

# **NEW SOUTH WALES HARNESS RACING APPEAL PANEL**

## **APPEAL PANEL MEMBERS**

**Hon. W Haylen KC  
E Schmatt AM PSM  
G Watson**

**WEDNESDAY 6 SEPTEMBER 2023**

**APPELLANT MOLLY ISON**

**RESPONDENT HRNSW**

**SEVERITY APPEALS**

**AUSTRALIAN HARNESS RACING RULES**

**163(1)(a)(iii)  
& 149(2)**

**DECISION**

- 1. 1<sup>st</sup> Appeal – Severity Appeal upheld, period of 14 day suspension is set aside and a 7 day suspension is imposed. Half of the appeal deposit is to be returned.**
- 2. 2<sup>nd</sup> Appeal – Severity Appeal upheld, period of 4 week suspension is set aside and a reprimand is imposed. Half of the appeal deposit is to be returned.**

## First Appeal

1. Ms Ison has filed two appeals arising from separate incidents in the same race at Tamworth on 17 August 2023. The first offence arose from a charge under AHRR 163(1)(a)(iii), that a driver shall not cause or contribute to interference. The second offence arose under AHRR 149 (2), that a person shall not drive in a manner which in the opinion of the Stewards is unacceptable. In both cases Ms Ison pleaded guilty but described circumstances that left her with what she regarded as few choices in a crowded field.
2. In the interference case the Stewards interviewed Ms Caitlin McElhinney, the driver of Sports Liner, and Ms Ison, the driver of Bradness Abeula. This incident occurred on entering the final turn of the race. Ms McElhinney told Stewards that her horse hit Ms Ison's gig and galloped. She said that Ms Ison was in front and two and a half or three carts out but then stated that Ms Ison was outside her. She also agreed with Stewards that Ms Ison was racing with an advantage to her outside.
3. Ms Ison told Stewards that she was on the back of another runner, Bettorbewright, but it was stopping. She then went to go outside the number 7 horse but it was being driven to her outside. She then tried to go back inside but Ms McElhinney was there and "I got her legs". Ms Ison said she was trying to get away from causing interference to the outside horse.
4. After viewing the video of the race Ms McElhinney stated that she thought this was "more of a racing incident...Ms Ison wasn't fully three wide but most of the runners were already drifting up the track at this stage and I did pull down just to get closer to Mr Formosa inside me, and I think it was just awkward timing." She thought she had established a run on the inside because her horse's legs were in there. When asked by the Stewards if she believed that Ms Ison had shifted down the track, Ms McElhinney said that a lot of them were racing wider and she was just following that helmet in front of her. While Ms Ison had shifted down the track she was also going into the corner. Ms Ison also said that driver Hughes was racing close to her and her wheel got pretty close to his legs, and so she tried to angle her horse away from it and then they were into the turn. Further, Ms Ison said that all the horses go in a bit when they go into the turn. She agreed that as a result of shifting down the track she contacted Ms McElhinney's horse.
5. The Stewards then asked Ms Ison to answer a charge that driving Bradness Abuela in race 7, had, when entering the final turn, shifted her runner down the track when insufficiently clear of Sports Liner, which was racing to her inside. As a result of that shift, Sports Liner sustained contact, had to be checked and broke gate. Ms Ison entered a plea of guilty to that charge as particularised.
6. In relation to this event in the race the Stewards charged Ms Ison under AHRR163 (1) (a)(iii), that a driver shall not cause or contribute to any interference. The particulars of the offence were, that entering the final turn she had shifted her runner down the track when insufficiently clear of Sports Liner, which was racing to her inside. As a result of that shift, Sports Liner sustained contact, had to be checked and broke gait. Ms Ison pleaded guilty to that charge as particularised. She then stated that she was trying to avoid interference with another horse and appears to say that she was coming down into the turn when Ms McElhinney went for a very small gap caused by her own horse hanging out. The Stewards made no comment about that statement.

7. The Stewards noted that Ms Ison had been driving for approximately 11 months and had received 2 suspensions in that time. In deciding an appropriate penalty the Stewards adopted the penalty guidelines which, in this case, laid down a starting point of 28 days where a horse checked or broke outside of the final 200 metres or first turn. A reduction of 7 days was given for the guilty plea provided at the first opportunity and a further 7 days reduction was given in relation to her driving record. Therefore, a penalty of suspension of her driver's licence for a period of 14 days was determined by the Stewards.
8. At the hearing of her Appeal, Ms Ison limited the grounds to a challenge to the severity of the suspension imposed by the Stewards. Before embarking upon a consideration of that challenge the Panel would make the following observations. Firstly, the Stewards are not bound to strictly apply the penalty guidelines, as noted on many occasions by the Racing Appeals Tribunal and also by the Stewards. It was open to the Stewards to take into account the age of the Ms Ison (said to be 17 years old) and the nature of the race. Due to the unavailability of the usual equipment which allows a substantial slowing of the race and the ability to stop at certain points in the race, the Panel had to view the race in real time, although the video could be stopped and replayed. In this race there were many moves made by runners at vital points relevant to the 2 charges brought against Ms Ison. This was a race of many movements by runners at vital points. These are factors that the Panel considers deserve closer consideration.
9. In this case the evidence of Ms McElhinney also deserves closer attention. She spoke of the awkward timing of Ms Ison's move rounding the turn and the movement of horses around them. The video shows Ms McElhinney moving under Ms Ison rather quickly as they turn into the straight. Ms Ison's horse is hanging. There appears to be little time for Ms Ison to take action to avoid Sports Liner while being concerned about a horse close to her but outside her.
10. Having regard to these matters the Panel is of the view that Ms Ison's culpability in the incident involving Sports Liner did not require a suspension of 14 days. Ms Ison entered a guilty plea at the earliest opportunity. After consideration of all the factors raised in this matter, the Panel concludes that an appropriate penalty is suspension for 7 days.
11. The decision of the Panel is that the 14 day suspension be set aside and that Ms Ison be suspended for 7 days. As Ms Ison has had significant success in this Appeal, half of the Appeal fee shall be returned to her.

### **Second Appeal**

12. The second offence related to the decision by Ms Ison to come off the pegs in the back straight leading to her horse being unable to take advantage of the position she already occupied. After viewing the video of the race and answering questions put to her by the Stewards, Ms Ison was charged to answer a breach of AHRR 149(2): "A person shall not drive in a manner which in the opinion of the stewards is unacceptable."
13. The particulars of the charge were: That Molly Ison, as the driver of Bradness Abuela in race number 7 at the Tamworth Paceway on 17 of the 8<sup>th</sup>, 2023, drove in a manner that, in the opinion of the stewards, was unacceptable when, after entering the back straight on the final occasion, you shifted your runner away from a position along the marker pegs immediately trailing Deebo and Saint Karamara, the eventual

first and second place getters, where it was reasonable and permissible for you to remain in that position, which would have allowed your runner to continue to improve into the running line trailing Bettorbewright, which had commenced to yield ground, causing Bradness Abuela to be checked behind that runner for a significant distance and lose considerable momentum, resulting in Bradness Abuela losing its opportunity to be competitive over the final 500 metres of the event. Ms Ison pleaded guilty to that charge as particularised.

14. In the discussion prior to the charge being laid, the Stewards expressed their concern at the manner in which the horse had been driven. Ms Ison promptly expressed the view that it was a "horrible drive." The Stewards noted that she had been 3 back from the leaders and on the pegs when, shortly after entering the back straight she shifted from the pegs to trail Bettorbewright, "which had commenced to weaken at that point". It was put by Stewards that as a result Bradness Abuela was checked because Bettorbewright was tiring. It was noted that her horse lost considerable momentum because of this move and did not get clear running until 250 metre mark.
15. Ms Ison told the Stewards that she felt that she just had to get off the pegs but accepted that she should have stayed there. She had gone out of her position and tried to come back in but other horses were there. She thought that the leaders were going to stop and did not want to risk waiting. She stated that Bettorbewright had "started to stop" when she was already in motion to go out of her position. As a result she could not go anywhere else at that stage. Her horse travelled for another 50 metres then "knocked up". She denied that the horse had been checked when moving out to be behind Bettorbewright. Ms Ison also stated that her horse had been under full pressure at this point but that it had then knocked up.
16. Mr Sam Ison, a brother of Ms Ison, also spoke for her at the Stewards inquiry. He argued that Bettorbewright was still travelling reasonably well when Ms Ison moved out behind it. It was only when Ms Ison was fully on the back of Bettorbewright that it began to weaken. The Stewards did not respond to this observation.
17. At the hearing of the Appeal these matters were aired again but with some additions. It was alleged that inside the 500m the integrity of the race was compromised and that the horse was not given a full chance to succeed or compete to its optimum. It was also submitted that the horse in front of her was starting to weaken and that Ms Ison saw that but moved out and lost ground.
18. At the beginning of this decision, the Panel drew attention to the lack of technical equipment to assist in slowing the video replays of this race. While that presents some difficulties in deciding precisely what happened during the race, the Panel has taken time to view all angles of the race. From these various viewings the Panel notes that after the start Ms Ison was travelling alone in 3<sup>rd</sup> place on the pegs and in single file with the two leading horses. Not long after the start 2 horses moved outside and around her horse leaving her in 5<sup>th</sup> position but still on the pegs. This was a tight field and there was no way out of that position at the time. Bettorbewright then appears to move out and in front of Ms Ison and obtains a position to challenge the leaders. At this point Ms Ison has nowhere to go. Bettorbewright then commenced to challenge the leaders and the horse Mondello Beach makes a sharp move forward and sits outside Ms Ison. Ms Ison then starts to move out and appears to be in the early stages of that move when Bettorbewright either begins to give ground or is being left behind by the leading horses. Other

runners then move from behind and start to overtake. Ms Ison, having no room to move in either direction, drops back in the field. All of this movement occurred in a short period of time.

19. It appears to the Panel that Ms Ison was left with a difficult decision if she thought the 2 horses leading the race and directly in front of her might weaken and drop back on her. There were horses outside her and Bettorbewright appeared to be still travelling with the leaders in site. It is not clear to the Panel precisely when Bettorbewright starts to weaken. It may well have happened as she decided to seek a run outside the leaders and just as Mondello Beach started to move up outside of Ms Ison's horse. As it turned out that was not a good move because the leaders continued in front and ran first and second in the race. But how was Ms Ison to know with certainty that these events would occur. It appears to the Panel that the Stewards accorded her a level of prescience in determining a penalty of 4 weeks suspension. On the other hand, how could she know that by staying on the pegs she would have been in the finish of the race?
20. Having regard to the nature of the race, as discussed above, and the inexperience of Ms Ison, the Panel is of the view that the penalty of 4 weeks was too severe and that a more appropriate decision would be the recording of a reprimand.
21. For the reason set out above, the Appeal is upheld. The decision of the Stewards to impose a 4 week suspension is set aside, however, Ms Ison should be reprimanded. Half the Appeal fee is to be returned to the Appellant in recognition of the degree of success she has attained in her Appeal.
22. During the hearing of this Appeal the Panel raised the question of the availability of mentoring for young participants through HRNSW. We were informed that there had been some unofficial discussions between Stewards and Ms Ison concerning her driving but formal mentoring had not occurred. The Panel has since been made aware of a formal mentoring scheme conducted by HRNSW that has been operating since 2020. Under this scheme Industry experts throughout NSW have been engaged to provide mentoring to new and existing racing licencees. It may well be that this program would be suitable for Ms Ison, but that is a matter for the Stewards and HRNSW.

Hon Wayne Haylen KC – Principal Member  
Mr E Schmatt AM PSM – Panel Member  
Mr G Watson – Panel Member

15 September 2023