



INTERNAL REVIEW DECISION

(Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review	
Internal Review Number:	Internal Review 0054-18
Applicant's Name:	Mark Currie
PART 2: Decision History	
Original Decision:	Breach of Rule 178E(1) and 175(a) of the Australian Rules of Racing
Original Decision Makers:	A Reardon, D Aurisch, I Brown
Date of Original Decision:	21 May 2018
Internal Review Decision:	Original decision confirmed - Two (2) year disqualification
Internal Adjudicator:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	20 June 2018
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Mark Currie, was issued twelve (12) charges pursuant to Australian Rule of Racing 178E(1) and four (4) charges pursuant to Australian Rule of Racing 175(a) with the Applicant subsequently being found guilty of the charges at a stewards' inquiry concluded on 21 May 2018.</p> <p>Australian Rule of Racing 178E(1) states:</p> <p><i>"Notwithstanding the provisions of AR178C(2), no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on race day prior to such horse running in a race."</i></p> <p>The specifics of each charge being that:</p> <ol style="list-style-type: none">1. Mark Currie did, without the permission of the Stewards, administer a medication to GULLY COMMAND on 24 March 2018, the same day on which that horse raced at the Brisbane Race Club meeting at Doomben in Race 4, The Mandate Open Handicap over 1630m;2. Mark Currie did, without the permission of the Stewards, administer a medication to PUBLISHING POWER on 24 March 2018, the same day on which that horse raced at the Brisbane Race Club meeting at Doomben in Race 6, The Mandate Colts, Gelding & Entires Class 6 Handicap over 1200m;3. Mark Currie did, without the permission of the Stewards, administer a medication to HANG on 24 March 2018, the same day on which that horse raced at the Brisbane Race Club meeting at Doomben in Race 9, The Mandate QTIS 3yr old Handicap over 1350m;	



4. Mark Currie did, without the permission of the Stewards, cause WITH A PROMISE to be administered a medication on 24 March 2018, the same day on which that horse raced at the Brisbane Race Club meeting at Doomben in Race 8, The Mandate Open Handicap over 1110m;
5. Mark Currie did, without the permission of the Stewards, administer a medication to GIVUS A CUDDLE on 24 March 2018, the same day on which that horse raced at the Lockyer Race Club meeting at Gatton in Race 6, the Haymans Electrical & Industrial Suppliers Laidley Cup Open Handicap over 1600m;
6. Mark Currie did, without the permission of the Stewards, cause GIVUS A CUDDLE to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 4, the K & R Plumbing Supplies Benchmark 80 Handicap over 1625m;
7. Mark Currie did, without the permission of the Stewards, cause GULLY COMMAND to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 4, the K & R Plumbing Supplies Benchmark 80 Handicap over 1625m;
8. Mark Currie did, without the permission of the Stewards, cause HANG to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 6, the Moore Trailers Toowoomba Guineas over 1625m;
9. Mark Currie did, without the permission of the Stewards, cause PUBLISHING POWER to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 5, the Toowoomba Plastics Class 6 Plate over 1200m;
10. Mark Currie did, without the permission of the Stewards, cause RUETTIGER (NZ) to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 8, the Audi Centre Toowoomba Weetwood Handicap over 1200m;
11. Mark Currie did, without the permission of the Stewards, cause WITH A PROMISE to be administered a medication on 7 April 2018, the same day on which that horse raced at the Toowoomba Turf Club in Race 8 the Audi Centre Toowoomba Weetwood Handicap over 1200m; and
12. Mark Currie did, without the permission of the Stewards, cause BOOMWAA to be administered a medication on 7 April 2018, the same day on which it was engaged to race at the Toowoomba Turf Club in Race 8, the Audi Centre Toowoomba Weetwood Handicap over 1200m.

The Applicant was issued four (4) charges pursuant to Australian Rule of Racing 175(a) in the alternative.

Australian Rule of Racing 175(a) states:

“The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise:

(a) Any person who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.”

The specifics of each charge being that:



13. Mark Currie did administer a substance to GULLY COMMAND, PUBLISHING POWER and HANG on the morning of 24 March 2018, the same day on which those horses raced at the Brisbane Race Club meeting at Doomben which, in the opinion of the Stewards, was an improper practice;

14. Mark Currie did administer a substance to GIVUS A CUDDLE on the morning of 24 March 2018, the same day on which that horse raced at the Lockyer Race Club meeting at Gatton which, in the opinion of the Stewards, was an improper practice;

15. Mark Currie did cause WITH A PROMISE to be administered a substance on the morning of 24 March 2018, the same day on which that horse raced at the Brisbane Race Club meeting at Doomben in Race 8, the Mandate Open Handicap over 1110m which, in the opinion of the Stewards, was an improper practice; and

16. Mark Currie did cause BOOMWAA, GIVUS A CUDDLE, GULLY COMMAND, HANG, WITH A PROMISE, PUBLISHING POWER & RUETIGGER (NZ) to be administered a substance on the morning of 7 April 2018, the same day on which they were engaged to race at the Toowoomba Turf Club which, in the opinion of the Stewards, was an improper practice.

The Applicant pleaded not guilty to the charges.

In considering the Applicant's submissions, the stewards were satisfied to the requisite standard that the Applicant had administered a medication or, as the person responsible for the daily management of the Ben Currie trained horses stabled at Hursley Road, caused horses to be administered a medication, as defined by the Rules of Racing, on a race day. Furthermore, Stewards were also satisfied that, given the Applicant's experience in the industry, the Applicant ought have been aware that the administration of substances on a race day was an improper practice in connection with racing. Stewards therefore found the Applicant guilty of all sixteen (16) charges.

In determining penalty, the stewards were mindful of the Applicant's personal circumstances, including the fact that the Applicant derived an income outside of the racing industry. Stewards acknowledged that a penalty of disqualification was likely to cause the Applicant some hardship, however, the integrity of the industry must be balanced with any hardship that follows as a consequence of such serious breaches of the rules. Stewards were also mindful of similar penalty precedents and deemed the Applicant's conduct in misleading investigators in the first instance to be an aggravating factor.

The Applicant was subsequently penalised as follows:

- (i) Charges 1 to 5 pursuant to Australian Rule of Racing 178E on 24 March 2018 - nine (9) months' disqualification each to be served concurrently;
- (ii) Charges 6 to 12 pursuant to Australian Rule of Racing 178E on 7 April 2018 - nine (9) months' disqualification each to be served concurrently;
- (iii) Charges 13 to 15 pursuant to Australian Rule of Racing 175(a) on 24 March 2018 - twelve (12) months' disqualification each to be served concurrently; and
- (iv) Charge 16 pursuant to Australian Rule of Racing 175(a) on 7 April 2018 - twelve (12) months' disqualification.



Stewards further ordered that the penalties pursuant to Australian Rule of Racing 178E on 24 March 2018 and 7 April 2018 be served cumulatively, totaling eighteen (18) months' disqualification and the penalties pursuant to Australian Rule of Racing 175(a) on 24 March 2018 and 7 April 2018 be served cumulatively, totaling twenty-four (24) months' disqualification.

As the charges pursuant to Australian Rule of Racing 175(a) were issued in the alternative to the charges pursuant to Australian Rule of Racing 178E, the total periods of disqualification under each rule are to be served concurrently, in effect totaling a two (2) year period of disqualification.

The Applicant sought a review on charge and penalty and provided the following submissions in support of his Application:

"1. The Stewards who sat on the hearing relevant to this matter, namely:

- a. Allan Reardon, Chairman*
- b. Daniel Aurisch*
- c. Ian Brown*

dealt with this matter on the following dates:

- i. 13 April, 2018*
- ii. 20 April, 2018*
- iii. 11 May, 2018*
- iv. 21 May, 2018.*

2. At the same time the same Stewards were embarking on an enquiry in respect of two stablehands employed by Ben Currie Racing and also an enquiry in respect of Ben Currie.

3. The fact is that Stewards have already imposed penalties upon the following:

- a. Stablehand Cameron Schwenke - 3 months disqualification.*
- b. Greg Britnell - 18 months disqualification.*

4. The enquiry against Mark Currie continued despite the fact that objection was taken on the final day to Stewards continuing the enquiry because their independence and impartiality was so infected by the enquiries that they had made that there was no way that Mark Currie could receive a fair or impartial hearing and despite the request that they disqualify themselves on the basis that they were biased they refused to do so and proceeded to impose penalty upon Mark Currie.

5. The charge/s against Mark Currie which are identified in the Penalty Notices and which were also identified in a letter from Allan Reardon to Mark Currie on 24 April, 2018 was so unclear and uncertain that despite request of the Stewards to do the following:

- a. To clarify the position in respect of the charges; and*



b. *To provide proper particulars in respect of each charge;*

they failed to do so. Failure to properly advise the Applicant of the basis of each charge, the particulars of the charge and to properly set out the charges is fatal to this whole enquiry.

6. *Reference is made to the following:*

a. *The letter from Allan Reardon dated 24 April, 2018.*

b. *Exhibit 12.*

7. *The Stewards failed to provide proper particulars despite numerous requests and ought to provide those particulars. They still have not provided particulars of each and every charge.*

8. *Any fair reading of the charge/s would suggest as follows:*

a. *That Mr Currie was facing the following possibilities:*

i. *One charge because the letter from Mr Reardon of 24 April, 2018 refers to the charge as against charges but then goes on to list out as particulars the specifics of the charge as items 1 to 12.*

ii. *There is further confusion in that it then says and/or in the alternative four charges under AR175(a) and it then refers to four more matters as items 13 to 16.*

9. *The question that was properly raised was whether there was one charge, or four charges being the alternative or 12 charges or 16. This was just ignored by Stewards in the enquiry.*

10. *It again demonstrates their lack of impartiality and their failure to give particulars to the Applicant.*

11. *The Stewards also failed to give any reasons or any proper reasons for any finding of guilt despite Mr Currie's plea of not guilty.*

12. *The Stewards have in fact found him guilty under Rule 178E(1) and 175(a).*

13. *The fact is that it is uncontroversial that the Currie Stable was providing Vitamin Paste or Vitamin Boost to each of the animals the subject of the charge. It was a Vitamin Boost as against anything else and as such Stewards have misconstrued each of the rules and have wrongly found Mark Currie guilty.*

14. *Refer in particular to the following:*

a. *The definition of medication is any treatment with drugs or other substances.*

b. *AR178E(1) provides as follows:*

"Notwithstanding the provisions of AR. 178C(2) no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on a race day prior to such horse running in a race."

c. *The Vitamin Boost is not a medication and is not another substance.*

d. *it cannot be seen as a medication or a substance under any circumstances and the finding of guilt based on AR178E(1) is simply wrong.*



e. *The charge under AR175(a) which provides as follows:*

"The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise; Any person who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing."

f. *Again this is an attempt by Stewards to place some sinister motive upon the Applicant that would suggest that providing a Vitamin Boost to their horses which is undertaken as part of stable routine is in anyway caught by Rule 175(a).*

g. *It is simply wrong and given that the Stewards were on a path of disqualifying Stablehands prior to the Applicant it is clear and easy to see why Stewards fell into error and were not prepared to disqualify themselves or not prepared to apply the Rules as they ought to have been provided.*

h. *The Vitamin Boost is simply a Vitamin and that ought to have been sufficient to not cause the Applicant to be charged with any offences.*

i. *The evidence of Dr Lenz should be disregarded completely as it is not relevant, has no foundation and is lacking in impartiality.*

j. *The Vitamin Boost has not been analysed and Stewards seem to act on evidence about its contents without it being analysed and without there being any attempt to analyse same.*

k. *The enquiry proceeded on the basis that they were purely out to make an example of the Currie Stable and did not objectively or fairly or reasonably apply the Rules or the law and certainly did not apply any procedural fairness or anything of that nature to the Applicant.*

l. *The Applicant should be found not guilty.*

Penalty

m. *In the event that the Decision is not set aside the penalty imposed in all the circumstances is manifestly excessive, In fact no suspension or disqualification should have been imposed.*

The outcome sought by the Applicant was that the decision to find the Applicant guilty of the sixteen (16) charges as specified be set aside.

PART 4: Reasons for Internal Review Decision

The Applicant was subjected to a stewards' inquiry into alleged activities that occurred on the morning of 24 March 2018 and 7 April 2018 at the Hursley Road stables of licensed trainer Mr Benjamin Currie. The Applicant is a licensed trainer in his own right with the Queensland Racing Integrity Commission (QRIC) and further acts in the capacity of foreman at the aforementioned stable premises for his son, Mr Benjamin Currie. The Applicant has acted in such role for the past ten (10) years. The stewards allege the Applicant administered or caused to be administered a medication to the subject horses trained by Mr Benjamin Currie on the aforementioned dates the horses raced or (in one instance engaged) to race at Doomben and Gatton on 24 March 2018 and Toowoomba on 7 April 2018 respectively. The Stewards further alleged that such activity was an improper action.



The stewards' inquiry into the aforementioned alleged activities was conducted over a period of four (4) stewards' inquiries conducted on 13 April 2018, 20 April 2018, 11 May 2018 and 21 May 2018. As part of the stewards' inquiries several participants were formally interviewed.

During the initial Stewards inquiry conducted on 13 April 2018, a witness statement from Mr Adam Carter of QRIC's Investigation Integrity Team (IIT) was read into evidence outlining certain activities that allegedly occurred at the Hursley Road stables of licensed trainer Mr Benjamin Currie on 7 April 2018. Mr Carters statement, in part, states:

"3. I can recall the events which took place on Saturday, 7 April 2018.

4. I was working with IIT steward Kerrie Lathopolous and at the commencement of my shift at 6am that morning, Kerrie and I parked our QRIC vehicle on Heritage Court, Glenvale, at about 6:25am. I was driving the QRIC vehicle and Kerrie was a passenger.

5. We had parked in a position on Heritage Court, Glenvale, which gave us a clear and unobstructed view of the Currie Racing stables, which is located at 294 Hursley Road, Glenvale. We could clearly observe activity in between the green steel stables and the red steel stables. We also had a view of the electric walking machine, or walker, to the far left of the property from where we were parked. I would approximate the distance from where we were parked to the Currie racing stables to be about 250 metres.

6. A short time after we parked in Heritage Court, I saw a male person wearing a blue and white polo shirt, a dark hat, dark shorts and dark boots (Person 1). This person was moving around the stables casually performing minor tasks, for example, moving things around the area."

7. At about 6:40am another male person wearing a dark top, dark hat, dark shorts (Person 2) arrived at the stables and appeared to shake hands with Person 1.

8. At about 6:44am I observed Person 1 running around the stables as if he was in a hurry to do something. I could see Person 1 running in and out of individual stalls within both the green and red stables.

9. I could clearly see through binoculars that Person 1 was carrying several large white syringes in his hands when going from stall to stall. I observed this for several minutes and then I have called the IIT Manager, Tracey Pelling, and I had a conversation with her.

10. At the time, Kerrie Lathopolous and I were making notes onto a mud map. On this mud map I have noted that Person 1 entered the green stables, notably stalls 2 and 4 from the right to the green stables from where we were positioned. I also saw Person 1 enter a stall closest to where we were positioned, however, I cannot tell exactly which stall that was.

11. I also saw Person 1 enter all four stalls in the red stable complex with syringes. I am able to produce a copy of this mud map as evidence.

12. As a result of this conversation, I had spoken with DSC Natalie Bennett of the Queensland Police Service (QPS) Racing Crime Squad (RCS) and had a conversation with her upon my mobile phone.



13. I observed Person 1 wipe the mouth and nose of a horse that Person 1 had initially attended to with a blue/green towel. Person 2 used the same towel to wipe the mouth and nose of seven horses. Four horses were located in the red stables and three from the green stables.
14. I observed Person 1 then walk all of the seven horses to the walker where they remained for several minutes. Person 1 then started removing the horses back to the stable at 7:16am and completed this task about 7:21am.
15. During the time the horses were on the walker, I observed Person 1 and Person 2 clean the concrete area between the red and green stables using a large broom and petrol-driven air blower. They did this a couple of times.
16. A short time after this the RCS vehicle attended our location. I had a conversation with DSC Natalie Bennett and as a result of this conversation I have taken possession of a digital camera and Kerrie and I began taking photos from our observation point.
17. At about 7:40am I have handed the camera to DSC Bennett. Kerrie and I left the area and drove towards 294 Hursley Road, Glenvale.
18. At about 7:43am, I activated my body-worn camera (BWC). Kerrie and I arrived at 294 Hursley Road, Glenvale. As soon as we arrived we saw that the IIT steward John Hackett and Tracey Pelling had just arrived at the address. I can produce transcripts of conversations caught on the BWC as an aide memoir if required.
19. I walked into the treatment area and immediately identified large white syringes in a cupboard in the treatment area. I then observed a male person who is described as Person 1 who I now know as Greg Britnell, with a horse in the red stable I identified as stall 2.
21. At about 7:57am, I have had a conversation with Greg. I asked Greg whether any horse had been treated, in which he replied "No."
22. I asked Greg something like "Has anyone else been here today?"
23. Greg replied "No."
24. I asked Greg what time they started at the stables that morning, to which he replied something like "3:30."
25. I asked if any horses went onto the walker this morning, to which he replied something like "seven of them, the racing ones."
26. I asked how long they were on the walker for, to which he replied something like "15 or 20 minutes."
27. I was present when Kerrie asked Greg about the blue/green towel which was located on a shopping trolley next to the treatment area. I observed the towel and it had brown smudges and orange smudges on it. The towel was wet. It appeared to have been used recently.
28. I asked Greg what the marks on the towel were in which he replied something like "dirt and turmeric."
29. John Hackett then spoke to Greg and I, when John Hackett stated that the brown marks were a paste of some description. Greg was asked what was the paste on the towel to which he replied "Boost paste."
30. I then asked Greg something like "Has this towel been used this morning on any horse?"



31. Greg replied "No."

32. I asked Greg something like "What is the orange stuff?"

33. He replied "That turmeric stuff, Cureco."

34. I said "That Curcu-Eze?"

35. Greg replied "Yes."

36. I asked something like "When was the last time that was used on any horses?"

37. Greg replied, 'Thursday arv.'

38. I stated to Greg that I thought the paste on the blue/green towel was fresh. I then reminded Greg that as a licensee if any answer was not truthful when asked by a steward that it could lead to a breach.

39. I have then said something like "Tell me again, when was this towel last used?"

40. Greg stated "Thursday afternoon."

41. I have had a conversation with John Hackett in which he told me something. As a result of this conversation I again approached Greg and had said something like "Mr Hackett has just informed me that this is boost paste."

42. Greg then replied something like "Yeah it smells like Boost paste."

43. I said something like "Where do you put the empty Boost syringes?"

44. He replied something like "In the bin" and pointed to the bins next to the treatment room.

45. I checked the bins and I could not see any empty Boost syringes. The above conversation and extracts of the exact conversation, I can produce transcripts of the conversations caught on the BWC as an aide memoir if required.

46. I have notified Greg that I would be seizing the towel as evidence. I have later seized the towel giving the towel evidence bag number 12548 (sample security document for taking a sample of thing for analysis).

47. I then issued Mark Currie a receipt of this seizure. I am able to produce a copy of the security sample notice as evidence.

48. While at the Currie Racing stables, I was notified by Tracey Pelling that white caps were on the grass area next to the concrete area of which saw Person 1 and Person 2 sweeping and blowing earlier that morning. I inspected the area and located three white caps. Two of these white caps were identical to the caps which are used to seal the white Boost syringes that I had located in the Currie Stables' treatment cupboard.

49. I have seized three white caps as evidence and have given these caps evidence number 12433. I have then issued Mark Currie a receipt of this seizure. I am able to produce a copy of the security sample notice as evidence.

50. While walking around inspecting individual stalls, I observed a bright orange splatter on the walls in stalls 2 and 4 of the green stables. This was the same colour as the orange paste I observed earlier smeared on the blue/green towel.



51. I continued to look around the stabling area and observed the same brown and orange paste mixture on the concrete ground in between the green and red stables.

52. I cannot recall the time however during the time at Currie Racing stables, a male person I know as Ben Currie arrived and I have had a conversation with him. During this conversation I informed that we were intending to seize the CCTV hard drive which was located in the treatment area of the stables. During this conversation Ben Currie was asked to provide the password to obtain access into the hard drive to view the footage.

53. I was aware that the hard drive was fed by at least three cameras that captured the rear of the red stables, in between both the green and the red stables and the front of the green stables.

54. Ben stated to IIT members that he didn't have the password and stated he attempted to call the CCTV installation technician without success.

55. I have seized the CCTV hard drive and given this hard drive an evidence number 12605.

56. I have issued Mark Currie with a receipt of this seizure. I am able to produce a copy of the security sample notice as evidence.

57. I have also seized a 'National Farmers Warehouse' invoice. This invoice was given evidence number 12628.

58. I have issued Mark Currie a receipt of this seizure. I am able to produce a copy of the security sample notice as evidence.

59. I have locked all seized items in a secure lockable storage drawer in the QRIC IIT fleet vehicle. Kerrie and I have left the Currie Racing stables at about 12:30pm.

60. At about 1:15pm, Kerrie and I have arrived at Clifford Park Racecourse, Hursley Road Clifford Park. We have activated our BWC and walked to the Currie Racing Stables located on Wyalla Street, Clifford Park.

61. Upon arrival into the stables I spoke to a stable hand Vatan Kumar. Mr Kumar directed me to the treatment room of the Currie Racing Stables (Wyalla Street) where I located a box of Boost paste. I noticed that some of these large white syringes had been removed from the open box. These syringes are identical to the Boost syringes I located at the Hursley Road stables.

62. An invoice from the National Farmers Warehouse was located underneath the box of Boost paste.

63. I have then located the Currie Racing Stables' (Wyalla Street) treatment book. I have seized both the treatment book and an invoice issued by the National Farmers Warehouse.

64. I issued Mr Kumar a receipt for property seized, number D00275. I am able to produce receipt D00275 as evidence.

65. Kerrie and I have then left the Currie Racing Stables and I asked Kerrie Lathopolous to photocopy the treatment book and National Farmers Warehouse invoice at the on-course stewards' room. I am aware this was completed and both the invoice and Currie Racing Stables' treatment book were returned to the stables upon completion.



66. On Sunday 8 April at about 3:10pm, I have removed the evidence seized on 7/4/2018 from the lockable drawer from the QRIC IIT vehicle and lodged the evidence into the QRIC stewards' secured room located at QRIC head office at 60 Kingsford Smith Drive, Albion.

67. On 9 April 2018 at about 9:55 am, IIT investigative steward Kwan Wolsey and I have attended the Racing Science Centre and lodged evidence number 12548, blue/green towel, for analysis."¹

Mr Benjamin Currie provided evidence during the initial stewards' inquiry. The reviewer finds, considering Mr Currie's involvement is the subject of an ongoing inquiry and separate review process, that it would be inappropriate to comment in any depth on his evidence as part of this review. Notwithstanding, Mr Currie was asked to make any comment on Mr Carter's statement and to which he replied "No." Mr Currie was questioned "You'd be aware that you must abide by the rules and answer the questions if requested to do so" to which Mr Currie replied "Yep." Mr Currie went on to explain the Boost paste, stating "It's just a supplement, it's not performance enhancing - to put in the feed - as I said, it's a feed supplement. It's used for recovery, it's not going to performance enhance any horse."²

During the inquiry, the aforementioned CCTV footage seized from the Hursley Road stables of licensed trainer Mr Benjamin Currie on 7 April 2018 was viewed. The footage demonstrates Mr Greg Britnell, stable employee for Currie Racing, enters the stables of PUBLISHING POWER, RUETTIGER, GULLY COMMAND, GIVUS A CUDDLE, HANG, WITH A PROMISES and BOOMWAA between 3:49am and 3:57am with a syringe and towel. The footage captures evidence that three (3) of the horses were administered the contents of the syringe orally. The footage further demonstrates Mr Britnell again entered six (6) of the aforementioned stables with a syringe between 6:55am and 6:58am. The footage captures one (1) of the horses being administered the contents of the syringe orally. The footage further demonstrates that several horses, following Mr Britnell exiting their stable with a syringe, displayed symptoms consistent with a horse that had been administered a substance or paste orally. The earlier footage demonstrates Mr Cameron Schwenke, stable employee for Currie Racing, assisting Mr Britnell with such administrations.

Mr Benjamin Currie initially questioned the dates and timeframes of the CCTV footage. The inquiry heard the date on the CCTV footage was dated 6 April 2018, however it was established through the personnel present and evidence provided during the inquiries that the footage in fact related to Saturday 7 April 2018 and not 6 April 2018. The inquiry further heard the timeframes on the CCTV footage was two hours in advance of the accurate time slots. This was reluctantly accepted by Mr Currie based on the personnel present and evidence provided during the inquiry. The reviewer is satisfied on the evidence that the CCTV footage provided is from Mr Currie's Hursley Road stables on Saturday 7 April 2018.

The reviewer notes any reference to the dates and timeframes in this decision have been amended according to the aforementioned evidence.

The inquiry heard the horses that raced out of the Hursley Road stables at Toowoomba on 7 April were PUBLISHING POWER, RUETTIGER, GULLY COMMAND, BOOMWAA (engaged to race that day), GIVUS A CUDDLE, HANG and WITH A PROMISE.

¹ Transcript of Stewards' Inquiry dated 13 April 2018, page 2, 3, 4, 5, 6, 7, 8 and 9

² Transcript of Stewards' Inquiry dated 13 April 2018, page 9 and 10



The Applicant, prior to the stewards' inquiry, had been shown the aforementioned CCTV. The inquiry heard the Applicant, a trainer in his own right, was acting in the capacity as the foreman for his son at the aforementioned stable premises. The Applicant was questioned about Mr Britnell's activities on the subject morning at the Hursley Road stables, particularly the administration of a substance via syringe over the tongue to horses engaged to race at Toowoomba that day. The Applicant stated *"Yeah, I seen - I seen the video, yeah. Oh, it usually goes in their feeds. The chairman of the inquiry questioned "But you've seen that video before - they're not going into feeds, are they?" to which the Applicant replied "Yeah, I know. Oh, no. Mmm." The chairman added "They're going into the horse's mouth. Every horse. Do you agree with that?" to which the Applicant replied "Yeah, he did do a fair few horses there."*

The chairman further questioned *"Why would he do them, and why would he do them twice? Every horse was done twice. Haven't you seen the second lot of footage?"* to which the Applicant replied *"Yeah, I've seen all the footage."* The chairman added *"So every horse got Boost paste twice"* to which the Applicant replied *"No, it wouldn't have had Boost paste twice."* The chairman responded *"Well, what were they getting?"* to which the Applicant replied *"Vitamin C."* The chairman further questioned *"Vitamin C. Is it in the same applicator?"* to which the Applicant replied *"No."*

The inquiry heard the Boost paste was delivered weekly to the stable. The Applicant, in response to a question *"How does the vitamin C get dispensed?"* stated *"In their - usually in their feed. Out of a tube."* The inquiry heard the vitamin C was a pre-packaged tube separate to Boost paste.³

The Chairman questioned *"Because the clock's two hours early, or the timeframes are not correct on the video footage. That should be 7/4/2018 and the time is 3:49:19. And we see Mr Britnell with a towel and an applicator of some description heading towards a horse. He goes into the first stall. He puts the applicator in the horse's mouth and pushes the plunger, you'd agree?"* to which the Applicant replied *"Yeah."* The chairman added *"So it's not going in the feed"* to which the Applicant replied *"No, I know."*

The chairman questioned *"I just wanted to show you that because he does the same activity two hours later. So, he's not under any instruction from you? To do that?"* to which the Applicant replied *"No. Only feed. That's how we do it all - that's how we do it all the time, in the feed bins."* The chairman questioned *"Who would tell him to do that? Your son?"* to which the Applicant replied *"No."*⁴

The Applicant was questioned *"Whose care and control are they in? Yours? As a horse trainer or..."* to which the Applicant replied *"Mine, yep. I look after them for him yeah."* The Applicant added he and Mr Benjamin Currie liaised with the respective owners of horses in the stable.⁵

The Chairman questioned *"So where do they dispose of these syringes once they're finished? Do you know? Is there a bin for it to go to, do you know?"* to which the Applicant replied *"Oh, they just throw the rubbish out in a bin up the top every day."*

The chairman questioned *"We've already spoken to your son. He's agreed that the chap on the right, who we now know as Mr Schwenke, he's got two syringes and Mr Britnell's got one. So, obviously, three more to do. So we'll just run it on (the CCTV footage). There he goes to the horse. You can see him put the applicator into the horse's mouth."*

³ Transcript of Stewards' Inquiry dated 13 April 2018, page 41 and 42

⁴ Transcript of Stewards' Inquiry dated 13 April 2018, page 44

⁵ Transcript of Stewards' Inquiry dated 13 April 2018, page 46 and 47



It comes out. He goes in and wipes its mouth, nose. So, following on from this, we've read out a statement of witness from Adam Carter, who's an investigative steward here at Queensland Racing Integrity Commission. He says he can recall events. I won't read it out again. It's six pages - five pages. But he says at about 6:25 they pulled up at Heritage Court, Glenvale, and observed activity in the stables. He observes a person wearing a blue and white polo shirt, which I assume is Mr Britnell - he calls him C1 - or person 1, I should say. And running. In section 8 of that statement:

"At about 6:44am I observed Person 1 running around the stables as if he was in a hurry to do something. I could see Person 1 running in and out of individual stalls in both the green and red stables. I could clearly see through binoculars that Person 1 was carrying several large white syringes in his hands and going from stall to stall. I observed this for several minutes and then I have called the IIT Manager, Tracey Pelling, and I had a conversation with her."

Now, that's clearly his observation backed up by what we see in the video. You've supplied the video." The Applicant replied "Yeah. Yep." The chairman added "It's clear that that's what Mr Britnell's doing, is putting syringes in horses' mouths."

The chairman then questioned "Is there anything further you wish to state" to which the Applicant replied "Oh, well, not really." The chairman further questioned "You're familiar with the rules of racing? You've been a trainer for how long? 20 years?" to which the Applicant replied "Yeah, more than that." The chairman added "More than that. Okay. And your evidence is..." to which the Applicant replied "I'll just take the responsibility. I'll take the responsibility." The chairman questioned "But you're not listed as the trainer, your son is, Ben" to which the Applicant replied "Yeah, I know. But I'm there running that part for him. You've got to take some responsibility, haven't you?" The chairman responded "Well, taking responsibility is a big call because we've just seen Mr Britnell in action twice in the one morning. It would appear that he is under instructions to do something to those horses, from my reading of the video. So you're saying it's - you'll take..." to which the Applicant replied "I'll just take responsibility. All right?"⁶

During the stewards' inquiry conducted on 20 April 2018, further CCTV footage was viewed particular to activities at Mr Benjamin Currie's Hursley Road stable premises on Saturday 24 March 2018. The inquiry heard, consistent with the earlier inquiry conducted on 13 April 2018, that the date on the CCTV footage was dated 23 March 2018, however it was established through the personnel present and evidence provided during the inquiry that the footage in fact related to Saturday 24 March 2018 and not 23 March 2018. The inquiry further heard the timeframes on the CCTV footage was two hours in advance of the accurate time slots.

The CCTV footage, at approximately 4:34am, demonstrates Mr Britnell was in possession of five (5) syringes and handed one (1) syringe to the Applicant and placed three (3) others syringes on the ground out the front of three (3) individual stables and retained one (1) syringe. The Applicant subsequently proceeded to administer the contents of the syringe he was handed to the horse orally over the tongue in the stable diagonal to the camera before disposing the syringe out of view of the camera. The Applicant immediately proceeded to pick up the remaining three (3) syringes placed out the front of the relevant stables and entered each stable with the syringe before exiting the stables and throwing two (2) syringes up towards the camera area and threw the last syringe out from the stable into the laneway adjacent to the stable.

⁶ Transcript of Stewards' Inquiry dated 13 April 2018, page 48 and 49



The Applicant then proceeded to enter back into the two stables that he had initially entered with syringes before picking up the last syringe from the laneway and throwing it towards the camera area. The footage demonstrates the Applicant then withdrew something from his right pocket and concealed it under a pad near the camera area.

The CCTV footage, later that morning at approximately 8:09am, demonstrates the Applicant was dressed for the races and obtained a syringe from the area he had attended earlier that morning, concealed something under a pad, placed the syringe in his right pocket and proceeded down to the second stable of GULLY COMMAND of which he had entered with a syringe earlier that morning. At the time, Mr Britnell and Mr Zehnder (stable employee Currie racing) were present with the horse in the stable. The Applicant then proceeded to administer the contents of the syringe to GULLY COMMAND orally over the tongue before walking the horse out of the stable and handing the empty syringe to Mr Britnell before wiping the horse's mouth region with a towel. The Applicant accepted at the time of the above activity he was dressed for the races and was displaying his identification card. The chairman questioned *"I'll just take you back to a slide there, a Doomben race, 24 March. You and your son are walking out into the enclosure with the stable's colours. Michael Murphy on his silks. Do you agree that that's the same shirt and trousers you were wearing earlier in the morning?"* to which the Applicant replied *"Yeah, it looks like it."*

Mr Daniel Aurisch, Deputy Chairman of Stewards, questioned *"On Weetwood day (7 April 2018) and this day (24 March 2018) it appears as if the same regime has been followed with a treatment early in the morning and then later on in that morning and on this occasion the horse was loaded on the float, now would be your opportunity to tell us, does this - does this occur often?"* To which the Applicant replied *"No, I've got nothing to say, mate. I've got nothing more to say."* The chairman further questioned *"So, there's nothing further you want to add from that footage?"* to which the Applicant replied *"No."* The chairman added *"Other than you agree that Gully Command's been treated on that day?"* to which the Applicant replied *"Yep."*⁷

The inquiry heard there were no treatments recorded in the Applicant's treatment records for the substances that were administered to the relevant horses on the subject days. The Applicant was questioned *"Is there any reason why it wasn't listed that he has been treated on the morning of the race?"* to which the Applicant replied *"I haven't got any reason, no."*⁸

The Applicant was subsequently issued with the aforementioned charges outlined in Part 3 of this decision. The Applicant objected to Charge 8 being read into evidence, stating *"Not Hang. No. I'm not accepting Hang. Wasn't done. Not accepting that."* Mr Ian Brown, Senior Stipendiary Steward, questioned *"On what basis do you say Hang wasn't treated as compared to the others?"* to which the Applicant replied *"Hang had it in his feed."* Mr Brown added *"So you say that's not a treatment?"* to which the Applicant replied *"Not in the feed's not."*⁹

The reviewer acknowledges the mud map locates the stable location of the relevant horses involved. The location of such horses is further supported by the evidence, CCTV footage and photographs.

⁷ Transcript of Stewards' Inquiry dated 20 April 2018, page 70

⁸ Transcript of Stewards' Inquiry dated 20 April 2018, page 71

⁹ Transcript of Stewards' Inquiry dated 20 April 2018, page 73, 74 and 76



During the stewards' inquiry conducted on 11 May 2018, further CCTV footage was viewed particular to 24 March 2018. The footage demonstrates at approximately 9:24am, Mr Britnell obtained several syringes concealed under a pad near the camera area and placed them in either side of his jacket pockets. Mr Britnell proceeded out of the camera for a short period before returning and removing an item from his right jacket pocket at approximately 9:28am and concealed it under the pad near the camera area. Mr Britnell then proceeded to enter HANG's stable for a brief period at approximately 9:29am and exits with a syringe initially in his left hand. Mr Britnell subsequently proceeded to GIVUS A CUDDLE's stable for a brief period at approximately 9:30am and exits with a syringe in his left hand. Mr Britnell lastly proceeded to PUBLISHING POWER's stable for a brief period at approximately 9:33am and exits with a syringe in his right hand.

The Applicant, subsequent to viewing the aforementioned CCTV footage, was asked to comment and stated *"I've got no comment, no."*¹⁰

During the inquiry, the Applicant was reluctant to provide comment due to his application for legal representation being denied by the stewards. The reviewer acknowledges the Rules provide provisions for participants, in this case the Applicant, to seek leave for legal representation. Any application for legal representation is dependent on the nature of inquiry, the experience of the Applicant and whether there are any technical or legal matters of any note. Notwithstanding, the Applicant can seek an adjournment at any time to obtain legal advice.

Dr Martin Lenz, QRIC's Director of Veterinary Services and Animal Welfare, provided evidence particular to the contents of Boost paste stating *"Boost paste has a number of different ingredients listed on the label. Electrolytes, trace elements, being one of a series of ingredients. So we've got things like potassium, sodium, magnesium, cobalt, copper, zinc - so, that's one of the lists of ingredients. It also contains a group of vitamins and also some essential amino acids. All of these components of Boost will have an effect on one or more of the body systems in the horse as listed in the rules. And also just to draw your attention to the label on top here, it says - so, this is the manufacturer's claim making this label - "used for racing, performance, recovery and health."*¹¹

The inquiry heard the Racing Queensland Magazine, particular to the notification and control of race day medication information in part stated *'Routes of Administration of Medication - Any Substance administered by injection, stomach tube, paste, dose syringe, topical application or by inhalation, amongst any other routes of administration, WILL BE CONSIDERED A MEDICATION. Only normal feeding and supplementation that can be used by the horse voluntarily eating or drinking the feedstuff can be consider acceptable on the day of racing.'*¹²

The Applicant was questioned about his movements subsequent to entering the stables of horses engaged to race on 7 April 2018 at Toowoomba at approximately 3:34am that morning, particular with his actions towards the rump and tail region of each horse. The Applicant stated *"I've already made that comment."* Dr Lenz was questioned *"in your opinion, you've seen Mr Currie on that video footage. Any advice or information to the stewards what you believe would be happening at that stage?"* to which Dr Lenz replied *"So, the - as I understand it, the explanation you've previously given is you adjust the rug, is that what you're..."* to which the Applicant replied *"Oh, so I rub them all over the back, that role that night, was the words I said, didn't I, and check and make sure all the backs are good."*

¹⁰ Transcript of Stewards' Inquiry dated 11 May 2018, page 3

¹¹ Transcript of Stewards' Inquiry dated 11 May 2018, page 8 and 9

¹² Exhibit 11



Mr Brown questioned *"I thought it was to fix the rug"* to which the Applicant replied *"Yeah, we do. No, it will be in your thing there. Exactly what I told youse."* The chairman added *"That horse clearly goes forward very quickly after you push that tail flap down, so you're not injecting anything into that horse's..."* to which the Applicant replied *"Definitely not injecting anything into the horses."*

Dr Lenz added *"It seems an unusual reaction in a horse to having a tail flap adjusted. I think there's a number of horses that react in a manner that isn't consistent with checking rugs or checking condition of the tail or - to me, the horses are reacting to a stimulus of some kind. You know, it's an evasive - one horse appears to be moving away as Mr Currie is trying to approach it from behind. It's actively sort of trying to get away from him. Other horses are humping in their hindquarters. Other horses seem to be lifting their head in a sudden manner. You know, to my eye, these are reactions of horses that are responding to a noxious stimulus and, you know, it's not consistent, in my view, with simply adjusting rugs or checking the tail of the horse. But, you know, that would be a behaviour, in my view, that a horse would tolerate because it's something that, you know, they're used to from a very early stage. I would not expect to see that level of behaviour in a horse that's just having a routine check of the rug at the time."*¹³

The Applicant was questioned what he withdrew from his right pocket (as outlined earlier in this decision) and concealed under a pad near the camera area at approximately 4:40am on Saturday 24 March 2018. The Applicant replied *"I've got no comment on it."* The chairman added *"It does look a little unusual, doesn't it?"* to which the Applicant replied *"Oh, not really."*¹⁴

The inquiry heard Currie Racing is a partnership between the Applicant and Mr Benjamin Currie.¹⁵

The Applicant submitted a statement prepared by his legal counsel which was read into evidence.¹⁶ The inquiry heard there was correspondence between QRIC's legal department and the Applicant's legal representation particular to the matters raised. At the conclusion of the inquiry, the chairman acknowledged there was "numerous other interviews" that had not been provided to the Applicant. The Chairman accordingly adjourned the inquiry and advised the Applicant such documents would be provided to the Applicant's legal representative via email.¹⁷

During the stewards' inquiry conducted on 21 May 2018, the Applicant provided submissions dated 21 May 2018 that were read into evidence.¹⁸ The chairman responded to the Applicant's submissions stating *"The matters that you raise by way of submissions, which you've handed up this morning, which we marked as an exhibit, firstly, Exhibit 16, which was sent to us on Friday, we don't rely on the evidence sought by your legal counsel, that be photographs, body-worn camera footage, security sample notice and copies of receipts. We don't rely on that - those issues. Submissions put to us as well, particularly number 3 referring to stewards as cute as not supplying the CCTV footage, it was given the day before, or two days before, but you've probably had nine or ten days to look at that since we actually handed over the CCTV footage to your legal representative. In number 4 in the submissions, it was identified as the "Stewards conducting inquiries and the stewards are biased and should be stood down." And further stated*

¹³ Transcript of Stewards' Inquiry dated 11 May 2018, page 11 and 16

¹⁴ Transcript of Stewards' Inquiry dated 11 May 2018, page 24

¹⁵ Transcript of Stewards' Inquiry dated 11 May 2018, page 25, 27 and 28

¹⁶ Exhibit 12

¹⁷ Transcript of Stewards' Inquiry dated 11 May 2018, page 21, 33 and 34

¹⁸ Exhibit 17



“They cannot be seen to be acting fairly or reasonably independently”. This panel did not handle the Schwenke inquiry - sorry, the Britnell inquiry. As you know, we weren’t here for the Schwenke one. We believe in 5 that Dr Lenz was here to assist us. In 7, the sample referred to by Dr Lenz, in the absence of any other evidence, we have to believe that it did contain cobalt. Clearly it does, by the ingredients on that applicator. And I think we’ve gone through all the other matters. I don’t think (inaudible) refer to 8, 9 and 10, 11 or 12, other than your submissions in 12 that “I should be found not guilty of each charge.”¹⁹

The Applicant’s legal representative submitted an Application for an Internal Review dated 24 May 2018 on behalf of the Applicant against the aforementioned convictions and penalties. The Applicant’s complete submissions are outlined in Part 3 of this decision.

The Applicant’s legal representative submitted *“The enquiry against Mark Currie continued despite the fact that objection was taken on the final day to Stewards continuing the enquiry because their independence and impartiality was so infected by the enquiries that they had made that there was no way that Mark Currie could receive a fair or impartial hearing and despite the request that they disqualify themselves on the basis that they were biased they refused to do so and proceeded to impose penalty upon Mark Currie.”*

For reference, Australian Rule of Racing AR 8 in part states:

“To assist in the control of racing, Stewards shall be appointed according to the Rules of the respective Principal Racing Authorities, with the following powers:

...

(d) To regulate and control, inquire into and adjudicate upon the conduct of all officials and licensed persons, persons attendant on or connected with a horse and all other persons attending a racecourse.

(e) To penalise any person committing a breach of the Rules.”

The reviewer accepts stewards are appointed under the Australian Rules of Racing to regulate and adjudicate on all matters particular to potential breaches of the Australian Rules of Racing. The stewards regularly act as the investigator, prosecutor and jury in upholding the Australian Rules of Racing. Notwithstanding, the reviewer finds no direct evidence to determine the Applicant did not receive a fair and impartial hearing. The reviewer further acknowledges the chairman of inquiry in addressing this matter stated *“This panel did not handle the Schwenke inquiry - sorry, the Britnell inquiry. As you know, we weren’t here for the Schwenke one.”²⁰*

The Applicant’s legal representative submitted:

5. The charge/s against Mark Currie which are identified in the Penalty Notices and which were also identified in a letter from Allan Reardon to Mark Currie on 24 April, 2018 was so unclear and uncertain that despite request of the Stewards to do the following:

- a. To clarify the position in respect of the charges; and*
- b. To provide proper particulars in respect of each charge;*

¹⁹ Transcript of Stewards’ Inquiry dated 21 May 2018, page 43

²⁰ Transcript of Stewards’ Inquiry dated 21 May 2018, page 43



they failed to do so. Failure to properly advise the Applicant of the basis of each charge, the particulars of the charge and to properly set out the charges is fatal to this whole enquiry.

7. The Stewards failed to provide proper particulars despite numerous requests and ought to provide those particulars. They still have not provided particulars of each and every charge.

8. Any fair reading of the charge/s would suggest as follows:

a. That Mr Currie was facing the following possibilities:

i. One charge because the letter from Mr Reardon of 24 April, 2018 refers to the charge as against charges but then goes on to list out as particulars the specifics of the charge as items 1 to 12.

ii. There is further confusion in that it then says and/or in the alternative four charges under AR 175(a) and it then refers to four more matters as items 13 to 16.

9. The question that was properly raised was whether there was one charge, or four charges being the alternative or 12 charges or 16. This was just ignored by Stewards in the enquiry.

The reviewer finds the charges the subject of review pursuant to Rule 178E(1) and 175(a) were clearly read into evidence as documented in the transcript of evidence dated 20 April 2018 and the official Stewards' Report dated 21 May 2018. The Applicant was clearly advised during the Stewards' Inquiry conducted on 20 April 2018 that four (4) charges related to the Applicant's administration of a medication without the permission of stewards to GULLY COMMAND, PUBLISHING POWER and HANG on the day the aforementioned horses raced at DOOMBEN on 24 March 2018 and to GIVUS A CUDDLE on the day that horse raced at Gatton on 24 March 2018. The Applicant was advised a further eight (8) charges related to the Applicant causing a medication to be administered without the permission of the stewards to WITH A PROMISE on the day that horse raced at Doomben on 24 March 2018 and to GIVUS A CUDDLE, GULLY COMMAND, HANG, PUBLISHING POWER, RUETTIGER (NZ) and WITH A PROMISE on the day those respective horses raced at Toowoomba on 7 April 2018 and BOOMWAA that was engaged to race at Toowoomba on 7 April 2018.

The specifics and particulars of each charge pursuant to Rule 178E(1) were read into evidence as to the Applicant administering or causing to be administered a medication without the permission of the stewards to the aforementioned horses on the mentioned days they raced or, in the case of BOOMWAA, the day it was engaged to race which was in contravention of Rule 178E(1).

The Applicant was further advised that in the alternative an additional four (4) charges pursuant to Rule 175(a) applied. The additional charges pursuant to Rule 175(a) are documented in the transcript of evidence, official Stewards Report and corresponding penalty notices. The Applicant was advised during the Stewards' Inquiry conducted on 20 April 2018 that two (2) charges pursuant to Rule 175(a) related to the Applicant administering a substance to GULLY COMMAND, PUBLISHING POWER and HANG on the morning of 24 March 2018, the day the mentioned horses raced at Doomben, and to GIVUS A CUDDLE on the day that horse raced at Gatton on 24 March 2018, which in the opinion of the stewards was an improper action.



The Applicant was further advised of a further two (2) charges relating to the Applicant causing a substance to be administered to GIVUS A CUDDLE, GULLY COMMAND, HANG, PUBLISHING POWER, RUETTIGER (NZ), WITH A PROMISE and BOOMWAA (engaged to race) on the morning the respective horses raced at Toowoomba on 7 April 2018, and to WITH A PROMISE on the morning that horse raced at Doomben on 24 March 2018.

The aforementioned twelve (12) charges pursuant to Rule 178E and four (4) charges and/or in the alternative pursuant to Rule 175(a) were clearly read into evidence at pages 72 to 75 of the transcript of the Stewards' Inquiry dated 20 April 2018. The reviewer finds it reasonable to interpret, from reading the transcript of evidence, official Stewards' Report and the corresponding penalty notices, that the Applicant was issued with sixteen (16) charges in total as outlined in the Stewards' Report.

The official Stewards' Report dated 21 May 2018 outlined the specifics of the aforementioned sixteen (16) charges and, in part, stated:

"Mr Currie was subsequently penalised as follows:

- *Charges 1 to 5 under AR 178E on 24 March 2018 - 9 months' disqualification each charge to be served concurrently.*
- *Charges 6 to 12 under AR 178E on 7 April 2018 - 9 months' disqualification each charge to be served concurrently.*
- *Charges 13 to 15 under AR 175 (a) on 24 March 2018 - 12 months' disqualification each to be served concurrently.*
- *Charge 16 under AR 175 (a) on 7 April 2018 - 12 months' disqualification.*

Stewards further ordered that the penalties under AR 178E on 24 March 2018 and 7 April 2018 be served cumulatively totalling 18 months' disqualification and the penalties under AR 175 (a) on 24 March 2018 and 7 April 2018 be served cumulatively totalling 24 months' disqualification. As the charges under AR 175 (a) were issued in the alternative to charges under AR 178E the total periods of disqualification under each rule are to be served concurrently, in effect totalling a two year period of disqualification."²¹

The Applicant's legal representative submitted:

"13. The fact is that it is uncontroversial that the Currie Stable was providing Vitamin Paste or Vitamin Boost to each of the animals the subject of the charge. It was a Vitamin Boost as against anything else and as such Stewards have misconstrued each of the rules and have wrongly found Mark Currie guilty.

14. Refer in particular to the following:

- a. The definition of medication is any treatment with drugs or other substances.*

...

- c. The Vitamin Boost is not a medication and is not another substance.*

²¹ Stewards' Report dated 21 May 2018



d. It cannot be seen as a medication or a substance under any circumstances and the finding of guilt based on AR178E(1) is simply wrong."

The definition of 'medication' pursuant to the Australian Rules of Racing clearly states "any treatment with drugs or other substances."

For reference, Australian Rule of Racing AR178E(1) states:

"Notwithstanding the provisions of AR. 178C(2) no person without the permission of the Stewards may administer or cause to be administered any medication to a horse on a race day prior to such horse running in a race."

The reviewer rejects submissions that vitamin boost paste, or any other substance administered orally via syringe over the tongue on race day, is not in contravention of Australian Rule of Racing AR178E(1) and finds such assertions fanciful in all circumstances. The reviewer finds irrespective of whether a medication or substance is a prohibited substance or not, by administering any substance by any route, in this instance via syringe over the tongue on race day, is a clear contravention of AR178E(1). Ignorance to the contrary is not a form of defence, especially in light of the many published cases and penalties handed out in recent years to participants in contravention of such rule. Australian Rule of Racing 178E(1) places a strict obligation and responsibility on participants, in this case the Applicant, to ensure that no person without the permission of the stewards may administer or cause to be administered any medication to a horse on a race day. The rule is designed to provide a level playing field for racing participants that play within the boundaries of the rules, and to protect the interests of the wagering public and broader racing community.

Australian Rule of Racing 1 defines 'medication' as "Any treatment with drugs or other substances."

The Racing Queensland Magazine provides 'Routes of Administration of Medication' which, in part, states "Any Substance administered by injection, stomach tube, paste, dose syringe, topical application or by inhalation, amongst any other routes of administration, WILL BE CONSIDERED A MEDICATION."

The Applicant's legal representative submitted;

h. The Vitamin Boost is simply a Vitamin and that ought to have been sufficient to not cause the Applicant to be charged with any offences.

i. The evidence of Dr Lenz should be disregarded completely as it is not relevant, has no foundation and is lacking in impartiality.

j. The Vitamin Boost has not been analysed and Stewards seem to act on evidence about its contents without it being analysed and without there being any attempt to analyse same."

The reviewer accepts there is no evidence the Boost paste was analysed. The reviewer accepts the evidence of Dr Lenz particular to the contents of Boost paste stating "Boost paste has a number of different ingredients listed on the label. Electrolytes, trace elements, being one of a series of ingredients. So we've got things like potassium, sodium, magnesium, cobalt, copper, zinc - So, that's one of the lists of ingredients. It also contains a group of vitamins and also some essential amino acids. All of these components of Boost will have an effect on one or more of the body systems in the horse as listed in the rules."



The reviewer finds the evidence compelling, particularly to the fact that on multiple occasions the subject horses were administered two (2) substances hours apart orally by syringe prior to racing. The reviewer acknowledges it is likely that one of the substances administered on the subject days was Booste paste. Notwithstanding, the reviewer is not completely satisfied as to the contents of either substance administered, particularly to the fact the Applicant and Mr Britnell concealed syringes and unknown items under a pad near the camera area. The Applicant failed to identify or acknowledge the CCTV footage that demonstrated he withdrew something from his right pocket and concealed under a pad near the camera area. The reviewer finds a reasonable inference drawn is the substance administered was something of a more sinister nature.

The reviewer acknowledges each case is treated on its merits and set of circumstances. The reviewer accepts the Applicant was acting in the role as foreman at the Hursley Road stable premises of licensed trainer Mr Benjamin Currie. The Applicant was in partnership with licensed trainer Mr Benjamin Currie in the establishment of Currie Racing.

The reviewer does not accept the Applicant's evidence stating "*It usually goes in their feeds.*" The reviewer finds the evidence compelling and exhibits the Applicant and other personnel within the stable demonstrated clear knowledge of a deceitful stable practice to administer substances via oral route to horses in contravention of Australian Rule of Racing 178E(1). This is supported by evidence and CCTV footage demonstrating that on multiple occasions the subject horses were administered two (2) substances hours apart orally by syringe prior to racing. The acts were brazen and deceitful and a clear attempt to cheat and gain an unfair advantage.

The reviewer finds the evidence compelling, particularly the CCTV footage and mud map, that demonstrates the Applicant administered a substance via oral syringe over the tongue to HANG at approximately 4:35am and GULLY COMMAND at approximately 8:12am on Saturday 24 March 2018, prior to the respective horses racing at Doomben later that day. The reviewer accepts there is no direct evidence that the Applicant administered a substance orally to PUBLISHING POWER or GIVUS A CUDDLE. Notwithstanding, the reviewer finds on the evidence, particularly considering the CCTV footage demonstrates the Applicant entered PUBLISHING POWER's and GIVUS A CUDDLE's respective stables at approximately 4:38am and 4:39am on Saturday 24 March 2018 with a syringe in hand, it was reasonable to infer the substance was administered orally to the respective horses. And, although accepting the CCTV footage does not directly capture the Applicant administering the contents of the syringe orally to the respective horses, the reviewer is satisfied there is compelling evidence, as outlined above, to accept the substance was administered orally to the respective horses, considering the totality of the evidence and particularly the deceitful actions of the Applicant in concealing syringes and unknown items as outlined in this decision.

The reviewer, in considering the extensive volume of evidence in totality, and taking into account the aforementioned factors, is satisfied to the requisite standard that the Applicant administered and/or caused to be administered a substance via syringe orally to the respective horses named in the subject charges being in clear contravention of Australian Rule of Racing 178E(1). The reviewer accepts that such actions were an improper practice connected with racing and a deliberate attempt to cheat and gain an unfair advantage against their peers. Accordingly, the reviewer is satisfied to the requisite standard that the charges pursuant to Australian Rule of Racing 178E(1) and 175(a) are proven.



The Applicant's disciplinary history is clear of any offence pursuant to Australian Rule of Racing 178E(1) and 175(a). The Applicant's disciplinary history notes a prior offence pursuant to Australian Rule of Racing 178 in May 2009 in relation to TC02 Total Carbon Dioxide, which incurred a six (6) month suspension.

For reference, Australian Rule of Racing 178 states:

"Subject to AR178G, 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."

Australian Rule of Racing 196(5) states:

"Where a person is found guilty of a breach of any of the Rules listed below, a penalty of disqualification for a period of not less than the period specified for that Rule must be imposed unless there is a finding that a special circumstance exists whereupon the penalty may be reduced:

...

AR.178E - 6 months."

For reference, Local Rule of Racing 117B states:

"For the purposes of these Rules and the imposition of a penalty under AR196(5), a special circumstances may be found if:

(c) the person has

- i. pleaded guilty at an early stage; and*
- ii. assisted the Stewards and/or Racing Queensland, after the imposition of a penalty on that person, in the investigation or prosecution of a breach of the Rules; or*

(d) the person proves on the balance of probabilities that at the time of the commission of the offence, he or she:

- i. had impaired mental functioning; or*
- ii. was under duress*

that is causally linked to the breach of the Rule and substantially reduces his or her culpability.

(c) in the case of offences under AR178E, the medication in the opinion of the Stewards does not contain a prohibited substance, is of an insignificant nature and is for the welfare of the horse.

(d) the person proves, on the balance of probabilities that, he did not know, ought not to have known or would not have known had he made all reasonable inquiries, that his conduct was in breach of the Rules of Racing."

The reviewer, in carefully considering the evidence in relation to determining any special circumstances, finds the Applicant is a very experienced racing person having held a licence for in excess of twenty (20) years who is familiar with the Australian Rules of Racing, in particular, Australian Rule of Racing 178E.



The reviewer is not completely satisfied on the evidence as to the contents of either of the substances administered to the subject horses. The reviewer accepts the Applicant concealed syringes and evidence under a pad near the camera area that was administered to the subject horses. The Applicant failed to identify or acknowledge the CCTV footage that demonstrated he withdrew something from his right pocket and concealed it under a pad near the camera area. The reviewer finds the reasonable inference drawn is the substance administered was something of a more deceitful nature. The reviewer finds the Applicant's actions to be a deliberate attempt to cheat and gain an unfair advantage against his peers and accordingly is not satisfied special circumstances apply or are proven in the circumstances.

The penalty precedents particular to Australian Rule of Racing 175(a) range between a monetary fine and a nine (9) year disqualification.

The Applicant's submissions on penalty state:

"In the event that the Decision is not set aside the penalty imposed in all the circumstances is manifestly excessive. In fact no suspension or disqualification should have been imposed."

In weighing up the matter of penalty, consideration was provided to the Applicant's submissions, disciplinary history, personal circumstances, not guilty plea, recent penalty precedents particular to Australian rule of Racing 178E(1) and 175(a), and the totality of the evidence, particularly the number of horses treated in contravention of Australian Rule of Racing 178E(1). The charges the subject of review are extremely serious in nature and have a detrimental effect on the racing industry. The reviewer finds the Applicant's actions completely deceitful and finds the evidence compelling, in that the Applicant deliberately administered or caused to be administered two (2) substances hours apart by oral syringe to multiple horses the subject of review prior to racing. Such acts were brazen and demonstrated a complete contempt for racing participants and the Australian Rules of Racing of which the Applicant was privileged to be licensed under. The reviewer finds the CCTV footage compelling and exhibits that the Applicant and other personnel within the stable demonstrated clear knowledge of a deceitful stable practice to administer substances via oral route to horses in contravention of Australian Rule of Racing 178E(1). The reviewer, in considering the aforementioned factors and taking into account the volume of horses that were the subject of the offences, and considering the mandatory penalty with the exemption of 'special circumstances' for an offence pursuant to Australian Rule of Racing 178E(1) is a six (6) month disqualification, is not satisfied a reduction in penalty is proven in the circumstances and therefore confirms the original decision on all charges and penalties.

PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:



Queensland Civil and Administrative Tribunal

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