

**NEW SOUTH WALES  
HARNESS RACING  
APPEAL PANEL**

**APPEAL PANEL MEMBERS**

**Hon W Haylen KC**

**B Skinner**

**Dr C Suann BVSc**

**RESERVED DECISION**

**7 September 2025**

**APPELLANT TOBY INWOOD**

**RESPONDENT HRNSW**

**AUSTRALIAN HARNESS RACING RULES**

**190(1) & 196E(1)(a)**

**DECISION**

**The Appeal Panel makes the following orders:**

**The Appeal Panel is not prepared to alter in any way the determination of the Stewards in this case.**

**The disqualification of 2.5 years to commence from 28 May 2024 and expiring on 28 November 2026 is confirmed.**

1. In February 2025 Harness Racing Stewards commenced an inquiry in relation to the results of analytical tests conducted by approved testing laboratories on a post urine sample obtained from the horse Magic Tulhurst following its win in race 6 conducted at Bathurst on Wednesday 28 February 2024. The certificate of analysis issued by the Australian Government National Measurement Institute reported a Cobalt level of 510 ug/L (micrograms per litre) in urine and the certificate of analysis issued by the ChemCentre reported a Cobalt level of 200 ug/L in urine. Following further communication between HRNSW and the ChemCentre, the Cobalt concentration of 547 ug/L was advised by the ChemCentre.

2. Following an inquiry conducted by Stewards, Mr Inwood was charged of a breach of Australian Harness Racing Rule (AHRR) 190 (1), (2) and (4). Those provisions required: a horse shall be presented for a race free of prohibited substances; a horse presented for a race otherwise than in accordance with the first provision resulted in the trainer of the horse being guilty of an offence; and under the second rule an offence was committed regardless of the circumstance in which the prohibited substance came to be present in or on the horse. The particulars of the charge were that Mr Inwood, as the trainer of Magic Tulhurst presented that horse to race at Bathurst on 28<sup>th</sup> February, not free of a prohibited substance, namely Cobalt in excess of the allowed threshold of 100 micrograms per litre in urine, as reported by two laboratories approved by HRNSW. Mr Inwood pleaded guilty to that charge.

3. In the week prior to the race on 28 February, Mr Inwood's log book showed that in addition to regular feed, Magic Tulhurst had the following treatments recorded: on 22/02/24 10ml Hemoplex injection, 25ml Cophos B injection; on 25/02/2024, 10ml Hemoplex injection, on 26/02/24 25ml Cophos B injections. Dr Wainscott, the Regulatory Veterinarian for HRNSW, gave evidence to the Stewards inquiry relating to Mr Inwood's feeding and supplement regime, noting that Hemoplex contained a cobalt salt and that Cophos B contained cobalt in the form of vitamin B12. The actual amount of cobalt was quite small while Hygain Release had cobalt declared as an ingredient. Cobalt was a prohibited substance at a concentration greater than 100 micrograms per litre in urine or 25 micrograms per litre in plasma. In the HRNSW Penalty Guidelines, cobalt was a substance specifically recorded within class 1. Under AHRR 188A, part 1(b) cobalt is a substance capable at any time of causing either directly or indirectly an action or effect or both an action and effect within one or more of the following mammalian body systems; firstly, the cardiovascular system and secondly the blood system. Dr Wainscott described Mr Inwood's treatment regime with cobalt-containing products as being at the more intensive level or at the higher end of what would be considered a normal treatment regime – it was not certainly excessive but was more intensive than perhaps other regimes.

4. Dr Wainscott also noted that Mr Inwood was treating the horse within the manufacturer's recommended dose. A number of studies over the years dealt with horses receiving courses of Hemoplex and others not similar but essentially the same products containing similar levels of cobalt. In every single one of those studies, when these products were given at the recommended doses, which is the case here, the cobalt levels can certainly rise above the level of the threshold and get into a range of the mid-hundreds, which would be the same as this case of Mr Inwood, at a level of around 500 or a little bit over. However, in every single study that's been published, levels have returned to normal within 24 hours so it was in out and eliminated quickly.

5. Dr Wainscott was also asked about previous cobalt matters where cobalt containing feeds had been offered as an explanation where cobalt levels may be higher than the label information. The Dr stated that he was aware of 8 individual cases in Australia, in both the thoroughbred and the standardbred industries, where horses had either readings above the threshold which have been attributed to levels or feed where the levels were markedly in excess of what they were declared as or what should have been. HRNSW had four horses return these levels which were attributed to feed being a possible cause. In three of those horses, that involved the feeding of a product, which was also the subject of one thoroughbred infringement as well. In the thoroughbred case a feed company made a product recall as they had made a blunder in the manufacture of the feed. The levels in the feed were measured to be around 20 milligrams per kilogram, being in excess of about 40 times in excess of what they should have been. So in all cases, three standardbred cases and one thoroughbred case, the levels were all in the one to two hundred range. When asked if he was able to identify the cause or source of the cobalt found in Magic Tulhurst, Dr Wainscott said he could not be specific because the result seems to be inconsistent with like findings of the eight horses just outlined with the feed contamination and also inconsistent with the results of the scientific studies that have been done regarding administration of the Hemoplex and Cophos B. He could not identify a specific cause.

6. At the hearing of the Appeal, Dr Wainscott's evidence was not contested. The submission filed on behalf a Mr Inwood asserted that the only plausible explanation for the presentation was the use of feed sold as Hygain Release. There was said to be evidence that supported the fact that Hygrain Release had previously caused this issue. Further, it was said that Mr Inwood did not intentionally administer cobalt to the horse for the purpose of increasing the cobalt level. The only explanation was a contamination through the feeding of Hygrain Release that had been known to cause an increase in cobalt levels.

7. The case presented by HRNSW addressed the circumstances around the testing relied upon by Mr Inwood. On 30 April 2024 a HRNSW Investigator conducted a stable inspection of Mr Inwoods stable. A fresh batch of Hygrain Release was present but it was noted that it was not the feed used in February prior to the race in question. It was also said that the stable used about a bag every few days. On 30 May 2024, by email, Mr Inwood requested HRNSW to re-attend the stables to collect further samples. In that email he stated that he had opened two fresh bags and sampled them and asked if it was possible for HRNSW to test them, using a method that included taking samples from different areas of the bag to obtain an accurate reading. On 20 June 2024, the HRNSW Investigator attended the same stables and noted that a bag had been opened. Three samples of that opened bag were taken as requested by Mr Inwood. The Investigator asked whether or not the additional Hygain samples were obtained from the same batch that was used to feed Magic Tulhurst. Mr Inwood replied that he was not sure and it could be the same batch, "potentially". Mr Inwood then said that it was not the exact same bag.

8. During the Stewards inquiry Mr Inwood reported that the results from his Hygain samples were approximately 0.9 to 1.0 grams. At the time of this hearing those results had not been produced. However, it was observed that there was no evidence that Hygain Release, a widely used product in the racing industry, had given rise to any other positive swabs for cobalt in the relevant period. It was noted that those estimated figures were entirely inconsistent with the readings of 8.5 to 21 milligrams that NMI reported for the additional Hygain samples obtained from the same batch as the Appellant's Hygain samples on 20 June

2024. It was further submitted that there was no evidence that Hygain Release, a widely used product in the racing industry, has given rise to any other positive swabs for cobalt in the relevant period of this case. It was also noted that Mr Inwood had not established that those levels in Hygain Release were capable of causing readings in the order of 510 and 547 micrograms of cobalt per litre of urine.

9. The parties were in agreement that this case fell within the second category of the principles laid down in the decision of the Victorian Racing Appeals Tribunal in the case of Mr Allan McDonough (24 June 2008). In that case Judge Williams stated "...where at the conclusion of any evidence and plea, the Tribunal is left in the position of having no real idea as to how the prohibited substance came to get into the horse. This may be with the trainer giving some explanation which the Tribunal is not prepared to accept or the trainer may simply concede that he has no explanation. I might say that this second category is perhaps the most commonly experienced scenario". Interestingly, after finding that Mr McDonough fell within the third category His Honour said: "Of course a technical breach is proven and the trainer is guilty of the offence. The Tribunal exercised its mind as to whether although it has been found that the trainer, Mr McDonough, did not administer or arrange for the administration of the prohibited substance, nevertheless whether he is at least partly to blame for not having his horse tested before he raced it. Indeed as time goes on this may be a precaution (for the cost of \$150) which trainers generally ought to abide by, out of an abundance of caution and to avoid what has occurred in this case...However I stress that anyone, any trainer reading this decision or any report of this decision ought consider the prudence in future of having such a test undertaken when a horse is obtained from a new owner or when it comes back to a trainer out of a paddock. And it seems to this Tribunal that it would be money well spent."

10. This Appeal centres on a single proposition, namely that the level of cobalt found in the horse Magic Tulhurst after it won at Bathurst on 28 February 2024 was due to the usual feed of Hygain Release. Precisely when this feed was given to the horse and in what measurements was not addressed. Having considered all of the arguments, the Appeal Panel concludes that the high levels of cobalt found in the horse Magic Tulhurst after racing on 28 February 2024 were not the result of the consumption of extraordinary levels present in the feed Hygain Release. The levels found in Mr Inwood's trial did not produce anything like 510 or 547 micrograms per litre in urine. Dr Waincott's evidence was not challenged on the Appeal. As laid down in the second of the McDonough principles, this is a case where the Appeal Panel is left in the position of having no real idea as to how the prohibited substance came to get into the horse. Having considered the cases referred to by the parties, the Appeal Panel is not prepared to alter in any way the determination of the Stewards in this case. The disqualification of 2.5 years to commence from 28 May 2024 and expiring on 28 November 2026 is confirmed.

Hon Wayne Haylen KC – Principal Member

Mr Brian Skinner – Panel Member

Dr Craig Suann BVSc MANZVS MAICD – Panel Member

7 September 2025