

## **STEWARDS DECISION**

### **OFFICE OF RACING INTEGRITY**

and

### **OLIVIA WEIDENBACH**

|                         |  |
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| <b>Date of hearing:</b> | 21 <sup>st</sup> June 2024   |
| <b>Stewards Panel:</b>  | Mr N Finnigan (Chair), Mr R Brown  |
| <b>Present:</b>         | Ms Olivia Weidenbach (Respondent)<br>Mr Ben Yole (Advocate)  |
| <b>Rule:</b>            | Australian Harness Racing Rules<br><br>AHR Rule190(1) reads: -<br><br><i>A horse shall be presented for a race free of prohibited substances.</i>  |
| <b>Charge:</b>          | Olivia Weidenbach, being the trainer of JUDES MY LIFE, did present the horse to race at the Tasmanian Trotting Club's meeting held on Sunday 7 January 2024, when a urine sample taken from JUDES MY LIFE, upon analysis was found to contain the prohibited substance <i>aminorex</i> . |
| <b>Plea:</b>            | Guilty   |
| <b>Decision:</b>        | \$2500 fine with \$1000 to be suspended for a period of 2 years pending a breach of section 12 of the AHR Rules.   |

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## 1. Background

- (a) The respondent, Olivia Weidenbach, is an B Grade licensed trainer under the Australian Rules of Harness Racing.
- (b) Ms Weidenbach is 22 years of age and has held a trainer's licence since November 2021.
- (c) JUDES MY LIFE was correctly entered for and presented to race in Race 4 at the Tasmanian Trotting Club's meeting on Sunday 7<sup>th</sup> January 2024.
- (d) JUDES MY LIFE placed 1<sup>st</sup> in the event.
- (e) JUDES MY LIFE started second favourite in the event with a starting price of \$3.50.
- (f) JUDES MY LIFE was routinely swabbed as winner of the event which was undertaken by Office of Racing Integrity Steward Ms T Canham. Ms Weidenbach presented the horse and witnessed the sampling process. The sampling process was not contested.
- (g) The collection of the sample was concluded at 7:24pm with the sample being allocated the unique number V819569.
- (h) On the 14<sup>th</sup> February 2024, Racing Analytical Services Limited (RASL) issued a Certificate of Analysis reporting that *aminorex* had been detected in sample V819569 taken from JUDES MY LIFE on the 7<sup>th</sup> January 2024.
- (i) RASL advised the reserve portion of the sample had been forwarded to Australian Racing Forensic Laboratory (ARFL) in NSW for referee analysis.
- (j) The outcome of the reserve sample was provided by ARFL on the 18<sup>th</sup> March 2024. ARFL confirmed the presence of *aminorex*.
- (k) On the 16<sup>th</sup> of April 2024, RASL confirmed testing of plants from the property where JUDES MY LIFE was stabled did contain the prohibited substance *aminorex*.
- (l) On the 6<sup>th</sup> June 2024, Office of Racing Integrity Chief Harness Steward issued a charge under the provisions of AHR Rule 190(1) which states:

***“A horse shall be presented for a race free of prohibited substances”***

- (m) Ms Weidenbach has not previously breached the prohibited substance rules.

## 2. Submissions of the Respondent

- 2.1 When asked to explain the irregularity, Ms Weidenbach submitted that she believed the findings had come about through the ingesting of weeds at the property she had kept JUDES MY LIFE.
- 2.2 Ms Weidenbach submitted that she was aware of the problem on the property and was negligent in her husbandry.

### **3. Penalty Approach**

#### 3.1 Sentencing Principles –

- 3.1.1 Penalties are designed to punish the offender for their wrongdoing. Penalties 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.
- 3.1.2 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.
- 3.1.3 Penalties imposed upon those offending the prohibited substance rules should reflect the industry's disapproval of drugs being detected in horses.

#### 3.2 Stewards Approach

- 3.2.1 The Stewards have resolved to approach the matter of penalty from the perspective of the desirability of consistency with previous penalties in dealing with similar offenders committing similar offences in similar circumstances.
- 3.2.2 We are guided in our approach to penalty by those imposed, not only in Tasmania, but also within other Australian jurisdictions.
- 3.2.3 With respect to this matter, Stewards have adopted a \$2500 fine as a starting point. This being consistent with penalties handed down for similar offences in Tasmania.

### **4 Respondents Penalty Submissions**

- 4.1 Ms Weidenbach submitted that her record be considered, having no prohibited substance violations recorded in her involvement in the Harness Racing Industry.
- 4.2 Ms Weidenbach submitted that the findings were as a result of unintentional ingesting of toxic weeds.
- 4.3 Ms Weidenbach submitted that the findings were unintentional but acknowledged the responsibility.

### **5 Penalty Discussion:**

- 5.1 The Prohibited Substance Rules impose an absolute obligation on trainers to ensure that they present their runners free of prohibited substances.

- 5.2 In consequence, trainers must take all reasonable steps, and must take proper care, always, to avoid presenting a horse which could give rise to an adverse test result.
- 5.3 Resultantly, where there is a breach of the drug rules, trainers must expect substantial penalties, because every time a racing animal is presented to race with a prohibitive substance in its metabolism, then the integrity of not only, as in this case, Harness Racing, but racing in general is compromised.
- 5.4 In this matter we approach the imposition of penalty on the basis that the *aminorex* finding was not intentional. However, as admitted by Ms Weidenbach, the onus under AHR Rule 190(1) is on the trainer to present a horse free of any prohibited substance, the rule is absolute. Hence the respondents' admission of the breach.
- 5.5 In fixing penalty, we have regard to the need to uphold the integrity of racing, not only in Harness Racing, but in all codes of racing. Penalty precedents have long been at the forefront of disciplinary decision-making, albeit with each case being decided on its own merits. It is wrong to suggest otherwise. Accordingly, the penalty that is imposed upon the respondent must be at a level that protects the public by encouraging the highest of standards of professional behaviour and that the respondent is dealt in a fair and just manner.

## **6 Factors in consideration of penalty.**

In determining the appropriate penalty, the Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions.

- 6.1 Ms Weidenbach has admitted a charge of presenting JUDES MY LIFE to race with *aminorex* in the horse's system.
- 6.2 Stewards believe it to be most probable that Ms Weidenbach did not intentionally present JUDES MY LIFE to race with *aminorex* in the horse's system and thereby accept that the findings were most likely brought about by the ingesting of toxic weeds which were proven to be found on the property.
- 6.3 However, every time a horse is presented to race with a prohibitive substance in its metabolism then the integrity of not only Harness Racing but racing in general is compromised.
- 6.4 The Stewards have identified no aggravating factors which would necessitate an increase from the starting point.
- 6.5 Stewards recognise the following factors in mitigation, and which are relevant to penalty discussions.
  - (a) Ms Weidenbach's cooperation throughout the investigation.
  - (b) Ms Weidenbach's guilty plea.

- (c) Ms Weidenbach's record since being licenced as a trainer. During this time, Ms Weidenbach has not recorded any offences of presenting a horse to race while not free of prohibited substances.
- (d) Stewards also considered Ms Weidenbach's personal circumstances believe it to be most probable that the aminorex finding was not intentional, and as a result of ingesting toxic weeds.
- (e) Stewards also considered Ms Weidenbach's age.

Having considered all circumstances, Stewards assess that some relief be applied to the starting penalty of a \$2500 fine.

## **7 Outcome**

Ms Weidenbach is to be fined \$2500 with \$1000 to be suspended for a period of 2 years pending a breach of section 12 of the AHR Rules.

## **8 Disqualification Of Horse**

It is mandatory that if a horse competes in a race and is found to have competed with a prohibited substance in its system that it must be disqualified from that race.

AHR Rule195 reads ....

*“A horse which has been presented for a race shall be disqualified from it if blood, urine, saliva, or other matter or sample or specimen taken from the horse is found to contain a prohibited substance”.*

As a consequence, the placings for Race 4 at the Tasmanian Trotting Club's meeting on the 7<sup>th</sup> January 2024 are to be adjusted to reflect the disqualification of JUDES MY LIFE.

## **9. Appeal**

Ms Weidenbach was advised of her right of appeal.

**Decision Date:** 21<sup>st</sup> June 2024

