NEW SOUTH WALES

HARNESS RACING

APPEAL PANEL

APPEAL PANEL MEMBERS
Hon W Haylen KC
D Kane
J Moore

RESERVED DECISION

4 November 2025

APPELLANT LUCAS RANDO

RESPONDENT HRNSW

AUSTRALIAN HARNESS RACING RULES

245 & 187(2) x 2

DECISION

The Appeal Panel makes the following orders:

A total penalty of 21 months disqualification in relation to Charges 1, 2 and 3 is imposed commencing from 20 November 2024.

1. On 21 May 2025, Stewards commenced an inquiry into the provision of urine samples to Harness Racing Stewards at Goulburn on 21 October 2024. Mr Rando was present and gave evidence to the inquiry that he had provided a urine sample contained in a 20 ml syringe to driver Mr Jack Brown for the purpose of substituting as his own sample. After adjournment, on 4 June 2025, Stewards issued 3 charges against Mr Rando pursuant to Australian Harness Racing Rules (AHRR).

2. Charge 1 arose from the terms of AHRR 245, that a person should not assist anyone to breach the rules or otherwise engage in an improper practice. The particulars were that Mr Rando, on 21 October 2024 at Goulburn, assisted Mr Brown to commit a breach of the rule and/or otherwise engage in an improper practice by providing him with a sample of urine for him to substitute as his own for the purpose of submitting such urine to the Stewards for analysis.

3. Charges 2 and 3 arose from the terms of AHRR 187(2), that a person shall not refuse to answer questions or give false or misleading evidence or information at an inquiry or investigation. The particulars of charge 2 were that Mr Rando on 24 October 2024 when interviewed by Stewards gave false and misleading evidence on multiple occasions in relation to an investigation, concerning a urine sample he provided to Mr Brown at Goulburn on 21 October 2024.

4. The particulars of charge 3, were that Mr Rando, on 19 November 2024, when being interviewed by Stewards, gave false and misleading evidence in relation to an investigation concerning a urine sample he provided to Mr Brown at Goulburn on 21 October 2024 and the subsequent results of the DNA analysis of that sample.

5. Mr Rando provided submissions concerning penalty and his personal circumstances. In short those submissions were: his regret and remorse for the situation and the personal growth, development and maturity that has resulted from his suspension to date; any penalty should take into account the period of suspension already served; a first offence of this nature; his overall good driving record and involvement in the industry; the effect that being removed from racing has had, and will continue to have, on his mental health; his personal circumstances that include living on a training facility and in a de-facto relationship with a fellow member of the industry; inability to find employment outside of racing; his concern was never for himself and only ever for that of Mr Brown; all his friends, family and relationships are built around his connection with racing; written statement provided in December 2024 confessing to the situation; and, character references provided on his behalf.

6. On 19 June 2025 the Stewards released their penalty decision. It was stated that breaches of the AHRR relating to deceitful conduct were regarded as particularly serious, as they directly threatened the overall objectives of the harness racing industry, notably by damaging public perception and compromising integrity. Aiding a driver to circumvent drug testing requirements had potential to risk the safety of horses and drivers and could have catastrophic consequences. It was also noted that consideration of objective seriousness was embarked upon in the appeal decision of Mr Matthew Schembri (2020), where the NSW Racing Appeals Tribunal stated the following at paragraph 18:

18. The stewards have reflected on many occasions, and various Tribunals, differently constituted, have reflected upon the gravity of noncompliance with the rules, the removal of level playing fields, the destruction of the integrity of the industry and the necessity for protective orders to be made by way of penalty to provide the necessary message to this appellant as to the consequences of acting in breach of the privilege of a licence, but more importantly, to make it very clear to all other participants that like conduct will lead to a loss of privilege of a licence. It is also important for the message that is sent out to be quite clearly one which will indicate to the public at large that the regulator will take all appropriate steps by removing privilege of a licence from those who transgress the rules.

7. The Stewards then considered a number of specific cases dealing with asserted parity where many were six month suspensions. Attention was drawn to two Tasmanian cases dealt with in 2015 where a substitution of urine led to a disqualification of 3 years and 10 months that occurred on two occasions and a single case where disqualification for 18 months was decided.

8. The Stewards then stated that they believed the only appropriate penalty for this type of conduct was a period of disqualification with a starting point of 21 months. They also acknowledged that Mr Rando had provided a written statement prior to the commencement of the Inquiry but noted that the investigation was protracted as a result of the false evidence he gave. They were also subjected to the unnecessary costs of sending the samples away for confirmatory DNA testing, resulting from the initial protestations of innocence. They did not see his pleas of guilty as an indication of genuine remorse but as a grudging acceptance of the inevitable once faced with the magnitude of evidence that had been amassed. Therefore, Mr Rando was not entitled to the full reduction of 25% for his guilty plea to charge 1 and 12.5% was deemed appropriate in the circumstances. However, noting the decision of the Racing Appeals Tribunal in Thomas v HRNSW in 2011 that considered hardship being a matter to be taken into account, the Stewards considered the subjective factors of Mr Rando and adopted a further reduction of 12.5%. The Stewards then determined that the appropriate penalty in relation to Charge 1, was disqualification for a period of 15 months.

9. In dealing with charges 2 and 3, the Stewards stated that Mr Rando had every opportunity to come clean about supplying a sample of his urine to Mr Brown and was reminded of his obligations to answer questions of the Stewards truthfully and honestly. Even when faced with the results of the DNA test that the samples were a match in the interview on 19 November 2024, Mr Rando continued to mislead the Stewards investigation until he provided a written statement on 12 December 2024.

10. The Stewards then adopted a disqualification of 8 months as a starting point for these charges. Mr Rando entered a guilty plea and was granted a reduction of 12.5.%. Having considered his personal subjective factors, a further reduction of 12.5% was deemed appropriate for charge 2. The Stewards then determined that the appropriate penalty for these charges was disqualification for a period of six months for each of the offences. It was stated that, when the offending comes from separate and distinct conduct, such periods of disqualification are to be served cumulatively.

11. At the hearing of the Appeal, submissions for HRNSW provided a full analysis of the approach of the Stewards and why the penalties imposed upon Mr Rando were appropriate and should not be disturbed. It was noted that Mr Rando had stated that he had already served almost 11 months disqualification but that was incorrect. He had served 7 months of his sentence thus far as a suspension and not a disqualification, having been suspended pursuant to AHRR 183(b) and (d) on 20 November 2024 and disqualified by the Stewards decision of 24 June 2025, with commencement backdated to 20 November 2024. HRNSW's submission on this point is that a suspension is to be distinguished from a disqualification, because of the different effects imposed on a person subject to each type of sanction. Mr Rando had been disqualified only from 24 June 2025. The Panel notes that under the AHRR, as a suspended person Mr Rando was only restricted from engaging in activities which required a licence but was able to attend race meetings, entering registered properties and associate with persons for the purpose of harness racing. He was also able to derive income from harness racing by gambling and writing descriptions for bloodstockauctions.com.

12. The steps taken by the Stewards were repeated and it was noted that they took the position that Mr Rando's conduct could not be categorised as an error in judgment, that the use of the syringe displayed elements of premeditation and that Mr Rando's explanation that he was concerned with the welfare of Mr Brown cannot be accepted. Mr Rando continued to deny any wrong doing during the course of the stewards' investigation until such time as he was faced with insurmountable DNA evidence. In another submission made by Mr Rando, he stated that he could not stress enough that there was no element of premeditation in these circumstances at all.

13. On the issue of penalty, four cases were relied upon, Wade v HRNSW (RATNSW) (4.3.25) ; Australian Building and Construction Commissioner v Pattinson (2020) 274 CLR 450 at [9]-[10] and [15]; Turnbull v HRNSW, RATNSW (30 September 2022 at [114}; and, NW Frozen Foods Pty Ltd v ACCC (1996) 71 FCR at 293. Other matters generally taken into account on determining an appropriate penalty included: (a) deterring the individual from committing similar offences (specific deterrence); (b) deterring others in the harness racing industry from committing similar offences (general deterrence); (c) demonstrating to the harness racing industry that the relevant conduct is not acceptable; (d) ensuring any penalty imposed is reasonable, taking into account the specific circumstances of the individual (e.g. previous conduct in the harness racing industry) and the relevant conduct in question; (e) ensuring a level playing field for all participants and the betting public; (f) ensuring acceptable standards of harness racing welfare in the industry; and, (g) maintaining community trust and public confidence in the harness racing industry, by ensure that the reputation of the industry is preserved.

14. The submission then argued that Mr Rando's evidence should not satisfy the Panel that there is any lesser penalty that is appropriate in all the circumstances. Firstly, he had struggled to give HRNSW the simple and precise truth of what happened at Goulburn on 21 October 2024. There were inconsistencies in his evidence, such as he immediately agreed to provide his urine but later said he hesitated and then relented. He did not turn his mind to why Mr Brown wanted his urine, and later thought it was such a strange thing to do. It was pointed out that Mr Rando had seen

Mr Brown drinking alcohol at a bucks party the previous day. Logic would suggest that Mr Brown needed the urine because he had taken something during the party and meant he would fail the test. It was not credible that Mr Rando did not realise that he was engaging in an effort to permit Mr Brown from avoiding detection of using prohibited substances. There was an air of unreality to Mr Rando's evidence that casts significant doubt on his other evidence. In an undated statement he appeared to be suggesting that he gave the urine to Mr Brown because he had lost his sister and was depressed. In other evidence he spoke of his conduct as being an act of altruism despite saying that he hated Mr Brown and found him unbearable.

15. Secondly, it was difficult to understand Mr Rando's explanation for using his syringe. He used it to wash his eyes out if a rock was in his eye after driving. This was said to be vague, unconvincing and not explained in any meaningful way. There was no evidence why a syringe was suitable for cleaning eyes after driving, and no evidence from him as to why he would use a syringe to store his own urine when he apparently used that same syringe to clean his eyes. There was no evidence of how the plan, once Mr Rando had gone through his bag to see if there was something Mr Brown could urinate into, and how it was communicated to Mr Brown. Without that evidence the Stewards conclusion was that the presence of the syringe displayed elements of premeditation and Mr Rando's evidence should not be accepted.

16. Thirdly, Mr Rando had gone to considerable lengths to contest the DNA findings against him in order to "potentially get off the charges on a technicality. He went to the time and effort of briefing a DNA expert, to challenge findings of Dr Hartman, and then submitted show cause submissions. Mr Rando's evidence that his deceitful conduct in this respect was caused by a state of panic, should not be accepted. At least the second denial on 19 November 2024, and the briefing of an expert should be seen as considered and deliberate choices to deceive the Stewards or at least to thwart the Stewards from getting to the truth of the matter. Such conduct also consumed the limited resources of HRNSW. The resources that it took to meet this evidence from Mr Rando significantly eroded the utilitarian value of his plea. There was still no personal acceptance of this conduct in his updated personal statement. Further, Mr Rando positions the decision to fight the charges as being one from his 'parents advice'. It was one thing. If Mr Rando's confession came at a time when he was in a position to 'potentially get off the charges on a technicality', instead, the confession only comes at the point that the evidence against him is obviously insurmountable, and in providing the confession, he shifts the blame to his parents for the changing of tact. Unfortunately, this shows that Mr Rando remains someone who is not able to take personal ownership of his own wrongdoing and choices in respect of that wrongdoing.

17. Fourth, there are inconsistencies with his evidence. In his undated statement, Mr Rando states 'I do not drink, smoke or consume drugs'. However, in the Inquiry he said 'I think I had two beers' at the Bucks party on 20 October 2024. Whilst arguably minor, inconsistencies such as this support the submission that the simple precise truth has often escaped Mr Rando. Put simply, while Mr Rando's eleventh hour acceptance of his guilt was a positive development and should be acknowledged (as it was in the penalty ordered by the Stewards), Mr Rando has conducted himself in the matter and couched his confession and evidence in terms that undermine the genuineness of his contrition and displays a lack of insight into his conduct.

18. The submission for HRNSW then turned to the principles applicable in this case. The conduct of Mr Rando was objectively serious and deceitful conduct directly threatened the overall objectives of the harness racing industry. The penalty of 27 months was said to be well beneath the maximum penalty of a permanent ban under AHRR 256, and was appropriate. It was noted that Mr Rando, in providing a confession, embroidered with improbabilities, after he was faced with clear and cogent evidence of his guilt was not the same as a quick and frank confession shortly after the offence was committed. To allow for the full discount in such circumstances was said to be degrading the granting of a penalty discount by the Stewards. Therefore the full 25% discount should not be available to Mr Rando. Further, it was noted that Mr Rando continued to lie to the Stewards for approximately seven and a half weeks and that conduct was sustained for weeks after. His lies were told boldly and with confidence.

19. Attention was drawn to a submission made of behalf of Mr Rando, in the following terms:" No sensible person in the industry would think that Mr Rando has got off lightly or not got exactly what he deserved. No sensible person would be encouraged to engage in similar conduct by reference to what has happened to Mr Rando." That submission referred to an earlier submission in these terms: " The very serious nature of Mr Rando's conduct demanded a disqualification, and a disqualification for a significant period. Mr Rando respectfully submits that a disqualification in the order of 10-11 months is the appropriate penalty. As explained above, this is the period of disqualification that the Mr Rando has served." In relation to these statements HRNSW was gravely concerned that Mr Rando's penalty would be reduced to effectively "time served". That penalty could encourage others in the industry that they will be better off seeking to evade drug testing and assisting others to evade drug testing and then consistently lie about such evasion because that sentence will be preferable than what will occur if the drug testing is obtained and prohibited substances are detected.

20. Submissions for Mr Rando noted that the Stewards had disqualified him for a period of 27 months and at the time of this hearing he had served nearly 11 months. In fact he had served 7 months. It was accepted that his conduct was objectively very serious, having lied to the Stewards and by assisting Mr Brown, he behaved in a way that obstructed the vital need for HRNSW to ensure proper drug testing and the sports integrity. However he now admitted that what he did was fundamentally wrong and again offered his unreserved apology for his conduct. The very serious nature of his conduct demanded disqualification for a significant period but that term should be 10-11 months. In other words, on appeal the 27 months disqualification should be set aside and a disqualification of 7 months be adopted, allowing Mr Rando to immediately seek to return to harness racing.

21. In a personal statement Mr Rando explained that as a result of his conduct he had been publicly humiliated, his relationship with his parents had been destroyed, his girlfriend had ended their relationship, his financial and mental position was perilous and he had been forced to exclude himself from the industry and community in which he was previously embedded. He respectfully submitted that no further period of disqualification was reasonably necessary to protect the harness racing industry. Mr Rando also gave evidence at the Appeal hearing and dealt with a number of matters already referred to above. He said he did not drink much but used

no drugs or smoked. He referred to the use he made of the syringe to wash his eyes and remove rocks while driving. He accepted that his wrong doing affected HRNSW as a whole and himself. He was deeply sorry, regretted what he had done and gave his apology. When asked why he had given his urine he said that Mr Brown looked like he was about to cry. He had never seen that before and found it alarming. Further, the impact of his disqualification had affected every thing in his life. Mr Rando was cross examined on this evidence and noted that Mr Brown took the syringe from his bag as he could see it, but the syringe was never returned. Mr Brown did not thank him for this assistance, although Mr Rando had put his life on the line for him.

22. In closing submission Counsel for Mr Rando referred to a bundle of 13 cases running to 128 pages, suggesting that the Panel could make its own assessment of them, however a number of them were relied upon during submissions. On the issue of specific deterrence it was submitted that a disqualification of 11 months was more than enough and that Mr Rando's evidence would ensure that he would not offend again.

23. The Appeal Panel has given close consideration to the multitude of issues raised by the parties in this case and appreciates the detailed coverage of those matters. Both parties, in separate ways, have highlighted in detail the issues they have focused upon. Both parties have acknowledged that the breaches of the rules by Mr Rando are serious and have harmed the integrity of harness racing. Mr Rando, for a considerable time, lied to the Stewards about his role in providing Mr Brown with a syringe so that he could present a clear specimen to the Stewards. Indeed, without Mr Rando's intervention this sad saga may have been avoided.

24. The case for Mr Rando was limited to only one result, and that was to secure a penalty of 10 or 11 months disqualification, even though he had only served seven months. The Appeal Panel is strongly of the view that such a result is untenable. It is a result that would not only cause deep concern within HRNSW but also with the harness racing community. The Stewards had imposed a disqualification for 27 months for all three charges, commencing from 20 November 2024, at which point his licence would be suspended. The difference between the two terms of disqualification is extraordinary.

25. The Panel has given close consideration to the number of cases referred to in this appeal and finds many of them as being different in their essential circumstances. Having regard to the particular circumstances of this case and the numerous issues that have been considered, the Panel has arrived at a total penalty of 21 months. In reaching that result, the Panel considered that the penalty of 15 months for charge 1, decided by the Stewards, was appropriate and should not be disturbed.

26. Charges 2 and 3 have required further consideration. As formulated by the Stewards, Charge 2 dealt with false and misleading evidence given by Mr Rando on multiple occasions at the interview held on 24 October 2024. That interview dealt with urine samples provided by Mr Brown. Charge 3 dealt with one short response by Mr Rando being false and misleading concerning DNA results. At interview on the 19th of November Stewards had received a set of DNA analysis results. The results indicated that the samples given by Mr Brown and Mr Rando were 100 billion times

more likely that they originated from the same individual. Mr Rando was asked if there was any reason why that would be the case. Mr Rando replied, 'Not to my knowledge, no .' When asked if he wished to make any further comment he replied: "Not without consultation with my forensic scientist that I am in touch with, no". There is possibly some ambiguity in that question made by the Stewards but it may have been a short denial from Mr Rando. At its height he was being asked who provided the sample.

27. In Mr Brown's case the Stewards made the observation that where the offending comes from separate and distinct conduct, such periods of disqualification and suspension were to be served cumulatively. In this case the Panel members regard the 19 November 2024 response from Mr Rando as being minor and not as defiant as the 24 October exchanges, and therefore not deserving of another penalty of 6 months. The Panel therefore imposes a penalty of 6 months in relation to Charges 2 and 3.

28. The Appeal of Mr Rando, seeking a reduction in disqualification to 12 months, is rejected. A total penalty of 21 months disqualification in relation to Charges 1, 2, and 3 is imposed commencing from 20 November 2024.

Hon Wayne Haylen KC – Principal Member
Mr Darren Kane – Panel Member
Ms Jo Moore – Panel Member

4 November 2025