APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTERS OF THE APPEAL OF
LICENSED TRAINER RICHARD & WILL FREEDMAN

Appeal Panel:	**Mr L Gyles SC – Principal Member;**
	Ms S Skeggs; Mr C Tuck
Representatives:	**Racing NSW – Mr Moxon**
	Appellants - Self
Date of Decision:	**17 June 2026**

REASONS FOR DECISION

L GYLES SC: Principal Member

On 19 May 2026, the Stewards conducted an enquiry into the analytical findings from a post-race urine sample taken from *Luna Bay* after the filly had finished second in Race 2 at Kembla Grange Racecourse on 27 September 2025. *Luna Bay* is trained by the training partnership of Mr Richard Freedman and Mr Will Freedman, the Appellants in this Appeal.

At the conclusion of the enquiry the Stewards issued three charges against the Appellants as follows:

(a) Charge 1 – AR240(2) – Prohibited substance in sample taken from horse at race meeting;

(b) Charge 2 – AR87(1)(b) – Horses that have an intra-articular injection; and

(c) Charge 3 – AR79(4)(a) – Horses with bleeding.

The particulars of the first charge concerned the sample from *Luna Bay* referred to above containing the prohibited substances Oxazepam and Temazepam, the second charge concerned the barrier trialling of *Orange Tsunami* and *Vin Santo* on 13 October 2025 within 8 clear days following an administration of an intra-articular injection on 10 October 2025, and the third charge concerned the training

and exercising of *Zocket Man* on a racecourse within 2 months of an attack of bleeding.

The Appellants pleaded guilty to each of the charges. The Stewards imposed fines in respect of each of them, but the Appeal is restricted to only one, the fine in respect of charge 1 of $6,000 which was reduced to $4,000 (having regard to the plea of guilty and other penalty considerations), which the Appellants say was excessive in the circumstances.

The Panel notes that in imposing the penalty that it did, the Stewards took into account the guilty pleas of the Appellants, their forthright evidence, the improvements made to stable practices, and importantly for present purposes, a determination that the Oxazepam and Temazepam which were found to be present were at very low levels, and were most likely due to cross stable contamination.

In making submissions before the Stewards on penalty in respect of the charge to which the guilty plea had been entered, the Appellants submitted that a $6,000 fine was an enormous amount of money for a trainer, very few of which they submitted were even making a profit at the moment. Mr Will Freedman for his part submitted that the stable had appropriate protocols but there is not a lot that can be done if someone goes outside them, and that it would be unfair to heavily financially penalise them if there is not much they could do about it. The Appellants in effect submitted that there is a sufficient deterrent in having to tell an owner that they are going to lose their prize money if a horse is disqualified for returning a positive sample, and that the need for deterrence does not justify a substantial financial penalty in addition to that.

The Stewards considered the principles of specific and general deterrence in coming to the appropriate sanction in respect of the breach. They took the view that to give proper regard to precedent penalties the appropriate starting point was $6,000, which they reduced by $2,000 to come to a $4,000 fine.

The matter came before the Panel on 12 June 2026. Mr Moxon appeared for the Stewards and Richard and Will Freedman appeared for themselves.

Mr Moxon sought to support the fine imposed by the Stewards, submitting that the case fell somewhere between the second and third category of case as defined in

McDonough v Harness Racing Victoria. That is, whilst the trainers had been able to provide an explanation that the source of the prohibited substance was likely to have been cross contamination, they were not able to demonstrate an absence of culpability. That was because the Stewards contended that the contamination would not have taken place if the appropriate stable protocols had been adhered to, particularly in circumstances where other horses in the stable had been administered orally with Diazepam in close proximity to other horses which would be racing within five days. That was consistent with there being some fault on the part of the stable, for which the Appellant's had ultimate responsibility.

Mr Moxon therefore submitted that the element of fault and culpability on the part of the Appellants necessitated a fine and that the fine which was imposed was consistent with other fines imposed by the Stewards in respect of breaches of AR178 concerning the presence of Oxazepam in a blood sample of a horse taken after a race.

Mr Moxon tendered a document which made reference to three prior fines of $4,000, $5,000 and $6,000 respectively. He accepted that in each of those cases the level of Oxazepam was higher than in the present case. Notwithstanding that, he submitted that the fine imposed by the Stewards on the Appellants was consistent with those earlier sanctions.

The Appellants in detailed oral and written submissions submitted that the penalty was disproportionate to their moral culpability, inconsistent with established appeal level precedent and unsupported by evidence that the detected substances had any effect on *Luna Bay's* racing performance.

It is not intended to set out the detail of the submissions however extensive reference was made to a decision of this Panel in the matter of Chris Waller dated 10 February 2017 in which the Panel reduced a $30,000 fine which had been imposed upon Mr Waller for a breach of AR178 brought about by the presence of Methylamphetamine in a urine sample taken from a horse following a race at Canterbury Park.

The Panel reduced the $30,000 fine to $5,000, noting that the breach involved no intent on the part of Mr Waller, nor apparent carelessness in stable practices, the source of the Meth likely to have been one of Mr Waller's employees as opposed to cross-contamination or some other breach of protocol in the stable practices.

Therefore, the facts and the nature of the breach in Waller was in the view of the Panel of a very different character to that of the present case which involved at least some culpability or fault on the part of the stable. The substantial discount applied by the Panel to the very high fine imposed initially by the Stewards is therefore of little precedent value in the present case. The earlier fines referred to by the Stewards are in the opinion of the Panel far more relevant as precedents.

In any event, one thing which is clear and not in dispute is that the levels of Oxazepam and Temazepam in the present case were extremely low, and the lowest of any prior breach which was put before us. The Panel also accepts that there is no evidence that would justify a finding that such levels would in fact have had any effect on the performance of the horse in that race.

So far as the appropriate sanction is concerned, it is clear from the authorities that a breach of AR178 is an objectively serious offence and that it is paramount to the integrity and image of racing that it be drug free. It is also clear that the rules have a protective purpose of the image and reputation of the industry and that a sanction involving more than a “slap on the wrist” is necessary. This is both by way of individual and general deterrence, and a recognition of the significance of any horse running in a race with a prohibited substance, and the result having to be altered after the fact.

The Panel is however persuaded that having regard to the extremely low levels of the prohibited substance in the present case, in relative terms significantly less than the other cases in which fines in the range of $4,000 - $6,000 had been imposed previously, that it would be consistent with those authorities for the fine in the present case to be lower than those earlier fines.

The Panel takes the view that one would start with a fine of $4,000 to bring to account the relatively low levels of the prohibited substances, and then reduce it in the usual way by 25% to have regard to the guilty plea and to other exculpatory factors.

The Panel therefore proposes to reduce the $4,000 fine to $3,000.00.

The following Orders are made:

1. The Appeal is allowed in part;

2. The Fine imposed by the Stewards is reduced to $3000.00;
3. The Appeal deposit is to be returned.

17 June 2026