

RACING VICTORIA LIMITED

RACING APPEALS AND
DISCIPLINARY BOARD



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HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 26 July 2010

SUBJECT: **HEARING RESULT – PROFESSIONAL PUNTERS:
ALESSANDRO ALAIMO AND KEVIN MCFARLAND**

Panel Judge Russell Lewis (Chair), Mr Geoff Ellis, Mr Bill Kneebone

Appearances Mr Alaimo and Mr McFarland did not attend the hearing.
Mr Dayle Brown appeared on behalf of the RVL Stewards.

Charges Mr Alaimo and Mr McFarland both charged with a breach of AR 175(f).

The charges relating to Mr Alaimo and Mr McFarland's failure to attend a Stewards inquiry on Tuesday, 20 April 2010 when requested to do so by the Stewards.

Plea No plea entered – Mr Alaimo & Mr McFarland did not attend the hearing.

Decision The Board finds the charges proved – Mr Alessandro Alaimo and Mr Kevin McFarland both warned off indefinitely.

Georgie Curtis
Registrar - Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR G. ELLIS
MR W. KNEEBONE**

**PROFESSIONAL PUNTERS: ALESSANDRO ALAIMO
KEVIN McFARLAND**

MELBOURNE

MONDAY, 26 JULY 2010

MR D. BROWN appeared on behalf of the RVL Stewards

CHAIRMAN: Yes, Ms Curtis.

MS CURTIS: Mr Kevin McFarland and Mr Alessandro Alaimo have both
5 been charged with a breach of Australian Rule of Racing 175(f) which reads as
follows:

*The Committee of any Club or the Stewards may penalise any
owner, nominator, lessee, member of a syndicate, trainer, jockey,
10 rider, apprentice, stablehand, bookmaker, bookmaker's clerk,
person having official duties in relation to racing, a person
attendant on or connected with a horse or any other person who
refuses or fails to attend or give such evidence as directed at an
inquiry or appeal when requested by the Principal Racing
Authority or Stewards to do so.*

15 The particulars of the charge for both Mr McFarland and Mr Alaimo are as
such: (1) by a letter dated 12 April 2010 and delivered to their residence on
15 April 2010, the stewards required them to attend an inquiry at 2 pm on
20 April 2010 to give evidence in relation to an investigation by the stewards
into certain rides of jockey, Mr Danny Nikolic, during the period of September
2009 to January 2010, and into betting on certain races in which jockey Nikolic
rode; (2) both Mr McFarland and Mr Alaimo failed to attend the inquiry as
required by the stewards.

25 MR BROWN: If it please the board, I appear on behalf of the stewards,
Mr Chairman.

CHAIRMAN: Yes, thanks, Mr Brown. Ms Curtis, would you kindly go
outside the hearing room and call Mr Alessandro Alaimo and Mr Kevin
30 McFarland.

MS CURTIS: Yes. No appearance.

CHAIRMAN: Thank you, Ms Curtis. There being no appearance by
35 Mr Alessandro Alaimo and Mr Kevin McFarland, the board will proceed to
hear this matter in their absence pursuant to Local Rule 6D(1)(a).

MR BROWN: Yes, thanks, Mr Chairman.

40 CHAIRMAN: Mr Brown, do you present evidence that Mr Alaimo and
Mr McFarland were requested by the stewards to attend a particular inquiry?

MR BROWN: Yes, I do, Mr Chairman. There's evidence in relation to that
matter. Firstly, just the housekeeping matters, I'll tender the hearing book
45 which is the original set of documents and there's a further set of documents I

can take the board to which will join all this together and provide the chain of events as to what's occurred.

5 Initially, Mr Alessandro Alaimo and Mr Kevin McFarland were required to attend a stewards' inquiry on 20 April 2010 at the headquarters of Racing Victoria at 2 pm. They were served by a Queensland cadet steward on 15 April by way of leaving a letter advising of that requirement at both their letterboxes at their places of residence, as last recorded with the Queensland Racing authority.

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As I understand, Mr Chairman, what happened then was Mr Alaimo and Mr McFarland failed to attend the inquiry. Charges were issued by the stewards on 10 June and then served on Mr McFarland and Mr Alaimo. Subsequent to that - and that's provided for in the hearing book that I have
15 tendered - there has been subsequently more documents served on both Mr Alaimo and Mr McFarland and I'll take the board through those.

CHAIRMAN: Just before you go on, the letterboxes which you refer to in which the letter of 15 April was left - - -

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MR BROWN: Yes.

CHAIRMAN: - - - is that an address at which the charges were served which brought the matter before this board?

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MR BROWN: Yes, that's the original service of the requirement to attend the inquiry, not the charges themselves. The charges were served personally. It was the requirement to attend the board which was placed in the letterbox.

30 CHAIRMAN: Was the address at which the letter was sent, in respect of which the letter was sent and the address at which the charges were served, the same address?

35 MR BROWN: The same, correct, yes, Mr Chairman. It may assist the board, Mr Chairman, there's one document the board does not have and it was provided for stewards late last week by Minters. They did a property search on both properties. Mr Kevin James McFarland and Diana McFarland's address comes up under a property search as at the Broadbeach Waters address. The address in relation to Alessandro Alaimo, there's no record of the property at
40 that location in Benowa being registered to Mr Alaimo, so whether that's a lease or a tenant situation, we're not sure, but I can provide those copies of documents to the board, if you wish.

CHAIRMAN: I understand there was an affidavit of service - - -

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MR BROWN: Yes, and I'll go into that. This is just for the information of the board, Mr Chairman.

CHAIRMAN: All right, thank you.

5

MR BROWN: So subsequent to the initial requirement to attend the inquiry, Mr Chairman, and the service of the charges on Mr Alaimo and Mr McFarland, what happened then, Mr Chairman, was a letter addressed to both Mr Alaimo and Mr McFarland was sent by Minter Ellison on behalf of Racing Victoria stewards, and a copy of the notice to admit, which were factual matters, were placed in that notice, and also a further copy of the notice of charge and supporting affidavit of the original charge being formally served on both Mr McFarland and Mr Alaimo.

15 As a matter of record, Mr Chairman, would you like me to read the notice to admit into the record?

CHAIRMAN: Yes.

20 MR BROWN: Yes. This is a notice to admit which was issued and served to both Mr McFarland and Mr Alaimo, and I'll read it as one document. It says:

25 *Take notice that if you do not within seven days after the delivery of this notice to you deliver a notice to the Racing Victoria Ltd stewards care of Minter Ellison Lawyers, Rialto Towers, 525 Collins Street, Melbourne, Victoria, 3000, disputing any facts specified below, then Racing Victoria stewards shall submit to the Racing Appeals and Disciplinary Board of Racing Victoria Ltd that the facts should, for the purpose of this proceeding, be taken to be admitted by you in favour of Racing Victoria Ltd stewards: (1) on or about 12 April 2010, you received by email a letter dated 12 April 2010 from Racing Victoria Ltd stewards, a letter requiring you to attend a stewards' inquiry at the offices of Racing Victoria Ltd, 400 Epsom Road, Flemington, on Tuesday, 20 April 2010; (2) on or about 15 April 2010, you received a further copy of the letter delivered to your premises; (3) you failed to attend at the inquiry on 20 April 2010; (4) your failure to attend the inquiry was deliberate; (5) you do not intend to cooperate with the stewards in respect of the inquiry; (6) you intend to continue to refuse to cooperate with the stewards in respect of the inquiry and intend to continue to refuse to attend to give evidence at the inquiry.*

Mr Chairman, what I'll do is I'll tender to the board the affidavit of service which will be the affidavit of service for Mr Alessandro Alaimo and Mr Kevin McFarland.

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CHAIRMAN: The affidavit of service relating to - - -

5 MR BROWN: To this matter here that I'm reading to you now, these documents, which is the final service.

CHAIRMAN: Yes.

10 MR BROWN: Accompanying that affidavit of service, Mr Chairman, which was sent to Mr McFarland and Mr Alaimo was a letter from Minter Ellison, also the notice to admit that was served on Mr McFarland and Mr Alaimo, and I'll also provide the board, if you wish to view it, the property search conducted on the addresses of Mr Alaimo and Mr McFarland.

15 CHAIRMAN: You may as well tender everything.

20 MR BROWN: Yes. Mr Chairman, just in conclusion, for the board's information, the stewards' view is this: the inquiry is not closed into this matter. It still remains open. It is a very serious matter in terms of how the stewards view this because the issue involving Mr Alaimo and Mr McFarland was a very, very important link in what was a very serious investigation into the rides and the betting information around Mr Nikolic.

25 The stewards say that they did not have the opportunity to question or speak to Mr Alaimo or Mr McFarland, didn't have the opportunity to view those records. Now, what those records would reveal, one can only speculate, and we're not here to speculate today, but certainly it would have given the stewards a much clearer picture as to the association and the actual link between that matter and the Nikolic issue.

30 I think it's suffice to say that even from the outset - and this is not a matter that's before the board in evidence - but when the stewards did ring and contact Mr McFarland and Mr Alaimo, their view was that they were not going to cooperate from the outset. So this actual behaviour of not wanting to provide
35 any material or even acknowledge receipt of material or contact Racing Victoria stewards is consistent right from the outset.

40 CHAIRMAN: Yes. I think that's the position the board came to in delivering its judgment in the Nikolic case.

MR BROWN: Yes.

CHAIRMAN: They were never going to turn up to anything.

45 MR BROWN: No.

CHAIRMAN: All right. Do the stewards seek a particular form of sanction in this matter?

5 MR BROWN: We do, Mr Chairman. I think the only form of sanction available and what the stewards' submission would be and is open to the board is a warning off for an indefinite period.

CHAIRMAN: They're not licensed persons?

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MR BROWN: They're not licensed. I mean, the board could impose a fine; you would go through a procedure where they wouldn't pay it.

CHAIRMAN: It would be just a waste of time.

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MR BROWN: That's right. I think the only sensible outcome is a warning off for an indefinite period.

20 CHAIRMAN: Yes. I think the inevitable result of all this is that there is only one penalty to be imposed and that is that Mr Alessandro Alaimo and Mr Kevin McFarland are warned off indefinitely.

MR BROWN: Yes.

25 CHAIRMAN: Thank you.

MR BROWN: If the board pleases. Thank you.

MATTER ADJOURNED ACCORDINGLY