

## **RACING APPEALS TRIBUNAL**

RAT 18/14

DATE OF HEARING: TUESDAY, 21 OCTOBER 2014

TRIBUNAL: **PRESIDENT:** MR P ERIKSEN

**ASSESSOR:** MR R BEST

MR J PETZER, CHAIRMAN OF STEWARDS,  
THOROUGHBRED RACING SA LTD

**APPELLANT:** MS JAMIE KAH

**MR B GASK APPEARS FOR THE APPELLANT**

IN THE MATTER of an Appeal by **JAMIE KAH** against a decision of Thoroughbred Racing SA Ltd Stewards.

**BREACH OF RULE:** ARR 175(a)

Rule 175 The Principal Racing Authority or the Stewards may penalise;

(a) *Any person who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.*

**PENALTY:** SUSPENSION OF LICENCE FOR 3 WEEKS

### **DETERMINATION**

The Appellant, Ms Jamie Kah, is a licensed jockey.

At a Stewards' Inquiry held on Thursday, 21 August 2014 at Morphettville the Appellant was charged with a breach of Rule 175(a) of the Australian Rules of Racing.

Rule 175 states:

*'The Principal Racing Authority or the Stewards may penalise;*

*(a) Any person who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.'*

Particulars of the charge were given to the Appellant at the Stewards' Inquiry and were as follows:

*'The particulars of the charge levelled against you under that Rule being that on Wednesday, 20<sup>th</sup> August 2014 at the race meeting conducted at the Gawler Race Club, a meeting at which you had riding engagements, when questioned about a Medical Certificate you committed dishonest actions by purporting to the Stewards on duty that you had 1), Part a) 1) that you had complied with their requirement to provide a Medical Certificate to the Stewards at the Geelong race meeting prior to riding on Tuesday, 19 August 2014, which was established not to be the case and Part 2) of little a) that you had undergone an examination to obtain a Medical Certificate of Fitness in South Australia, being Morphettville, which was established not to be the case and Part 3) of little a) that you purported to the Stewards on duty that you had undergone an examination to obtain a Medical Certificate of Fitness in Victoria, being Geelong, which was established not to be the case.*

*Part b) of that charge, under the same Rule, with reference to being dishonest, we say that you, in addition, you submitted a Medical Certificate, being the one we attached to the record earlier, you submitted a Medical Certificate obtained on Wednesday evening, the 20<sup>th</sup> August 2014 to the TRSA Stewards on Thursday morning 21/8/2014 which Certificate included written confirmation by yourself that you had obtained a Medical Clearance following the Naracoorte meeting on 17<sup>th</sup> August 2014 when it was established not to be the case.'*

At the Stewards' Inquiry the Appellant pleaded guilty to the breach of Rule 175(a). The Stewards imposed a penalty by suspending the Appellant's licence to ride for three weeks.

On the evidence adduced at the Stewards' Inquiry the Stewards were correct in laying a charge under Rule 175(a) of the Australian Rules of Racing. Having regard to that evidence, and the Appellant's plea of guilty, the Stewards were correct in arriving at a finding of guilt.

A breach of Rule 175(a) is a serious matter.

The appeal to this Tribunal is against the penalty, on the basis that the penalty imposed by the Stewards was too severe.

Mr J Petzer, Chairman of Stewards, Thoroughbred Racing SA Ltd appeared for the Stewards. Mr B Gask appeared for the Appellant. Both parties presented their arguments in a very coherent and professional manner.

This Tribunal finds that there were five separate occasions when the Appellant was spoken to by the Stewards relating to the production of a Medical Certificate certifying her 'fit to ride' as a consequence of her being considered unfit to ride at the Naracoorte race meeting held on 17 August 2014.

In summary those conversations were as follows:

1. At Geelong on 19 August 2014 she told the Stewards, words to the effect, that 'she forgot to bring a certificate'.
2. At Gawler on 20 August 2014 when spoken to by Mr P Ryan she advised, words to the effect, that 'she gave the Certificate to the Stewards at Geelong'.
3. At Gawler on 20 August 2014 when spoken to by Mr M Santoro she provided two versions, namely (1) that she had a Certificate and that she had left it in the car of Ms K Nesbitt, and (2) that the Medical Certificate had been obtained from the Morphetville Medical Centre.
4. Then thereafter, at Gawler, when spoken to by the panel of Stewards she said words to the effect that 'she had obtained a Medical Certificate from a Doctor in Geelong'.
5. Then on 21 August 2014 at a Stewards' Inquiry convened at Morphetville, she presented a Medical Certificate from Dr Patrick O'Leary and wrote thereon the following:

*'Stewards. I looked everywhere for my medical clearance and I don't know where it is. I put it with my speed maps to take to Geelong with me but I must of left it either at the place I stayed at Monday night or its fallen out somewhere. Apologies, but here is another one I got Wednesday night. Jamie Kah.'*

And it was signed by the Appellant.

This Tribunal considers that there had been a good deal of consideration, planning, and fore-thought put into the writing of that note and this note indicated that the response to the Stewards was premeditated.

This Tribunal considers that the integrity of riders in their dealings with the Stewards, and indeed the whole of the racing administration, is paramount.

If that fabric is not firmly in place the proper conduct of the racing industry is at significant risk.

We acknowledge the youth of the Appellant, however we say that the consequences of her actions have to be understood and we hope this is a lesson for her in the future, that the integrity of the Industry is paramount.

The Tribunal has given careful consideration to Mr Gask's well presented argument. However, in the circumstances the Tribunal is of the view that a fine and a suspended sentence is not an appropriate penalty.

In the circumstances the number of false representations made to the Stewards, culminating in the aforementioned hand-written note which was obviously given careful thought in its preparation, and which perpetuated the aforementioned false and dishonest behaviour, leads the Tribunal to the view that the suspension of the Appellant's licence for a period of three week is justified.

The Tribunal is of the view that the Stewards' penalty should stand, and we confirm the penalty of a suspension of the Appellant's licence for three weeks.

I order that the suspension of three weeks commence at midnight on 25 October 2014 and conclude at midnight on 15 November 2014.

I order that the applicable portion of the bond be returned to the Appellant.