

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF TRAINER JAMES CUMMINGS

Heard at Racing NSW Offices

Appeal Panel: **Mr L. Vellis - Convenor; Ms S. Skeggs; Mr J. Murphy**
Representatives: **Appellant – Self represented**
Racing NSW - Mr S.G. Railton, Chairman of Stewards for Racing NSW
Date of Hearing: **13 November 2023**
Date of Reasons and Orders: **13 November 2023**

REASONS FOR DECISION

1. Licensed trainer Mr James Cummings (**Appellant**) was found guilty of a breach of AR 53(1)(b) in relation to the entry of three horses into the James Squire Kirkham Plate at Royal Randwick on 21 October 2023.
2. AR 53(1)(b) provides that "*a person must not nominate or run a horse in a race unless the horse is eligible to run in the race under these Australian Rules*".
3. In addition, LR 41(1) of the Rules of Racing of Racing NSW provides that "*every horse must have competed in an official barrier trial to the satisfaction of the Stewards before being eligible to race, unless otherwise determined by the Stewards*".
4. Mr Cummings was issued a fine of \$750 in relation to the breach of AR 53(1)(b). The Appellant is appealing in relation to guilt and penalty.
5. The Stewards were represented by the Chairman of Stewards, Mr Steve Railton. The Appellant represented himself.
6. Mr Railton contended that there was a clear breach of AR 53(1)(b) in that LR 41(1) had not been followed by Mr Cummings. Mr Railton noted that the three horses nominated by Mr Cummings had not participated in an official barrier trial and there had not been any request made by Mr Cummings prior to the nominations being made for the Stewards to exercise their discretion to allow the three horses to be nominated.
7. Mr Cummings contended that he had taken steps to ensure the three horses were fit to race, with the horses having participated in jump outs in Victoria and obtained Barrier Certificates. Mr Cummings also noted that it was open to the Stewards to reach out to him to discuss the nominations if there were any concerns or issues.

8. Mr Cummings is a highly respected participant in the thoroughbred industry and a key stakeholder. His views hold weight and are thoughtfully expressed. However, in this instance the Panel unanimously agrees that there has been a clear breach of AR 53(1)(b).
9. The requirements of AR 53(1)(b) and LR 41(1) are clear and unambiguous and it is the responsibility of the Appellant to ensure he complies with all relevant rules of racing, whether it be the Australian Rules of Racing or the Rules of Racing of Racing NSW.
10. While the arrangements in Victoria may be different and the constantly developing and evolving landscape requires constant vigilance by licensed parties, it is ultimately the responsibility of the Appellant to adhere to the relevant rules applicable to his circumstances.
11. It is not open to the Panel to amend the Australian Rules of Racing or the Rules of Racing of Racing NSW, nor is it a matter for the Panel to draw comparisons between the local rules of racing in effect in each of New South Wales and Victoria. The Panel's job is to interpret the rules as they are and as they apply in New South Wales, and in this case the Appellant's appeal is dismissed.
12. The orders of the Panel are:
 - a. Appeal dismissed.
 - b. Finding of a breach of AR 53(1)(b) confirmed.
 - c. Penalty of a fine of \$750 confirmed.
 - d. Appeal deposit to be forfeited.
