

**Non Raceday Inquiry RIU v M Hamilton and S Robinson - Reserved Decision dated 19 December 2017 - Chair, Prof G Hall**

**Rules:**

**Repondent(s)/Other parties:**

**Name(s):**

**Decisions:**

**BEFORE A JUDICIAL COMMITTEE OF**

**THE JUDICIAL CONTROL AUTHORITY**

**UNDER THE RACING ACT 2003**

**AND IN THE MATTER of the New Zealand Rules of Racing**

**BETWEEN RACING INTEGRITY UNIT (RIU)**

**Informant**

**AND MURRAY HAMILTON**

Unlicensed

**Respondent**

**BETWEEN RACING INTEGRITY UNIT (RIU)**

**Informant**

**AND SHAE ROBINSON**

Licensed Trackwork Rider

**Respondent**

**INFORMATION NOS:** A6645 and A6646

**COMMITTEE:** Prof G Hall (Chairman)

Mr V Munro (Member)

**APPEARING:** Mr C Lange, for the Informant

The Respondents in person

**HEARING DATE:** 9 November 2017

**RESERVED DECISION OF JUDICIAL COMMITTEE**

[1] Mr C Allison, Racecourse Investigator, on behalf of his employer, the RIU, has charged Mr Murray Hamilton with a breach of r 1104(1)(b) of the NZ Thoroughbred Rules of Racing.

[2] The charge is that “[o]n the 27th and 28th of September 2017 at Glassford Road Omakau, Murray William Hamilton whilst disqualified did assist in the training, care and control of thoroughbred horses.”

[3] Rule 1104(1) provides

A person who is disqualified in accordance with this Part XI, or whose name appears in the list of disqualifications of Another Racing Authority shall not during the period of disqualification:

(b) train any horse or ride any horse in a Race or be employed in any capacity in connection with the training or racing of horses.

[4] The relevant penalty provision is r 1104(3), which states:

A person who contravenes this Rule shall, in addition to any other penalty which may be imposed under any of these Rules, be disqualified for an additional period of not less than six months to commence at the end of the period of the current disqualification. For

every second or subsequent breach he shall, in addition to any other such penalty, be disqualified for a period of not less than 12 months to commence at the expiry of the immediately previous period of disqualification.

[5] We refer to Mr Hamilton throughout this decision as the first respondent.

[6] There is a further charge related to the same incident. The second respondent is Ms Shae Robinson. She is charged with a breach of r 801(1)(z) of the NZ Thoroughbred Rules of Racing.

[7] The charge is that “[o]n the 27th and 28th of September 2017 Shae Marie Robinson being a licensed person namely a Class B Trackwork Rider, did assist and associate with a disqualified person namely Murray William Hamilton for the purposes of the care and training of a registered horse.”

[8] Rule 801(1) provides

A person who commits a Serious Racing Offence within the meaning of these Rules who:

(z) being a Licensed Person or Owner or lessee (as the case may be), his Agent or Racing Manager aids or assists or associates with a prohibited person or disqualified person for the purposes of the sale, purchase, care, breeding, training or racing of a horse registered under these Rules.

[9] The relevant penalty provision is r 801(2), which states:

A person who commits a Serious Racing Offence shall be liable to:

be disqualified for any specific period or for life; and/or be suspended from holding or obtaining a Licence for a period not exceeding 12 months. If a Licence is renewed during a term of suspension, then the suspension shall continue to apply to the renewed Licence; and/or

a fine not exceeding \$50,000.

[10] In letters dated 9 October, Mr Godber, the General Manager of the RIU, authorised the lodging of non-race-day informations against the two respondents.

[11] These matters were heard together with the consent of the parties at Forbury Park racecourse on 9 November 2017.

#### **Informant's case**

[12] Mr Lange opened his submissions by stating that Mr Hamilton was disqualified from holding or obtaining a Trainer's Licence from 30 June 2017 up to and including 5 October 2017.

[13] After the disqualification commenced the RIU had received information that Mr Hamilton had continued to be involved in the training of horses at a property situated at 881 Glassford Rd in the Omakau district. As a consequence, on 27 and 28 September 2017 RIU Investigators kept observations on Mr Hamilton and that property.

[14] The first witness for the informant was Mr Simon Irving, a Racing Investigator for the RIU. He stated that on 27 September 2017 as a result of information received, he assisted an investigation regarding Mr Hamilton.

[15] At 6.30 am he took up what he described as “a forward observation point on the roadside near 881 Glassford Rd Omakau”. He marked his position on a Google map of the area that had been printed and was produced as an exhibit.

[16] Mr Irving said he had use of his binoculars and his cell phone voice recorder. He recorded the following information:

7.19am A white ute arrives with a rear right hand side tail light out and drives up the driveway and into the front paddock.

The driver gets out and erects a fence break along the southern end of the front paddock. [The witness identified this person as the first respondent.]

7.31am The white ute drives to the stable area.

7.35am The subject leads four horses from the front yard to the tie-up area. The subject was wearing a white baseball cap, dark coloured top/jersey and dark trousers.

7.44am Grey / dark SUV type vehicle leaves address south on Glassford Rd.

7.49am Subject saddles horse in tie-up area visible between implement shed and concrete stables.

7.53am Subject applies a blue hood to the horse.

7.55am Silver station wagon drives into driveway from the northern end of Glassford Road.

7.59am A rider on top of horse emerges from tie-ups and horse walks onto track. Subject drives quad bike toward track halfway before returning to stables area. Horse ridden around track 4-5 laps jogging, cantering clockwise. Rider wearing black skull cap, brown sleeveless vest, blue pants, riding boots, brown long hair.

8.12am Horse walked off track, back to stable area. Subject unsaddles horse in same location as was saddled.

8.17am Second horse goes out, red saddle cloth, blue hood. Subject continues to unsaddle first horse and puts cover on it.

8.22am Second horse worked on track similar to first.

8.27am Second horse returns to stables and out of view behind tie-up /stables.

8.31am Third horse emerges and walked onto track green / khaki saddle cloth and worked similar to others.

8.44am Third horse walked back to stables.

8.47am Fourth horse emerges from stables walked to track, red saddle cloth, blue hood and worked similar to others.

8.58am Fourth horse returns to stables out of view.

9.05am White ute driven onto track through gates followed by two horses being led by track-rider, purple canvas covers on both, put into paddock area inside where break had been erected earlier. Subject driving ute. Track rider wearing blue hooded sweatshirt with white emblem on front.

9.12am Ute driven back to stables by subject.

9.30am Both subject and track-rider tending / grooming / checking feet of two horses – one with green cover, one with grey cover.

9.53am Silver station wagon leaves property, heading north out of driveway.

10.10am Subject feeds out four horses in front yard.

10.35am White ute towing large white horse float leaves address, heading south.

10.50am Extraction completed.

[17] Mr Irving stated that on 28 September at 8.45 am he went to the property at 881 Glassford Rd together with Mr Cruickshank to speak to Mr Hamilton and the track work rider, Ms Robinson.

[18] Mr Irving told the first respondent that he wished to talk about the horses on the property and Mr Hamilton's disqualification and he wanted to record the conversation on his dictaphone, which Mr Hamilton stated he was happy for Mr Irving to do.

[19] Mr Irving conducted a 10-minute interview, which was played to the hearing. The key elements of this conversation were that the first respondent confirmed that his disqualification ended on 5 October. When asked about his role with the horses, Mr Hamilton replied, "I do nothing at all. I come out and look after this child, I do the farm work, I'm on the farm here, my son goes shoeing..."

[20] Mr Hamilton identified the horses as MURRAY, BET YA WOOD, and two others, which did not have names, and had just come into work. He described them all as "babies", but acknowledged they were 3-year-olds. He stated they were owned by Gordon Lambert, Windsor Park, Westbury Stud, and Andrew Campbell, respectively.

[21] When asked were they racehorses, Mr Hamilton replied, "They're gonna to be eventually I s'pose." He stated the one owned by Andrew Campbell, BET YA WOOD, had raced previously but had had a year out in the paddock. Two of the four horses had been leased by syndicates.

[22] Mr Hamilton denied working any of the horses and said Ms Robinson worked the four. He emphasised his son was normally present to look after her children and he just did the farm work. He said he did not go anywhere near the horses. She trotted them around the paddock and came every afternoon and fed them.

[23] Mr Hamilton confirmed the property was owned by his son, who also worked as a farrier. The first respondent again said he did nothing with respect to the four horses. When told the RIU had been watching the property that morning and had seen him saddle up the horses, he replied, "Oh yeah. It's only one morning, I mean only cos my son's not here, that was all, It's just one morning. This is the only morning, honestly that's all I've got to do, I've got another job to go to, that's all."

[24] When told the RIU had also watched the property the previous morning, he said he had moved two young horses out to a paddock. When confronted with the comment that he had been "saddling these horses up in the morning for her [Ms Robinson] to ride", he responded, "Yeah, oh, well, okay, Do your..."

[25] When asked what was the intention with the horses, Mr Hamilton said they would probably be going to Mr Terry Kennedy. When asked if he was bringing them back into preparation to get them ready to go to Terry Kennedy's to get back into racing, he said, "Whatever, we get back into it, wherever they're gonna go."

[26] He agreed it was a bit of pre-training, and emphasised it was not possible to do anything here in the paddock.

[27] When asked if the owners knew he was disqualified, he said some did but he emphasised he was not disqualified when the horses were turned out, as they had all been on the property for over a year.

[28] Mr Hamilton said Ms Robinson knew he was disqualified and was trying to help him out and survive herself.

[29] Towards the end of the conversation Mr Hamilton stated he normally was not at the property. He added, "The son went to Glenorchy yesterday morning and that's why I put the saddles on this morning and looked after the kid. He'll be back this afternoon...."

[30] Mr Irving also produced photographs taken of the stables area and track.

[31] Mr Irving stated he spoke to Mr Andrew Campbell, a Licensed Trainer, on 4 October 2017. Mr Campbell was one of the registered owners of a racehorse named BET YA WOOD. Mr Campbell advised that he had trained the horse and it had two starts and both times it was pulling and hanging, so he sacked it. It had last raced for him on Boxing Day 2016 at Otaki.

[32] A guy from down south (Mr Hamilton) had rung a few months prior to this and asked if he had any horses he could take. He did not at the time but he had kept Mr Hamilton's number in his cellphone. He had never met Mr Hamilton and that was the first time he had spoken to him. He rang Mr Hamilton a week or so after BET YA WOOD's Boxing Day run and told him he could have him and said to him he would win a race or two.

[33] Mr Hamilton arranged transport. Mr Campbell thought he had filled out his side of the paperwork for change of ownership and sent it to Mr Hamilton. He did not want any money for the horse and the only thing he had said to Mr Hamilton was that if he managed to get it going and sell it, he would want a cut but they did not talk about how much that would be. From the conversation that they had had, he believed Mr Hamilton was going to train the horse.

[34] Mr Irving also spoke on 4 October with Mr Gordon Lambert, an Owner /Trainer, who is the owner of the racehorse MURRAY. Mr Lambert said he had sent the horse down to Mr Hamilton to train about 18 months ago. He was a 4-year-old now. The horse was now at Terry Kennedy's and he had won a jumpout that day.

[35] When questioned, Mr Irving said he could see Mr Hamilton saddling a horse between structures. It was in the gap between the shed and the saddling area. He said he had a good view of this through his binoculars from where he was positioned at the corner of the property propped against a drainage ditch on the south side of the road. He had a clear line of sight. He was on the verge and believed this was public land. He was in between the fences on either side of the road. He was near the southern corner of the property where the jogging track was, and close to the fence break.

[36] Mr Irving said there were two further horses on the property that were not photographed and were not related to the charges that had been laid. He said these were young horses and were at the south end of the property.

[37] There was a young child, aged he thought about two. Mr Hamilton had taken her inside the house. It was the same trackwork rider each day. He identified her as Ms Robinson, the second respondent.

[38] Mr Irving confirmed he saw Mr Hamilton saddle one horse only. He could not identify which horse Mr Hamilton had saddled, just that it was one of four. He did not see Mr Hamilton saddle the other horses.

[39] Mr Irving agreed with Mr Hamilton that Mr Hamilton had co-operated with him but emphasised Mr Hamilton had first denied any involvement in saddling. And it was only when he was told that he had been seen saddling one, that he replied it was just the one, as his son Marcus was not there. When told he had been seen saddling the previous day as well, he said, "Yeah, oh, well, okay".

[40] When the second respondent questioned whether Mr Irving could see all he claimed from where he was positioned, he reiterated that he did.

[41] Mr Chris Allison, a Racing Investigator for the RIU also gave evidence. He stated that as a result of information received he and Racing Investigators, Mr Irving and Mr Cruickshank, went to Omakau.

[42] On 27 September 2017 at about 6.30 am he dropped off Mr Irving near 881 Glassford Rd. At around 10.50 am he uplifted Mr Irving from his location.

[43] On 28 of September 2017 at about 6.55 am Mr Allison was dropped off at an observation point in a public place across the road from 881 Glassford Rd. He said he had had a good view of the property and had use of his binoculars. He observed six horses on the property. Two of the horses were behind an electric fence in the front paddock and four horses were situated near the stable area. The front paddock was worn. This was consistent with horses being worked on it. He voice recorded his observations:

7.27am Mr Hamilton's utility drives past me towing a trailer with large bales of hay. The vehicle enters into 881 Glassford Road.

7.31am I observe Mr Hamilton lead two horses towards the stable/tie up area.

7.33am Mr Hamilton goes out and retrieves another horse with a lead. The remaining horse follows Mr Hamilton through the gate.

7.57am A Grey/Silver station wagon arrives at the address.

Prior to the vehicle arriving Mr Hamilton has saddled up a horse with a red saddlecloth. The horse also has a light blue hood on. This was completed prior to the track work rider arriving at the address.

Mr Hamilton leads the horse away with the rider on. The horse walks down the lane and onto the training track. While the horse was heading towards the track there was a conversation between Mr Hamilton and the track work rider however I was unable to decipher what was being said.

8.02am The first horse commences work on the track in the front paddock with the track work rider. The horse is worked in a left-hand direction (anti clockwise).

8.11am The first horse completes work and is walked back down the lane towards the stable area.

8.13am Mr Hamilton assists with the horses by taking the worked horse away. It is tied up by the tie up area and is cooling down.

The track work rider immediately climbs on the second horse and heads down the lane. The track work rider did not have any opportunity to gear this horse up.

8.14am Mr Hamilton is on his cell phone as the second horse is being walked down the lane towards the training paddock.

8.16am The second horse commences work on the training track. It also has a light blue hood on and is worked anti clockwise.

The rider is regularly yelling at the horse to "get up". At one stage the rider refers to the horse by "good girl" indicating it was a filly or mare she was riding.

8.23am The second horse is being walked up the lane back towards the stabling area.

8.26am The third horse is just leaving the tie up area. It is wearing a red saddlecloth with a light blue hood on. Once again, the track work rider did not have the opportunity or time to gear the horse up.

8.29am The third horse has commenced work on the track. It is being worked anti clockwise.

8.36am The third horse is just walking up the lane after the completion of its work.

8.38am The horse arrives back in the stable tie-up area.

8.39am The track work rider climbs onto the fourth horse to be worked. It is wearing a light blue hood. The track work rider had no opportunity to gear the horse up.

8.42am The fourth horse enters onto the training track.

8.44am Racing Investigators Andy Cruickshank and Simon Irving enter onto the property at 881 Glassford Rd.

8.46am I leave my observation point.

[44] Throughout his observations, Mr Allison said there were no other people present in the stabling/ tie up area. All horses were worked approximately 4 to 5 laps at slow pace/canter.

[45] Mr Allison stated that on 29 September he conducted enquiries with Ms Kirstie Lang from NZTR regarding the identity and ownership of four of the horses which had been worked at Glassford Rd. He was advised the following information:

JS 26 over 3 – MURRAY 2013 horse by Nom de Jeu x Our Jubilee —Current registered owner Gordon James Lambert

S 124 over 4 – unnamed 2014 Bay Mare Thewayyouare x Victoria Falls – Current registered owner Windsor Park Stud Ltd

<W> 9 over 4 – unnamed 2014 Bay colt Gorky Park x Between You And Me – Current registered owner Marriott Thoroughbreds Ltd

JK Conjoined over wave 5 over 3 – BET YA WOOD 2013 gelding by Redwood x Betchacan – Current registered owner Andrew Robert Campbell and Danielle Ellissa Campbell

[46] Ms Lang rang later and confirmed that none of the four horses had been notified as being retired or shown as hacks.

[47] Mr Allison said he spoke to Mr Russell Warwick from Marriott Thoroughbreds Ltd on 4 October. Mr Warwick advised that he sent the Gorky Park colt down to a Murray Hamilton on 11 May 2016. It was a colt when he sent it down. He was not sure if it is still was or not. Mr Hamilton had contacted him to see if he had a horse to lease for racing. He stated it was not going to be an early horse so he did not mind sending it down. Mr Hamilton rung him back again around two months ago. He said it had been broken in and he wanted to sort a lease out to race it. He was not aware Mr Hamilton was a disqualified person. He stated, "That's news to me". He also did not know Mr Hamilton had been warned off racecourses.

[48] On 4 October Stipendiary Steward Mr Davidson had contacted Mr Allison to advise him that the horse MURRAY was at the Wingatui jumpouts that day. The horse gained its barrier certificate and won an 800 metre jumpout. Mr Davidson advised the horse raced under the stable of Mr Terry Kennedy and was transported to the course by Ms Bridget Emerson. (Ms Emerson, in an undated statement that was presented during the course of Mr Hamilton's defence to the charge, has refuted the allegation that she transported the horse to the course.)

[49] On 15 October, while at the Winton Jockey Club, trainer Mr Terry Kennedy advised Mr Allison that another one of the horses from Mr Hamilton had arrived at his stable. He confirmed it was BET YA WOOD.

[50] When questioned, Mr Allison said one of the horses had been saddled up prior to Ms Robinson arriving. There were no other persons present.

[51] Mr Allison accepted what he and the previous witness described as a hood was better described as a pacifier. It was used to assist a horse to concentrate when in training. He would not have expected a hack to have worn one. When questioned as to this, he agreed hacks could wear pacifiers but added he would be surprised if they did.

[52] Mr Allison confirmed he had assumed the first respondent had saddled up all the horses due to the small gap in time between one horse being worked and then the next. He believed it was impossible to saddle a horse in this time. Ms Robinson informed him that that had been her job when in Europe and she was very proficient at it. Mr Allison did not dispute her statement.

[53] When asked to be precise as to where he was positioned, he said he was in the south-east corner in front of the young horses and by an electric fence. He marked his position on the google map that had previously been produced as an exhibit.

[54] The last witness for the prosecution was Mr Andy Cruickshank, who is also a Racing Investigator with the RIU. He stated on 27 September 2017 he assisted in an investigation into the first respondent. He observed a white utility with a horse float attached leave the home address of Mr Hamilton in Cobham Cres Omakau at 7.03 am. At 10.37 am the utility left 881 Glassford Rd with the horse float still attached.

[55] On 28 September Mr Cruickshank returned to Omakau. He went with Mr Irving to 881 Glassford Rd. He observed three horses tied up with covers on and recorded the brands. These were:

S 124 over 4

JS 26 over 3

<W> 9 over 4

[56] A track work rider, Ms Robinson, was riding a fourth horse. When Ms Robinson returned to the tie up area he asked her to show him the brands on the fourth horse, which she advised had raced before. It was JC or JK conjoined over lazy W 5 over 3.

[57] Mr Cruickshank took photos of the horses' brands and also some photos of the stable area. He produced these photos as exhibits. Mr Hamilton told the hearing he took no issue with the identification of the four horses.

[58] Mr Cruickshank conducted an interview with Ms Robinson, which was recorded. He produced a transcript of that interview.

[59] Ms Robinson confirmed she was a licensed track work rider. She said she got the horses in in the mornings, geared them up, rode them, turned them out, and fed them in the mornings and afternoons. She stated she was aware that the first respondent was disqualified and did not know who owned the horses.

[60] She denied that the first respondent got the horses ready, stating he was only there to mind her daughter, as he was doing that day. When told the RIU Investigators had witnessed Mr Hamilton gear up the horses, Ms Robinson replied, "Well, I don't know what he was doing today cos generally I do everything. Every day I do everything cos he knows he's not allowed to be doing it."

[61] Ms Robinson said none of the horses were racing and that she was just exercising them. She agreed she had encouraged one that morning. That horse was fairly new and she wanted the filly to focus. She had been asked to ride the horses, not directly by Mr Hamilton but "through other people". The horses needed stable work and she was available. She was not able to name the horses but she rattled off the names she had given them.

[62] Ms Robinson stated she had geared up three of the horses that morning and that one was geared up when she arrived. She said she came six days a week for an hour in the morning and then back in the afternoon to feed up.

[63] When asked were the horses being trained, galloped or looked after, Ms Robinson replied, "Not trained, not galloped. I'm just looking after them pretty much. I'm just working them, that's it. They're not being trained and they're not being galloped. I can't gallop in that paddock."

[64] When questioned as to who pays her, she said it just came into her bank account. When Mr Cruickshank stated, "Murray pays you," she replied, "Yeah, but I don't know who that comes from but it's through him still but doesn't mean he has anything to do with the horses."

[65] On 4 October 2017 Mr Cruickshank conducted enquiries with Mr Rodney Schick, the General Manager of Windsor Park Stud, the registered owner of the horse branded S 124 over 4. Mr Schick advised him the horse had subsequently been sold to Mr Hamilton. (We understand that this horse is now used by Mr Nevill as a hack.)

[66] When questioned as to his right to go on the property, Mr Cruickshank said he believed he was empowered to do so by r 208. He further emphasised he had not been asked to leave by either of the respondents. He said he had explained the purpose of the visit. He

agreed he had not knocked on the door of the house or checked who owned the property.

### **First respondent's case**

[67] The first respondent, Mr Hamilton, conducted his defence first. He stated he had had horses on his son Marcus' property since he had been "kicked off" the Omakau racetrack and had lost his licence. He acknowledged that he knew he was a disqualified person and did not dispute that the witnesses were Racing Investigators with the RIU.

[68] Mr Hamilton said he presently carted horses for a living. These were both standardbreds and thoroughbreds. He also helped out on his son's farm, and with minding the baby of the person who came to the property and exercised the horses.

[69] Mr Hamilton called his son Marcus to give evidence. He said his father helped him on the farm. He said he (Marcus) would occasionally go out and throw a saddle on the horses but that was all he had to do with them. They were hacks not racehorses. His property was just a place for the horses to go to when they could not remain at the track.

[70] Mr Marcus Hamilton said on 27 September he had put a saddle on a horse and had then "parked up inside". He was not in Glenorchy, and thought he was at home. He said he had not heard a thing. He questioned why the RIU had not come to the door of the house. We note the 27th was the day of the first surveillance operation and the RIU had not announced their presence that day. The next day was the day they came to the property and conducted interviews.

[71] Mr Marcus Hamilton said he had always had horses at the property. He was aware his father had been training horses previously at the Omakau racecourse and had told him he was "better off out of the game". He said his principal concern was to help his father out and to give the second respondent, Ms Robinson, something to do. He felt sorry for her and wanted to give her something to do until the first respondent got his licence back. She had ridden the horses at the Omakau racetrack previously for a number of trainers, including his father. She would come up to his property and feed the horses.

[72] Mr Marcus Hamilton emphasised the horses were not being worked and they had to live somewhere. There was no track. It was just paddock where he used to train standardbreds.

[73] Mr Marcus Hamilton said the horses would come and go. Two were hacks and two had gone to Mr Terry Kennedy. He was not sure who had organised this. He did not arrange it as he kept out of that side of the business. He was "not in the game". He just looked after the horses when they were at his place.

[74] Mr Marcus Hamilton said he could not afford to pay Ms Robinson. He thought his father did but he did not know for sure, but someone had to help look out for the horses. They had come up from the racetrack on a horse float, although some were at his property already.

[75] Mr Marcus Hamilton stated he had a farrier business and had met Ms Robinson through his father, who had a truck, and carted horses for a living.

[76] Mr Marcus Hamilton stated he had not seen the witnesses when they were at his property. He was not sure why his father had said he was not there but he said it would not be unusual for the first respondent not to know whether he was at home. He emphasised he sometimes helped out with the horses. He could not be certain which day he was at the property, as he could have been away working in his farrier business. (We note that the first respondent in his evidence stated that Marcus had saddled the first horse on the first day, the 27th, and the second day he had done so.)

[77] Mr Marcus Hamilton was not sure what the first respondent did with respect to feeding the horses. His father's job was to help with the farm work. It was also to look after the baby and to be there should there be any safety issues, such as Ms Robinson getting hurt when exercising the horses. It was possible the first respondent had geared up the hacks but not the racing ones.

[78] Mr Marcus Hamilton said there were usually 5 or 6 horses on the property, sometimes up to 10. They were young horses, which were being educated. Others would be retired racehorses, which would leave the property to be hacks. It was better this than they be sent to the knacker's yard. There were both standard and thoroughbreds on the property from time to time.

[79] With respect to the future of the horses, Mr Marcus Hamilton said he took advice from the two respondents. Ms Robinson would make the decisions. He had had no direct contact with Mr Kennedy and had no idea who had made the decision to go to Mr Kennedy's but it was probably the first respondent as he had more experience. Ms Robinson did all the feeding and working of the horses.

[80] Mr Hamilton then continued with his defence. He emphasised that two of the four horses were hacks. He said Ms Robinson told him how the horses were going. Mr Kennedy had rung up and asked how the two horses were going. They had gone to Mr Kennedy's property two or three times previously and had been floated back to Omakau. This was to let them go to jumpouts and it also allowed them to be worked on the course at Wingatui.

[81] Two horses (the horses described as hacks) were both going eventing and the other two MURRAY and BET YA WOOD had since been floated to Mr Kennedy's and were now racing from his stable.

[82] Mr Hamilton said he was aware that Mr Allison was keeping an eye on him and he was not training horses, as the RIU alleged. He did not have a licence and knew he was unlikely to get one, and he now doubted whether he would want one. He said he had put a saddle and pacifiers on horses. These were the two hacks, and not MURRAY and BET YA WOOD. He reiterated he was not training and did not have anything to do with racing horses.

[83] Mr Lange questioned Mr Hamilton as to who did the original negotiations with the owners of the horses. Mr Hamilton replied it was him. It was when he had a licence and was training the horses. At one point in time he had had 22 to 30 horses in work, and Ms Robinson and Ms Emerson had ridden the horses.

[84] Mr Hamilton said either he, Ms Robinson or Ms Emerson fed the horses. When he left the Omakau racecourse some of the horses had gone to Mr Kennedy and others to Mr Blair-Edie. Some had also gone to Ms Emerson but she had also lost her licence.

[85] Mr Hamilton emphasised that he only brought in two horses, not four. He never touched the racehorses. The horses had to be brought to the yard before saddling. The horses had to be saddled for exercise every day. He had not saddled up the first horse on 27 September, his son Marcus had. When questioned as to what day-to-day involvement he had with the welfare of the horses, he said he had never checked the feet of horses nor groomed a horse in his life. He had fed the hacks himself, but not the other two. The two horses he had been leading were the hacks. He had not been involved with the other two horses, as he would not lead one horse and have another follow him through the gate.

[86] Mr Hamilton questioned the accuracy of the evidence given by Mr Irving and Mr Allison. He said they were too far away to see what was happening and they were wrong when they said he went and got the other two horses. He had been getting the horses in so Ms Robinson could ride them. It was his first job for the day. It was not normally part of his daily routine.

[87] Mr Hamilton said he had no formal agreement with Ms Robinson to ride the horses. The "bloke from BET YA WOOD" gave him the money to give to her. The amount varied. It could be \$50 a week or a fortnight. It was for both riding and feeding the horses. It was "petrol money". Mr Eckhoff gave him money, perhaps \$400 per month. There was no set amount, but say \$100 per week. It was cash but sometimes they would barter and payment might be bales of hay or such like. He gave Ms Robinson about \$50 a week from this source.

[88] Mr Hamilton said he was not upset at his treatment by some people at Omakau. He had commenced a court case and was confident he would get damages. He had been in racing for 50 odd years and was aware there were ups and downs.

[89] With respect to obtaining the horses, he said he had contacted Windsor Park some 18 months ago as he wanted horses to race. That horse was now an eventing horse. He did not think the change of ownership had been done. But he believed the papers had been sent down when the RIU spoke to Mr Schick.

[90] Mr Hamilton had obtained MURRAY from Mr Lambert, and Ms Emerson had taken the horse over when he was disqualified. The horse had had a jumpout and had then raced out of Mr Kennedy's stable. Ms Robinson had been working him on a daily basis. The horse had gone to Mr Kennedy's three or four times before it won at the jumpouts.

[91] When questioned as to who decides the feeding regime, Mr Hamilton said no one, but Ms Robinson, if need be. The decision was certainly not his. It was either that of Ms Robinson or his son. Someone had to feed them but he was not making decisions with respect to them. Mr Lambert had sent MURRAY to Mr Kennedy's stable. It was not his decision to take him there. The horse, he added, did not take a lot of work.

[92] With respect to the two hacks, it was accepted that the decision they were not up to racing was made only some two or three weeks prior to our hearing this matter. It was after the two days in question. One of these horses, the one that was Ms Robinson's, had gone in the wind. She had gifted this horse to a Mr Dolamore. (We note a statement dated 8 November from this person states that the horse was rehomed as an eventer.)

[93] Mr Hamilton was unsure when the documentation concerning the lease of the two hacks had occurred. (We add we received an undated Notice of Change of Ownership of a Horse form for the TheWayYouAre filly. The new owner is Russell Nevill of Moa Creek.)

### **Second respondent's case**

[94] The second respondent opened her defence by stating she wished to clarify an aspect of her statement to Mr Cruickshank. She said she did not receive money regularly from the first respondent. She produced a bank statement that demonstrated there were no payments from him. She said she would receive cash from time to time from him but this money was not directly from him, it was from the owners of the horses and "other sources". She said she assisted Marcus and the owners of the horses in order to get her name out there, especially to Mr Kennedy. She said she wanted to own and train horses herself but could not do so as she did not have the necessary money.

[95] Ms Robinson stated she had got her probationers licence two or three years ago. (We take this to be a trackwork licence.) Some 10 years ago she had worked for Ms Sally MacKay although this did not extend to race riding. She was a qualified veterinarian nurse and had spent time in Europe as a professional polo groom for the team from Argentina. She was very adept at saddling horses as a



consequence of her polo experience. She had had a team of 6 to 8 horses to look after, including 3 to 4 in each chukka. There were 24 horses in the team. In the off-season, she looked after a team of 80 horses for the winter.

[96] Ms Robinson said she had two young children. One was aged 5, and the other was about to turn 2. Mr Hamilton looked after these children whilst she was riding the horses at Mr Marcus Hamilton's property. She had also ridden for Ms Emerson. With both her and Mr Hamilton being not able to train, her finances and career had been affected.

[97] Mr Lange questioned Ms Robinson as to her daily routine. She said she would go to Mr Marcus Hamilton's property after her daughter got on the school bus. This was usually around 8 o'clock. There was no time planned, as such. She was up at 6 o'clock and would text Mr Hamilton or Marcus to ensure there was someone to keep an eye on her and her children.

[98] Ms Robinson said she usually geared up the horses. The first day it was just the one horse that was saddled up when she arrived. She thought it was just the one again on the second day. She thought Mr Hamilton had saddled up her hack. He knew he was not allowed to touch the other horses and he only fed two of them.

[99] Ms Robinson said it was disputable whether Mr Hamilton had lead four horses in. Two of the horses were racehorses, one was her hack and the other was Mr Russell Nevill's horse. She said she cared for the horses out of love, and one of the horses was hers anyway. It was only on the odd occasion that she was paid to ride the horses.

[100] Ms Robinson said she was paid cash only. It was from Mr Hamilton "as such" or Mr Eckhoff. It was sometimes \$50 per week, if that. It was just enough for petrol. She explained she lived 7 or 8 kms away.

[101] Ms Robinson said Mr Marcus Hamilton had initially asked her to do the work at the property. She was simply to carry on riding the horses as she had before they were moved to his place. She had helped break in a colt, which was now a hack. She rode MURRAY because Marcus had asked her to come out and ride him and he needed someone to ride the other horses. Her arrangement to ride the horses was with him.

[102] When questioned, if it was a favour for Marcus, why was Mr Hamilton paying, she said the money came from Mr Eckhoff. She emphasised she did not work for the first respondent. She had also been doing farm work for Marcus and was paid but nothing was set.

### **Summing up**

[103] Mr Lange commenced his summing up by saying it was a credibility issue for the Committee as to whether Mr Hamilton was involved in the training of the horses and whether Ms Robinson was assisting him.

[104] Mr Lange said the focus was on four horses not two. The decision that two of the horses were hacks was not taken until after the visit by the RIU, and consequently they were being treated as racehorses at the time in issue.

[105] Mr Lange stated the RIU witnesses were clear in their evidence that four horses were led in by Mr Hamilton. The defence said one, perhaps two, were saddled by Marcus Hamilton and two by Mr Hamilton, yet Marcus denied have anything to do with the horses and was not certain which day he never saw the RIU.

[106] Mr Lange stated that training included getting the horses in to be worked, saddling, collecting them after they had been worked, un gearing them, providing the feed, and then the physical feeding of them. He said Mr Hamilton had first acknowledged he was involved only on the day on which he was questioned, but had then accepted it was for the two days when the RIU said they had seen him the previous day too. If he lied, Mr Lange asked, "What was the reason for this?" He answered his rhetorical question by stating he believed it was because Mr Hamilton was involved in training.

[107] MURRAY had been at the workouts within a week of the dates in question, and had gone to Mr Kennedy's place for this purpose.

[108] Ms Robinson, when initially questioned, said she did everything. On 28 September, Mr Lange emphasised, she did not know their names. She had now acquired an interest in two of the horses. He emphasised there still appeared to be no paper work with respect to this. (We observe these two horses are the Gorky Park which has been gifted and a half interest in BET YA WOOD, which is now in Mr Kennedy's stable.)

[109] Ms Robinson had continued to ride the horses from the time Mr Hamilton lost his licence and after Ms Emerson lost hers and when the horses went to Marcus' property. She was the person who had ridden the horses consistently. She was assisting in the preparation of horses for racing. The only conclusion the Committee could draw was that Mr Hamilton was training the horses. Mr Lange accepted Ms Robinson was doing this out of loyalty and he had some sympathy for her but he emphasised she knew Mr Hamilton was disqualified. She may have been well-intentioned but she was in breach of the Rules.

[110] Mr Hamilton in reply stated the names of the horses were not significant. Horses have stable names and it was usual to use these. It was not unusual not to pay a transfer fee until it was known whether a horse was any good. He questioned how was he to know if these horses were racehorses.

[111] MURRAY had gone three times to Mr Kennedy for him to assess the horse. It was only now ready to trial. It was Mr Kennedy who had made the decision that the horses were racehorses, not him. Mr Hamilton said he had had nothing to do with this.

[112] Mr Hamilton submitted that there was no proof as to what horses he had put saddles on, as the informant's witnesses were too far away. He emphasised there were no photos of him feeding the horses.

[113] Ms Robinson said she had not been assisting the first respondent. She had been helping Mr Marcus Hamilton and had been assisting herself by trying to establish a career. She was concerned as to the welfare of the horses. She said the RIU thought she was assisting Mr Hamilton. The fact that they could not see she was trying to assist herself was frustrating and made her angry.

## **Decision**

[114] The RIU's case is that Mr Hamilton was involved in the training of the four horses and that the second respondent, with the knowledge that he was a disqualified person, assisted him.

### ***The first respondent — Mr Hamilton***

[115] The informant's witnesses, Mr Irving and Mr Allison, have given evidence as to what they saw on 27 and 28 September 2017, respectively, when they conducted a surveillance operation at the property of Mr Marcus Hamilton at 881 Glassford Rd, Omakau. They were positioned on public land some distance from the tie-up area. They were using binoculars and have clearly described what they saw. When the horses went out of their view, they have said so.

[116] We note at the outset that as there is no identification of any horse by reference to the colour of the hood (pacifier) or saddlecloth that was being worn, we do not repeat this aspect of the witnesses' evidence. With respect to the fourth horse being worked on 28 September, this was BET YA WOOD, as Ms Robinson was walking that horse back from the paddock when Mr Cruickshank arrived and recorded its branding.

[117] On 27 September 2017 Mr Irving witnessed Mr Hamilton arrive at 881 Glassford Rd at 7:19 am. He went to a paddock where he put in place a fence break. He then drove to the stable area. He led four horses from the front yard to a tie up area and was observed saddling up one horse in the tie-up area. This was before Ms Robinson arrived at the property.

[118] A short time after Ms Robinson arrived she mounted this horse and walked it to the track, which was simply an area in the front paddock that was being used to work the horses. Mr Hamilton drove a quad bike towards the track before returning to the stable area.

[119] The horse was ridden four to five times around the track, involving both jogging and cantering, and was then taken back to the stable area. Mr Irving witnessed Mr Hamilton unsaddling the horse and putting a cover on it.

[120] A second horse was walked to the track by Ms Robinson. It was worked on the track in a similar manner to the first horse and it too returned to the stable area. The horse was then out of the view of Mr Irving.

[121] Within four minutes, a third horse, complete with saddle, was walked to the track by Ms Robinson. It worked in a similar fashion to the others. After it returned to the stable area, a fourth horse emerged complete with saddle, from the stable. This was within a period of three minutes. It was worked by Ms Robinson and then returned to the stables.

[122] Mr Hamilton then drove a ute, and was followed by Ms Robinson leading two horses, to the area where the fence break had been erected earlier and then he drove back to the stable area.

[123] Mr Hamilton and Ms Robinson were observed by Mr Irving to be tending, grooming and checking the feet of two of the horses.

[124] Ms Robinson left the property at 9.53 am. At 10:10 am Mr Hamilton was seen to feed out four horses in the front yard before departing the property.

[125] The following day, 28 September 2017, Mr Allison was positioned observing 881 Glassford Rd before 7 am. He stated there were six horses on the property, two were behind an electric fence in the front paddock, and four were situated near the stable area.

[126] Mr Hamilton's utility arrived at 7.27 am towing a trailer with large bales of hay. Following the first respondent's entry to the property, Mr Allison observed Mr Hamilton lead two horses towards the stable/tie up area. Mr Hamilton then went out and retrieved another horse with a lead and the remaining horse followed Mr Hamilton through the gate. Mr Hamilton saddled up a horse.

[127] Ms Robinson arrived and mounted this horse. It was worked on the track. Mr Hamilton was seen by Mr Allison to lead the worked horse away and it was tied up in the tie up area where it was cooling down.

[128] Ms Robinson was said to immediately climb on the second horse and head down the lane to the track. Mr Allison was of the view that Ms Robinson did not have any opportunity to gear this horse up.

[129] Whilst the second horse was working on the track, Ms Robinson was regularly heard by Mr Allison to be encouraging that horse in its work. He heard her refer to the horse by the words "good girl". He said this indicated the horse was a filly or a mare. We note the Windsor Park horse is a filly and this horse is now a hack and will be eventing.

[130] Within three minutes, a third horse, complete with saddle, was walked to the track by Ms Robinson. It worked in a similar fashion to the others. After it returned to the stable area, a fourth horse emerged from the stable. It was worked by Ms Robinson and then returned to the stable. Mr Allison said there was only one minute between the horse arriving back in the stable tie-up area and the fourth horse being mounted and walked to the track to work.

[131] The Racing Investigators, Mr Irving and Mr Cruickshank, then arrived at the property and Mr Allison said he left his vantage point. He emphasised that throughout the time he was observing the property he saw no other persons present in the stabling area, other than the two respondents. All four horses worked four to five laps at a slow pace/ canter.

[132] Mr Irving spoke to Mr Hamilton and asked him what his role was. He responded he did nothing at all and he had come down to the property to look after a child and do farm work. He said he did not go anywhere near the horses and acknowledged that the property belonged to his son and his wife.

[133] Mr Hamilton, when he was told the RIU had been watching him that morning, said he had assisted that morning only because his son was not there. When told that he had been watched the previous day also, he acknowledged he was there and had moved two horses out to the paddock. It was then put to him he had been saddling up the horses in the morning, and he replied, "Yeah, oh, well, okay". He agreed with Mr Irving that it was a bit of "pre-training" and he said his son had gone to Glenorchy the day before (the 27th) and that was why he had "put the saddles on this morning and looked after the kid." He also acknowledged that he had been preparing the horses to go to Mr Terry Kennedy's stable to get back into racing. He said he had been using the track at the property for 50 years, it being his home farm, which his son had taken over.

[134] The first respondent acknowledged there were four horses on the property:

- a. One owned by Gordon Lambert;
- b. One owned by Windsor Park;
- c. One owned by Westbury Stud;
- d. One owned by Andrew Campbell.

[135] He referred to one of the horses being called MURRAY and that BET YA WOOD had raced previously. The other two were unnamed, and one had been leased by a syndicate. It was still not known whether the other two horses were any good.

[136] Inquiries regarding the ownership of the horses revealed the horses were:

- a. MURRAY a four-year-old unraced horse, owned by Mr Gordon Lambert;
- b. BET YA WOOD a four-year-old gelding, which has raced on two occasions, owned by Mr Andrew and Ms Danielle Campbell;
- c. An unnamed three-year-old filly by THEWAYYOUARE, owned by Windsor Park Stud; and
- d. An unnamed three-year-old GORKY PARK colt, owned by Marriott Thoroughbreds Ltd.

[137] Inquiries with NZTR confirmed none of the horses had been notified as being retired from racing as hacks.

[138] On 4 October 2017, the registered thoroughbred MURRAY was presented to race at the Wingatui jumpouts and won its 800-metre heat. MURRAY raced from the stable of Mr Terry Kennedy. Mr Kennedy advised that the horse had only arrived on the day of the jumpouts. The horse raced at Wingatui on 7 November at the Melbourne Cup day race meeting, finishing mid field.

[139] On 15 October 2017 Mr Kennedy further advised Mr Allison that the horse BET YA WOOD was now in his stable.

[140] Inquiries by the RIU confirmed that the horses were sent south to be leased or sold to Mr Hamilton for the purposes of racing.

[141] Mr Hamilton questioned whether the witnesses could see all that they claimed to from the distance they were from the property. He denied any involvement with the two racehorses.

[142] Mr Hamilton is charged with a breach of r 1104(1)(b) of the NZTR rules which prohibits a disqualified person from being involved in the training of horses. The essence of the RIU's case is that Mr Hamilton was involved in the training of the horses as he brought the horses to the tie up/stable area, geared them up for the trackwork rider, received them after they had been worked and ungeared them. He was also seen by Mr Irving to be grooming, checking the feet, and feeding them. In addition, he had prepared two horses for Mr Terry Kennedy, and within a week of the surveillance operation one of the horses, MURRAY, raced at the Wingatui jumpouts.

[143] Both Mr Allison and Mr Irving are of the clear view that there was insufficient time for the one person to both dismount from and tie up the horse that had been worked and to then saddle and gear up the next horse and for it to come back into their view when being walked to the track for work. Ms Robinson spoke of her experience at saddling polo ponies, and asked us to conclude she would have been able to dismount from, tie up, and gear the next horse in the time available to her.

[144] When we assess the evidence concerning whether Mr Hamilton saddled all four horses, we are led to conclude that he did. He admitted such to Mr Irving when he said, "Yeah, oh, well, okay, Do your...". Both Mr Irving and Mr Allison have said in their view there

was insufficient time for Ms Robinson to dismount and saddle the horses on the day that each was observing the property. We do not overlook Ms Robinson's experience with polo ponies in reaching this conclusion.

[145] However, we do not believe that this is significant in determining the outcome of this case. The two racing investigators who observed the property physically witnessed Mr Hamilton saddle one horse on each of the days. Mr Irving saw him unsaddle the first horse, and the following day Mr Allison saw him leading four horses to the tie-up area. It is not disputed that Mr Hamilton was involved in leading two of the horses and saddling one on at least one of the days. (We note Mr Marcus Hamilton's evidence that he thought he might have saddled one before leaving the property before going to Glenorchy, although he was uncertain as to which day he was present — the first respondent stated when interviewed by Mr Irving on the 28th that Marcus had gone to Glenorchy the day before and was to return sometime in the afternoon of the 28th. However, the evidence of Mr Irving and Mr Allison is clear that they each witnessed the first horse that was rode on each of the two days being saddled by the first respondent.) The four horses at the time were being treated in the same manner. All four were being given work.

[146] We observe that the information laid against Mr Hamilton, Information No. 6645, alleges that he "did assist in the training, care or control of thoroughbred horses". This is similar in language to the wording of r 1106, which relates to a suspended person. The correct rule, r 1104, is identified in the information and this was the rule that was read to Mr Hamilton at the commencement of the hearing and which he indicated he understood. This rule prohibits only the training of horses. The evidence and the submissions from both parties addressed the issue of whether Mr Hamilton was training the four horses in question. We thus are satisfied that the use of extraneous words in Information 6645 has not misled the first respondent nor has it prejudiced him in presenting his defence.

[147] To train a horse means in simple terms to prepare a horse for racing. This was the case clearly with MURRAY, as the horse was able to run (and win) a workout within a week of the dates in question and a further horse, BET YA WOOD, was also in Mr Kennedy's stable by 15 October.

[148] We do not believe it is of any relevance that two of the horses ultimately were not persevered with as racehorses and are now hacks. At the time in question, we are satisfied the two horses now described as hacks were prospective racehorses. That they are now hacks is unfortunate for the original owners who intended that they race, although it is pleasing for us to see that the horses were evidently well cared for and have been found alternative futures.

[149] Rule 1104(1)(b) prohibits a disqualified person from training any horse. The first respondent was involved in the training of the four horses. We thus find the charge proved.

#### ***The second respondent — Ms Robinson***

[150] The RIU's case against Ms Robinson is that she breached r 801(1)(z) when, with the knowledge that Mr Hamilton was disqualified, she either assisted or associated with him in the care or training of the four horses enumerated at [136]. The acts the informant relied on were: the first respondent bringing the horses out to the tie up/stable area, gearing them up for her to ride, her returning them to him after they had been worked to ungear them, her being seen by Mr Irving to be grooming, checking the feet, and feeding the horses, and her being paid by Mr Hamilton.

[151] On 28 September Mr Cruickshank interviewed Ms Robinson, who acknowledged that she was a licensed trackwork rider and that she knew that Mr Hamilton was disqualified. She did not know who owned the horses. When asked whether Mr Hamilton had been at the Glassford Rd property and had been involved in getting the horses ready, she said he had not. She stated that she did everything and he was only there because of her daughter, whom Mr Hamilton looked after whilst she was exercising the horses.

[152] Ms Robinson initially stated during her interview that she was responsible for all the care and training of the horses. She said she got the horses in in the mornings, geared them up, rode them, turned them out, and fed them. She said she came to the property six days a week for an hour in the morning and then back in the afternoon to feed up. When she was advised that the racing investigators had observed Mr Hamilton's actions, she was less forthright in her responses.

[153] Ms Robinson acknowledged to Mr Cruickshank that one horse was geared up when she arrived that day. When asked were the horses being trained, galloped or looked after, Ms Robinson replied, "Not trained, not galloped. I'm just looking after them pretty much. I'm just working them, that's it. They're not being trained and they're not being galloped. I can't gallop in that paddock."

[154] When questioned as to who pays her, Ms Robinson said it just came into her bank account. When the witness stated, "Murray pays you," she replied, "Yeah, but I don't know who that comes from but it's through him still but doesn't mean he has anything to do with the horses." Ms Robinson thus acknowledged to Mr Cruickshank that she was being paid by Mr Hamilton but said she did not know where he received the money from. She believed it was not his money that she was receiving by way of small cash payments.

[155] In conducting her defence, Ms Robinson emphasised she was not receiving regular payments from Mr Hamilton. She did not know who had saddled up the first horse each day. She denied that Mr Hamilton was saddling the horses, stating that she was very adept at saddling due to her polo pony experience. She stated the first respondent's job was to look after her two young children whilst she was exercising the horses. (We observe that one child appears to have started school during the period in which she had been exercising the horses on the Glassford Rd property.)

[156] Ms Robinson disputed the fact that Mr Hamilton had been leading all four horses, drawing a distinction between those that had ended up as hacks and those that had gone to Mr Kennedy's stable. Mr Hamilton had only been involved with the former, she said.

[157] We find that Ms Robinson was feeding and working the horses. There is no issue with her doing this, provided she does not assist or associate with a disqualified person. Mr Hamilton was such a person (and we add he is still warned off). Ms Robinson admits she knew he was disqualified but she continued to both assist and associate with him. The evidence of the two RIU witnesses was clear. Mr Hamilton was leading the horses, assisting with their tie-ups and saddling at least one horse each day.

[158] With respect to payment, money was given to Ms Robinson by Mr Hamilton. This was in return for her caring for the horses by feeding and exercising them. We accept the payment may have not been directly from Mr Hamilton's own back pocket, as it were, as his evidence, which we also accept, is that Mr Eckhoff and representatives of the syndicates involved with the horses would give him money that he would pass on to the second respondent.

[159] We note that r 801(z) is worded more broadly than r 1104(1)(b). It is not clear why this is so. We are satisfied that Ms Robinson assisted Mr Hamilton for the purpose not only of training the four horses but also with respect to their care. We thus find the charge against Ms Robinson to be proved. We agree with Mr Lange that her breach of this rule appears to be out of misguided loyalty to Mr Hamilton. With respect to her concern as to the welfare of the horses, they were Mr Marcus Hamilton's responsibility. They were on his farm. There is no evidence before us that indicates he was shirking his responsibilities, but rather that Ms Robinson continued to care for them as she had done prior to their coming to 881 Glassford Rd. We have some sympathy for her plight, although clearly it was in her financial interests to continue to work and feed the horses. However, we note her recompense or wages appear to be sporadic and minimal, at best. This conclusion is one that can be addressed when we consider the issue of the appropriate penalty.

[160] In this regard, we require written submissions from the parties as to penalty. We are faced with an upcoming holiday period. We are aware that law firms do not traditionally return until the third week of January. We give the RIU seven working days from 15 January to lodge written submissions with the JCA.

[161] The two respondents are given a little longer to prepare their submissions. They are to be with the JCA by 4 pm of the day that is 10 working days after the informant's submissions were sent to them.

[162] In addition to penalty submissions, we require submissions as to costs.

Dated at Dunedin this 19th day of December 2017.

Geoff Hall, Chairman

**Penalty:**