

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED TRAINER AMANDA DAVIS AND LICENSED FOREPERSON / TRACKWORK RIDER BRENT MCGREGOR

Hearing with respect to charges heard at Racing NSW Offices & Penalties dealt with by written submissions

Appeal Panel: **Mr L. Vellis - Convenor; Mrs S. Skeggs; Mr J. Murphy**

Representatives: **Racing NSW - Mr O. Jones, Counsel**
Appellant - Mr M. Stirling, Counsel

Date of Hearing: **27 July 2024**

Guilt | Date of
Reasons and Orders: **27 November 2024**

Penalty | Date of
Reasons and Orders: **16 January 2025**

REASONS FOR DECISION

1. On 22 April 2024 Racing NSW Investigators commenced an investigation in respect of an unnamed horse that was allegedly euthanized or destroyed in breach of LR 114(4) of the Local Rules of Racing (**Local Rules**) and provided to a Zoo for the purpose of animal food.
2. Stewards conducted a hearing on 17 June 2024 to determine the charges issued against Ms Davis and Mr McGregor.

Ms Davis' Charges

3. At the hearing on 17 June 2024, Ms Davis' charges were dealt with as follows:

Charge 1 | LR 114(4) | Equine Welfare

- a. The details of the charge being that Ms Davis did permit a thoroughbred horse to be euthanized or destroyed in breach of LR 114(4), failed to confirm the decision to destroy that horse with a veterinary surgeon and provided the unnamed thoroughbred horse to a Zoo on 18 April 2024 to be processed for the purpose of lion meat/food.
- b. Ms Davis pleaded not guilty and was found guilty of this charge.

Charge 2 | AR 232(i) | Failure to observe official processes and directions

- c. The details of the charge being that Ms Davis did give false or misleading evidence at an interview with Racing NSW Investigator, Mr Daniel Hadley on 22 April 2024.
- d. Ms Davis pleaded guilty to this charge.

Charge 3 | AR 228(a) | Conduct detrimental to the interests of racing

- e. The details of the charge being that Ms Davis did engage in conduct that was prejudicial to the image, interests, integrity or welfare of racing as she provided the unnamed thoroughbred horse to a Zoo on 18 April 2024 for the purpose of lion meat/food and made a Facebook post on 24 April 2024 about the investigation.
 - f. Ms Davis pleaded not guilty and was found guilty of this charge.
4. The following orders were made in relation to penalty:
- a. Charge 1 (LR 114(4)) – penalty of 12 months disqualification;
 - b. Charge 2 (AR 232(i)) – penalty of 6 months disqualification, reduced to 4 months disqualification due to the guilty plea;
 - c. Charge 3 (AR 228(a)) – penalty of 8 months disqualification;
 - d. The penalties for Charges 1 and 3 to be served concurrently and the penalty for Charge 2 to be served cumulatively; and
 - e. In total, Ms Davis was disqualified for a period of 16 months, to commence on 23 April 2024 and to expire on 23 August 2025.

Mr McGregor's Charges

5. At the hearing on 17 June 2024, Mr McGregor's charges were dealt with as follows:

Charge 1 | AR 227(b) | Breaches of the Rules

- a. The details of the charge being that Mr McGregor was a party to licensed trainer, Ms Amanda Davis, committing a breach of LR 114(4) as he led the unnamed horse to the representative of a Zoo on 18 April 2024 so it could be euthanized or destroyed in breach of LR 114(4); and/or assisted in the provision of the unnamed horse to the Amazement Farm & Fun Park to be processed for the purpose of lion meat/food.
- b. Mr McGregor pleaded not guilty and was found guilty of this charge.

Charge 2 | AR 232(i) | Failure to observe official processes and directions

- c. The details of the charge being that Mr McGregor did give false or misleading evidence at an interview with Racing NSW Investigator, Mr Daniel Hadley on 22 April 2024.
- d. Mr McGregor pleaded guilty to this charge.

Charge 3 | AR 227(b) | Breaches of the Rules

- e. The details of the charge being that Mr McGregor was a party to licensed trainer, Ms Amanda Davis, committing a breach of AR 228(a) as he assisted in the provision of the unnamed horse to the representative of a Zoo on 18 April 2024 and/or had knowledge either before, at the time, or immediately after the unnamed horse was euthanised or destroyed on 18 April 2024 was not being buried at the property and that the horse was provided to Amazement Farm & Fun Park to be processed for the purpose of lion meat/food.
 - f. Ms McGregor pleaded not guilty and was found guilty of this charge.
6. The following orders were made in relation to penalty:
- a. Charge 1 (AR 227(b)) – penalty of 12 months disqualification;
 - b. Charge 2 (AR 232(i)) – penalty of 6 months disqualification, reduced to 4 months disqualification due to the guilty plea;
 - c. Charge 3 (AR 227(b)) – penalty of 8 months disqualification;
 - d. The penalties for Charges 1 and 3 to be served concurrently and the penalty for Charge 2 to be served cumulatively; and
 - e. In total, Mr McGregor was disqualified for a period of 16 months, to commence on 23 April 2024 and to expire on 23 August 2025.
7. Each of the Appellants appealed to the Panel as follows:
- Ms Davis**
- a. Charge 1 (LR 114(4)) – appeal against finding of breach and penalty;
 - b. Charge 2 (AR 232(i)) – appeal against penalty; and
 - c. Charge 3 (AR 228(a)) – appeal against finding of breach and penalty.
- Mr McGregor**
- d. Charge 1 (AR 227(b)) – appeal against finding of breach and penalty;
 - e. Charge 2 (AR 232(i)) – appeal against penalty; and
 - f. Charge 3 (AR 227(b)) – appeal against finding of breach and penalty.
8. Each of the Appellants were represented by Mr M. Stirling, Counsel. Mr O. Jones, Counsel, appeared for Racing NSW.

9. Written reasons of decision were provided by the Panel on 27 November 2024 and the following orders were made:

Ms Davis

- a. Charge 1 (LR 114(4)) - appeal against finding of breach dismissed;
- b. finding of a breach of LR 114(4) confirmed;
- c. Charge 3 (AR 228(a)) – appeal against finding of breach dismissed;
- d. finding of a breach of AR 228(a) confirmed; and
- e. written submissions with respect to penalty to be provided by (or on behalf of) Racing NSW and Ms Davis no later than 11 December 2024.

Mr McGregor

- f. Charge 1 (AR 227(b)) - appeal against finding of breach dismissed;
- g. finding of a breach of AR 227(b) confirmed;
- h. Charge 3 (AR 227(b)) – appeal against finding of breach dismissed;
- i. finding of a breach of AR 227(b) confirmed; and
- j. written submissions with respect to penalty to be provided by (or on behalf of) Racing NSW and Mr McGregor no later than 11 December 2024.

Penalties

10. After a request for an extension was granted by the Panel, Racing NSW provided written submissions in relation to penalty on 17 December 2024 (dated 16 December 2024). Written submissions in relation to penalty were not provided in relation on behalf of the Appellants.
11. The main thrust of the submissions of Mr Jones (on behalf of Racing NSW) are as follows:
- a. the penalties originally issued by the Stewards to both Ms Davis and Mr McGregor are appropriate and consistent with precedent matters;
 - b. conduct contrary to LR 114(4) (and conduct that assists a contravention of LR 114(4)) has the potential to have a serious detrimental impact on the image and integrity of the racing industry, in particular the horse was destroyed without proper veterinary approval and was disposed of to a zoo in the knowledge that the horse would be fed to the lions.
 - c. considering the nature of the rules breached, and the manner of breach, it is appropriate that a significant period of disqualification be imposed on both appellants, noting in

particular the absence of any guilty plea in relation to Charges 1 and 3 in respect of both Appellants.

Ms Davis

12. The Panel generally agrees with the submissions made by Mr Jones with respect to Ms Davis and does not consider that the Stewards imposed excessive penalties, however, we have reached a different view with respect to whether the penalties for the three Charges should be served cumulatively rather than just the penalties for Charges 1 and 3.
13. In reaching this position the Panel acknowledges the serious nature of the Charges and the potential to have a serious detrimental impact on the image and integrity of the racing industry. It is imperative as an industry to ensure the welfare of thoroughbred horses from birth, during their racing careers and on retirement.
14. Based on the evidence the Panel accepts that there were genuine attempts by Ms Davis to care for the welfare of the horse and looking after its best interests, including:
 - a. caring for the horse for at least two months;
 - b. consulting Dr Brett Jones, a registered veterinary surgeon, multiple times in relation to the care of the horse and its condition; and
 - c. trying to arrange for Dr Jones to put the horse down.
15. Unfortunately, when Ms Davis was unable to discuss this matter with Dr Jones on 16 April 2024, she took it upon herself (after discussing the matter with her mother) to contact the zoo to arrange for the horse to be destroyed or euthanized and removed from her property, which was to be used as food for animals. While Ms Davis may have genuinely believed she was acting in the best interests of the horse (and did not receive any consideration from the zoo), there were other options open to Ms Davis that were not taken and breaches of Charges 1, 2 and 3 were clearly made out.
16. Having considered the matters previously raised in the Reasons for Decision, in the written submissions and in the hearing, the Panel confirms the penalties imposed upon Ms Davis by the Stewards. Where the Panel differs with the original penalties imposed upon Ms Davis by the Stewards is that the Panel has unanimously determined that the penalties imposed upon Ms Davis for Charges 1, 2 and 3 should all be served concurrently, such that Ms Davis will be disqualified for a period of 12 months. The Panel unanimously agrees with the penalty of 4 months disqualification that was imposed upon Ms Davis with respect to Charge 2.

Mr McGregor

17. While the Panel also generally agrees with the submissions made by Mr Jones with respect to Mr McGregor, the Panel does not consider that the role played by McGregor with respect to the horse being destroyed was of the same scope and scale as that played by Ms Davis.

This difference in opinion also leads the Panel to have a different view to the Stewards with respect to the penalties to be imposed upon Mr McGregor for Charges 1 and 3.

18. The Panel is unanimously of the view that Mr McGregor's role in the destruction of the horse was not as prominent as the role played by Ms Davis. While this lesser role does not in any way affect Mr McGregor's guilt with respect to Charges 1 and 3 (which the Panel has previously determined), it is relevant that it was Ms Davis that called the zoo and arranged for the horse to be destroyed or euthanized and removed from her property, knowing it was to be used as food for animals.
19. Ms Davis was also Mr McGregor's employer (in addition to being in a romantic relationship with Mr McGregor), with such power dynamic relevant to Mr McGregor's role as a licensed foreperson and trackwork rider taking direction from Ms Davis as the licensed trainer.
20. Mr McGregor's role with respect to Charges 1 and 3 can be summarised as follows:
 - a. Mr McGregor led the unnamed horse to the representative of the zoo so it could be euthanized or destroyed and/or assisted in the provision of the unnamed horse to the Amazement Farm & Fun Park to be processed for the purpose of lion meat/food; and
 - b. Mr McGregor had knowledge either before, at the time, or immediately after the unnamed horse was euthanised or destroyed that it was not being buried at the property and that the horse was provided to Amazement Farm & Fun Park to be processed for the purpose of lion meat/food.
21. Given that the Panel is unanimously of the view that Mr McGregor's role in the destruction of the horse was not as prominent as the role played by Ms Davis (while still acknowledging the serious nature of the conduct and the charges and the potential to have a serious detrimental impact on the image and integrity of the racing industry), the Panel has unanimously determined that the penalty to be imposed upon Mr McGregor for Charge 1 is a disqualification of 9 months and for Charge 3 is a disqualification of 6 months. The Panel unanimously agrees with the penalty of 4 months disqualification that was imposed upon Mr McGregor with respect to Charge 2.
22. Where the Panel also differs with the original penalties imposed upon Mr McGregor by the Stewards is that the Panel has unanimously determined that the penalties imposed Mr McGregor for Charges 1, 2 and 3 should all be served concurrently, such that Mr McGregor will be disqualified for a period of 9 months.

Orders

23. The orders of the Panel are:

Ms Davis

- a. Charge 1 (LR 114(4)) - appeal against finding of breach dismissed;
- b. finding of a breach of LR 114(4) confirmed;
- c. Charge 1 (LR 114(4)) – appeal against severity of penalty dismissed and penalty of 12 months disqualification confirmed;
- d. Charge 2 (AR 232(i)) – appeal against severity of penalty dismissed and penalty of 4 months disqualification confirmed;
- e. Charge 3 (AR 228(a)) – appeal against finding of breach dismissed;
- f. finding of a breach of AR 228(a) confirmed;
- g. Charge 3 (AR 228(a)) – appeal against severity of penalty dismissed and penalty of 8 months disqualification confirmed;
- h. appeal against severity of penalty upheld such that the penalties for Charges 1, 2 and 3 are to be served concurrently; and
- i. in total, Ms Davis is disqualified for a period of 12 months, commencing on 23 April 2024 and expiring on 23 April 2025.

Mr McGregor

- a. Charge 1 (AR 227(b)) - appeal against finding of breach dismissed;
- b. finding of a breach of AR 227(b) confirmed;
- c. Charge 1 (AR 227(b)) – appeal against severity of penalty upheld, with the penalty reduced from 12 months disqualification to 9 months disqualification;
- d. Charge 2 (AR 232(i)) – appeal against severity of penalty dismissed and penalty of 4 months disqualification confirmed;
- e. Charge 3 (AR 227(b)) – appeal against finding of breach dismissed;
- f. finding of a breach of AR 227(b) confirmed;
- g. Charge 3 (AR 227(b)) – appeal against severity of penalty upheld, with the penalty reduced from 8 months disqualification to 6 months disqualification;
- h. appeal against severity of penalty upheld such that the penalties for Charges 1, 2 and 3 are to be served concurrently; and
- i. in total, Mr McGregor is disqualified for a period of 9 months, commencing on 23 April 2024 and expiring on 23 January 2025.
