

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

MR ROBERT J WALTERS

Date of hearing:	Wednesday 19 th June 2024
Stewards Panel:	Neil Finnigan (Chair); Gavin Griffin, Ebony Morice-Smith
Present:	Mr Robert J Walters
Witnesses:	Ms Carolyn Ellson, Mr Michael Castillo
Rule:	Australian Harness Racing Rules
Charge:	That Mr Robert J Walters did present to drive at the Launceston Pacing Club meeting on Sunday 12 th May 2024 when a screening saliva lick test on the night, indicating an irregularity and subsequent urine sample provided by yourself the following day, upon analysis was found to contain the prohibited anorectic substance <i>PHENTERMINE</i> , as described in the Australian Harness Racing (AHR) Rule 251(e), above the allowable threshold.
Plea:	Guilty
Penalty:	Eight(8) week suspension of drivers licence.

1. Background

- (a) The Respondent, Mr Walters is a licensed Harness Racing person, now based at Beauty Point, Tasmania.
- (b) Mr Walters was a Grade 'A' licenced Harness Racing Driver on the 12th May 2024.
- (c) Mr Walters was engaged to drive a number of horses at the Launceston Pacing Club meeting on Sunday 12th July 2024 for trainer Wayne Yole.

- (d) Mr Walters was subjected to a routine random saliva lick test.
- (e) Mr Walters was requested to supply a urine sample after the saliva lick test showed an irregularity, to which Mr Walters agreed.
- (f) Mr Walters was unable to provide a urine sample on the night, even after drinking a large amount of fluids.
- (g) Mr Walters became physically sick and was examined by the on-course medical staff.
- (h) Mr Walters was directed by Stewards to present to the Prospect offices of the Office of Racing Integrity (ORI) at 10am the next day, Monday 13th May 2024.
- (i) Mr Walters was informed he would be stood down from Harness Racing driving until an inquiry is held and until a clear sample is provided.
- (j) Mr Walters arrived at ORI at 9:45am and a urine sample was taken.
- (k) The sample was sealed and sent to the Racing Analytical Services Limited (RASL) with the unique specimen number of 301844.
- (l) On Wednesday 29th May 2024 Racing Analytical Services Limited (RASL) notified the Offices of Racing Integrity reporting that *Phentermine* had been detected in sample 301844, with the accompanying certificate of analysis numbered RS24/07168-B.
- (m) On Wednesday 5th June 2024 RASL advised the presence of *Phentermine* had been confirmed in the reserve portion of sample 301844.
- (n) On Wednesday, 19th June 2024 Mr Robert J Walters was formally charged with a breach of Australian Harness Racing Rule 251(e), with the particulars being that he did present to drive at the Launceston Pacing Club meeting on Sunday 12th May 2024 when a screening saliva lick test on the night, indicating an irregularity, and subsequent urine sample provided by him the following day, upon analysis was found to contain the prohibited anorectic substance *PHENTERMINE*, as described in the Australian Harness Racing (AHR) Rule 251(e), above the allowable threshold.
- (o) Mr Walters pleaded guilty to the charge.

2. Penalty Approach

- 2.1 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) In a harness 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) Penalties imposed upon those offending the substance abuse rules should reflect the industry's disapproval of these substances being detected in those performing duties which put at risk, both the health and wellbeing of other licence holders and standardbreds
- (iv) In determining what, if any penalty, that is to be imposed, the Stewards endeavour to reach a proportionate balance between: the public interest; the interests of the offender; the interests of the industry as a whole; the seriousness of the offending; and any aggravating/mitigating factors.

3. Respondents Penalty Submissions

- 3.1 Mr Walters submitted that he had taken the anorectic drug "Duromine" leading up to the race, a practice he had done for some time.
- 3.2 Mr Walters submitted the use of Duromine was solely to keep his weight as low possible as he believed it to be an advantage in Harness Racing.
- 3.3 Mr Walters stated that he was unaware that *PHENTERMINE* was a prohibited substance in harness racing.
- 3.4 Mr Walters on becoming aware, acknowledged his wrongdoing.

4. Penalty Discussion:

- 4.1 In approaching the matter of penalty, if any, to be imposed, the Panel have reflected on previous penalties imposed for breaches of substance abuse rules. These being both Tasmanian and Interstate decisions.
- 4.2 We are guided by penalties imposed for breaches of the substance abuse rules, and in particular, first-time offenders. Penalties for these breaches range from three(3) to five(5) month suspensions, and include the substance abuse of cannabis and methamphetamine, however we are also mindful of the analytical findings on this occasion.
- 4.3 However, on this occasion, Stewards see the use of *PHENTERMINE* is on the lower end of the scale of abuse.
- 4.4 Having regard to all circumstances, the Stewards believe that the correct starting point for this case, and most cases, be at the six(6) month suspension of licence.

5. Factors in Mitigation

5.1 In determining the appropriate penalty, the Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions. These being:-

- (a) Mr Walters has been fully cooperative throughout the ORI investigation.
- (b) Mr Walters' admission of the breach.
- (c) Mr Walters' previously clear record.
- (d) Mr Walters' clear signs of remorse.
- (e) The drug type, and its effects.
- (f) Harness Racing is Mr Walters' sole form of income.

6. Outcome

6.1 Having regards to all circumstances the Stewards make the following orders:-

- (a) Mr Walters to have his driver's licence suspended for eight(8) weeks
- (b) Mr Walters penalty be back dated to the 13th May 2023, as he had been stood down from that date.

7. Appeal

Mr Walters was advised of his right of appeal.

Decision Date: 19th June 2024