

STEWARDS INQUIRY DECISION

Date of Decision:	31 st October 2022
Stewards Panel:	R Brown (Chairman), J Gleeson, and B Free
Name:	Miss Bianca Heenan
Track/Race:	Devonport Harness Racing Club, Race 5, 11 th Feb 2022
Rule no:	AHRR 190
	<ol style="list-style-type: none">(1) A horse shall be presented for a race free of prohibited substances.(2) If a horse is presented for a race otherwise than in accordance with sub-rule (1) the trainer of the horse is guilty of an offence.
Charge(s):	Miss Bianca Heenan, the trainer of MICTON MOUSE presented that horse to compete in Race 5 at the Devonport Harness Racing Club on 11 th February 2022, Race 5, over 2297m. A post-race urine sample was taken from MICTON MOUSE and upon analysis was found to contain AMPHETAMINE, 4-HYDROXYAMPHETAMINE METHAMPHETAMINE and 4-HYDROXYMETHAMPHETAMINE.
Prohibited Substance:	AMPHETAMINE, 4-HYDROXYAMPHETAMINE METHAMPHETAMINE and 4-HYDROXYMETHAMPHETAMINE
Inquiry Decision:	\$5,000 fine, Six month suspension wholly suspended for a period of two years.

FACTS:

On 24th March 2022, Racing Analytical Services Limited reported that a post-race swab sample taken from MICTON MOUSE at the Devonport Harness Racing Club on 11th February 2022, upon analysis, was found to contain the prohibited substance AMPHETAMINE, 4-HYDROXYAMPHETAMINE METHAMPHETAMINE and 4-HYDROXYMETHAMPHETAMINE.

The presence of AMPHETAMINE, 4-HYDROXYAMPHETAMINE METHAMPHETAMINE and 4-HYDROXYMETHAMPHETAMINE was also detected in the reserve portion of the sample sent to the Australian Racing Forensic Laboratory in New South Wales.

INQUIRY:

On Monday 31st October 2022 Office of Racing Integrity Stewards inquired into the reported irregularity regarding AMPHETAMINE, 4-HYDROXYAMPHETAMINE METHAMPHETAMINE and 4-HYDROXYMETHAMPHETAMINE having been detected in a post-race urine sample taken from MICTON MOUSE on 11th February 2022.

Stewards heard evidence tendered by trainer, Miss Heenan and Dr David Batty (Laboratory Director) at Racing Analytical Services Ltd.

After considering the evidence, Miss Heenan was charged pursuant to AHRR 190(1) for presenting MICTON MOUSE to compete in an event when not free of a prohibited substance.

Miss Heenan admitted the charge.

PENALTY APPROACH

The prohibited substance rules impose an absolute obligation on trainers and persons in charge of horses to ensure they are presented to race free of prohibited substances, regardless of how the prohibited substance came to be present in the animal. A breach of the prohibited substance rule does not require it to be established how the substance came to be in the horse's system.

While it is not uncommon for the source of the prohibited substance to be unknown, it seems, in the present case, that the adverse result, more likely than not, came about because of a third-party contamination. The Stewards accept that this was the most likely source of MICTON MOUSE returning an adverse sample result.

However, while contamination may be the reason, there nonetheless rests with the trainer, an absolute onus, to ensure horses are presented free of prohibited substances. Trainers are required, and expected, to take the utmost care to ensure that the onus is met and, if not, consequences must follow to ensure the integrity of harness racing is upheld.

This Stewards Panel are concerned that Miss Heenan was negligent in not foreseeing that a real risk of the contamination existed.

PENALTY

Turning to the matter of penalty, the Stewards are mindful that penalties are designed to punish the offender for his/her wrongdoing. They are not meant to be retributive in the sense the punishment is disproportionate to the offence, but the offender must be met with punishment.

In the racing context it is extremely important that a penalty has the effect of deterring others from committing similar offences.

In addition, a penalty should also reflect the industry's disapproval of the type of offending in question.

When looking at the appropriate penalty to be imposed the Stewards are mindful of general penalties imposed for breaches of the prohibited substances rules in Tasmania. To this end the panel are guided by *ORI vs. R* where the penalty imposed was a fine of \$3,000.00. The substance detected in this matter being a commonly prescribed human medication- Hydrochlorothiazide. The Stewards determining in this matter that the adverse result, more likely than not, was transference from a stablehand to a horse.

This Stewards Panel believes that this matter best reflects the starting point to be employed in this matter.

However, unlike *R*, Miss Heenan has a previous conviction under this rule. Moreover, this previous conviction also related to a commonly used human (illicit) drug being detected in a horse in her care. In consequence the Stewards believe that this is a significant aggravating factor and resultantly we have applied a \$2,000 uplift from the starting point.

We further believe that a period of suspension of Miss Heenan's licence should also form part of penalty calculations. This representative of the Stewards concerns that two adverse sample results have the same most likely cause.

In mitigation the Stewards recognise and provide relief for Miss Heenan's admission of the breach, her co-operation throughout the currency of the investigation. We express this relief by staying the period of suspension

However, balanced against this, is the reputational damage done to harness racing emanating from this horse racing positive. While this may well have been an unintentional contamination it cannot not be dealt with lightly, nor outside industry norms or expectations. In other words, to simply impose a nominal penalty because of there being no intent would damage the industry's reputation. Resultantly the penalty imposed must be meaningful.

We also note that while, in recent years, there have been numerous contamination type cases in all racing codes throughout the nation, there

has not been, as far as we are aware, been a single instance where the same trainer has breached the prohibited substance rules where contamination was the most likely source.

Considering all factors, the Stewards determine that Miss Heenan be fined the sum \$5,000.00.

In addition Miss Heenan's trainers licence is suspended for a period of six months with this suspension being wholly suspended for a period of two years on condition that no further breaches of this rule occur.

OUTCOME:

Miss Heenan is fined \$5,000.00 Miss Heenan was also suspended for a period of six months with this suspension being wholly suspended for a period of two years on condition that no further breaches of this rule occur.

DISQUALIFICATION OF MICTON MOUSE

Acting under the provisions of AHRR195 which 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'

MICTON MOUSE is disqualified from Race 5 at the Devonport Harness Racing Club on 11th February 2022 and placings amended accordingly.

Miss Heenan was advised of her right of appeal.