

RACING VICTORIA LIMITED
ACN 096 917 930

RACING APPEALS AND
DISCIPLINARY BOARD



Racing Victoria Limited
www.racingvictoria.net.au

400 Epsom Road
Flemington VIC 3031

Telephone: 9258 4260
Facsimile: 9258 4848
radboard@racingvictoria.net.au
www.racingvictoria.net.au

HEARING RESULT

Distribution: Chief Executive
Group Integrity Services, Group Racing
Group Racing Development
Credit Controller
ATA
TVN
Office of Racing
C Polglase – Racing NSW
Racing Press

FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 19 July 2010

SUBJECT: HEARING RESULT – TRAINER: HENRY DWYER

Panel Judge Russell Lewis (Chair), Mr Graeme Johnson, Mr Graeme Ward

Appearances Mr Tim McHenry appeared on behalf of Mr Dwyer.
Mr Bruce McGinley, Senior Stipendiary Steward, appeared on behalf of the RVL Stewards.

Charge 1 Breach of AR 175(gg)

The charge relating to Mr Dwyer making a false and misleading statement to Stewards at the Swan Hill stables of Mr Peter Holden on Sunday, 13 June 2010.

Charge 2 Breach of AR 178E

The charge relating to the administration of a medication (Diurex) to the horse *Laspiel* which was engaged to compete in the *Murray Downs Golf & Country Club Swan Hill Cup* on Sunday, 13 June 2010.

Plea Guilty – both charges.

Decision In relation to charge 1, Mr Dwyer convicted and fined the amount of \$1,000 and his licence to train suspended for a period of one month.

In relation to charge 2, Mr Dwyer convicted and fined the amount of \$500 and his licence to train suspended for a period of one month.

The period of suspension for each charge to be served concurrently – a total of one month. Pursuant to AR 183B the Board orders that the suspension be restricted to Mr Dwyer's trainers licence only, therefore with no effect on his employ as Stable Foreman.

The fine for each charge, a total of \$1,500, to be paid on or before 30 September 2010.

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. JOHNSON
MR G. WARD

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: HENRY DWYER

MELBOURNE

MONDAY, 19 JULY 2010

MR B. McGINLEY appeared on behalf of the RVL Stewards

MR T. McHENRY+ appeared on behalf of Mr H. Dwyer

CHAIRMAN: In this case, Mr Henry Dwyer has pleaded guilty to one charge of making a false statement and one charge of medicating a horse on race day.

Mr Tim McHenry appears for Mr Dwyer, and in a frank and welcome approach to the matter, has faced the reality for the reasons which have been covered and canvassed during the course of the plea.

The Board is satisfied that Mr Dwyer is a person of essentially good character, as evidenced by the number of references which have been tendered, and he has before the Board today demonstrated moral contrition, perhaps feeling a little sorry for himself about the fact that he has been exposed, as has been indicated by what happened, as being deceitful on this occasion. He has no prior convictions and the Board takes that into account.

The Board takes into account the plea of guilty, the formal plea of guilty, but as indicated earlier on, it was but a recognition of the inevitable, and therefore the plea of guilty does not carry as much weight as otherwise it would.

On the other hand, in relation to the medicating of a horse on race day, the significant aggravating factor was the fact that Mr Corboy had announced his presence at the stables of Holden to Mr Dwyer, and notwithstanding that, Mr Dwyer proceeded some half an hour later to commit that offence.

In relation to the matter of making the false statement, in the Board's view, this was an egregious example of making a false statement. Mr Dwyer had ample

opportunity to rectify his situation which had been created in his lying to Mr Corboy, but chose not to do so.

The Board regards the principle of denunciation of Mr Dwyer's conduct as an important sentencing consideration and also it regards as an important sentencing consideration the tarnishing of the image of racing. Further, the Board must take into account the principle of general deterrence.

In the end, in this perhaps troublesome case, the Board is satisfied that a substantial penalty should be visited upon Mr Dwyer in all the circumstances. On charge 1, Mr Dwyer is convicted and his licence to train is suspended for a period of one month and he is fined in addition the sum of \$1000. On charge 2, Mr Dwyer is convicted and his licence to train is suspended for one month. Such period of suspension is to be served concurrently with the one month in relation to charge 1 and in addition on charge 2, Mr Dwyer is fined the sum of \$500.

In summary, the period of suspension as a trainer is one month and the totality of the fines is \$1500, such amount to be paid on or before 30 September 2010.

END OF EXTRACT