16 January 2024

**DECISION**

**RACING VICTORIA**

**and**

**KATE WALTERS**

**Date of hearing:** 10 January 2024

**Panel:** Judge John Bowman (Chairperson) and Ms Maree Payne.

**Appearances:** Mr Raymond Livingstone appeared on behalf of the Stewards.

Mr Matthew Stirling represented Ms Kate Walters.

**Charge:** Australian Rule of Racing (“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.

**Particulars:** 1. You were, at all relevant times:

a. a jockey licensed by Thoroughbred Racing South Australia;

b. a visiting licensed jockey in Victoria; and

c. bound by the Rules of Racing of Racing Victoria.

2. On 26 December 2023, you were engaged to ride Our Ellie Rose in Race 3, the BM58 Handicap over 1150m at Nhill racecourse (the Race).

3. Subsequent to the running of the Race, when returning to the Scales area to weigh in, you were asked by Racing Victoria Deputy Stipendiary Steward Ms Georgina Lewis regarding the performance of Our Ellie Rose.

4. In the vicinity of the scales area, you engaged in the following improper or insulting behaviour:

a. Stated “If you weren’t so fat, you’d be able to ride a horse.”; and / or

b. Used and directed foul language towards Ms Lewis including the use of words “fuck” and “cunt”.

5. Your behaviour, as outlined in particular 4, was improper and or insulting toward a Steward.

**Plea:** Guilty

**DECISION**

Ms Kate Walters, you are appealing against the penalty imposed on you by the Stewards following your behaviour at Nhill racecourse on 26 December 2023. You had ridden in Race 3. Following that race, you were questioned by the presiding Chief Steward, Ms Georgina Lewis, as to the performance of your mount and you replied by asking as to whether Ms Lewis had observed the start of the race.

You further added “If you lose some weight, get a ticket, start riding, and you’ll learn something”. You may or may not have added the word “bitch”. What is clear is that you then used language described as foul, involving the principal swear words – what is described as the “f” word and the “c” word. This was language that was used with sufficient force and loudness to be heard by others in the vicinity and was apparently directed at Ms Lewis.

Clearly, what occurred was a breach, and a serious one, of Australian Rule of Racing (“AR”) 228(c) – conduct detrimental to the interests of racing.

In a subsequent interview on 4 January 2024, you effectively admitted the first part of the charge concerning loss of weight and the like, but did not admit, or plead guilty to, the second part of the charge concerning the very bad language and abuse. You indicated a plea of “Not Guilty” to that aspect of the charge. However, you are no longer maintaining that position and are effectively pleading guilty to the charge in its entirety. This change of position was indicated yesterday.

In relation to the hearing, Mr Raymond Livingstone, Deputy Chairman of Stewards, appeared for them. Mr Matthew Stirling appeared on your behalf.

Mr Livingstone highlighted that you do have a record of two prior offences of a comparatively similar nature, these being on 7 January 2018, and, more importantly, one of 4 June 2017, which resulted in a suspension of four weeks. The Stewards originally imposed, by way of penalty, suspension for a period of three months. Mr Livingstone argued that this was a lenient penalty which took into account your circumstances, in addition to your record.

Mr Matthew Stirling, who appeared for you, emphasised a number of factors, including that what occurred at Nhill on 26 December 2023 did so occur in the heat of the moment, and following your suffering interference in Race 2 and again at the start of Race 3, the race at the centre of the occurrence. Ms Lewis had enquired of you as to the poor performance of your horse and without mentioning that it suffered interference at the start. Mr Stirling also referred to your background and several tragedies that have occurred, including the death of two jockeys who were close friends and the rendering paraplegic of your mother in a riding accident some 20 years ago. You still took after your mother, in addition to having a 10 year old daughter. Mr Stirling also emphasised your financial situation, which is not particularly sound. Further, he placed before us some very recent correspondence between you and Ms Lewis in which you apologised and she, very generously, stated “let’s put this behind us and move on”.

We also take into account your financial position, including your family situation. We appreciate the impact which a period of suspension may have.

Weighing up all of these matters, we are of the opinion that a period of suspension is warranted. This was nasty and vitriolic abuse directed towards a Steward carrying out her duties, and within the earshot of other persons. The Stewards carry out important and demanding duties. They should be able to carry them out without enduring offensive personal abuse and a torrent of very bad language.

Because of your personal situation, your plea of guilty and your apology, even if somewhat delayed, we are prepared to allow the appeal and vary the penalty. The admirably conciliatory approach adopted by Ms Lewis also plays a role.

Accordingly, the appeal is allowed. The penalty of suspension for three months remains, but one month of that period is in turned suspended for a period of 24 months. Should you commit a relevant offence during that period, the suspension for one month will be activated.

The suspension for two months is operative from 4 January 2024.

Kathleen Scully

Acting Registrar, Victorian Racing Tribunal