

**RACING APPEALS TRIBUNAL
QUEENSLAND
NOTICE OF DECISION**

APPEAL NO: RT006-09
DATE: 5 May 2009
APPELLANT: Leigha Newham
RESPONDENT: Queensland Racing
APPEARANCES: Leigha Newham on her 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. Ms Leigha Newham the appellant in this matter was one of those riders. The sample that she provided was found to have present in it a prohibited substance at a time when she had been riding track work. She is a licensed track work rider and she 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 her.

Ms Newham had attended a music festival on the previous Saturday at the Coast at which she was drinking and sharing drinks with her friends. She did not specifically admit to taking Ecstasy on this occasion although she had indicated to have taken it on some previous occasions and the pathology report is evidence of its presence in her system when tested on the Monday following the music festival. That substance showed in her 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. Ms Newham pleaded guilty and was disqualified for a period of six months.

In her appearance before this Tribunal Ms Newham confirmed that her main occupation was that of a track work rider and her only other income was from working in the stables of her mother one of the leading trainers of the Gold Coast. The appellant is 23 years of age and undertakes a University course and has full-time employment with a valuation company. As part of her stable duties she is also mentor to another young girl who is in need of assistance.

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
