
DECISION
RACING VICTORIA STEWARDS
and
SARAH MOODY

Date of Hearing: 28 June 2016

Panel: Judge John Bowman (Chair), Mr Brian Forrest (Deputy), Mr Jeremy Rosenthal.

Appearances: Mr Justin Hooper, instructed by Mr James Ogilvy, appeared as Counsel for the Racing Victoria stewards.

Mr Matthew Stirling appeared as Counsel for Mrs Moody.

Charge 1: Breach of AR 175(qq)

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise: (qq) Any person who in their opinion, is guilty of engaging in the publishing or posting on any social media platform or channel any material, content or comment that is obscene, offensive, defamatory, racist, threatening, harassing, discriminating or abusive to any other person or entity involved in the racing industry.

Charge 2: Breach of AR 175A (alternative to **Charge 1**)

Any person bound by these Rules who either within a racecourse or elsewhere in the opinion of the Committee of any Club or the Stewards has been guilty of conduct prejudicial to the image, or interests, or welfare of racing may be penalised.

The charges relate to a tweet published by Mrs Moody on 10 May 2016.

Plea: Charge 1 - not guilty.
Charge 2 - not guilty.

Decision: Charge 1 - The Board finds the charge proved.

Mrs Moody convicted and fined \$1,500 - due on or before 14 days from today's date. The Board further orders that Mrs Moody remove the tweet of 10 May from her Twitter account.

Charge 2 - falls away as Charge 1 is proven.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman
MR B. FORREST, Deputy Chairman
MR J. ROSENTHAL

EXTRACT OF PROCEEDINGS

DECISION

RACING VICTORIA STEWARDS

and

SARAH MOODY

MELBOURNE

TUESDAY, 28 JUNE 2016

MR J.C. HOOPER appeared on behalf of the RVL Stewards

MR M.J. STIRLING appeared on behalf of Ms S. Moody

CHAIRMAN: Mrs Sarah Moody has pleaded not guilty to charges pursuant to Australian Rule 175(qq) and 175A. The charges are based on a tweet of 10 May 2016 to her Twitter account. It reads:

*Underbailey TVMovie coming soon The rise & eventual fall of an
out of control, no questions answered integrity department.
Deception at Epsom.*

The argument advanced by Mr Hooper on behalf of the Stewards is that this tweet contained a clear reference to the Chairman of Stewards, Mr Terry Bailey, and the Integrity Department; that the reference is allegedly made in the context of crooks by reason of the reference to the TV series Underbelly, with the pun upon the name of it. There is reference to the Integrity Department being out of control and a deception at Epsom, that is, deception at Racing Victoria headquarters.

Mr Stirling and Mrs Moody argues that this was a humorous tweet which the reasonable reader would not interpret as containing the inferences suggested above. Mrs Moody's evidence was to the effect that she had reacted to the upset and frustration that she had experienced during the long period her husband had charges hanging over him, and particularly in reaction to the press coverage of this.

The principal charge argued for by the Stewards is that pursuant to AR 175(qq). We find that charge made out. We find that the publication was

offensive to Mr Bailey, and he gave evidence to this effect. A reasonable reader of the tweet would have reached the same conclusion, namely, it was inferring that he was a crook, albeit inferring to this in a quasi-humorous way. We find that, in its natural and ordinary meaning, it was offensive to Mr Bailey and to the Integrity Department, inferring corruption, deception and being out of control, and the reasonable reader would have interpreted it in that way.

So we find the charge pursuant to AR 175(qq) made out. That being the principal charge upon which the Stewards relied, there is no need for us to make a finding in relation to AR 175A.

In this matter, taking everything into account, we have fixed on a fine of \$1500, with a stay of 14 days in relation to payment. We also order that the offending tweet be removed forthwith.

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

*RVL Stewards v Sarah Moody
Reasons for Decision - Penalty*

| | |
|----------------------------|--------|
| His Honour Judge J. Bowman | Chair |
| Mr B. Forrest | Deputy |
| Mr J. Rosenthal | Member |

Appearances

MR J. HOOPER, instructed by Mr J. Ogilvy, appeared as Counsel for the RVL Stewards.

MR M. STIRLING appeared as Counsel for Mrs S. Moody.

We have found Mrs Sarah Moody guilty of breaching AR 175(qq) in relation to a tweet she posted on her Twitter account on 10 May 2016. We impose a fine of \$1,500 to be paid within 14 days.

We have provided our Reasons for the finding of guilt. In relation to the penalty imposed, we have arrived at that for the following Reasons.

We accept that Mrs Moody thought that what she posted were humorous remarks. That does not mean that they were any less offensive, particularly to Mr Terry Bailey. However, we do take into account that they were published against a background of a long running case against her husband, Mr Peter Moody. Perhaps there was the desire to "let off steam" in what Mrs Moody thought was a humorous way. That made the remarks no less offensive, but we take into account the prevailing circumstances.

More importantly, we take into account penalties imposed for similar offences, and one in particular. The material put before us by the Stewards includes no previous penalties for breaches of AR 175(qq). However, there are some similar offences. We also bear in mind that Mrs Moody was charged not only under AR 175(qq), but, alternatively, under AR 175A.

The Stewards pressed for a conviction under AR 175(qq), which Mr Hooper, on their behalf, conceded was a charge of lesser gravity.

The most recent comparable case is that of Mr Manny Gelagotis, who was found guilty of a breach of AR 175(j). Mr Gelagotis had not been subtle or humorous in his remarks on social media and the radio concerning Dr Brian Stewart, Head of Equine Welfare and Veterinary Services. Amongst other things, Mr Gelagotis, referring to Dr Stewart, said that "His professional conduct is disgraceful."

The Stewards imposed a penalty of \$2,000, with \$1,000 of that suspended for 12 months. This fine was not varied on appeal, but we would point out that it was the Stewards who imposed the immediate fine of \$1,000 for observations that could not be considered to be even vaguely light-hearted or humorous and concerning a senior official.

In all the circumstances, a fine of \$1,500 seems to us to be appropriate.