



BEFORE THE BRITISH HORSERACING AUTHORITY JUDICIAL PANEL
LICENSING COMMITTEE

**IN THE MATTER OF AN APPLICATION BY
MILTON HARRIS**

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INTRODUCTION

1. Milton Harris ('MH') is a gifted and successful trainer of horses. He has trained many winners over the years. He is accomplished and competent to train and has appropriate facilities. Nevertheless, the BHA no longer considers MH to be a suitable person to hold a Licence to Train. It has accordingly referred his application for a licence to the Licensing Committee ("the Panel") in accordance with Rule (B) 15 of the Rules of Racing, on grounds that it maintains that he is not a 'fit and proper' person to hold a licence.

2. The concerns of the BHA arise out of:
 - a. The nature and extent of MH's admitted breaches of the conditions which already exist on his Licence, which were imposed in 2018 and MH's failure to be candid in his dealings with the BHA in respect of those breaches, particularly when the BHA was seeking to provide opportunities for MH to remedy those breaches.

 - b. Misconduct in his dealings with others, including fellow Licence holder Mr Simon Earle.

 - c. Concerns in respect of safeguarding arising out of MH's conduct with young persons employed at his racing yard.

THE EVIDENCE BEFORE THE PANEL

3. This hearing took place in private and in the absence of the media over 4 days between 15 and 18 January 2024. At a previous directions hearing, the Chair gave directions regarding measures to be put in place to facilitate the evidence given by some of the witnesses given that they had potential vulnerabilities. Those measures included allowing evidence to be given remotely via video link,

for the witnesses who were children at the relevant time to be permitted to be accompanied during their evidence and for topics of cross-examination and specimen questions to be shared privately in advance with the Chair. Witnesses were permitted breaks and an indicative timetable for evidence was agreed between the parties in order to manage waiting time and expectations.

4. On 12th January 2024, the Judicial Panel received an email from the Deputy Industry Editor, of the Racing Post, seeking permission to attend the hearing in order to report during the course of proceedings. The Panel heard oral representations on the morning of 15th January, including from the journalist wishing to report and gave a judgment refusing the application on the basis that there were potentially vulnerable witnesses who had a reasonable expectation of privacy in the circumstances of the case and that the potential prejudice to the fairness of the hearing therefore outweighed the public's right to follow the proceedings during the course of the hearing.
5. We heard evidence from several witnesses. We have decided that, in light of the nature of the conduct which we have needed to consider, that the evidence of those witnesses who were Young Persons at the time of those incidents (and in respect of one other witness who is a close relative), we would anonymise them, first by replacing their names with ciphers and secondly, by keeping reference to identifying detail to a minimum. Obviously, the parties and their connections will still know who these people are. However, we would expect those reporting on this judgment not to report in a way which would have the potential to reveal the identity of those witnesses to the public at large.
6. The papers before us were extensive. In addition to a main bundle, which contained more than 1,000 pages, we also had a correspondence bundle

comprising about 200 pages and a supplemental bundle of a similar size. Each party provided the panel with a skeleton argument.

7. Naturally, we have not covered every single piece of evidence which was before us in this judgment but have sought to focus on those parts of the evidence which were the most important to our decision.
8. There is some evidence to which we have had no regard. Partway through the hearing, the BHA sought permission to rely on the statement of an additional witness, whose evidence was said to be relevant to effects of the breaches of conditions of the licence. It was not proposed to call the maker of the statement and the evidence was disputed. The Chair ruled on behalf of the Panel that the evidence should not be permitted in all the circumstances. The specialist members of the Panel never saw the statement and the Chair has not taken any account of its contents. Similarly, although we heard evidence from Ms Maisie Say, the BHA subsequently withdrew any reliance on her evidence, and we have therefore completely disregarded both her statement and oral evidence and we say no more about it or the circumstances in which it came to be withdrawn.

THE RELEVANT RULES OF RACING AND GUIDANCE

9. The Guidance Notes of the BHA to applicants for a Licence to Train make plain that the burden is on an applicant to demonstrate that they are in all the circumstances suitable to hold a licence ('a fit and proper' person). Section J under the heading 'General Suitability' provides more detail:

“27. In considering any application, the BHA must also be satisfied, taking into account any fact or matter that it considers appropriate, that the applicant is suitable to hold a

licence. Relevant considerations include the applicant's honesty and integrity, business competence and capability and financial soundness.

28. In relation to each section below, the BHA expects full and frank disclosure from the applicant, who is required to disclose matters known to him/her and those which he/she can be expected to discover by making enquiries. Failure to do so will be a relevant factor in the assessment as to an applicant's competence, honesty, and integrity.

29. A person whose conduct, behaviour or character is not in accordance with that which, in the opinion of the BHA, should be expected of a licensed person, may not be considered suitable and therefore may be refused a licence.

30. In some cases a single factor may lead to the conclusion that someone is not suitable, whereas in another case the determination of whether someone is not suitable may depend upon the cumulative assessment of a number of matters.

31. It is not possible to produce a definitive list of all matters that would be relevant to a particular application. This document should be considered a guide as to the sorts of

considerations that the BHA will have in mind when making such an assessment.”

10. Paragraph 32 gives specific instances of lack of honesty and integrity to which the BHA will have regard, including being the subject of criminal proceedings or conviction, previous adverse findings in materially relevant civil matters, past regulatory compliance and whether the applicant has been ‘candid, open and truthful’ in all his dealings with the BHA or other sports regulators. Mr Henry KC, on behalf of the BHA, took us particularly to paragraph 32.7 and suggested that the conduct represented a threat to the health, welfare, or safety of others.
11. It can be seen from the above, that particular importance is attached by the Sport of Racing to the integrity and honesty of those who are privileged enough to hold a Licence to Train. In one of its previous decisions of April 2011, this Licensing Committee set out lucidly why this is so (para 95),

“Looking at the overall context of the Guidelines, the world of horse racing relies heavily upon trust. The public attending and gambling upon races, the owners committing their resources and time and the trainers, jockeys and others earning their living from horse racing must have trust in the horse racing industry controlled by the Authority. Part of that trust is a belief that trainers who receive licences satisfy the requirements contained within the Guidelines including that they are suitable by reason of their honesty and integrity. That trust depends upon the industry not only being but also being seen to be trustworthy. Once any sport suffers from doubts over the trustworthiness of its participants, its reputation suffers, and it risks decline. This is particularly the case in a sport which involves gambling. Not

only is this trust at the core of the sport of horse racing but it is also a foundation for its success.”

12. We have been referred to caselaw taken from the other regulatory spheres regarding the purpose of the ‘fit and proper person’ test. We are mindful of the fact that our determination of that issue has no punitive element, rather, it concerns protection of the public and public confidence in the sport of horse racing, as explained in *GMC v Meadow and another [2006] EWCA Civ 1390, para 30*. We have also been helpfully directed to the observations of Lord Bingham in *R v Crown Court at Warrington, ex p RBNB [2002] 4 All ER 131*, that the expression ‘fit and proper person’ takes its colour from the context in which it is used.
13. The issue for us is whether MH has the personal qualities and qualifications reasonably required of a Licensed Trainer of horses for racing. It was urged upon us by Mr Quinlan KC on behalf of MH that we should not set the bar too high or have ‘stratospheric’ expectations. We have reminded ourselves that the ‘fit and proper person’ test is not one of perfection or anything approaching it. However, a reasonable racehorse trainer needs to be able to demonstrate that they can meet the terms of the Guidance, or that if they have failed to do so in the past, that their future conduct will in fact meet those standards.
14. The approach we have taken is to consider the disputed evidence and make findings of fact in respect of past events. Considering those findings, we have then exercised our judgement as to whether MH meets the required standard, and if not, whether he might be able to do so with appropriate support or additional conditions.

MH's HISTORY OF LICENCE APPLICATIONS

15. We set out below some of MH's extensive history in dealing with the Licensing Committee. We have not relied on the findings of the previous committees when considering our determination of the facts which were disputed before us. However, the background is relevant to understand how the current proceedings have come about and, when exercising our judgement as to whether MH is a fit and proper person to hold a licence, we have taken into account his previous history before the Licensing Committee.

16. MH had a period of financial difficulty in the 2000s. He applied for renewal of his licence to be permitted to train horses and a hearing took place before the Licensing Committee on 14 Jan 2010 following an objection by the BHA to MH's application. It seems that the concern of the BHA at that time was to ensure that MH's financial difficulties did not infect his training business and that members of the racing community and the public were adequately protected from MH's financial issues. The outcome of that application was that the Licensing Committee wished, 'to continue to keep the training business separate from Mr Harris' financial affairs...and to restrain MH from engaging in bloodstock transactions.' He was granted a 3-month temporary licence, solely as an employee of Equine Enterprises Limited (EEL) on conditions which we paraphrase as meaning that:
 - a. He did not enter any third-party transactions on behalf of EEL outside the training part of the business.
 - b. An approved person was the sole director of EEL and signatory on cheques drawn on any account held by EEL.

- c. MH would notify the BHA of any legal proceedings or judgment entered against him.
 - d. BHA have supervisory powers in respect of the EEL accounts.
- 17. The interim orders were extended at a further hearing on 7 May 2010 until 18 June 2010 on slightly less restrictive terms which permitted him to deal in horses when instructed on behalf of an owner or in respect of his existing stock. At the hearing on 18 June 2010, MH was granted a licence until 31 January 2011 which restricted the circumstances in which he was permitted to buy and sell horses and maintained terms similar to those outlined above.
- 18. MH applied again for a licence to train horses from 1 February 2011 and the Licensing Committee refused a licence. One element of the Licensing Committee's decision related to its finding that MH had breached the conditions which had previously been attached to his licence. In its reasons dated 24 January 2011, it held, in reliance on the Guidance we have set out above, that questions of 'honesty and integrity should consider an applicant's record of compliance with regulatory requirements which will include compliance with the conditions of an existing licence.' (Reasons, paragraph 67).
- 19. MH appealed that decision, and the Appeal Board remitted the matter back to the Licensing Committee. At the re-hearing the Licensing Committee once again refused a licence for the period until 31 January 2012. This time, MH's appeal was dismissed on 27 May 2011. On 24 June 2011, a Mrs Merrita Jones applied for a licence to train, with MH in the position of assistant trainer/racing manager. The Licensing Committee granted this application, having satisfied itself that the arrangement was genuine and not merely a sham or front to permit MH to continue as trainer in all but name.

20. However, by 12 July 2011, Mrs Jones relinquished the licence and on 7 December 2011, MH once again applied for a Licence to Train. The BHA indicated to MH that as there was no material change in circumstances, it would not be considering the application and MH subsequently withdrew it.
21. A further application to train from MH, this time for the period 1 February 2013 until 31 January 2014, was received by the BHA on 13 May 2013. This application was made on the basis that MH would be an employed trainer for 'Be Lucky Racing Limited'. Again, the BHA raised objection. MH applied again for a licence on 13 March 2015, this time for the period February 2015 to January 2016. A hearing of the Licensing Committee on 2 and 3 June 2015 refused the application.
22. MH applied again on 4 July 2017 and ultimately on 22 November 2018, a licence was issued by the BHA, on the basis that MH was to be an employee of 'Avon Racing Limited' and subject to a series of conditions which, insofar as are relevant, are summarised below:
 - a. That MH would not be owner, director or shadow director or have any financial link to Avon Racing Limited ("ARL") other than a contract of employment whose terms would be provided to the BHA ('**Condition 1**').
 - b. That MH would disclose information to the BHA including any business relationships or any changes in the financial management or ownership of Avon Racing Limited ('**Condition 4**').
 - c. That (i) all horse transactions would be solely by way of written agreement and (ii) all information regarding the terms of any sale of an interest in a horse trained or to be trained by MH would be available to the BHA on request ('**Condition 6**').

23. Since that time, MH has held a licence to train, subject to certain Conditions, which has been subject to monthly review by the BHA since the breach of Conditions 1 and 4 (discussed below) came to the attention of the BHA. The purpose of these Conditions, was, we find, to ensure that MH's sole relationship with ARL was in the guise of employed trainer. In particular, he was not to have ownership or control of ARL. We find that the purpose of those conditions was to manage the risk which MH had shown himself to be in respect of being able to control and operate the financial aspects of a business by ensuring that any such business would trade independently of MH and would be managed by competent and experienced individuals. The administrative and business side of the trainer's yard was therefore to be kept under the control of other individuals who would be accountable to ARL and any changes would not take place unless the BHA had been given the opportunity to satisfy itself that there was sufficient protection for the industry and public in any altered arrangements.
24. Furthermore, MH was not to have trading dealings in horses on behalf of ARL. Any horse transactions would be through his separate company, MFH Bloodstock Limited or in his personal capacity. This was designed to promote transparency. The directors of ARL were to be Mr Jozef Kowalewski (JK) and Mr John Naylor (JN), each of whom was subject to conditions on MH's licence. We find that the purpose of the conditions was to ensure that the corporate and financial control of the training business, ARL, was separate from both MH and his bloodstock dealings.

THE ADDITIONAL LICENCE CONDITIONS

25. The current licence conditions retain those applied in November 2018 but in addition, include the following since spring 2023: -

- a. MH will not initiate any form of contact (whether in person, via email, via social media or otherwise) with LHR or with LGX. MH will make all reasonable endeavours to ensure that all those in his employment do not initiate any form of contact (whether in person, via email, via social media or otherwise) with LHR or with LGX.
- b. MH may not employ any Young Person or Adult at Risk (as defined in the BHA Safeguarding Regulations) nor may any Young Person or Adult at Risk reside in the Licensed Premises operated by MH.
- c. MH will not attend certain race meetings as directed by the BHA. The BHA will endeavour to provide 24 hours' notice of any meeting at which MH may not attend.
- d. MH will not initiate any form of contact, directly or indirectly, (whether in person, via email, via social media, third parties or otherwise) with any individual who has raised a complaint regarding his conduct to the BHA. MH will not instruct/incite/request another to make any form of contact with any such individual should their identity become apparent. MH will take reasonable steps to ensure that all those in his employment do not initiate any form of contact with any such individual. MH will not identify any such complainant to any person currently or previously employed by him. In the case of an anonymous complainant, whose identity remains confidential, MH will not identify, or attempt to identify, any such complainant, with the exception of via his nominated legal representative in connection with his lawful defence of the BHA referral (to be served on or before 8 September).
- e. MH will not initiate any form of contact, directly or indirectly, (whether in person, via email, via social media, third party or otherwise) with any individual who has left his employment since January of 2022. MH will not

instruct/recite/request another to make any form of contact with any such individual. In accordance with Condition 11 above a limited exception to this Condition applies. MH's nominated legal representative may make contact with such individuals, on notice to the BHA, if this is necessary in order to prepare the response of MH to the BHA referral.

- f. The BHA and/or MH may apply for the addition, deletion, revision and/or amendment to these conditions during the currency of the licence, if good cause is shown.

BREACHES OF CONDITIONS 1 AND 4

26. Before us, it was common ground that MH had been appointed director of ARL in breach of Conditions 1 and 4 of his Licence as set out above. He also accepted that he had received 100% transfer of shares in ARL and that was a further breach of Condition 1 of his licence.
27. In respect of the directorship, there was some debate regarding the timing when the appointment took effect, but the Companies House documents are in our view determinative of the fact that it was on 1 October 2021 that the resignations of JK and JN were effective, and MH was appointed sole director. Considerable time in evidence was devoted to consideration of the circumstances as to how MH came to be appointed.
28. On 25 May 2020, MH contacted the BHA requesting removal of Condition 1 from his Licence terms. In support of his request, he sent an email which included an email chain in which JK had written,

“Following our Teams Board Meeting last night and the vote conducted, I would like to welcome you onto the Board of ARL.”

29. MH repeated that request of the BHA by email on 17 June 2020, 24 November 2020, 23 December 2020, and 15 January 2021. On 24 March 2021, ARL held a meeting of its board of directors and voted to elect MH as a director. At about that time MH told us in his evidence, and we accept, that he signed a form consenting to be appointed a director but did not date the form.
30. MH wrote to the BHA on 25 March 2021 and again on 22 April 2021. The BHA contends that these emails were misleading on the part of MH, because they failed to disclose that MH had already consented to appointment.
31. A telephone conversation took place between MH and Henry Bradley, a BHA employee, following which MH told the other directors of ARL that his appointment as a director was conditional upon receiving BHA approval. The BHA wrote to MH on 14 May 2021, refusing approval, stating that there was,
- “...residual concern that you becoming a director of ARL could result in an undesirable situation where issues seen before, and which ultimately resulted in your licence being refused on suitability grounds could re-occur.”
32. On 10 June 2021, MH wrote back to the BHA, insisting that the condition preventing him from being a director of ARL be removed, along with all other conditions on his licence. The BHA maintains that MH’s response of 10 June 2021, in which he contended that he had ‘adhered to all’ the conditions in his licence was a deliberately misleading statement and one which MH knew to be incorrect. Again, it is said that this is a further example of MH telling the BHA he is compliant when he knew he was not whilst attempting to persuade the BHA as regulator to remove the conditions.

33. MH wrote once more to the BHA in September 2021 indicating that one of the directors of ARL had been diagnosed with cancer and was undergoing treatment. From the tenor of this correspondence, it is plain to us that it had been decided by ARL, to the knowledge of MH, that the other directors' appointments would cease, and MH would be appointed. He presented this to the BHA at the time as a matter with no choice for him, stating that he had moral obligations to protect staff, owners, and horses, therefore claiming that the matter was 'to a degree beyond my control'.
34. The BHA indicated that it was not satisfied that it was appropriate to vary the conditions of the licence to permit MH to become a director of ARL, especially because it would appear that MH was to be the sole director.
35. Notwithstanding this correspondence, MH was appointed a director effective from 1 October 2021. At the end of October 2021, MH again by email stated to the BHA that it was not his intention to breach his licence conditions but suggested that he would have no alternative soon (i.e. in the future). In his evidence before us, faced with the correspondence we have set out above, he was driven to argue that he had been unaware of the fact of his appointment, because otherwise this position was untruthful.
36. MH maintained that he was unaware of the actual effectiveness of the appointment, notwithstanding the fact that he had completed the consent form (undated) a few months before and in an exchange of correspondence with the accountants of ARL in late September 2021 had provided a long list of detailed personal information, when they contacted him to state that they had instructions for Mr Kowalewski and Mr Naylor to resign and for MH to be appointed. It is notable that in that correspondence the accountants are also

seeking instructions from MH in respect of management decisions of ARL which is consistent with the accountant understanding that effective management control had passed already to MH. The explanation of MH also does not explain why MH also agreed to accept transfer of ownership of ARL: there was no time pressure in this regard, and it could have awaited any BHA decision, even if the directorship situation had changed.

37. We find that MH, contrary to his evidence to the Panel, was aware that the previous directors of ARL had instructed the accountant to remove and replace them with him as sole director and to transfer 100% of the share ownership to him as of September 2021. For example, he sent the BHA an email at about 7:50am on 28 September 2021, forwarding an email sent by ARL's accountants to him the previous day. In his email to the BHA, MH was seeking to give the impression that he was waiting for permission before acting and holding out under pressure. In fact, it can be seen from the other emails that he responded in detail within 2 hours (about 9am the same day of his email to the BHA) to the accountants, effectively giving them what they needed to progress the appointment. His actions were designed to forward the process of his appointment and in our judgement completely inconsistent with what he was telling the BHA. It is inconceivable in these circumstances that he did not know that the accountants had acted upon the instructions they had been given. He has not put forward any evidence, other than his own account, to support any suggestion that the accountants acted without instructions and therefore we can only infer that in fact the accountants were simply doing exactly what they were instructed to do. We reject MH's account.

38. Further support for this conclusion can be found in an email sent by Mr Harris to the BHA in April 2022, following a conversation with Mr Andrew Streeter, a BHA

employee, in March of 2022. In this email MH indicated that he had signed papers agreeing to appointment as a director of ARL. MH in his evidence sought to suggest that Mr Streeter had himself confided to MH that there was a personal vendetta against MH by the BHA during a conversation which took place at Aintree on the afternoon of the Grand National meeting the following year. We find that on balance of probabilities, Mr Streeter did say something to MH at Aintree that day along the lines of, 'don't swim against the tide', meaning that it was in MH's interests to comply with BHA requirements.

39. We reject any suggestion that Mr Streeter was in any way behaving inappropriately or that he was giving MH notice of any conspiracy at the BHA. First, we do not think that any such conspiracy existed. Secondly, having heard and seen Mr Streeter, we do not accept that he said or did anything which could reasonably have given rise to any impression that MH was being singled out for unfair treatment or 'maliciously' prosecuted. Indeed, we find that in saying what he did, Mr Streeter was simply doing his job – trying to persuade MH that his personal interest lay in trying to comply with the conditions on his licence.
40. In correspondence dated 28 July 2022, Tomas Nolan, a Senior BHA Regulatory Lawyer, wrote to MH setting out that he was in breach of the conditions on his licence and indicating that the 'BHA are willing to work with [MH] to ensure [he] can continue as a Licensed Trainer,' and inviting him to set out proposals as to how he intends to meet the intention and purpose of the conditions and remedy the breaches of the licence. By this stage, of course, the BHA was aware of the appointment to directorship of MH. The BHA indicated that it would refer the breach to the Licence Committee and invite withdrawal of the licence if a solution could not be agreed.

41. In response, on 14 September 2022, MH provided 121 pages of evidence to the BHA in support of his proposal that he be permitted to remain sole director of ARL, subject to the provision of quarterly management accounts for a year. This was put forward to us as evidence of MH engaging with the regulator. However, the fact remains that this material was only advanced long after MH had taken up the directorship (and transfer of the entire share capital of ARL) and not before.
42. We consider that MH's dealings with the BHA regarding the change in his relationship with ARL and his evidence to this Panel about them were both dishonest. Whatever his precise state of mind regarding the date of appointment as director, the intention in his approach to Condition 1 was with the sole aim of seeking to have Condition 1 removed from his licence. He had no 'Plan B' for the administration of ARL which met the purpose of the licence conditions in respect of public protection and transparency which we have set out above and was not interested in the slightest in finding one. He was asked in correspondence by the BHA whether any other person could be appointed director of ARL and did not respond. We asked him again in his oral evidence and he accepted that he did not take any steps to find another person to act as director. We find that this was because he had made up his mind that he was going to take over control of ARL and his conduct was designed with the sole objective of pressuring the BHA into accepting that outcome. He did not try to avoid being in breach of Conditions 1 and 4 and, he did not approach the question of directorship or ownerships of ARL with an open mind and did not engage other than superficially with the BHA's legitimate purpose in seeking to explore whether the conditions on the licence could be maintained. And yet all the while, he was writing to the BHA as if he was legitimately discussing with it the Licence conditions and seeking to negotiate a solution.

BREACH OF CONDITION 6

43. On 26 October 2022, the BHA requested information pursuant to the condition on MH's licence regarding transactions in horses (Condition 6). MH responded by suggesting that there was an ulterior motive to this request, but agreed to provide the information and did provide some invoices on 18 November 2022. The BHA raised further queries on the back of this disclosure in February 2023. Once again, MH suggested in correspondence that the BHA had 'an agenda' other than its legitimate regulatory purpose. At various points in his dealings with the BHA he has made serious and personal allegations against its officers. At no point has he ever offered any evidence in foundation of these theories or criticisms. We reject them entirely. Indeed, in our judgement, the BHA has been exceptionally (perhaps even excessively) generous at times in its approach to regulating MH.

44. On 23 February 2023, after being given an extension of time, MH provided a list of horses owned by him or connected to him. He wrote stating that,

'Horses purchased by Avon Racing Limited (ARL) are run in the name of MH as ARL are not a registered owner.'

45. In March 2023, dissatisfied with that response and considering the breaches of Conditions 1 and 4, the BHA wrote to MH indicating that it intended to apply to the Licensing Committee to seek withdrawal of his licence.

46. The BHA reminded MH that the Running Requirements Code demands that the owner of a horse must be registered with the BHA for a horse to be eligible to be entered into or run in any race. MH once again felt that a personal vendetta was being pursued against him by the BHA and complained in correspondence

that the BHA were being 'vindictive' and 'unreasonable'. The situation was resolved following a suggestion advanced on MH's behalf by his solicitor, that the horses would be leased by ARL to MH.

47. The BHA states that there is still a series of discrepancies between the schedule of horses and invoices which has not to date been resolved. There has been a blizzard of late documentation which has been disclosed by MH, including on the Friday before the hearing of this matter and indeed, as late as Tuesday 16th January 2024, further material was still being produced.
48. MH was driven to accept, considering the terms of his own email to the BHA complaining that he had asked around at Newmarket of other trainers whether they had to conduct horse deals exclusively in writing, that he had never at any point since the issue of his licence in November 2018 complied with Condition 6. He had never taken any steps to implement any kind of formal system for recording his transactions in horses and he had continued to trade 'on a handshake' or verbal agreement in some cases. The immediate effect of this approach is that the records are incomplete, and the Panel has been deprived of any ability to make specific findings about MH's transactions. It also gave rise, as the BHA submitted, to a real risk of 'overselling' shares in horses. It did not completely explain why it took MH so long to provide evidence to the Panel to try to piece together the history of his horse transactions.
49. We note that under the terms of MH contract of employment (which was on standard National Trainers' Federation terms), he did not have any authority to buy or sell any interest in a horse. We are satisfied that any trading in horses fell outside the terms of his employment. In this respect, the arrangements

between him and ARL were in accordance with what the BHA conditions had intended when imposed in 2018.

50. However, in his oral evidence to the Panel, MH accepted that in practice he was 'turning horses over' to ARL. The process of 'turning over' involves a purchase being concluded by a buyer and after the agreement for sale, the buyer notifies the seller that in fact the buyer was acting as agent for a third party. The seller therefore transfers title directly to the actual purchaser. This system of non-disclosure of agency can be entirely legitimate, especially where, for example, the true owner of a horse is well-known or a celebrity and therefore knowledge of the owner's identity could distort the market price.
51. However, there was in our judgement, no legitimate reason for MH to be turning horses over to ARL. In his oral evidence, MH explained that he turned horses over to ARL because he was aware that he could not purchase in ARL's name. Therefore, the 'turning over' was merely a device to circumvent his licence conditions.
52. By way of example, in MH's note of explanation dated Tuesday 16 January 2024, we can see that RAASED and PYRAMID PLACE were purchased in August 2020 by MFH Bloodstock Limited and then turned over to ARL at the same time. The relevant invoices disclosed by MH from Tattersalls are dated January 2021. MH has not provided any documents to evidence the position in respect of either transactions or ownership in August 2020. We consider that there remains some paperwork missing, because the Jan 21 invoice is in our view is probably a repeat invoice from Tattersalls, being accompanied as it was by a purchaser's statement. Therefore, even now, the documentation is incomplete, and it is not possible to say with confidence what trades were done

in these horses. We do not intend to over-burden our reasons with detailed analysis of further transactions, save to say that we are satisfied that this example is typical of MH behaviour and was a well-established pattern.

53. In buying horses on behalf of ARL, whether directly or through MFH Bloodstock, MH was in our judgement acting as a buyer of horses on behalf of ARL, which is not part of his contract of employment as a trainer with ARL and in further breach of condition 1 of his licence because it placed him in a financial or other relationship with ARL which was outside the terms of his contract of employment.
54. What appears to have happened next is that notwithstanding the fact that the horses had been turned over to ARL in August 2020, shares in RAASED and PYRAMID PLACE were purported to be sold out to third parties by MFH Bloodstock Limited in September 2020. Invoice 060238 was raised by MFH Bloodstock Limited recording a sale of a 10% interest in each horse to Mark Adams. This evidence raises the possibility that shares in horses could, whether consciously or mistakenly, have been oversold by MH.
55. Even more concerningly, it is stated in MH's note of 16 January 2024, that from 23 October 2020 RAASED and PYRAMID PLACE were in the ownership of Mr Harris personally. However, there is no evidence before us which demonstrates that Mr Harris was the legal or beneficial owner of either horse. He sought to explain the discrepancy by suggesting that he had confused BHA registration with ownership transfer. We cannot accept that a trainer as experienced as MH could have thought that BHA registration was legally or beneficially determinative of ownership in horses, not least because MH told us himself that he understood the difference, when he explained that horses owned by ARL

could not run because ARL was not a registered owner with the BHA. We find, that, contrary to MH's account to us, in fact he misled the BHA and registered himself as the owner of the horses, in order that the horses could run in his name, knowing that they could not run in the name of the true owner, ARL as a way around Conditions 1 and 6 of his Licence.

56. MH sought to suggest that he was chaotic in administration and that he had, since these matters came to light, sought help from others whose skills in organisation were better than his own. We address below the extent to which we can derive comfort from these assurances in all the circumstances.
57. Another strand of argument raised was that in his correspondence, MH was in essence asking the BHA for its help. Whilst Mr Quinlan KC fell short of criticising the BHA in its approach, at times it seemed to us that MH was effectively requiring the BHA to show him how to run his own business, or indeed to do it for him. We were particularly concerned at the admission that he had never even tried to establish a system of working which would enable him to comply with Condition 6 in respect of having written agreements for all horse transactions in his own name or through MFH Bloodstock Limited. This was evidence in our judgement of the lack of importance which MH attaches to rules generally, but the conditions of his BHA licence in particular.
58. We accept that MH did not intend at the outset to act fraudulently, and we have not heard any evidence to the effect that MH was in fact overselling horses, selling to 'warned off' individuals or otherwise being dishonest in transactions relating to horses. However, we find ourselves unable to say one way or the other whether he has in fact been dishonest in horse transactions, for the simple reason that the inadequate records and confusion in the evidence prevents any

proper reconciliation from taking place and therefore he has put the Panel in a position where it does not have the evidence it needs in order to decide.

59. We cannot understand why MH has lacked the self-awareness and insight to engage or employ others before now to put in place what would have been basic administrative systems to ensure compliance with the licence conditions to which he was subject by agreement with the BHA. The BHA did engage with him over many months which would have provided ample opportunity for MH to seek to remedy the situation and demonstrate a change of ways.
60. It seems to us that he continues to lack the insight to understand the purpose or importance of the conditions or the real need for him to organise his business interests in a professional manner. The overall impression is that he personally considers administrative transparency and accountability unimportant, so that it is somehow an inconvenience, or that the BHA is being unreasonable in asking him to meet either standards which others within the industry adhere to without complaint, or conditions which have been set for him personally by reason of his past behaviour and for good reason.

THE RELATIONSHIP WITH SIMON EARLE

61. There is a significant history to the relationship between MH and the trainer at the neighbouring yard, Simon Earle ('SE'). We will not be able to capture all that background, because it ranges across different issues and a long period of time.
62. We mention some of the disputed background issues because they are relevant for what we must decide. For example, there had been complaints to the BHA by SE regarding intruders in his yard and concerns about possible contamination of his horses with banned substances in January 2020. It was put

to SE that this was evidence of paranoia on his part because there was no evidence in support of his concerns. Whether this is fair criticism or not, we find that already by this time SE had been put into a state of heightened emotion and anxiety by MH. We note the evidence of Georgia Newby-Vincent to the effect that SE was in fear of MH and organised his day to avoid him and find that has the ring of truth about it and we find that MH's attitude influenced a good deal of SE's behaviour around MH.

63. Another bone of contention was the shared gallops, which it was agreed had fallen into poor condition. SE complained they were unsafe and had stopped paying MH for the gallops. SE's position was that he had put in place a direct arrangement with the head landlord for payment. Again, we make no finding about the rights and wrongs of the use of the shared gallops. What is however clear is that MH and the directors of ARL (JK and JN) were in dispute with SE about them and that MH, JK and JN were each taking an aggressive stance with SE.
64. We also heard evidence that a separate ground of dispute was paddock space. MH gave evidence that SE had more paddock available than him, even though SE's string had fewer horses. SE found he had little use for the extra land and sub-let it for grazing cattle. MH wanted additional paddock space for use by his horses and was clearly angered by SE's decision to let the space to a third party. MH argued that SE was in breach of his tenancy to permit cattle to graze.
65. Another issue was that MH also had a sense of grievance in that he had agreed SE could make use of MH's nightwatchman to allow SE to meet his BHA licence conditions. MH later withdrew from the arrangement and notified the BHA that SE was therefore in breach of his licence.

66. Matters seem to have come to a head after MH was served with a break notice on the lease of his yard on 1 July 2020 by the mutual head landlord of MH and SE. SE's evidence was that MH blamed SE and the next day MH intensified his campaign of abuse and harassment.
67. We find that on 3 July 2020, MH had organised an event at his yard. He alleges that SE had called the BHA to query whether it was permitted under COVID rules. Certainly, we find that MH believed at the relevant time that SE had reported him to the authorities. We find that he was angry and embarrassed by the event being interrupted and in hot temper. What happened next was covertly recorded by SE. MH approached SE and, saying that SE needed to pay him for the gallops, continued: -

“So, I don't mind if you tell me to fuck off (SE had said no such thing). I'd be – if you man up to me, I'd be more comfortable, instead of just fucking wishy-washy.”

“If I'm finished with you, I'll fucking hit you. I'm finished with you.”

68. We have listened to the recording made by SE of his interactions with MH. In it, MH is very aggressive. He shouts at SE and directs a torrent of invective, belittling and emasculating him. The insults and abuse were focused on SE needing to 'stand up and be counted' and to 'man up to [MH]'. We find that the threat of physical violence was seriously expressed and would have caused a reasonable person to fear for their safety. It did cause SE to fear for his safety.
69. On 14 October 2020, there was a further incident between the two of them again recorded by SE, in which MH threatened to block off the stable at SE's yard. MH

sought to minimise this threat in his evidence before us, claiming that it would have been very difficult to carry out in practice (and implying therefore that SE was being over-sensitive). We reject that explanation. Again, MH was belittling, and his threats were designed deliberately to have greatest impact on SE, because it would have the effect of cutting him off from operating his own yard. It was also done with the benefit of a specific audience – JN, director of ARL, listening on the phone. MH was playing to the gallery, running SE down to others and adversely affecting his business and confidence.

70. On 8 Feb 2021, a further incident involving SE in his horsebox took place. There was some dispute as to the background of this incident, but we find that SE had, with MH's permission, stored some show-jumping poles in MH's school. SE had been asking to retrieve them, but MH did not respond to his requests. We think it is likely this is because some of the poles had become damaged. SE took matters into his own hands and entered the school, taking the 'same number' of poles he had left (although not the same poles, because we find he did not take any damaged poles). This means that he must have taken some poles which belonged to MH. MH discovered what had happened and was incensed. He again lost his temper and shouted abuse at SE. For reasons which we set out below in respect of the LHR evidence, we reject the evidence of Mr Tony Charlton when he says that MH did not bang on the horsebox driver's window. SE's account is also supported by the email from Georgia Newby-Vincent as she heard both the abuse and the banging. We find that he did bang on the window and did so to intimidate SE.

71. Shortly, after that, on 26 March 2021, SE complained to the BHA about MH turning horses out in an allegedly unsafe paddock. This prompted a visit to MH's yard by Mr Gow, who was at that time a Stable Inspection Officer for the BHA.

72. Mr Gow, together with another investigating officer, Mr Carson, made a scheduled visit to inspect MH's yard in September 2021. In the report of the visit, Mr Gow recommended that MH be downgraded in risk level from 'high' to 'medium'. It was not clear to us from his evidence on what basis he felt that the risk rating should be reduced. He accepted that he was largely unaware of the extensive history between MH and SE, and we find that it is likely that his assessment was based purely on his assessment of the yard and its physical environment. At any rate, the recommendation was not followed, and the yard continued to be rated 'high risk'. We rather had the impression that Mr Gow found it difficult to accept that his advice had not been followed by the regulatory team in London and that he felt that his judgement ought to have prevailed.
73. On 18 October 2021, the BHA issued MH with a written warning regarding his conduct towards SE. That very same evening, SE received an abusive email from JK. MH suggested in his evidence that the timing was mere coincidence, but we disagree and consider that it is more likely than not that JK was either inspired or encouraged by MH to write that email in retaliation for the written warning.
74. On 15 November 2021 an incident took place which was referred to in the hearing as the 'White Pony incident'. It is common ground that SE kept a white pony on his land. MH's evidence was that the pony had been a further source of tension between him and SE, because it had a tendency to become startled by MH's string as they left the shared gallops and then MH's horses would respond in turn by themselves becoming skittish and difficult to manage.

75. MH relied on an email sent to him by one of his employees, Libby Stone, his travelling Head Lass, on 17 November 2021. MH had forwarded the email to the BHA, as evidence in support of his contention that the dispute between him and SE was what might be called 'six of one and half a dozen of the other.' We find that this was a deliberate attempt by MH to mislead the BHA and falsely generate a complaint against SE so to make it look as though he was at fault.
76. We were very troubled by the evidence of Miss Stone. It was completely lacking in nuance and could not have been more supportive of MH in any respect. She refused to countenance any criticism of MH whatsoever. The picture she painted of his yard and MH's behaviour as an employer was inconsistent with the documentary evidence, particularly the WhatsApp's which we address below and the recordings made by SE, and in our judgement untrue. We find that Miss Stone had deliberately set out to mislead the Panel at the behest of and for the benefit of MH. We find she lied about the white pony 'escaping regularly' – in fact we find it had been in that paddock for years without difficulty. We also find that this description is inconsistent with rest of her own evidence, not least that she had only sent one email to MH complaining about her alleged concerns regarding safety on the gallops.
77. It appears that the complaint by MH to the BHA triggered a further visit by Mr Gow and Mr Carson from the BHA in November 2021. We are sorry to say that the false complaint appears to have had the desired effect from MH's perspective, because Mr Gow and Mr Carson's report suggests that they were influenced by what they saw as fault on 'both sides' and wanted to focus on ensuring the future relationship between the parties was more amicable.

78. Whilst the ambition of mediation and focus on the future were laudable, the difficulty we have as a Panel is that Mr Gow and Mr Carson were not fully apprised of the background of the concerns which had led to the warning letter and demonstrated a clear intent not to investigate them. Instead, they were dismissive of SE and his wife, deciding that Mrs Earle in particular was 'emotional' in her presentation of her points to them and complained that the Earles wanted them to listen to their story. We consider that SE and his wife may very well have been extremely frustrated by the refusal of the BHA investigating officers to even listen to them and are not surprised that this had the effect of raising emotions.
79. We accept that both Mr Gow and Mr Carson were at the time experienced investigators of many years' standing. In the circumstances, however, because we consider that their assessment of the situation was flawed (based as it was on incomplete information), we do not attach any weight to it, or the evidence Mr Gow gave to the Panel. We wish to make it clear that the assessment was made in good faith and with good intentions and that Mr Gow was an honest witness who was frank and helpful to the Panel.
80. The next incident of note occurred on 20 June 2022 – the so-called 'Gallops incident'. This incident was recorded by SE, and we have listened to the audio and read the transcript.
81. It was in respect of this incident that it became even more clear to us that Miss Stone was lying in her evidence to the Panel. In contrast to much of her other evidence, which was offered with relish, in examination in chief she was very diffident about the incident. It was clear that she was reluctant to talk about it. When cross-examined, she denied using any inappropriate language to SE that

day. In fact, on the recording she clearly says, 'I don't give a shit' in response to SE's request for more respect in a tone which was dismissive, aggressive, and demeaning to SE.

82. Additionally, Miss Stone insisted to the Panel that she had never heard MH use any terms of abuse to SE, but on the recording her exchange with SE is immediately followed by MH loudly approaching and shouting,

“don't talk to my staff or get out of the fucking (inaudible). You're a nobody. You're kept - - you're a kept man, you cocksucker. Kept. You're kept. Mummy's little boy. You're fucking useless. You're useless. Pathetic.”

83. We find that Miss Stone was not telling the truth when she said that she did not hear MH shout abuse to SE. Given how close in time her comments are to MH's, she would clearly have both heard him and seen the manner in which MH was approaching SE and making those comments. We cannot accept that she thought this kind of language and behaviour was acceptable.

84. In terms of MH, this, therefore, is yet another example of MH humiliating, abusing, insulting, demeaning, and belittling SE. It was done in front of employees, setting the tone and example for Miss Stone to behave in the inappropriate manner she did.

85. Sadly, there was more to come on 20 June 2022 in a second episode which took place when MH approached SE on SE's yard. On this occasion a further volley of abuse was directed at SE, from which we have selected just a small part,

“He pisses about playing at this job. He’s pathetic. You’re just fucking pathetic. You want to have a bit of me, step in the field with me and we’ll sort it out like men.”

“There’s nothing would give me greater pleasure to stick a few into him and, of course, straight to the police. He ain’t a man who’d stand up. Just pretty pathetic. He’s actually useless. You’re useless. You are fucking useless. Do you – you have no idea how pathetic people think you are. All my girls think you’re pathetic. Everybody does. Yeah, yeah, yeah. Look at him. Look, he’s stood here looking at everything like a little schoolboy. He’s got mental issues.”

86. MH gave evidence that he had suggested that he and SE settle their scores by having a boxing match ‘under Queensbury Rules’. He explained that he had dealt with other professional disputes in this fashion previously and seemed to think that this was an acceptable approach to dispute resolution by a racehorse trainer.
87. It was submitted to us that we should have regard to an email written by the agent to the head landlord of the yards, which suggested that the ‘fault’ of the dispute between SE and MH lay with SE. The writer of the email was not called to give evidence and it was not clear how much of the above information regarding MH’s conduct she was aware of when she gave that opinion. We have attached no weight to the email in the circumstances.
88. Finally, it should be noted that the course of bullying conduct has continued until very recently. An incident took place in November 2023 – after MH had been warned off from contacting witnesses by reason of additional conditions on his

licence – when he deliberately drove his car up to SE at his yard. We find that this was done with the intention of causing SE to be intimidated. It was followed up with a ‘wanker’ gesture.

89. We have also been taken in the course of the hearing to numerous emails in which MH continues his campaign of humiliation and harassment of SE.
90. It is no part of our role to determine whether SE’s attempts to handle MH were likely to succeed. What is clear to the Panel is that the bullying and harassment campaign which MH was orchestrating left SE with few good options in seeking to manage the behaviour of MH or those who felt encouraged or permitted to act the same way by him, such as Libby Stone. It is apparent to us that MH has had a significant adverse impact on SE’s psychological wellbeing, which ought to have been entirely foreseeable to him. We find that MH did not care whether he caused SE harm. On any view the conduct of MH was not a proportionate or justifiable response to the difficulty he was facing with his fellow trainer and neighbour.
91. Moreover, the course of conduct has continued because we find that MH has sought to influence others to give false evidence to support him and to continue to seek to portray SE as unreasonable or in the wrong.

MH DEALINGS WITH SJO

92. SJO gave evidence regarding MH’s conduct towards her. She was an honest witness who was both credible and reliable. She answered questions carefully. When it was put to her that she had changed her story, she explained that she had only realised after she left MH’s yard and worked somewhere else, that the behaviour she had encountered was inappropriate. At the time of the relevant

events, she was between 14 and 16 years of age and it was the first place she had ever worked and her first time living away from home and family in the hostel on the yard. We find that is entirely understandable that she has had cause to reassess in light of greater life experience.

THE WHATSAPP MESSAGES BETWEEN SJO and MH

93. The sheer quantity of WhatsApp messages causes us concern. The number of messages increases over the period when SJO was working as MH's employee on his yard. We note that at the start of the messages there is explicit reference to the fact that WhatsApp is end-to-end encrypted (and therefore secret). We heard in other evidence that there was an employee group WhatsApp, so it was unclear to us why it was necessary for SJO and MH to have a separate channel and why employment information was not communicated in a transparent format.
94. MH has as his avatar on WhatsApp a depiction of a nude adult female. He explained this choice on the basis that it was a self-portrait of an artist friend which he used to bolster her (the artist's) self-esteem because she had expressed to him in the past that she had concerns about her body image. Whether this somewhat unlikely explanation is true or not, we find that MH knew that he was sending messages to a child (SJO) on a one to one private and secret communication channel using a naked woman as his avatar. In our judgement that is clearly not appropriate in the context of an employment relationship with a person in a senior position in racing. This represents an example of choices made by MH where he does not think adequately of the consequences.

95. In addition, MH told us that he had given SJO the name, 'Lovely Young Girl' so that all his messages to her would show by that name. He told us that this was simply his first impression of SJO, and it was entirely innocent – he thought that she was 'a lovely person' in the platonic sense of her personality. We find this hard to believe given his willingness to enter conversation with sexual connotations with SJO elsewhere in the messages and his tendency to drive the conversation back towards adult topics.
96. The pattern of the messages has also caused us concern. It is often MH initiating chats with bursts of 2 or 3 messages. He messages at odd times of day – such as early in the morning, or during the day when he would have been aware that she was at school (in an exam at one point). More often, when SJO initiates chats, she raises work-related or practical questions. On the other hand, the messages from MH often have little or nothing to do with work. The panel would not expect non-work-related chat to be driven by someone in a senior position of trust and an employee who was a child.
97. Specific passages in the WhatsApp exchanges are clearly inappropriate. For example, there is an exchange where MH wanted to give SJO £250 to pay for a course. SJO makes it clear that she wants to pay for herself and, for her pains, is called a "stroppy cow". After she refuses to accept money for the course, MH, not to be deterred, then shortly after sends a message to say he's 'put her money up' instead. He then asks for her to keep it secret from her friend and fellow employee.
98. In a similar vein, MH is often keen to make personal offers or favours to SJO, such as supper at his house and for SJO to shower at the yard, even when SJO makes it clear that she does not need it because she has other arrangements.

99. MH explained that he saw SJO as needing parental-type support and these offers were meant in a kindly way. It is true that there are occasions when MH does show appropriate concern for SJO, especially given her home situation, but we consider that overall, on an objective basis, the WhatsApp's demonstrate an expression of power and control by MH over SJO. By way of further example, there is an instance when MH is probing SJO persistently over the details of where she is going, who she is going with and why. The amount of information he is seeking is completely out of proportion to the relationship of employer and employee. He has blurred the boundaries, and this is evidence that he is seeking to exercise power and control over SJO outside of the work relationship.
100. Yet another episode involved SJO meeting up with Hayley Turner, a successful jockey, whom MH described as a good friend. MH had arranged for SJO to get advice from Turner and she and SJO were in a car together when MH said, "Top class jockey! And attractive woman!!!! Both not bad goals!" SJO replied that she was learning lots from Hayley, MH replied that 'She's lucky I am ten years' too old 😊😊.' Later in the conversation he says, "All men are good lads, it's just the women that turn us into bad ones!!!" Another time he states to SJO that it is better to be an object of male sexual desire than not when SJO comments about a boy who is interested in her. It all serves to demonstrate a lack of appropriate boundaries with MH expressing adult views to a child who is his employee. On several occasions he makes 'jokes' which contain sexual innuendo. We do not reproduce them here, because there is no need. In evidence MH suggested these were meant as 'innocent banter' but our finding is that these jokes were inappropriate and overstepped the mark.

101. We should like to make it plain that we do not think that MH's conduct with SJO was done for reasons of sexual gratification. However, it was nevertheless inappropriate, because, aside from her age, SJO, as MH well knew, had additional vulnerabilities, such as her home situation and MH, whether consciously or otherwise, was utilising this to create a situation where SJO was more dependent upon and beholden to MH. It all had potential to isolate her and expose her to MH's control.

102. In his evidence, MH was taken to some of the passages we have referred to. He maintained that there was nothing inappropriate about the WhatsApp messages or the relationship he was cultivating with SJO more generally. Indeed, he chuckled at some of the 'banter' when he re-read the messages. It is clear to us that he does not recognise any problem with the way he behaved towards SJO. We had the impression that if it happened again tomorrow, he would behave in the same way.

THE OTHER INCIDENTS INVOLVING SJO

103. The WhatsApp messages between SJO and MH corroborate the remainder of her account. There is a consistency between the way MH treats her in the WhatsApp messages and what SJO told us happened at other times.

104. It is common ground that MH would visit SJO in the hostel and stand in her doorway. We accept that he would not go into the room and would ask permission to come in, however, we can see from the WhatsApp's and his own evidence that MH liked to spend time with SJO and we find that it is most likely that the conversation continued in a similar way to his behaviour recorded in the WhatsApp's.

105. Where there is conflict between the accounts of SJO and MH we prefer her account. So, for example, we accept her evidence that MH would come to her room regularly, not least because his freezer was in the hostel and so he would drop by to get ice for his nightly gin and tonic. We accept that he, in line with his behaviour on the WhatsApp's, was persistent in getting her attention, including knocking on the window when she pretended to be asleep or failed to answer. There is a degree to which this was unwanted conduct for SJO. We accept that conversation in SJO's hostel room would be turned by MH to inappropriate topics, including SJO's contraception and her boyfriends. Again, in our judgement this was conduct which was led by MH and unwanted by SJO, although she was probably too young and inexperienced to appreciate the extent to which boundaries were being blurred. SJO did say in her evidence that she felt uncomfortable at times. She was pressed on this in cross-examination and whilst she admitted at some points she did not have feelings of discomfort, there were other parts in her evidence when she stuck to her guns and maintained she was uncomfortable, even at the time. It was exchanges like this which in our judgement showed that she was a careful and fair witness, doing her best to tell the truth. Even if she did not always feel uncomfortable at the time, in view of her limited life experience and additional age-related pressures, such as exams and her home situation, we accept that her understanding has developed with her increasing maturity, and we consider it entirely reasonable that looking back she does feel discomfort.

106. In addition, we find that he did lift SJO's top and make a comment about her weight. Again, whilst there was no suggestion that this was done for sexual gratification, it was directly related to SJO's weight, which he knew would have a direct psychological impact on her because they were both aware that she would need to lose some weight to be a professional jockey and that she would

need to work hard to achieve that goal. We find that this was MH using shame and humiliation as tools to control SJO and we find this was bullying because it had the effect of humiliating her.

107. A further example of MH humiliating SJO was when he called her 'fatty' after she had weighed in when she rode as a jockey after she had left his employment. This was an inappropriate way to approach what is obviously a sensitive topic for jockeys, in general, and as MH knew, for SJO, given her ambitions to ride professionally. We note that, in respect of these kind of comments about weight, SJO's account also derives support from what LHR told us with respect to the young girls' weight being seen by MH as a topic for conversation and 'banter'. We find that there is no evidence that MH deliberately touched SJO's bottom in the breakroom. As SJO fairly accepted in her evidence, it was a busy area, and it was possible that there was accidental contact when MH was 'brushing past'. In our judgement, there was no intentional contact.

DEALINGS WITH LHR

108. LHR's evidence was that she was 12 or 13 and wanted to get some money together to be able to train her pony for racing. She worked on the yard for 2 weeks over the Easter school holidays and for a couple of weekends thereafter.

109. She was cross-examined on the basis that the words in her statement could not have been her own because the language was articulate and sophisticated. In fact, we find that in her oral evidence she volunteered phrases, such as 'the others adopted the toxic characteristics of Milton Harris' and 'inappropriate comments' without prompting and used them in context and with good understanding. It was clear to us that she is an intelligent and precise young

woman, and that the language was entirely her own. We find that she was consistent and measured in her answers. She did not dramatise incidents which of themselves were perhaps not particularly remarkable, but in the context of the wider evidence in the case, we find that these are typical examples of behaviour of MH which forms part of a larger pattern.

110. LHR gave evidence that MH would make inappropriate comments about young girls' weight and in the breakroom, he would set a toxic tone which affected others, making references to not eating cake otherwise they couldn't ride horses. She explained that at the time she was very young and did not appreciate what was meant as a joke was nevertheless inappropriate. However, later when she worked at a different yard and heard a similar inappropriate comment, it triggered memories – specifically it reminded her of the culture which prevailed at MH yard and the typical behaviour which was permitted and encouraged. We found this striking evidence to support the conclusion that this kind of 'banter' is not a necessary part and parcel of a working training yard but is a product of an inappropriate culture.
111. LHR stated that she was in a car and driven alone with MH up to the gallops and when she came to get out, she could not, she assumed because the child lock was activated, preventing the door being opened from the inside. She says MH laughed and made a comment about liking to keep all girls locked in. His case before us is this episode was invented by LHR and that she was never alone in a car with him going up to the gallops. He also states that there is no central locking in his 4x4 so it could not have happened.
112. We find that the absence of central locking point is beside the point – many older vehicles have child locks on the passenger doors which are physical or

separate from the central locking. We also consider it does not really answer the real problem with the incident– which is that, for whatever reason, she could not open the door and felt trapped in the vehicle. Why ever it was that she could not open the door, it gave rise to the comment which MH made. We prefer the evidence of LHR and find the incident did happen and that MH did make that comment. It is entirely the kind of ‘banter’ which MH was used to exchanging with SJO and that he clearly thinks is not inappropriate.

113. In addition, LHR was very specific about how the episode happened and we thought she presented her case straightforwardly, without embellishment or seeking to overemphasise its seriousness. We also consider that there is no reason why she should invent this episode. It was half suggested that she was doing her mother’s bidding, but we find that if anything, the opposite is true, and that LHR was telling the truth and her mother in her evidence, was, even though she was not a direct witness to much of relevance, was doing her best to support her daughter. It is true that LGX’s statement was poorly drafted and confused in its timeline, which had the potential to give the impression that she had been working for MH longer than was the case (only 1/2 a day). However, we consider that this was an accident resulting from the fact that the statement was produced remotely. In any event, we are clear that LHR gave her evidence independently of LGX and without any influence from her. In truth, the evidence LGX gave added little or nothing to LHR’s account or our determination.

114. The comment made by MH was inappropriate and it made LHR feel uncomfortable. We find that was an entirely reasonable response. We do not find that MH chose to lock the doors, or that there was any sinister motive on his part, but we think it is more likely than not that LHR found the door would not

open from the inside and that he made an inappropriate comment which caused her discomfort.

115. LHR was asked about the circumstances in which she was asked to leave the yard, which followed a post put on social media by LGX. The post showed LHR, together with two friends, riding their ponies on the round gallops. In response, the Milton Harris yard Instagram account posted a warning (in block capital letters) to the effect that use of the gallops required both permission and payment and that solicitors would be instructed should there be any further instances.

116. Unfortunately, Miss Stone showed herself once again to be an untruthful witness when asked about this episode. MH had been cross-examined the previous day about the Instagram post and was keen to distance himself from having either drafted or posted it, claiming to be 'inept' in the use of social media and unaware of the incident. Miss Stone, by contrast, enthusiastically embraced full responsibility for the post when she was giving evidence the following day. She claimed that it was her idea to threaten solicitor involvement, a suggestion which we find incredible as she, as travelling Head Lass, did not have authority for such a move and would not have made such a heavy-handed threat without permission or encouragement from senior leadership at the yard, which in this case we find to be MH. Even more egregious was her lie about the drafting of the post itself – she did not even wait for counsel to finish his question before jumping in confidently to accept misspelling 'business' as 'buisness'. MH had been cross-examined the preceding day on this very issue and we find that he had tipped her off about this line of cross-examination in order that she could lie for him.

117. Coming back to LHR's evidence, MH sought to suggest that LHR was motivated by sour grapes because of this episode. We conclude that none of the dispute about the gallops made any difference to what LHR had to say about MH's conduct towards her. She did not demonstrate any animus towards MH, indeed, as we have said, she made fair and appropriate concessions in her evidence and was moderate and balanced in her explanation of what had happened and its overall seriousness.

118. LHR also gave evidence that on 17 November 2023 she was walking to the bus stop in Warminster, at about 7.30 or 7.40 in the morning, when MH in a large black Audi came past her, slowed down and sounded his horn. This happened at a time when the BHA had served her statement on MH and he knew that she was making the allegations which we have recorded above and in the context of the specific conditions on MH licence requiring him to stay out of contact with witnesses, of which, as MH by then knew, LHR was one.

119. LHR's account is supported by the fact that she texted her mother when she reached the bus stop. That text message says that the car was driving, it slowed down, beeped, and then sped off. She said in her statement that as he drove past, she got a good view of MH and recognised him clearly. The bus stop is about 10 minutes away from MH yard.

120. In response to this allegation, MH has raised an alibi which consists of:

- a. Various emails sent from his iPad at about that time in the morning.
- b. Account of Mr Charlton.
- c. An email from a Mr and Mrs Lewis, owners, which states that they were visiting the yard at that precise time.

121. Mr and Mrs Lewis did not attend to give evidence and have not been cross-examined. In those circumstances, we cannot attach much weight to the email. In respect of the emails sent by MH from his iPad, we note that this device accompanied him wherever he went, even at one point into the witness stand. We consider that all it proves is that he sent some emails and is not evidence as to his location at the relevant time.
122. Mr Tony Charlton gave evidence that he lives on the yard and was present on the morning in November (LHR). He supports MH's account that a Mr and Mrs Lewis, owners, came onto the yard at 7.45 in the morning and that MH came down at 8am to meet them, still not having yet got dressed that day.
123. We do not accept his evidence about that morning. He was selective in the accuracy of his memory, particularly when he was asked about whether he had ever seen MH going into the hostel on site or standing in the doorway of SJO's room for conversations. It seemed to us that he was only able to recall events insofar as they were supportive of MH. By way of further example, he said he went to the pub once a fortnight with MH, but that he never had any conversation with MH about his long-standing dispute with SE and knew nothing about MH's views about SE. He distanced himself considerably from MH in respect of what he saw and heard on the yard regarding the young persons.
124. We were also concerned about the inconsistency in his evidence regarding the horsebox incident at which he was present. He denied that MH used any coarse language or was threatening in that incident. He was also adamant that MH had not banged on the window of SE's horsebox. However, the other evidence before us supports the finding MH was angry and we find gave SE a tirade of abusive language in a threatening manner.

125. We find that his evidence both in respect of the alibi for MH and banging on the window is unreliable and that his testimony is affected by his loyalty to MH. We are driven to conclude that he has given an inaccurate account because he wishes to support MH in his bid to obtain a licence. We reject his assertion that the outcome of this case was a matter of indifference to him: that flies in the face of the fact that his job depends on it.

126. We prefer the evidence of LHR over that of MH and Tony Charlton. We find that in respect of Mr Charlton's evidence, this is another example of MH influencing those within his power and control and seeking to manipulate others.

THE SAFEGUARDING EVIDENCE

127. MH's case was presented on the basis that significant changes have taken place with respect to the management of safeguarding issues. Substantial numbers of documents were included in our bundle which included a safeguarding policy, safeguarding action plan and training documents which had been delivered to staff on MH's yard in late 2023. We were also shown photographs of copies of the safeguarding policy pinned in plastic envelopes to notice boards at the yard.

128. We heard oral evidence about safeguarding at the yard. Libby Stone gave evidence that she had never heard any chat about people's sex lives or any inappropriate comments of a sexual nature. We reject this evidence for the same reasons that we reject the rest of what she told us regarding past events. We were therefore very concerned to see that she features heavily in the safeguarding policy as the 'Deputy Designated Safeguarding Lead' for the yard. She is, as someone very obviously loyal to MH, not likely to be an individual to

whom a vulnerable person on his yard would wish to report a personal concern of a confidential nature.

129. She in any event demonstrated in her evidence that she is not sufficiently knowledgeable or independent to perform any safeguarding role. First, she was asked a basic question about how to respond to a safeguarding concern. This topic is addressed in the safeguarding policy of the yard and was apparently subject of training which she attended late last year. She was flummoxed and only after a couple of attempts was she able to offer up a partial answer, which included some inappropriate responses, including a suggestion that all concerns needed to be reported directly to the BHA.
130. Secondly, she accepted that there were jokes on the yard about eating cake and weight for riding horses with the young persons in the breakroom. Her attitude was that, as she personally had no ambition to become a jockey, it didn't affect her. Unfortunately, we conclude she has no understanding of safeguarding or her responsibilities as a leader in that area whatsoever.
131. Mrs Broomfield is the mother of a young aspiring jockey who had been given a real opportunity in the sport by MH, for which she expressed significant and heartfelt gratitude to MH on behalf of herself and her husband. She was clearly an honest witness, with good intentions, who had taken on the task of creating the policy and associated documents in respect of safeguarding to which we have referred above.
132. She was listed as 'safeguarding champion' in the policy, but it seemed to us that there was considerable confusion as to the leadership and reporting structure on safeguarding which would serve significantly to undermine its effective implementation in the yard. After some discussion, she suggested that Daniele

Schroder was in fact the lead on safeguarding. This surprised the Panel, because MH had told us in his evidence previously that Ms Schroder, with whom MH had previously been in a personal relationship, worked in Birmingham during the week and was only present as a guest in his spare room at the yard at weekends. Mrs Broomfield seemed in turn surprised and suggested that in fact Ms Schroder was present on the yard during the week and indeed at that very moment. Ms Schroder was not called to give evidence and so we will never know whether in fact she does or does not work at the yard or have any safeguarding responsibilities. It did seem to us odd that the individual supposed to have leadership on these issues had not been put forward as a witness to how she was carrying out her role.

133. Similarly, when Mrs Broomfield was asked about the implications of the use of WhatsApp as a communications tool on the yard, she had not given the matter any thought and could not see any problems potentially arising. Moreover, she was unaware of the messages which we have addressed above and was not on the employee WhatsApp group on the yard. She was equally unaware that work social trips had been discussed on WhatsApp where there was debate about whether a 14-year-old should go out with others who were intending to get drunk.

134. She expressed confidence in Libby Stone as a suitable person to lead on safeguarding and stated that she had been selected for skills and expertise. This, considering Miss Stone's own evidence regarding safeguarding and in view of her considerable personal loyalty to MH, did not inspire confidence that any of the theories in the policies would be put into practice at the yard.

135. We were left with the impression that Mrs Broomfield did not have full insight into everything which was happening on the yard and had not been told the full history of the situation. We also conclude that she lacks industry specific and practical safeguarding experience which means that she is not able to apply safeguarding principles adequately in respect of the horse racing world and particularly in the context of a yard with a culture which we have described above.
136. The policy which she has produced for MH's yard relied heavily on the standard forms which the BHA designed and did not tackle some of the fundamental questions for a yard employing young people and, in some instances, providing them with a place to live, often away from family in sometimes isolated locations. We find that the policies are not robust and lack practical guidance to help employees know what to do when issues arise and how to separate out poor practice from more concerning behaviours.
137. We do, on the other hand, accept that the action plan which Mrs Broomfield created was a good document and well-thought through. However, we do not consider that it is likely to change the culture of the yard in practice.

THE CHARACTER WITNESSES

138. MH is clearly well regarded within the racing industry, and we were taken to many character references, several of which were from individuals of considerable personal standing who have known MH over many years and who wrote in glowing terms. There was a considerable number of written testimonials in the papers which we have considered with care. Some of those who had written clearly have been closely involved with MH as a trainer and knew him over many years. We do not doubt their genuineness or honesty in their opinion

and can see why they were all supportive of him. However, we do not know how much of the evidence which we have been shown over the course of this hearing was available to them and whether that would have affected their opinion of MH. As they did not attend to give evidence and there has been no opportunity to raise that with them, we attach relatively little weight to these opinions.

139. We would like it to be understood that we have a full picture of MH in mind.

There are many ways in which he has shown positive character traits. Several of the witnesses commented that they saw a paternal element to his relationships with young persons and felt that he had good intentions to allow youngsters with ambitions to participate in racing to fulfil their potential and live their dreams. We have also seen evidence of opportunities which he has given young people, including his extensive charity work, and in arranging for mentoring and work experience with other industry figures, including senior jockeys and highly regarded trainers. Many of the witnesses owe a great deal to MH, having been given opportunities as youngsters when other yards had turned them down.

140. We did hear oral evidence from a jockey on MH's yard, Bradley Harris. Mr Harris was another witness who was clearly very grateful to MH for the career opportunities he had been given. It is fair to say that Mr Harris, given his record of success, has grabbed those opportunities with both hands. He was a straightforward witness who accepted that it was never appropriate to joke with a jockey about their weight by calling them 'fatty'. He did not have any specific evidence to give which had any bearing on the factual matters we have had to decide. We accept that MH has been very good to Mr Harris and that Mr Harris' opinion is genuinely formed. However, it does not take us much further in respect of the questions we have to answer.

141. Charlotte Callaway was rather guarded about how she came to be a witness in these proceedings. She had left MH's yard in February 2021 and therefore had little useful to add in respect of MH's conduct for the period we have in consideration. She gave away at one point that she was aware that one of the BHA's intended witnesses had withdrawn her statement. She admitted that she had spoken to MH about the case a couple of weeks before but denied that he had given her that information. She then sought to claim she had obtained the information from somewhere else, but refused to say where and whilst simultaneously trying to maintain that she hadn't spoken to anyone else about her evidence or the case. It was all very unconvincing, and we attach no weight to what she had to say.

THE ABSENCE OF HARM

142. It was submitted on behalf of MH that many of the issues of which the BHA complained had not been shown to cause any real harm to others and that therefore were less serious than other cases which come before the Committee.

143. Our observation in respect of that submission is that it only goes so far. First, in respect of the breach of Condition 6 on the Licence, the only reason that the Panel has not been able to make findings as to the extent of the harm caused is that even to this day it is not possible to evidence what dealings took place in what horses. However, we cannot rule it out as a possibility and therefore, for the purposes of our decision we must consider whether a trainer who is unable to account for his transactions to a satisfactory standard is a suitable person to hold a licence.

144. In respect of the dealings with SE, we reject this submission. As we have set out above, we find that the stress and frankly trauma of having to seek to

manage the bullying and humiliating campaign conducted by MH both directly and through others, employees at the yard and the directors of ARL, has caused considerable harm to SE and his wife.

145. We also find that MH's conduct with regards to young persons at the yard has caused harm to SJO and LHR. For reasons that we set out below, we consider that it has given rise to a culture which poses real risk of much more serious harm to young persons which is still not being recognised or managed.

146. Finally, we think that this submission overlooks an important aspect of harm in the context of regulation of horse racing, which comes back to what we said earlier regarding the reputation of the sport as being one which prides itself on honesty, integrity, and professionalism on the part of those who hold senior and privileged positions, such as licensed trainers. Conduct of the nature we have found to have taken place has done and will do real harm to the sport unless it can be seen to be unacceptable.

IS MH A SUITABLE PERSON TO HOLD A LICENCE TO TRAIN?

147. Regulation of sport is important. It is what gives the public confidence that there is integrity and fairness of competition, particularly in a sport in which gambling plays a significant role. However, there are risks in laying down wide rules of conduct such as 'fit and proper' person. They may be widely interpreted and therefore lose sight of their purpose. Or their application can be over-zealous so that the standard of attainment is set so high that it is out of touch with the day-to-day realities of life. We have carefully considered what is an appropriate standard of conduct in the context of horse racing yards. It is a competitive sport and can be a challenging industry in which to succeed. There are many conflicting pressures and the hours worked can be punishing and the risks

involved significant. Nobody is perfect and we all make mistakes. This Committee should be slow to refuse licences to talented trainers and careful to ensure that proper allowance is made for the fact that this is an activity in a fast-paced, high pressure, competitive environment.

148. Bearing all of this in mind, we are firmly of the view that the only appropriate conclusion in the light of our findings, the Rules of Racing guidance and the circumstances of the case generally is that MH is not a fit and proper person to hold a trainer's licence because he lacks the personal qualities necessary to do so.

149. To summarise our findings, we consider that the evidence demonstrates that: -

- a. MH was in breach of Condition 6 of his licence from the date of its issue in November 2018 and never intended to comply.
- b. MH deliberately turned horses over in order to circumvent Condition 1 of his licence. He then pivoted back to deliberately maintain he was the owner in order to race horses which were actually owned by ARL.
- c. MH's dealings in horses lacked transparency and are not capable of reconciliation with the contemporaneous documents, which was the purpose of Condition 6 and created conditions in which more serious breaches of the rules could have occurred. His inability to produce adequate paperwork has precluded any determination of whether any of the horse transactions were dishonest or in other breach of the Rules of Racing.
- d. MH deliberately breached Conditions 1 and 4 by becoming director and sole owner of ARL when he knew that he needed and did not have permission from the BHA to do so.

- e. MH set out to pressure the BHA into removing Conditions 1 and 4 (and indeed at some points all the conditions) from his licence by misleading them and pretending to engage with their genuine concerns when in fact he never intended to comply.
- f. MH has failed to comply with any disclosure obligations, whether as part of this process or under his licence conditions.
- g. He has sought to deflect blame and downplay his responsibility for his actions, including by blaming others and by accusing the BHA of personal animus against him, which was wholly without foundation and another attempt to bully.
- h. That his conduct before the Panel has included crude attempts to pervert the process, carried out with an arrogance that suggests he felt the Panel would not see his behaviour for what it is and that such crude attempts might even work.
- i. He has conducted and caused others, including employees under his management, to join, a campaign of bullying and intimidation of a fellow licensed trainer.
- j. He has behaved inappropriately and in a manner designed to exert inappropriate control and power over the personal and private lives of young and vulnerable employees in an abuse of trust. He has caused or permitted a culture to prevail on his yard where more serious safeguarding issues causing real harm could easily occur.
- k. He is dismissive of the BHA, this process, and the purpose of and need for regulation of the horse racing industry.

150. Taking a holistic approach to what in our judgement is a single question, 'is someone who behaves in this manner a fit and proper person to hold a trainer's licence?' we think that the general public, in particular that significant proportion of them who have an interest in horse racing, would agree with us that the sport does not need individuals like MH. The personal qualities set out above are not those of someone who should be given permission to train racehorses.
151. We cannot accept the suggestion that MH has changed or will change with support. In this respect, whilst history may not have repeated itself exactly, it is still showing a pattern. In the previous cases before the Licensing Committee, MH has been found to have given dishonest evidence to the Committee, to have been dishonest with the BHA and to lack insight into the purpose of regulation and the effect of his conduct. In previous instances, he has responded by naming individuals from whom he says he will seek help. We observe that all these people seem to move on. He has promised in the past to this Committee that he will change and delegate areas of responsibility to those which are not his strengths, only for other issues to emerge. We find that he has brought nothing new to the table in this case, it is the same story, just with different names of those who are lined up to help.
152. We derive little comfort from the evidence of MH that he has lined up professionals, including accountants, to manage his bookkeeping. Partly, this is because the issues raised with MH by the BHA have been ongoing for a considerable period now and it is clear from the lateness and inadequacy of the disclosure regarding the horse transactions that even now, he lacks the insight or ability to obtain and accept assistance to comply even with basic record-keeping.

153. It is also hard to us to accept that MH is a changed man because of his own presentation to us in evidence. As set have set out above, he saw nothing wrong in his dealings with SJO or SE. He has invested significant amounts of energy before this Panel seeking to suggest that he was entitled to abuse and belittle SE in a wholly demeaning manner. He has got others within his power and control to lie on his behalf to support that agenda.
154. Nor is there anything before us to support the idea that he recognises that any of his past conduct with regards to young persons was inappropriate and that he needed to demonstrate a commitment to identifying proper boundaries with young persons in his employment, or that his handling of the situation with SE was bullying and harassment and ought not to have happened. He has continued with his attempts to bully and harass throughout the course of these proceedings. He remains heavily invested in the idea that he is in the right and that the criticisms made of him are without foundation. Whilst Mr Quinlan sought to distance MH from his persistent accusations of bad faith on the part of the BHA and its officers, and MH made a personal apology to Mr Nolan during the course of the proceedings, we have little faith that this represents any real change of heart by MH.
155. The efforts to instil some sort of safeguarding practice at the yard by Mrs Broomfield are to be commended and she has done her very best. However, it is clear to us that in order for young or otherwise vulnerable persons to be safeguarded at the yard, a substantial culture change would need to take place. Proper boundaries for working relationships would need to be established which ensured that the kind of poor practice and inappropriate behaviour which has taken place would not happen again. In our view, that change of direction does not come from policy documents being pinned up in plastic packets. It needs to

start at the top, through leadership, of which there is a complete absence. MH still thinks that his adult jokes are funny and appropriate to share with children. He completely fails to understand that he is in a position of trust and seniority to young persons whose careers in a hugely competitive, physically, and emotionally challenging sport, depend significantly on his support. He sought in his evidence to downplay the level of his influence over the young people and his responsibility to them in setting the tone in terms of behaviour. He lacked any insight into the fact that his failures to set appropriate boundaries created risk that others would follow his lead and take advantage and that he had given rise to a culture where significant safeguarding issues could easily emerge. We appreciate that this is not a deliberate or even conscious choice on the part of MH, but it is a substantial shortcoming and one which he refuses to accept or address.

156. Mr Quinlan submitted that MH accepted that any licence would need to be granted on conditional terms, in order to give the public confidence that MH would be monitored and managed. He put forward some suggestions as to the type of conditions we could consider. However, our problem with this approach is not the question of identification of additional terms or the drafting of them. It is more fundamental: we consider that MH is ungovernable, or at least in the regulatory context, not capable of being regulated.

157. In the past, either by this Committee, or by the BHA in 2018, he has agreed to take a licence on conditions which he has then, by his own admission, completely ignored and taken no steps to comply with. He has consumed a disproportionate amount of regulatory resource in repeated processes for licence applications as well as increased inspections and protracted

correspondence and investigations. The BHA in our judgement is entitled to say, enough is enough.

158. For our part, we have no faith in MH's promises. It seems to us that he says what he thinks is necessary to get his own way in the short term, before proceeding to behave without any regard for the promises he has made to others, including previous Licence Committees and the BHA.

159. For these reasons, we are driven to conclude that MH is not a fit and proper person to hold a licence to train racehorses and that the addition of conditions would make no difference to that conclusion.

SARAH CROWTHER KC

ALISON ROYSTON

KIRSTY MADDEN

29th January 2024