

**NEW SOUTH WALES
HARNESS RACING
APPEAL PANEL**

APPEAL PANEL MEMBERS

**D Kane
P Fletcher
B Judd**

REASONS FOR DECISION

13 March 2025

APPELLANT CAMERON HART

RESPONDENT HRNSW

AUSTRALIAN HARNESS RACING RULES

163(1)(a)(iii)

DECISION

The Appeal Panel makes the following orders:

- 1. The Appellant's appeal against conviction is dismissed;**
- 2. The Appellant's appeal against penalty is upheld;**
- 3. In substitution for the Stewards' Sanction, the Appeals Panel orders that the Appellant's licence be suspended for a period of 7 days, that suspension stayed until 11.59pm on 16 March 2025.**
- 4. The appeal deposit is forfeited.**

Cameron Hart
Appellant

Harness Racing New South Wales
Respondent

Determination

Background and the Notice of Appeal

- 1 Cameron Hart (**Appellant**) is a licensed harness racing driver.
- 2 On 28 February 2025, the Appellant lodged with Harness Racing New South Wales (**Respondent**) a **Notice of Appeal** dated that same date.
- 3 That Notice of Appeal is lodged in respect of a **Decision** made by the Respondent's **Stewards**. That Decision of the Stewards was delivered on 27 February 2025 and, it seems to not be a matter of controversy to state that the Decision was notified to the Appellant on that same day.
- 4 The Decision is a determination by the Respondent's Stewards to impose a suspension on the Appellant's licence, such suspension which is for a period of 14 days (**Stewards' Suspension**).
- 5 The Stewards' Suspension was imposed consequent to the Stewards finding the Appellant guilty of a breach of **Rule 163(1)(a)(iii)** of the *Australian Harness Racing Rules (amendments up to and including 14 December 2024)* (**AHRR**). The particulars of the Stewards' charge are that:

... in race two at tonight's Penrith meeting, when the driver of Ripstone Snorter, that shortly after passing the 200 metres, you have permitted Ripstone Snorter to shift in, resulting in Bara Riley being tightened in on to Madzalways, resulting in Madzalways being checked and contacting marker pegs, and Bara Riley being checked and making contact with your sulky, resulting in Bara Riley pacing roughly, and consequently Stellina, Reign Maker, Hot Cruise Control, Mizzz Adele, Rockside Rock and Lynnsanity were all checked to varying degrees ...

6 **AHRR 163(1)(a)(iii)** is in the following terms: "... 163(1) A driver shall not – (a) cause or contribute to any ... (iii) interference ...".

7 It also is not a matter of controversy between the parties, that an effect of the Appellant lodging the Notice of Appeal was that the Stewards' Suspension was stayed from otherwise commencing in operation, pending the finalisation of these appeal proceedings before the Harness Racing New South Wales Appeals Panel (**Appeals Panel**). That stay of the Stewards' Suspension was imposed by the Stewards pursuant to the *Local Rules of Harness Racing NSW (effective 1 September 2012)* (**NSWLR**) and specifically **NSWLR 256**, which states:

Power to defer penalty

NSWLR256 *Notwithstanding the provisions of AHRR 256(4) the Stewards may have the power to postpone, for a period of no longer than nine (9) days the attachment of any suspension imposed by them upon a driver.*

8 The Stewards alleged the breach of **AHRR Rule 163(1)(a)(iii)** arising from the Appellant's drive of the horse named **Ripstone Snorter**, on 27 February 2025, in race 2 of the meeting conducted at Penrith Paceway, named the Jazz @ Club Paceway Mar 2 Pace (**Race**). The Race was conducted over a 2,125 metre course.

9 The Ripstone Snorter was the eventual winner of the Race.

Notice of Appeal and material before the Appeals Panel

10 In his Notice of Appeal, the Appellant gives notice of his appeal against conviction before the Stewards, as well as of his appeal against penalty.

11 The material put before the Appeals Panel comprised:

- a) The Notice of Appeal.
- b) The transcript of proceedings before the Stewards on 27 February 2025 (**Transcript**).
- c) The Respondent's written submissions dated 10 March 2025 (**Respondent Submissions**).
- d) The Appellant's written submissions dated 10 March 2025 (Appellant Submissions).
- e) Video evidence, in the form of three different camera angles of race footage, taken of the Race (**Video Evidence**).
- f) The Appellant's **Offence Report**.

- 12 The Appellant was in attendance for the duration of the proceedings before the Appeals Panel, however the Appellant was not called on to give oral evidence.
- 13 No witnesses were called to give evidence before the Appeals Panel; the parties relied on the evidence referred to above and their respective written submissions.
- 14 As a preliminary matter, neither the Appellant Submissions nor the Respondent Submissions address or submit on the part of the Appellant's appeal which is the appeal against penalty. Nonetheless, the Appellant's representative confirmed at the commencement of the hearing before the Appeals Panel, conducted on 11 March 2025, that the Appellant's appeal was an appeal against both conviction and penalty. The proceedings were accordingly conducted on that basis.

The Appellant's appeal against conviction

- 15 During the course of the hearing, the Appeals Panel closely examined the Video Footage and in particular the best camera angle for the depiction of the relevant part of the Race. Each party availed themselves of the opportunity to take the Appeals Panel to the relevant parts of the Video Evidence. The Video Evidence is timestamped, and the part of the Video Evidence relevant to the matter before the Appeals Panel commences at 18:55:11:20 and ends at or about 18:55:14:11. Put another way, the relevant part of the Video Evidence is slightly longer than three seconds of race footage.
- 16 The Video Evidence relevantly depicts:
- a) The driver Klayton Bigeni as the driver of **Madazalways**.
 - b) The driver Joshua Gallagher as the driver of **Bara Riley**.
 - c) The Appellant as the driver of Ripstone Snorter.
- 17 At the point of the Race where the relevant part of the Video Evidence commences, Madazalways is positioned closest to the pegs in the racing line; Bara Riley is positioned one-out; and Ripstone Snorter is positioned two-out. At that point, it appears that there is a distance between the right-hand wheel of Bara Riley's sulky wheel and the left-hand wheel of Ripstone Snorter's sulky wheel.
- 18 As the Race progressed from the point at 18:55:11:20, the Video Evidence depicts Mr Gallagher on Bara Riley attempting to cross in front of Mr Bigeni on Madazalways, with the Appellant on Ripstone Snorter also shifting in, to some extent in concert with Mr Gallagher's shift on Bara Riley. At 18:55:12:20, the Video Evidence depicts Madazalways' front legs close to Bara Riley's

sulky wheels, and Bara Riley's head pointed to the outside, indicating that Mr Gallagher was directing the horse to shift out, such was its proximity at that point to Madazalways.

19 At 18:55:13:23, Madazalways' left sulky wheel makes contact with the inside marker peg, with Mr Gallagher on Bara Riley in between Ripstone Snorter to the right and outside, and Madazalways to the left and inside.

20 At 18:55:14:04, Bara Riley is shown ahead of Madazalways but with less than a full sulky and horse width between Bara Riley and the inside pegs. The Appellant on Ripstone Snorter is positioned to the right and outside, and slightly ahead of Bara Riley. The left wheel of Ripstone Snorter's sulky is shown to be inside the running line of the right sulky wheel of Bara Riley.

21 What is clear from the Video Evidence is that Madazalways makes contact with the inside pegs as a result of that horse having insufficient room on its running line because of the presence of Bara Riley.

22 The central question for determination is whether Ripstone Snorter shifted in, resulting in Bara Riley being tightened in onto Madazalways, resulting in Madazalways being checked and contacting the marker pegs.

23 On this issue, the Appeals Panel notes that the Video Evidence appears to depict that Ripstone Snorter does not maintain a three-wide line in the part of the race relevant to these proceedings. Instead, Ripstone Snorter appears to shift inwards.

24 Counsel for the Appellant submitted that the Appellant was entitled to shift inwards "organically" at the point that Bara Riley attempted to come across Madazalways. Counsel for the Appellant further submitted that Ripstone Snorter did not shift in to any significant extent, and that what ensued in relation to Madazalways was not as a consequence of the Appellant's conduct. Counsel for the Appellant further relied on **AHRR 162(1)(ww)**, which provides that a driver shall not allow their horse to shift from its running line unless it is commencing a forward move or improving its position.

25 Clint Bentley of the Stewards and for the Respondent did not cavil with the concept that a horse may shift in "organically", whatever that term means, precisely. That said, the Appeals Panel notes **AHRR 162(1)(ww)** but also notes **AHRR Rule 163(1)(a)(iii)** and the obligation on drivers, including the Appellant, to not cause or contribute to interference in the course of their race driving.

26 At the conclusion of the hearing as to the question of guilt, the proceedings were adjourned so that the Appeals Panel could deliberate on the question of the Appellant's guilt.

27 The Appeals Panel considers (as was confirmed orally to the parties at the hearing) that the evidence before the Appeal Panel proves to the requisite standard that the Appellant's driving

of Ripstone Snorter did cause, or in the alternative did contribute to the interference suffered, ultimately, by Madazalways.

The Appellant's appeal against penalty

- 28 Upon the Stewards having determined the Appellant to be guilty of the breach of **Rule 163(1)(a)(iii)**, the Stewards imposed the Stewards' Suspension, being a 14-day suspension. The Stewards arrived at the Stewards Suspension having regard for the *Harness Racing New South Wales Penalty Guidelines (Penalty Guidelines)*, and the guideline of a 35-day suspension for a breach of **Rule 163(1)(a)(iii)** in circumstances where another horse is checked within the final 200 metres of a race.
- 29 What the Stewards then did, was reduce that 35-day suspension by a period of 14 days, in accordance with the Penalty Guidelines because the Appellant had driven in at least 600 races or for a period of two years since his last suspension under the AHRR. Indeed at page 20 of the Transcript, the Stewards noted that the Appellant's last suspension was imposed in April 2022, and that since April 2022 the Appellant had driven in approximately 2,500 races. This history is confirmed by the Offence Report.
- 30 The Transcript further notes that the Stewards took into account:
- a) The circumstances of the relevant incident and Mr Gallagher's driving.
 - b) The level of interference caused, which was not "... *grossly careless* ...".
- 31 Consequently, the Stewards did in effect apply a further discount of seven days so as to arrive at the imposed Stewards' Sanction of a 14-day suspension.
- 32 On the question of penalty, unsurprisingly Mr Bently submitted that the Stewards' Sanction is the appropriate penalty. Counsel for the Appellant submitted that the appropriate sanction would be in the way of a monetary fine, with no period of suspension.
- 33 Submissions were also made on the Appellant's behalf regarding the upcoming drives that the Appellant has been engaged for, including most notably his drive in the Carnival of Cups, which will be run on 15 March 2025. Depending on the penalty imposed by the Appeals Panel, the Appellant may be forced to forfeit that drive. The Appeals Panel is cognisant of the effect that would have on owners and trainers who already have booked the Appellant to drive in the coming days. The Appeals Panel is likewise aware that it is the Appellant's own decision-making in terms of accepting drives while these proceedings are unresolved, which puts the Appellant in jeopardy in terms of possibly having to forfeit drives that he has already accepted an engagement for.

34 In the opinion of the Appeals Panel, the Penalty Guidelines do not adequately accommodate the framing of penalties in circumstances where the driving record of the driver in question is so significantly better than the driver having a clean record over their history of just the last 600 drives or two years of driving.

35 On that basis, the Appeals Panel is minded to impose a seven-day suspension of the Appellant's driver licence, in substitution of the Stewards' Sanction. The Appeals Panel is of the view that this further reduction is appropriate, solely for the reason of the imposed suspension being properly reflective of the Appellant's otherwise excellent driving record since April 2022, in circumstances where the Appellant is a very frequent driver.

36 As to the commencement of that seven-day suspension, the Appeals Panel turns again to NSWLR256, which says:

Power to defer penalty

NSWRLR256 *Notwithstanding the provisions of AHRR 256(4) the Stewards may have the power to postpone, for a period of no longer than nine (9) days the attachment of any suspension imposed by them upon a driver.*

37 These proceedings before the Appeals Panel constitute a hearing de novo, where the Appeals Panel stands in the shoes of the Stewards.

38 The construction of NSWLR256, however ineloquent (noting that the rule says that the ... Stewards may have the power, as distinct from plainly saying that the Stewards *do* have the power) does not in the opinion of the Appeals Panel operate to say that the Appeals Panel is not empowered by NSWLR256 by reason of the Stewards already having ordered that the Stewards' Sanction be stayed. NSWLR256 operates so that the Appeals Panel in the shoes of the Stewards may stay, for no longer than nine days, the attachment of any suspension imposed by the Appeals Panel on a driver, and in this case the Appellant. That power is plainly a discretionary power, which the Appeals Panel may elect to use.

39 In all of the circumstances and so not to adversely affect the owners and trainers of horses that the Appellant has been booked to drive on 15 March 2025 in particular, and noting the Appellant's excellent driving record since April 2022, the Appeals Panel has determined to exercise its available discretion arising under NSWLR256.

40 The Appeals Panel makes the following orders:

- a) The Appellant's appeal against conviction is dismissed.
- b) The Appellant's appeal against penalty is upheld.

- c) In substitution for the Stewards' Sanction, the Appeals Panel orders that the Appellant's licence be suspended for a period of seven days.
- d) Pursuant to NSWLR256, that suspension is stayed until the commencement time of 11.59pm AEDT on Sunday, 16 March 2025, with the suspension then ending at 11.59pm on Sunday, 23 March 2025.
- e) Any appeal fee paid by the Appellant be forfeited by him and retained by the Respondent.

13 March 2025

Darren Kane (Convenor)
Peter Fletcher
Brian Judd