

RACING NSW – STEWARDS REPORT



INQUIRY AND HEARING OF CHARGES ISSUED AGAINST LICENSED TRAINER MR MICHAEL TUBMAN IN
RESPECT TO THE POSSESSION OF SUBSTANCES FOUND TO CONTAIN ERYTHROPOIESIS-
STIMULATING AGENTS.

Racing NSW Offices

9 September 2019

**Druitt Street
Sydney**

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

Racing NSW Stewards today continued an inquiry opened by Stewards on 20 June 2019 in respect to the possession of substances found to contain erythropoiesis-stimulating agents by licensed trainer Mr Michael Tubman. Further evidence today was provided by Mr Tubman, ARFL Science Manager Dr Adam Cawley and Racing NSW Chief Veterinary Officer Dr Toby Koenig. Mr Mark Davies, a licensed trainer when the inquiry was opened, was directed to attend today's inquiry, however failed to attend.

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 stole 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. Dr Adam Cawley advised today's inquiry that the substances detected, particularly T9-rhEPO, was indicative of Eprex 10000 being present in the bottle.

Hearing of Charge

Mr Tubman today pleaded guilty to two charges under AR250(b) of having in his possession at his residence at 5 Kingston Town Drive Kembla Grange on 14 June 2019 at approximately 1:07pm two substances found to contain *Erythropoiesis-stimulating agents*.

Penalty

Stewards considered the following matters in respect to penalty.

- Mr Tubman's good record having been licensed for over 30 years as a trainer.;
- His guilty plea;
- Lack of security at Mr Tubman's residence;
- Circumstances of having the substance in his possession;
- Seriousness of the offence.

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 4 months. As Mr Tubman's trainers' licence was suspended pending determination of the charges on 28 June 2019, the commencement of the disqualification was backdated to commence on 28 June 2019 and to expire on 28 October 2019 on which day he can re-apply for his trainers' licence.

Mr Mark Davies

Stewards today issued the following charges against Mr Davies

1. AR250(b) – Having in his possession a substance that contained a substance on Prohibited List A namely erythropoiesis-stimulating agents.
2. AR256(1)(a)(ii) – Supplying a substance to the residence of licensed trainer Mr Michael Tubman that contained a substance on Prohibited List A, namely erythropoiesis-stimulating agents.
3. AR232(h) – Failing to attend an inquiry as directed by the Stewards at Racing NSW Offices on 9 September 2019.

Mr Davies was advised that the hearing of the charges is scheduled to be conducted on Friday 27 September 2019 commencing at 10:30am at the Offices of Racing NSW Level 11/51 Druitt Street Sydney.

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**