PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY RAYMOND SPOKES

Heard at Racing NSW Offices

Appeal Panel:	**Mr L. Vellis - Convenor**; **Mrs J. Foley; Mr C. Tuck**
Representatives:	**Racing NSW – Mr M. Cleaver, Operations Manager - Integrity**
	Appellant – Mr W. Pasterfield, Solicitor
Date of Hearing:	**7 August 2026**
Date of Reasons and Orders:	**8 October 2026**

REASONS FOR DECISION

Background

1. On 16 June 2026, Racing NSW Stewards conducted an inquiry into the alleged conduct of licensed jockey Mr Raymond Spokes (the **Appellant**)towards licensed stablehand, Ms Malia Pakinga, whilst both persons were participating in the racing industry at Coffs Harbour racecourse.

2. After considering the evidence, Stewards issued two charges against the Appellant, both being charges under AR 233(c) of the Australian Rules of Racing (the **Rules**).

3. Racing NSW Stewards determined the charges in the following manner:

   Charge 1 | AR 233(c) | Other misconduct offences (sexual harassment)

   a. AR 233(c)) is in the following terms:

      A person must not engage in sexual harassment of a person employed, engaged in, or participating in the racing industry.

   b. Pursuant to AR 2 of the Rules, sexual harassment is defined as follows:

      ***Sexual harassment** means:*

      (a) subjecting a person to an unsolicited act of physical intimacy; or

      (b) making an unsolicited demand or request (whether directly or by implication) for sexual favours from a person; or

      (c) making a remark with sexual connotations relating to a person; or

      (d) engaging in any other unwelcome conduct of a sexual nature in relation to a person, where the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so:

(i) with the intention of offending, humiliating or intimidating the other person; or

(ii) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

c. The details of the charge being that:

i. licensed jockey Mr Raymond Spokes did engage in sexual harassment of a person engaged in and/or participating in the racing industry by reason of the following particulars;

ii. Mr Spokes is a licensed jockey with Racing NSW and is bound by, and required to comply with, the Rules of Racing;

iii. at all relevant times, Ms Malia Pakinga was employed within the stable of trainer Mr Brett Bellamy and engaged in and/or participating in the racing industry.

iv. on 13 April 2026 Mr Spokes did direct comments of the following nature towards Ms Pakinga:

(1) "*Malia, honestly, I think you are sexy as fuck*"; and

(2) "*I wish I could walk through the stables and grab you on the bum*".

v. such conduct, as detailed above, amounts to sexual harassment of Ms Pakinga, who is engaged in and/or participates in the racing industry as:

(1) Mr Spokes made a remark with sexual connotations relating to Ms Malia Pakinga.

where he did so:

(2) in circumstances where a reasonable person would have anticipated the possibility that Ms Malia Pakinga would be offended and/or humiliated and/or intimidated by your conduct.

d. Mr Spokes pleaded not guilty and was found guilty of this charge.

Charge 2 | AR 233(c) | Other misconduct offences (sexual harassment)

a. The details of the charge being that:

i. licensed jockey Mr Raymond Spokes did engage in sexual harassment of a person engaged in and/or participating in the racing industry by reason of the following particulars;

ii. Mr Spokes is a licensed jockey with Racing NSW and is bound by, and required to comply with, the Rules of Racing;

iii. at all relevant times, Ms Malia Pakinga was employed within the stable of trainer Mr Brett Bellamy and engaged in and/or participating in the racing industry.

iv. whilst administering Ovumate to the racehorse *Love For Asher* you did direct a comment of the following nature to Ms Malia Pakinga:
"*Do you want some Ovumate? It'll make you horny and it would make Brent very happy".*

v. such conduct, as detailed above, amounts to sexual harassment of Ms Pakinga, who is engaged in and/or participates in the racing industry as:

(1) Mr Spokes made a remark with sexual connotations relating to Ms Malia Pakinga.

where he did so:

(2) in circumstances where a reasonable person would have anticipated the possibility that Ms Malia Pakinga would be offended and/or humiliated and/or intimidated by your conduct.

d. Mr Spokes pleaded not guilty and was found guilty of this charge.

4. The following orders were made in relation to penalty:

a. Charge 1 AR 233(c) – penalty of 2 months suspension of license in full; and

b. Charge 2 AR 233(c) – penalty of 1 month suspension of license in full.

5. Stewards ordered that the penalties be served concurrently. Exercising the powers under LR 13 of the Local Rules of Racing NSW (the **Local Rules**)., Stewards ordered that such suspension be deferred by 9 days to commence on Friday, 26 June 2026 and to expire on Wednesday, 26 August 2026.

6. On or around 18 June 2026, the Appellant was granted a stay of proceedings with respect to this matter.

7. The Appellant has appealed to the Panel as follows:

a. Charge 1 AR 233(c) – appeal against finding of breach and penalty; and

b. Charge 2 AR 233(c) – appeal against finding of breach and penalty.

8. The Appellant was represented by Mr W. Pasterfield, Solicitor and Mr M. Cleaver, Operations Manager - Integrity, appeared for Racing NSW.

9. The Appeal Book was tendered as Exhibit A. In addition, written submissions were provided by Mr Cleaver for Racing NSW (prior to the hearing) on 6 August 2026.

Submissions

10. Mr Cleaver generally relied upon his written submissions in support of his position that the findings of guilt and penalties issued were appropriate and should not be modified.

11. In discussing AR 233(c), Mr Cleaver submitted that both Charges rely upon the second limb of the Sexual harassment definition found in the Rules, with the relevant question being whether, having regard to the nature of the remark and the circumstances in which it was made, a reasonable person would have anticipated the possibility that Ms Pakinga would be offended, humiliated or intimidated.

12. Mr Cleaver submitted that the expression "reasonable person" is not defined in the Rules but it is widely accepted that the test is objective. It does not depend upon whether the Appellant intended to offend Ms Pakinga, or personally believed the remarks were harmless, humorous or complimentary. Additionally, Mr Cleaver submitted that Ms Pakinga was not required to immediately object or expressly state that she was offended, and while her response is relevant evidence, it does not determine the objective question.

13. The presence of the word "possibility" in the Sexual harassment definition found in the Rules was considered to be significant by Mr Cleaver in that the definition does not require that such a reaction was intended, probable or inevitable.

14. With respect to Charge 1, Mr Cleaver's submissions included that:

    a. on 13 April 2026, the Appellant approached Ms Pakinga while she was working with the horse *The Wolf* in the rear stable area, and Ms Pakinga's evidence was that the Appellant wished to discuss interviews conducted by Stewards two days earlier. The conversation continued for some time and the Appellant appeared emotional about the allegations and his involvement in assisting other industry participants;

    b. Ms Pakinga stated that, following a pause in the conversation, the Appellant said "Malia, honestly, I think you are sexy as fuck." She stated that the Appellant then referred to the fact that she had a boyfriend and he had a wife, before saying words to the effect that he wished he could walk through the stables and grab her on the bum;

    c. Ms Pakinga stated that she responded by telling the Appellant that he should not say those things, particularly in that workplace. She further described using the need to attend to *The Wolf* to bring the conversation to an end;

    d. The account by Ms Pakinga was not expressed in broad or general terms, and Ms Pakinga identified the date, the horse, the location, the work activity she was performing, the preceding subject of conversation, the Appellant's reference to their respective partners, and the means by which she ended the interaction;

    e. This allegation was repeated by Ms Pakinga on the same day. During the recorded conversation between Ms Pakinga and Ms Kelly Loveday on 13 April 2026, Ms Pakinga

initially resisted disclosing the substance of the conversation with the Appellant, stating "What he said, it makes me sick." After being pressed by Ms Loveday, Ms Pakinga stated "He said he thinks I'm sexy as fuck.";

f. the central part of Charge 1 is also established by the Appellant's own evidence, as during his interview with Racing NSW Investigators, the Appellant did not deny that he made a comment concerning Ms Pakinga's appearance or sexual attractiveness. Rather, he stated that the allegation was an exaggeration of what had been said. Similarly, before the Stewards in the inquiry, the Appellant stated that he told Ms Pakinga "I find you attractive, you're a sexy young lady."[1] The Appellant also confirmed that the conversation occurred in the barn and that he believed only he and Ms Pakinga were present;

g. Charge 1 alleges comments "of the following nature". The Appellant's admitted description of Ms Pakinga as a "sexy young girl" is materially of the nature particularised. The difference between the phrases "sexy as fuck" and "a sexy young girl" does not alter the essential character of the remark. In either formulation, the Appellant directly communicated to Ms Pakinga that he regarded her as sexually attractive;

h. The Appellant's explanation was that he intended to communicate that, although he found Ms Pakinga attractive, there were boundaries which prevented him from acting upon that attraction. That explanation does not remove the sexual connotation. To the contrary, a statement that the Appellant found Ms Pakinga sexy, but would not act upon that attraction, expressly communicates sexual attraction. It was not necessary for the Appellant to make such a comment in order to explain that he would behave professionally. He could have communicated that he intended to maintain appropriate workplace boundaries without describing Ms Pakinga as sexy or discussing whether he would act upon an attraction to her;

i. The Appellant also accepted that their relationship arose from work; and

j. The relevant circumstances therefore included: the Appellant was an experienced jockey approximately 48 years of age; Ms Pakinga was approximately 20 or 21 years of age and comparatively junior in the industry; their relationship principally arose from work; Ms Pakinga was required to work closely with and assist the Appellant; the interaction occurred in a relatively isolated stable area; the Appellant believed they were alone; the conversation arose from allegations about workplace conduct; and the Appellant directly communicated his sexual attraction to Ms Pakinga. In those circumstances, a reasonable person would have anticipated the possibility that Ms Pakinga would be offended, humiliated or intimidated.

[1] Appeal Book, page 27, line 1,206.

15. The Appellant maintained that the “grab you on the bum” comment was not repeated during the Stewards Inquiry, although Mr Cleaver submitted that that Ms Pakinga’s credibility supports the view that her evidence that the comment was made should be accepted. In any event, Mr Cleaver submitted that the two comments particularised are not separate elements which must each be proved before the charge can be made out. The charge is one of sexual harassment and if the Panel is satisfied that the Appellant made the first comment, or words materially to that effect, and that the remaining elements of AR233(c) are established, the Charge is proved notwithstanding that the Panel is not satisfied as to the second comment.

16. Mr Cleaver submitted that the evidence supporting a guilty finding for Charge 1 included:

    a. the direct evidence of Ms Pakinga;

    b. a same-day recorded complaint;

    c. consistency concerning the date, horse, location and surrounding conversation;

    d. evidence of her contemporaneous reaction; and

    e. the Appellant’s admission that he described her as a “sexy young girl”.

17. Mr Pasterfield initially made general submissions regarding the matter, primarily that there were six allegations levelled against the Appellant in the Stewards Inquiry regarding his interactions with Ms Pakinga, which resulted in only two Charges against the Appellant, suggesting that the Stewards accepted Mr Stokes’ explanation in regard to the allegations that did not lead to charges. The Panel accepts this is one possibility, with another being that Stewards did not consider there to be enough evidence to sustain charges with respect to such allegations. Given no charges were laid with respect to the other allegations, this is a moot point.

18. Mr Pasterfield further submitted that with respect to Charge 1, the Appellant denied making the comment regarding wanting to “*grab*” Ms Pakinga “*on the bum”*, but did acknowledge saying Ms Pakinga was a *“sexy young lady”*, rather than saying Ms Pakinga was *“sexy as fuck”.* Ms Pasterfield conceded that Mr Spokes may have crossed the line in telling Ms Pakinga she was a *“sexy young lady”*, but the Appellant denied this was said in a sexual manner or intended to offend, but was rather a workplace discussion between friends.

19. With respect to Charge 2, Mr Cleaver submitted that Ms Pakinga stated that, while the Appellant was administering Ovumate to *Love For Asher*, he asked “Did you want some Ovumate?” She stated that she replied “no thanks”, following which the Appellant said “It’ll make you horny and it would make Brent very happy.” Ms Pakinga stated that she continued to say “no thanks” and attempted to walk away.

20. With respect to Charge 2, Mr Cleaver’s submissions included that:

a. Again, the allegation was connected to identifiable circumstances, including the horse, *Love For Asher*, the product, Ovumate, the location near the former Jarvis' stables, the Appellant administering the product, and he reference to Ms Pakinga's partner, Brent;

b. Ms Pakinga described the comments as "gross" and "weird" and did not feel comfortable directly confronting the Appellant because she was concerned that doing so would result in her being characterised as angry or difficult;

c. the underlying interaction is substantially admitted by the Appellant, in that he recalls having a conversation with Ms Pakinga in similar circumstances, however. the Appellant denied the sexual words but accepted that he was administering Ovumate to a mare and had spoken to Ms Pakinga about women administering the product. He stated "*I was giving them Ovumate to a mare and I've told Malia that females should not give Ovumate to the horses because like it's basically an estrogen and it's not good for females to be given it to horses.*";

d. Ms Pakinga was then directly asked whether she remembered the safety discussion described by the Appellant. She accepted that she did. She was then asked whether the sexual comment occurred during the same conversation and answered "Correct.";

e. The issue is therefore not whether the relevant interaction occurred. It is common ground that an Ovumate conversation occurred between the Appellant and Ms Pakinga in the circumstances described. The dispute is confined to whether the Appellant added the sexualised words alleged. The remark, if made, plainly had sexual connotations. The expression "it'll make you horny" was a direct reference to Ms Pakinga becoming sexually aroused. The further reference to the product making Brent happy expressly connected that sexual arousal to her intimate relationship;

f. The Appellant's answer is that such a remark would make no pharmacological sense because Ovumate suppresses a mare's cycle;

g. It is accepted that Charge 2 does not have the same degree of contemporaneous support as Charge 1. There is no recording of an immediate complaint and the Appellant does not admit using words materially of the nature alleged. It therefore depends more substantially upon the Panel accepting Ms Pakinga's account, which Mr Cleaver submitted should be accepted having regard to:

    i. the specificity of the incident described;

    ii. the identification of the horse, product, location and partner;

    iii. the admitted underlying interaction;

    iv. Ms Pakinga's maintenance of the allegation when directly questioned at the inquiry; and

v. her explanation of her reaction.

21. Ms Pasterfield submitted that Charge 2 could not be made out, with the Appellant denying he said words in the nature of ""*Do you want some Ovumate? It'll make you horny and it would make Brent very happy"* to Ms Pakinga. Rather, Ms Pasterfield submitted that while there was an acknowledgement of a discussion regarding Ovumate, the Appellant had a very different recollection of the conversation, which in his telling included him warning Ms Pakinga about the physiological consequences of administering Ovumate, Further, Ms Pasterfield submitted that Ms Pakinga confirmed that the Appellant had discussed the possible effect upon a female's hormonal system of Ovumate[2], and that this was in fact the nature of the conversation.

22. Mr Pasterfield also submitted that:

    a. there were no witnesses to the conversation the subject of Charge 2;

    b. the details of the conversation lacked a degree of specificity as to date and time that would support the accuracy of Ms Pakinga's account;

    c. Ms Pakinga admitted there had been other Ovumate discussions with other people as well, which cast doubt over whether it was someone else that said the words the subject of Charge 2; and

    d. there not an immediate complaint or contemporaneous support for Ms Pakinga's account of the conversation.

23. In these circumstances, Ms Pasterfield submitted that the Panel should find the Appellant not guilty of Charge 2.

24. With respect Ms Pakinga generally, Mr Cleaver submitted in support of her credibility that Ms Pakinga did not attempt to expand her allegations indiscriminately. With respect to Charge 1, she expressly accepted that the Appellant had generally avoided touching her and that she did not believe he had previously attempted physical contact, with this restraint relevant to the assessment of her reliability, in the same manner that the complainant's restraint was considered relevant in *Jarvis*[3].

25. In relation to penalty, Mr Cleaver submitted that:

    a. civil penalties like those arising under the Rules are imposed primarily for the purpose of general and specific deterrence. That is, the purpose is not to punish the Appellant, but rather to protect the image and integrity of the sport and industry of racing. Amongst the matters informing the assessment of penalty are the objective seriousness of the conduct and any matters specific to the contravener;

[2] Appeal Book, page 7, line 310.

[3] *James Jarvis v Racing NSW* (Racing Appeal Panel, 13 March 2025).

b. Sexual harassment is always objectively serious[4]. The appropriate penalty must nevertheless be assessed by reference to the particular conduct, including whether it involved physical contact, repetition, multiple complainants, threats, an abuse of position or a sustained course of conduct;

c. The offending involved sexualised remarks directed towards a young stablehand in the racing workplace;

d. The Appellant pleaded not guilty to both charges and is not entitled to any reduction for a plea;

e. General deterrence is important. The penalty must make clear that sexualised remarks towards young women in the workplace are not excused by an asserted friendship, an attempt at humour, the absence of physical contact or a belief that the recipient understood the speaker's intentions;

f. although the Panel is not bound to follow previous decisions, there are a number of matters that provide useful guidance to the Panel in respect of principles that ought apply in this current appeal, including the following decisions:

   i. in *O'Neile*[5], the Appeal Panel emphasised that women participating in racing are entitled to a workplace free from sexual harassment, and that a disparity in age, experience or position may add an element of intimidation to the conduct;

   ii. in *Dwyer* (at [9] –[11]), the Appeal Panel stated that sexual harassment is "obviously always objectively serious", while recognising that particular offending may fall within the low to mid-range. The absence of threats, violence or more serious physical contact is relevant to grading, but does not render the conduct trivial; and

   iii. in *Jarvis* (at [31]–[33]), despite the Appellant's unblemished disciplinary record across more than 60 years in the industry, favourable character evidence, and the fact that his conduct arose from a single incident, the Panel nevertheless confirmed that a period of suspension was warranted.

26. Mr Cleaver submitted that having regard to the objective seriousness of the conduct, the mitigating circumstances and the principles identified in the previous decisions, the penalties imposed by the Stewards were appropriate, and accordingly, the appeal with respect to penalty should be dismissed.

27. In relation to penalty, Ms Pasterfield submitted that in the event the Appellant was found guilty of the Charges, that a reduced penalty or a suspended penalty (such that any

[4] *Dwyer v Racing NSW* (Racing Appeal Panel, 18 August 2023) at [9]–[11]; *Egan v Racing NSW* (Racing Appeals Tribunal, 28 October 2024) at [58].
[5] *O'Neile v Racing NSW* (Racing Appeal Panel, 7 March 2023) at [9]-[10].

suspension only applies to the licence to ride in races) should be imposed, given the Appellant's good record with respect to charges of this nature, the lack of aggravation involved in the Charges, including a lack of any physical contact, and the Appellant's financial situation as a battling bush jockey. Ms Pasterfield submitted that a suspension that only applied to the Appellant's licence to ride would enable the Appellant to continue to ride track work and generate an income, which given the Appellant's status as the main provider for his family, was crucial.

Determination

28. Having considered the evidence and the submissions made by Mr Cleaver and Mr Pasterfield with respect to Charge 1, the Panel generally agreed with the submissions of Mr Cleaver with respect to liability and is comfortably satisfied that the Appellant has breached AR 233(c).

29. In reaching this unanimous conclusion, the Panel accepts the account of Ms Pakinga, having regard to the specificity of the details surrounding the allegation, the making of a complaint on the same day, the consistency of Pakinga's recollection and the Appellant's admission that at the very least he referred to Ms Pakinga as a "*sexy young girl*".

30. The Panel is comfortably satisfied that the Appellant's actions were sexual harassment of a person employed, engaged in, or participating in the racing industry. The Panel accepts Ms Pakinga's account that words in the nature of "*Malia, honestly, I think you are sexy as fuck*"; and "*I wish I could walk through the stables and grab you on the bum*" were directed at Ms Pakinga by the Appellant and such conduct amounts to sexual harassment of Ms Pakinga, who is engaged in and/or participates in the racing industry, and these remarks were made by the Appellant with sexual connotations relating to Ms Pakinga where he did so in circumstances where a reasonable person would have anticipated the possibility that Ms Pakinga would be offended and/or humiliated and/or intimidated by your conduct. Even if the Panel accepted the Appellant's version of events, it is likely that the same conclusion would have been reached, given the appropriateness of such commentary in a workplace setting.

31. The Panel does not reach the same conclusion with respect to Charge 2 and cannot be comfortably satisfied based on the evidence and the submissions that the Appellant is guilty. Having regard to the requisite standard to be satisfied, the Panel is unanimously of the view that there remains sufficient doubt as to the nature of the discussion between Ms Pakinga and the Appellant so as to result in a finding that a breach of AR 233(c) cannot be made out in the circumstances.

32. Charge 2 includes two vastly different recollections of a discussion, lacks corroboration, did not involve a timely complaint, and even with respect to the language the Appellant claims to have used, there was an acknowledgement from Ms Pakinga that words of this nature were used at some point (albeit not necessarily in the discussion the subject of the Charge). Given these factors, the Panel is left with suspicion as to what said by the Appellant given his sometimes cavalier language, open questions regarding what happened in the alleged

conversation and insufficient evidence to reach a conclusion that meets the requisite standard. In these circumstances the Panel finds the Appellant not guilty of Charge 2.

33. With respect to penalty for Charge 1, the Panel has regard to the Tribunal's decision in *Egan*[6], where in discussing sexual harassment it was noted by The Honourable G.J. Bellew SC that "*by its very nature, <u>any</u> form of such behaviour is serious. It is fundamentally at odds with acceptable social norms of any civilised society*". Ms Pakinga should not have to endure sexual harassment in any circumstance during her time in the thoroughbred industry, and in this situation there could be considered to be some degree of aggravation in the circumstances in that the harassment occurred when Ms Pakinga was alone with the Appellant and as she was a young lady of 20-21 years of age and the Appellant is a man of 48 years of age, particularly in a situation in which the Appellant has significantly more experience in the industry by virtue of his 32 years experience as a jockey. Conversely, the Panel accepts that there is no suggestion that there was any physical contact related to Charge 1 and this is the only charge of this nature that the Appellant has been found guilty of.

34. Without in any way diminishing the seriousness of the behaviour, the Panel unanimously believes the conduct of the Appellant should be considered to be towards the lower end of offending, and that a lower period of suspension was more appropriate than the two months prescribed by the Stewards. Given the seriousness of the behaviour the subject of the Charge, as well as principles of specific and general deterrence, the purpose of issuing penalties as a protective measure for the image and interests of the thoroughbred racing industry, and precedent penalties for similar offences, the Panel believes a full period of suspension is the appropriate penalty, without any alteration or amendment to such penalty. The Panel has settled on a period of suspension of one month for Charge 1.

Orders

35. The orders of the Panel are:

    a. Charge 1 (AR 233(c)) - appeal against finding of breach dismissed;

    b. finding of a breach of AR 233(c) confirmed;

    c. Charge 1 - Appeal against severity of penalty allowed, with the penalty reduced from a 2 month suspension of the Appellant's licence to a 1 month suspension of the Appellant's licence;

    d. Charge 2 (AR 233(c)) - appeal against finding of breach allowed;

    e. finding of a breach of AR 233(c) and the penalty imposed are set aside;

[6] *Egan v Racing NSW* (Racing Appeal Tribunal) 28 October 2024 at [58].

f. This suspension issued for Charge 1 is to be deferred under AR 283(7) for 7 days from the date of these reasons;

g. Penalty of a 1 month suspension of the Appellant's licence to commence on Thursday, 15 October 2026 and expire on Sunday, 15 November 2026 and

h. Appeal deposit to be refunded.

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