

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED TRAINER MARTIN STEIN

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Appeal Panel: **Mr L Gyles SC – Principal Member; Ms S Skeggs;
Mr C Tuck**

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Representatives: **Racing NSW – Mr Cleaver
Appellant – Mr Callanan**

Date of Decision: **8 July 2025**

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REASONS FOR DECISION ON PENALTY

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L GYLES SC: Principal Member

On 11 April 2025 a four year old mare, American Kestrel, sustained a catastrophic injury to its pelvis during track work at Albury Racecourse and was euthanised. At the time of the injury the mare was in the care of licensed trainer Mr Martin Stein.

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On that day, Racing NSW Stewards commenced an investigation into the incident and conducted several interviews including with Mr Stein. In the course of the investigation, it was established that American Kestrel whilst in the care of another trainer had sustained a basilar fracture of the medial sesamoid bone in the left front forelock during track work on 23 November 2024. On the following day, the mare was examined by Riverina Equine who provided a report which contained advice about how the injury should be treated.

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On 26 November 2024, had Mr Stein agreed to take possession of the horse, and was provided with a copy of the veterinary report received in respect of the earlier injury. The report recommended that American Kestrel receive 6 weeks box rest. Instead, Mr Stein provided three months of paddock rest and later conceded that he had not thoroughly read the report.

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On 12 March 2025, and without a veterinary examination, Mr Stein returned American Kestrel to work. Between 7 April 2025 and 10 April 2025, it was reported by two trackwork riders that American Kestrel was “scratchy”, was not stretching out and had a gait abnormality in its front left leg. Despite that, the horse was returned to track work by the Appellant without a veterinary examination.

At the conclusion of the investigation, the Stewards issued three charges against Mr Stein as follows:

- (a) Charge 1: AR231(1)(b)(iii) – Care and Welfare of Horses;
Between 7 December 2024 and 11 April 2025 Mr Stein failed to provide treatment in accordance with veterinary advice where such treatment was necessary for the welfare of American Kestrel.
- (b) Charge 2: AR229(1)(b) – Improper Action in Connection with Racing
Mr Stein commenced exercise with American Kestrel on 12 March 2025 with the knowledge that the mare required repeat imaging to ensure the fracture was healing and further where the mare had exhibited gait abnormality and lameness between 7 April 2025 and 10 April 2025.
- (c) Charge 3: AR88(B) – Horses Returning from Extended Lay Offs, Injuries etc
Between 7 December 2024 and 11 April 2025 Mr Stein failed to comply with the protocols as stipulated in the “Racing Australia Code of Practice: Compulsory Reporting of Major Fractures, Orthopaedic Surgery and Approval of Affected Horses to Return to Racing”.

Mr Stein pleaded not guilty in respect of Charges 1 and 2, and guilty in respect of Charge 3. The Stewards found Mr Stein guilty in respect of both Charges 1 and 2, and imposed a 12 month disqualification of his license in respect of each of those charges, the second to be served concurrently with the first. In respect of Charge 3, a \$1,500 fine was wholly suspended for a period of two years under AR283(5).

On 8 May 2025 Mr Stein brought this Appeal challenging the severity of the penalty.

On the Appeal Mr Stein was represented by Mr Callanan, Solicitor, and the Stewards were represented by Mr Cleaver. The parties by consent asked the Panel to deal with the Appeal on the papers without a hearing. Upon receipt of the submissions of the parties, the Panel agreed to that course. The sole matter for determination by the Panel is whether the suspension imposed in respect of Charges 1 and 2 should be reduced. The Stewards do not contest the stay ordered in respect of the monetary fine imposed in connection with Charge 3.

The position of the Stewards on penalty is that the Panel should start with a period of 12 months, and they accept that there are factors which the Panel could take into account which would potentially justify a reduction from that. They accept that the guilty plea is such a factor, as well as the contrition and remorse of the Appellant. They accept that these matters were not previously considered by the Stewards as no guilty plea was entered before them. The Stewards also accept that the Appellant did not *intentionally* harm or seek to endanger the welfare of the horse.

The Appellant contends that the disqualification of 12 months is excessive and that a disqualification in the range of 4-6 months would be more consistent with other decisions of the Panel. He also submits that the horse was not exhibiting symptoms or discomfort in the weeks leading up to the Incident, that he honestly believed that a Veterinary check was not necessary and that there is no evidence of any connection between the earlier injury and the pelvic injury of 11 April 2025.

The only factual issue which could arise on the Appeal is whether the horse exhibited abnormal symptoms or discomfort between 25 March and 7 April 2025, and if so to what extent. We do not however need to engage in a detailed analysis of the Stewards investigation in this respect because the Appellant accepts that the riders had reported "scratchiness" in the horse's gait on 7 April, and he accepts that on reflection he should have sought veterinary advice about

105 the cause of that. The Appellant also accepts that he should have read the
earlier veterinary report more carefully which he failed to do, which was clearly
something that he should have done when he had taken over the horse and was
not personally aware of its history. The earlier injury was also not disclosed to
the track riders. One also cannot lose sight of the fact that the horse did suffer a
110 catastrophic injury under the care of the Appellant and as an experienced trainer
he must bear some responsibility for that in the circumstances.

In terms of penalty, and accepting that the relevant conduct took place some
time ago, the Appellant's prior similar convictions stand against him and
115 distinguish the *McCabe & Foran* cases where there had been no relevant prior
offences. In *McCabe* the horse had also only been returned to a walker, but not
to the track, and in *Foran*, the horse was given treatment, which was inadequate,
rather than what happened in the present case where it was not treated at all. It
would therefore be consistent with those cases for the penalty in the present
120 case to be of a slightly greater character.

Despite that we also recognise that there should be a discount in respect of the
guilty plea, albeit not as much as would have been available had the Appellant
pleaded guilty before the Stewards. We also have had regard to the generally
125 good recent record of the Appellant, the adverse financial impact upon him of the
disqualification and the fact that he will require a second job during the
disqualification period to meet his financial commitments, which he may not be
able to obtain.

130 Nevertheless, it is a serious matter. It is not the Appellant's first offence and the
horse was euthanised. We therefore believe that in order to protect the interests
and image of racing that a suspension of 6 months is inadequate, and having
regard to all of the matters set out above we impose a suspension of seven and
a half months in respect of each Charges 1 and 2, to be served concurrently.
135 We believe that this period is broadly consistent with the earlier decisions
referred to. The Stewards Order in respect of Charge 3 remains.

The Orders of the Panel are therefore as follows:

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1. The Appeal is allowed in part.
 2. The Trainer's Licence of the Appellant is to be disqualified for a period of 7 months and 2 weeks, the period of disqualification to commence on 13 May 2025 and to expire on 27 December 2025, at which time he may reapply for his licence.
 - 145 3. In respect of Charge 3 the Appellant be fined \$1,500, to be wholly suspended for a period of two years under AR283(5).
 4. The Appeal deposit be forfeited.

150 **8 July 2025**