

RACING APPEALS TRIBUNAL

RAT 14/2017

DATE OF HEARING: Thursday 11 May 2017

TRIBUNAL: **PRESIDENT: MR T ANDERSON QC**
MR J PETZER CHAIRMAN OF STEWARDS,
THOROUGHBRED RACING SA LTD

APPELLANT: MR L KENNEWELL

IN THE MATTER of an Appeal by **MR LLOYD KENNEWELL** 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: Fined \$10,000.00

DETERMINATION

Mr Kennewell is a registered trainer with Thoroughbred Racing SA Ltd in South Australia.

He has been a trainer for 12 years.

He was charged with presenting a horse, "The show Goes On" in race 6 at Strathalbyn on 7th December 2016 whilst not free of a prohibited substance, namely amphetamine.

Methamphetamine is a performance enhancing substance and in fact the horse won the race.

He pleaded guilty to the charge. He could not offer any explanation as to the presence of methamphetamine in the urine sample taken from the horse.

Mr Kennewell surmised that perhaps one of his staff had contaminated the horse because three of his staff were found to have cannabis in their system when tested by Stewards some weeks later.

This may be the explanation but it does not matter how the substance came to be in the sample.

It is a strict liability offence.

To his credit Mr. Kennewell accepted this and pleaded guilty.

The Stewards found it to be a serious offence but chose to fine Mr. Kennewell rather than disqualify or suspend him.

They fined him \$10,000 after a discount for the guilty plea and his cooperation.

He appeals against the severity of the fine.

Mr Kennewell has one prior conviction for a similar offence in a barrier trial for which he was fined \$2,000.

I consider that in the circumstances of this matter a \$12,000 starting point was too high. In my view it should have been \$10,000.

Further I consider that the discount of less than 20% is not sufficient.

I therefor allow the appeal and substitute a fine of \$7,000.

I order the refund of the bond.