VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

REVIEW AND REGULATION LIST VCAT REFERENCE NO. Z34/2016; Z35/2016

CATCHWORDS

Racing – Contravention of AR 178 of the Rules of Racing – Penalty – Relevant considerations – Fine imposed – Forfeiture of prize money

APPLICANT (Z34/2016)	Mark Kavanagh
APPLICANT (Z35/2016)	Danny O'Brien
RESPONDENT	Racing Victoria Limited
WHERE HELD	Melbourne
BEFORE	Justice Greg Garde AO RFD, President
HEARING TYPE	Hearing
DATE OF HEARING	30 January 2018
DATE OF ORDER	27 February 2018
CITATION	Kavanagh v Racing Victoria Limited (No 2) (Review and Regulation) [2018] VCAT 291

ORDER

The Tribunal orders:

1 Mark Kavanagh is fined $4,000 in relation to the charge for which he has been found guilty.

2 Danny O'Brien is fined $8,000, being a fine of $2,000 in relation to each of the four charges for which he has been found guilty.

3 Under AR 177 of the Rules of Racing, the horses listed are disqualified from the races set out below:

(a) *Magicool* from Race 2 at Flemington racecourse on 4 October 2014;

(b) *Caravan Rolls On* from Race 5 at Flemington racecourse on 1 November 2014;

(c) *Bondeiger* from Race 7 at Flemington racecourse on 1 November 2014;

(d) *De Little Engine* from Race 1 at Ballarat racecourse on 22 November 2014; and

(e) *Bullpit* from Race 5 at Moonee Valley racecourse on 19 December 2014,

and the placings are amended accordingly.

4 Costs are reserved.

Justice Greg Garde AO RFD
President

APPEARANCES:

For Applicant	Mr D Sheales with Mr T Purdey of Counsel instructed by Lander & Rogers
For Respondents	Mr J Gleeson QC with Mr A Dinelli and Mr J Hooper of Counsel instructed by Minter Ellison

REASONS

INTRODUCTION

1 Kavanagh and O'Brien stand to be penalised for contravention of AR 178 of the Rules of Racing ('Rules'), following the decisions of the Tribunal[1] and the Court of Appeal.[2]

2 AR 178 provides:

> … 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.

3 At the relevant time, cobalt was a prohibited substance when present in the urine of a horse at a concentration above 200µg/l.

4 In respect of Kavanagh, cobalt was detected at a concentration in excess of the 200µg/l threshold in a urine sample taken from the horse *Magicool*, on 4 October 2014, after *Magicool* won Race 2 at Flemington racecourse.

5 In respect of O'Brien, cobalt was detected at a concentration in excess of the 200µg/l threshold in urine samples taken from four horses ('the O'Brien horses'):

a *Caravan Rolls On*, which, on 1 November 2014, ran eighth in Race 5 at Flemington racecourse;

b *Bondeiger*, which, on 1 November 2014, ran second in Race 7 at Flemington racecourse;

c *De Little Engine* which, on 22 November 2014, won Race 1 at Ballarat racecourse; and

d *Bullpit* which, on 19 December 2014, won Race 5 at Moonee Valley racecourse.

6 The results of the tests are summarised in the following table:

Horse	**First period (2014-2015)**		**Second period (2016)**	
	ChemCentre[3]	**HKJCL[4]**	**RASL[5]**	**HKJCL**
Kavanagh's Horse				
Magicool	640 µg/l	670 µg/l	588 µg/l	690 µg/l

1 *Kavanagh v Racing Victoria Ltd* [2017] VCAT 386 ('Tribunal reasons').
2 *Racing Victoria Ltd v Kavanagh* [2017] VSCA 334 ('Appeal reasons').
3 ChemCentre Western Australia ('ChemCentre').
4 Hong Kong Jockey Club Laboratory ('HKJCL').
5 Racing Analytical Services Ltd ('RASL').

O'Brien Horses				
Caravan Rolls On	350 µg/l	380 µg/l	344 µg/l	370 µg/l
Bondeiger	330 µg/l	370 µg/l	335 µg/l	380 µg/l
De Little Engine	550 µg/l	580 µg/l	512 µg/l	590 µg/l
Bullpit	300 µg/l	320 µg/l	290 µg/l	330 µg/l

7 Kavanagh and O'Brien are and were, at all relevant times, trainers licensed by Racing Victoria Limited ('RVL'). Kavanagh was at all relevant times the trainer of the horse *Magicool.* O'Brien was at all relevant times the trainer of the O'Brien horses.

8 Both Kavanagh and O'Brien retained Dr Tom Brennan of the Flemington Equine Clinic ('the clinic') as their primary veterinarian for the horses in their stables, including *Magicool* and the O'Brien horses. In the lead-up to the races, following which cobalt was detected, each of *Magicool* and the O'Brien horses were administered intravenous drips by Dr Brennan or staff of the clinic at his direction. The drips contained a substance described as 'Vitamin Complex'. Vitamin Complex was not a commercially available product, and contained cobalt at a concentration later found to be approximately 20.1mg/ml.[6]

9 The cobalt contained in the intravenous drips caused the urinary cobalt concentration in the race-day samples taken from each horse to exceed the threshold of 200µg/l.[7]

10 Neither trainer had any knowledge of the administration of any prohibited substance to any of their horses. The principal findings as to the knowledge of the trainers in the Tribunal reasons are:

(a) Dr Brennan was the principal perpetrator who injected vitamin complex into the drips administered to the O'Brien horses and *Magicool*. Dr Brennan either administered the drips personally, or directed other veterinarians to administer the drips.

(b) O'Brien and Kavanagh had no knowledge of the administration of any prohibited substance to any of their horses. They had no knowledge, inkling or suspicion that Dr Brennan was intending to use material from a bottle of vitamin complex of unknown provenance in the drips for their horses.

(c) Neither O'Brien nor Kavanagh or any person in their employ had any awareness of the intended administration of material from the vitamin complex bottle. They discovered the true position long after the event.

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6 Tribunal reasons, [367].
7 Ibid [376].

(d) While they discussed and were familiar in general terms with the contents of the drips administered by Dr Brennan, Dr Brennan did not disclose to them his use of the contents of the vitamin complex bottles. He did not record the administration of vitamin complex in the records relating to each horse.

(e) Neither O'Brien nor Kavanagh had ever shown any interest in cobalt or prohibited substances. They have unblemished records over a long period. Although both capable and experienced trainers familiar with the racing industry, neither had ever undertaken any research or made any inquiries about the administration of cobalt or any other prohibited substance. Administration of prohibited substances was not within their contemplation.

(f) O'Brien and Kavanagh reasonably expected Dr Brennan, a highly respected veterinarian, to adhere to the Rules of Racing and the ethical standards of a veterinarian. They did not expect the undisclosed use by him of a bottle of an unknown substance without proper labelling. This was a direct and serious breach of his professional duties as a veterinarian to them and to their horses. He had no excuse for doing so. It was not something that O'Brien or Kavanagh ever wanted, expected or suspected.

(g) As far as O'Brien and Kavanagh knew, the drip program was under trial as a substitute for the drench program. The programs had similar objectives, although the drip program was thought to be more effective, and better controlled.

(h) This is not a case of wilful blindness, rather O'Brien and Kavanagh did not know anything about the administration by Dr Brennan of material from a vitamin complex bottle. They had no reason to suspect that a leading veterinarian would direct or permit anything of the sort to occur. They were surprised, if not stunned, when they learnt the truth. They continued to believe that Dr Brennan could not have done what was alleged long after the stewards' inquiry had commenced.[8]

11 The factual findings of the Tribunal were not challenged in the Court of Appeal.[9]

GENERAL PRINCIPLES

12 RVL submits in substance that:

a a penalty ought to have regard to all the relevant circumstances, including the purpose of the Rules, the nature of the contravention in issue, and the facts relevant to that contravention;

b as AR 178 is a national rule, penalties imposed by racing authorities elsewhere in Australia should be taken into account. There ought to be consistency of outcomes in the imposition of penalties; and

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8 Ibid [485].

9 Appeal reasons, [6].

c in the case of the imposition of a sentence for a crime, the courts have long recognised, and are required to have regard to, certain matters.[10] The same matters ought to be considered here.

13 In imposing penalty, RVL submits that the following factors are relevant:

a the purpose of the Rules;

b the maximum penalty for the contravention;

c other penalties imposed for contraventions of AR 178;

d the nature and gravity of the contravention;

e the conduct of Kavanagh and O'Brien during the investigation of the charges;

f Kavanagh and O'Brien's character and antecedents; and

g deterrence.

14 Kavanagh and O'Brien submit that:

a the Tribunal's findings of fact that they had no knowledge of the administration of any prohibited substances to any of their horses were not challenged on appeal;

b the Tribunal has a broad discretion in relation to penalty. There have been numerous cases in which no penalty was imposed on trainers found guilty of a breach of AR 178, other than orders under AR 177;

c the stewards of RVL have decided not to prefer charges under AR 178 when considering cases of horses that have tested positive for prohibited substances on race day where they accepted that the trainer lacked culpability in the circumstances; and

d RVL's submission to the effect that there must be some penalty is misconceived.

15 Kavanagh and O'Brien rely on the decision of the Racing Appeals Tribunal in *McDonough v Harness Racing Victoria,* where Judge Williams said:

> … from the point of view of penalty the ability of a trainer to demonstrate to a Tribunal, and the onus is on the trainer, that he lacks culpability because he did not administer the substance himself or is not otherwise responsible in any way, that is still of course a significant factor in terms of penalty. But I emphasise the evidentiary onus remains in my view, on the trainer, to avail himself of the benefits of proof of reduced or absent culpability. That conclusion, from a legal point of view, is consistent with the criminal law, in the case of *Storey* and it is also referred to in a thoroughbred case that I was reading of the *New South Wales Authority v Graeme Rogerson* … a case in which His Honour Mr Barry Thorley presided…:
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> > In the view which this Tribunal takes of the structure of AR178, it is however for the trainer to carry the evidentiary onus of

[10] Citing *Sentencing Act 1991* (Vic) s 5(2).

> proving facts which serve to reduce the primary inference that would be drawn by the fact of the finding of a prohibited substance in a horse within his charge which has been brought to a race course.

I endorse that statement of the onus in respect of not only the thoroughbred rules but also the harness racing rules.

With this background these prohibited substance cases generally, and I emphasise generally, fall into one of three categories. First where through investigation, admission or other direct evidence the Authority, in this case Harness Racing Victoria, can establish before the Tribunal a positive culpability on the part of the person responsible, perhaps the trainer.

For example, the trainer administered the drug to the horse either himself or at his direction or had otherwise acted in some way as to be instrumental in the commission of the offence. Within that category the culpability may be in the class of deliberate wrongdoing or it may be through ignorance or carelessness or something similar.

Secondly, where at the conclusion of any evidence and plea the Tribunal is left in the position of having no real idea as to how the prohibited substance came to get into the horse. This may be with the trainer giving some explanation which the Tribunal is not prepared to accept or the trainer may simple concede that he has no explanation.

I might say that this second category is perhaps the most commonly experienced scenario. Indeed as again His Honour Mr Barry Thorley … said:

> "The common experience is of course that the Stewards have no idea as to how it is in the case of any racehorse that the prohibited substance came to be in it. They immediately, as is required, opened an inquiry. It is very seldom indeed that that inquiry demonstrates the actual culprit. Why is that? For the obvious reason that the sole knowledge of what transpires is within the stable and its staff and its professional advisors. No doubt one can speculate that there are many ways in which a horse may present with a prohibited substance. One can contemplate the act of some intruder by stealth of night entering the stable and administering some drug. One can contemplate the consumption by the animal accidentally of some substance left lying around negligently or the ingestion of some grasses which produce adverse results. One can contemplate that there was an actual, albeit mistaken administration within the stable of some product which was really intended for the horse in the adjoining stall, but mistakenly administered to the horse in question. One can even imagine that the horse might lick a rail or some place which had previously been contaminated. The number of examples one can contemplate is manifold."

As I say, that is perhaps the most common scenario that the Tribunal is left with.

> Thirdly, the trainer (or other person being dealt with) may provide an explanation which the Tribunal accepts and which demonstrates that the trainer has no culpability at all. An obvious example would be if the trainer could satisfy the Tribunal that his horse had been nobbled, and it had been nobbled notwithstanding the presence of reasonable measures to prevent same.
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> And of course there could be various other factual scenarios where the horse could somehow be the subject of the administration or ingestion of a prohibited substance without any culpability either directly or indirectly on the part of the trainer. This category represents cases where the trainer does establish to the Tribunal's satisfaction, the onus being on him, that he is free of blame, that he himself was not instrumental in the administration of the prohibited substance and that he has done all he could be expected to do to prevent same.
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> Generally cases will fall into one of these three categories of case. Obviously the first category where there is positive evidence of culpability to varying degrees, is the worst from the point of view of the trainer or other person concerned and high penalties as are appropriate would be likely to flow.
>
> The second category, the lack of evidence category, may or may not end up being similar to the first category, every case depending on its own individual facts.
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> As to the third category where there is little or no culpability, one would expect any penalty to reflect the absence of culpability or its low level. Within this category of cases there may in appropriate situations be instances where it is deemed not to be appropriate that the sentence express denunciation or general deterrence at all and indeed where it is appropriate to impose no penalty at all.[11]

16 I accept the submissions of RVL, Kavanagh and O'Brien that the factors they have outlined should be taken into account by the Tribunal in exercising its discretion as to penalty.

17 I now turn to these factors.

Purpose of the Rules

18 The foundational purpose of the Rules is to regulate the horse-racing industry and its integrity, which is 'necessary both to ensure fair and open competition in racing, and to maintain the health and wellbeing of horses and their jockeys'.[12]

19 The purpose of the Rules and the objectives that the Rules seek to achieve are of fundamental importance to the racing industry. They should be upheld at all times.

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11 [2008] VRAT 6 (citations omitted) ('*McDonough*').

12 *Racing Victoria Ltd v Riley* (2016) 51 VR 261, 263 [1], citing *R v Disciplinary Committee of Jockey Club ex parte Aga Khan* [1993] 2 All ER 853, 857–858; *Harper v Racing Appeal Tribunal* (1995) 12 WAR 337, 347; *Racing Victoria Limited v Kavanagh* [2017] VSCA 334, [83].

The maximum penalty

20 The imposition of a penalty is not undertaken primarily as a punishment. Penalties under the Rules are imposed to protect the image of the racing industry and uphold its integrity.[13] A number of the offences under the Rules are strict liability offences and do not require *mens rea*. Those offences include AR 178. No maximum penalty is prescribed for a contravention of AR 178.

Other penalties imposed for contraventions of AR 178 of the Rules

21 RVL provided schedules of cases as to the penalties imposed in relation to contraventions of AR 178 in cobalt cases as well as other cases involving the administration of prohibited substances to horses.

22 A wide range of penalties for contravention of AR 178 is evident in these cases. In cobalt cases, penalties varied from disqualification for up to two years, where there was a past history of contraventions, to no penalty, where it was determined that the cobalt was found to be from feed. Likewise, in contraventions of AR 178 where prohibited substances other than cobalt were found, monetary fines were predominantly imposed. However, no penalty at all was imposed in two cases.

23 The broad range of penalties for contravention of AR 178 is not surprising, and reflects the equally broad range of factual circumstances that can fall within the ambit of AR 178. Each of the three classes of cases discussed in *McDonough* are represented in the schedules of cases concerning contraventions of AR 178 provided by RVL.[14]

The nature and gravity of the contravention

24 RVL submits that while the absence of knowledge of Kavanagh and O'Brien lessened the seriousness of the contraventions, other factors remained relevant.

25 One important factor is the detrimental effect that breaches of the Rules have on the integrity of the racing industry.

26 Another important factor includes the fact that cobalt, when intravenously administered to a horse in high doses, causes observable signs of distress such as sweating and abdominal discomfort. Cobalt has no therapeutic benefits, and its administration is a significant welfare issue for racehorses.

27 RVL also submits that the level of cobalt recorded by *Magicool* and the O'Brien Horses was very high. In the case of *Magicool*, the results were nearly three times the (then) threshold of 200 ug/l, while the O'Brien horses ranged from approximately 300 µg/l to 550 µg/l.

28 Kavanagh and O'Brien contest RVL's submission that the administration of cobalt caused a significant welfare issue for *Magicool* and the O'Brien

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13 *In the matter of Kent Fleming,* Racing Appeal Panel of New South Wales (13 July 2017), [55].
14 [2008] VRAT 6.

horses, or that the cobalt levels recorded were very high. They submit that the levels of cobalt recorded were not particularly high having regard to the concentrations recorded in a number of other cases. RVL's complaint about the administration of cobalt was that it enhanced performance (although they said that this had not been demonstrated).

29 I accept that the administration of prohibited substances to horses in preparation for racing is very serious – the more so in group and listed races. This is mitigated in the present case by the fact that neither Kavanagh and O'Brien knew that the horses they were about to race had been given a prohibited substance.

The conduct of Kavanagh and O'Brien during the investigation of the relevant charges

30 I accept RVL's submission that the conduct of Kavanagh and O'Brien is a significant factor to be taken into account. Both deny any offence and pleaded not guilty. I have made extensive findings as to their position and conduct in the Tribunal reasons. It is appropriate to take these findings and the underlying evidence into consideration in imposing penalties.

Character and antecedents

31 Kavanagh has two prior convictions for contraventions of AR 178:

a on 27 March 2004, he presented *Hard to Get* to race at Morphettville in South Australia with isoxsuprine detected in the post-race urine sample, for which he was fined $3,500; and

b on 10 December 2005, he presented *Play to Win* at Cheltenham Park in South Australia with bethamethasone detected in the post-race urine sample, for which he was fined $5,000.

32 O'Brien is to be penalised for this offence as a first offence.

33 I accept that apart from the two contraventions listed above, both Kavanagh and O'Brien are of good character and reputation.

Deterrence

34 RVL submits that while deterrence ought not be as significant a consideration in the present circumstances, where Kavanagh and O'Brien did not have knowledge of the conduct of their veterinarian, deterrence ought be given some weight. Imposition of a punishment would send a message to others in the industry to take appropriate care in the running of their stables. Trainers are granted a privilege to train, and the responsibility to care for, the racehorses under their control. Steps ought be taken to ensure that treatment is properly supervised at all times.

35 Kavanagh and O'Brien submit that the Tribunal's imposition of a five year disqualification on Dr Brennan satisfies the need for deterrence. The contention that Kavanagh and O'Brien failed to ensure that the treatment of their horses by Dr Brennan was properly supervised at all times is

misconceived. They point to the findings of the Tribunal that they were not negligent in relying on Dr Brennan, as a leading veterinarian and as a senior partner of the clinic, to use his professional skill to ensure that the drips were properly administered, and that it was appropriate and responsible for them to do so.[15]

36 Both Kavanagh and O'Brien submit that they have been found to have no culpability. They have suffered three years of legal proceedings which have significantly damaged their reputations and businesses. Their situation is not one where express denunciation or general deterrence is appropriate. In this case a message had been sent to the public by the conviction and disqualification of the principal perpetrator, Dr Brennan. It is not appropriate for Kavanagh and O'Brien also to be penalised.

37 I agree that deterrence is an important factor and should be reflected in sentencing. In the present case, the five year disqualification imposed on Dr Brennan gives a clear and compelling message to future wrongdoers.

Financial impacts on Kavanagh and O'Brien

38 The financial impacts of the charges and proceedings on Kavanagh's business have been very significant. Kavanagh's business lost $200,000 over a two year period. Whereas prior to 14 January 2015, he had 35–40 staff, by the time he gave evidence to the Tribunal in October 2016, he had only 10 staff. His stable of about 120 horses had reduced to 25 horses.[16]

39 Likewise, O'Brien's stable of 180–200 horses under management at Barwon Heads and Flemington had reduced to 70–75 horses by October 2016. At the start of 2015, he had about 50 staff. By October 2016, staff numbers were down to about 30.[17]

40 Kavanagh and O'Brien submit that the Tribunal should also take into account the financial impact of the agreed disqualification orders, a consequence of AR 173 and 177. This includes the forfeiture of a 10 per cent trainer's fee of the prize money awarded in each race that Kavanagh and O'Brien's horses stand to be disqualified.

41 In a supplementary submission, RVL submits that the fact that the agreed disqualification orders would result in a liability on Kavanagh and O'Brien ought not be relevant to the imposition of a penalty. This is so, it is contended, because of the effect of AR 177. The forfeiture and any repayments followed from the operation of the rules which the trainers as participants in the racing industry have bound themselves to. No authority was cited by RVL in support of its submission.

42 By contrast, Kavanagh and O'Brien relied on LR 6E(1)(c), which empowers the RAD Board, and the Tribunal, to 'give any judgment or decision or make such orders as in the RAD Board's opinion the justice of

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15 Tribunal reasons [492].
16 Ibid [362].
17 Ibid [304].

the case requires.' In addition, they highlighted that the financial impact on trainers of the disqualification of horses from races has been taken into account in similar cases, including *Darryl Blackshaw*[18] and *McDonough*,[19] where no penalty other than orders disqualifying the horses were imposed.

43 As a matter of principle, if a contravention has been deemed to enhance the performance of a horse, little or no weight might be given to the forfeiture of the trainer's share of prize money and the need to return prize money. However, where that is not the case, it is difficult to see any reason in principle why their circumstances should not be considered as part of the matrix of facts to be taken into account in determining penalty.

44 RVL's contention that the consequences of AR 173 and 177 cannot be taken into account in any way in determining penalty is at odds with the practice in other codes of racing. In the recent decision of *O'Brien v Harness Racing Victoria,* the RAD Board took account of the disqualification of the horse under the applicable rules and the need to return the prize money.[20]

45 In the event, it is not necessary for me to express any concluded view on this issue in this proceeding. This is because the amount of prize money to be forfeited, or repaid by the trainers is relatively small against the losses sustained to each trainer's stable and business. The financial impact of the charges, and these proceedings, on their respective businesses is substantial and very much greater than the trainer's share of prize money to be forfeited or repaid. Addition of the prize money to all of the other economic impacts and losses makes very little difference.

46 In its supplementary submission, RVL does not oppose the proper consideration of other financial detriment suffered by the trainers, including the consequential effect on their respective businesses. They note that the trainers may have a valid cause of action to recoup their loss and damage from Dr Brennan. However, it is not appropriate for me to speculate whether they have any real prospect of recovery of their losses in whole or in part from Dr Brennan or the clinic.

DECISION

47 In evaluating the factors to be taken into account in determining penalty, I am assisted by the analysis adopted in *McDonough's* case.[21] Dr Brennan's conduct falls into the first category. His positive culpability for offences under AR 175 was established before the RAD Board and affirmed by the Tribunal. He is the perpetrator responsible for administration of the prohibited substance.[22]

48 The circumstances place both Kavanagh and O'Brien in the third category.

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18 Racing Appeals and Disciplinary Board (Victoria) (29 April 2016).
19 [2008] VRAT 6.
20 Quoted in [2018] VCAT 189, [53].
21 See above [15].
22 Tribunal reasons, [369], [485], [663].

49 Senior Counsel for RVL did not disagree with the tripartite distinction, or submit that the present case was not a category 3 case under the *McDonough* classification. RVL contends that any penalty imposed ought be moderate, fair and just, but should exist. Kavanagh and O'Brien contend that the case is one where no penalty should be imposed at all.

50 As a case within the third category described in *McDonough's* case, there is little or no personal culpability, and it is reasonable to expect any penalty to reflect this fact. It is also important to uphold the integrity of the racing industry, and for the Tribunal to be seen to do so.

51 Taking into account the submissions made by the parties, and all of the considerations that they have urged, a fine should be imposed on each of the trainers, in a moderate amount. It is not appropriate that any period of suspension be imposed on either trainer. There are some differences between their respective positions, past record and the facts relating to them which I should also take into account. The amount of the penalty should make due allowance for the significant economic and other impacts that the trainers have sustained during these lengthy proceedings.

52 A fine of $4,000 will be imposed on Kavanagh. A total fine of $8,000 will be imposed on O'Brien, being a fine of $2,000 in relation to each of the four contraventions.

ANCILLARY ORDERS

53 Under AR 177 of the Rules, where a horse is brought to a racecourse and a prohibited substance is detected in any sample taken from it, it must be disqualified from the race in which it started that day.

54 The parties were agreed that orders should be made disqualifying each of:

a *Magicool* from Race 2 at Flemington racecourse on 4 October 2014;

b *Caravan Rolls On* from Race 5 at Flemington racecourse on 1 November 2014;

c *Bondeiger* from Race 7 at Flemington racecourse on 1 November 2014;

d *De Little Engine* from Race 1 at Ballarat racecourse on 22 November 2014; and

e *Bullpit* from Race 5 at Moonee Valley racecourse on 19 December 2014,

and that the placings be amended accordingly.

Justice Greg Garde AO RFD
President