8 February 2021

**DECISION**

**RACING VICTORIA**

**and**

**SAMANTHA WATERS**

**Date of hearing:** 14 January 2021

**Panel:** Judge John Bowman (Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Dion Villella appeared on behalf of the Stewards.

Ms Samantha Waters represented herself.

**Charge:** Australian Rule of Racing (“AR”) 136(1) states:

Unless otherwise stated in these Australian Rules, the following substances and/or their metabolites, artefacts and isomers are specified as banned substances in riders when detected in a urine sample at a concentration above the respective threshold level:

1. lysergic acid diethylamide (LSD) (0μg/L);
2. all barbiturates (0μg/L);
3. all Cannabinoids, including but not limited to:
4. 11-Nor-delta-9-tetrahydrocannabinol-9-carboxylic acid (15ug/L);
5. synthetic cannabinoid analogues and/or their metabolites (such as JWH-018, JWH-073 and HU210).
6. all diuretics (0μg/L);
7. probenecid (0μg/L);
8. alcohol (at a blood alcohol concentration in excess of 0.02% (that is, 20 milligrams of alcohol in every 100 millilitres of blood) on a breath analysing instrument);
9. all stimulants, including but not limited to:
10. amphetamine (150μg/L);
11. methylamphetamine (150μg/L);
12. methylenedioxyamphetamine (MDA) (150μg/L);
13. methylenedioxyethylamphetamine (MDEA) (150μg/L);
14. methylenedioxymethylamphetamine (MDMA) (150μg/L);
15. methylphenidate (0μg/L);
16. modafinil (0μg/L);
17. cocaine (100μg/L);
18. ephedrine (10,000μg/L);

(Stimulants which are specifically excluded are: levo amphetamine; levo-methylamphetamine; phenylpropanolamine; pseudoephedrine.)

1. all anorectics, including but not limited to:
2. phentermine (500μg/L);
3. diethylpropion (0μg/L);
4. sibutramine (0μg/L).
5. all opiates and opioids, including, but not limited to:
6. morphine (0μg/L, save as specified in subrule (2));
7. codeine (0μg/L, save as specified in subrule (2));
8. oxycodone (0μg/L);
9. fentanyl (0μg/L);
10. alfentanil (0μg/L);
11. pethidine (0μg/L);
12. methadone (0μg/L);
13. heroin (0μg/L);
14. monoacetylmorphine (0μg/L);
15. hydromorphone (0μg/L);
16. buprenorphine (0μg/L).

(Opiates and opioids which are specifically excluded are: dihydrocodeine; dextromethorphan; pholcodine; propoxyphene; tramadol.)

1. all dissociative anaesthetics and related substances, including but not limited to:
2. ketamine (0μg/L);
3. phencyclidine (0μg/L);
4. tiletamine (0μg/L).
5. gamma-hydroxybutyrate (GHB) and pro-drugs of GHB (1,4-butanediol: gammabutyrolactone) (10,000μg/L);
6. benzylpiperazine (500 μg/L) and phenylpiperazine (0μg/L) and their derivatives (0μg/L);
7. tryptamine derivatives (0μg/L),(e.g. dimethyltryptamine; alphamethyltryptamine; hydroxydimethyltryptamine and related substances);
8. all benzodiazepines, including but not limited to:
9. diazepam (200μg/L);
10. nordiazepam (200μg/L);
11. oxazepam (200μg/L);
12. temazepam (200μg/L);
13. alprazolam (100μg/L, as alpha-hydroxyalprazolam);
14. clonazepam (100μg/L, as 7-aminoclonazepam);
15. flunitrazepam (100 μg/L, as 7-aminoflunitrazepam);
16. nitrazepam (100μg/L, as 7-aminonitrazepam);
17. bromazepam (0μg/L);
18. clobazam (0μg/L);
19. flumazenil (0μg/L);
20. lorazepam (0μg/L);
21. midazolam (0μg/L);
22. triazolam (0μg/L); and substances with similar structure or pharmacological activity – benzodiazepine receptor agonists (zalplon; zolpidem; zopiclone).

AR 139(1)(a) states:

A rider breaches these Australian Rules if a banned substance under AR 136(1) is detected in a sample taken from the rider.

**Particulars of charge:** Racing Victoria (RV) stewards inquired into a report from Racing Analytical Services Limited (RASL) that a urine sample provided by licensed track rider Ms Samantha Waters at Caulfield Trackwork on 21 December 2020, contained a banned substance under Australian Rule of Racing (AR) 136(1). Ms Waters was found guilty of a charge under the provisions of AR139(1)(a) to having provided a sample of her urine, which was found on analysis to contain a banned substance. Ms Waters’ licence to ride trackwork was suspended for a period of four months, to commence 23 December 2020, the date on which she was stood down from all riding and horse handling duties, and to conclude at midnight on 23 April 2021. In assessing penalty, stewards took into account Ms Waters’ personal circumstances and all other relevant factors. Stewards ordered that Ms Waters is permitted to resume horse handling duties once she has provided a sample that is clear of any banned substance under AR136(1).

**Plea:** Not guilty

**DECISION**

Ms Samantha Waters, you have pleaded “not guilty” to a breach of Australian Rule of Racing (“AR”) 139(1)(a), which in turn relates to AR 136(1). You are a registered stable hand.

The factual basis of the charge is that a urine sample taken from you during a stable visit by Stewards at Caulfield on 21 December 2020 proved positive to cocaine. That is putting the situation at its simplest.

You have always denied that you had used cocaine at that immediate time or in the months leading up to the Stewards visit. You admitted to being in the company of people who were using it at a pub on the preceding Saturday, 19 December 2020, but denied using it yourself then or at any time immediately preceding this.

However, at all times you have had no legal representation and have been in no position to challenge the validity of the testing procedures or the accuracy of the findings. You called no evidence before us on the issue of whether the charge has been made out or as to accuracy or reliability of the testing procedures. Your basic position could be summarised as “Look, I wasn’t using. Foolishly, I had been in the company of people who were. However, I cannot challenge the scientific findings”. In other words, you maintained your innocence, but could not call or put forward evidence, which, in any way, refutes the analytical findings.

In the circumstances, we find the charge proven. It was explained to you as to the procedure. When you made your position quite clear, we moved directly onto a discussion of penalty.

You are aged 23. You have a partner, who has a 5 year old child. You have an estranged ex-partner who is hostile to you and who you suspect may have had some role in what occurred.

In any event, you have always been involved in the thoroughbred racing industry. At the age of 17, you moved from your native New Zealand to Victoria. You commenced immediately as a trackwork rider and stable hand for Mr Mick Price at Caulfield and have remained with him thereafter. You also do some riding for Mr Lloyd Kennewell.

We note that you wasted no time in telling Mr Price and Mr Kennewell all details concerning the charge laid against you, which to your credit. We accept that each continues to support you fully. Your aim is to become licenced as an assistant trainer. You live in rented premises and, whilst it is not entirely clear, your financial situation does not appear to be particularly sound. You are a full time stable hand and trackwork rider. You have no other income. There are no prior offences of any kind alleged against you.

Obviously, the work done by Stewards in relation to racing employees and prohibited substances is most important. People whose judgement may be affected by the use of such substances should not be with thoroughbred horses, particularly as riders.

A period of suspension is inevitable. At first instance, the Stewards imposed a penalty of 4 months suspension commencing 23 December 2020. We are reducing that penalty to a minor degree. That is despite your plea of not guilty. However, you in no way challenged the scientific findings. The case was conducted as the equivalent of a guilty plea. Given your background and the circumstances in which you find yourself and your consistent and ongoing employment with Mr Price, as well as your employment with Mr Kennewell, we are of the opinion that your period of suspension should terminate on 5 April 2021. The appeal against penalty is upheld and the period of suspension will terminate as at 12:01am on Monday, 5 April 2021.

Kathleen Scully  
Acting Registrar, Victorian Racing Tribunal