



HEARING OF CHARGES ISSUED AGAINST TRAINER MR BENJAMIN SMITH AND STABLEHANDS MS EMMA BICKLEY AND MR DANIEL SMITH.

Tuesday 7 May 2019

**Stewards: M F Van Gestel (Chairman)
P C Dingwall**

Racing NSW Stewards today conducted a hearing of charges issued against Trainer Mr Benjamin Smith on 28 March 2019 and stablehands Ms Emma Bickley and Mr Daniel Smith on 17 April 2019.

Mr Benjamin Smith

Mr Smith, who attended today's hearing and was assisted by solicitor Mr Paul O'Sullivan, was charged in the following terms and entered the following pleas.

1. Charge 1 – AR232(i) False Evidence

Breach 1

During an investigation being conducted by the Stewards at the Newcastle Racecourse, on 11 September 2018 at approximately 9am, in relation to the discovery of a brown bottle in his vehicle located at the Newcastle Racecourse he gave the evidence in the knowledge that such evidence was false.

Plea: Guilty (on basis of one breach)

Breach 2

During a Stewards inquiry being conducted by Racing NSW Stewards at the Newcastle Racecourse, on 11 September 2018 in relation to the discovery of a number of unregistered substances in his vehicle located at the Newcastle Racecourse and his residential property he gave evidence in the knowledge that such evidence was false.

Plea: Guilty (on basis of one breach)

2. Charge 2 - AR232(h) Refusing to Give Evidence

Refused to give evidence at both a Stewards investigation and a Stewards inquiry conducted at Newcastle racecourse on 11 September 2018, in that he refused to provide the name of the person who had supplied unregistered products, when he knew that Mr Neil Costello was the supplier.

Plea: Guilty

3. Charge 3 – AR245(1)(a) Administering cobalt to Iron Duke

Administered the prohibited substance cobalt to the racehorse Iron Duke prior to the gelding racing in Race 2 – Civil Sydney Maiden Plate conducted at Newcastle 25 August 2018 which resulted in cobalt being detected above the level of 100ug/l excepted in paragraph 11 of Division 3 of the Prohibited List B in a post-race urine sample taken from the gelding following winning Race 2 – Civil Sydney Maiden Plate conducted at Newcastle 25 August 2018.

Plea: Not Guilty

4. Charge 4 – AR240(2) Presenting Iron Duke with cobalt

As the trainer of the racehorse Iron Duke brought to Newcastle racecourse on 25 August 2018 for the purpose of participating in Race 2 – Civil Sydney Maiden Plate on that day and the prohibited substance cobalt was detected above the level of 100ug/l excepted in paragraph 11 of Division 3 of the Prohibited List B in a post-race urine sample taken from the gelding following winning Race 2 – Civil Sydney Maiden Plate on that day.

Plea: Guilty

5. Charge 5 – AR245(1)(a) Administering cobalt to Elaborate

Administered the prohibited substance cobalt to the racehorse Elaborate prior to the gelding racing in Race 1 – Fresh-R Class 1 Handicap conducted at Wyong 26 August 2018 which resulted in cobalt being detected above the level of 100ug/l excepted in paragraph 11 of Division 3 of the Prohibited List B in a urine sample taken from the gelding following winning Race 1 – Fresh-R Class 1 Handicap conducted at Wyong 26 August 2018.

Plea: Not Guilty

6. Charge 6 – AR240(2) Presenting Elaborate with cobalt

As the trainer of the racehorse Elaborate brought to Wyong racecourse on 26 August 2018 for the purpose of participating in Race 1 – Fresh-R Class 1 Handicap on that day and the prohibited substance cobalt was detected above the level of 100ug/l excepted in paragraph 11 of Division 3 of the Prohibited List B in a post-race urine sample taken from the gelding following winning Race 1 – Fresh-R Class 1 Handicap on that day.

Plea: Guilty

7. Charge 7 – AR249(1) Causing medication to be administered on race day

Did cause medication namely, electrolyte paste to be administered on race day to the following horses by the following person prior to such horses running in the following races.

Breach 1

1. Dream Charge - Race 7 Thread Effects Class 1 Handicap - Tamworth 5 January 2018 – administered by Ms Emma Bickley

Plea: Not Guilty

Breach 2

2. Anecdote – Race 7 Guardian Safety Solutions Provincial Posthaste Benchmark 80 Handicap - Newcastle 9 March 2018 – administered by Ms Emma Bickley

Plea: Guilty

Breach 3

3. Elaborate – Race 1 Taree League and Sports Club 2yo Maiden Handicap - Taree 20 July 2018 – administered by Ms Emma Bickley

Plea: Not Guilty

8. Charge 8 – AR227 Attempting to commit breaches of causing medication to be administered on race day

Did attempt to commit a breach of AR249(1)(b) by instructing the following persons to administer medication on race day, namely electrolyte paste to the following horses prior to such horses running in the following races.

Breach 1

1. Ms Emma Bickley - Elaborate - Race 1 Fresh-R Class 1 Handicap - Wyong 26 August 2018.

Plea: Guilty

Breach 2

2. Mr Daniel Smith - In Her Time - Race 7 Sydney Stakes - Randwick 14 October 2017

Plea: Not Guilty

Breach 3

3. Mr Daniel Smith - Kyoko Race 1 Maiden Handicap, Golly Miss Solly Race 2 Maiden Handicap, Libertine Miss Race 4 Benchmark 55 Handicap, Tabrobane Race 5 benchmark 55 Handicap - Tuncurry 29 October 2017.

Plea: Not Guilty

9. Charge 9 – AR252 Possession of unregistered medication or substances

Had in his possession on 11 September 2018 eight medications and/or substances and/or preparations that had not been registered and/or labelled and/or prescribed and/or dispensed and/or obtained in accordance with the applicable Commonwealth and state legislation namely the *Agricultural and Veterinary Chemicals Code Act 1994* (Cth) (Agvet Code), *Poisons and Therapeutic Goods Act 1966* (NSW) and the *Poisons and Therapeutic Goods Regulation 2008* (NSW).

Plea: Guilty

10. Charge 10 – Improper Conduct administering substance containing formaldehyde

Without taking veterinary advice and with the intention to assist horses with respiratory conditions, administered prior to 11 September 2018 to the racehorses Anecdote, Kristensen and Marksfield, the substance contained in the brown bottle located in his vehicle by Stewards on 11 September 2018, that was found to contain the carcinogenic substance formaldehyde, such substance capable of being detrimental to the welfare of the said horses.

Plea: Not Guilty

Stewards have adjourned the matter to consider the not guilty pleas following evidence and submissions being made in respect to charges 3,5,7,8, and 10. A penalty hearing will be conducted once the charges have been determined.

Ms Emma Bickley

Stablehand Ms Bickley failed to attend today's hearing. The following charges have been issued against her.

1. Charge 1 – AR232 False Evidence

The particulars of the charge being that she did provide evidence at an interview conducted by Racing NSW Stewards on 18 September 2018 in the knowledge such evidence was false.

Plea: No Plea

2. Charge 2 – 232(h) Refusing or failing to attend a Stewards inquiry.

Refused and/or fail to attend Stewards inquiries conducted at the Offices of Racing NSW on 14 February 2019 and 12 March 2019 relative to trainer Mr Benjamin Smith when directed by Racing NSW Stewards to do so.

Plea: No plea

3. Charge 3 – AR249(1)(b) Administration of medication on race day

Administered medication namely, electrolyte paste to the following horses on race day prior to such horses running in the following races.

Breach 1

1. Dream Charge - Race 7 Thread Effects Class 1 Handicap - Tamworth 5 January 2018.

Breach 2

2. Anecdote – Race 7 Guardian Safety Solutions Provincial Posthaste Benchmark 80 Handicap - Newcastle 9 March 2018.

Breach 3

3. Elaborate – Race 1 Taree League and Sports Club 2yo Maiden Handicap - Taree 20 July 2018.

Plea: No Plea

Stewards have adjourned the matter to consider the charges issued against Ms Bickley. A penalty hearing will be conducted once the charges have been determined.

Mr Daniel Smith

Stablehand Mr Smith failed to attend today's hearing. The following charges have been issued against him.

1. Charge 1 – AR232(h) Refusing or Failing to attend a Stewards inquiry.

Refused and/or fail to attend Stewards inquiries conducted at the Offices of Racing NSW on 14 February 2019 and 12 March 2019 relative to trainer Mr Benjamin Smith when directed by Racing NSW Stewards to do so.

Plea: No Plea

2. Charge 2 – Aid, abet and conspire to administer medication on race day

Did aid, abet and conspire with Ms Emma Bickley to commit a breach of AR249(1)(a) in that when the horse Dream Charge arrived at the Tamworth racecourse on 5 January 2018 to race in Race 7 Thread Effects Class 1 Handicap, he agreed to wipe the mouth of Dream Charge to prevent the detection of

RACING NSW – STEWARDS REPORT

electrolyte paste in the horse's mouth in the knowledge that Ms Bickley had administered electrolyte paste on race day in contravention of AR249(1)(a).

Plea: No Plea

Stewards have now adjourned the matter to consider the charges issued against Mr Smith. A penalty hearing will be conducted once the charges have been determined.

Disqualification of horse's placings

1. Iron Duke - 25 August 2018

In accordance with the provisions of AR240(1), Iron Duke was disqualified from its first placing in Race 2 – Civil Sydney Maiden Plate conducted at Newcastle racecourse on 25 August 2018 and the placings amended as follows.

02. Decapitor(NZ)	1st
07. Broadlea	2nd
01. Cool Dude Ausbred	3rd
09. Hard Hustler(NZ)	4th
08. Golden Lily	5th
06. Road to Bordeaux	6th

2. Elaborate – 26 August 2018

In accordance with the provisions of AR240(1), Elaborate was disqualified from its first placing in Race 1 – Fresh-R Class 1 Handicap conducted at Wyong racecourse on 26 August 2018 and the placings amended as follows.

01. Homework	1st
03. Joy for Us	2nd
04. Son of a Fox	3rd
02. I Am Baymax	4th
07. Laranta	5th

Relevant Rules

AR 227 Breaches of the Rules

Without limiting any other powers, a PRA or the Stewards may penalise any person who:

- (b) attempts to commit, aids, abets, counsels, procures, connives at, conspires with another person to commit, or is a party to another person who commits, a breach of the Rules.***

AR 228 Conduct detrimental to the interests of racing

A person must not engage in:

- (b) misconduct, improper conduct or unseemly behaviour;***

RACING NSW – STEWARDS REPORT

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.**
- (i) give any evidence at an interview, investigation, inquiry, hearing and/or appeal which is false or misleading.**

AR 240 Prohibited substance in sample taken from horse at race meeting

- (1) Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.**
- (4) Subject to subrule (3), if a horse is brought to a racecourse for the purpose of participating in a race and a prohibited substance on Prohibited List A and/or Prohibited List B is detected in a sample taken from the horse prior to or following its running in any race, the trainer and any other person who was in charge of the horse at any relevant time breaches these Australian Rules.**

AR 245 Administration of prohibited substance in sample taken from horse before/after running in race

- (5) A person must not:**
 - (a) administer; or**
 - (b) cause to be administered,****a prohibited substance on Prohibited List A and/or Prohibited List B to a horse which is detected in a sample taken from the horse prior to or following the running of a race.**

AR 249 Administration of medication on race day

- (1) Notwithstanding the provisions set out in Schedule 1, Part 2, Division 2, a person must not, without the permission of the Stewards:**
 - (a) administer; or**
 - (b) cause to be administered,****any medication to a horse at any time on race day prior to the commencement of a race in which the horse is engaged to race.**

AR 252 Possession of medication/substance/preparation in breach of legislation

- (1) A person must not have in his or her possession or on his or her premises any medication, substance or preparation which has not been registered, labelled, prescribed, dispensed or obtained in accordance with applicable Commonwealth and State legislation.**