

## APPEAL RESULT

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**DISTRIBUTION:** Chief Executive  
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T Moxon – National Drug Register  
Racing Press

**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 19 November 2012

**SUBJECT:** **APPEAL HEARING RESULT – TRAINER: NATHAN SCHOFIELD**

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**Panel** Judge Russell Lewis (Chair), Mr Graeme Johnson, Dr June Smith.

**Appearances** Mr Anthony Bull appeared as Counsel for Mr Schofield.  
Dr Cliff Pannam QC appeared as Counsel for the Stewards.

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At a Stewards inquiry on Friday 9 November 2012, Queensland trainer Nathan Schofield was found guilty of a charge under the provisions of AR 175(k) and AR 175(t) – as outlined in the following particulars:

**Charge 1 – breach of AR 175(k):** *Any person who has committed any breach of the Rules, or whose conduct or negligence has led or could have led to a breach of the Rules.*

Mr Schofield was at all relevant times, a trainer licensed by Queensland Racing. On 6 November 2012, on Melbourne Cup Day, the racehorse *Beseech*, which is trained by Mr Schofield, was engaged in Race 10, *Headquarters Tavern Plate* (1400 metres). During the stable inspection at the stable complex in Cosgrove Street, Geelong at which Mr Schofield was present, a naso-gastric tube, 400 ml of warm water, a funnel, bucket and twitch were found in his possession. The above items on his own admission were to be used for the purpose of stomach-tubing *Beseech* which could have led to a contravention of AR64G(1).

**Charge 2 – breach of AR 175(t):** *Any person who obstructs or hinders the Stewards or other official in the exercise of their powers or duties.*

Mr Schofield was at all relevant times, a trainer licensed by Queensland Racing. During a stable inspection Mr Schofield hindered RVL Stewards in the official exercise of their powers by refusing RVL Steward Dion Villella's request to search his vehicle.

Mr Schofield was disqualified for a period of 12 months on each charge, to be served concurrently and effective immediately.

A Notice of Appeal against the **severity of the penalty** was lodged on Monday, 12 November 2012. A stay of proceedings was not requested.

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**DECISION:** **Appeal dismissed. Penalty to remain standing.**

**Georgie Gavin**  
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman  
MR G. JOHNSON  
DR J. SMITH**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**IN THE MATTER OF BESEECH**

**TRAINER: NATHAN SCHOFIELD**

**MELBOURNE**

**MONDAY, 19 NOVEMBER 2012**

DR C.L. PANNAM QC appeared on behalf of the RVL Stewards

MR A. BULL appeared on behalf of the Appellant

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CHAIRMAN: On Friday, 9 November 2012, Nathan Schofield, a licensed trainer of 16 years' experience in Queensland and New South Wales, was found guilty by Racing Victoria Stewards of two offences relating to charges laid under Australian Rule of Racing 175(k) and Australian Rule 175(t).

The penalties imposed on each charge were 12 months' disqualification to be served concurrently. From that decision, Mr Schofield has appealed to the Racing Appeals and Disciplinary Board, hereinafter referred to as "the RAD Board".

The Appellant has pleaded guilty before the RAD Board and thus the sole question is the question of penalty which the Appellant asserts is excessive in the circumstances. The Stewards were represented by Dr Cliff Pannam, one of Her Majesty's counsel, instructed by Mr Geoffrey Croxford, and the Appellant by Mr Bull, solicitor.

First, it should be said that the Board regards these offences as serious, notwithstanding that they are not characterised as such in the Definitions section of the Rules of Racing. In essence, charge 1 relates to an attempt by the Appellant to stomach tube his horse, Beseech, on race day, 6 November 2012, prior to leaving for Flemington racecourse where the horse was engaged to race. Charge 2 concerns a refusal by the Appellant to permit Racing Victoria Stewards to search his vehicle which was situated near the Geelong premises where the horse was stabled.

Shortly stated, the Stewards, Mr Ashby and Villella, arrived at the stables at approximately 12 noon. They observed the Appellant to be acting suspiciously in that he was apparently checking the roadway for signs of pedestrian or vehicular traffic. The Appellant then entered the premises and padlocked the entrance gate.

Sensing that a breach of the rules was about to occur, the Stewards climbed over the fence and one of them, Mr Villella, confronted the Appellant who was carrying a one-litre jug container, containing 400 millilitres of warm water, 100 millilitres having been spilt in the encounter. In the bag were the accoutrements of stomach-tubing equipment, namely, a twitch, a funnel, plastic tubing and a bucket.

When asked to explain what he was doing, the Appellant claimed that he was intending to rehydrate the horse with 400 mil of warm water, stating that the horse had not been drinking, notwithstanding the fact that he had removed a 15-litre bucket of water from the horse's box some one and a half to two hours beforehand. He denied he was intending to drench the horse with any substance but admitted that he intended to stomach tube the horse with warm water.

Throughout his interview with Messrs Ashby and Villella and indeed at Flemington racecourse on the same day when an inquiry was conducted by Mr Bailey, the Chief Steward, and subsequently at an adjourned inquiry on 9 November, the Appellant persisted in what the Board regards as a cock and

bull story that he was simply intending to rehydrate the horse. The Stewards had no difficulty in being satisfied that the Appellant intended to stomach tube the horse and would have done so but for the intervention of the two members of the Compliance Assurance Team. They were also satisfied that the Appellant had refused the Stewards' request to search his vehicle.

The Appellant does not challenge the decision to convict him but complains that the penalties were too severe, indeed, manifestly excessive.

At the outset, the Board regards this case as representing an egregious, indeed blatant example of an attempt to stomach tube a horse on race day. This offence is but another stain on the image of racing, particularly at a time when the racing industry is anxious to convey to the public that integrity is the cornerstone of its existence. What occurred here was a deliberate attempt by the Appellant himself to gain an unfair advantage. Putting it bluntly, his actions were those of a cheat.

In the Board's view, the only appropriate penalty in this case is a period of disqualification which will be seen as a denunciation of the Appellant's conduct and, importantly, deter others from engaging in such a practice. Mr Bull did not argue to the contrary. Mr Bull's fundamental submission was that the periods of disqualification were too severe and excessive in the circumstances.

The Board has carefully considered the submissions of Dr Pannam and Mr Bull. In the Board's opinion, the penalties imposed by the Stewards in respect of each offence were, in the Board's view, in the higher registers of the range of penalties open to them. However, the Board is of the opinion that the time has come for miscreants in the racing industry to understand that should they commit a serious offence, they will be dealt with severely unless there are cogent mitigating factors which would justify a lesser penalty. The Board is not satisfied that such mitigating factors have been established. It follows that the appeals are dismissed.

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