

## TASMANIAN RACING APPEAL BOARD

### Appeal No 12 of 2022-23

<b>Panel:</b>	<b>Mr Patrick O'Halloran (Chair)</b>	<b>Appellant:</b>	<b>Ms Chloe Wells</b>
<b>Adviser:</b>	<b>Mr Chris Taylor</b>		
<b>Appearances:</b>	<b>Mr Bruce Free (on behalf of the Stewards) Mr Trent Wells (on behalf of the Appellant)</b>	<b>Rules:</b>	<b>AR 131(a) Careless Riding</b>
<b>Heard at:</b>	<b>Office of Racing Integrity Prospect Government Offices 171 Westbury Road Prospect TAS</b>	<b>Penalty:</b>	<b>Suspension of 1 Tasmanian race dates</b>
<b>Date:</b>	<b>11 July 2023</b>	<b>Result:</b>	<b>Quashed</b>

### REASONS FOR DECISION

1. The appellant was the Jockey riding VOLKANOVSKI in Race 2 in the Devonport Racing Club meeting, on 23 April 2023.
2. Following an inquiry into her ride on that date Stewards found that the appellant had breached Australian Racing Rule 131(a) which provides:

*A rider must not in the opinion of the Stewards:  
(a) engage in careless riding.*

3. The particulars of the charge were stated that the appellant 'was the rider of VOLKANOVSKI approaching the 600 metre turn, allowed her mount to shift in when insufficiently clear, resulting in ANUDDASTORM clipping heels and losing its position'.
4. The appellant pleaded not guilty and following the inquiry was found guilty and her license was suspended for one Tasmanian race date.
5. On 28 April 2023, the appellant filed an appeal against conviction and penalty. Within that notice the appellant relevantly provided - in regard to her appeal against conviction - that the inexperience and racing manner of both the other horse and rider were largely at fault, and, that there were contributing factors that weren't taken into consideration (within the Steward inquiry).
6. Prior to the hearing of the appeal the Board issued a direction requesting from the appellant further and better particulars regarding the contributing factors that were

said to have existed at the time of the alleged careless riding that the Stewards did not take into account at their inquiry.

7. Following that direction, the following particulars or factors were detailed by those representing the appellant:
  - a. The inexperience of apprentice Tayah Stalker
  - b. The lack of reading the race
  - c. The position of her checking her horse was on a turn
  - d. Tayah (Stalker) has since been refused to ride ANUDDASTORM by the Stewards say so
  - e. A combination of inexperienced rider and uncontrollable horse
8. On receipt of those particulars within the hearing of the appeal an issue arose as to what information was sought to be relied upon in support of each of those particulars.
9. In consideration of section 34(6B) *Racing Regulation Act 2004* the Board determined that it would not allow fresh or new evidence in regards to the first stated particular - that being the inexperience of apprentice Tayah Stalker nor the fourth stated particular, that Tayah has since been refused to ride ANUDDASTORM by the Stewards say so. Following that ruling those particulars were not pursued in argument by the appellant.
10. In brief the Board's discretion was exercised in this way as the information or evidence said to support each of those particulars was not before the Stewards within their inquiry. Further informing the exercise of the discretion in regard to both particulars was that the information sought to be relied upon was vague and unable to be properly articulated with precision.
11. More specifically in relation to particular 4, that information could not have been put before the Stewards because the information said to support that particular related to an event that was said to have occurred after the hearing on 23 April 2023 ( i.e. on or about the 7<sup>th</sup> or 9<sup>th</sup> of May 2023).
12. In regard to the substantive submissions made in support of the appeal the appellant was capably represented by Mr Trent Wells who, in short summary, sought to rely upon and amplify the bases of argument and the submissions made by Mr McCoull who had represented the appellant before the Stewards.
13. Relevantly in regards to submissions made by Mr McCoull and adopted by Mr Wells in this hearing, Mr McCoull provided at page 4 of 10 of the Stewards hearing:

*"I do think Tayah's horse is racing ungenerously. No doubt Chloe's horse comes in, I just think it's the nature of the beast on the corner unfortunately, right at the point where's she rolled in. And look, it doesn't look to me like she's trying to come in, it looks more like her horse gets in, just as they, as some of them do, unfortunately on the bend there. And it just looks, you can see Tayah's horse here's not racing, it's not her fault, the horse looks to be not that tractable to be fair to her. But her horse is racing already uncomfortable in that position there. Its got its head, she's got its head turned in to try and hold her spot. But the horse doesn't look like it wants to be there and then it's reacted as poorly as it has when she's taken hold. And she has to take hold. But it's reacted as poorly as it has because it's not racing tractably."*

14. Relevantly Mr Sanderson, who was a senior representative, who the Stewards asked to represent Ms Stalker at their inquiry, relevantly provided to the Stewards at that hearing:

*“I don’t think there’s much need to say anything. Brendan McCoull’s pretty much summed it up to a Tee.”*

15. Within the initial inquiry the Stewards, in fairness to all the participants, relevantly articulated to the appellant, the observation that the relevant horse or mount had a warning on it with Mr McCoull in reply indicating that he had thought the horse had an issue with hanging out before.

16. On that potentially contributory factor Mr McCoull further articulated to the Stewards - which was adopted by Mr Wells in this appeal:

*“But again, I think the reason that any of this is a problem is the manners of the horse, is the manners of the horse. I mean, and I don’t think – you should certainly heavily weigh that into your deliberation, in my opinion.”*

And further:

*“No, I think her horse does naturally, as horses do here, on that bend, a lot of horses, as you would have seen with interference over the years, they tend to sort of step in a little bit, unfortunately. And I think that’s what her horse has done. Now it’s her responsibility to keep it straight, I agree with that, but I’m just saying I think the fact her horse has wanted to just get in there, and the manners of the other horse, as being the cause of the incident.”*

17. Mr Free on behalf of the Stewards relied on the Stewards justification for the laying of the charge and the penalty in the same terms as articulated within the first instance hearing.
18. In determining the appeal the Board had available to it the film of the race, captured from multiple camera angles, and the benefit of the advice from the adviser Mr Chris Taylor. Footage from all camera angles were reviewed with assistance obtained from specific angles.
19. The Board carefully considered the race film and received information from Mr Taylor to assist in interpreting the race film and the submissions made by each party.
20. On the basis of all the submissions and viewing of the race film the Appellant’s characterisation of the riding could not be discounted and the Board is not comfortably satisfied that this was an incident involving careless riding.
21. As a result, it is the determination of this board that the decision of the Stewards is quashed.
22. Consequently, the Board orders pursuant to s 34(2)(e) *Racing Regulation Act 2004* that the appellants prescribed deposit be refunded in full.

**DATED: 1 September 2023**