



DECISION

RACING VICTORIA STEWARDS *and* KATELYN MALLYON

Date of Hearing: 11 May 2017

Panel: Judge Bowman (Chair), Mr Stephen Curtain, Mr Geoff Ellis.

Appearances: Dr Cliff Pannam QC appeared for the stewards.
Mr Paul O'Sullivan of Bale Bolshev Lawyers appeared for Ms Mallyon.

Charge Breach of AR 135

(b) The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field.

(c) Any person who in the opinion of the Stewards has breached, or was a party to breaching, any portion of this Rule may be penalised, and the horse concerned may be disqualified.

Particulars The charge relates to Ms Mallyon's ride on *Valediction* in Race 7, the *Modscape Handicap* (3000m) at Moonee Valley on Friday 3 February 2017.

Plea: Not guilty.

Decision: The Board finds the charge proved.

Ms Mallyon's licence to ride in races is suspended for a period of 17 days, commencing at midnight on Saturday, 13 May 2017 and expiring at midnight on Tuesday, 30 May 2017.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE J. BOWMAN, Chairman
MR S. CURTAIN
MR G. ELLIS**

EXTRACT OF PROCEEDINGS

DECISION

RACING VICTORIA STEWARDS

and

KATELYN MALLYON

RACING VICTORIA CENTRE, FLEMINGTON

THURSDAY, 11 MAY 2017

DR C.L. PANNAM QC appeared on behalf of the RVL Stewards

MR P. O'SULLIVAN of Bale Boshev Lawyers appeared on behalf of Ms K. Mallyon

CHAIRMAN: Ms Katelyn Mallyon, you have pleaded not guilty to a charge pursuant to AR 135(b). The allegations of the Stewards can be summarised as follows: in race 7 at Moonee Valley on the night of 3 February 2017, that race being over 3000 metres, and having had to ride your mount, Valediction, quite hard in order to get to the lead and withstand an early challenge for the lead by Dean Holland on Barge And Charge, at about the 1750-metre mark, you were again challenged by that horse.

Stewards allege that rather than steadying your mount and allowing Barge And Charge to lead, you did not so steady your horse but it is alleged between the 1750-metre mark and the 1500-metre mark, you continued to contest the lead and maintain an extremely fast tempo. The result, say the Stewards, is that Valediction compounded from approximately the 600-metre mark and finished 11th, beaten 53 lengths.

We have viewed the video film. It is apparent that between the 1750-metre mark and the 1500-metre mark, you resumed a duel for the lead with Dean Holland. Your horse had already had a very solid run. The result of this cut-throat battle for the lead is that your horse finished tailed off, a distant and dismal second-last. Only a horse that had been effectively pulled out of the race finished behind you.

As stated by the trainer of Valediction, Mrs Gai Waterhouse, both you and Dean Holland rode ill-judged races. This is a proposition with which you do not argue. You admit freely and you have always admitted that you made an

error of judgment. The question is whether that error of judgment constitutes a breach of the rule.

The standard of proof is that referred to in *Briginshaw v Briginshaw* (1938) CLR 336. The standard is the balance of probabilities with what could be described as the *Briginshaw* gloss on it, the degree of comfortable satisfaction. The rule itself is designed to punish not a mere error of judgment but the rider's conduct must be culpable, in the sense that objectively judged, it is found to be blameworthy. So put simply, something more than a mere error of judgment must be established and blameworthiness or culpability must be found objectively.

Mr O'Sullivan put forward a number of explanations and circumstances on your behalf. These include your instructions to be forward, although we do not accept and we do not think that you allege that they extended to leading at all costs. It was the overall instruction to keep the horse in a good rhythm and not, for example, to suddenly restrain it. It was the apparent intention of Dean Holland approaching the winning post with a lap to go to ease out of the contest for the lead, and the issue of whether he ignored your question as to what he was doing. There was also the issue of the downhill gradient from approximately the 1600-metre mark.

We take all of these matters into account. However, the fact remains that you opted to enter into a type of two-horse war for the lead and both horses inevitably punctured and tailed out. Those who backed *Valediction* would

have known that they had lost their money by the 1200-metre mark.

We emphasise that there is no suggestion of any strange betting fluctuations or the like in the present case. Punters are entitled to think that they have had a fair run for their money. In addition, the general image of racing can be damaged if horses are not given every opportunity with all reasonable and permissible measures taken to win or run a place or if measures to obtain the best position in the run are not taken, and they were not in the present case.

This was not a split-second decision. It was a failure to take reasonable and permissible measures over a considerable distance in a very long race. We consider this to be an error of judgment that was and is culpable and blameworthy. As said, those who supported Valediction were effectively given no chance, so we find the charge proven.

We have taken into account a number of things, including the fact that Dean Holland pleaded guilty and obtained a discount for that, but we also agree that his role was considerably greater and the circumstances warrant I think a marked differential between the two cases. However, Ms Mallyon has to be suspended, the period of suspension being one of 17 days, commencing midnight on Saturday, 13 May 2017 and expiring midnight on Tuesday, 30 May 2017.
