RACING APPEALS AND DISCIPLINARY BOARD



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APPEAL RESULT

DISTRIBUTION:	Chief Executive Group Integrity Services Group Racing and Group Racing Development ARB, ATA, VJA Office of Racing T Moxon – National Drug Register Racing Press
FROM:	Registrar – Racing Appeals and Disciplinary Board
DATE:	16 February 2016
SUBJECT:	APPEAL HEARING RESULT – APPRENTICE JOCKEY: JAKE BAYLISS
<u>Panel</u>	Judge Bowman (Chair).
<u>Appearances</u>	Mr Des O'Keeffe appeared on behalf of Mr Bayliss. Mr Darren Triandafillou appeared on behalf of the Stewards.

At Stony Creek on Tuesday 9 February 2016, apprentice jockey Jake Bayliss pleaded guilty to a charge under AR 137A(5)(a)(ii) for using his whip on seven occasions prior to the 100m mark.

The charge relating to his ride on *Our Delinquent* in Race 4 the *Foster Exchange Hotel Plate* (1600m).

AR 137A(5)(a)(ii) states that:

(a) In a race, official trial or jump-out prior to the 100 metre mark; (ii) The whip shall not be used on more than 5 occasions.

Mr Bayliss had his permit to ride in races suspended for a period to commence at midnight on Wednesday, 10 February 2016 and to expire at midnight on Tuesday, 16 February 2016 – a total of 7 race meetings (2 metro, 5 provincial).

In assessing penalty Stewards took into account his poor record in this area since the introduction of the new whip rule; where he has offended and been penalised significantly on four previous occasions and he was also advised during his most recent offence that a reoccurrence in the near future, stronger action may be taken.

A Notice of Appeal against **the severity of the penalty** was lodged on Thursday, 11 February 2016. A stay of proceedings was granted effective until midnight Monday, 15 February 2016.

DECISION: Appeal allowed.

Penalty varied to a fine of \$1,000. The Board also made an order referring Mr Bayliss to the Apprentice Skills Panel.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

IN THE MATTER OF THE FOSTER EXCHANGE HOTEL PLATE OVER 1600 METRES AT STONY CREEK ON 9/2/16

APPRENTICE JOCKEY: JAKE BAYLISS

MELBOURNE

TUESDAY, 16 FEBRUARY 2016

MR D. TRIANDAFILLOU appeared on behalf of the RVL Stewards

MR D. O'KEEFFE appeared on behalf of the Appellant

CHAIRMAN: Mr Jake Bayliss has pleaded guilty to a breach of Australian Rule 137A(5)(a)(ii), in that at Stony Creek on 9 February 2016, when riding Our Delinquent in race 4, he used the whip on more than five occasions, namely seven prior to the 100-metre mark. The Stewards suspended him for a total of seven meetings. Subsequently, a stay was granted. He is appealing against the severity of that penalty.

This offence occurred some six weeks after the expiry of the period of grace allowed by the Stewards after the rule became operational on 1 December 2015. Even in that period, Mr Bayliss's record in relation to the use of the whip is not good. There were five offences during the period of grace, culminating in a fine of \$200. There have been four offences since, incurring fines of \$200 twice, followed by a fine of \$400 and one of \$500 on 9 February 2016, one week before this offence. On that last occasion, the Stewards also put Mr Bayliss on notice that a penalty over and above a fine may be imposed if he offended again in the near future. Unfortunately, he did.

I have viewed the patrol film. The use of the whip by Mr Bayliss was excessive to the extent of two hits, as agreed, which is a clear breach of the rule. His whip style could not be described as excessively vigorous or savage. Indeed, in the presentation on behalf of Mr Bayliss by Mr O'Keeffe, he emphasised the importance of proportionality in sentencing by the chairman Judge Russell Lewis of this Board in the decision concerning Craig Williams on 5 October 2009. It was a decision shortly following the introduction of the previous whip rule. Mr O'Keeffe directed my attention to the penalty imposed upon a number of other apprentices. Some, he argued, had offended about as often since the introduction of the new rule as has Mr Bayliss and none had incurred a suspension. I accept that the only suspension for whip use that has been imposed was on a very senior jockey, Kevin Forrester, for striking his mount 15 times, 10 in excess of the rule. Mr Bayliss's offence was two in excess, and the three before that, one in excess.

Mr Bayliss has been to see Lisa Stevens, psychologist, on 12 February last and she has helped him. She is part of the Jockey Assistance Program. Whilst there have been only a few meetings at which Mr Bayliss has ridden since, he has not offended the rule. Ms Stevens believes that with training, he will be in a better position to comply with it.

The rule is a very important one. Whip use is something that receives considerable attention, including from the media, and it is usually unfavourable. Compliance with the rule is of great importance to the image of racing.

With considerable hesitation, I am prepared to allow the appeal in the present case, despite Mr Bayliss's poor record. He is a promising apprentice as opposed to a senior jockey. He had previously been put on notice by the Stewards. I am now putting him on notice that if he offends again in the near future, he cannot expect the leniency that would be afforded to him today. A more substantial fine is warranted, as the previous fines have had insufficient deterrent effect. Mr Bayliss is fined \$1000. I also order that he be referred to the Apprentices Skills Panel and continue to see Lisa Stevens as required by her. The appeal is allowed accordingly.
