



**INTERNAL REVIEW DECISION**

(Internal Review Decision Notice in response to an Application for Internal Review)

**PART 1: Details of Internal Review**

<b>Internal Review Number:</b>	Internal Review 0077-18
<b>Applicant's Name:</b>	Peter Bradford

**PART 2: Decision History**

<b>Original Decision:</b>	Breach of Rule 81A(1)(a) of the Australian Rules of Racing
<b>Original Decision Makers:</b>	D Aurisch, M Knibbs, E Barron
<b>Date of Original Decision:</b>	31 July 2018
<b>Internal Review Decision:</b>	Original decision of charge and penalty confirmed - Four (4) month disqualification
<b>Internal Reviewer:</b>	Mr Kane Ashby, Queensland Racing Integrity Commission
<b>Date of Internal Review Decision:</b>	31 August 2018

**PART 3: Summary of Internal Review Application**

The Applicant, Mr Peter Bradford, is a licensed trackwork rider within the thoroughbred racing industry in Queensland. The Applicant was charged pursuant to Australian Rule of Racing 81A(1)(a) as a result of the Applicant providing a sample of urine to stewards at the Toowoomba Turf Club on 26 May 2018 which, upon analysis, was found to contain a substance banned under AR81(B), namely Methamphetamine.

Australian Rule of Racing 81A(1)(a) states:

*"(1) Any rider commits an offence and may be penalised if -*

*(a) a sample taken from him is found upon analysis to contain a substance banned by AR.81B;*

At the stewards' inquiry conducted on 31 July 2018, the Applicant was found guilty of the charge pursuant to Australian Rule of Racing 81A(1)(a).

In determining penalty, the stewards took into account the submissions made by the Applicant regarding his personal circumstances and the stewards were mindful that the Applicant had been stood down since 26 May 2018. The stewards also recognised the serious nature of the substance and the negative impact matters such as this have on the image of the sport.

The stewards subsequently disqualified the Applicant for four (4) months for the breach of Australian Rule of Racing 81A(1)(a) to commence on 31 July 2018 and expire at midnight on 30 November 2018.



The Applicant sought a review of the penalty and submitted the following in support of his Application:

1. A Letter from a Medical Review Officer Vern Madden concerning the positive sample

*"Dear Mr Bradford,*

*You have asked me in my professional capacity as a Medical Review Officer to comment on the drug test that was obtained by the Queensland Racing Integrity Commission. This test was obtained on Saturday 27/05/18 and you supplied me with a photograph of the Pro-Screen Drugs of Abuse Cup. I noted something curious on the result. This it was a single MET non-negative. (Please note that an on-site test cannot be a positive, it is rather termed a non-negative until it has been confirmed at the laboratory).*

*I state this is curious because the AMP or amphetamine was a negative. There is clearly a line visible on the AMP section of the test indicating a negative.*

*The metabolism of methamphetamine in the body is that it is changed very rapidly into the active substance amphetamine. Generally this would occur within minutes of the use of the drug. Therefore in the great majority of cases we would see not just an MET non-negative but also an AMP non-negative, the exception if Methamphetamine was used within minutes the test being undertaken.*

*You provided me with the Racing Analytical Services (RASL) result. This showed the presence of D-Methamphetamine and only D-methamphetamine. This is not to say nothing else such as an Amphetamine was detected but it is to say it was not reported. A point I find again curious. On the available evidence it would be my opinion that the urine sample you undertook has been spiked by someone using Methamphetamine (ice or speed). Having said this, as stated above, it is possible that RASL has detected amphetamine but not reported it.*

*I would thus suggest that you request a full report including, in particular, whether or not there was any Amphetamine detected at any level on the LCMS from R.A.S.L. This would allow me to determine if my opinion is correct."*

2. Questions from the Applicant in relation to the Testing of the sample

*"Dear Sirs/Madams,*

*I would appreciate answers to the following questions I also request that such answers be supplied in writing.*

*A*

1. *Who interpreted the result on behalf of QIRC to determine it was methamphetamine use on my part?*
2. *What qualification does that person hold in the interpretation of drug urine test results?*
3. *Where is the report from that person that says that I used methamphetamine?*

*B*

1. *With regards the collection of my specimen, did the collection comply with ANZS4308/2008, specifically under Section 2.2.4, Chain of Custody? Did the collection comply with the Chain of Custody requirements under parts (a) to (h) of that sub-section?*



2. Did the collection conform with Section 2.2.5 - Access? Were any persons not authorised by the collection agency permitted in any part of the collecting site where the urine specimen was collected and stored?

C

1. Did the collector comply with the requirements of the standard under Section 1.3.14? Specifically has the person successfully completed a course of instruction for specimen collection and on site screening and have they received a statement of attainment in accordance with the Australian Quality Training Framework? If so, is their statement of attainment current?

D

1. Did the collection procedure follow the Australian Standard Section 2.3.3? Specifically did it comply with the sub-sections (a) through to (i) of this section?

I refer you to the sub-section they state, after washing hands, the donor remains in the presence of the collector and does not have access to any water fountain etc. I clearly recall not been asked to wash my hands. Specifically I recall when I was handed the cup by the steward that the cup was in a plastic bag that was not sealed. I also recall flushing the toilet before handing the specimen to the collector.

2. What were the results of the integrity checking of the specimen undertaken by the collector?

3. I would appreciate a copy of the permanent record system pertaining to me and identifying my specimen.

E.

1. Under section 2.4 - Preparation for dispatch sub-section (a). I recall the specimen being split between two containers. I am uncertain as to where the second container came from. Please inform me of the methods whereby the integrity and cleanliness of the second container is maintained.

F

1. Under section 2.5, transport to the laboratory Sub-section (a). Can QIRC confirm that the test and referee specimens were in a container designed to minimize the possibility of damage and contamination during transport?

2. Under sub-section (b), was the container securely sealed to ensure any tampering would be detected?

3. Could the laboratory confirm that it received the specimens intact and that the transport confirmed with the Chain of Custody requirements required by the Standard?

I would assume that RASL, after receipt of the specimen has adhered to all of the requirements of Section 4 and 5 of the Standard and has NATA accreditation however I would appreciate RASL's confirmation of such.

Dr Madden has approached RASL directly. He requested of RASL under the Privacy Act to give access to the full laboratory results so that as an accredited medical review officer and member of AMROA (Australian medical review officers association) he would be able to interpret those results on my behalf. This has been refused by RASL. I would now appreciate if RASL would release my results, specifically the detection of any other substances present including but not limited to amphetamines and the specific concentrations determined by the laboratory. I would appreciate if those results were released directly to Dr Madden on my behalf.



*Lastly, I request a copy of all correspondence between QIRC and RASL that involves myself. I make this request under the Privacy Act and provide a signed statement to that effect. Yours Faithfully, Peter Bradford"*

The outcome sought by the Applicant was that the Applicant be found not guilty of the charge.

#### PART 4: Reasons for Internal Review Decision

The Applicant was directed by stewards to provide a urine sample at the Toowoomba Turf Club on 26 May 2018. The sample was initially screened through a ProScreen drug test and exhibited a non-negative result to Methamphetamine.<sup>1</sup> The sample was subsequently analysed by a NATA Accredited laboratory in Racing Analytical Services Limited, of which confirmatory analysis confirmed the sample contained Methamphetamine at > 1200ug/L.<sup>2</sup>

During the stewards inquiry' conducted on 31 July 2018, the Applicant failed to provide any explanation for the analyst's findings. The chairman of the inquiry questioned "*Is there any reason that you can explain this finding in your urine?*" to which the Applicant replied "*No, sir. I can't explain as to why it has appeared in my urine sample. I have got absolutely no comment on that.*" The chairman of inquiry then questioned "*So the methamphetamine level is quite high in your sample. Had you been taking anything that would have caused that result?*" to which the Applicant replied "*No, sir.*" The chairman of inquiry further questioned "*So what is your opinion as to how this has been reported this way?*" to which the Applicant replied "*My personal opinion is once again I have got no comment*".<sup>3</sup>

The Applicant submitted a letter from Dr Vern Madden dated 29 June 2018 as evidence before the inquiry. Dr Madden's letter, in part, stated "*You have asked me in my professional capacity as a Medical Review Officer to comment on the drug test that was obtained by the Queensland Racing Integrity Commission. This test was obtained on Saturday 27/05/18 and you supplied me with a photograph of the Pro-Screen Drugs of Abuse Cup. I noted something curious on the result. This it was a single MET non-negative. (Please note that an on-site test cannot be a positive, it is rather termed a non-negative until it has been confirmed at the laboratory). I state this is curious because the AMP or amphetamine was a negative. There is clearly a line visible on the AMP section of the test indicating a negative. The metabolism of methamphetamine in the body is that it is changed very rapidly into the active substance amphetamine. Generally this would occur within minutes of the use of the drug. Therefore in the great majority of cases we would see not just an MET non-negative but also an AMP non-negative, the exception if Methamphetamine was used within minutes the test being undertaken. You provided me with the Racing Analytical Services (RASL) result. This showed the presence of D-Methamphetamine and only D-methamphetamine. This is not to say nothing else such as an Amphetamine was detected but it is to say it was not reported. A point I find again curious. On the available evidence it would be my opinion that the urine sample you undertook has been spiked by someone using Methamphetamine (ice or speed). Having said this, as stated above, it is possible that RASL has detected amphetamine but not reported it*".<sup>4</sup>

<sup>1</sup> Exhibit 1

<sup>2</sup> Exhibit 6

<sup>3</sup> Transcript of Stewards' Inquiry dated 3 July 2018, page 5

<sup>4</sup> Exhibit 8



Mr David Batty, Laboratory Director at Racing Analytical Services Limited, submitted an email dated 27 June 2018 that was before the inquiry stating “*We do not provide a certificate for the second analysis. The normal procedure for the analysis of the reserve urine sample is to confirm presence only - a concentration is not provided.*”<sup>5</sup>

The inquiry heard evidence from Mr Rion Hitchener, Senior Stipendiary Steward of the Queensland Racing Integrity Commission, particular to the collection procedures and custody of the subject sample. Mr Hitchener, in evidence, stated “*I initially had gone down the bottom to call some riders up to the office to provide a sample. When I arrived back at the office, having spoken to the people I needed to speak to, Mr Bradford was present. I got him to select a lid and a cup to provide a sample. He provided a sample in the toilet just closest to the facility here. That originally went positive to - as displayed on the lid there.*” The chairman of the inquiry questioned “*Just with that lid, how are they presented*” to which the Mr Hitchener replied “*Completely in a - in a completely foil tamper-evident bag. I don't know whether we have any stock left that I can demonstrate to you. I may have one left. It is a white fully sealed bag. I think on the inside it is foil by nature. I think there is an absorbent pad - a small absorbent pad in there. The cups are presented in a - which I can - we do have them present there in a completely sealed plastic bag, not dissimilar in texture to that bag you have got there. They were both completely sealed and able to be selected by Mr Bradford. Mr Bradford provided the sample. He sealed the lid himself. He turned it on its side upon my direction and provided the results as demonstrated on the lid that you have got in your custody there and the - and that picture. Upon that going - displaying result it did on that occasion, we moved to the room we are currently in at this stage, and I proceeded to seal the kit - seal that sample into a RASL kit. Wore rubber gloves when doing that. The RASL kit was completely sealed in its nature. Busted that bag - or tore that bag open to present the 2 bottles. Using the gloves I decanted it into the 2 bottles provide in the RASL kit. I sealed it up using the red tamper-evident seals. They were then placed in the clear sealed bag that is provided with the RASL kit with the sticking mechanism, I suppose you would call it, that prevents those samples being gotten to out of that bag. They were then stored in the fridge in our swabbing room adjacent to where our reception area is. They remained in that swabbing fridge until the Monday morning, and then they were dispatch via Courier on the Monday morning via Fastway Couriers, which I believe we have a consignment note present which demonstrates when they left.*” The chairman further questioned “*Was Mr Bradford present the whole time this was occurring?*” to which Mr Hitchener replied “*Entirely present until such time as the swabs went into the fridge. I do have the audio available that was played. We commenced recording that conversation. Mr Cook was loosely present as well at that time. Once we got the lid showing that we had a positive sample - or a nonnegative result, I should say - commenced audio recording and recorded that conversation as we sealed the sample. In that audio - in that audio, which I have listened to subsequent to then, I believe it is apparent on there that you can hear me actually after the sealing of the samples being done removing what would have been my rubber gloves. You can hear that rubbery noise that you would associate with someone taking off the rubber gloves. I was at all times satisfied that Mr Bradford was a witness to and aware of what was occurring with the process of the sample being sealed*”<sup>6</sup>. Mr Hitchener provided the audio of proceedings on the day the sample was collected, which was subsequently played to the inquiry.

<sup>5</sup> Exhibit 9

<sup>6</sup> Transcript of Stewards’ Inquiry dated 3 July 2018, page 10 and 11



The chairman of the inquiry questioned “*Mr Bradford, do you have any questions of Mr Hitchener?*” to which the Applicant replied “*Yes, sir. Just going back to what I brought up previously. I do recall everything, as Mr Hitchener has provided. The only part like I stated that I cannot recall was as to collecting my own urine lid and cup. That is correct, yes. As to being the cup in a sealed plastic bag, as I stated, I don't recall opening or breaking a seal on the cup itself. I just can recall pulling the plastic bag out of the inside of the cup and then just pulling the cup out of the plastic bag. I don't recall that being sealed. Then further to that, like I stated, as having to wash my hands or wear gloves or Mr Hitchener looking at the toilet before I'd flushed it, or before him receiving the urine off me, I don't recall any of that happening.*” The chairman of inquiry further questioned “*But you have signed it* (the drug testing and control form) *that that's your urine that you have provided*” to which the Applicant replied “*I understand that, sir, and I meaning as in - I totally understand that, sir, but I'm more meaning as in professionalism ways of handling the urine sample takings professionally - like doing the job properly is sort of what I am trying to mean.*”<sup>7</sup>

The Applicant added “*The only other part that I - like I stated earlier, was the - then putting the urine into the RASL containers. How I stated I do recall the sealing of them. I just don't recall where the cups came from or - I remember the urine being poured in, but as to where they came from or anything like that, I don't recall that part.*” The chairman of inquiry questioned Mr Hitchener stating “*Was it the case that there was - the RASL kit sealed?*” to which Mr Hitchener replied “*Yes, it was a brand-new RASL kit that was on stock here.*” The chairman further questioned “*And was it unsealed in Mr Bradford's presence?*” to which Mr Hitchener replied “*A hundred percent. There is no way that the kit would have been opened anywhere other than in Mr Bradford's presence in this very room.*”<sup>8</sup>

The Applicant signed the ‘Racing Industry Human Drug Testing And Control Form’ acknowledging certification that the sample was provided by the Applicant.<sup>9</sup> The Applicant further acknowledged the sample was split, labelled and sealed in the presence of the Applicant, and that the information provided on the referred form and that of the labels affixed to the split specimen are correct. Mr Hitchener counter-signed the aforementioned form acknowledging the specimen bears the same identification number 200964 as that set out in the form and that the specimen has been collected, split, labelled and sealed in accordance with the established collection procedure.<sup>10</sup> There is no evidence that the Applicant or Mr Hitchener raised any concerns at any relevant time that established collection procedures were not adhered to in their entirety. The Applicant’s complete submissions in defence of the charge are outlined in Part 3 of this decision. The Applicant’s submissions in defence of the charge predominantly relate to the samples collection procedure, the samples chain of custody and the analysis of the laboratories findings.<sup>11</sup>

The Applicant submitted whether the collection procedures and chain of custody of the sample comply with the Australian and New Zealand standards pursuant to ANZS4308/2008. The reviewer accepts that the Queensland Racing Integrity Commission may develop internal procedures to manage the way samples are analysed and dealt with pursuant to Section 10(g) of the *Racing Integrity Act 2016* (Qld). The Queensland Racing Integrity Commission must follow the internal procedure for management of samples but is not bound to collect samples according to ANZS4308/2008.

<sup>7</sup> Transcript of Stewards’ Inquiry dated 3 July 2018, page 11 and 12

<sup>8</sup> Transcript of Steward’s Inquiry dated 3 July 2018, page 12

<sup>9</sup> Exhibit 2

<sup>10</sup> Exhibit 2

<sup>11</sup> Application for an Internal Review dated 7 August 2018

The inquiry heard subsequent to the subject sample being collected from the Applicant on 26 May 2018 that the sample was packaged in accordance with the established collection procedures by Mr Hitchener and stored in the fridge in the swabbing room.<sup>12</sup> The sample was subsequently dispatched to Fastway Couriers on 28 May 2018 and couriered to RASL.<sup>13</sup> The sample arrived at RASL on 7 June 2018 with all of the sample's security seals intact and the confirmatory analysis confirmed the sample contained Methamphetamine.<sup>14</sup>

The reviewer, in considering the evidence in totality and particularly the evidence relating to the collection and custody of the subject sample, finds there is no direct evidence to support the Applicant's submissions that the sample's collection procedures was not in total compliance with the established collection procedure. The reviewer accepts the evidence of Mr Hitchener. The reviewer finds no evidence that the sample collection procedures' integrity has been affected in the method of collection, inclusive of the samples chain of custody and analysis of the sample, to any extent that would adversely affect the integrity or analysis of the sample and accordingly finds the charge proven.

The Applicants disciplinary history is clear of any offence pursuant to Australian Rule of Racing 81A(1)(a). The penalty precedents for an offence pursuant to Rule 81A(1)(a) particular to the substance Methamphetamine is between a five (5) and six (6) month disqualification.<sup>15</sup>

In weighing up the matter of penalty, consideration was provided to the detected levels of Methamphetamine in the subject sample being at >1200ug/L, the Applicant's submissions, not guilty plea, disciplinary history, penalty precedents and personal circumstances. Further consideration was provided to the serious nature of Australian Rule of Racing 81A(1)(a) which is designed to ensure the safety of all participants and welfare of animals is protected from participants affected by Prohibited substances. In this case, the penalty imposed must be reflective of the evidence and sufficiently serious to effectively penalise the Applicant for the risk posed to racing participants and to serve as a deterrent to any future offender.

The reviewer acknowledges each case is treated on its merits and set of circumstances, and in carefully considering the evidence in totality and taking into account the aforementioned factors, finds the original penalty imposed is consistent with the penalty precedents for the substance Methamphetamine and therefore is not satisfied a reduction in penalty is proven in the circumstances and accordingly confirms the original decision on charge and penalty.

## PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

<sup>12</sup> Exhibit 1 and 2

<sup>13</sup> Exhibit 3

<sup>14</sup> Exhibit 4, 5, 6 and 7

<sup>15</sup> Penalty Precedents for Methamphetamine Positive results in breach of AR81A(1)(a)



QUEENSLAND RACING  
INTEGRITY COMMISSION

For further information regarding the processes for an external review of the decision, please contact QCAT:

**Queensland Civil and Administrative Tribunal**

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001  
Postal Address: GPO Box 1639, BRISBANE QLD 4001  
Phone: 1300 753 228  
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