

## APPEAL PANEL OF RACING NEW SOUTH WALES

### IN THE MATTER OF THE APPEAL OF JOCKEY BENJAMIN LOOKER

Heard at Racing NSW Offices

Appeal Panel: **Mr L. Vellis - Convenor; Ms J. Foley; Mr P. Losh**  
Representatives: **Appellant - Mr W. Pasterfield, Solicitor for the Appellant**  
**Racing NSW - Mr S.G. Railton, Chairman of Stewards for Racing NSW**  
Date of Hearing: **30 August 2023**  
Date of Reasons and Orders: **30 August 2023**

### REASONS FOR DECISION

1. On 17 August 2023, licensed Jockey Mr Benjamin Looker (**the Appellant**) was charged with a breach of AR 129(2) in relation to his ride on *Another Spirit* in Race 6, the Benchmark 66 Handicap, run over 1000 metres at Grafton on 13 July 2023.
2. AR 129(2) is in the following terms:  
**AR 129 Running and Handling**  
(2) A rider must take all reasonable and permissible measures throughout the race to ensure that the rider's horse is given full opportunity to win or to obtain the best possible place in the field.
3. The relevant particulars of the charge brought against the Appellant were as follows:
  - a. After directing *Another Spirit* out around the heels of *Awesome Miss* shortly after straightening, he did between the 300 metres and 150 metres fail to ride his mount with sufficient purpose and vigour in an endeavour to improve into running available between *Awesome Miss* and *Small Town* when it was reasonable and permissible for him to do so.
  - b. After his mount was momentarily hampered by *Awesome Miss* passing the 150 metres, he did fail to ride his mount with sufficient purpose and vigour for the remainder of the event in an endeavour to improve into running available between *Awesome Miss* and *Small Town* when it was reasonable and permissible for him to do so.
4. The Appellant pleaded guilty and his licence to ride in races as suspended for four weeks.
5. The Appellant appealed to the Panel in relation to the severity of the penalty imposed. He was represented by Mr W. Pasterfield, solicitor. The Stewards were represented by Mr S.G. Railton, the Chairman of Stewards. An Appeal Book containing the transcript of the

Stewards' Inquiry and its Exhibits was admitted into evidence. Film of the race taken from multiple angles was tendered, and shown to the Panel.

### **Findings of Fact**

6. The following relevant findings of fact are not controversial:
  - a. The Appellant is 32 years of age and has about 16 years' experience as a rider.
  - b. Another Spirit started at \$11.00 and ultimately finished 8th in the race, beaten 3.22 lengths.
  - c. There were no integrity issues in the race from a betting perspective.

### **Submissions**

7. Mr Railton submitted that a clear run was available between the 300 metres and the 150 metres, which the Appellant did not take, and after being momentarily hampered at the 150 metres, the Appellant failed to ride his mount with sufficient vigour, when required to do so.
8. The Appellant conceded during the inquiry and in his oral evidence that the ride "did not look good".
9. Mr Pasterfield made submissions regarding the starting point for penalty, the plea of guilty and various additional factors impacting the Appellant.
10. The Appellant himself in oral evidence and in the inquiry spoke of the impact upon him of the Appellant's mount in the previous race breaking down during the race, as well as a fall on the same track that had occurred a few days earlier involving his brother in law.
11. Mr Pasterfield and the Appellant submitted that the sub-par quality of the ride and the Appellant's reticence to take the gaps offered were impacted by an overabundance of caution caused by the breakdown of his previous mount only some 25 minutes earlier.

### **Penalty**

12. The Panel had a broad discretion as to what penalty to impose here. While breach of the rule is objectively serious and general and personal deterrents are important for the integrity of racing, there are also other factors to consider in imposing a penalty. The Appellant's history in terms of suspensions for breaches of this rule is not impressive, which should also be considered.
13. Having taken into account all matters relating to penalty, including the purpose to uphold the image and integrity of the sport, the plea of guilty, the impact upon the Appellant of the breakdown of *Snaz N Charm* in the previous race, the Panel has unanimously decided to reduce the suspension, with a majority agreeing to reduce the penalty from a suspension of four weeks to a suspension of three weeks.
14. The orders of the Panel are:
  - a. Appeal against severity of penalty for breach of AR129(2) allowed.

- b. In lieu of a suspension of the Appellant's license to ride in races of four weeks, the Appellant's license to ride is suspended for three weeks, from Monday, 4 September 2023 until Monday 25 September 2023, on which day he may ride.
  - c. Appeal deposit to be refunded.
-