

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

Mr DAVID KEATING

| | |
|-------------------------|---|
| Date of hearing: | 31 st October 2023 |
| Stewards Panel: | Ross Neal (Chair); Neil Finnigan and Paul Janes. |
| Present: | Mr David Keating |
| Rule: | Australian Rules of Racing 140 (1) (a) |
| Charge: | That on Wednesday 14 th September 2022 at Longford Racecourse being a licensed trainer who, having been requested by a Stipendiary Steward to supply a sample of his urine which was found, upon analysis, to contain the controlled drug methamphetamine, committed a breach of Rule 140 (1) (a) of the Australian Rules of Racing, and that you are thereby liable to the penalty or penalties which may be imposed upon you pursuant to the provisions of Rule 283 of the said Rules. |
| Plea: | Admitted |

1. Background.

- (a) On Wednesday 14th September 2022 Office of Racing Integrity Stewards conducted workplace drug testing at the Longford Training facility.
- (b) Mr Keating was one of the persons selected to be tested.
- (c) Mr Keating was initially subject to a saliva screening test.

- (d) The saliva screen demonstrated a non-negative result to amphetamine/methamphetamine.
- (e) Mr Keating was then required to provide a sample of his urine. This test being conducted by Office of Racing Integrity Stewards.
- (f) This sample was given the unique number A260285856.
- (g) This urine test also indicated the presence of amphetamine/methamphetamine.
- (h) Mr Keating was stood down from all horse safety sensitive activities from this date.
- (i) On Thursday 13th October 2022 Racing Analytical Services Limited (RASL) confirmed the presence of d-amphetamine and d-methamphetamine in sample number A260285856, being the urine sample provided by Mr Keating.
- (j) Mr Keating subsequently provided a clear sample.

2. Respondents Penalty Submissions

For his part Mr Keating readily accepts he made a regrettable choice in imbibing in an illicit substance, namely methamphetamine.

Mr Keating informs the Panel that he has taken significant steps to remedy himself of his issues, including seeking professional assistance and making changes to his lifestyle.

Mr Keating also submitted that as a consequence of a medical condition he has ceased training operations and is not currently involved with thoroughbred horses in any capacity. He is currently unlicensed.

3. Penalty

Turning to the matter of penalty the Stewards are cognisant of the following Sentencing Principles –

- (i) That penalties are designed to punish the offender for his/her wrongdoing. They are not meant to be retributive in the sense that the punishment is disproportionate to the offence, but the offender must be met with a punishment.
- (ii) That in a racing context it is very important that a penalty has the effect of deterring others from committing similar offences through the consideration of both general and specific deterrence.
- (iii) That penalties imposed upon those offending the prohibited substance rules should reflect the industry's disapproval of drugs being detected in those persons actively involved in the care and training of race horses.
- (iv) The need to rehabilitate the offender should also be factored into the outcome.

4. Contributory Factors

Mr Keating's has been cooperative with the Stewards throughout the process. He has admitted his wrongdoing and accepted full responsibility for his actions. Mr Keating's record demonstrates no previous breaches of the prohibited substances rules.

Importantly, we acknowledge Mr Keating's personal circumstances which we find are relevant with respect to penalty.

We note that subsequent to the adverse sample being provided Mr Keating has sought assistance for his addiction issues and this stands in his favour.

5. Penalty Discussion:

Historical penalty records demonstrate no previous breaches of AR 140(1)(a) in Tasmania, and few nationally. In consequence this panel has been required to establish a starting point without significant reliance on historical precedent.

When promulgating a starting point the panel has had regard to not only the sentencing principles detailed above, but also the seriousness of the offending; industry expectations; and the need to protect the industry from unnecessary risk.

However, in assessing a starting point the Stewards are mindful that when tested Mr Keating was handling a horse - he was not riding. Additionally, this occurred at a training centre – not on a race day.

Balanced against this is that the substance involved (methamphetamine) is a Class A drug and as such the penalty imposed must reflect the industry's concern with respect to the presence of this drug in horses racing.

Given all factors we determine that the starting point in this matter should be a suspension of Mr Keating's trainers licence for a period of four months.

In consideration of penalty the Stewards recognise that Mr Keating has not been active in the industry for some time and given all circumstances, particularly Mr Keating's personal circumstances, this absence from active industry participation will be considered time served.

6. Outcome

Mr Keating is suspended for a period of four months, with this penalty being wholly suspended for two years pending no further breaches of this, or similar rules. The effective dates of the suspension being 1st April 2023 to 31 July 2023.

The suspended component of the penalty holding Mr Keating accountable, and to encourage in him a sense of responsibility for his actions, and to deter him, and others from committing the same or similar offences.

In determining penalty, the Panel has had regard to the following:

- Mr Keating's plea of guilty to the charge at the earliest available opportunity and cooperation throughout the inquiry.
- The professional intervention sought.

- Mr Keating's disciplinary history, noting no prior breaches of a similar rule.
- the nature of the prohibited substance, being methamphetamine.
- the need to maintain the integrity of thoroughbred racing and to ensure a level playing field for all participants.
- The time served by Mr Keating when stood down prior to him providing a clearance sample.
- Mr Keating's personal circumstances.

Decision Date: 31st October 2023