

## RACING APPEALS AND DISCIPLINARY BOARD

## DECISION

## RACING VICTORIA STEWARDS and

#### PAT CAREY

Date of Hearing 31 August 2017

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Panel Judge Bowman (Chair).

<u>Appearances</u> James Ogilvy appeared on behalf of the RV Stewards. Pat Carey appeared on his own behalf, assisted by Mr Andrew Nicholl of the ATA.

Charge AR 175(q)

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise: Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour.

<u>Summary</u> On the morning of 15 May 2017 at Mornington racecourse, Mr Carey confronted licensed trainer Trent Pennuto and assaulted him, constituting misconduct and/or improper conduct.

<u>Plea</u> Guilty.

<u>Decision</u> Mr Carey convicted and fined \$4,000. Payment terms 60 days.

# TRANSCRIPT OF PROCEEDINGS

## RACING APPEALS AND DISCIPLINARY BOARD

#### HIS HONOUR JUDGE J. BOWMAN, Chairman

#### EXTRACT OF PROCEEDINGS

DECISION

**RACING VICTORIA STEWARDS** 

and

PAT CAREY

## **RACING VICTORIA CENTRE, FLEMINGTON**

## THURSDAY, 31 AUGUST 2017

MR J. OGILVY appeared on behalf of the RVL Stewards

MR P. CAREY appeared on his own behalf, assisted by Mr A. Nicholl of the ATA

CHAIRMAN: Mr Pat Carey, you have pleaded guilty to a charge of breaching AR 175(q) when at the Mornington racecourse on 15 May 2017 at trackwork, you struck trainer Mr Trent Pennuto in the face with your right hand, this constituting misconduct and/or improper conduct.

It could not be said that you admitted full guilt at the earliest possible time. You were not particularly cooperative with the Stewards. It may be that this was in part because of the fact that the whole incident involved what you considered to be a threat of some kind by Mr Pennuto addressed to a family member of yours who is a minor. I hasten to add that this allegation had nothing to do with sexual misconduct or anything of that kind. In any event, I accept that you were of the belief that a threat had been made to an under-age family member by Mr Trent Pennuto.

I am not going to go into the rights and wrongs of your belief and whether or not it had any foundation. I do accept that you had genuinely formed that belief and that was the cause of your confronting Mr Pennuto. You did this at a time when leading a horse in the stripping stalls and there was no bit in the horse's mouth. This confrontation rapidly got out of control when you grabbed Mr Pennuto, pushed him towards your stalls and hit him in the face with your right hand. I accept the submission from Mr Ogilvy for the Stewards that apart from the assault itself, this incident, also involving a horse with no bit in its mouth, had the potential to cause damage or injury to others if the horse reacted violently. Luckily it did not. Mr Pennuto suffered a blood nose, with a swollen and painful nasal bridge, two black eyes and was ill the following day. Today you have pleaded guilty and expressed complete remorse. You have an excellent record over your 28 years as a trainer and 43 years in the industry. You, and Mr Nicholl on your behalf, placed before me excellent character references, including one from Mr Michael Surey, the racecourse manager at Mornington.

It is clear that you have been a leading contributor to the industry, particularly as a trainer, with involvement in the Trainers Welfare Program, the Mornington Trainers Association, the ATA, of which you have been a committee member, and various committees with Racing Victoria. You also have devoted time and energy into charity. Thus, you have a lot going for you. But this is not the Wild West. Settling grievances, however deeply felt and even of a family nature, by resorting to physical assault cannot be tolerated in the industry. As submitted by Mr Ogilvy it conveys a very bad image of racing, violence of any kind, whether in or outside the racing industry, generally appals the community. The disasters that can occur with one-punch assaults are well known.

Whilst it might be something of a line-ball as to whether there should be interference with your licence, I have concluded that a sizeable financial penalty is appropriate, bearing in mind your excellent record and the fact that this seems to have been an emotional overreaction to a situation involving a member of the family. I was also asked to bear this in mind: you put before me that you have 28 horses in work and a staff of 14. You should reflect on just what the impact a period of suspension or disqualification would have been. You are fined the sum of \$4000, with time of 60 days for payment of the fine.

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