11 March 2022

**DECISION**

**RACING VICTORIA**

**and**

**TRUDY COTTIER**

**Date of hearing:** 28 February 2022

**Panel:** Judge John Bowman (Chairperson) and Judge Kathryn Kings.

**Appearances:** Mr Scott Hunter appeared on behalf of the Stewards.

Mr Ross Inglis represented Ms Cottier.

**Charges and particulars:**

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

Australian Rule of Racing (“AR”) 228(b) which reads as follows:

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

*A person must not engage in:*

*…*

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

*…*

**Particulars of Charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Monday 6 September 2021, you sent a parcel containing a typed letter and medications to your place of employment, Eventide Lutheran Homes (the **Parcel**). On the Parcel, you wrote that the sender of the Parcel was “JC” with a phone number of “0423903425”. The phone number provided belongs to licensed trainer, Jessie Constantine.
3. On Wednesday 8 September 2021, you contacted Mr James Hitchcock, Stipendiary Steward at Racing Victoria, by telephone to inform him about the Parcel.
4. On Wednesday 8 September 2021, you were interviewed by Mr Hitchcock at approximately 12:20 PM with respect to the Parcel (the **Interview**).
5. During the Interview, you provided evidence which suggested that you held the view that the Parcel had been sent by Mr Keith Constantine and/or Miss Constantine.
6. On Friday 17 September 2021, during a subsequent interview with the Stewards (the **Subsequent Interview**), you confirmed that you prepared and sent the Parcel in an attempt to incriminate Mr Constantine and/or Miss Constantine.
7. The conduct you engaged in (as noted in particulars 2 and 5) was improper, and accordingly in breach of AR 228(b).

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

AR 232(i) which reads as follows:

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

*A person must not:*

*…*

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

**Particulars of Charge**

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On Monday 6 September 2021, a parcel containing a typed letter and medications was sent to your place of employment, Eventide Lutheran Homes (the **Parcel**).
3. On Wednesday 8 September 2021, you contacted Mr James Hitchcock, Stipendiary Steward at Racing Victoria, by telephone to inform him about the Parcel.
4. On Wednesday 8 September 2021, you were interviewed by Mr Hitchcock at approximately 12:20 PM with respect to the Parcel (the **First** **Interview**).
5. During the First Interview, you provided evidence which suggested that you held the view that the Parcel had been sent by registered stable employee Keith Constantine and/or licensed trainer Jessie Constantine.
6. On Tuesday 14 September 2021, you were interviewed by Mr Hitchcock, by telephone, at approximately 5:18 PM concerning interviews he had conducted with Mr Constantine and Miss Constantine (the **Second Interview**).
7. During the Second Interview, you were informed that Mr Constantine and Miss Constantine denied having sent the Parcel and you were asked whether you had any idea who may have sent the Parcel. You denied having any knowledge of who sent, or may have sent, the Parcel.
8. On Friday 17 September 2021, you were interviewed by the Stewards at approximately 10:51 AM regarding who may be responsible for sending the Parcel (the **Third Interview**).
9. During the Third Interview, you were asked, on several occasions, whether you had any knowledge of who sent, or may have sent, the Parcel. You denied having any such knowledge.
10. Following the Third Interview, on Friday 17 September 2021 at 11:03 AM, you contacted Mr Hitchcock via text message to apologise for being untruthful and reported that it was you that had sent the Parcel.
11. On Friday 17 September 2021 at 12:46 PM, the Third Interview resumed and in that interview you confirmed that you prepared and sent the Parcel in an attempt to incriminate Mr Constantine and/or Miss Constantine.

1. The evidence you provided during the First Interview, Second Interview and/or Third Interview (as noted in particulars 5, 7 and 9 respectively) was false and/or misleading, and accordingly in breach of AR 232(i).

**Pleas:** Guilty to both charges

**DECISION**

Ms Trudy Cottier, you have pleaded guilty to two charges. Charge 1 is a breach of AR 228(b) and could be summarised as engaging in misconduct, improper conduct or unseemly behaviour.

Charge 2 is a breach of AR 232(i) and could be summarised as involving the giving of false or misleading evidence to Stewards in an investigation.

This is a highly unusual case. Mr Hunter, on behalf of the Stewards, referred us to three possible precedents, two in New South Wales and one in the Northern Territory. We appreciate his research, but we are of the view that, whilst they are of general assistance, there are significant factual differences in the present case. We agree with Mr Inglis, appearing on your behalf, that they are of very limited assistance overall.

Turning to the facts, this case arose against the background of turmoil and conflict occurring at the course at Hamilton, and involving allegations of bullying and the like. We understand that this is currently under investigation.

You have a comparatively small stable of horses, namely four, with three more possible arrivals. You own all but one of the horses. They are stabled on the same property, being your residential address. There is no training track or the like there and the horses are worked at Hamilton racecourse. There are only four boxes on the property. One of the four horses has suffered injury and is not currently in work.

Further, you are working full-time as a nurse at the Eventide Lutheron Homes and Hamilton Village. You have been involved in nursing for many years. Amongst the many character references that have been put before us, there is on from Mr Tim Lancaster, the Chief Executive Officer of that establishment. We say now that the bundle of references is most impressive.

The immediate factual background is that, in a situation of alleged conflict and turmoil at the Hamilton track and particularly at times when horses were being worked, you came into conflict with Mr Keith Constantine and Ms Jesse Constantine. Without going into the rights and wrongs of it, we say now that this conflict was particularly stressful for you.

Against this background, foolishly, and perhaps because of the stress, you opted to take matters into your own hands.

On 6 September 2021, you posted a parcel to yourself at the Eventide Home. It contained various medications, some quite old. You wrote on the back of it that the sender was “JC” and wrote Ms Jesse Constantine’s telephone number. With the parcel was a typed letter alleged to be from Mr Keith Constantine and Ms Jesse Constantine.

The typed letter alleged that you had stolen medication from the Home and given them to Jessie Constantine for her horses. The whole occurrence had been constructed by you.

You made the situation considerably worse by giving false evidence to the Stewards, and particularly to Mr James Hitchcock on three occasions, namely on 8, 14 and 17 September 2021. Ultimately, later in the day on 17 September 2021, you admitted that you had in fact sent the parcel and typed the letter yourself, but under the guise of it coming from the Constantines. You had sent the parcel to yourself in the name of the Constantines then reported the matter to the Stewards on the basis that the Constantines, or Ms Jesse Constantine, had sent the parcel of medications to you for use on your horses. It was only after three conversations with the Stewards that you hold the truth.

We accept that you are truly remorseful. We accept that what you did occurred against a background of conflict and stress. We have noted the many references supporting you. Further, you have an unblemished record. Mr Inglis described what occurred as bizarre and we agree. It is bizarre behaviour from someone of high character and a spotless record. We note the report from Dr McCallan stating that you were under a great deal of psychological stress related to what could be described as the feud at the course.

Bearing all of this in mind, we make the following comments. We do not believe that specific deterrence has a great role to play. Bearing in mind all of the above, including your blemish free record, we consider it highly unlikely that you will offend in this way again, and that includes your giving of false evidence.

General deterrence is important. The Stewards are busy people, with great demands upon their time. Alerting them to false and culpable situations is bad enough, and not to be tolerated. The giving of false evidence on multiple occasions is a serious matter, and indeed we consider it the more serious of the charges.

Bearing all of the above in mind, and dealing firstly with Charge 2, the multiple giving of false information, you are suspended for a period of three months and fined $2,500.

On Charge 1, the misconduct, you are suspended for a period of two months, such suspension to be wholly concurrent with the penalty imposed in relation to Charge 2.

The bottom line is that you are suspended for a period of three months and fined $2,500. The suspension shall start at midnight on 1 March 2022.

Mark Howard
Registrar, Victorian Racing Tribunal