

RACING APPEALS TRIBUNAL

RAT 20/2017

DATE OF HEARING: FRIDAY 28 JULY 2017

TRIBUNAL: **PRESIDENT:** MR T ANDERSON QC
**MR J PETZER CHAIRMAN OF STEWARDS, THOROUGHBRED
RACING SA LTD**
APPELLANT: MS N BRUGGEMANN
REPRESENTATIVE MS TEGAN SCHMIDT

IN THE MATTER of an Appeal by **MS NICOLE BRUGGEMANN** against a decision of Thoroughbred Racing SA Ltd Stewards.

BREACH OF RULE: ARR 178

Subject to AR.178G, when any horse that has been brought to a racecourse for the purpose of engaging in a race and a prohibited substance is detected in any sample taken from it prior to or following its running in any race, the trainer and any other person who was in charge of such horse at any relevant time may be penalised.

PENALTY: \$8,000 fine

DETERMINATION

The Appellant is a licensed trainer with Thoroughbred Racing SA Ltd and on 16 February 2017 was the trainer of the horse 'Liberty Hill'.

On that date the horse competed in and won race 5 at the Kangaroo Island races. The horse was swabbed after the race and the swab returned a positive reading to phenylbutazone and oxyphenbutazone, being prohibited substances under the Rule 178.

A Stewards Inquiry was subsequently held and on Ms Bruggemann pleading guilty to the charge, she was fined \$8,000.

In determining that penalty Stewards took in to account the Appellant's cooperation at the Inquiry, her guilty plea, and her good record within the industry over the past 25 years.

I have heard submissions from both the TRSA Stewards and Ms Bruggemann's representative, Ms Schmidt.

Having heard those submissions I am of the view that the only question for me is effectively whether the Stewards in imposing the fine of \$8000 acted within a reasonable range, or whether the fine imposed was so far outside of an ordinary reasonable range that it should be interfered with.

The starting point was \$12,000, and the fine was reduced to \$8,000 after a discount of 33 and $\frac{1}{3}$ per cent was applied.

In my view, the starting point of \$12,000 was at the high end of the range of reasonable penalties, but not so far outside as to be unreasonable. Likewise, in my view, the discount applied was also within a reasonable range, having regard to the circumstances of this case.

The appeal therefore is dismissed. I order the refund of the bond.

I consider that it would be appropriate if there was some payment arrangement entered into to allow Ms Bruggemann to pay the fine of \$8,000 over a reasonable period of time. If agreement on a payment plan can not be reached the matter should be referred back to me for a determination.