

**RACING NEW SOUTH WALES APPEAL PANEL**

**IN THE MATTER OF THE APPEAL OF  
LICENSED JOCKEY LOUISE DAY**

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Appeal Panel: **Mr L. Vellis – Chairman**

**Mr C. Tuck**

**Mrs J. Foley**

Appearances: **Appellant: Mr Crisafi**

**Racing NSW: Mr M. Van Gestel, Chairman of Stewards**

Date of Hearing: **5 November 2021**

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**TRANSCRIPTION OF HEARING FROM DIGITAL RECORDING**

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**REASONS FOR DECISION**

**CHAIRMAN:** This appeal is by licensed jockey Louise Day against the conviction and  
15 penalty imposed as a result of a finding of careless riding pursuant to AR131(a) of the  
Australian Rules of Racing. The breach resulted from the appellant's ride on the horse  
Bluff 'N' Bluster in race 8 run at Goulburn Racecourse over 1400m on 31 October  
2021. The particulars of the charge are as follows:

20 *You, Louise Day, being the rider of Bluff 'N' Bluster, which was engaged in  
race 8, the Goulburn Cup, at Goulburn on 21 October 2021 did, passing the  
150 metres, permit your mount to shift out whilst riding it along, resulting in  
Bluff 'N' Bluster making heavy contact with Art Cadeau, which shifted in slightly,*

causing Art Cadeau to become unbalanced and having to be checked when  
25 taken out onto the heels of Irish Songs.

At the inquiry after the race the appellant pleaded not guilty to the charge. Her  
carelessness was assessed as low grade. The consequences were assessed as  
“checked and/or lost rightful running”. This resulted in a base penalty under the  
30 careless riding penalty template of a five-meeting suspension. Applying a 10%  
discount for contribution and a 10% premium for Ms Day’s record, the penalty was  
maintained at five meetings. The appellant has appealed to the Panel in relation to  
conviction and penalty.

35 At the appeal hearing the Stewards were represented by Mr Marc Van Gestel,  
Chairman of Stewards, and Ms Day was represented by Mr Tony Crisafi. The film of  
the race was admitted into evidence as well as the appeal book containing the  
transcript of the race inquiry.

40 The main thrust of Mr Crisafi’s submissions to the Panel were that Ms Day was a victim  
of circumstances in that she was dictated to by Jordan Mallyon on Al Mah Haha and  
that Jeff Penza also shifted in on Art Cadeau. Mr Crisafi also submitted that the contact  
between Bluff 'N' Bluster and Art Cadeau was minor as opposed to heavy.

45 The Appeal Panel is satisfied that the charge of careless riding is proven. The Panel  
does not believe Ms Day was dictated to by Al Mah Haha. The Panel is of the view  
that Ms Day shifts out on her mount Bluff 'N' Bluster in a careless manner causing  
interference to Jeff Penza on his mount Art Cadeau.

50 Whilst the Panel appreciates that the conduct of Jeff Penza on his mount Art Cadeau contributed to the incident, the primary responsibility for the shift and, therefore, the carelessness remain with Ms Day, resulting in Art Cadeau having to be checked by its rider Jeff Penza.

55 The Panel also is of the view that the seriousness of the carelessness is low, for the purposes of the careless riding template. The template is not binding, but is a good guide to an appropriate penalty. Given the circumstances and the Panel's view of an enhanced role and contribution by Jeff Penza on his mount Art Cadeau, the Panel has adjusted the penalty. The Panel's orders are as follows:

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1. Appeal against breach of AR131(a) is dismissed.
  2. Finding of breach of AR131(a) confirmed.
  3. Appeal against penalty is upheld. The penalty will be a suspension of four meetings, with such suspension to commence on Sunday, 7 November 2021 and expire on Sunday, 14 November 2021 on which day the appellant  
65 may ride.
  4. The appeal deposit is forfeited.

(Mr Crisafi requested that the Panel defer the commencement of the meetings suspension for seven days in accordance with a new local rule.)

70 (Mr Van Gestel explained to the Panel that the amendment to the rule was introduced to assist owners who had engaged riders for a longer period of time and he advised the Panel that amendments to LR 107(2)(e) enable the Appeal Panel to defer the commencement of any suspension for up to seven days. Mr Van Gestel further

indicated that the Stewards had no objection to the Panel deferring the suspension in  
75 accordance with that rule.)

In light of the request by Mr Crisafi, with the Panel noting that there was no objection  
from Mr Van Gestel, the Panel exercised its discretion to amend its third order so that  
the four meeting suspension of the appellant will commence on Friday, 12 November  
80 2021 and conclude on Saturday 20 November 2021, on which day the appellant may  
ride.

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**HEARING CONCLUDED**

**DIGITAL RECORDING CONCLUDED**

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