

TASMANIAN RACING APPEAL BOARD

Appeal No 03 of 2017/18

Panel:	Tom Cox (Chair) Rod Lester Wendy Kennedy	Appellant:	Mark Ganderton
Appearances:	Mr Paul Turner and Ms Louise Brooks for the Stewards Mr Adrian Crowther on behalf of the Stewards	Rule:	Australian Rule of Racing 80E(1)
Heard at:	Launceston	Penalty:	\$500.00
Date:	7 December 2017	Result:	Upheld

REASONS FOR DECISION

1. On the 7 December 2017, the Tasmanian Racing Appeal Board (the “TRAB”) heard an appeal by Mark Ganderton filed on the 17 August 2017, against a decision by the Stewards to impose a fine of \$500.00
2. The appellant appealed against the decision by the Stewards that he was in breach of AR80E(1) which provides that “any person commits an offence if he has in his possession or on his premises, any substance or preparation that has not been registered or labelled, or prescribed, dispensed or obtained, in compliance with the relevant State and Commonwealth legislation”.
3. The particulars of the charge against the appellant are set out in a stewards’ summary report dated 10 August 2017. The particulars of the charge were that Mr Ganderton had in his possession the substance “P Block”, an injectable product which was not labelled, prescribed or registered for use.
4. At the outset of this appeal, the Stewards quite rightly indicated that the charge was only maintained in respect of the product being unregistered, that is, the charges as they pertained to labelling and prescription were not pursued.
5. Evidence in support of the charge was produced by the Stewards from Natasha Ackland. That evidence, in summary, established that the substance fits within the statutory definition of veterinary chemical products and is, as such, required to be registered before it is imported or supplied within Australia.
6. The appellant does not dispute that fact i.e. that the product “P Block” was not registered, and accepts that, technically, he was in breach of the rules in that regard. However, he quite rightly submitted that he was not aware that it was unregistered, that indeed it was prescribed by a reputable vet, and that he had no cause to suspect that his purchase of the product was in contravention of the rules.

7. Although this Board should maintain a message to the industry that it should remain vigilant in ensuring that it complies with the rules, especially insofar as they relate to prohibited substances, it is difficult to criticise the appellant in the circumstances of this case. The appellant's culpability for this breach of the rules must be regarded as negligible. In our view no more than a reprimand is warranted for the appellant's conduct.
8. The appellant's appeal against the stewards' finding that he was in breach of the rules was in large part successful and the appeal against penalty was wholly successful. Accordingly, pursuant to s.34(2) the Board orders that the prescribed deposit be refunded in full to the appellant.