



INQUIRY INTO AN INVESTIGATION CONDUCTED BY RACING NSW INVESTIGATORS AND STEWARDS AT THE STABLES OF LICENSED TRAINER MR JAMES THOMSEN AND THE SUBSEQUENT SUPPLY OF A URINE SAMPLE BY MR THOMSEN.

**RNSW Offices**  
**Druitt Street**  
**Sydney**

**3 March 2020**

**Stewards: M F Van Gestel (Chairman)**  
**C L Albrecht**

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Racing NSW Stewards today continued an inquiry opened on 24 December 2019 relative to a report from Racing NSW Senior Investigator Ms J Johnstone in respect to a stable inspection conducted at the Hawkesbury stables of trainer Mr James Thomsen on the morning of 23 December 2019.

Evidence today was taken from Mr Thomsen, who was assisted by solicitor Mr W Pasterfield, Ms Johnstone and Stipendiary Steward Mr J Earl. The evidence on 24 December 2019 established that an inspection of Mr Thomsen's unlocked medication cabinet located in his feed and tack room detected a device used to administer illegal human substances. Mr Thomsen was directed to provide a sample of his urine under the provisions of AR22(1)(h). After being charged with improper conduct under AR228(b) and Mr Thomsen's licence being suspended under AR23, the inquiry was adjourned to allow analysis to be conducted by the Australian Racing Forensic Laboratory of the drug device and two samples provided by Mr Thomsen.

## **Charges**

Mr Thomsen today was charged with the following offences under the Rules of Racing.

### **1. Charge 1 – AR228(b) Improper Conduct**

Having in his possession at his stables on 23 December 2019 drug paraphernalia which was found to be present in his unlocked treatment cabinet.

***Plea: Guilty***

***Penalty: 3 Months Disqualification reduced from 5 months for guilty plea.***

### **2. Charge 2 – AR139(1)(b) Substituting a Urine Sample**

Supplied a substitute urine sample at the Hawkesbury Racecourse on the morning of 23 December 2019, in that he substituted the sample with a liquid designed to replicate a urine sample.

***Plea: Guilty***

***Penalty: 9 Months Disqualification reduced from 12 months for guilty plea.***

### **3. Charge 3 – AR139(1)(a) Provided a Sample Containing a Banned Substance**

Provided a sample of his urine at the Hawksbury Racecourse on 23 December 2019 that was found to contain substances banned by AR137(1)(e).

***Plea: Guilty***

***Penalty: 6 months disqualification reduced from 9 months for guilty plea.***

### **4. Charge 4 – AR232(i) False Evidence**

On 23 December 2019 and 24 December 2019, he provided evidence at an investigation and inquiry that was false in relation to the ownership of the drug device and the provision of a substitute sample.

***Plea: Guilty***

***Penalty: 9 months disqualification reduced from 12 months for guilty plea.***

### **Penalty**

The Stewards have considered the following matters when determining penalty.

1. Mr Thomsen's personal circumstances
2. His guilty plea
3. Previous offence for breach of AR139(1)(a)
4. Co-operation with Stewards at today's inquiry.

Further the general principles when considering penalty were taken into account.

5. What message is to be given to this individual to not only ensure that in the future this type of conduct is not repeated, but to also ensure that there is an appropriate penalty imposed to indicate the response of the community to integrity and welfare issues.
6. What general message is required to be sent to the community at large to indicate to those who might be likeminded to engage in such conduct, what the likely consequences are, and, secondly, to indicate to the broader community who are not likely to engage in the type of conduct that, should it be detected, they, whether they be wagerers or people just generally interested in the individual code, will know that it is operating at the highest possible standards.

The cumulative total of Mr Thomsen's disqualification is a period of 2 years and 3 months. Having regard to charges 2 and 3 having commonality, the Stewards determine that the penalties for charges 2 and 3 are to be served concurrently. Accordingly, Mr Thomsen is disqualified for a period to commence on 24 December 2019, the day his licence was suspended and to expire on 24 September 2021. Mr Thomsen was advised that under the provisions of AR139(4) he must supply a sample that is free from any banned substance before being licenced.

### **Relevant Rules**

#### ***AR 228 Conduct detrimental to the interests of racing***

*A person must not engage in:*

- (b) misconduct, improper conduct or unseemly behaviour;*

## **RACING NSW – STEWARDS REPORT**

### **AR 139 Offences where riders use banned substances**

- (1) *A rider breaches these Australian Rules if:*
- (a) *a banned substance under AR 136(1) is detected in a sample taken from the rider;  
or*
  - (b) *the rider refuses or fails to deliver a sample as directed by the Stewards, tampers with, adulterates, alters, substitutes, or in any way hinders the collection of, a sample or attempts to do any of those things.*
- (4) *If a rider incurs a penalty or is prevented by the Stewards from riding under this rule, the rider cannot resume riding until the period of the penalty has expired and a sample from the rider free of any banned substance under AR 136(1) has been delivered, as directed by the Stewards.*

### **AR 232 Failure to observe processes and directions of PRAs or Stewards**

*A person must not:*

- (i) *give any evidence at an interview, investigation, inquiry, hearing and/or appeal which is false or misleading.*

**M F Van Gestel**  
**Chairman of Stewards**  
**General Manager - Integrity**