APPEAL NO. 898

RACING PENALTIES APPEAL TRIBUNAL DETERMINATION

APPELLANTS:	**MR GRANT WILLAIMS AND MRS ALANA WILLIAMS**
APPLICATION NO:	**DMS23379/2026**
PANEL:	**MR ROBERT NASH (CHAIRPERSON)**
DATE OF DETERMINATION:	**30 October 2026**
DATE OF REASONS:	**5 November 2026**

IN THE MATTER OF a stay application by GRANT WILLIAMS AND ALANA WILLIAMS against the decision of the Racing and Wagering Western Australia Stewards of Thoroughbred Racing to disqualify them for a period of 12 months for a breach of AR 240 (2) of the Rules of Thoroughbred Racing

Introduction

1. The Appellants are registered trainers with RWWA.

2. On 29 May 2026, the Appellants both pleaded guilty to a charge under AR 240(2) that they:

   'as co-licensed trainers brought and presented STARRY HEIGHTS for the purpose of participating in Race 8 at Kalgoorlie on 4 October 2025 where a Prohibited List A substance ritalinic acid was detected in a post-mortem sample taken after it had competed in and been eased out of the race.'

3. From that point, the Stewards continued to conduct their proceedings in respect of the question of penalty, hearing evidence and submissions on 29 May 2026, 17 August 2026, and 18 August 2026. Throughout those hearings the Appellants were represented by counsel. Thirty six (36) exhibits were tendered into evidence.

4. At the completion of the hearing on 18 August 2026, the Stewards reserved their decision on penalty.

5. On 28 September 2026, the Stewards determined that the appropriate penalty was to disqualify each of the Appellants for 12 months. After deducting 29 days to take into account the period that the Appellants' training licenses had been suspended, the penalty imposed was to disqualify each of the Appellants until 29 August 2027.

6. By Notice of Appeal dated 15 October 2026, the Appellants appealed to this Tribunal against the Stewards' determination.

7. Amended Grounds of Appeal, comprising 16 grounds, were filed on 21 October 2026.

8. The Appellants have applied for a stay of the penalty pending the determination of the appeal by this Tribunal.

9. Submissions in support of the appeal and the stay, each dated 21 October 2026, were filed by the Appellants.

10. The stay application is supported by an affidavit sworn by Grant Leslie Williams sworn on 21 October 2026.

11. On 26 October 2026, the Stewards, as the respondents to the appeal, filed written submissions setting out their contentions and arguments in opposition to the Appellants' application for a stay.

12. The substantive appeal is listed for hearing on 23 November 2026.

Jurisdiction and relevant legal principles

13. The Chairperson of the Tribunal has power under s. 17(7) of the *Racing Penalties (Appeals) Act 1990* (**Act**) to suspend (or stay) the operation of a penalty imposed by the Stewards until an appeal has been determined.

14. The discretion to grant a stay is unfettered but must be exercised judicially having regard to established principles. The following general principles apply in exercising the discretion as to whether a stay should be granted:

    a) an appellant has the onus of showing there are special or exceptional circumstances that exist which justify a stay being granted;

    b) there is a wide discretion which is not circumscribed by rigid rules;

    c) regard must be had to whether there is a risk that the appeal will be rendered nugatory if a stay is not granted; and

    d) there should at least be an arguable appeal, but speculation as to the ultimate prospects of success is usually not appropriate.

Arguable Appeal

15. It is not realistic to undertake a detailed assessment of the strength and weakness of the Amended Grounds of Appeal at this stage other than to make an assessment whether they disclose an arguable appeal.

16. The Appellants advance sixteen (16) grounds of appeal, although according to the submissions filed, two of the grounds are not pressed. I briefly consider some of the grounds below.

Evidentiary standard adopted

17. A number of the grounds go to the process of reasoning adopted by the Stewards in dealing with the Appellants' contention that it was 'reasonably plausible' that the Ritalinic Acid detected in the postmortem blood sample of STARRY HEIGHTS occurred as a result of an inadvertent contamination. It is contended that the Stewards misdirected themselves as to the applicable evidentiary burden carried by the Appellants required to justify mitigation of the penalty on the basis of inadvertent contamination. It is understood that the Appellants' contention is that had the Stewards found that it was reasonably plausible that the presence of Ritalinic Acid was as a result of an inadvertent contamination, a penalty disposition other than disqualification should have been imposed.

18. The reference to the test of 'reasonable plausibility' arises from this Tribunal's decision in *Olivieri* RPAT Appeal No 861. The Stewards' argument is that the Tribunal's reference must be construed in the broader context of that decision and should not be understood as setting a standard of proof that is different to the balance of probabilities. The Appellants argue that the standard of proof to be applied in establishing contamination as a mitigating factor in Western Australia, is lower than the standard adopted in the Eastern States, and they rely on what this Tribunal said in *Olivieri* in support of that argument.

19. It may be that regardless of the above question, the Stewards, in any event, assessed the question of contamination by reference to 'reasonable plausibility'. (See paras [45] and [76] of the Stewards' decision, cf. para [81])

20. If a different standard has been adopted by this Tribunal, it also raises for consideration the applicability of the principles of comity and consistency amongst the Australian racing jurisdictions, which the Appellants have emphasised in other grounds of appeal.

Full Court's decision in *Harper*

21. The Appellants also contend that the lead decision of Anderson and Owen JJ in the five (5) member bench of the Full Court of Western Australia in *Harper v Racing Penalties Appeal Tribunal & Ors*, Unreported SCL 950040B dated 8 February 1995, which Malcolm CJ, Kennedy and Franklyn JJ concurred in, is 'plainly wrong'. It is a

particularly brave submission given the standing and august reputation in this State of the judicial members of that particular bench. However, on closer examination, it is understood that the gravamen of the Appellants' submission is that the decision in *Harper* now has limited relevance and application given it was a decision made in the context of a significantly different regulatory regime that then applied to Thoroughbred Racing.

22. The Appellant submits that the decision in *Harper* has over many years been consistently misapplied by the Stewards and this Tribunal given that the Full Court was not dealing with an absolute liability offence, and that the observations of Anderson and Owen JJ were made in the context of considering the applicability of the defence of 'honest and reasonable but mistaken belief' under section 24 of the *Criminal Code*.

23. Given section 14(1)(b) of the Act provides that the decisions of this Tribunal are final and binding and are not subject to further review, the Tribunal must be open to considering such a submission and giving it careful consideration.

Consistency and Comity

24. The Appellants further submit that the Stewards erred in not affording sufficient weight to the Tasmanian decision in *Office of Racing Integrity v Trinder* dated 7 December 2023, where a fine of $6,000 was imposed in respect of a breach of AR 240 (2) after Ritalinic Acid was detected in a post-race sample.

25. The Appellants make submissions to the effect that the Australian Rules of Racing with respect to AR 240 and the penalty provisions, are uniform across Australia and, accordingly, the principles of comity and consistency ought to be applied across the various state jurisdictions when it comes to penalties. The Appellants submit that the Stewards, and this Tribunal in cases such as *Beard* RPAT Appeal No 536, have over a number of years erroneously failed to adopt those principles when considering penalties to be applied.

26. The Appellant submits that the magnitude of the disparity between the $6,000 penalty imposed in *Trinder* and the 12 months disqualification imposed on the Appellants in this case, bespeaks error. It is argued that given the mobility of trainers and horses between racing jurisdictions in Australia, that such divergence creates a 'completely uneven, and unfair, playing field'.

Categorisation of offending

27. The Appellants also, as I understand it, contend that the Stewards erred in drawing a distinction between prohibited substances that fall into Prohibited List A and Prohibited List B, when assessing the seriousness of the offending. It is submitted drawing such a distinction is not a justifiable on a proper construction of the Rules.

Some arguable grounds

28. Although I have reservations as to the strength of a number of the grounds being advanced, I am of the view at least some of them are arguable. I put it no higher than that.

Hardship and the risk of appeal being rendered nugatory

29. The Appellants rely on an affidavit sworn by Grant Williams on 21 October 2026 which also refers to and relies upon the previous affidavit sworn by Grant Willaims sworn 10 February 2026 which set out the Appellants' financial circumstances.

30. As noted in my earlier stay decision dealing with the suspension order, the Appellants operate in partnership a substantial training establishment with operating overheads in the order of $4.9 million per annum of which $2.5 million are fixed overheads. Their sole source of income is derived from racing and they do not have any separate sources of income.

31. In their penalty determination, the Stewards recognised:

    a) that the Appellants were the State's leading trainers and have been for many years;

    b) that they operate a vast and successful operation;

    c) any interruption to the normal conduct of that operation will be an impactful and significant matter;

    d) many people rely on the operation in terms of the training of horses and the employment of staff; and

    e) the consequences of a disqualification would result in the potential loss of livelihood and would have a severe impact beyond what is ordinarily suffered by trainers.

32. In their submissions opposing the grant of a stay, the Stewards argue that having already taken those matters into account in determining the penalty, those factors cannot be relied upon in support of a stay, since to do so would be afford the Appellants a 'double credit for the same factor'.

33. I do not agree with the Stewards submission in that respect. If the Appellants' appeal ultimately proves to be unsuccessful, then they will derive no double credit and will be required to serve the full length of the disqualification imposed.

34. The appeal is listed before the Tribunal on 23 November 2026.

35. There is a risk that by not staying the disqualification, the Appellants will suffer financial damage which they may not be able to entirely recover from, such that a successful appeal may thereby be rendered nugatory.

Exceptional or Special Circumstances

36. The Stewards acknowledged at the outset of their reasons for penalty that this matter has significant implications for both the Appellants and the Racing Industry, and that the penalty to be imposed will set the standard for cases such as this in Western Australia, being the first case in the State involving Ritalinic Acid.

37. In my view there are special or exceptional circumstances in this case, given:

    a) the case involves a substance that has not been previously detected;

    b) the only other reported case involving the detection of Ritalinic Acid in Australia resulted in a $6,000 fine; and

    c) the matters set out in paragraph 31 above.

Conclusions and orders

1. I am satisfied that:

    a) there some arguable appeal points contained in the sixteen Amended Grounds of Appeal albeit I express no view as to their merit beyond that;

    b) that there is a 'risk' that the Appellants will suffer irreparable damage by the continuation of the disqualification if the appeal should prove to be ultimately successful; and

    c) although acutely mindful of the need to maintain public confidence in Racing, I consider the balance of convenience favours the grant of a stay until the conclusion of the hearing of the appeal on 23 November 2026.

2. Accordingly, for the reasons set out above, on 30 October 2026 I made the following order:

    Pursuant to s. 17(7) of the *Racing Penalties (Appeals) Act 1990*, I direct that the RWWA Stewards' suspend the operation of their order made on 28 September 2026 disqualifying the Appellants as licensed trainers, until the conclusion of the hearing of the appeal on 23 November 2026 with liberty to the Appellants to apply for an extension of the suspension order at the conclusion of the Tribunal hearing on that date.



ROBERT NASH, CHAIRPERSON

