

RACING APPEAL PANEL OF NEW SOUTH WALES

APPEALS OF AARON ISON AND KIRK MATHESON

Appeal Panel: **Mr R. Beasley SC (Presiding Member); Mr C. Tuck; Ms S. Skeggs**

Appearances: **Racing New South Wales: Mr M Van Gestel, Chairman of Stewards**
Appellants: Mr P O’Sullivan, Solicitor

Date of Hearing: **1 February 2021**

Date of Orders: **1 February 2021**

Date of Reasons: **8 April 2021**

REASONS FOR DECISION

Introduction

1. On 22 December 2020, Licensed Jockey Kirk Matheson pleaded guilty to a breach of AR120(3) in that he authorised Mr Aaron Ison to act as his rider’s agent between July 2020 and 3 December 2020 when Mr Ison was not licensed to act in such a capacity, and after Mr Ison was “formally denied a Rider’s Agent Licence by Racing New South Wales in correspondence dated 4 September 2020”.
2. On the same day, Mr Matheson pleaded guilty to an offence under the false evidence Rule (AR232(i)) in that he gave false evidence to the Stewards at an Inquiry held on 21 December 2020. This related to the period of time that Mr Ison had been finding rides for Mr Matheson. That false evidence was retracted relatively promptly, but only after the appellants’ text messages were viewed by Stewards.
3. Also on 22 December 2020, Mr Aaron Ison pleaded guilty to a breach of AR120(1) in that he purported to act as Mr Matheson’s Rider’s Agent between July 2020 and 3 December 2020 when he was not licensed to act in that capacity, and after he had been denied a Rider’s Agent Licence by Racing New South Wales on 4 September 2020.
4. He too also pleaded guilty to a breach of AR232(i) for giving false evidence during the Stewards’ Inquiry on 21 December 2020.

5. For the breach of AR120(3), Mr Matheson's licence was suspended for a period of 6 weeks. He received the same penalty for the breach of AR 232(i).
6. For the breach of AR 120(1), Mr Ison was disqualified for a period of 9 months. For the breach of AR232(i) he was disqualified for 3 months, making the total penalty imposed on him a 12 month disqualification.
7. At the Appeal Hearing on 1 February 2021, Mr Ison and Mr Matheson challenged the severity of the penalties imposed upon them. They were represented by Mr P O'Sullivan, Solicitor. Mr M Van Gestel, the Chairman of Stewards, represented the Stewards.

Findings of Fact

8. The facts in relation to these Appeals are not in dispute. Mr Ison at no stage was licensed by Racing New South Wales. On 11 May 2020 he made application to Racing New South Wales for a licence to be a Rider's Agent. On 4 September 2020 this Application was refused by Racing New South Wales because Mr Ison has certain criminal convictions.
9. Mr Matheson knew Mr Ison was not licensed. In relation to the false evidence charge, both he and Mr Ison were originally not frank with the Stewards about the period of time Mr Ison had been purporting to act as Mr Matheson's agent. When text messages came to light from their phones, they told the Stewards the truth.
10. As to personal circumstances, Mr Matheson is 27 years of age and is a rider that struggles with his weight. He essentially allowed Mr Ison to get rides for him because he knew that Mr Ison had been stood down from work because of the COVID-19 Pandemic. He regrets his actions and the Panel accepts he is unlikely to offend in this way again.
11. Mr Ison is 40 years of age and has worked as a sales representative until the COVID-19 Pandemic, which caused the termination of his employment. He is engaged in

various voluntary works promoting the Racing industry, and has been a Committee member of the Wauchope Greyhound Club.

12. He originally did not know he needed to be licensed as a rider's agent, but that misunderstanding must have been cleared up by no later than May 2020, and of course it would have been obvious to Mr Ison that he had been denied a licence on 4 September 2020, and yet he continued to act for Mr Matheson in gaining him rides in the absence of holding a licence.

Resolution

13. While the Panel does not accept the submission that the penalties imposed on either Appellant are in any way manifestly excessive, we thought it appropriate to make minor variations to the penalties imposed on both Appellants.
14. For Mr Matheson, while we consider that the total penalty of a 12 week suspension is appropriate and warranted, the penalty imposed by the Stewards was a full suspension. We considered it appropriate that the Appellant be fully suspended for a short period of time, with the balance of his suspension only preventing him from riding in races.
15. In relation to Mr Ison, we considered it appropriate to reduce the total penalty imposed upon him from a 12 month disqualification to a 10 month disqualification. This in part reflects our view that Mr Ison should not have been given a greater penalty for breach of AR232(i) than Mr Matheson.
16. The Orders made on 1 February 2021 were as follows:

Kirk Matheson

- (1) Appeal against severity of penalty allowed in part.
- (2) Penalty of a 6 week suspension for breach of AR120(3) confirmed.
- (3) Penalty of a 6 week suspension for breach of AR232(i) confirmed.

- (4) Total penalty of a 12 week suspension confirmed.
- (5) In lieu of a full suspension, the Appellant is suspended from riding in races only from 17 February 2021, on which day he may resume riding in trials and trackwork until his suspension ends on 17 March 2021, on which day he may resume riding in races.
- (6) Appeal deposit to be refunded.

Aaron Ison

- (1) Appeal against severity of penalty allowed in part.
- (2) Penalty of a 9 month disqualification for Charge 1 confirmed.
- (3) Penalty of a 3 month disqualification for Charge 2 set aside and in lieu thereof a penalty of a 6 week disqualification is imposed. Two weeks of this disqualification is to be served concurrently with the penalty for breach of AR120(1).
- (4) Total penalty of a 12 month disqualification is set aside and in lieu thereof a 10 month disqualification is imposed, with such penalty expiring on 21 October 2021.
- (5) Appeal deposit to be refunded.

R. Beasley SC
On behalf of the Appeal Panel