

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED TRAINER GRANT BRADLEY JOBSON

Heard at Racing NSW Offices

Appeal Panel: **Mr L. Vellis - Convenor; Mrs J. Foley; Mr J. Rouse**

Representatives: **Racing NSW - Mr M. Cleaver, Operations Manager - Integrity**
Appellant – Mr J. Vizzone, Barrister

Date of Hearing: **24 February 2025**

Date of Reasons and Orders: **7 April 2025**

REASONS FOR DECISION

1. On 8 November 2024, three year old filly *All in Writing*, in the care of licensed trainer Mr Grant Jobson (**Appellant**), took part in Race 1 at Kempsey Racecourse. During the event, *All in Writing* sustained a catastrophic injury to the left carpus. A subsequent postmortem revealed the carpus had a comminuted fracture of the fourth carpal bone. Several inter-carpal ligaments had ruptured with associated avulsion fractures.
2. On 8 November 2024, Racing NSW Stewards commenced an investigation surrounding the euthanasia of *All in Writing* and the care afforded to the filly prior to its euthanasia. On 8 January 2025, Racing NSW Stewards opened an inquiry into the circumstances surrounding the euthanasia and prior care afforded to *All in Writing*. On 15 January 2025 Racing NSW Stewards issued one charge against the Appellant.
3. On 29 January 2025 Racing NSW Stewards conducted an inquiry in relation to the charge issued against the Appellant.
4. At the inquiry the particulars of the charge issued against the Appellant were amended such that the charge issued was as follows:

Charge | AR 229(1)(a) of the Australian Rules of Racing (**Rules**) | Improper action in connection with racing

- a. The details of the charge being that Mr Jobson did commit an improper action in connection with racing by allowing *All in Writing* to continue to exercise, and to enter and start in a race on Friday 8 November 2024, despite being advised that in *All in Writing* had a gait abnormality in September 2024, which required a veterinary assessment to identify the cause of the gait abnormality after returning from a spell following a suspected hairline fracture to the nearside fetlock.
- b. AR 229(1)(a) is in the following terms:

A person must not engage in any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.

5. The Appellant pleaded guilty to the charge. The following orders were made:
 - a. penalty of a nine months disqualification of trainers licence, which was reduced to six months having regard to the Appellant's guilty plea and other relevant considerations; and
 - b. acting under AR 283(7) the Stewards deferred the commencement of the disqualification for a period of seven days, however during this period the Appellant was not permitted to start a horse in a race.
6. The Appellant applied for and was granted a stay of proceedings and such stay continues until the resolution of this matter.
7. The Appellant has appealed to the Panel against the severity of penalty. He was represented on appeal by his solicitor, Mr John Vizzone, Barrister. The Stewards were represented by the Operations Manager of Integrity, Mr Michael Cleaver.
8. The Appeal Book was tendered as Exhibit A and other documents (including written submissions on behalf of Racing NSW, character references in favour of Mr Jobson and a previous Appeal Panel decision) were also tendered and discussed during the hearing.

Racing NSW Submissions

9. In addition to oral submissions, Mr Cleaver provided written submissions. The relevant parts of Mr Cleaver's oral and written submissions are set out below.
 - a. The Appellant is a licensed trainer with Racing NSW.
 - b. Pursuant to LR78, the Appellant was at all times responsible for the administration and conduct of his stable and for the care, control and supervision of the horses in his stable.
 - c. Between 23 October 2023 and 08 November 2024, the Appellant was the licensed trainer of thoroughbred horse *All In Writing*.
 - d. On 9 June 2024, *All In Writing*, ridden by Apprentice Jockey Ms Shae Wilkes took part in an open trial at Taree over 1,007m. In the days following the trial, the Appellant was aware that the horse was lame and on 11 June 2024 administered the filly 10 ml of phenylbutazone.
 - e. On 20 June 2024, Veterinarian Dr Stuart Knox conducted an examination and x-ray on *All In Writing*. The Appellant was present during the examination and x-ray. The Appellant was made aware that *All In Writing* had a suspected undisplaced stress fracture of the craniomedial P1 (left foreleg).

- f. At this time, the Appellant was advised by Dr Knox that the horse required a spell for between 2-3 months. On 30 June 2024, the horse was spelled.
- g. On or around 26 August 2024, without obtaining veterinary advice, or any additional veterinary examinations undertaken on *All In Writing*, the Appellant returned it to work.
- h. Prior to 9 June 2024, *All In Writing* did not display any symptoms of lameness and was not described as being “scratchy”, “shuffly” or “niggly”.
- i. In early September 2024, Apprentice Jockey Ms Teighan Worsnop rode *All in Writing* during track work and advised the Appellant that the horse was not stretching out and had a gait abnormality. Ms Worsnop reported the horse to be 1/5 lame. The Appellant was aware that she had concerns for the horse’s action and gait, and the Appellant warned her prior to riding the horse that the horse would feel “scratchy” in front.
- j. Prior to the 9 October 2024, Ms Worsnop reported to the Appellant on approximately one or two occasions that the horse was not stretching out and had a gait abnormality. On these occasions, the Appellant decreased the horse’s workload on the advice of Ms Worsnop.
- k. On 11 October 2024, *All In Writing* walked onto Taree Racecourse during track work and was observed by Taree Racecourse employees Mr Mark Hubbard and Mr Kevin Berte to be displaying a gait abnormality in the front leg. Mr Hubbard recorded the incident within a notebook on the instruction of track manager Mr Scott Olson.
- l. On 21 October 2024, the Appellant had his farrier, Mr Brendan Barnes, attend to the horse as the Appellant’s trackwork rider reported that the horse was “scratchy”. The farrier did not identify any abnormalities and fitted concussion plates to the filly.
- m. Sometime following this, the Appellant had equine chiropractor Mr Ken Butler examine the horse following the Appellant’s trackwork rider reporting the horse was “scratchy”.
- n. Between 23 October 2024 and 7 November 2024, Ms Nichole Scott rode *All In Writing* during track work. During this time, the Appellant was aware that she had concerns for the horse’s action and gait as she reported on one or two occasions that the horse was ‘hoppy’.
- o. On 8 November 2024, *All In Writing* took part in race 1 in the Country Boosted Maiden Plate over 1,000 metres at Kempsey Racecourse. *All In Writing* sustained a catastrophic injury to its left foreleg which led to its euthanasia.
- p. A partial post-mortem examination of the filly revealed the carpus had a comminuted fracture of the fourth carpal bone. Several inter-carpal ligaments had ruptured with associated avulsion fractures.

- q. It was an improper action to allow *All In Writing* to continue to exercise, and to enter and start in a race on Friday 8 November 2024, despite having been advised that *All In Writing* had a gait abnormality after returning from a spell in early September 2024, which required a veterinary assessment to identify the cause of the gait abnormality.
10. In addition to the above submissions, Mr Cleaver submitted that the discount provided to Mr Jobson for his guilty plea (which was just over 33%) as appropriate, as was the overall quantum of the penalty.
11. Mr Cleaver noted that there were numerous prompts for the Appellant to seek veterinary assistance for *All in Writing* from early September 2024 onwards, all of which were ignored. Mr Cleaver did not suggest that *All in Writing*'s death was caused by the Appellant, merely that it was an improper action in connection with racing by allowing *All in Writing* to continue to exercise, and to enter and start in a race on Friday 8 November 2024, despite being advised that *All in Writing* had a gait abnormality in September 2024, which required a veterinary assessment to identify the cause of the gait abnormality.
12. Mr Cleaver also referred to the Panel's decision in the matter of *Mr John McLachlan (2021)*, and submitted that the Appellant's matter included facts and principles that were consistent with *McLachlan*, with the main difference being that in *McLachlan*, Mr McLachlan was advised by a veterinarian to obtain a further examination to determine the cause of the lameness to the horse in that matter, but ignored the advice. Mr McLachlan was disqualified for 9 ½ months and Mr Cleaver submitted that three months was an appropriate difference in penalty between the matters.
13. Mr Cleaver acknowledged the three character references that were provided in favour of the Appellant but also submitted that these did not make the Appellant's conduct any less improper.
14. With respect to penalty, Mr Cleaver submitted that the penalty issued to Mr Jobson was appropriate in the circumstances, reflective of the seriousness of the Charge and necessary to protect the racing industry and to act as a general deterrence to others. Mr Cleaver also submitted that it was a shocking look for the industry when there is a fall in a race.

Mr Vizzone Submissions

15. Mr Vizzone quibbled with some of the submissions of Mr Cleaver in that Mr Vizzone submitted that while Ms Worsnop did ride *All in Writing* during trackwork in September and October 2024 and advised the Appellant that the horse was "*a bit sketchy*" and "*a little short in front*" (Appeal Book at 1,058), Ms Worsnop also said in evidence that "*once she's warmed up, canters off, pulls up, does not put a foot wrong*" (AB 1,058).
16. It was also submitted by Mr Vizzone that Ms Wilkes, who had ridden *All in Writing* in a jump out since it had returned to work in early September, that the horse "*felt fine*" (AB, Interview with Shae Wilkes, Line 69).

17. The Panel notes that in the same part of the interview Ms Wilkes said she had heard from other parties that *All in Writing* “was not 100 percent right” (AB, Interview with Shae Wilkes, Line 71) and in fact, Ms Wilkes mentioned that she had been asked by the Appellant himself to ride the horse and provide her thoughts because the Appellant had said “*Nicole doesn’t think she feels right*” (AB, Interview with Shae Wilkes, Lines 92-93). In addition, the Panel notes that Ms Wilkes’s said that her “father wasn’t comfortable with me jumping it out” (AB, Interview with Shae Wilkes, Line 131) and that as between her and her father “we both know what it’s issue has been” (AB, Interview with Shae Wilkes, Lines 133-134).
18. Mr Vizzone distinguished the *McLachlan* matter by noting that in *McLachlan* veterinarian advice had been ignored, which was not the case with respect to the Appellant. The Panel does not find this to be particularly compelling as it is apparent that the Appellant was aware of an issue with the horse (the degree to which he understood the seriousness of the issue is in dispute), had numerous opportunities to seek veterinary assistance, and in each case did not do so. It is more a matter of good fortune than anything else that Apprentice Jockey Ms Madeline Owen was not seriously injured when *All in Writing* sustained its catastrophic injury to the left carpus.
19. With respect to penalty, Mr Vizzone spoke of the Appellant’s good record (5 ½ years without incident) and submitted that the Appellant was a genuine horse person who always put the interests of his horses first.
20. Mr Vizzone noted that the Appellant was also provided with three character references, each of which spoke to the Appellant’s good character, professionalism and care for his horses.
21. It was also submitted by Mr Vizzone that a lengthy disqualification would have a devastating financial impact upon given training was now the Appellant’s full time occupation. Mr Vizzone also submitted that there had been considerable reputational damage suffered by the Appellant that should be factored into penalty.
22. Mr Vizzone submitted that a fine or a reduced period of disqualification would be more appropriate penalties.

Panel Resolution

23. It is inescapable that there were numerous opportunities for the Appellant to seek veterinary assistance for *All in Writing* from early September 2024 onwards, all of which were ignored.
24. The Appellant was on notice from various sources (as well as his own observations) that there was an abnormality with *All in Writing* which required a veterinary assessment, and it is was an improper action in connection with racing to allow *All in Writing* to continue to exercise, and to enter and start in a race on Friday 8 November 2024.
25. In considering the penalty the Panel considered the following matters:
 - a. Disciplinary history, which the Panel considers to be good;

- b. Guilty plea entered at the earliest opportunity;
 - c. Personal and professional circumstances;
 - d. The nature and circumstances of the offence;
 - e. Principles of specific and general deterrence and what message is sent to the industry in respect of such conduct;
 - f. The importance of equine welfare for the thoroughbred racing industry prior to, during racing and upon retirement;
 - g. The purpose of issuing penalties as a protective measure for the image, interests and welfare of the thoroughbred racing industry, with the main purpose of the imposition of penalties for breaches of the Rules being to protect the image and integrity of the sport (and to send a message to the community that racing takes steps to always do that); and
 - h. Precedent penalties for similar offences.
26. Having considered the matters described above, the evidence and the submissions made by Mr Cleaver and Mr Vizzone, the Panel is of the unanimous view that the appeal in relation to penalty should not be allowed. The Panel is of the view that that the orders made by the Stewards at the Inquiry were appropriate and the Panel sees no reason to disturb these orders.
27. While the Panel accepts that the Appellant has a good record and genuine care for his horses, it is our view that the penalty originally imposed provided a generous discount to reflect the guilty plea of the Appellant and the Panel does not consider any further discount or reduction appropriate in the circumstances.
28. By arrangement between the Appellant and the Stewards the suspension may be deferred under AR 283(7) for seven clear days in order to allow the Appellant the opportunity to get his affairs in order. The Appellant is not permitted to start a horse in a trial or in a race during this seven day period.
29. The orders of the Panel are:
- a. Appeal against severity of penalty dismissed;
 - b. Penalty of a six months disqualification of trainers licence confirmed; and
 - c. The disqualification may be deferred under AR 283(7) for 7 days from the date of these reasons by arrangement between the Appellant and the Stewards; and
 - d. Appeal deposit to be forfeited.