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**DECISION**  
**RACING VICTORIA STEWARDS**  
*and*  
**DAVID FISHER**

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Date of Hearing 15 August 2018

Panel Judge John Bowman (Chair)  
Darren McGee  
Jeremy Rosenthal

Appearances Elizabeth Brimer instructed by Stephen Schmidhofer, appeared on behalf of the Stewards.

David Fisher represented himself.

Charge 1 AR 175(q)

*The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise:*

*(q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.*

Summary The Stewards allege that on Tuesday 6 February 2018 at 12:16pm, Mr Fisher sent Stipendiary Steward Mr Wade Hadley an email containing very offensive sexual references.

Mr Fisher's conduct was contrary to AR 175(q) in that it constituted misconduct, improper conduct or unseemly behaviour.

Charge 2 AR 175(q)

Summary The Stewards allege that on Tuesday 6 February 2018 at approximately 4:26 pm, Mr Fisher contacted Stipendiary Steward Mr Wade Hadley via mobile telephone. During the course of this telephone discussion, Mr Fisher once again made offensive references to Mr Hadley.

Mr Fisher's conduct was contrary to AR 175(q) in that it constituted misconduct, improper conduct or unseemly behaviour.

**Charge 3**

AR 175(j)

The Stewards allege that on Wednesday 2 May 2018, Mr Fisher attended the Warrnambool Racing Club meeting assisting licensed trainer Mr Wez Hunter. Mr Fisher was requested to attend the Stewards room where he failed to answer routine questions and threw a chair against the Stewards' table when leaving the room. He was later directed to return to the Stewards' room to confront the Stewards panel. Mr Fisher again failed to answer routine question, and displayed inappropriate behaviour towards the Stewards. He ate loudly with his mouth open, slurped his drink loudly and belched loudly.

Mr Fisher's conduct was contrary to AR 175(j) in that it constituted misconduct, improper conduct or unseemly behaviour.

**Plea**

Charge 1 - not guilty.  
Charge 2 - not guilty.  
Charge 3 - not guilty.

**Decision**

**Charge 1** - the Board finds the charge proved and Mr Fisher suspended for three months.

**Charge 2** - the Board finds the charge proved and Mr Fisher suspended for three months.

**Charge 3** - the Board finds the charge proved and Mr Fisher suspended for one month.

Penalties for all charges to be served concurrently, therefore Mr Fisher is to serve a suspension of three months.

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Grace Gugliandolo  
Registrar  
Racing Appeals and Disciplinary Board

# **TRANSCRIPT OF PROCEEDINGS**

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## **RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE J. BOWMAN, Chairman**  
**MR D. McGEE**  
**MR J. ROSENTHAL**

## **EXTRACT OF PROCEEDINGS**

## **DECISION**

## **RACING VICTORIA STEWARDS**

**and**

## **DAVID FISHER**

## **RACING VICTORIA CENTRE, FLEMINGTON**

**WEDNESDAY, 15 AUGUST 2018**

MS E. BRIMER appeared on behalf of the RVL Stewards

MR D. FISHER appeared on his own behalf

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CHAIRMAN: We have taken into account the submissions and material put before us. We also have regard to your record which does include some five previous offences for misconduct or offensive behaviour. We also note that the penalties imposed were fines and not fines of any great magnitude. We have also looked at penalties imposed in previous cases of this nature. We cannot give you a discount for pleading guilty, although we take into account that in relation to charge 1, you did not contest the ingredients of it. As stated, we cannot treat you as having a spotless record for this type of offence.

We regard what you did in relation to charges 1 and 2 as being very offensive indeed, given the clear sexual and indeed paedophilic references that were made. The principles of both specific and general deterrence must certainly be borne in mind. We feel that there is no option but to impose periods of suspension. We take into account that you have no other occupation or training and little, if any, assets or financial reserves, so that we are conscious of the effect that a period of suspension will have upon you.

However, in the circumstances of these offences, we feel a suspension is the appropriate penalty. We impose the following suspensions, all of which are to be served concurrently: charge 1, three months; charge 2, three months; charge 3, one month. As they are to be served concurrently, that is a total suspension period of three months.

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