

# **NEW SOUTH WALES HARNESS RACING APPEAL PANEL**

## **APPEAL PANEL MEMBERS**

**Hon. W Haylen KC**

**D Kane**

**W Picken OAM**

**22 DECEMBER 2023**

**APPELLANT RILEY GAUCI**

**RESPONDENT HRNSW**

**APPEAL AGAINST DECISION OF THE LICENSING  
COMMITTEE OF HRNSW TO REVOKE HIS STABLEHAND'S  
LICENCE**

## **DECISION**

- 1. The Appeal Panel considers that there has not been established an evidentiary basis to set aside the decision of HRNSW to revoke Mr Gauci's stablehand licence.**
- 2. The appeal of Mr Gauci is dismissed.**

1. Mr Riley Gauci applied for a Driving Stablehand licence with Harness Racing NSW which was approved on 31 July 2023. The Application for this position required answers to a number of questions prior to a decision being made including matters regarding the state of the applicant's health. Mr Gauci disclosed that he had previously held a stablehand license. In relation to disciplinary matters Mr Gauci ticked the no box to 3 questions, which were in the following terms: Have you ever been the subject of a disqualification, suspension or any other disability imposed by any racing authority or controlling body in any State, Territory or Country?; Are you currently under any disqualification, suspension or other disability imposed by any racing authority or controlling body in any State, Territory or country?; and, Have you, at any time, been convicted of any offence in any court in any State, Territory or country (whether under your name or any other name)?.
2. Apparently, after investigation of these matters, on 14 August 2023 HRNSW sent Mr Gauci a Notice to Show Cause stating that it had been informed that he was currently listed on the Racing NSW Excluded List due to horse welfare concerns. This notice was effective from 22 February 2023. The letter drew attention to the 2 questions that asked if he was the subject of disqualifications, suspensions or any other disability in any state, Territory or country. Mr Gauci was required to show cause as to why he should retain a licence and to address the issue of being a fit and proper person to be licensed by HRNSW. The letter further stated that all offences would be considered, particularly those considered to have a direct impact on an applicant's suitability, such as cruelty to animals. The Show Cause letter included the following passage: "As a result of you being listed on the Racing NSW Excluded List due to horse welfare concerns and the responses you provided in the HRNSW Licensee Questionnaire you are hereby required to 'Show Cause' as to why you should be considered a 'fit and proper person' to be licensed by HRNSW".
3. The Racing NSW Excluded List referred to LR5 Definitions. "Excluded List" is defined as a list maintained by Racing NSW that details the names of persons who are not permitted, due to horse welfare concerns, to be provided with and/or have in their care, custody or control thoroughbreds that have been domiciled in NSW for the majority of their lives. The names of Mr Riley Gauchi of Mulgoa and Ms Alissa Gallagher of Mulgoa and Ms Tarleah Hemphill of Mulgoa were listed with the "effective date" of exclusion specified to be 22 February 2023 in each case.
4. Mr Gauci responded to the Notice to Show Cause by requesting a face to face meeting with HRNSW because of his illiteracy and his need of assistance from a friend in putting his case. This was agreed to by the Stewards and a lengthy hearing was conducted on 10 October 2023. By letter dated 23 October 2023 HRNSW advised Mr Gauci that the Licensing Committee had considered all available information, including information provided by him at the face to face meeting. The Licensing Committee resolved that while ever he remained listed on the Racing NSW Excluded List he would not be considered a 'fit and proper person' to be licensed by HRNSW. In those circumstances, his stablehand licence had been revoked. He was also informed of his right to Appeal to this Panel.
5. On Appeal Mr Gauci was again assisted by a long standing family friend. He frequently mentioned his illiteracy, which appeared to be genuine, but was able to obtain ongoing employment in various parts of the State in positions which might be described as manual labour. He was aware of the proceedings being held by Racing NSW, and had some discussion about it, but lost his mobile phone for some time that resulted in him not appearing before that tribunal. This may have occurred when he was working in Tamworth. He was therefore

not aware of what occurred at the Racing NSW proceedings nor the basis on which the decision to place him on the Excluded List came about. Strangely, Mr Gauci made no arrangements to procure another phone. After the event he made inquiries of Racing NSW and was told that there were no charges against him but he had been placed on the Excluded List. HRNSW Stewards mentioned that charges were not always necessary under that regime when people were not licensed yet might be dealt with under the terms of the rules. No documentary evidence was led on appeal by Mr Gauci or HRNSW, as to the circumstances of Mr Gauci being listed by Racing NSW on its excluded list.

6. Mr Gauci's evidence before this Panel was that he had made arrangements with two people to feed and look after his horses while he was working, firstly in the Northern Territory and then in Tamworth. This was work paid for by Mr Gauci. Mr Gauci's father owned adjoining property but was not part of the arrangement for the care of his son's horses and did not check on the state of those horses. Mr Gauci said that his father did not want to be involved in this feeding and care arrangement. When Mr Gauci returned to the property he found the horses in a bad condition despite the arrangements he had made for their welfare. These matters were not put to Racing NSW at any stage by Mr Gauci.
7. Two additional matters arose on the Appeal before this Panel. HRNSW drew attention to the fact that in completing the application form Mr Gauci had not disclosed two Court imposed traffic fines. In October 2020 he was fined \$1000 and disqualified for 3 months for being a "never licensed person drive vehicle on road- first offence", and in November 2021 a disqualification for 6 months and a fine of \$600 for "Drive motor vehicle while licence suspended". These omissions were not explained by Mr Gauci during the Appeal.
8. The second matter that arose was a Welfare Inspection Report made on 1 August 2023 at Mulgoa by Ms Suzanne Campbell, an Investigator for HRNSW. Ms Campbell inspected properties operated by both Mr David Gauci and his son, Riley Gauci. It is sufficient to note that numerous deficiencies were observed by Ms Campbell who reported that on entering the property it was seen to be in a considerable state of disrepair with poor fencing, large amounts of rubbish, metal, wire, abandoned car parts and household white goods. Ms Campbell concluded her report as follows: 'At the conclusion of the inspection I advised Mr Gauci that improvements needed to be made to fencing, paddock rotation, manure and worm management, and a general clean-up of the metal and other hazards lying around. This was in addition to the prior directions in relation to water, feed and farriery. In my opinion the property as I viewed it on the 1 August 2023 was not suitable to house horses safely and the husbandry practices of Riley and David Gauci were subpar.'
9. These matters were in stark contrast to the picture Mr Riley Gauci put to the Appeal Panel. He referred to other Welfare inspections and the steps he had taken as a result to improve the property and the state of the horses. He stated that, over time, these welfare improvements were accepted by the Welfare bodies and that the horses had improved in their health. No documents were provided to the Panel to support these statements.
10. HRNSW has taken the position that as long as Mr Gauci remains on the Racing NSW Excluded List, he will be regarded as unfit for being licensed in harness racing. This is not an unreasonable position given the public demand that racing authorities ensure that animal welfare is a primary responsibility. Indeed, it would be a strange and controversial decision if HRNSW decided to ignore the steps taken by Racing NSW to place him on the Excluded List. It appears to this Panel that the only path available to Mr Gauci is to seek some form of reconsideration of his status by Racing NSW as there does not seem to be a right of appeal. That is a matter for Mr Gauci to consider.

11. While this has been an unusual case, the Appeal Panel considers that there has not been established an evidentiary basis to set aside the decision of HRNSW to revoke Mr Gauci's stablehand licence. Moreover, Mr Gauci did not seek to adduce any evidence on appeal, as to his good character and in support of him being a fit and proper person to be licensed as a stablehand notwithstanding his being listed by Racing NSW on its Excluded List. The Appeal is dismissed.

Hon Wayne Haylen KC – Principal Member

Mr D Kane – Panel Member

Mr W Picken OAM – Panel Member

22 December 2023