



PENALTY DECISION

**RACING VICTORIA STEWARDS
and
MICHAEL QUADARA**

<u>Date of Hearing</u>	5 April 2018 and 26 April 2018
<u>Panel</u>	Judge John Bowman (Chair), Mr Stephen Curtain, Dr June Smith.
<u>Appearances</u>	Mr Daniel Bolkunowicz, appeared on behalf of the RVL Stewards. Mr Alan Diggins, represented Mr Michael Quadara.
<u>Charge 1 & 2</u>	AR 175(q)

'The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise: (q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.'

Summary of Particulars

<u>Charge 1</u>	In contravention of AR 175(q) the stewards alleged that on the afternoon of 1 September 2017 when parked on the left-hand side of the Western Ring Road in Melbourne, Mr Quadara entered the horse float he was towing behind his car, and used his right hand to strike the racehorse <i>Manhattan Sparkle (NZ)</i> on several occasions.
<u>Charge 2</u>	In contravention of AR 175(q) the stewards alleged that on Friday 17 November 2017 Mr Quadara attended the Moonee Valley Race Meeting and made statements to the stewards regarding his horse <i>Rajapakse</i> , that was engaged in race one, that constituted misconduct and/or improper conduct.
<u>Plea</u>	Charge 1 - Not Guilty Charge 2 - Guilty
<u>Decision</u>	Charge 1 - The Board finds the charge proved.
<u>Penalty</u>	Charge 1 - Mr Quadara is convicted and suspended for a period of 2 months. The Board orders that the period of suspension will commence at 12.01am on 4 May 2018. Charge 2 - Mr Quadara is convicted and fined \$500 (payment terms 30 days)

**RACING APPEALS AND DISCIPLINARY BOARD
(Original Jurisdiction)**

Racing Victoria Stewards
v
Michael Quadara

DECISION

Judge Bowman	Chair
Mr S Curtain	Member
Dr J Smith	Member

Mr Michael Quadara has pleaded “not guilty” to an alleged breach of AR175(q). It is alleged by the stewards Mr Quadara is guilty of misconduct, improper behaviour or unseemly behaviour. In essence, it is alleged that on the afternoon of 1 September
5 2017 on the left-hand side of the Western Ring Road in Melbourne, he entered a horse float which he had been towing behind his car and used his right hand to strike his horse, *Manhattan Sparkle*, several times.

There is a second and totally unrelated charge of a breach of AR175(q) to which we shall return. Whilst not unimportant, it is of far less significance and to it Mr Quadara
10 has pleaded “guilty”. We shall deal with it later.

Returning to the principal charge, many of the facts are not contentious or challenged. Mr Quadara was bringing his horse, *Manhattan Sparkle*, back from Casterton to his stables in Seymour. He was on the Western Ring Road at about 5.30pm. It was peak hour, the road was packed with traffic and it was stop/start motoring. He was
15 travelling alone.

The float, in which *Manhattan Sparkle* was the only horse, was a comparatively small two-horse float with no dividing rail, but a chest rail. It is a half-cabin float, open at the back. What is going on within it is clearly visible from behind.

20 The horse, which is a bad traveller anyway, became agitated. This was particularly after a big and noisy motorcycle passed close to the float.

Mr Quadara pulled over into the service lane and stopped. He got out of his vehicle and entered the float through the small door at the front.

25 It is about this point that the different versions of events commence. Approaching very slowly from behind in a stop/start fashion was a vehicle containing Ms Annika Shoo and Mr Drew McLean. At the time, they were workmates employed by the Department of Environment and Energy. Mr McLean was driving a hire car, and they were on their way to Tullamarine Airport in order to fly back to Canberra.

30 Mr McLean's background includes managing domestic animal services in the ACT and being an inspector pursuant to the *Animal Welfare Act* in that Territory. The car became stationary in the traffic. Mr McLean was unshakeable in his evidence that he had a clear view of Mr Quadara from the waist or lower ribcage up and that Mr Quadara landed six or more blows upon the head of *Manhattan Sparkle* with a clenched fist. He had vision of this for about five seconds and then the traffic moved on.

35 There is little dispute but that during this there was tooting of horns from other cars. Mr McLean asked Ms Schoo to take a photograph on her mobile phone, which she did. By this time, Mr Quadara had stopped striking the horse. The purpose of the photograph seems to have been for the purposes of identification. Ms Schoo also obtained the registration number of the vehicle and almost immediate contact was made with the RSPCA.

40 The evidence of Ms Schoo largely corresponded with that of Mr McLean. Any differences were not major and the fact that two eye witnesses accounts do not entirely coincide is to be expected. On the key issue of Mr Quadara's treatment of *Manhattan Sparkle*, the evidence of Ms Schoo is clear and definite. What she unmistakably saw was six or seven forceful punches by Mr Quadara to the head region of the horse.

45 The evidence of Mr Quadara was not particularly convincing. On the key question, he initially told stewards that he may have been pushing the horse away, but didn't

think he hit her. This was in the interview of 27 September 2017. In the second interview of 7 December 2017, he claimed that he slapped the horse with an open hand three times. He went on to say that he did not know if he used a fist. He had “flipped out” and “lost his cool”. He thought that he had hit it half way between its neck and shoulder. He then tried to modify this by saying that he in fact pushed *Manhattan Sparkle* with an open hand “but it would probably look like a blow”. This was in clear conflict with his earlier admission that he had hit the horse. He subsequently altered this again, saying he had hit the horse with his open hand.

Before us, he indicated that he had tapped the horse to pacify her. He also demonstrated that he had pushed it with the butt of his hand. He also agreed that he did not have a good recollection of the event. However, he was “pretty sure” he would not have hit the horse in the head, although he could have had “a bit of a brain snap”. At one stage, he said that he would have “probably hit her in the nose”, although he was not sure.

Before us, Mr Quadara denied that he heard people calling out words to the effect of “don’t hit that horse”. This is in stark contrast with what he told the stewards at each of his interviews with them. Mr Quadara also called a witness, Mr Michael Madden, a horse dealer, who gave evidence that the head of the horse is very hard and it would be impossible to punch it five or six times rapidly.

We have no hesitation in accepting the evidence of Mr McLean and Ms Schoo. It was clear and convincing, in stark contrast to that of Mr Quadara. We accept that there were other drivers tooting their horns and calling out words to the effect of “Don’t hit that horse”. We also accept that the blows were punches. Of course, the particulars of the charge are that Mr Quadara used his right hand to strike the horse. We are comfortably satisfied that *Manhattan Sparkle* was struck and that the blows were punches to the vicinity of the head. We accept that there were approximately six such punches.

We find this charge pursuant to AR175(q) proven. Mr Quadara is pleading guilty to a totally separate, lesser and quite different charge pursuant to the same provision

which charge concerns a totally different set of circumstances. We shall hear the parties on the question of penalties on a date to be arranged.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE J. BOWMAN, Chairman
MR S. CURTAIN
DR J. SMITH**

PENALTY

RACING VICTORIA STEWARDS

and

MICHAEL QUADARA

RACING VICTORIA CENTRE, FLEMINGTON

THURSDAY, 26 APRIL 2018

MR J. HOOPER appeared on behalf of the RVL Stewards

MR A. DIGGINS appeared to assist Mr M. Quadara

CHAIRMAN: Mr Michael Quadara, we have previously found you guilty of a breach of AR 175(q), namely that you engaged in misconduct, improper conduct or unseemly behaviour. You had pleaded not guilty to that charge in relation to something which occurred on 1 September 2017. It involved you entering your horse float, having pulled over on the Western Ring Road and punching your horse, Manhattan Sparkle, in the vicinity of the head approximately six times. We will refer to our decision of 5 April 2018 in the more detailed findings of fact contained therein.

You have pleaded guilty to a lesser charge pursuant to the same rule. It concerns very different circumstances, namely a conversation between yourself and the stewards at Moonee Valley racecourse on 17 November 2017. It was a discussion concerning your horse, Rajapakse, which you trained. When it was put by the stewards that it got beaten by a big margin and might have to go back to the trials, you said, amongst other things, "Well, I'll just shoot him, blow his head off," and the like.

We shall deal firstly with the principal charge involving Manhattan Sparkle. You chose to contest this, so you do not get the benefit of any reduction of penalty for a guilty plea. Also, given your lack of remorse, specific deterrence is a factor which we certainly take into account. Further, general deterrence and the image of racing are very important factors. We agree with the submissions of the Stewards that horse welfare is of fundamental importance. We do not accept that what occurred was anything other than what was observed on the Western Ring Road by Mr McLean, a particularly impressive

witness, who has been an animal inspector in the ACT. We also accept that there were various motorists tooting horns and people calling out, "Don't hit that horse." I would again refer to our earlier decision and our finding that you punched Manhattan Sparkle in the head approximately six times. This could obviously be seen by those in cars stuck in the traffic and conveyed a particularly poor image of how trainers might treat their horses and of the industry generally.

We are not of the view that a fine is an appropriate penalty. We certainly considered disqualification. However, bearing in mind such things as your domestic situation which seems to involve living with your partner who, we were told, is a licensed harness racing assistant trainer, we take into account your poor health, your financial situation, including the fact that your income largely comes from being a breaker and a farrier. These are matters which, as I say, we take into account. We are adopting the Stewards' alternative suggestion of suspension, having considered disqualification.

We emphasise that during such period of suspension, you are not to train or participate in any way in the training of any racehorse. You cannot be employed as a stablehand or be employed or act or be involved in any capacity in any racing stable. The period of such suspension is fixed by us at two months. The suspension will commence operation in seven days' time.

In relation to the second charge, you have pleaded guilty, and that should be borne in mind. We accept that you were under the stresses and pressures

described by Mr Diggins at the time of the offence. Unfortunately, your record is not free from blemish. However, we also bear in mind that the remarks you made to the Stewards were made in a private conversation and they were not remarks made in the media or in public. For that second offence, you are fined \$500.

A final observation generally is that we note the remarks and allegations of Mr Diggins concerning the atmosphere, culture and ongoing in-fighting and hostilities at Seymour as a workplace. This is not the first time that this has been brought to the Board's attention. Obviously we make no finding concerning it, but it may well be that a problem exists that warrants further investigation.
