



THOROUGHBRED RACING SA LIMITED

STIPENDIARY STEWARDS' REPORT – NIKI O'SHEA & ASHTON DOWNING

MORPHETTVILLE OFFICES – THURSDAY, 19 JULY 2018

STRATHALBYN – WEDNESDAY, 2 MAY 2018

Stewards have concluded an inquiry, originally commenced on Thursday, 3 May 2018, which was adjourned on a number of occasions for a variety of reasons, into the circumstances which led to the late scratching by order of Stewards, of **Social Set** and **Allez Tara**, both thoroughbreds trained by Niki O'Shea and Ashton Downing in partnership; those late scratching's being on Wednesday 2 May 2018 for their engagements, in Races 6 & 7 respectively, at the Strathalbyn racecourse. The scope of the inquiry also included alleged conduct and/or involvement on the part of Niki O'Shea & Ashton Downing, in relation to **Social Set** and/or **Allez Tara**, while they were on a float, at a location en route to the Strathalbyn racecourse, on 2 May 2018.

Stewards heard evidence from Niki O'Shea and Ashton Downing, and in addition considered evidence from Dr Peter Horridge, the TRSA veterinarian. A report from Racing Analytical Services Ltd, an official racing laboratory, in respect of material confiscated from Niki O'Shea and Ashton Downing at the location concerned, was received and considered. Stewards also heard evidence from two Stewards who attended the location, and in addition, considered video and photographic material. After considering the evidence, Stewards laid eight (8) charges against Niki O'Shea and six (6) charges against Ashton Downing. We provide an abbreviated version of those charges, which are as follows:

The abbreviated charges in respect of Niki O'Shea were:

Charge 1: Under AR.175(aa) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6 at Strathalbyn on 2 May 2018, engaged in conduct which was intended to corrupt the outcome of a race. The conduct being that he, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer via a naso-gastric tube a solution pre mixed by him, which solution contained, but not limited to, an alkalinising agent, to **Social Set**.

Charge 2: Under AR.175(aa) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7 at Strathalbyn on 2 May 2018, engaged in conduct which was intended to corrupt the outcome of a race. The conduct being that he, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer via a naso-gastric tube a solution pre mixed by him, which solution contained, but not limited to, an alkalinising agent, to **Allez Tara**.

Charge 3: Under AR.64G(1) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6 at Strathalbyn on 2 May 2018, without the permission of the Stewards, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer via a naso-gastric tube a substance pre mixed by him, which substance contained, but not limited to, bicarbonate, potassium and a substance called Gastro-Coat to **Social Set**.

Charge 4: Under AR.64G(1) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7 at Strathalbyn on 2 May 2018, without the permission of the Stewards, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer via a naso-gastric tube a substance pre mixed by him, which substance contained, but not limited to, bicarbonate, potassium and a substance called Gastro-Coat to **Allez Tara**.

Charge 5: Under AR.178AA(1) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6 at Strathalbyn on 2 May 2018, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer an alkalinising agent being a substance pre mixed by him, which contained an alkalinising agent, via a naso-gastric tube to **Social Set**.

Charge 6: Under AR.178AA(1) - That Mr Niki O'Shea, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7 at Strathalbyn on 2 May 2018, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Ms Ashton Downing, attempted to administer an alkalinising agent being a substance pre mixed by him, which contained an alkalinising agent, via a naso-gastric tube to **Allez Tara**.

Charge 7: Under AR.178A - That Mr Niki O'Shea, a licensed trainer with TRSA, as the trainer of the racehorses **Social Set** and **Allez Tara** which were both entered to race at Strathalbyn on Wednesday 2 May 2018, in Races 6 & 7 respectively, had in his possession, without the written permission of the Stewards, in the horse float used for the purpose of conveying **Social Set** and **Allez Tara** to the Strathalbyn race meeting on 2 May 2018, a prohibited substance, being a substance pre mixed by him, which contained an alkalinising agent, that could be administered to a horse, or could produce a prohibited substance in a horse.

Charge 8: Under AR.175(p) - That Mr Niki O'Shea, a licensed trainer with TRSA, as the trainer of the racehorses **Social Set** and **Allez Tara** which were entered to race in Races 6 & 7 respectively, at the Strathalbyn Racecourse on Wednesday 2 May 2018, at an inquiry conducted by the Stewards of TRSA into the circumstances relating to the late scratching's of the racehorses **Social Set** and **Allez Tara** and his alleged involvement and/or conduct relating to the late scratching's;

- (i) On Thursday, 3 May 2018 failed to comply with a requirement of the Stewards to cooperate and answer questions during the course of the inquiry, and
- (ii) On Tuesday, 8 May 2018 failed to comply with a direction of the Stewards to cooperate and answer questions during the course of the inquiry.

The abbreviated charges in respect of Ashton Downing were;

Charge 1: Under AR.175(aa) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6 at the Strathalbyn Racecourse on Wednesday 2 May 2018, engaged in conduct which was intended to corrupt the outcome of a race. The conduct being that she, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was party to an attempt to administer via a naso-gastric tube a solution pre mixed by Niki O'Shea, which solution contained, but not limited to, an alkalinising agent, to **Social Set**.

Charge 2: Under AR.175(aa) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7 at the Strathalbyn Racecourse on Wednesday 2 May 2018, engaged in conduct which was intended to corrupt the outcome of a race. The conduct being that she, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was party to an attempt to administer via a naso-gastric tube a solution pre mixed by Niki O'Shea, which solution contained, but not limited to, an alkalinising agent, to **Allez Tara**.

Charge 3: Under AR.64(G)(1) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6, at the Strathalbyn Racecourse on Wednesday 2 May 2018, without the permission of the Stewards, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was a party to an attempt to administer via a naso-gastric tube a substance pre mixed by Niki O'Shea, which substance contained, but not limited to, bicarbonate, potassium and a substance called Gastro-Coat to **Social Set**.

Charge 4: Under AR.64(G)(1) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7, at the Strathalbyn Racecourse on Wednesday 2 May 2018, without the permission of the Stewards, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was a party to an attempt to administer via a naso-gastric tube a substance pre mixed by Niki O'Shea, which substance contained, but not limited to, bicarbonate, potassium and a substance called Gastro-Coat to **Allez Tara**.

Charge 5: Under AR.178AA(1) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Social Set** which was entered to race in Race 6, at the Strathalbyn Racecourse on Wednesday, 2 May 2018, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was a party to an attempt to administer an alkalinising agent being a substance pre mixed by Niki O'Shea, which contained an alkalinising agent, via a naso-gastric tube to **Social Set**.

Charge 6: Under AR.178AA(1) - That Ms Ashton Downing, a licensed trainer with TRSA, on Wednesday 2 May 2018, as the trainer of the racehorse **Allez Tara** which was entered to race in Race 7, at the Strathalbyn Racecourse on Wednesday 2 May 2018, while present at a location en route to the Strathalbyn racecourse, in the period from approximately 1.00pm to 1.15pm, and in the presence of Mr Niki O'Shea, was a party to an attempt to administer an alkalinising agent being a substance pre mixed by Niki O'Shea, which contained an alkalinising agent, via a naso-gastric tube to **Allez Tara**.

Findings

Stewards noted that both parties reserved their pleas in respect of all the charges laid. On that basis, Stewards entered pleas of not guilty on their behalf. After considering the evidence and certain admissions made by Niki O'Shea, Stewards found both Niki O'Shea and Ashton Downing guilty of all the charges laid against them. Stewards considered the evidence in this case was compelling.

Penalty

In determining penalty, Stewards considered general sentencing principles, and had regard for various other factors, including the fact that charges 1 & 2, and 3 & 4 in respect of both Niki O'Shea and Ashton Downing attracted minimum mandatory penalties under the Australian Rules of Racing. In this regard, Stewards also considered whether special circumstances existed which would allow for a reduction in any of these minimum mandatory penalties. In the case of Niki O'Shea, Stewards were unable to find that any special circumstance existed which would allow for any reduction in penalty. In the case of Ashton Downing, Stewards were able to establish special circumstances, which allowed for a reduction in penalty in respect of charges 1 & 2 and 3 & 4. Stewards also had regard for both parties' personal circumstances and their clean records in relation to breaches of this kind. Stewards imposed the following penalties;

Niki O'Shea (Penalties)

Charges 1 & 2 – In respect of each of the charges, a **disqualification for a period of five (5) years**, which was reduced by one (1) year down from six (6) years, having regard for Niki O'Shea's clean record and personal circumstances. Stewards noted that a breach of this rule attracted a minimum mandatory penalty of five (5) years. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Wednesday 26 July 2023. Stewards ordered the two penalties to be served concurrently.

Charges 3 & 4 – In respect of each of the charges, a **disqualification for a period of eighteen (18) months**, which was reduced by six (6) months down from two (2) years, having regard for Niki O'Shea's clean record and personal circumstances. Stewards noted that a breach of this rule attracted a minimum mandatory penalty of twelve (12) months. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Sunday 26 January 2020. Stewards ordered the two penalties to be served concurrently. Stewards further ordered that these two penalties be served concurrently with the penalties imposed in respect of charges 1 & 2.

Charges 5 & 6 – In respect of each of the charges, a **disqualification for a period of twelve (12) months**, which was reduced by six (6) months down from eighteen (18) months, having regard for Niki O'Shea's clean record and personal circumstances. Stewards noted that a breach of this rule attracted no minimum mandatory penalty. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Friday 26 July 2019. Stewards ordered the two penalties to be served concurrently. Stewards further ordered that these two penalties be served concurrently with the penalties imposed in respect of charges 1 & 2 and 3 & 4.

Charge 7 – In respect of this charge, a **disqualification for a period of six (6) months**, which was reduced by three (3) months down from nine (9) months, having regard for Niki O'Shea's clean record and personal circumstances. Stewards noted that a breach of this rule attracted no minimum mandatory penalty. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Saturday 26 January 2019. Stewards ordered this penalty to be served concurrently with the penalties imposed in respect of charges 1 & 2 and 3 & 4 and 5 & 6.

Charge 8 – In respect of this charge, a **disqualification for a period of three (3) months**, which was reduced by three (3) months down from six (6) months, having regard for Niki O'Shea's clean record and personal circumstances. Stewards noted that a breach of this rule attracted no minimum mandatory penalty. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Friday 26 October 2018. Stewards ordered this penalty to be served concurrently with the penalties imposed in respect of charges 1 & 2 and 3 & 4 and 5 & 6 and 7.

Ashton Downing (Penalties)

Charges 1 & 2 – In respect of each of the charges, a **disqualification for a period of two (2) years** which was initially reduced down to three (3) years from the five (5) year minimum mandatory penalty provision after special circumstances were considered and factored in, and which was further reduced by one (1) year after having regard for Ashton Downing's clean record and personal circumstances. Stewards noted that a breach of this rule attracted a minimum mandatory penalty of five (5) years. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Sunday 26 July 2020. Stewards ordered the two penalties to be served concurrently.

Charges 3 & 4 – In respect of each of the charges, a **disqualification for a period of six (6) months** which was initially reduced down to eight (8) months from the twelve (12) month minimum mandatory penalty provision after special circumstances were considered and factored in, and also having regard for the fact that Ashton Downing was not considered to be the principal offender, and which was further reduced by two (2) months, having regard for Ashton Downing's clean record and personal circumstances. Stewards noted that a breach of this rule attracted a minimum mandatory penalty of twelve (12) months. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Saturday 26 January 2019. Stewards ordered the two penalties to be served concurrently. Stewards further ordered that these two penalties be served concurrently with the penalties imposed in respect of charges 1 & 2.

Charges 5 & 6 – In respect of each of the charges, a **disqualification for a period of six (6) months**, which was reduced by two (2) months down from eight (8) months, having regard for Ashton Downing's clean record and personal circumstances. Stewards noted that a breach of this rule attracted no minimum mandatory penalty. Effective date – midnight, Thursday 26 July 2018 and to expire at midnight, Saturday 26 January 2019. Stewards ordered the two penalties to be served concurrently. Stewards further ordered that these two penalties be served concurrently with the penalties imposed in respect of charges 1 & 2 and 3 & 4.

General

It should be noted that the effective date of the disqualifications imposed on both Niki O'Shea and Ashton Downing was determined in accordance with AR.196(6)(a) which allows Stewards to defer the commencement of the period of disqualification for no more than seven "Clear Days" following the day on which the disqualification was imposed.

Further, Stewards, acting under the provisions of AR.196(6)(b) further ordered that Niki O'Shea and Ashton Downing must not start a horse in any race from the time of the decision on which they were disqualified, being Thursday, 19 July 2018 until the expiration of their disqualifications.

In addition, Stewards determined, under the provisions of AR.196(6)(a), which allows Stewards the power to impose terms and conditions as they see fit once the commencement of a disqualification has been deferred; to order that Niki O'Shea and Ashton Downing must not present a horse in track work, jump-outs and trials from the time of the decision on which they were disqualified, being Thursday 19 July 2018 until the expiration of their disqualifications. They were advised that they would be allowed to walk their horses at the training facility used by them, on horse welfare grounds.

Niki O'Shea and Ashton Downing were informed of their Right of Appeal.

JOHAN PETZER
CHAIRMAN OF STEWARDS - TRSA