

APPEAL of VANESSA ARNOTT

APPEAL COMMITTEE (the Committee): Mr P McIntyre (Chair) and Mr R Longuet and Mr C McNally

DATE of HEARING: 30 January 2020

REASONS FOR DECISION

Appearances

At the Appeal;

- a. Mr D Hensler (Chief Steward) represented the Stewards.
- b. Mr K Ring represented Jockey Arnott who also attended.

Background

1. Jockey Arnott appealed against the penalty imposed by the Stewards on 13 December 2019 after she was convicted of a charge under **AR228 Conduct detrimental to the interests of racing** particulars of which are as follows:

‘Jockey Arnott engaged in improper conduct on 5th December 2019 in the confines of the Darwin Turf club equine pool when attempting to coax *Missari* into the pool. Jockey Arnott lost her temper and struck the filly in the vicinity of the head with a lead rope using medium force and also kicked the filly in the chest with minimal force causing low impact.’ (See page 11 of the Transcript)

2. The reasons for the decision of the Stewards’ on penalty is set out at pages 13-14 of the Transcript as follows;

‘We do see it as low level of offending and as I have said there have been other cases that I know of in my career that people have breached this particular rule that is related to the handling of horses. But we see this as a lower level of offending and we do say that it was seen by a person on course and was reported to the Stewards for action. We reiterate that in our opinion it is totally unacceptable conduct in the circumstances. So we have also looked at your very good record over a long period of time and we do believe that a fine should be imposed and that is of \$500.00.’

3. Jockey Arnott filed an undated and unsigned Notice of Appeal (asserting that the penalty imposed was excessive) that was nevertheless accepted and the appeal proceeded to hearing on 30 January 2020.
4. At the hearing;
 - a. Mr D Hensler tendered copies of a document (of 8 pages) headed 'National penalties for conduct relating to licensees making improper contact with race horses from 01/01/2010' (Record of Comparable Penalties);
 - b. We were shown video footage which both parties conceded was a visual recording of the conduct the subject of the complaint (the video); and
 - c. Both parties drew our attention to relevant portion of the visual recording.

5. Orders

On 30 January 2020 the Committee dismissed the appeal and confirmed the fine. These are our reasons for that decision.

Reasons

6. Prior to the hearing we were provided with copies of
 - a. The Notice of Appeal of Jockey Arnott; and
 - b. Confidential transcript of proceedings of the Stewards' inquiry into an incident of improper conduct which occurred at the Fannie Bay race course equine pool area 5th December 2019 (the Transcript).
7. On behalf of Jockey Arnott, Mr Ring submitted that the video revealed that;
 - a. neither incident could properly be described as 'bashing';
 - b. they were exercises in 'non-excessive discipline' to educate the horse;
 - c. the horse was not hurt; and
 - d. each incident was the result of a momentary loss of control by Jockey Arnott.
8. Mr Hensler submitted that the video revealed that
 - a. In the first incident the horse was struck in the vicinity of the head with medium force;
 - b. In the second incident the horse was kicked using 'minimal force causing low impact';

- c. The conduct of Jockey Arnott was not an acceptable way to treat or educate horses;
 - d. There were no mitigating factors such as 'self-defence'; and
9. Mr Hensler also submitted that the Committee should take into account that;
 - a. Jockey Arnott had declined to enter a plea;
 - b. The Stewards took into account the prior good record of Jockey Arnott; and
 - c. The penalty imposed was consistent with and toward the lower end of the range of penalties imposed in recent years for comparable conduct set out in the Record of Comparable Penalties.
10. The Committee accepted the submissions of Mr Hensler referred to above.
11. The Committee did not accept the submissions of Mr Ring referred to in paragraph 7 above and on the contrary concluded as follows:
 - a. Whether or not 'bashing' is an appropriate adjective to describe the conduct of Jockey Arnott, her conduct was cruel and abusive to the horse; and the use of such violence is not an acceptable way to educate a horse.
 - b. Clearly the horse suffered pain as a result of each incident.
 - c. It is unacceptable that Jockey Arnott should have (as was put forward on her behalf) twice in close succession suffered 'a momentary loss of control' to the physical detriment of *Missari*.
 - d. For these reasons, we conclude that far from being excessive, the penalty imposed by the Stewards, was toward the lower end of the spectrum and could not properly be considered excessive. Many of the comparable offences described in the Record of Comparable Penalties recorded similar penalties for single incidents rather than for repeat incidents as here.
12. In the interests of Jockeys and their advisors and indeed also of Stewards, we take this opportunity to repeat what the Committee said in its reasons in relation to the appeal of Jockey Davis (heard 4 August 2017) as follows:

'The importance of deterrence in consideration of penalty should not be underestimated. Nor should the value of the expression of genuine remorse and admission of guilt in such consideration.
13. Neither at the time of the Stewards Inquiry nor during this appeal did Jockey Arnott express any remorse for her conduct. On the contrary, the submissions made on her behalf attempted unsuccessfully, to justify her conduct.

14. Jockey Arnott was not entitled therefore, in consideration of penalty, to the value of the 'expression of genuine remorse and admission of guilt' as some others referred to in the Record of Comparable Penalties may have been.

15. Finally, the Committee takes this opportunity to remind licensees and their advisors that it is '**detrimental to the interests of racing**' for licensees to conduct themselves in ways that result in cruelty towards and abuse of horses.

Dated: 14 March 2020



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P McIntyre

Chair



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R Longuet



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C McNally