

## EL KAPITAN INQUIRY

JUNE 18, 2019

ON Friday 16 November 2018, Harness Racing NSW (HRNSW) Stewards commenced an Inquiry in relation to the results of analytical tests conducted by two (2) laboratories approved by HRNSW on a post-race urine sample obtained from the horse:

- EL KAPITAN following its win in Race 1 at Broken Hill Saturday 27 January 2018.

The HRNSW Steward's Inquiry was also conducted in relation to the raceday treatment of EL KAPITAN prior to that race.

Mr Jacob Kerridge, a trainer/driver licensed by Harness Racing Victoria (HRV) and the trainer of EL KAPITAN at the time the horse was presented to race at Broken Hill on Saturday 27 January 2018 was present at the Inquiry and provided evidence to the Inquiry.

Mr Matt Schembri, a trainer/driver licensed by HRNSW was present at the Inquiry and provided evidence.

Mr Michael Honson, a registered owner provided evidence to the Inquiry by telephone.

HRNSW Regulatory Veterinarian, Dr Martin Wainscott, was also present and provided evidence to the Inquiry.

A number of documents were entered into evidence at the Inquiry including the Certificates of Analysis from the Australian Racing Forensic Laboratory (ARFL) and Racing Analytical Services Limited (RASL) in relation to the post-race urine sample. Each of those certificates of analysis confirmed the presence of O-desmethylvenlafaxine and Tapentadol.

Prior to the Inquiry being adjourned on that date, after hearing submissions HRNSW Stewards invoked AHRR 15(1)(d) and excluded Mr Kerridge, Mr Schembri and Mr Honson from all racecourses.

In addition, HRNSW Stewards suspended the trainer and driver licences of Mr Kerridge and Mr Schembri pending the outcome of the Inquiry pursuant to AHRR 183(d).

Further, Stewards invoked AHRR 183 (c) in respect of EMIROMAR, a horse owned by Mr Honson.

### Mr Matt Schembri

Following consideration of the evidence provided at the Inquiry, HRNSW Stewards issued five (5) charges against Mr Matt Schembri pursuant to the Australian Harness Racing Rules (AHRR) as follows:

#### CHARGE 1 - Pursuant to AHRR 196A(1)(ii) and (2) :

**AHRR 196A. (1)** A person shall not administer or cause to be administered to a horse any prohibited substance

(i) for the purpose of affecting the performance or behaviour of a horse in a race or of preventing its starting in a race; or

(ii) which is detected in any sample taken from such horse prior to or following the running of any race.

(2) A person who fails to comply with sub-rule (1) is guilty of an offence.

#### CHARGE 2 – In the Alternative to Charge 1 and Pursuant to AHRR 193 (3) & (8):

**AHRR 193. (3)** A person shall not administer or allow or cause to be administered any medication to a

For further information on this matter contact:  
Integrity Manager Michael Prentice or Chairman of Stewards Grant Adams  
mprentice@hrnsw.com.au (02) 9722 6600  
gadams@hrnsw.com.au (02) 9722 6600

horse on race day prior to such horse running in a race.

**(8)** A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

**CHARGE 3 - Pursuant to AHRR 196B(1) & (4):**

**AHRR 196B. (1)** A person shall not without the permission of the Stewards within one (1) clear day of the commencement of a race administer, attempt to administer or cause to be administered an injection to a horse nominated for that race.

**(4)** A person who fails to comply with sub-rule (1) is guilty of an offence.

**CHARGE 4 – Pursuant to AHRR 193(1) & (8):**

**AHRR 193. (1)** A person shall not attempt to stomach tube or stomach tube a horse nominated for a race or event within 48 hours of the commencement of the race or event.

**(8)** A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

**CHARGE 5 – Pursuant to AHRR 187 (2) & (7):**

**AHRR 187.(2)** A person shall not refuse to answer questions or to produce a horse, document, substance or piece of equipment, or give false or misleading evidence or information at an inquiry or investigation.

**(7)** A person who fails to comply with any provision of this rule is guilty of an offence.

HRNSW Stewards also issued a charge against Mr Schembri following his failure to attend the resumption of the Inquiry on Friday 12 April 2019 as follows:

**CHARGE 6 – Pursuant to AHRR 187 (1) & (7):**

**AHRR 187. (1)** A person who is directed to do so by the Stewards shall attend an inquiry or investigation convened or conducted by them.

**(7)** A person who fails to comply with any provision of this rule is guilty of an offence.

Mr Schembri was found guilty of Charges 1 to 5 and pleaded guilty to Charge 6.

HRNSW Stewards determined the following penalties:

Charge 1 - 5 years disqualification to commence from 16 November 2018, the date upon which Mr Schembri was stood down by HRNSW Stewards pursuant to AHRR 183 (d), to expire 15 November 2023;

Charge 2 - Stewards do not proceed to the matter of penalty at this time;

Charge 3 - 18 months disqualification- Concurrent to Charge 4;

Charge 4 - 3 years disqualification- Concurrent to Charge 3 and Cumulative to Charge 1 to commence on 16 November 2023 and expire 15 November 2026;

Charge 5 - 12 months disqualification cumulative to other penalties issued and due to commence on 16 November 2026 and expire 15 November 2027.

Charge 6 - \$1500 fine.

In total, HRNSW Stewards order that Mr Schembri be disqualified for a period of nine (9) years to commence from 16 November 2018 and expire on 15 November 2027.

In considering penalty Stewards were mindful of the following:

For further information on this matter contact:  
Integrity Manager Michael Prentice or Chairman of Stewards Grant Adams  
mprentice@hrnsw.com.au (02) 9722 6600  
gadams@hrnsw.com.au (02) 9722 6600

- The serious nature of the offences;
- The pleas entered by Mr Schembri;
- Mr Schembri's role in this matter;
- Class 1 and Class 2 prohibited substances detected;
- Mr Schembri's offence record;
- Mr Schembri's licence history and other personal subjective facts.
- Mr Schembri was advised of his right to appeal these decisions.

**Mr Michael Honson**

HRNSW Stewards issued four (4) charges against Mr Michael Honson pursuant to the Australian Harness Racing Rules (AHRR) as follows:

**CHARGE 1 - Pursuant to AHRR 196A(1)(ii) and (2) :**

**AHRR 196A. (1)** A person shall not administer or cause to be administered to a horse any prohibited substance

**(i)** for the purpose of affecting the performance or behaviour of a horse in a race or of preventing its starting in a race; or

**(ii)** which is detected in any sample taken from such horse prior to or following the running of any race.

**(2)** A person who fails to comply with sub-rule (1) is guilty of an offence.

**CHARGE 2 – In the Alternative to Charge 1 and Pursuant to AHRR 193 (3) & (8):**

**AHRR 193. (3)** A person shall not administer or allow or cause to be administered any medication to a horse on race day prior to such horse running in a race.

**(8)** A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

**CHARGE 3 - Pursuant to AHRR 196B(1) & (4):**

**AHRR 196B. (1)** A person shall not without the permission of the Stewards within one (1) clear day of the commencement of a race administer, attempt to administer or cause to be administered an injection to a horse nominated for that race.

**(4)** A person who fails to comply with sub-rule (1) is guilty of an offence.

**CHARGE 4 – Pursuant to AHRR 193(1) & (8):**

**AHRR 193. (1)** A person shall not attempt to stomach tube or stomach tube a horse nominated for a race or event within 48 hours of the commencement of the race or event.

**(8)** A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

Mr Honson was found not guilty of Charge 1 and pleaded guilty to Charge 2, 3 and 4.

HRNSW Stewards determined the following penalties:

Charge 2 - 9 months disqualification to commence from 16 November 2018.

For further information on this matter contact:  
Integrity Manager Michael Prentice or Chairman of Stewards Grant Adams  
mprentice@hrnsw.com.au (02) 9722 6600  
gadams@hrnsw.com.au (02) 9722 6600

Charge 3 - 9 months disqualification- Concurrent to Charge 2;

Charge 4 - 3 years disqualification- Cumulative to Charge 2 and Charge 3 to commence on 16 August 2019 and expire on 16 August 2022.

In total, HRNSW Stewards order that Mr Honson be disqualified for a period of three (3) years and nine (9) months to commence from 16 November 2018 and expire on 16 August 2022.

In considering penalty Stewards were mindful of the following:

- The serious nature of the offences;
- The pleas entered by Mr Honson;
- The co-operation and manner in which Mr Honson conducted himself during the Steward's Investigation and Inquiry process;
- Mr Honson's role in this matter;
- Class 1 and Class 2 prohibited substances detected;
- Mr Honson's previous offence record;
- Mr Honson's involvement in the harness racing industry, his licence history and other personal subjective facts.

Mr Honson was advised of his right to appeal these decisions.

#### **Mr Jacob Kerridge**

HRNSW Stewards issued three (3) charges against Mr Jacob Kerridge pursuant to the Australian Harness Racing Rules (AHRR) as follows:

#### **CHARGE 1 - Pursuant to AHRR 190 (1),(2) & (4):**

**AHRR 190. (1)** A horse shall be presented for a race free of prohibited substances.

**(2)** If a horse is presented for a race otherwise than in accordance with sub rule (1) the trainer of the horse is guilty of an offence.

**(4)** An offence under sub rule (2) or sub rule (3) is committed regardless of the circumstances in which the prohibited substance came to be present in or on the horse.

#### **CHARGE 2 – Pursuant to AHRR 193 (3) & (8):**

**AHRR 193. (3)** A person shall not administer or allow or cause to be administered any medication to a horse on race day prior to such horse running in a race.

**(8)** A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

#### **CHARGE 3 – Pursuant to AHRR 193 (7) & (8):**

**AHRR 193 (1)** A person shall not attempt to stomach tube or stomach tube a horse nominated for a race or event within 48 hours of the commencement of the race or event.

**(2)** A person shall not attempt to use or use an atomiser, face mask or other device for the administration of a prohibited substance to a horse nominated for a race or event within 48 hours of the commencement of the race or event.

For further information on this matter contact:  
Integrity Manager Michael Prentice or Chairman of Stewards Grant Adams  
mprentice@hrnsw.com.au (02) 9722 6600  
gadams@hrnsw.com.au (02) 9722 6600

(3) A person shall not administer or allow or cause to be administered any medication to a horse on race day prior to such horse running in a race.

(4) Notwithstanding the provisions of sub-rule (3), a person, with the permission of the Stewards may administer or allow or cause to be administered any medication to a horse on race day prior to such horse running in a race.

(5) The Stewards shall order the withdrawal or disqualification of a horse that has been either treated or attempted to have been treated in breach of sub-rules (1), (2) and (3).

(6) For the purposes of this Rule, medication means any treatment with drugs or other substances.

(7) A person shall not allow or permit another person to attempt to perform or perform any of the actions prohibited by sub-rules (1), (2) or (3).

(8) A person who fails to comply with sub-rules (1), (2), (3) or (7) is guilty of an offence.

Mr Kerridge pleaded guilty to all charges.

Charge 1- 3 years disqualification to commence from 16 November 2018, the date upon which Mr Kerridge was stood down by HRNSW Stewards pursuant to AHRR 183 (d), to expire 15 November 2021;

Charge 2 - 10 months disqualification- Concurrent to Charge 3;

Charge 3 - 21 months disqualification- Concurrent to Charge 2 and Cumulative to Charge 1 to commence on 16 November 2021 and expire 15 August 2023

In total, HRNSW Stewards order that Mr Kerridge be disqualified for a period of four (4) years and nine (9) months to commence from 16 November 2018 and expire on 15 January 2023.

In considering penalty Stewards were mindful of the following:

- The serious nature of the offences;
- The pleas entered by Mr Kerridge;
- The co-operation and manner in which Mr Kerridge conducted himself during the Steward's Investigation and Inquiry process;
- Mr Kerridge's role in this matter;
- Class 1 and Class 2 prohibited substances detected;
- Mr Kerridge's previous offence record;
- Mr Kerridge's licence history and other personal subjective facts.

Mr Kerridge was advised of his right to appeal these decisions.

### **Disqualification of EL KAPITAN**

As a result of the horse EL KAPITAN having been presented to race not free of a prohibited substance, in accordance with Australian Harness Racing Rule 195 HRNSW Stewards ordered that EL KAPITAN be disqualified from Race 1 at Broken Hill on Saturday 27 January 2018.

For further information on this matter contact:  
Integrity Manager Michael Prentice or Chairman of Stewards Grant Adams  
mprentice@hrnsw.com.au (02) 9722 6600  
gadams@hrnsw.com.au (02) 9722 6600