

Stewards' Report

Stewards Report: David Gafa

Date: 19 February 2020

Panel: J Williamson, D Aurisch & L Hicks

Queensland Racing Integrity Commission (QRIC) Stewards today concluded an inquiry into the circumstances surrounding the handling and subsequent death of a thoroughbred foal known as BONNIE (TOP ECHELON-IZARA). Following the death of the foal on 20 November 2016, an investigation was undertaken by the QRIC, which resulted in the Queensland Police Service (QPS) filing charges against licensed Trainer Mr David Gafa. Following these charges being laid the QRIC Licensing Department suspended Mr Gafa's licence as of 25 January 2017.

Following the court proceedings in which Mr Gafa was found not guilty of the charges laid by the QPS, the QRIC Stewards commenced an inquiry. The inquiry was initially scheduled to commence July 11, 2019, however as Mr Gafa requested further time to supply evidence, the inquiry was adjourned and opened on November 20, 2019. Following this hearing the matter was again adjourned to obtain further expert veterinary evidence and to also to allow for a further witness to be questioned.

After considering the body of evidence which included witness statements, photos and video of the foal and pathology reports, Stewards issued Mr Gafa with two (2) charges under the provisions of AR 175(n) which reads:

The Principal Racing Authority (or the stewards exercising powers delegated to them) may penalise;

- (n) *Any person who in their opinion commits or commissions an act of cruelty to a horse, or is in possession or control of any article or thing which, in their opinion, has been made or modified to make it capable of inflicting cruelty to a horse.*

Charge 1

The particulars of the charge being that, in the opinion of this stewards panel, Mr David Gafa, whilst the holder of a thoroughbred trainer's licence, did commit an act of cruelty in that on Friday 18 November 2016 at the property 317 Valdora Road Yandina, he lassoed a thoroughbred foal known as Bonnie (Sire – TOP ECHELON Dam – IZARA), restricting its airways, which caused distress to the foal, whilst he unnecessarily restrained the foal to the point of exhaustion.

Charge 2

The particulars of the charge being that, in the opinion of this stewards panel, Mr David Gafa, whilst the holder of a thoroughbred trainer's licence, did Valdora Road Yandina, after

the thoroughbred foal known as Bonnie (Sire – TOP ECHELON Dam – IZARA) had become exhausted and a halter had been attached he then unnecessarily persisted in attempting to lead the foal onto a horse float, which caused the foal to resist, rearing and falling on a number of occasions resulting in the foal being significantly injured.

Mr Gafa was found guilty of both charges and was issued with a suspension of three years and 25 days, which represents the time served since his licence was suspended on January 25, 2017.

In finding Mr Gafa guilty Stewards established that on 18 November 2016, Mr Gafa attended the property of Dr Stuart Bryce to attempt to handle and transport “BONNIE” and its mother IZARA, which had been agisted on the property, to his own property for the purposes of educating the foal to be handled.

On this day “BONNIE” was lassoed and a halter was placed on the foal. It was during this time that “BONNIE” suffered significant injuries consistent with having trauma to the skull. Conflicting evidence was presented regarding the cause of these injuries in that surgery employee Jordan Duffy suggested that during both the lassoing and the subsequent handling by Mr Gafa, the foal had reared and fallen on several occasions, striking its head and that the ensuing struggles had rendered that foal exhausted. Miss Duffy also suggested that an intramuscular sedative was administered by Mr Gafa after permission had been sort for this to occur from Dr Bryce via telephone. Whilst Mr Gafa and Mr Glenn Corrie, who had attended the property with Mr Gafa, had provided statements that the horse had struck its head when rearing as an adverse reaction, to an intramuscular sedative which was administered by Miss Duffy, which had then led Mr Gafa to finalise his attempts to transport the foal.

Stewards found Miss Duffy to be a more reliable witness as Mr Gafa had provided conflicting evidence on numerous occasions throughout the interview conducted by QRIC investigators, when compared to his inquiry evidence and the evidence provided in court, which had been provided to Stewards at the request of Mr Gafa.

Stewards also, did not place significant weight on the evidence of Mr Corrie as he is a close associate of Mr Gafa and his statement was not provided to Police for more than two (2) years after the incident. Stewards therefore, on the balance of probabilities, preferred the evidence of Miss Duffy. The likelihood of the foal having a reaction to being administered the sedative, was considered pharmacologically illogical by expert veterinary witness Dr Ben Ahern.

The significant head trauma suffered to “BONNIE” was evidenced in the autopsy report and by witness statements from Miss Duffy, Miss Amber Blanchette, and the owner of “BONNIE” Mr Barry O’Neill who all witnessed the condition of the foal the following day.

Whilst still present at the Dr Bryce’s property “BONNIE” was treated with pain relief and anti-inflammatories under the direction of Dr Bryce.

The following morning November 19, 2016, “BONNIE” was transported by Mr Gafa to his own property and was observed by Mr O’Neill that afternoon. Further pain relief was administered at this time.

Stewards further established that the following afternoon November 20, 2016, Mr Gafa called Mr O'Neill to inform him that the foal could not be found. A short time later Mr Gafa again contacted Mr O'Neill to inform him that the foal had been found in the dam and had drowned. Mr O'Neill had attended Mr Gafa's property that evening, and it was suggested by Mr Gafa that "BONNIE" had been located at the bottom of the dam, however as it was now dark this was not able to be confirmed by Mr O'Neill.

The Stewards, on the evidence, were unable to decide on the circumstances of how "BONNIE" came to be in the dam, nor could they be satisfied that the foal was ever in the dam. The autopsy and subsequent pathologists verbal evidence could not establish whether the foal had drowned or if the traumatic brain injuries suffered had been the cause of death.