7 February 2022

**DECISION**

**RACING VICTORIA**

**and**

**BRYCE STANAWAY**

**Date of hearing:** 3 February 2022

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall (Deputy Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Justin Hooper, instructed by Mr Daniel Bolkunowicz, appeared on behalf of the Stewards.

Ms Frances Nelson QC represented Mr Bryce Stanaway.

**Charges:** Australian Rule of Racing (“AR”) 228(a) states:

A person must not engage in:

(a) conduct prejudicial to the image, interests, integrity, or welfare of racing, whether or not that conduct takes place within a racecourse or elsewhere.

AR 228(c) states:

A person must not engage in:

(c) improper or insulting behaviour at any time towards a PRA, the Stewards, a Club, or any official, employee, contractor or agent of any of them in relation to the relevant person’s functions, powers or duties.

Local Racing Rule (“LR”) 94A(a)(i) and 94A(a)(ii) states:

A person must not, at any time or for any purpose:

a. engage in any form of intimidation or abusive conduct (either physical, verbal or

otherwise), in any way related to racing, of:

i. any Steward, Official, or employee or officer of Racing Victoria.

ii. any person representing Racing Victoria and/or its employees or officers.

LR 94B(a) states:

A person must not:

(a) make any express, implied, conditional or unconditional threat (whether physical, verbal or otherwise), in any way related to racing, toward:

i. any Steward, Official, or employee or officer of Racing Victoria;

ii. any person representing Racing Victoria and/or its employees or officers.

AR 231(1)(b)(iii) states:

(1) A person must not:

(b) if the person is in charge of a horse – fail at any time:

(iii) to provide veterinary treatment to the horse where such treatment is necessary for the horse.

AR 232(b) states:

A person must not:

(b) fail or refuse to comply with an order, direction or requirement of the Stewards or an official.

AR 232(c)(ii) states:

A person must not:

(c) while the Stewards are exercising their powers, performing their functions or carrying out their duties:

(ii) obstruct, hinder or delay the Stewards in exercising their powers, performing their functions or carrying out their duties

**Particulars of charges: Charge 1: AR 228(a)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Saturday 17 October 2020, a horse trained by you, Moorabool, ran in Race 8 at Bendigo. Moorabool was eased out of the race in the home straight by its jockey. The jockey then dismounted, and Moorabool was attended to by Barrier Attendants and Racing Victoria Veterinarian Dr Chris Heislers.
3. As Moorabool was being attended to, you ran onto the Bendigo racetrack in the direction of the horse, yelling and/or screaming at those attending to the horse to stop doing so and/or that there was nothing wrong with the horse.
4. Your conduct as outlined in particular 3 was prejudicial to the image, interests and/or welfare of racing.

**Charge 2: AR 228(c)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Saturday 17 October 2020, a horse trained by you, Moorabool, ran in Race 8 at Bendigo. Moorabool was eased out of the race in the home straight by its jockey. The jockey then dismounted, and Moorabool was attended to by Barrier Attendants and Racing Victoria Raceday Veterinarian, Dr Chris Heislers.
3. Dr Heislers is an official, employee and/or contractor of Racing Victoria.
4. Dr Heislers sought to apply emergency care to Moorabool, which he considered necessary to address its acute issues.
5. You refused to allow Dr Heislers to undertake emergency care to Moorabool on the racetrack and/or otherwise sought to reverse care undertaken by Dr Heislers when the horse was transferred back to its stall.
6. Your conduct as outlined in particular 5 constituted improper and/or insulting behaviour towards an official, employee and/or contractor of Racing Victoria in relation to that person’s functions and duties as a Race day Veterinarian.

**Charge 3: LR 94A(a)(i)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On 20 October 2020, Racing Victoria Stewards James Hitchcock and Raymond Livingstone, and Racing Victoria General Manager of Veterinary Services Dr Grace Forbes (the RV Officials) attended your licensed premises at 595 Blackgate Road, Torquay, Victoria.
3. The purpose for the RV Official’s attendance was to inspect Moorabool, a horse trained by you that had been eased out of Race 8 at Bendigo on 17 October 2020.
4. While the RV Officials were endeavouring to inspect Moorabool, you engaged in intimidating and/or abusive verbal conduct towards them.

**Charge 4: LR 94A(a)(i) and/or 94A(a)(ii)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Saturday 17 October 2020, a horse trained by you, Moorabool, ran in Race 8 at Bendigo. Moorabool was eased out of the race in the home straight by its jockey. The jockey then dismounted, and Moorabool was attended to by Barrier Attendants and Racing Victoria Race day Veterinarian, Dr Chris Heislers (the First Responders).
3. The First Responders are officials of Racing Victoria, and/or employees of Racing Victoria, and/or persons representing Racing Victoria.
4. As the First Responders were seeking to assist Moorabool on the track and/or when the horse returned to its stall, you engaged in abusive verbal conduct towards at least two of them.

**Charge 5: LR 94B(a)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Saturday 17 October 2020, a horse trained by you, Moorabool, ran in Race 8 at Bendigo. Moorabool was eased out of the race in the home straight by its jockey. The jockey then dismounted, and Moorabool was attended to by Barrier Attendants and Racing Victoria Race day Veterinarian, Dr Chris Heislers.
3. Dr Heislers is an official of Racing Victoria, and/or an employee of Racing Victoria, and/or a person representing Racing Victoria.
4. While Dr Heislers was attending to Moorabool, you made a threatening remark to him along the lines of threatening to shoot him and/or put him down.

**Charge 6: AR 231(1)(b)(iii)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Saturday 17 October 2020, a horse trained by you, Moorabool, ran in Race 8 at Bendigo. Moorabool was eased out of the race in the home straight by its jockey. The jockey then dismounted, and Moorabool was attended to by Barrier Attendants and Racing Victoria Race day Veterinarian, Dr Chris Heislers.
3. Dr Heislers advised you that Moorabool required urgent veterinary treatment.
4. From the running of race 8 at Bendigo on 17 October 2020 to at least 9:25am on 20 October 2020, you failed to provide veterinary treatment to Moorabool despite Dr Heisler’s advice that the horse required urgent veterinary treatment.

**Charge 7: AR 232(b)**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On 20 October 2020, Chairman of Stewards Robert Cram directed you to provide by 5pm, 21 October 2020, a Veterinary Report regarding the injury sustained by Moorabool when it ran in Race 8 at Bendigo on 17 October 2020.
3. On 22 October 2020, Mr Cram extended the deadline by which you needed to provide that report to 10am, 23 October 2020.
4. As at 10am, 26 October 2020, you failed to provide the requested Veterinary Report to the Stewards.

**Charge 8: AR 232(c)(ii):**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On 20 October 2020, Racing Victoria Stewards James Hitchcock and Ray Livingstone (as well as Racing Victoria General Manager of Veterinary Services Dr Grace Forbes(pursuant to AR 22(2)) attended your licensed premises at 595 Blackgate Road, Torquay, Victoria to inspect a horse trained by you, Moorabool.
3. While the Stewards were seeking to carry out their duties to inspect Moorabool, you obstructed and/or hindered them from doing so, by requesting that they and Dr Forbes leave your licensed premises and/or refusing them access to inspect the horse.

**Pleas:** Not guilty to all charges.

Charge 7 withdrawn by the Stewards.

**DECISION**

1. On 10 August 2021, Mr Stanaway was found guilty by the Tribunal of seven offences under the Rules of Racing. There were two discrete sets of charges. The first comprised charges 1, 2, 4, 5 and 6. They related to conduct of Mr Stanaway at the Bendigo racecourse on 17 October 2020. The second comprised Charges 3 and 8 which concerned Mr Stanaway’s conduct at his Torquay stables on 20 October 2020, when Stewards attempted to conduct an inspection of those stables. The Stewards were accompanied by Racing Victoria’s senior veterinarian, Dr Grace Forbes.
2. This decision is to be read together with the decision of 10 August 2021 and in particular with the findings of fact underpinning the guilty verdicts on Charges 1 to 6 inclusive and Charge 8. Charge 7 was withdrawn.
3. The following is a summary of the Tribunals findings of fact concerning the conduct of Mr Stanaway at Bendigo racecourse on 17 October 2020 and at his Torquay stables on 20 October 2020.
4. 17 October 2020.

Mr Stanaway:-

Entered on to the track at Bendigo racecourse and trotted or walked quickly to where the mare, Moorabool, obviously injured, had been pulled up;

Yelled and screamed at those attempting to treat the mare, and particularly at the veterinary surgeon, Dr Chris Heislers;

Threatened to shoot Dr Heislers;

Interfered with the treatment of the mare;

Attempted to prevent Dr Heislers and racecourse staff from treating the mare;

Generally behaved in an “appallingly aggressive manner” towards Racing Victoria staff;

Refused to allow Dr Heislers to undertake emergency care of Moorabool on the course or when she returned to her stall;

Removed a splint which Dr Heislers had placed on the mares’ leg;

Directed abusive and intimidatory conduct towards employees of Racing Victoria who were simply performing their duties;

Behaved appallingly towards Ms Francesca Blount-Greene, barrier attendant, who travelled back in the horse float in very close proximity to Moorabool and Mr Stanaway;

Engaged in abusive verbal conduct to other racecourse officials;

Failed to provide urgent veterinary treatment to Moorabool contrary to the advice of Dr Heislers;

Showed a lack of any remorse and attracted further potentially unfavourable publicity by engaging in a media interview concerning the matter.

1. 20 October 2020

Engaged in threatening and abusive conduct towards Stewards Messrs. Livingstone and Hitchcock and towards Dr Grace Forbes when they arrived at his Torquay stables;

Prevented them from inspecting Moorabool;

Ordered them off his property;

Denied them access to the mare or to the stables.

We thought it best to set out the above summary of our factual findings, given the passage of time between the handing down of our decision on liability (and it is to be remembered that Mr Stanaway pleaded not guilty to all charges) and the hearing on penalty. That delay was primarily at the request of Mr Stanaway and due to his changes in legal representation.

1. Charge 1 alleges that Mr Stanaway engaged in conduct prejudicial to the image, interests, integrity or welfare of racing contrary to Australian Rule of Racing (“AR”) 228(a). Mr Stanaway’s behaviour in interfering with the work of Dr Heislers, the on course veterinarian, assisted by the barrier attendants, was prejudicial to the interests of racing. As we said in the 10 August 2021 decision, “It was a very bad look for the racing industry”. We also observed that it was difficult to recall more reprehensible conduct by a trainer at a race meeting in modern times. Also relevant to this charge was the publication on an internet application of an interview given by Mr Stanaway about the events of 17 October 2020 at Bendigo in which he attempted to justify his conduct. There was certainly no indication of remorse.
2. The offence in Charge 1 is deserving of a severe penalty. Counsel for Mr Stanaway accepted that his behaviour was inappropriate, but referred to the fact that Mr Stanaway was concerned about a stallion chain being placed on the mare and the desire of Dr Heislers to inject the mare. On the day, Mr Stanaway did not complain about the former, but only the latter. There was no evidence that the stallion chain had any adverse effect on the mare. She may have been difficult to inject, but it was not impossible for Dr Heislers to give her pain relief through an initial injection. Ultimately, Mr Stanaway aggressively and rudely interfered with the professional treatment of Moorabool by Dr Heislers, assisted by barrier attendants.
3. In setting a penalty, we take into account Mr Stanaway’s lack of sophistication in the way in which he conducts himself. However, while that, and his subjective fears about what Dr Heislers was doing to the mare, may help to explain his conduct, it certainly does not excuse it. General deterrence is a significant factor in the exercise of our sentencing discretion. Conduct of the sort engaged in by Mr Stanaway cannot be tolerated in a professional industry such as horse racing. Employees of Racing Victoria (“RV”), like employees throughout industry, deserve to be safe at work, free from intimidation, bullying and harassment. Mr Stanaway’s conduct is strongly denunciated. Just punishment must be meeted out as a consequence. Counsel for Mr Stanaway sought to rely on a decision of the Racing Appeals Tribunal in 2009 in the matter of Londregan. Mr Londregan only received a fine after threatening to shoot horses which he trained. We were not supplied with a copy of that decision or made aware of any ameliorating circumstances. Here the factual context is clear from the liability decision. The conduct here concerned a threat to kill an on course veterinarian and the intimidation of a young female barrier attendant. It deserves far more than a fine.
4. Specific deterrence also looms large in our sentencing discretion. Mr Stanaway needs to be reminded of his transgressions, given he has sought to downplay their seriousness on racing internet sites.
5. As well as acting inappropriately towards Racing Victoria staff, Mr Stanaway’s actions jeopardised the welfare of a racehorse. Dr Heislers was unable to give the mare the full pain relief he considered appropriate and a splint was removed by Mr Stanaway. The fact that the mare ultimately recovered and was rehomed is beside the point.

1. In setting a penalty we further take into account previous transgressions by Mr Stanaway in 2015 and 2017. In those matters he was found guilty of conduct related charges. Mr Stanaway is an experienced trainer of some 40 years standing. Better conduct is expected of him.
2. We accept the description of the offending conduct contained in Charge 1, described by the Stewards as “unprecedented” in modern times. We accept the Stewards categorisation that “it is difficult to think of more reprehensible conduct from the viewpoint of proper and professional conduct by a trainer at a race meeting”.
3. In all the circumstances, we consider that the conduct underpinning in Charge 1 is deserving of a substantial penalty. We impose a period of disqualification of two years and six months. In setting that penalty, we recognise that it may have been open to impose a greater period of disqualification. However, we are mindful of the fact that Mr Stanaway should not be crushed by an overly long period of disqualification based on a single day on which he engaged in egregious conduct. In imposing the penalty, we hold out some hope that Mr Stanaway may return to the industry in due course, having learned from the current matter, and be able to modify his behaviour, especially in relation to anger management.
4. Charge 2 is one made under AR 228(c), which prohibits behaviour which is improper or insulting to racing officials. In effect, this charge encompasses facts which form part of the course of conduct covered by Charge 1. On this charge, we impose a penalty of 12 months disqualification, but make it wholly concurrent with the penalty under Charge 1.
5. Charge 3 relates to the events of 20 October 2020 at the Torquay stables of Mr Stanaway. It is under Local Racing Rule (“LR”) 94A(a)(i) and concerns intimidating conduct directed to Stewards and at Dr Grace Forbes. This charge also forms part of the factual matrix underpinning Charge 8 (to be discussed later). On this charge, we impose a penalty of six months disqualification, wholly concurrent with the penalty under Charge 8 to be discussed later in this decision.
6. Charge 4 is also under LR 94A(a)(i). It concerns conduct directed at RV officials on 17 October 2020 at Bendigo. It is subsumed as part of the same factual matrix of Charge 1. On it, we impose a period of six months disqualification, but make that period wholly concurrent with the penalty under Charge 1.
7. Charge 5 relates to Mr Stanaway’s threatening conduct directed at Dr Heislers. It does not matter that Dr Heislers was focused entirely on his treatment of Moorabool and did not appear to have taken Mr Stanaway’s threat to shoot him to heart. It was still threatening and greatly inappropriate behaviour, as observed closely by Ms Francesca Blount-Greene, a barrier attendant. It is conduct which has no place on a racecourse or anywhere else where licensed persons and RV staff interact. On this charge, we impose a two year disqualification, but make it wholly concurrent with the penalty under Charge 1.
8. Charge 6 is under AR 231(1)(b)(iii), which prohibits the failure to obtain veterinary treatment for horses when necessary. In that regard, it is significant that Mr Stanaway interfered with Dr Heislers’ treatment of Moorabool and disregarded Dr Heislers’ advice to seek urgent veterinary treatment at the Werribee Veterinary Hospital. On this charge, we impose a penalty of six months disqualification, but make it concurrent with the penalty under Charge 1. The direction to take the mare to Werribee rather than to a local veterinarian near the Bendigo racecourse was appropriate given the resource rich nature of the facility at Werribee and given the fact that, when travelling from Bendigo to Torquay (where the Stanawary stables are located), Werribee is on the way.
9. Charge 7 was withdrawn.
10. Charge 8 relates to the events of 20 October 2020 at Torquay and is under AR 232(c)(ii), which prohibits the obstruction or hindering of Stewards. It concerns the treatment of Stewards by Mr Stanaway when they came to his stables to perform a welfare check on the mare. The conduct of Mr Stanaway, which interfered with the ability of the Stewards to perform such check, strikes at the heart of the ability of Stewards to perform their duties and assist in maintaining the integrity of horse racing.
11. In setting a penalty under Charge 8, we take into account that even though Mr Stanaway pleaded not guilty to the charge, at the Tribunal hearing he effectively admitted the elements of the charge and expressed regret and remorse for his conduct. An offence of this sort would usually carry a penalty of at least two years disqualification. However, given Mr Stanaway’s remorse (albeit while still pleading not guilty), we consider that a period of six months disqualification is appropriate. In setting that period of time, we bear in mind the totality principle. We make the disqualification penalty under Charge 8 cumulative upon the disqualification period under Charge 1 and concurrent with the penalty on Charge 3.
12. The total penalty imposed is one of three years disqualification commencing at midnight on 10 February 2022. The penalties under Charges 2, 4, 5 and 6 are concurrent with that under Charge 1. The penalty under Charge 3 is concurrent with that under Charge 8. In so doing we have had regard to the totality principle. We understand that Mr Stanaway reacted emotionally to perceived concerns about the mare. These concerns had no objective or rational basis. His conduct was appalling and deserving of the penalty we have imposed on Charge 1. The penalty on Charge 8 reflects the importance of allowing Stewards to do their jobs without interference by licensed persons.
13. Whilst the Stewards were seeking a minimum period of disqualification of 5 years, we are of the opinion that a total period of disqualification of 3 years is a fair and proper outcome.

Mark Howard

Registrar, Victorian Racing Tribunal