16 February 2023

**DECISION**

**RACING VICTORIA**

**and**

**TAYLAH HAMILTON**

**Date of hearing:** 1 February 2024

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

**Appearances:** Mr Jack Anderson appeared on behalf of the Stewards.

Ms Taylah Hamilton represented herself.

**Charge:** Australian Rule of Racing (“AR”) 16 states:

AR 16 Disciplinary action Without limiting any other PRA powers, a PRA has the following powers in relation to disciplining and/or penalising a person: (a) to warn off any person whose presence on a racecourse or involvement in racing is, in the opinion of the PRA, not desirable.

Division 2 – Dictionary

AR 2 Dictionary

warned off means a person is not permitted to enter a racecourse under the jurisdiction of the PRA that warned him or her off and, pursuant to AR 265, is subject to the same restrictions or consequences applicable to a disqualified person. (Warning off has a corresponding meaning.)

**Particulars of charge:** At its meeting held on 13 December 2022, the Racing Victoria Board (the Board) considered and accepted a recommendation by the Stewards that you be warned off indefinitely pursuant to AR 16 of the Rules of Racing.

**Plea:** Not Guilty

**DECISION**

Ms Taylah Hamilton, you effectively are seeking the lifting or terminating of a Warning Off decision by the Stewards. You are appealing against that decision.

You were warned off indefinitely from 13 December 2022, this being conveyed to you by the Stewards in a letter of 23 December 2022. The matter has been before us previously and was adjourned. You have remained warned off. The case dates back to an organisation of which you were effectively a director. You were engaged in the syndicating of horses and organising the training thereof. The Stewards continue to oppose the lifting or modification of the Warning Off.

It seems to us that there are four principal areas of concern advanced by the Stewards as to why the Warning Off should be ongoing. They are as follows:

1. Moneys owing to trainer Mr Peter Moody

2. Moneys owing to trainer Mr Mark Kavanagh

3. Some serious litigation involving approximately one million dollars, which litigation has been issued out of the District Court in Queensland.

4. An enterprise, namely Darling Pastoral Enterprises, in which you are a principal has been engaged in the selling of horses, this being despite the Warning Off.

We shall now deal with each of these matters.

1. We accept that Mr Peter Moody has been paid an amount and has accepted it in complete satisfaction of outstanding amounts. This matter is no longer of concern.

2. The situation is not quite so clear in relation to Mr Mark Kavanagh. You have provided to us details of some correspondence involving his stables. That correspondence includes an email of 30 January 2024 from a legal firm called Celtic Legal, which states that it acts on behalf of Kavanagh Group Pty Ltd and “as at the date of the email we have not been instructed to commence Court proceedings against you”. That is a somewhat qualified statement. It does not say that you owe no money to Mr Kavanagh. In addition, it states that “at this time” there have been no instructions to commence Court proceedings.

We are of the view that a more definite and conclusive statement needs to be obtained in order to satisfy us that there are no monies owed by you to Mr Kavanagh or at least that Mr Kavanagh will not be commencing any proceeding seeking payment of any amount by you.

3. We regard the proceedings issued out of the District Court in Queensland as being of only marginal relevance at this time. There is no suggestion that such proceedings, although apparently in relation to an alleged substantial amount, are in any way related to the racing industry. It is not entirely clear whether the proceedings are criminal or civil in nature. This is an issue raised by the Stewards, but, in the absence of more information and on the basis that the litigation has no connection with the racing industry or your participation in it, currently we do not see this as being a factor that should militate against your application.

4. The same cannot be said of the sale or attempted sale of thoroughbred horses by Darling Pastoral Enterprises, of which you are a principal. If, as you claimed in some of your more emotional evidence, you are getting out of racing on a permanent basis, their sales and the possible prolongation of the duration of your being warned off may not concern you, but the overall impression which we received is that you may well wish to continue in the industry and may wish to clear your name.

We are not prepared to lift or terminate the warning off at this time if you are still selling horses or attempting so to do. If some clarification of the situation in relation to this and the Stewards’ attitude towards it is forthcoming, our attitude towards it may be reconsidered.

However, whilst the sale of racehorses appears to have been ongoing and may well be in contravention of the Warning Off, we are not prepared to lift that Warning Off without further investigation and clarification.

If some arrangement in relation to the horses that effectively remain with you and their possible sale can be reached, being an arrangement concerning which the Stewards have no argument, we would hear further submissions in relation to the situation.

Thus, there are two matters where clarification and further submissions would seem to be needed. One is in relation to the situation with Mr Kavanagh. The other concerns the sale or possible sale of racehorses or potential racehorses.

Further clarification or agreement in relation to those two matters would have the potential for a reconsideration by us.

In the meantime, the warning off in its present form remains in place.

Mark Howard

Registrar, Victorian Racing Tribunal