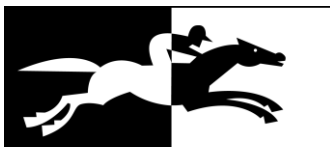


RACING VICTORIA LIMITED
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RACING APPEALS AND
DISCIPLINARY BOARD



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APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 14 September 2009

SUBJECT: **APPEAL HEARING RESULT - JOCKEY: MARK ZAHRA**

Panel Judge Russell Lewis, Mr Bill Knights, Mr Darren McGee

Appearances Mr Stephen Coombes, Senior Stipendiary Steward, appeared on behalf of the Stewards.
Mr Zahra appeared on his own behalf.

At Geelong on Friday 11 September 2009, jockey Mark Zahra was found guilty of a charge of careless riding on his mount *Youbolt* in Race 2 the *Centrebet.com Geelong Cup 21 October Maiden Plate* (1140 m).

The careless riding being that near the 900m he permitted his mount to shift in when not sufficiently clear of *Makin' Mojo*, resulting in *Makin' Mojo* being tightened onto *Alnwick*, resulting in *Alnwick* having to be eased and *Makin' Mojo* being tightened for room and having to be checked.

Mark Zahra has his licence to ride in races suspended for a total of 8 meetings (2 city, 6 country), to commence midnight Saturday 12 September 2009 and to expire midnight Sunday 20 September. In assessing penalty, Stewards took into account M Zahra's good race riding record and that the interference was in the low range category.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Sunday 13 September 2009.

No application was made for a stay of proceedings.

DECISION: **Appeal allowed.**

Georgie Curtis
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. KNIGHTS
MR D. McGEE**

EXTRACT OF PROCEEDINGS

**IN THE MATTER OF THE CENTREBET.COM GEELONG CUP
21 OCTOBER MAIDEN PLATE OVER 1140 METRES**

JOCKEY: MARK ZAHRA

MELBOURNE

MONDAY, 14 SEPTEMBER 2009

MR S. COOMBES appeared on behalf of the Stewards

MR M. ZAHRA appeared on his own behalf

CHAIRMAN: This is an interesting case but one in which Mr Coombes - and the Board congratulates him for his frankness - concedes that it is critical to the stewards' charge and findings that Mark Zahra's mount bumped Maskiell's mount. So much was conceded by Mr Coombes in questions put to him. The question then is: where is the evidence to support the stewards' case?

The evidence is such that Mr Bettess does not comment on the question of the bump. Two riders do comment on the question of the bump. One is Jason Maskiell, whose evidence is difficult to decipher, certainly one cannot be sure of what he was really saying, because at the bottom of page 5, he says, describing Mark Zahra's mount's actions:

He come in a fraction and just bumped my - and my horse, um, I think when you see, I'm trying to relieve pressure off Dwayne and I've kind of gone out and touched Mark Zahra's hindquarters.

So he is saying at one moment that he has been bumped and then in another moment, he's saying that he has bumped Mark Zahra's hindquarters. Then over the page at page 6, when Mark Zahra questions young Maskiell, he says:

Did you - did you come out of stride?

And Maskiell, this is four lines from the bottom:

I think I did, just for a stride. I think it was more when I've looked down, I probably came out just a stride.

So Maskiell's evidence is equivocal at page 5 and in favour of Mark Zahra at page 6. The stewards took the view that Maskiell's evidence was unreliable and dismissed it, concluding that on their interpretation of the film, it was Zahra who caused the bump.

The evidence on this appeal takes it no further in relation to the stewards' case. Mr Coombes has conceded that the evidence from the stewards that Zahra caused the bump to Maskiell is based on the stewards' interpretation of the film.

The evidence called by the defence, that is, Mr Zahra's evidence, is simply that he did not bump Maskiell's mount, it was Maskiell who bumped his mount. So there is quite a dispute, a substantial dispute, between the parties. The stewards rely on their interpretation of the film and the Board has before it Mark Zahra's denial that he bumped Maskiell, rather that Maskiell dumped Zahra's mount.

The Board has considered the evidence based on the film and is in a position where the burden of proof, to the Board's mind, has not been established. We have to be satisfied on the balance of probability that it was more likely than not that Mark Zahra bumped Maskiell's mount.

On our interpretation of the film, coupled with Mark Zahra's denial that he bumped Maskiell, we are in a position where we cannot say one way or the other who caused the bump. That being our state of mind, it must mean that

the stewards have failed to prove their case and accordingly, the appeal is upheld.

END OF EXTRACT