



*INQUIRY INTO LICENSED TRAINER MR KEVIN RANDALL POSSESSION OF AN ELECTRIC OR ELECTRONIC APPARATUS, ALLEGATIONS OF HARRASSMENT AND USE OF UNLICENSED PERSONS*

**Grafton Racecourse**

**Tuesday 23 February 2021**

**Stewards:**    **M A Holloway (Chairman)**  
                  **R W Loughlin**  
                  **J T Penfold**

**\*\*\*FOR PUBLICATION\*\*\***

Racing NSW Stewards today concluded an inquiry into licensed trainer Mr Kevin Randall's possession of an electronic or electric apparatus at his registered stable premises on 27 August 2020, complaints made in respect to his conduct and his use of unlicensed persons at his registered stable premises. On 27 August 2020, Racing NSW Stewards and Investigators conducted an operation with the use of a detection dog trained in identifying the scent of a battery. The detection dog indicated the location of the electronic or electric device during a search of Mr Randall's residence located at his registered stable premises and Stewards and Investigators were able to locate the device in Mr Randall's possession. On 28 August 2020 Mr Randall was charged with a breach of AR231(2)(b) for having in his possession an electronic or electric device and his licence was suspended under the provisions of AR23.

Evidence at the inquiry was taken from Mr Randall, who was assisted by legal counsel Mr G. Hutchison, Ms B. Hughes-Flick, Racing NSW Manager of Investigations and Surveillance Ms J Johnstone, Racing NSW Investigator Mr J. Roger, Ms F. Rose (DNA Laboratory Manager – NSW Forensic & Analytical Science Service), Dr N. Hamilton (Director, Racing Australia Equine Genetics Research Centre), Ms H. Claridge and Mr R. Bennett.

After considering the evidence presented Mr Randall was issued the following charges –

**Charge 1 – LR82(3) Stablehands.**

That between February 2020 and 16 April 2020 Mr Randall did employ a staff member to assist him in connection with the training and/or care of racehorses he trained, when that staff member was not registered in a capacity to do so.

**Plea: Guilty**

**Charge 2 – LR82(3) Stablehands.**

That in March 2020, April 2020, July 2020 and August 2020 Mr Randall did an additional staff member to assist him in connection with the training and/or care of racehorses he trained, when that staff member was not registered in a capacity to do so.

**Plea: Guilty**

### **Charge 3 – AR231(2)(b) Care and Welfare of Horses.**

That on Thursday 27 August 2020, during an inspection of the premises occupied by Mr Randall at 18 Canterbury Street, Casino and used in relation to his trainers licence for the training of horses, he did have in his possession an electric or electronic apparatus capable of affecting the performance of a horse in a race, official trial, jump-out or training gallop.

**Plea: Guilty**

### **Charge 4 – AR233(c) Other misconduct offences.**

Mr Randall did engage in the sexual harassment of a staff member whilst employed and/or engaged and/or participating in the racing industry by subjecting her to unsolicited acts of physical intimacy in that between February 2020 and 16 April 2020 in that he did on a number of occasions place his hand on her leg whilst travelling with her between her place of residence and his registered stable premises. Such physical intimacy being unsolicited and/or unwelcome and made in circumstances where a reasonable person would have anticipated the possibility the staff member would have been offended and/or humiliated and/or intimidated by the unsolicited act of physical intimacy.

**Plea: Not Guilty**

**Finding: Guilty**

### **Penalty**

When considering the appropriate penalties for the charges issued the stewards panel was mindful of their responsibility to issue a penalty to ensure that Mr Randall does not offend in this nature again, issue a penalty that will provide those likeminded to conduct themselves in a similar manner to Mr Randall of what the likely consequences are and importantly indicate to the broader community who are not likely to engage in the type of conduct that should it be detected, the racing industry is operating at the highest possible standards.

To charge 3 in particular, the stewards panel was mindful that the protection of horse welfare within the industry is of paramount importance. The possession of an electric or electronic device, clearly an instrument designed to administer an electric shock, cannot be tolerated. The possession of an electric or electronic apparatus by a licensed trainer at his registered stable premises does irrefutable damage to the public perception and image of the racing industry.

When considering the penalty for charge 4, the stewards panel acknowledged that all participants in the racing industry have an obligation to provide a safe working environment, free of harassment. Further, the panel has an obligation to display to the entire racing industry that such conduct will not be tolerated and provide those participants, that are rightly fearful of such conduct, that they can participate in the racing industry without such fear.

After acknowledging these responsibilities, the plea entered by Mr Randall to each charge and relevant precedent penalties for similar offences, Mr Randall was issued the following penalties –

**Charge 1: \$400**

**Charge 2: \$400**

**Charge 3: 3 years disqualification, reduced to 2 years & 3 months for guilty plea**

**Charge 4: 6 month disqualification**

Stewards ordered that the period of disqualification commence on 28 August 2020, the day of which Mr Randall was issued Charge 3 and his trainers license was suspended under AR23, and expire on 28 May 2023.

Mr Randall was advised of his right of appeal.

### **Relevant Rules**

**LR82(3)** - *No employee unless duly registered may be employed by a trainer. This requirement also applies to stablehands transferring from another trainer.*

### **Division 5 – Misconduct in relation to the care and welfare of horses**

#### **AR 231 Care and welfare of horses**

AR231(2) *A person must not:*

*(b) have in the person's possession any electric or electronic apparatus or other device capable of affecting the performance of a horse in a race, official trial, jump-out or training gallop.*

*(3) For the purpose of subrule (2), where an electric or electronic apparatus has been designed to deliver an electric shock it is deemed capable of affecting the performance of a horse in a race, official trial, jump-out or training gallop.*

#### **AR 2 Dictionary**

*In the interpretation of these Australian Rules (and any race meeting held under them), unless the context requires otherwise, the words and phrases below have the meanings set out in this rule.*

**Possession** means:

*(a) an article, substance or thing is in the custody or control of a person;*

*(b) the person has and exercises access to the article, substance or thing; or*

*(c) the article, substance or thing is found at any time on premises used in any manner in relation to the training or racing of horses and the person occupies or has the care, control or management of those premises or owns, trains or is in charge of horses at those premises, provided that paragraph (c) does not apply if the person proves that he or she did not know of the existence or the identity of the article, substance or thing.*

### **Division 7 – Other misconduct offences**


#### **AR 233 Other misconduct offences**

*A person must not:*

*(c) engage in sexual harassment of a person employed, engaged in, or participating in the racing industry.*

#### **AR 2 Dictionary**

**Sexual harassment** means:

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- (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.*

*The conduct described in paragraphs (b), (c) and (d) includes, without limitation, conduct involving the internet, social media, a mobile phone, or any other mode of electronic communication.*

### **AR 23 Suspension pending the hearing and determination of a charge**

*Without limiting any other rules or Stewards' powers, if a person has been charged with a breach of the Rules or with the commission of an indictable criminal offence, and if the Stewards are of the opinion that the continued participation of that person in racing might pose an unacceptable risk of prejudicing the image, interests, integrity or welfare of racing, the Stewards may pending the hearing and determination of the charge:*

- (a) *suspend any licence, registration, right or privilege, granted to that person under these Australian Rules;*
- (b) *prevent any horse owned (or part-owned) or leased by that person from participating in any race or official trial;*
- (c) *order that any registration of the transfer of ownership and/or training of a horse related to that person be prevented or suspended;*
- (d) *make any other direction or order the Stewards think fit in the interests of racing*

**- Mark A Holloway  
Chief Steward NRRA**