9 May 2024

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**CHELSEA PROTHERO**

**Date of hearing:** 15 April 2024

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**Panel:** Judge John Bowman (Chairperson), Dr Andrew Gould and Mr Greg Childs.

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Joe Connolly represented Ms Chelsea Prothero and appeared as a witness.

Mr Brad Powell appeared as a witness.

**Charges:** Australian Harness Racing Rule (“AHRR”) 209 states:

A person employed, engaged or participating in the harness racing industry shall not knowingly or recklessly furnish false information to the Controlling Body, the Stewards or anyone else.

AHRR 187(2) states:

(2) A person shall not refuse to answer questions or to produce a horse, document, substance or piece of equipment, or give false or misleading evidence or information at an inquiry or investigation.

AHRR 91(1)(c) states:

(1) A person shall not carry on an activity regulated by licence –

(c) except in accordance with the terms and conditions of the licence.

**Particulars: Charge 1: AHRR 209**

1. At all relevant times, you were licensed with HRV, a person bound by the AHRR, and a person participating in the harness racing industry.

2. On 3 January 2024, you made an application to HRV to upgrade your licence from a Stablehand to a Grade B Trainer (Licence Application), in which you nominated your stable address to be located in Birdwoodton, Victoria.

3. On 11 January 2024, and as part of your Licence Application, you were interviewed by HRV Steward John Packer (the Interview), during which:

a. You and Mr Packer had the following exchange:

*MR PACKER: So stable inspections, where are you going to be training from?*

*YOU: Dad’s property, so McEdward Street.*

*MR PACKER: Okay. So you’re going to go from dad’s property?*

*YOU: Yeah.*

b. Mr Packer asked about your intentions in the future, after which you and Mr Packer had the following exchange:

*YOU: Yeah. So in the start-off, yeah, I’ll be obviously training at home and then, yeah, if I can get the right horses or I get, yeah, better horses sent to me, eventually I’ll relocate to New South but, yeah, whether that’s in six months, a year, whatever it’s going to be, yeah - - -*

*MR PACKER: Okay.*

*YOU: - - - I’ll fill a transfer of licence out and all that when it happens.*

*MR PACKER: Yeah.*

*YOU: But yeah, for now, I’ll just be at home.*

4. By giving the responses identified in particular 3 to Mr Packer in the Interview, you knowingly or recklessly furnished false information to the Stewards, given that you intended to train horses out of a stable located at in Llandilo, New South Wales virtually immediately after obtaining your Grade B Trainer Licence, and not in Birdwoodton, Victoria.

**Charge 2: AHRR 209**

1. At all relevant times, you were licensed with HRV, a person bound by the AHRR, and a person participating in the harness racing industry.

2. On 3 January 2024, you made an application to HRV to upgrade your licence from a Stablehand to a Grade B Trainer (Licence Application).

3. On 11 January 2024, and as part of your Licence Application, you were interviewed by HRV Steward John Packer (the Interview), during which you and Mr Packer had the following exchange:

*MR PACKER: And which horses are you looking at training yourself at the moment?*

*YOU: So we’ve actually just brought one from South Australia.*

*MR PACKER: Yep.*

*YOU: So yeah, we’ve got that one and probably just that one for the minute. I will try and steal Mailman off my brother but whether that goes too well or not is a different story.*

4. By giving the response identified in particular 3 to Mr Packer in the Interview, you knowingly or recklessly furnished false information to the Stewards, given that you intended on training more than one or two horses virtually immediately after obtaining your Grade B Trainer Licence.

**Charge 3: AHRR 187(2)**

1. At all relevant times, you were licensed with HRV, and a person bound by the AHRR, and a person participating in the harness racing industry.

2. On 1 February 2024, HRV Integrity Compliance and Investigations Manager Brad Powell and HRV General Manager Integrity Rhys Harrison conducted a telephone interview with you in connection with their investigation regarding your licence application to be upgraded to a Grade B Trainer, the horses in your care and the location of your stable address (the Interview).

3. During the Interview, you were asked whether you recalled when you travelled up to New South Wales (NSW), to which you gave evidence to the effect that you probably travelled to NSW the day before you got your licence, namely 11 January 2024.

4. The evidence given by you as outlined in particular 3 was false and/or misleading, given that you travelled to NSW on 4 January 2024.

**Charge 4: AHRR 187(2)**

1. At all relevant times, you were licensed with HRV, and a person bound by the AHRR, and a person participating in the harness racing industry.

2. On 1 February 2024, HRV Integrity Compliance and Investigations Manager Brad Powell and HRV General Manager Integrity Rhys Harrison conducted a telephone interview with you in connection with their investigation regarding your licence application to be upgraded to a Grade B Trainer, the horses in your care and the location of your stable address (the Interview).

3. During the Interview, you were asked to identify the person in the background who was listening to the phone call and answering the questions, to which you gave evidence to the effect that it was New South Wales (NSW) licensed participant David Morris.

4. The evidence given by you as outlined in particular 3 was false and/or misleading, given that the person in the background listening to the phone call and answering the questions was NSW licensed participant Seaton Grima.

**Charge 5: AHRR 91(1)(c)**

1. At all relevant times, you were licensed with HRV, and a person bound by the AHRR, and a person participating in the harness racing industry.

2. AHRR 90A(2.7) relevantly provides:

*The holder of a trainer’s licence –*

*(b) Grade B, is licensed to train a horse which the person owns or partly owns or which is owned by the person’s spouse, other domestic partner, parent, sibling or child, or any horse approved by the Controlling Body upon the written application of the person;*

3. The HRV Licensing and Registration Policy relevantly provides at 9.1:

*The holder of a Grade B Trainer licence may train any registered horse which the person owns or partly owns or which is owned by the person’s spouse, domestic partner, parent, sibling or child. The holder may also train up to a maximum of three (3) horses for outside clients (i.e. not family related) at any one time by seeking written approval from the Chairman of Stewards.*

4. After obtaining your Grade B Trainer Licence on 12 January 2024, you commenced transferring the following nine (9) horses into your stable as trainer without approval, all of which were owned by outside clients:

a. Crime Dont Pay (transferred on 12 January 2024)

b. Hezashadowplaya NZ (transferred on 12 January 2024)

c. Saginaw NZ (transferred on 12 January 2024)

d. Caulonia Courage (transferred on 13 January 2024)

e. Backintown (transferred on 17 January 2024)

f. The Kapiti Express NZ (transferred on 23 January 2024)

g. Winona Writer (transferred on 23 January 2024)

h. Talent Agent NZ (transferred on 26 January 2024)

i. American Beauty NZ (transferred on 30 January 2024)

5. By training nine (9) horses that were owned by outside clients without approval, you carried on an activity that was not in accordance with the terms and conditions of your Grade B Trainer Licence.

**Pleas:** Not Guilty to Charges 1 and 3

 Guilty to Charges 2, 4 and 5

**DECISION**

Ms Chelsea Prothero, you have pleaded not guilty to two charges. Charge 1 is pursuant to Australian Harness Racing Rule (“AHRR”) 209 and essentially involves the furnishing of false information to the Stewards. Charge 3 is pursuant to AHRR 187(2) and could be summarised as giving false or misleading evidence and information at an inquiry or investigation.

You have pleaded guilty to Charges 2, 4 and 5. These shall be dealt with shortly. Mr Joe Connolly assisted you with the presentation of your case. Mr Andrew Cusumano represented Harness Racing Victoria (“HRV”). Both did a very good job of presenting these somewhat unusual cases.

Because of time constraints, we handed down our conclusion in relation to Charges 1 and 3, with the reasons to follow. Our findings were that we were comfortably satisfied that Charges 1 and 3 had been proven. We moved on to our findings in relation to the penalty on each of the five charges.

We turn now to our reasons for finding that Charges 1 and 3 had been proven.

You were in the process of obtaining your Grade B trainer’s licence. Your family is well known in harness racing, and you had previously worked for them as a licensed stablehand. Their stables are near Mildura. You applied to upgrade your licence to that of a Grade B on 3 January 2024. You gave your address as being in Victoria. As part of your application, you were interviewed on 11 January 2024 and said that you would be training at the family property, but might eventually relocate to New South Wales (“NSW”), but for now “I’ll just be at home”.

You were in fact in NSW, your partner being involved in the industry and training not far from Sydney, an 11 hour drive from Mildura. Indeed, you had already obtained a job in an estate agency based in the vicinity of your partners NSW stables. Albeit, this job had only lasted a few days, but you were taking an active role in the conduct of his stables.

It has been established to our comfortable satisfaction that you wilfully gave false information to the Stewards. We accept that you intended to train horses out of a stable located in NSW. In Victoria, you would have been more restricted in relation to the number of horses that you could have trained for persons other than family members. We are comfortably satisfied that a breach of AHRR 209 has been proven.

As stated, we are also so satisfied in relation to Charge 3. On 1 February 2024, you had a telephone interview with Mr Brad Powell and Mr Rhys Harrison, Integrity Officers with HRV. In this interview, in answer to a question you stated that you had “probably” gone to NSW on 11 January 2024, the day before you got your Grade B licence. The fact of the matter is that you had gone to NSW on 4 January, had obtained a job and had played an active role at your partner’s stables.

In our opinion, this was a clear breach of AHRR 187(2) and we are comfortably satisfied that your guilt has been established by the Stewards.

That concludes the summary of the reasoning behind our finding of guilty in relation to Charges 1 and 3.

**PENALTY**

You have been found guilty of two charges which you contested and were argued at some length. You have pleaded guilty to three other charges. We have heard submissions as to penalty on all five matters.

Due to time constraints, it was agreed that we would provide our written reasons for the finding of guilty on Charges 1 and 3 as soon as possible, and, as stated, detailed and helpful submissions were made on the issue of penalties for all charges. We turn now to them.

Charge 1 is a breach of AHRR 209, which could be summarised as being the furnishing of false information to the Stewards, such information relating to the location at which you would be training, having received your Grade B licence. We regard this as the offence that attracts the greatest penalty. The Stewards have enough to do without being misled in this fashion.

We are of the view that a period of suspension for three months should be imposed. We agree with the Stewards that any penalty of this nature should be backdated to 1 February 2024, as you licence has been suspended since that date.

We are of the opinion that a penalty of two months suspension be imposed in relation to Charge 2, which also concern the furnishing of false information, this time in relation to horses that you intended to train. As stated, you pleaded guilty. We are of the view that a two month suspension is warranted. However, we are also of the view that this should be wholly concurrent with the penalty imposed on Charge 1, again commencing on 1 February 2024.

Charge 3 relates to false and misleading evidence, this being pursuant to AHRR 187(2). It concerns the date upon which you travelled to NSW, which is again related to the obtaining of your licence and possible training of horses in that state. On this charge, you are fined the sum on $1,000.

Charge 4 also involves AHRR 187(2). You pleaded guilty to this charge. Effectively, you gave the Stewards the incorrect name and occupation of a person assisting you in answering particular questions of the Stewards, this being via the telephone. The deceit was quickly identified. On this charge, you are fined the sum of $1,500, with $500 suspended for a period of 12 months. Should you commit a relevant offence during that period, the $500 suspended fine shall be activated.

Charge 5 concerns a breach of AHRR 91(1)(c) – carrying out an activity not in accordance with the terms of your licence, being a Grade B licence. You had some nine horses in your stables as trainer without approval. For this offence, you are fined the sum of $250.

The bottom line is that you are suspended for a period of three months, that suspension having commenced on 1 February 2024. You are fined a total of $2,250. A further fine of $500 is suspended for 12 months.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal