



HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 26 November 2010

SUBJECT: **HEARING RESULT – JOCKEY: DANNY NIKOLIC**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy), Mr Darren McGee.

Appearances Mr Paul O’Sullivan of O’Sullivan Saddington Lawyers appeared on behalf of Mr Nikolic.

Mr Philip Dunn QC, instructed by Mr David Poulton of Minter Ellison Lawyers, appeared as Counsel for the Stewards.

Charge Breach of AR 175A – conduct prejudicial to the image, or interests, or welfare of racing.

The charge relating to Mr Nikolic’s behaviour during a Steward’s inquiry at Flemington racecourse on Thursday, 4 November 2010.

Plea Guilty.

Decision Mr Nikolic fined the sum of \$10,000 – fine to be paid on or before Friday, 31 December 2010.

Mr Nikolic’s licence suspended for a period of 6 months of which 2 months is to be served immediately - commencing at midnight tonight, Friday 26 November 2010 and expiring at midnight on Tuesday 25 January 2011.

The remaining 4 months of the suspension is suspended for a period of 12 months – that is, should Mr Nikolic commit a similar offence in the next 12 months he will be requested to show cause to the RAD Board as to why the additional 4 months of the suspension imposed on this day should not be served.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST, Deputy Chairman
MR D. McGEE

EXTRACT OF PROCEEDINGS

DECISION

JOCKEY: DANIEL NIKOLIC

MELBOURNE

FRIDAY, 26 NOVEMBER 2010

MR P. DUNN QC (instructed by Minter Ellison) appeared on behalf of the RVL Stewards

MR P. O'SULLIVAN (instructed by O'Sullivan Saddington Lawyers) appeared on behalf of Mr D. Nikolic

CHAIRMAN: Daniel Nikolic, you have pleaded guilty to a charge laid under Australian Rule of Racing 175A which is in the following terms:

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 particulars: (1) you are and were at all relevant times a jockey licensed by RVL; (2) in the course of the Stewards' inquiry held in public and attended by the media at Flemington racecourse on 4 November 2010, you (a) conducted yourself in a manner which was insulting and/or disrespectful towards the Stewards' panel and, in particular, towards the Chairman of Stewards, Mr Terry Bailey, and Steward, Mr Taylor Wilson; (b) employed rude and/or offensive and/or disrespectful language towards the above persons; (3) the conduct alleged in paragraph 2 was and is prejudicial to the image and/or interests and/or welfare of racing.

Soon after questioning began concerning the vest and why it did not comply with vest standards, you became agitated and argumentative. As the inquiry proceeded, agitation turned to anger and you became aggressive and engaged in personal abuse. You displayed a contempt for authority and disrespect for those in authority, in particular the Chairman of Stewards. In the latter part of the inquiry, you sarcastically referred to the Steward, Mr Taylor Wilson, who brought the modified vest to the attention of Mr Bailey, as "your genius here on

vests". I interpolate to say that the Board accepts Mr Wilson's evidence as to how and the circumstances in which he took possession of the vest.

As a licensed person, you are well aware and acknowledge being bound by the Rules of Racing. Despite this, you displayed an appalling attitude towards those charged with the responsibility of ensuring compliance with the Rules of Racing.

The audiotape of the inquiry provides a more illuminating understanding of what transpired and the way in which you behaved. The inquiry was a public inquiry and a number of journalists were present. The reports of what occurred appeared the next day in major newspapers and electronic media. Without doubt, those reports portrayed racing in a poor light.

I now come to the question of punishment. The Board understands that you brought to the inquiry a sense of grievance against the stewards, in particular Mr Bailey. The Board also understands how, in certain circumstances, an aggrieved rider, rightly or wrongly, believes that he or she is not being treated fairly. In this case, you strenuously deny that you had been responsible for any illegal modification of your vest and you resented the appropriation of your vest by stewards without you being present. Accordingly, one is able to understand how you might exhibit a certain degree of agitation and upset during the course of questioning. Indeed, the Board suspects that you see yourself as a victim. This may to some extent explain your behaviour but does not excuse it.

In this case, however, your conduct has gone far beyond the pale. It was deplorable. Your behaviour is a dreadful example to members of your profession, particularly the apprentices. You have made a public and personal attack upon the Chairman of Stewards. Importantly, you have demonstrated contempt for and disrespect towards the office of Chairman of Stewards.

The Board takes into account what it considers to be a qualified apology made on your behalf by your solicitors. The Board finds no evidence of moral contrition. On the other hand, you seem to have learned nothing as a result of being fined \$2000 on 29 June 2010 on the charge of improper or insulting behaviour towards the Chairman of Stewards. That said, the Board understands that a long period of suspension may have a devastating effect on your career. Nevertheless, the principles of special and general deterrence are applicable in this case. The Board should also impose a penalty which reflects its denunciation of your conduct.

Daniel Nikolic, you are fined the sum of \$10,000, to be paid on or before 31 December 2010. In addition, you are suspended for a period of six months, of which four months is suspended. That is, there is an immediate term of suspension, beginning at midnight tonight, 26 November 2010, and ceasing at midnight, 25 January 2011. Such term of immediate suspension is to be served concurrently with any term of suspension you are presently undergoing. The period of operation of the order suspending you is 12 months. That is, should you commit a similar offence in the next 12 months, you will be required to

show cause to the Board why the balance of the term of suspension imposed
this day should not be served.

END OF EXTRACT