

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 3 July 2014

SUBJECT: **HEARING RESULT – STABLE EMPLOYEE: JOHN BARBARY**

Panel Judge Russell Lewis (Chair), Mr Jeremy Rosenthal, Mr Shaun Ryan.

Appearances Mr Barbary appeared on his own behalf, assisted by Mr Des O’Keeffe.
Mr James Ogilvy appeared on behalf of the Stewards.

Charge Breach of AR 175(q)

The Committee of any Club or the Stewards may penalise any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.

The charge relating to Mr Barbary’s handling of the horse *Nomatamata*, trained by Mr Andrew Benyan, prior to the running of Race 8 at Mornington on 18 May 2014.

Plea Guilty.

Decision Mr Barbary convicted and fined \$5,000 of which \$1,000 is to be paid on or before 30 September 2014.

The balance of \$4,000 is suspended for 12 months on the condition that Mr Barbary does not commit any offence under the Rules of Racing.

In the event that a further offence is committed the balance of \$4,000 will become immediately due and payable unless Mr Barbary is able to demonstrate to the Board special circumstances.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR J. ROSENTHAL
MR S. RYAN**

EXTRACT OF PROCEEDINGS

DECISION

STABLE EMPLOYEE: JOHN BARBARY

MELBOURNE

THURSDAY, 3 JULY 2014

MR J. OGILVY appeared on behalf of the RVL Stewards

MR J. BARBARY appeared on his own behalf, assisted by Mr D. O'Keeffe

CHAIRMAN: In this case, the Board is satisfied that the punches delivered to the horse were unreasonable in the circumstances. That is, Mr Barbary's actions were borne of anger and frustration and were quite out of proportion to the situation which confronted him.

Having said that, the Board is satisfied that Mr Barbary did not deliberately set out to harm the horse. On the other hand, a person in the position of Mrs Franklin was entitled to feel outraged at what she observed.

The principles of the preservation of the image of racing and of general deterrence are important considerations in this case. However, the Board takes into account Mr Barbary's clean record, his length of time in the industry and his remorse.

In the circumstances, the Board is of the opinion that Mr Barbary be fined the sum of \$5000, of which \$1000 is to be paid on or before 30 September 2014. The balance of \$4000 is suspended on condition that in the next 12 months, Mr Barbary does not commit any offence under the Rules of Racing. In the event of a further offence being committed, the balance of \$4000 will become immediately due and payable unless Mr Barbary is able to demonstrate to the Board special circumstances why that should not be so.
