

**RACING APPEALS TRIBUNAL
QUEENSLAND
NOTICE OF DECISION**

APPEAL NO: RT005-09
DATE: 5 May 2009
APPELLANT: Wayne William Cuddihy
RESPONDENT: Queensland Racing
APPEARANCES: Wayne William Cuddihy on his own behalf and Mr W Birch, steward for Queensland Racing

REASONS

Mr Leo Williams AO – Chairman

Mr Brockwell Miller – Deputy Chairman

Mr Dennis Standfield - Member

On 23 February 2009 at the Gold Coast Turf Club some 65 track riders present at the Club were instructed to present themselves for the purpose of providing a sample of urine. Mr Wayne Cuddihy the appellant in this matter was one of those riders. The sample that he provided was found to have present in it a prohibited substance at a time when he had been riding track work. He is a licensed track work rider and he was charged under AR81 which reads:

Any rider commits an offence and may be penalised if –

- (a) A sample taken from him is found upon analysis to contain the presence of a substance banned by AR.81B.*

It is not necessary to go into the history of the substance being found in the track work rider's system. Suffice to say this appeal has been lodged against the severity of penalty imposed upon him.

Mr Cuddihy had attended a music festival on the previous Saturday at the Coast and admitted to the consumption of Ecstasy. That substance showed in his urine sample on testing and the stewards determined that it was irrelevant for the purposes of penalty to identify whether the level of concentration was high or low other than that such level exceeded the threshold allowed under the relevant Rules of Racing and the protocols published thereunder. Mr Cuddihy pleaded guilty and was disqualified for a period of nine months which was reduced to six months on the condition that he undertook a drug rehabilitation course.

In his appearance before this Tribunal Mr Cuddihy confirmed that his main occupation was that of a track work rider and his only other income was from some part-time employment in a butcher shop. His concerns are that he will not be able to meet his commitments and will in all probability have to cease his involvement in the racing industry if this penalty is to be maintained and he has asked this Tribunal to reduce the penalty to facilitate his wishes in that regard.

The stewards have embarked upon a strategy to eliminate the use of recreational drugs in jockeys, track work riders and all other persons associated with the Racing Industry particularly of those persons who are involved in the riding and handling of thoroughbred racehorses. It was for these reasons that the stewards imposed a disqualification of effectively six months identifying that the industry does not want persons in the industry when affected by drugs or alcohol.

The Tribunal has on previous occasions identified that it is necessary to act reasonably when imposing penalties and in support the stewards provided information as to similar type penalties that had been imposed by stewards outside Queensland. The most severe appear to be those imposed in New South Wales which can in certain instances exceed 12 months disqualification. It is therefore not, in this Tribunal's opinion, appropriate that it embark on a total rehearing of all of the issues other than to confirm that the stewards have acted reasonably and that the stewards

have obviously taken into account the representations made by the appellant in the early stages of the Inquiry as to the appellant's work history and future in the industry.

The Tribunal considers the penalty to be appropriate. It is not appropriate, in the opinion of this Tribunal, to upset the penalty and the appeal is therefore dismissed and the deposit is forfeit.

Mr Leo Williams AO

Mr Brockwell Miller

Mr Dennis Standfield
