



INQUIRY INTO THE CIRCUMSTANCES SURROUNDING AN INJURY TO, AND THE REMOVAL OF, PART OF THE TONGUE OF THE RACEHORSE *MY COUSIN JAMES*

Ballina Racecourse

4 June 2021

**Stewards: M A Holloway (Chairman)
R. W. Loughlin**

Stewards today concluded and inquiry opened on Friday 14 May 2021 into the circumstances surrounding an injury to, and the eventual removal of, part of the tongue of the racehorse *My Cousin James*.

Evidence was taken from licensed trainers Mr S. Phelps and Mr D. Chujo, licensed stablehand Mr B. Kliese, veterinary permit holder Dr S. McColgan and veterinarian Dr M. Markwell of WestVETS Equine Hospital.

Racing NSW General Manager – Veterinary Services, Dr Toby Koenig assisted the inquiry.

Stewards established that on the morning of Thursday 1 April 2021, Mr Phelps did apply an approved rubber band tongue tie to *My Cousin James* prior to that gelding commencing track work and unintentionally failed to remove such tongue tie as soon as practicable after the gelding finished track work resulting in its remaining on the gelding until that afternoon when it was identified. The consequence of which was that *My Cousin James* lost vascular supply to part of its tongue, resulting in it becoming necrotic and having to be surgically removed.

Stewards issued Mr Phelps a charge under AR231(1)(b)(i) –

AR 231(1)(b)(i)

Failed to exercise reasonable care and/or supervision to prevent an act of cruelty to *My Cousin James* on Thursday 1 April 2021.

Plea: Guilty

Stewards considered the following matters when assessing penalty –

1. Mr Phelps had no intention to be cruel to *My Cousin James*.
2. Mr Phelps satisfactory level of care afforded to *My Cousin James* upon realisation of the offence.
3. Early guilty plea at first available opportunity.
4. Remorse and forthright evidence.
5. Disciplinary history.

6. Personal and professional circumstances.
7. Principle of specific and general deterrence and what message is to be sent to the industry in respect to such conduct.
8. Purpose for issuing penalties as a protective measure for the integrity of the thoroughbred Industry.

Penalty

After such considerations, Stewards were of the opinion that the appropriate starting point for an offence of this nature to be a 6 month disqualification. Appreciating Mr Phelps guilty plea and mitigating factors a 4 month disqualification was imposed.

Stewards ordered that such disqualification commence immediately and expire on Monday 4 October 2021, on which day he may re apply for a license.

Acting under the provisions of AR283(7), Mr Phelps was allowed seven (7) days to continue to care for his horses however he is not permitted to start a horse in a jump out, barrier trial or race during this period.

Mr Phelps was advised of his appeal rights.

AR 231 Care and welfare of horses

(1) A person must not:

(a) commit or commission an act of cruelty to a horse, or be in possession of any article or thing which, in the opinion of the Stewards, is capable of inflicting cruelty to a horse;

(b) if the person is in charge of a horse – fail at any time:

(i) to exercise reasonable care, control or supervision of the horse so as to prevent an act of cruelty to the horse;

AR283 Penalties

(7) A person or body authorised by these Australian rules to suspend or disqualify any trainer may defer the commencement of the period of suspension or disqualification for no more than 7 clear days following the day the suspension or disqualification was imposed, and upon terms and conditions they see fit.

M. A. Holloway
Chief Steward NRRRA