



Kevin Lundie - Rule (D)65

Disciplinary Panel - Integrity issues

11 Jul 19

1. On 11 July 2019, the independent Disciplinary Panel of the BHA held an enquiry to consider the allegation that Kevin Lundie, a claiming professional jockey, was in breach of Rule (D)65 of the Rules of Racing. At the hearing, the BHA's case was presented by Oliver Harland, and Mr Lundie was represented by Rory Mac Neice.
2. The allegation came after a sample provided by him at Southwell on 27 February 2019 tested positive for benzoylecgonine, a metabolite of cocaine. Mr Lundie did not elect to have the B sample tested when the result of the A sample test became known on 6 March 2019, and he eventually admitted that he was in breach of the Rule. On that same day, the BHA applied for and was granted by the Judicial Panel Chairman, Brian Barker QC, an order suspending Mr Lundie's licence with immediate effect, pending a full disciplinary hearing.
3. The test result for the A sample showed the presence of 670 ng/ml of the cocaine metabolite, well above the reporting threshold of 150 ng/ml.
4. Lundie was interviewed by BHA investigators on 3 April 2019. At that interview, which was arranged with him in advance, Paul Struthers of the PJA was in attendance to protect Lundie's interests.
5. At the outset, Lundie admitted he had snorted cocaine late on Saturday 23 February or perhaps shortly after midnight on that day. But his description of the circumstances did not present a convincing picture to the Panel. He said that he made a visit with his stepbrother to a boxing promotion at the O2

arena in London on the Saturday evening, and that he drank about 3 or 4 pints of beer, which was an unusually large amount for him. When he went to the toilet, there was a group of four or five young Irishmen “from the rougher side of Ireland”. He had never met them before. They gave him two lines of cocaine, and did not ask for or get payment. He took these, he said, because he felt rather “bullied”. He speculated that they were providing the cocaine to try and get information from him, because he had told them at some point (which may have been after he had taken the cocaine) that he was a jockey.

According to Lundie, this was the first and only time he has ever taken cocaine.

6. There are a number of obvious improbabilities in that account, which made the Panel doubtful about his assertion that this was his first use of cocaine. But what did impress the Panel was his genuine remorse at having done this, and at having let down in particular both his mother and his employer, the trainer Mick Appleby. The latter, however, provided a testimonial saying that Lundie’s work and timekeeping in the yard have been exemplary since the incident.

7. The Guide to Procedures and Penalties specifies a range of 1-6 months for the first occasion on which a rider returns a positive test for a banned substance. But it goes on to indicate that, in the case of a cocaine positive, “the rider will normally have his licence withdrawn at the top of the range”. Despite its doubts about Lundie’s account of the circumstances in which he came to take cocaine, the Panel was persuaded by the other evidence that there were no “exceptional circumstances” (as the Guide requires) to justify imposing a penalty outside the range. It therefore determined that a 6 month ban from riding was appropriate. That 6 month period runs from the date when the interim suspension of his licence was imposed, as Schedule D for paragraph 9 provides.

8. In fact, Lundie’s annual licence expired on 5 July 2019. Though he was suspended from riding with effect from 6 March 2019, his licence remained in existence until 5 July. The appropriate order was therefore to declare that Lundie was ineligible to hold a licence up to and including 6 September 2019. This form of order is provided for by Rule (A)57.

9. As was explained at the hearing, the fact that the Panel’s disciplinary sanction comes to an end with effect from 6 September does not mean that Lundie is automatically allowed to ride thereafter. He will have to apply for a new licence to take effect after his ineligibility, and to persuade the BHA that he is, in short, a suitable person to have a licence. He will have to meet, for example, the requirements of the reinstatement protocol which governs returns from a ban as a result of a positive sample. The licensing authority is not obliged to grant a licence to run from 6 September 2019.

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Notes to Editors:

1. The Panel for the Enquiry was: Tim Charlton QC (Chair), Diana Powles and Edward Dorrell .
2. Cocaine is a banned substance under Schedule (D)3, paragraph 8 of the Rules of Racing. Benzoylecgonine is a metabolite of cocaine and therefore pursuant to Rule (D)58.3 is also a banned substance.

Please note, the BHA Judicial Panel is an independent body which encompasses the Disciplinary Panel, Appeal Board and Licensing Committee. It receives administrative support from the BHA via the Judicial Panel Secretary.

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