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means. So long as such

a design rests in intention only, it is not indictable. When two agree to carry it into effect, the very plot is an act in itself, and the act of each of the parties, promise against promise, actus contra actum, capable of being enforced, if lawful, punishable if for a criminal object or for the use of criminal means.”

The House of Lords concurred. Notwithstanding its statutory context, the statement of the common law in *Mulcahy* has been accepted and applied in this Court [\[185\]](#).

The requirement, which did not emerge expressly from *Mulcahy*, that an alleged conspirator intend to carry into effect the common design of the agreement was propounded by the Supreme Court of Canada in *R v O'Brien* [\[186\]](#). It was not sufficient that the accused had intended *to agree* to commit the offence. He had to have intended to put the common design, the commission of the offence, into effect.

In *Churchill v Walton* [\[187\]](#) the House of Lords held that mens rea was only an essential element in conspiracy in so far as there must be an intention to be a party to an agreement to do an unlawful act [\[188\]](#). The elements of the offence at common law were restated by the House of Lords in *Director of Public Prosecutions v Nock* [\[189\]](#). It identified the intention to do the unlawful act as the mens rea of the offence and the fact of the agreement as the actus reus [\[190\]](#). The difficulties of dividing the offence of conspiracy at common law into actus reus and mens rea was pointed out by McHugh J in *Peters v The Queen* [\[191\]](#). As he said, the agreement which is the actus reus necessarily also includes a mental element [\[192\]](#)

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“At the very least, there must be an intention to enter into the agreement, and the present state of the authorities suggests that there can be no conspiratorial agreement unless the accused and his or her co-conspirators also intend that the common design should be carried out.”

46. What emerges from the foregoing is that conspiracy is the agreement to do the act with the intention that the agreement be carried out. As Wills J said in *Mulcahy v The Queen* “the very plot is an act in itself”. In the present case there was clearly an agreement between the Appellant Mr Shembri and Mr Honson to stomach tube two horses trained by the Appellant at the Fort Courage Stables. The three participants intended the arrangement to be carried out the next day, Saturday 17 March. Mr Shembri was to collect Mr Honson from the service station at which Mr Honson

worked. The stomach tubing was to be carried out between 11.30am and 12.10pm. Mr Shembri was to supply the product or drench, which was “non-swabable”. The Appellant knew that the stomach drenching on race day was a breach of the rules and amounted to cheating. So also did Mr Honson. The only reason the stomach tubing did not proceed was because the Stewards had been to Mr Shembri’s place on the Friday night which caused Mr Honson to change his mind. The risk of detection had now become too great.

47. In these circumstances, I consider that the charge has been established on the evidence.

48. Mr O’Dea submitted that the Appellant was too drunk to enter into an agreement and therefore there could be no conspiracy. The Appellant gave evidence of the amount of alcohol consumed on the Friday evening. He did not, however, suggest in the evidence that he had no understanding of what he had agreed. To the contrary, he fully accepted that he had entered into an agreement.

49. It was also submitted by Mr O’Dea that the Appellant did not conspire with Mr Honson because neither spoke to each other directly about the arrangement. However, the Appellant was present when the discussions took place between Mr Shembri and Mr Honson. On the evidence, Mr Shembri, Mr Honson and the Appellant each agreed to the arrangement. The fact that the Appellant’s agreement with Mr Honson may have been communicated through Mr Shembri cannot support a conclusion there was no agreement between Mr Honson and the Appellant. Both Mr Honson and the Appellant agreed in evidence that there was such an agreement.

50. It was also submitted that there could be no agreement because Mr Honson did not know which horses were to be stomach tubed. Mr Honson may not have known the identity of the horses, but the agreement involved the Appellant identifying the horses to be stomach tubed when Mr Honson arrived at the stables to carry out the stomach tubing. Nor do I accept the submission of Mr O’Dea that there could be no conspiracy to breach the rules of racing because Mr Honson and the Appellant did not know what the substances were that were to be in the drench. It was clearly

understood by Mr Honson and the Appellant that the substances to be supplied by Mr Shembri were for the purpose of enhancing the performance of the two horses.

51. For the foregoing reasons Charge 3 has been established and the appeal against conviction must be dismissed.

### **CHARGE 1: BREACH AR178E(1)**

52. AR178E provides: Notwithstanding the provisions of AR 178C(2), no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on race day prior to such horse running in a race.

53. The particulars of the charge are: being that you licensed trainer Mr Kym Healy, the trainer of Aussie Jack and Alitaka, did with Mr Matthew Schembri at the Broken Hill harness meeting conducted on the evening of 16 March 2018, enter into an arrangement that Mr Michael Honson was to stomach tube Aussie Jack and Alitaka on 17 March 2018, prior to racing in their respective engagements on the 17 March 2018 at the Broken Hill race meeting, such arrangement being in contravention of AR64G(1)(a) and AR178E.

54. The Appellant denies that he administered or caused to be administered any medication to *Aussie Jack* on 17 March 2018. Given the frankness with which the Appellant agreed that he had entered the arrangement with Mr Shembri and Mr Honson which formed the basis of Charge 3, significant weight must be given to that denial. Further, the evidence of Mr Stutley was that he was with the Appellant on the two occasions that the Appellant visited the Fort Courage Stables on the Saturday morning and he did not observe the Appellant injecting any horse. Mr Stutley also gave evidence that had the Appellant injected the horse on those occasions it is likely it would have been observed. There is no evidence that anyone did observe such an injection. In support of the Appellant's case, there is unchallenged evidence that at approximately 1pm on Thursday 15 March 2018 each of the 12 horses travelling to Broken Hill were given an injection of Aminolite. The Appellant submits that what was thought to be evidence of an injection on race day was the result of the injection of Aminolite on Thursday.

55. There is evidence that points to a contrary conclusion and that supports the Stewards' submission that *Aussie Jack* was injected on race day. That evidence may be summarised as:

- (i) The veterinarian evidence and the evidence of Mr Fitzgerald and Mr Grimes;
- (ii) the fact that the Appellant had arranged for *Aussie Jack* and Alitaka to be injected on race day;
- (iii) the inferences to be drawn from the text messages passing between the Appellant and Mr Shembri.

56. To deal firstly with the veterinary evidence. Evidence was given by three veterinarians; Dr Ginifer, Dr Craig Suan, then the senior veterinarian Racing NSW and Dr Toby Koenig the current chief veterinarian officer of Racing NSW. At a high level of generality their evidence may be summarised as follows:

- (a) When a horse is injected or blood taken from it, once blood leaks from the vein it is going to congeal in a short space of time. In the case of a fairly recent venepuncture, the congealed blood will be red in appearance. As it oxidises it will turn a brown colour and later flake off;
- (b) After a venipuncture there will often be a leakage of blood and/or injectable fluid which will give rise to soft swelling at or around the site of the puncture wound. That fluid will gravitate away and will become harder to the touch.

57. The evidence of Mr Fitzgerald and Mr Grimes was that at or around the puncture wound the congealed blood was red and had not yet oxidised to become brown. Further, the swelling at or around the puncture mark was soft to the touch. Photographs were taken of the area around the puncture mark of *Aussie Jack*. Dr Ginifer observed the swelling in the area of the puncture mark and felt the swelling was softer to the touch. She did not see the congealed blood but, having seen the photograph, confirmed that it was red in colour indicating a recent injection. Both Dr Suan and Dr Koenig concluded that the venipuncture was recent based upon the photographs of *Aussie Jack*.

58. I should say at this point that there was some suggestion on the part of the Appellant that the photographs said to be photographs of *Aussie Jack*, were in fact photographs

of Alitaka. Alitaka was observed to have a mark consistent with an injection that had been given some time ago. The suggestion seemed to be that the photos said to be of *Aussie Jack* were in fact photos of this older puncture mark on Alitaka. Such a contention cannot be sustained on the evidence. The unchallenged evidence, to which I have earlier referred, is that the two horses were identified by a microchip reader and that the identification by both Mr Fitzgerald and Mr Grimes of those two horses was based upon that identification.

59. As I have earlier mentioned, on examination of *Aussie Jack* Dr Ginifer observed a small soft swelling over the jugular area. It did not feel hard and felt soft consistent with a recent venipuncture. Based upon her extensive experience, she considered that the venipuncture was fairly recent, that is, it occurred within the previous six to twelve hours. Her review of the photographs and the colour of the congealed blood confirmed that the venipuncture was recent. Before the Stewards on 17 March, she expressed the view that the puncture wound was in the last 24 hours. Dr Ginifer had also examined *Alitaka* but she was not able to say that it definitely had an injection.

60. Before the Stewards Inquiry on 4 June 2018, Dr Suan expressed the opinion that the photographs evidenced a recent venipuncture.

61. In his report of 7 August 2018 (Exhibit "B") Dr Koenig agreed with the conclusions reached by Dr Ginifer and Dr Suan. In his oral evidence before the Panel, he said that on the evidence he observed the photographs were taken within six hours of the venipuncture. He also said that he did not consider it possible that what he observed in the photographs of *Aussie Jack* could have been the result of the injection on Thursday 15 at about 1pm. He said that in transporting the horses their heads would be held high, increasing the likely rate of gravitation and thus increasing the rate at which the soft swelling gravitated and became hard.

62. Both Mr Fitzgerald and Mr Grimes have had extensive experience in the injection of horses and the taking of blood from them. Based upon their experience, the venipuncture was recent.

63. The Appellant led no evidence from any veterinarian to dispute the foregoing evidence. In these circumstances it is difficult to reach any conclusion other than the

fact that *Aussie Jack* was injected recently and certainly within 24 hours of the taking of the photographs.

64. Once it is accepted that it is not possible that the puncture marks were from the injection on Thursday, it must follow that *Aussie Jack* received a second injection. The evidence does not, however, establish precisely when and in what circumstances that second injection was administered.

65. The second matter not only strengthens the available inference that the Appellant caused the injection of *Aussie Jack* but also allows inferences to be drawn as to when the injection was administered. In evidence before this Panel and before the Stewards, the Appellant agreed that on Friday 16 March 2018, he arranged for *Aussie Jack* and *Alitaka* to be injected with a yellow substance the next day; race day. It was a substance to be injected in the horses to improve their performance. The Appellant was not sure whether the injection was to be administered by Mr Shembri or Mr Honson. However, it was to take place between 11.30am and 12pm, at the same time as the stomach tubing. The Appellant said that, like the stomach tubing, the injection did not proceed.

66. However, the evidence does establish that *Aussie Jack* was injected between approximately 6 to 24 hours before midday on 17 March 2018, and more likely closer to 6 hours prior to midday. The Appellant was the trainer of *Aussie Jack*. The evidence does not establish that anyone else had any interest in administering the injection to *Aussie Jack*. The Appellant did have an interest in having *Aussie Jack* injected. As the evidence establishes, he had in fact made arrangements for the horse to be injected. The inference to be drawn is that the Appellant either injected *Aussie Jack* himself or caused someone else to do so.

67. Further, until the Appellant received the text message from Mr Shembri at approximately 9am on Saturday that Mr Honson had backed out of the arrangement, the Appellant understood that the stomach tubing and the injection of the horses would take place later that morning. In those circumstances, it was unlikely that *Aussie Jack* would have been injected prior to receiving the message. Nor is it likely that the horse was injected on the Friday afternoon after arriving from Broken Hill.

It is unlikely that the Appellant would have caused the horse to be injected on the Friday afternoon and then on Friday evening made further arrangements for another injection on Saturday morning. The facts give rise to the inference that *Aussie Jack* was injected some time after 9am on Saturday morning. The fact that Mr Stutley said that he did not see *Aussie Jack* being injected on Saturday morning does not lead to the conclusion that the Appellant did not inject the horse or cause someone else to do so. It is to be noted that Mr Stutley was not a party to the arrangement between the Appellant, Mr Shembri and Mr Honson and there is no suggestion he was aware of the arrangement.

68. The third matter is the association between Mr Shembri and the Appellant and the context of their text messages. These text messages establish that the idea of the Appellant administering medication to horses on race day, or on the day prior to race day, was very much in the minds of both the Appellant and Mr Shembri. This strengthens the inference that it was the Appellant who injected *Aussie Jack* on race day or caused the horse to be injected. Both the Appellant and Mr Shembri were cross examined about the text messages. The contents of the relevant text messages were set out in Exhibit 15 before the Stewards and are attached as Exhibit "B". For example:

- (i) In the exchange of text messages on 17 and 18 January, the Appellant wrote to Mr Shembri, "I tried one on that maiden horse yesterday, no joy". This was a response to Mr Shembri having referred to "that drink is all good mate". After the Appellant replied, Mr Shembri wrote, "shit, I thought it was today mate".
- (ii) On 29 January 2018, the Appellant wrote to Mr Shembri in relation to the particular substance Pentosan "got one in town Sat. I'd like to try it on he is a front runner, one seven in Darwin." Mr Shembri responded "Yeah mate it's all been sent. Todd is sending you the Pentosan".
- (iii) On 1 February the Appellant wrote to Mr Shembri in relation to Pentosan, "might try some on weekend" and then "see how I go. Having to be at race 2 hours out can make things tricky. I've got one in Sunday goes pretty good but

he is in the last I need to be there early. For another one.” He also wrote, “we’ll have to have a crack at a few of mine at St Pats meeting. Load them up ha ha”.

(iv) On 10 February Mr Shembri wrote, “hey matie. How are we going today? Are you going to have a go with any”.

69. The Appellant in his evidence before this Panel said that these exchanges were not serious, just a joke and that he was lying to Mr Shembri. In particular, it was pointed out that after the reference to the St Pat’s meeting the word “ha ha” was added. But what this does demonstrate is the regularity of communications between Mr Shembri and the Appellant in which the Appellant referred to treatment on race day in order to improve the performance of horses. Even though in relation to the St Pat’s meeting the Appellant wrote “ha ha”, the fact of the matter was this was the arrangement that he did make with Mr Shembri. The evidence of both the Appellant and Mr Shembri in relation to these exchanges was unsatisfactory. I cannot accept the evidence of the Appellant that the references in text messages to treating horses on race day, or the day before, were not intended to be serious and were just jokes. These text messages strengthen the inference that it was the Appellant who either administered or caused to be administered the injection in *Aussie Jack* on race day.

70. For these reasons I consider that the charge has been established.

### **Charge 2: Breach of AR178AB(1)(a)**

71. AR178AB provides [A person must not, without the permission of the Stewards, inject a horse, cause a horse to be injected or attempt to inject a horse, which is engaged to run in any race: (a) at any time on the day of the scheduled race, prior to the start of such event;].

72. The particulars of the charge are; being that you licensed trainer Mr Kym Healy, the trainer of Aussie Jack, did inject or caused to be injected Aussie Jack on 17 March 2018 when Aussie Jack held an engagement in race 6 – Outback Cup at the Broken Hill race meeting on that day.

73. Having regard to the findings in relation to Charge 1 it must follow that Charge 2 is also established.

### **Summary and conclusions**

74. For the foregoing reasons the appeal against Charges 1, 2 and 3 should be dismissed and the conviction by the Stewards on each of those charges should be confirmed.

Mr J Murphy      I agree

Ms J Foley        I agree

### **Further directions**

75. Directions need to be made for the appeal in relation to the severity of penalty. It is a matter for the parties as to whether the submissions can be made in writing, in which case directions should be made for the serving of written submissions. Alternatively, the Panel could reconvene to hear oral submissions. If that is the preferred option, I see no difficulty with Mr O'Dea making those submissions orally by telephone.

## **Annexure A**

Licensed trainer Mr Kym Healy you are hereby charged with a breach of AR175(l) for conspiring with Mr Matthew Schembri and Mr Michael Honson to commit breaches of AR64G(1)(a) and AR178E(1).

**AR 175.** *The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise;*

*(l) Any person who attempts to commit, or conspires with any other person to commit, or any person who connives at or is a party to another committing any breach of the Rules.*

Licensed trainer Mr Kym Healy you are hereby charged with a breach of AR178E.

**AR 178E.** *(1) Notwithstanding the provisions of AR 178C(2), no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on race day prior to such horse running in a race.*

The particulars of the charge being that you licensed trainer Mr Kym Healy, the trainer of the racehorse Aussie Jack, did inject or caused to be injected medication to Aussie Jack on 17 March 2018, prior to Aussie Jack's engagement to race in race 6 – Outback Cup at the Broken Hill race meeting on that day.

Licensed trainer Mr Kym Healy you are hereby charged with a breach of AR178AB(1)(a)

**AR 178AB.**

*(1) A person must not, without the permission of the Stewards, inject a horse, cause a horse to be injected or attempt to inject a horse, which is engaged to run in any race:*

*(a) at any time on the day of the scheduled race, prior to the start of such event.*

The particulars of the charge being that you licensed trainer Mr Kym Healy, the trainer of Aussie Jack, did inject or caused to be injected Aussie Jack on 17 March 2018 when Aussie Jack held an engagement in race 6 – Outback Cup at the Broken Hill race meeting on that day.

## Annexure B

Date	Time	Party	Description	Attachment
40112018	4012018 19:05(UTC+11)	From: *61437088795 Dr Matt El H	Hi km, its read schembd The total is	
4/01/2018	4012018 19:15(UTC+11)	Fran: +61437058795 Dr Matt B H	Bsb, 723-810 Acc 656276 Matt schembri	
4101/2018	4012018 19:15(UTC+11)	TO: +61 437 088 795 Dr Matt B H	BYm Healy, P.O. BOX 200 ECHUNGA SA 5153	
4/01/2018	4012018 19:18(UTC+11)	From: +81437068795 Dr Matt El 11	Thanks mate! Will let you blow when its on Ns gat	
4/01/2018	4012018 1516(UTC+11)	Front +61437088795 Dr Matt B H	Way	
4/01/2018	4012018 19:29(UTC+11)	Tik +81 437 066 795 Or Matt B H	4+4/4+11 cheers DI get my wife to Iranstar money tonight	
5012018 1=12018	08:57(070.11)	Tel +61 437 088725 Or Matt El H	Gday Matt. could you give me a quick call please, cheers Kyrn Healy	
5/01/2016	5012016 19A9(UTC+11)	Tel +61437068795 Dr Matt B H	Just paid that money in mate. Mats the receipt OP*.	45_1IMG_20180105_191718(duplicate_fname 11=
5/01/2018	5012018 19:5101(UTC+11)	From: +81437088795 Dr Matt B H	Thanks champ!	
10/01/2018	001201806:15(UTC+11)	Tel +61 437 008 795 Dr Matt B H	Hey mate will that order be getting sal today? Inlet ran old of pent this morning	
10101/2018	1001201800:16(.17C+11)	Fran 401437088795 Dr Matt B H	Hi mate yeah its sure is being sent today, it arrived yesterday, my mate will send it out of melb today	
10/01/2016	1001201808:18(UTC+11)	TO: +61 437 068 795 Dr Matt 8 H	Cheat ...., do you have anything for bleeders ?	
1001/2018	10101201808:20(UTC+11)	From: +8143700795 Dr Matt El H	I use Leo bleeder mate. But my mate is onto some stuff but is hying tri gel a hold Of it	
10/01/2018	101131011308:23(UTC+11)	Ta +81 437 088 795 Or Matt 811	No worries, maybe let me know when he does, always good to have a bottle andy, do you sell No bleeder?	
10101/2018	1001=16 08:25(1)70+11)	From: +61437068795 Dr Matt B H	Yeah its sure is mate, No i dont sell it mate, but I can geld a lite Nit cheaper then the price Xs	
10/01/2018	1001201808:26(UTC+11)	To: +61 437 068 795 Or Matt El H	OA how much is 4 9	
10101/2018	1001201808:27(UTC+11)	From: +61437068705 Dr Matt 8 H	Gada your pushing 8 balsa. IlliUst have a lOok mate	
10.010019	1001201808:28(UTC.11)	To: 501 457 OM 798 Dr Matt 13 H	8+.418 <sup>1</sup>	
10101/2018	10101201808:30(UTC+11)	From: 4614370041795 Dr Matt B H	This US \$9 ten not to sure how to work the currency= Mit useryly about 9185 so think	Scensenshot_20180110-075834.jPeri
1=1/2018	10/01/2018 08:36(UTC+)	Tel +81 497 066 795 Dr Matt 9 H	Need time you order some you get me a bottle please, works good 7	
1001/2018	10012018011:39(UTC+11)	From: 481437088705 Dr Matt 8 H	Yeah mate no worries, I will give you a call thi Memnon bud and have a chat	
10/01/2018	1001201808:40(UTC+11)	Ta +81 437 088 70.5 Or Matt B H	44+44	
10101/2018	10012018 17:47(UTC+11)	From: +8143708870 Dr Matt 13 H	Heykym, would you be able to check that bank depend on your end mate. Nothing has come through 55 yet mate. Cheers	
10/01/2018	10012018 17:50(UTC+11)	Tel +61437068795 Dr Matt 13 H	Are these the right bank details? That's the receipt	45_1810_20180105_191718.1pg
10101/2018	1001=18 18:12(UTC+11)	From: +81437003795 Dr MOON	Just on the road mate, 111 double check when I get home.	
10+310018	wroirzoia18:14(UTC+11)	To: +61 437 088 795 Dr Matt B H	<b>4414</b> , it went through to those details	
10/01/2018	10012018 20:32(UTC+11)	From: *61437068795 Dr Matt B H	Hi gnu. i just rang the bank, and I lucked up the bob number. The chick said that all funds would haw bounced back Into your account	
11101/2018	11/01/2018 15:33(UTC+11)	Tel +61 437 088 795 Or Matt B H	OK fit co my sof. be do again tonight	
13101/2018	13012018 13:09(UTC+11)	From: .81137068795 Dr Matt B H	Hi mate. eary i didnt get back to you yesterday. Did you receWe your Parcel?	
13/01/2018	1=1/2018 16:20(1TC+11)	Tel +61 437 068 795 Dr Matt El H	111 give you a call tonight at races	

1301/2018	1301/2018 115:44(UTC+11)	From: +61437068795 Dr Malt B H		
14/01/2018	14/01/2018 2237(UTC.+11)	To: +21 437 068 795 Dr Matt B H	Hey mate, put that mend in tonight, yeah got the parcel <i>Fit</i> haven't used anything yet, didn't have enough time up my sleeve to use anything yesterday 41440g talk tomorrow	
14/01/2018	14/01/2018 22:39(UTC+11)	To: +81437068795 Dr Mat1B11		9999
1401/2018	14/01/2018 22:44(UTC+11)	From: +81437058795 Dr Matt B H	Thanks metal	
17/01/2018	17/01/2018 2397(UTC+11)	From: +81437068795 Dr Man B H	That drink is all good mate	
vuolime	18/01/2018 07:13(UTC+11)	To: +81437 066 795 Or Matt 5 H	Ogg. I tried one on that maiden horse yesterday, no joy	
11301/2018	18/01/2018 10:25(UTC+11)	From: +81437068795 Dr Man 8 H	Shg, I Maught tt was today mate	
22101/2018	22/01/2018 17:54(UTC+11)	To: +81437 088 795 Dr Malt B H	A mate from Darwin ls after scree gear, I'll lert him your no, PNI Cole lt his name mate, good bloke	
22/01/2018	22/01/2018 18:40(UTC+11)	From: +81437088795 Dr Matt B H	Yeah mate no wonies at all, was going to give you a ms9 tonight podgy,	
22101/2018	22/01/2018 11208(kTC+11)	To: *61 437 068 795 Or Matt OH	Oh right when you hying N?	
2201/2018	22/01/2018 19:18(UTC+11)	From: +61437068796 Dr Matt B H	Hopefully I get a shot before saturday night	
22/01/2018	22/01/2018 113:17(UTC+11)	To: +81 437 068 795 Dr Man B H	4.04.49, no swab obviously, now much they need 10m1 ago?	
22/01/2018	22/01/2018 19:18(UTC+11)	From: +61437068795 Dr Matt B H	No swab mate, Well he has told me 5m1 ls enough If you already have a horse that gets us on	
2201=18	22/01/2018 19:19(UTC+11)	Tor +81 437 068 795 Dr Matt 8H	doggit , you getbrep a few lots?	
2201/2018	22/01/2018 1921(UTC+11)	From: +61437089795 Dr Mgt 13 H	oot 10 10mlyials coming mate	
2201/2018	22/01/2018 19:22(UTC+11)	To: +61 437 008 793 Or Matt B14	9 <sup>9</sup> M/bgro Warms if Mars OK, will need some more pentosan next week to plane	
22101/2018	22/01/2018 10:26(UTC+11)	From: +61437068795 Dr Matt EI H	NO worries mate) Let me know how many you 10mi vials you want and Ill send lt to you out <i>fit</i> mine	
28/01/2018	28/01/2018 20:54(311C+11)	To +81 437 068 795 Or Matt gat	ggblm good job. can I get some and another couple dudes of pendban please	
2901/2018	29/01/2018 20:55(UTC+11)	From: 031437080795 Dr Matt B H	No wordes mate. how many bodes do you want mate?	
2801/2018	28/01/2018 20:58(UTC*11)	To: +61 /37 068 795 Or Matt B H	4/58 you got Mat many spare mate. I had 6 race wsletday at Kl gct area dacinjs	
2801/2018	28/01/2018 21:00(UTC+11)	From: .43143706e185 Or Malt EI H	No worries motel Yeah ill get them sent off tomorrow. and ill order the pentosan for you	
28/01/2018	28/01/2018 21:31(UTC+11)	To +81437 068 795 Or Matt B H	0+ 04	
29/01/2018	28/01/2018 10:20(UTC+11)	From: 0314370687135 Dr Matt B H	Hey mate what is your address?	
20/01/2018	29/01/2018 10:42(UTC+11)	Ira +51 437 068 795 Or Matt 13 41	P.O box 280 ECHUNGA ,SA. 5153	
2901/2018	20/01/2018 19:36(UTC+11)	To: +81137088795 Dr Mott B H	Get it all away OK male? Got one known Sat rd like to try it on he is a front fanner. won 7 In Dann?	
2901/2018	29/01/2018 19:41 (1.1TC+11)	Front +61437088795 Or Mall EI H	Yeah mate /ts all been sent. Todd is sending you the p8 down	
29/01/2018	29/01/2018 19A6(UTC+11)	From: +51437088795 Dr Matt B H	5725 mate, I threw a bottle in for free for you to give with 'he drink. but NI emildn it to you	
29/01/2018	29/01/2018 20:113(UTC+11)	Tor +81437 068 795 Dr Matt 8 H	414 <sup>4</sup> +0 cheers mate, no worries	
1/92/2018	1/02/2018 20:37() TC-11)	From: +61437068795 Dr Matt 811	Medved anything yet mate?	
1/0212018	1/02/2018 20:44(UTC+11)	To +511 437 068 705 Dr Matt 13 H	Nah mate Out toned been pal office for couple days been gat out 111 gal Cassie to ln that bill up tonight, sorry its not 0011e yet always crazy' home with 4 Idea ones	
1/0212018	1/02/2018 20:47(VrC+11)	From: +61437068795 Dr Matt 13 H	All good mate, dont dress. My mate ts sending you the Penman,	

11/02/2018	1/02/2018 21:39(LITC+11)	To: +61 437 088 795 Dr Matt B H	pg.. might to some on weekend	
14/02/2018	1/02/2018 21:45(UTC+11)	To: +81437 068 795 Dr Man 13 II	Soo how I go. haying to to at moos 2 hairs out can make thinga OCKy	
1/02/2018	4/02/2018 21:47(UTC++ 1)	From +61437068795 Dr Matt B H	No worries mMe. If you get time MO us a msg. i dont mind a punt halo	
1/02/2018	1/02/2018 21:49(1.1 C+)	To: +61437 068 795 Dr Matt B H	****hkeone, F. got one in Sunday god Patty good, but he in the last I need to be there early. for another one	
16/2/2018	1/02/2018 21:61(UTC0 I)	From 6143701181795 Or Man B H	A keep a eye out male)	
16/2/2018	11/02/2018 21 55(1f1C+11)	To: *61437 oes 795 Dr Matt II H	.8144411. well bane to hake a crack at * few of mine* St Para meeting load lment up halo	
1/02/2018	11/02/2019 22.01(UTC+11)	From: +81437068795 Dr Man B H	tome sounos good tome matM!	
2/02/2018	2/02/2018 14:28(UTC+11)	To: +61437068876506 Matt 811	Nothing in mail today mote	
2/02/2018	2/02/2018 14:35(UTC+11)	To: +61 437 088 795 Dr Matt B H	Can you cheek tracking no see Awe It is mate	
2/02/2018	2/02/2018 14:41(UTC+11)	From: +61437068795 Or Man B H	Fucld Should defiantly be tnere by now. just on road picang one up mad banning nunwir is ttpy W8R	
20/2/2018	2/02/2018 14:4261TC+11)	To: +814370688795 Dr Matt B H	*****	
10/02/2018	10/02/2018 08:45(117C+11)	From: +61437068795 Dr Matt B H	Hey matey. how are we looking today? Are you going tolow a go Wfth FIFTY	
23/02/2018	23/02/2018 09:30(11TC+ II)	Ta +111 437 088 795 Dr Matt B II	Hey mate did he have thai stuff in stock?	
21/02/2018	16/2/2018 15:28(UTC+11)	Flora +61437068795 Dr Mort 8 H	Hi male. I have boon Man A gal OW of Oh MI Or/ 8811n0 luait He maybe on hea way back over seas, but he diOnt say anything! A	
23/02/2018	23/02/2018 19:33(UTC+11)	To: +81 437 068 795 Of Mat 113 11	aBgkge	
13/03/2018	13/03/2018 17:53	To: +61437068795 Matt 8 H DI	00:05:38	(Mooring
15/03/2018	15/03/2018 17:33	From: 0437068795 Matt B H Dr	00:02:25	broorning
16/03/2018	16/03/2018 16:00	From: 0437068795 Matt B H Dr	00:00:00	missed
18/03/2018	16/03/2018 18:23	To: 0437868795 man s H Dr	00:02:26	Outgoing
17/03/2016	17/03/2018 13:28	To: +61437068795 Mitt 91401	009035	01490189