

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 21 October 2013

SUBJECT: **HEARING RESULT – TRAINER: BARBARA MARSHMAN**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy),
Mr Jeremy Rosenthal.

Appearances Mr Ross Inglis appeared on behalf of Mrs Marshman.
Mr Chris Winneke appeared as Counsel for the Stewards.

Charge 1 Breach of AR 175(h)(i) - **withdrawn by Stewards at the hearing**
Charge 3 Breach of AR 178 [alternative to Charges 1 & 2] – **not applicable**

Charge 2 Breach of AR 175(h)(ii)

The Committee of any Club or the Stewards may penalise: Any person who administers, or causes to be administered, to a horse any prohibited substance which is detected in any sample taken from such horse prior to or following the running of any race.

The charge relates to a prohibited substance, being alkalinising agents as evidenced by a total carbon dioxide (TCO₂) at a concentration in excess of 36.0 millimoles per litre in plasma, being detected in a blood sample taken from the horse *Rilelilmag* prior to the running of Race 6 the *Bay FM BM70 Handicap* (2200m) at Geelong Synthetic on Wednesday, 14 August 2013.

Plea Charge 2 – guilty.

Decision Charge 2 – Mrs Marshman convicted and disqualified for a period of 3 months, commencing midnight Monday 28 October 2013 to allow time for Mrs Marshman to transfer horses trained by her.

Mrs Marshman, as trainer, is unable to start any horse from today in accordance with AR 196(6)(a) and AR 196(6)(b).

Pursuant to AR 177 *Rilelilmag* disqualified as 6th placegetter in Race 6 the *Bay FM BM70 Handicap* (2200m) at Geelong Synthetic on Wednesday, 14 August 2013 and the places amended accordingly:

6th – *Countcool*, 7th – *Princess Madeline*.

Georgie Gavin
Registrar - Racing Appeals and Disciplinary Board

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST, Deputy Chairman
MR J. ROSENTHAL

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE BAY FM BM-70 HANDICAP OVER
2200 METRES AT GEELONG SYNTHETIC ON 14/8/13**

HORSE: RILELILMAG

TRAINER: BARBARA MARSHMAN

MELBOURNE

MONDAY, 21 OCTOBER 2013

MR C. WINNEKE appeared on behalf of the RVL Stewards

MR R. INGLIS appeared on behalf of Ms B. Marshman

CHAIRMAN: Barbara Marshman, you have pleaded guilty to the charge of administering or causing to be administered to a horse trained by you, namely, Rilelilmag, a prohibited substance prior to its running in a race at Geelong on 14 August 2013, the prohibited substance being a total carbon dioxide concentration in excess of 36.0 millimoles per litre in plasma, detected in a blood sample taken prior to the running of the race. The actual reading upon analysis was 38 millimoles per litre in plasma and the referee sample revealed a reading of 37.9.

The Stewards' case, which relied heavily on the opinion of Dr Stewart, is that the detected reading occurred as a result of an administration by way of stomach tubing on race morning.

Mrs Marshman denies any race-day administration and her counsel, Mr Inglis, submitted that his client was the victim of unknown circumstances.

Mrs Marshman, in her evidence, claimed that the last administration of alkalinising agents was on race eve and was possibly more than she had intended. The Board rejects her explanation and therefore she gains no credit by way of mitigation.

It was suggested by Mr Inglis that the horse had an unusually high resting TCO₂ level. However, in the Board's view, the analysis of Racing Analytical Services Ltd renders this proposition highly improbable.

The Board takes into account Mrs Marshman's plea of guilty, her age, her personal circumstances and her long involvement in the racing industry in western Victoria. The Board is not impressed with the claim that she was fully cooperative.

Mrs Marshman has pleaded guilty to a serious offence. The principles of general deterrence and in this case, special deterrence, apply, given that she had a conviction for a similar offence in 2004. Further, the tarnishing of the image of racing is an important sentencing consideration.

In the Board's view, the only appropriate penalty is a period of disqualification. Mrs Marshman, you are disqualified for a period of three months, the period of disqualification to commence from midnight, Monday, 28 October 2013, and the horse Rilelilmag is disqualified.
