

STEWARDS DECISION

OFFICE OF RACING INTEGRITY

and

MR MATTHEW COOPER

Date of hearing: 5th January 2024

Stewards Panel: Ross Neal (Chair); Roger Brown (Panel)

Present: Mr Matthew Cooper (Respondent)

Rule: AHRR 231(1)(e)

A person shall not:

(e) assault anyone employed, engaged or participating in the harness racing industry or otherwise having a connection with it.

Charge: That on Sunday 31st December 2023 at Carrick Park Paceway, being a licensed person, you assaulted licensed participant Mr Mark Yole by contacting his neck region while he was seated in his sulky, and that as such you are in breach of AHRR 231 (1)(e).

Plea: Admitted

1. Background

- (a) Mr Cooper is a licensed harness racing trainer based at Oatlands Tasmania.
- (b) On Sunday 31st December 2023 Mr Cooper attended a race meeting conducted by the Carrick Park Pacing Club at Carrick.
- (c) Mr Cooper did not have any horses competing at the race meeting.
- (d) When the horses which had competed in Race 6 were traversing their way back to the stalls area Mr Cooper inadvertently stepped into the path of James Cagney, driven by Mr Mark Yole.

- (e) Mr Cooper then turned toward Mr Yole and contacted Mr Yole in the neck region with his hand.
- (f) Mr Cooper then released his grip on Mr Yole and exited the vicinity, and shortly after left the Carrick complex.
- (g) Mr Yole subsequently reported the incident to the Stewards,
- (h) The Stewards took evidence from Mr Yole, together with evidence from drivers Nathan Ford and Mitchell Ford, who were both in close proximity.
- (i) Mr Cooper was interviewed on Tuesday 2nd January 2023 at his property where he confirmed he had contacted Mr Yole in the throat region.

2. Respondents Submissions

- 2.1 When addressing the panel Mr Cooper acknowledged his wrongdoing and added that, in acting the way he did, he had believed Mr Yole had said something derogatory to him.
- 2.2 Mr Cooper added that he had been preoccupied with other thoughts immediately prior to him intersecting with Mr Yole.
- 2.3 When addressing the panel on penalty Mr Cooper referred to previous Tasmanian cases (all codes) where fines and suspensions had been imposed for what he believed was like offending. Mr Cooper stating that this matter should attract a similar penalty.

3. Penalty Considerations

- 3.1 Turning to the matter of penalty the Stewards are cognisant of the following Sentencing Principles –
 - (i) That penalties are designed to punish the offender for his/her wrongdoing. They are not meant to be retributive in the sense that the punishment is disproportionate to the offence, but the offender must be met with a punishment.
 - (ii) That in a racing context it is very important that a penalty has the effect of deterring others from committing similar offences through the consideration of both general and specific deterrence.

4. Penalty Discussion

- 4.1 It is concerning that this is the second conduct related breach of the Harness Racing Rules committed by Mr Cooper in recent years. Moreover, this breach is strikingly similar to the conduct displayed in the 2021 incident where he also made physical contact with another licensee. With respect to that matter Mr Cooper's licence was suspended for two years.
- 4.2 As for this incident Mr Cooper has stated that his actions were triggered out of comments he perceived had been directed at him by Mr Yole. However, there has been nothing adduced during the currency of the investigation into

the matter that gives any credence to the claim Mr Yole uttered anything to Mr Cooper other than to alert Mr Cooper that he was in his path. Rather it is the Panels view that Mr Yole was simply going about his business, having exited the track, and making his way back to the stalls area.

- 4.3 Turning to penalty, the Panel is guided by previous penalties imposed under AHRR 231(1)(e) which, as expected, are quite varied. This being because of the particular circumstances and peculiarities of each matter. To this end previous recorded offences are of limited assistance.
- 4.4 With respect to precedent offending AHRR 231(1)(e) in Tasmania demonstrates three offences in the past ten years with two resulting in disqualifications and one in a fine. The most relevant being *ORI vs. Ford (2019)* where a disqualification of 4 months was imposed.
- 4.5 Nationally recorded offences demonstrate warnings off, disqualifications and fines. Such penalties canvassing matters from minor to major assaults.
- 4.6 We are also mindful of the 2023 harness racing decision of the Queensland Racing Appeals Panel where disqualifications, imposed for assaults at a race meeting by the Stewards, were quashed substituted by significant fines and stayed suspensions. However, what distinguishes these matters from that of Mr Cooper is that these people were all first-time offenders. Hence, only limited regard can be had of their relevance to this matter.
- 4.7 With respect to this matter the offending, in the Panels view, can be best characterised as moderate. Being that while Mr Cooper did place his hand around Mr Yole's neck, he then desisted and the matter ended quite quickly.
- 4.8 Nonetheless, it is entirely unacceptable for licensed person to conduct themselves in the manner Mr Cooper did at Carrick, and accordingly a penalty must be imposed that not only holds Mr Cooper accountable for his actions but also discourage others from similarly offending.
- 4.9 We have also considered Mr Cooper's submission with respect to the cases he referred to, however, we are not persuaded that such cases are of particular relevance, primarily because they are only outcomes – with no facts being referred to, and also because the offenders lacked prior convictions.
- 4.10 Given all circumstances we believe that a period of disqualification is appropriate, for reason that this is Mr Cooper's second breach of a conduct related rule within three years, where he has seen fit to lash out another licensed participant without provocation.
- 4.11 Further, despite already being penalised for the 2021 breach this has not deterred him from similarly offending, and as such we find that the penalty must be escalated beyond a suspension or fine to a period of disqualification.
- 4.12 In determining the period of disqualification to be imposed we set the starting point at six (6) months.
- 4.13 In reaching this starting point we are mindful of all penalties imposed under AHRR 231(1)(e), however, as previously stated these relate to offences committed by those without prior convictions.
- 4.14 We find that any period less than six months would not send the correct message, to both Mr Cooper and the industry at large, that behaviours involving unsolicited physical contact are unacceptable and improper.

4.15 In mitigation we find that Mr Cooper's admission of the breach has spared both the other party's involved, and the Stewards, from the rigours of a defended hearing. Accordingly, this should be acknowledged in the penalty imposed. We set this discount at one month.

5. Outcome

5.1 Having carefully considered all factors we find that Mr Cooper be disqualified for a period of five (5) months with this to commence at midnight on Sunday 14th January 2024 and to expire at midnight on Friday 14th June 2024.

Decision Date: 5th January 2024