13 April 2022

**DECISION**

**RACING VICTORIA**

**and**

**FRANCIS FINNEGAN**

**Date of hearing:** 7 April 2022

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

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

Mr Finlay Davies represented Mr Francis Finnegan.

**Charges and particulars:**

**Charge One: AR 232(i)**

Australian Rule of Racing (“AR”) 232(i) which reads as follows:

***AR 232 Failure to observe processes and directions of PRAs or Stewards***

*A person must not:*

1. *(i) give any evidence at an interview, investigation, inquiry, hearing and/or appeal which is false or misleading.*

**Particulars of Charge One**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *No Frontiers*.
3. On 3 May 2020, during the course of a Stewards Inquiry, you gave evidence to the effect that the decision to jump out *No Frontiers* in Heat 7 of the 20 April 2020 Jump Outs at the Cranbourne Training Centre was a spur of the moment decision.
4. On 15 April 2020, you decided to jump out *No Frontiers* in Heat 7 of the 20 April 2020 Jumps Outs at the Cranbourne Training Centre (i.e. five days before the jump out).
5. On 5 June 2020, during the course of a Stewards Inquiry, when asked whether you had asked licensed jockey Ben Thompson to delete any information from his phone, you gave evidence to the effect that you would not have asked anyone to delete anything and/or you had not asked Mr Thompson to delete information from his phone.
6. On 2 June 2020, during the course of a Stewards Inquiry, licensed jockey Ben Thompson told the Stewards that you had asked him to delete messages between yourselves.
7. You provided false and/or misleading evidence in contravention of AR 232(i) on the basis of:
	1. particulars 3 and 4 (i.e. you provided false and/or misleading evidence with respect to the time you decided to jump out *No Frontiers*); and/or
	2. particulars 5 and 6 (i.e. you provided false and/or misleading evidence with respect to whether you told Ben Thompson to delete information from his phone).

**Charge Two: AR 228(b)**

AR 2228(b) which reads as follows:

***AR 228 Conduct detrimental to the interests of racing***

*A person must not engage in:*

1. *(b) misconduct, improper conduct or unseemly behaviour;*

**Particulars of Charge Two**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *No Frontiers*.
3. On 3 May 2020*, No Frontiers* ran in and won The Long Paddock 3YO Maiden Plate over 1000 metres at the Bairnsdale Racecourse.
4. Sometime between 3 May 2020 and 11 May 2020, you deleted from your mobile phone, messages and/or call records (between you and Licensed Jockey Ben Thompson and/or between you and Apprentice Jockey Carleen Hefel) that were or could be relevant to the inquiry being conducted by the Stewards into *No Frontiers’* race on 3 May 2020 and/or its previous jump outs.
5. Your conduct, as outlined in particular 4 constitutes misconduct and/or improper conduct.

**Charge Three: AR 227(b)**

AR 2227(b) which reads as follows:

***AR 227 Breaches of the Rules***

*Without limiting any other powers, a PRA or the Stewards may penalise any person who:*

*(b) attempts to commit, aids, abets, counsels, procures, connives at, approaches or requests another person to commit, conspires with another person to commit, or is a party to another person who commits, a breach of the Rules.*

**Particulars of Charge Three**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *No Frontiers*.
3. On 3 May 2020*, No Frontiers* ran in and won The Long Paddock 3YO Maiden Plate over 1000 metres at the Bairnsdale Racecourse.
4. Sometime between 3 May 2020 and 11 May 2020, licensed jockey Ben Thompson deleted from his mobile phone, messages and/or call records between you and him that were or could be relevant to the inquiry being conducted by the Stewards into *No Frontiers’* race on 3 May 2020 and/or its previous jump outs.
5. Sometime between 3 May and 11 May, 2020, you approached, requested and/or were a party to Mr Thompson undertaking the action outlined in particular 4.
6. Your conduct, as outlined in particular 5 constitutes a breach of AR 227(b).

**Charge Four: AR 229(1)(a)**

AR 229(1)(a) which reads as follows:

**AR 229 Corruption, dishonesty and misleading behaviour**

1. *A person must not:*

*(a) engage in any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing;*

**Particulars of Charge Four:**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *No Frontiers*.
3. On 3 May 2020*, No Frontiers* ran in and won The Long Paddock 3YO Maiden Plate over 1000 metres (**the race**) at the Bairnsdale Racecourse.
4. On 23 March 2020, you jumped out *No Frontiers* in Heat 5 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Avozinha*, another horse trained by you.
5. On 6 April 2020, you jumped out *No Frontiers* in Heat 11 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Getemhel*, another horse trained by you.
6. On 20 April 2020, you jumped out *No Frontiers* in Heat 7 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Getemhel*, another horse trained by you.
7. You undertook the conduct in particulars 4, 5 and 6:
	1. to assess *No Frontiers’* capabilityto compete against other horses;
	2. to conceal from the broader betting market *No Frontiers’* true capability to complete;
	3. in order to eventually race the horse and make a profit from betting on it through yours and/or others’ accounts (which you did when it ran in the race).
8. Your conduct, as outlined in particular 8 constitutes dishonest, fraudulent, improper and/or dishonourable action or practice in connection with racing.

**Charge Five: AR 229(1)(f) (Alternative to Charge Four)**

AR 229 which reads as follows:

**AR 229 Corruption, dishonesty and misleading behaviour**

*(1) A person must not:*

*(f) if the person is an owner, nominator, or trainer of a horse – enter or run the horse in any race, official trial, or jump-out under a fraudulently false description;*

**Particulars of Charge Five:**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. You are, and were at all relevant times, the trainer of *No Frontiers*.
3. On 23 March 2020, you jumped out *No Frontiers* in Heat 5 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Avozinha*, another horse trained by you.
4. On 6 April 2020, you jumped out *No Frontiers* in Heat 11 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Getemhel*, another horse trained by you .
5. On 20 April 2020, you jumped out *No Frontiers* in Heat 7 of the Jump Outs at Cranbourne Training Centre knowingly under the name of *Getemhel*, another horse trained by you.
6. In contravention of AR 229(1)(f), you ran a horse in a jump out under a fraudulently false description 23 March 2020, 6 April 2020 and/or 20 April 2020.

**Pleas:** Not Guilty to charges 1 and 4.

 Guilty to charges 2 and 3.

**DECISION**

Mr Francis Finnegan, you have been found guilty of two contested charges and have pleaded guilty to two others. We would refer to our decision of 31 March 2022 in relation to the contested charges and to the grounds set out therein.

The four charges concerning which there have been findings of guilt or pleas of guilty could be summarised as follows:

Charge 1 – a breach of AR 232(i) – the giving of false information to the Stewards. There had been a plea of not guilty to this charge.

Charge 2 – a breach of AR 228(b) – engaging in false or improper conduct constituted by the deletion of messages and the like from your mobile phone. You pleaded guilty to this charge.

Charge 3 – a breach of AR 227(b) – attempting to persuade jockey Mr Ben Thompson to delete material from his mobile phone. You pleaded guilty to this charge.

Charge 4 – a breach of AR 229(1)(a) – engaging in dishonest, fraudulent, improper or dishonourable action in connection with racing.

There was a plea of not guilty to this charge.

The charges relate to the racing of the horse, No Frontiers, trained by you, in a jump out on 20 April 2020 under a false name. Charge 4 includes two earlier jump outs, on 23 March and 6 April 2020, when the same conduct occurred.

We are of the view that Charge 4 is clearly the most serious of the charges. Dishonest, fraudulent, improper or dishonourable action in connection with racing must be punished appropriately. We would refer to what was said in our earlier decision, namely:

“In our opinion, this was a carefully planned and successful attempt to deceive the betting public and usually well informed observers as to the true ability of No Frontiers and to bring off a betting coup. Subsequently, you tried to cover your tracks by attempting to remove any phone material that might be incriminating”.

This is reprehensible conduct, damaging to the image of racing and to its reputation. It was intended to deceive the betting public, and it did. No Frontiers won at its first start at Bairnsdale. You and your wife had substantial bets on it at very good odds. This sort of dishonest behaviour is to be condemned. We would refer again to our decision of 31 March 2022.

That is not to say that the other offences of which you are guilty are trivial. Far from it. Giving false or misleading evidence is a serious matter. The same could be said of Charges 2 and 3, to which you have pleaded guilty. Each of these three charges is deserving of a period of suspension. However, Charge 4 remains by far the most serious of the charges.

You are a married man, aged 37 years. You are originally from Ireland, but commenced your training career in New Zealand when you were approximately 20 years of age. You had been an amateur rider in Ireland. You trained successfully in New Zealand, including the preparation of a Group 1 winner. You moved to Australia in 2014, and have trained here since. You have no prior convictions of any significance. You are currently back in Ireland, but it is not clear as to what your future movements might be. We accept that these charges and all things associated with them have put you under considerable pressure and you have been stressed. We also take into account the references that Mr Davis, on your behalf, put before us.

Having taken all of the above and the general circumstances into account, we have arrived at the following conclusion in relation to penalty.

On Charge 4, you are disqualified for a period of two years.

On Charge 1, you are suspended for a period of six months concurrent with the penalty for Charge 4.

On Charge 2, you are suspended for a period of four months, concurrent with the penalty for Charge 4.

On Charge 3, you are suspended for a period of four months, concurrent with the penalty for Charge 4.

The end result is that you are disqualified for a period of two years, effective immediately.

Mark Howard
Registrar, Victorian Racing Tribunal