



## REASONS FOR DECISION IN PENALTY DETERMINATION OF CHARGES ISSUED AGAINST LICENSED JOCKEY ADAM HYERONIMUS AND LICENSED STABLEHAND BLAKE PAINE.

**Monday 17 August 2020**

**Stewards:** M F Van Gestel (Chairman)  
W R Birch  
J J Earl

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On 13 August 2020, Racing NSW Stewards conducted a hearing of Charge 32 issued against licensed jockey Mr Adam Hyeronimus and licensed stablehand Mr Blake Paine of providing false evidence during a Stewards inquiry. Having considered submissions made on behalf of Mr Hyeronimus and Mr Paine, the Stewards made the following determination.

1. Mr Adam Hyeronimus was found guilty of the charge under AR232(i)
2. Mr Blake Paine was found guilty of the charge under AR232(i), except for the particular relating to charge 31.

### **Penalty Hearing**

On 20 July 2020, Racing NSW Stewards found Mr Hyeronimus and Mr Paine guilty of charges 1-30, not guilty of charge 31 and having found both guilty of charge 32 on 13 August 2020, evidence and submissions were considered by Stewards on 13 August 2020 in respect to penalty. Evidence was given by Mr Hyeronimus and Mr N Paine, father of Mr Paine and uncle of Mr Hyeronimus. Submissions were made by Solicitor Mr P O'Sullivan on behalf of Mr Hyeronimus and Mr M Barnes on behalf of Mr Paine. The hearing was then adjourned to consider the evidence and submissions.

### **General Principals**

The Stewards have considered the following principals when considering an appropriate penalty

1. 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.
2. 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.
3. The pattern of conduct displayed by Mr Hyeronimus and Mr Paine, which was been established by the Stewards of having occurred over a period of approximately 2 years.

## Submissions on behalf of Mr Hyeronimus

Stewards considered the following matters in respect to penalty, after hearing evidence provided by Mr Hyeronimus and submissions made on his behalf .

- a. First offence of this kind for Mr Hyeronimus
- b. Personal and professional effects the inquiry has had on him
- c. Effects that a penalty would have on his career
- d. Conduct occurred sporadically and was not a regular occurrence.
- e. Stewards should carefully consider the principles of totality when assessing an appropriate penalty.
- f. Mr Hyeronimus has worked within the racing industry since leaving school and given the current situation with COVID-19, will find it difficult to obtain employment outside the racing industry.

Whilst Stewards accepted this was his first offence for betting, it was also noted he had previously been charged with offences of conduct prejudicial to the image of racing and providing a sample that contained a banned substance.

## Submissions on behalf of Mr Paine

Stewards considered the following matters in respect to penalty after hearing submissions made on his behalf .

- a. Mr Paine enjoys a clean record in racing.
- b. Conduct commenced to occur when Mr Paine was 19 years old.
- c. Any period of disqualification would also result in his employment as a barrier attendant being terminated and the Stewards should consider a period of suspension to allow Mr Paine to continue to work as a barrier attendant.
- d. Personal and professional effects the inquiry has had on him
- e. Stewards should carefully consider the principles of totality when assessing an appropriate penalty.
- f. Mr Paine has worked within the racing industry since leaving employment as an apprentice refrigeration mechanic in 2016 and given the current situation with COVID-19, will find it difficult to obtain employment outside the racing industry.

## Penalty – Individual Charges

### 4. Charge 1 – Lucky Meteor A Hyeronimus AR115(1)(e) & B Paine AR236

**Adam Hyeronimus** – This charge relates to Mr Hyeronimus having an interest in a bet in a race in which he rode. AR115(3) states that if a jockey or apprentice jockey breaches subrule (1)(e), a disqualification of not less than 2 years under AR283(6) must be imposed unless there is a finding that a special circumstance exists, in which case that penalty may be reduced. It was acknowledged on behalf of Mr Hyeronimus that special circumstances in accordance with NSWLR108(2) do not apply. Having considered the established principles in respect to considering the imposition of mandatory minimum penalties, as determined in *James McDonald v Racing New South Wales [2017] NSWSC 1511* (3 November 2017), the Stewards determine the mandatory minimum penalty of 2 years disqualification should apply for charge 1.

**Blake Paine** – Having regard to the mandatory minimum penalty of 2 years disqualification applied for a breach of AR115(1)(e), the Stewards determine that Mr Paine be disqualified for a period of 18 months for this breach which reflects the seriousness of his conduct in being involved in a breach of AR115(1)(e) by Mr Hyeronimus and also taking into account the subjective considerations submitted on behalf of Mr Paine.

**5. Charge 2 – Limbo Soul A Hyeronimus AR115(1)(e) & B Paine AR236**

**Adam Hyeronimus** - This charge also relates to Mr Hyeronimus having an interest in a bet in a race in which he rode. AR115(3) states that if a jockey or apprentice jockey breaches subrule (1)(e), a disqualification of not less than 2 years under AR283(6) must be imposed unless there is a finding that a special circumstance exists, in which case that penalty may be reduced. It was submitted on behalf of Mr Hyeronimus that special circumstances in accordance with NSWLR108(2) do not apply. Having considered the established principles in respect to considering the imposition of mandatory minimum penalties, as determined in *James McDonald v Racing New South Wales* [2017] NSWSC 1511 (3 November 2017), the Stewards determine the mandatory minimum penalty of 2 years disqualification should apply for charge 2.

**Blake Paine** – Having regard to the mandatory minimum penalty of 2 years disqualification applied for a breach of AR115(1)(e), the Stewards determine that Mr Paine be disqualified for a period of 18 months for this breach which reflects the seriousness of his conduct in being involved in a breach of AR115(1)(e) by Mr Hyeronimus and also taking into account the subjective considerations submitted on behalf of Mr Paine.

**6. Charges 3 to 30 – A Hyeronimus AR115(1)(c) and B Paine AR236**

Mr Hyeronimus - Charges 3 to 30 – Between 22 June 2016 and 19 August 2018 he had an interest in 28 bets on thoroughbred racing.

Mr Paine – Between 22 June 2016 and 19 August 2018 he placed 28 bets on thoroughbred racing for jockey Adam Hyeronimus.

Charges 3 to 30 are charges relating to bets placed on thoroughbred racing whereby Adam Hyeronimus did not have a ride in the races in question. The majority of the races are bets placed on NSW Thoroughbred racing and on occasions when Mr Hyeronimus was riding at the said race meeting. A number of the bets placed were on horses that Mr Hyeronimus had had an association with, having ridden them at their last start, in a barrier trial or having knowledge of the horses trackwork performances. The Stewards have deemed it appropriate that, having regard to the pattern of conduct of both Mr Hyeronimus and Mr Paine that a total penalty for breaches 3 to 30 should be imposed. Having regard to precedent penalties and the considerations detailed above the following penalties have been determined.

Mr Hyeronimus AR115(1)(c) –12 months disqualification.

Mr Paine AR236 – 9 months disqualification.

**7. Charge 32 – AR232(i) False Evidence**

Throughout the Stewards inquiries on 30 May 2020 the Stewards found that both Mr Hyeronimus and Mr Paine have provided false evidence and denied the betting offences. As recently determined by the Racing NSW Appeal Panel in the matter of Lundholm 7 August 2020, the Principal member Mr R Beasley SC stated;

*“When licenced [trainers] lie to Stewards it is a real attack on the integrity of the sport. It is an obvious hindrance to those charged with upholding that integrity”.*

Further as detailed in the matter of Poidevin before the Racing NSW Appeal Panel on 20 July 2018, The Convenor Mr T Hale SC, adopted the words of The Honourable Judge Nixon in the matter of Leek before the Victorian Racing Appeals Tribunal;

*“A licensed person, such as Mr Leek, has certain rights and privileges, and those rights and privileges carry with them on the other hand certain obligations. There must be a degree of trust between those who empowered to enforce the rules of racing-and I have in mind, of course, the stipendiary stewards, in particular-and licensed person, otherwise the system which has stood test of time will break down, and public confidence in the racing industry will be eroded.....Licensed persons owe a duty to tell the truth..... Those who lie like this must realise that they will suffer as a trainer, or as a licensed jockey, no doubt, financial detriment, they should think of that before they engage in this course of deception. It is very easy to lie. It is very difficult to determine when a person is lying; as a Judge of this court one quickly realises that. But here I have no hesitation in saying that the appeal should be dismissed, both as a deterrent to Mr Leek, Junior, and as a deterrent to others who might be minded to engage in similar course of deception”.*

Having regard to precedent penalties, the fact that both Mr Hyeronimus and Mr Paine still have not told the truth to the Stewards in respect to very serious offences under the Rules of Racing and the principles outlined above, the Stewards determine that the following penalties be issued.

Mr Hyeronimus AR232(i) - 12 months disqualification

Mr Paine AR232(i) – 12 months disqualification.

**Summary of Penalties**

**8. Mr Hyeronimus**

- a. Charge 1 – AR115(1)(e) – 2 years disqualification
- b. Charge 2 – AR115(1)(e) – 2 years disqualification
- c. Charges 3 – 30 – 12 months disqualification
- d. Charge 32 – 12 months disqualification

The cumulative total of the above periods of disqualification is 6 years.

**9. Mr Paine**

- a. Charge 1 – AR236 – 18 months qualification
- b. Charge 2 – AR236 – 18 months disqualification
- c. Charges 3 – 30 – 9 months disqualification
- d. Charge 32 – 12 months disqualification

The cumulative total of the above periods of disqualification is 4 years and 9 months.

**Penalty Totality and Concurrency**

10. The penalties set out above represent the penalties that the Stewards consider appropriate for each of the relevant breaches, having taken into account objective considerations and mandatory minimum penalties required by AR115(3) and AR283(6). The Stewards have considered both Mr Hyeronimus's and Mr Paine's personal and professional circumstances including the evidence relied upon and submissions made on 13 August 2020.

In addition, the Stewards have considered the general principals detailed above and the principles relating to totality of penalty. Having considered those matters the Stewards determine that the appropriate orders in respect of concurrency and totality are:

**11. Mr Hyeronimus**

- a. Charges 1 and 2 – 2 years to be served concurrently.
- b. Charges 3 to 30 – 6 months of the 12 months disqualification to be served partially concurrent with charges 1 and 2 with the remaining 6 months to be cumulative.
- c. Charge 32 – 6 months of the 12 months disqualification to be served partially concurrent with charges 1 and 2 with the remaining 6 months to be cumulative.

**Total penalty is 3 years disqualification to commence on 18 August 2020 and to expire on 18 August 2023.**

**12. Mr Paine**

- a. Charges 1 and 2 – 18 months to be served concurrently.
- b. Charges 3 to 30 – 5 months of the 9 months disqualification to be served partially concurrent with charges 1 and 2 with the remaining 4 months to be cumulative.
- c. Charge 32 – 6 months of the 12 months disqualification to be served partially concurrent with charges 1 and 2 with the remaining 6 months to be cumulative.

**Total penalty is 2 years and 4 months disqualification to commence on 18 August 2020 and to expire on 18 December 2022.**

**Relevant Rules**

***AR115(1)(e) Jockey and apprentice jockey misconduct***

*(1) A jockey or apprentice jockey must not:*

- (c) bet, or have any interest in a bet, or facilitate a bet, on any race;*
- (e) bet, or have any interest in a bet, on any race or contingency relating to thoroughbred racing involving a race in which he or she is riding.*

*(3) If a jockey or apprentice jockey breaches subrule (1)(e), a disqualification of not less than 2 years must be imposed unless there is a finding that a special circumstance exists, in which case that penalty may be reduced.*

***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.*

***AR 236 Betting with or for a jockey***

*A person must not bet with or for a jockey or apprentice jockey, or give or offer a rider any pecuniary or other gift or consideration, contrary to these Australian Rules.*

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