

APPEAL PANEL OF RACING NEW SOUTH WALES

THE APPEAL OF NATALIE WILKINSON

Appeal Panel: **Mr R. Beasley SC – Principal Member; Mrs J Foley; Mrs S Hudson**

Appearances: **Mr C Albrecht, for the Stewards**
Ms L Robertson, Solicitor, for the Appellant

Date of Hearing: **27 May 2021**

Date of Reasons and Orders: **27 May 2021**

REASONS FOR DECISION

The Panel

1. On 4 May 2021, licenced stablehand Ms Natalie Wilkinson (the appellant) pleaded guilty to a breach of AR 228(b) of the Australian Rules of Racing. That rule is as follows:
AR 228 Conduct detrimental to the interests of racing
A person must not engage in:
...
(b) misconduct, improper conduct or unseemly behaviour.
2. The particulars of the breach were that the appellant “*sent or was a party to sending threatening and/or improper messages to stablehand Ms Keira Head between January and March 2021*”.
3. The Stewards imposed a penalty of a 2-month suspension of the appellant’s licence. The last month of this penalty was suspended under AR283(5) on the basis that she not offend under the Rules for a period of 2-years. The appellant has appealed to the Panel against the severity of the Penalty imposed upon her. After lodging her appeal, a stay was granted on that penalty after two days. At the appeal hearing, the Stewards were represented by Mr C Albrecht. The appellant was represented with leave by Ms

L Robertson, Solicitor, from VRT Lawyers. An appeal book, containing the transcript and exhibits from the Stewards' Inquiry was tendered, and marked as Exhibit A. A medical note, a bank statement showing the appellant's financial position, and a letter from her mother regarding her own medical condition was also tendered and together marked as Exhibit 1.

4. No facts were in dispute. They are not worth reciting in all their glory. A group of stablehands, once seemingly friends, have had a serious falling out in their personal relationships for reasons that do not matter to the disposition of this appeal. The appellant's part in this was sending text messages to Ms Head that were to a degree threatening, and certainly improper. They involved the use of very insulting language. They were sent over a period of two months. While constituting a clear breach of the rule, they in total represent conduct that is towards the lower end of objective seriousness for a breach of AR 228(b).

5. While the penalty imposed by the Stewards is well within the range of reasonable penalties for the appellant's conduct, the Panel is of the view that it is appropriate to impose a lesser penalty. We do so for these reasons:
 - (a) The offending here is the first of this kind by the appellant.

 - (b) The principal purpose of imposing penalties for breaches of the rules of racing – to uphold the image and integrity of the sport – can be served by a lesser penalty than that imposed by Stewards. As submitted by Ms Robertson, the improper conduct here was private between the appellant and Ms Head, rather than being conduct of a public nature which would do more damage to the image of racing. That is not to condone the text messaging, but rather to recognise that they were not messages, for example, published on social media.

 - (c) Although not central to any determination of penalty, we accept that any suspension of the appellant's licence will create a serious financial hardship for her. The appellant is also young, and based on a statement she made to the Panel in which she took responsibility for her conduct and expressed regret, we are of the view she is genuinely remorseful, and has proper insight into her poor

judgment regarding the text messaging. On balance, we feel she is unlikely to offend in this manner again.

6. Given the above, in lieu of the penalty imposed by the Stewards, we impose instead a penalty of a two-week suspension. The Panel makes the following orders:

1. Appeal against severity of penalty allowed.
2. Penalty of a two-month suspension (with the second month itself suspended) set aside, and in lieu of that penalty the appellant's licence is suspended for a period of two weeks. Taking into account time served, her licence is suspended from today until 8 June 2021, on which day she may resume her duties.
3. Appeal deposit to be refunded.