



INQUIRY INTO APPRENTICE JOCKEY THOMAS SHERRY'S BREACH OF RACING NSW COVID-19 POLICIES AND NSW HEALTH ORDERS.

Racing NSW Offices
Druitt Street
Sydney
(by Video Conference)

23 September 2021

Stewards: M F Van Gestel (Chairman)
S G Railton
C L Albrecht

Racing NSW Stewards today conducted an inquiry into apprentice jockey Thomas Sherry breaching Racing NSW COVID-19 Policies and Protocol's and NSW COVID-19 Health Orders. Evidence today was taken from Thomas Sherry and his master licensed trainer Mr Mark Newnham. App. Sherry and Mr Newnham were assisted by solicitor Mr W Pasterfield.

Charges - Thomas Sherry

1. *AR 228 Conduct detrimental to the interests of racing.*

Details of the charge being after displaying a COVID-19 like symptom on the morning of Tuesday 14 September 2021 he obtained a COVID-19 test under the advice of his master Mr Newnham, and then attended trackwork on 15 September 2021 without having obtained his test result. Later on 15 September 2021 App. T Sherry's COVID-19 test result returned positive. Such conduct being in breach of Racing NSW COVID-19 policies and NSW Health Orders and being prejudicial to the interests of racing.

Plea: Guilty

2. *AR 233 Breach of Racing NSW Policy*

Details of the charge being after displaying a COVID-19 like symptom on the morning of Tuesday 14 September 2021 he obtained a COVID-19 test under the advice of his master Mr Newnham, and then attended trackwork on 15 September 2021 without having obtained his test result. Later on 15 September 2021 App. T Sherry's COVID-19 test result returned positive. Such conduct being in breach Racing NSW COVID-19 policies.

Plea: Guilty

Penalty

Stewards considered the following matters in respect to penalty.

1. Guilty Plea at earliest opportunity and contrition displayed.
2. Personal and professional circumstances.
3. Good record.
4. Stewards were satisfied that the breaches were not intentional breaches or a wilful disregard to the policies. Rather that App. Sherry had failed to act diligently by informing himself of the policies set by Racing NSW and NSW Health Orders.
5. Principles applied by Stewards when issuing penalties as a protective order.
6. Relevant circumstances of this case, including the symptom he had was not uncommon for him to experience during his weight loss regime.

App. Sherry's permit to ride in races was suspended for a period of 4 months for both offences, reduced from 6 months for his guilty plea and other objective circumstances. Stewards determined that both penalties were to be served concurrently, backdated to commence on 15 September 2021, the day App. Sherry isolated, and to expire on 15 January 2022.

Charge - Mark Newnham

1. AR 227 Negligence which led to a breach of the Rules

Details of the charge being that after advising App. Sherry to obtain a COVID-19 test on morning of Tuesday 14 September 2021, he negligently failed to enquire with apprentice Sherry as to whether he had undertaken a COVID-19 test and/or had received his COVID-19 test result and/or instruct apprentice Sherry to remain isolated until such time he received his COVID-19 test result as he was displaying a COVID-19 like symptom. Such negligence allowed App. Sherry to breach AR233.

Penalty

Stewards considered the following matters in respect to penalty.

1. Guilty Plea at earliest opportunity and contrition displayed.
2. Personal and professional circumstances.
3. Good record.
4. Principles applied by Stewards when issuing penalties as a protective order.
5. Relevant circumstances of this case, including Mr Newnham was preparing for a Stewards inquiry being conducted on Tuesday 14 September 2021.

Mr Newnham was fined \$18,750, reduced from \$25,000 for Mr Newnham's guilty plea.

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Relevant Rules

AR 227 Breaches of the Rules

Without limiting any other powers, a PRA or the Stewards may penalise any person who:

- (a) commits any breach of the Rules, or engages in conduct or negligence which has led or could have led to a breach of the Rules;*

AR 228 Conduct detrimental to the interests of racing

A person must not engage in:

- (a) conduct prejudicial to the image, interests, integrity, or welfare of racing, whether or not that conduct takes place within a racecourse or elsewhere.*

AR 233 Other misconduct offences

A person must not:

- (a) breach a policy, regulation or code of practice published by Racing Australia or a PRA;*

**M F VAN GESTEL
CHAIRMAN OF STEWARDS
GENERAL MANAGER - INTEGRITY**