

Registrar
Racing Appeals and Disciplinary
Board



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Hearing Result

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 3 April 2009

SUBJECT: HEARING RESULT – LICENSED BOOKMAKER SIMON BEASLEY

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy Chair),
Mr Joshua Bornstein, Mr Bill Kneebone, Mr Graeme Ward

Charge 1 Breach of AR 175(a) – [improper practice in connection with racing]
Charge 2 Breach of AR 175(a) – [improper practice in connection with racing].

Plea Charge 1 – Guilty
Charge 2 - Guilty

Decision Charge 1 – convicted and disqualified for a period of 3 years
Charge 2 – convicted and disqualified for a period of 3 years.

One year of this period of disqualification to be served cumulatively on the
period of disqualification imposed in Charge 1 - an effective period of
disqualification of four years to commence midnight Friday 3 April 2009.

A fine of \$50,000 to be paid on or before Thursday 30th April 2009.

Georgie Curtis

Registrar
Racing Appeals and Disciplinary Board

TRANSCRIPT OF

5 PROCEEDINGS

10

RACING APPEALS AND DISCIPLINARY BOARD

D E C I S I O N

15 **PANEL:**

HIS HONOUR JUDGE R.P.L LEWIS, Chairman
MR B FORREST, Deputy Chairman
MR J BORNSTEIN, Member

20 MR B KNEEBONE, Member
MR G WARD, Member

25 IN THE MATTER OF: SIMON BEASLEY

MELBOURNE

30

FRIDAY 3RD APRIL 2009

DAY FIVE

35 Continued from 2/4/09

40 MR D. SHEALES appeared on behalf of Mr S. Beasley
MR T. FORREST appeared on behalf of the Stewards

11:35 A.M. THE CHAIRMAN: Simon Beasley, you have pleaded guilty to two charges of improper practice laid under Australian Rule of racing 175 (a). That rule reads as follows:

"The stewards may punish any person who in their opinion has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing."

The particulars of Charge 1 are:

- (1) You are and were at all relevant times a licensed bookmaker with Racing Victoria Limited;
- (2) the improper practice being that between the 21st of April 2006, and the 18th of October, 2008 you conducted your bookmaking business in a manner which was in serious breach of the provisions of the Bookmakers' Internet Betting Rules 2001; the Club Bookmakers' Licence Rule 2001; the Bookmakers' Sports Betting Rules 2007; the Bookmakers' Licence Levy Rules 2001; and, the Bookmakers' Telephone Betting Rules 2001;
- (3) you failed to properly, accurately and completely record bets accepted and made by you as set out in the enclosed CD 1 containing a spreadsheet entitled, "Beasley evidence, Analysis 01122008.xls."

The particulars of the Charge 2 are:

- (1) the improper practice being that on or about the 21st of October 2008 you attempted to destroy evidence relevant to the stewards' inquiry.
- (2) By letter dated the 17th of June 2008 you were directed to produce certain bookmaking business records to the stewards.
- (3) During the course of an inquiry hearing before the stewards on the 10th of October 2008, you were directed to produce your bookmaking business records, held at your South Yarra offices.
- (4) Further, due to the nature of the matters under investigation by the stewards in connection with your bookmaking business, you were well aware that the South Yarra data was highly relevant to the stewards' inquiry; and

(5) That on or about the 21st of October 2008, you or a person or persons acting on your instructions attempted to destroy all, or a substantial portion of the South Yarra data, by using a software programme of a type known as "a data shredder."

These particulars, together with an Agreed Statement of Facts which has been tendered in evidence, represent a comprehensive account of the facts and circumstances relating to these offences. Nevertheless, there are certain matters related to your offending which require elaboration and examination.

As part of the improper practice referred to in Charge 1, it was necessary for you to bring into existence what is known in common parlance as two sets of books. The first set, apparently recording the true state of affairs of your business, complied with the requirements of Racing Victoria Limited and the betting legislation referred to in the particulars. In fact, numerous betting transactions were not disclosed, and hence the total turnover and profitability of the business were not revealed.

The second set, which was kept secret, was the repository of the undisclosed betting transactions.

For approximately 12 months, the operation of your scheme - for that is what it was - proceeded without a hitch.

Monday the 16th of April 2007 was a fateful day in your career. Mr. Matthew Cosgriff, one of your trusted employees, forwarded certain information relating to future bets to the RVL sports betting Supervisor, Mr Prendergast, at the latter's request. In so doing, Mr Cosgriff let the cat out of the bag. In sending material to Mr Prendergast, Cosgriff inadvertently provided information in the form of an Excel spreadsheet known in these proceedings as a Sportsbet spreadsheet.

As we now know, that spreadsheet sparked an intensive and extensive investigation which resulted in Charges 1 and 2 being laid. The attempted destruction of the data referred to in Charge 2, is linked to what has been alleged and admitted by you in relation to Charge 1.

I now turn to an examination of your conduct from the time you were questioned by the RVL Investigator, Mr McMillan, on the third of May 2008, and thereafter.

That interview to be found in Volume 2, Tab 6. It contains a number of blatant lies and prevarications. The following questions and answers are sufficient to demonstrate that conclusion.

At Page 6: "Have you ever accepted a bet via a method that is not approved by Racing Victoria Limited or by the Minister?" Mr. Beasley: "No, no, I haven't." "Right. To your knowledge, have any of your staff ever accepted a bet outside the official approvals?" Mr. Beasley: "No." Question: "No e-mail? Have you ever accepted a bet via e-mail?" Mr Beasley: "No, we don't do email." Question: "Have you ever accepted a bet via fax?" Mr Beasley, "Fax, no." Question: "Have you ever accepted a bet on raceday on a telephone not approved or subject to the recording operation?" Mr Beasley: "No." Question: "No. Have you ever accepted or have you ever recorded a bet in a manner other than in the way that is acceptable under these rules?" Mr. Beasley: "No. I abide by the rules, and as by Racing Victoria." Question: "Have you ever recorded bets in a Register of undisclosed bets?" Mr Beasley: "No." Question: "No. Have you ever recorded bets in the spreadsheet of undisclosed bets?" Answer: "No." "Are you aware of a register of undisclosed bets within your operations?" Mr. Beasley: "No."

Page 12, "If there are bets recorded on either racing or sports or both but are not recorded on your ledgers, do you know why that might be?" Mr. Beasley: "I can't tell you the answer to that." Question: "Could they be recorded elsewhere within your operation?" Mr. Beasley: "I don't know. I don't know where they record it, or if they've ever been recorded in the system or not."

And then - - I won't bother reading the other examples, but they're just some of the examples to which I have referred.

The Board rejects Mr Sheales' suggestion that your response to questioning was conditioned by your state of mind at that time, that is, that it was the end of a meeting at Moonee Valley at which you fielded, that you were probably tired, possibly out of sorts, and therefore vulnerable. Rather, the Board is of the view that with your intimate knowledge of your operations, simple, specific questions, require simple answers, and rather than tell the truth you chose to lie.

The Board makes the observation that much of the anxiety, stress and pressure which you and your family experienced thereafter, was largely of your own doing.

Five months later, on 21st of October 2008, it is clear that your denial of any wrongdoing, was not only maintained, but, further, you sought to destroy evidence which would have given the lie to such denials. This attempt to destroy data was not only an aggravating feature of your conduct, but became the subject of Charge 2.

A month later, the 25th of November 2008, you were questioned at a stewards' inquiry conducted by the Chief Steward Mr Bailey. (See Volume 3, Tab 18.)

During the course of that inquiry, you emphatically denied any knowledge of the shredding of data; you denied being present at your office when your IT expert, Mr Haak, was there; you denied any knowledge of data being transferred on to a memory stick; and you were even prepared to say that Ms Lee Black, your personal assistant or Mr Haak, carried out the shredding without your authority.

The events of the 21st of October 2008, and the 25th of November 2008, speak for themselves. Putting it bluntly, your behaviour was disgraceful.

Your counsel, Mr Sheales, seldom lost for words, contented himself with describing your involvement in the shredding exercise as "headless."

During the course of being interviewed, you appeared to offer some justification for engaging in undisclosed betting transactions. Your argument ran, "Well, bookmakers in another jurisdiction - in particular the Northern Territory - are able to bet 24 hours per day, 7 days a week. I, Simon Beasley, am unable to compete with them because of Victorian betting rules. Therefore, to compete, I must break the rules."

If that type of rationalisation was what was in your mind, the Board rejects it as a mitigating factor. Such an attitude, however, does provide an explanation for your offending, in that you were anxious not to lose clients, particularly big betting clients who otherwise may have gone elsewhere to place a wager. If that occurred, then of course your turnover and income would be affected.

Thus, the evidence presented in this case has compelled the Board to conclude that the motivation for your engaging in improper practices was to maximise profits.

I turn now to the submissions in mitigation by your counsel, Mr Sheales. First, the Board has taken into account your plea of guilty, albeit at a later stage. That said, you had ample opportunity to admit your involvement, either in May 2008 or in October or November 2008.

Rather, you persisted in your denial of wrong-doing, even in the face of overwhelming evidence. You were even prepared to lay the blame for shredding data on others.

In the end, your plea of guilty is simply a recognition of the inevitable. Nevertheless, the Board gives you some credit, since, had you not pleaded guilty, a lengthy and extremely expensive hearing would have ensued, costing the racing industry a significant six-figure sum.

For the reasons already canvassed, the Board is satisfied that by your conduct, you have failed to demonstrate any moral contrition.

Mr Sheales has submitted that you are essentially a person of good character. He has tendered voluminous material in the form of character references. The referees are people from many walks of life. They have attested to your generosity, your assistance to the underprivileged, to charities, and your good works. The Board accepts this evidence and takes it into account in determining penalty.

You have been described as honest and trustworthy, a man of integrity. It therefore comes as no surprise to read that without exception the referees themselves have expressed surprise, some amazement, that you had engaged in improper practices. One referee suggested that you were naive. Some had I put it down to a lapse in judgement. Others have taken the view that we are all human, and therefore make mistakes.

The Board is unable to embrace any of these opinions, inter alia, for the following reasons:

- (1) You engaged in the improper course of conduct on a regular basis for over two years.
- (2) The non-disclosure of betting transactions was part of a scheme brought into being for that purpose, and specifically designed to hide betting transactions.
- (3) The scheme involved the collaboration, indeed, the complicity, of some your employees.

(4) When interviewed in May 2008, rather than make a clean breast of things, you were prepared to tell lie after lie, when specific matters were put to you.

(5) The instructions given to your solicitors regarding the extent of documentation sought by RVL were false, doubtless designed to mislead the investigators.

(6) In the knowledge that the game was up, you made a last-minute, calculated, but desperate attempt, to conceal your wrongdoing by attempting to destroy records.

In short, whilst the Board takes account of what has been submitted by your counsel in relation to your character, that evidence of good character has been significantly depreciated by what has been revealed about you as the evidence has unfolded. You, one of Victoria's leading bookmakers, were not content to play by the rules. You wanted more, and you were prepared to break the rules in order to achieve your purpose.

Finally, the Board makes the following observations, which are also to be considered in arriving at the question of punishment:

(1) The improper practice, the subject of Charge 1, was part of a well-planned scheme over a lengthy period, the object being to maximise profits.

(2) The involvement of your employees and Mr Haak, your IT expert, bore the hallmarks of a conspiracy.

(3) The number of, and the quantum of undisclosed transactions were very significant.

(4) The offending involved improper practices at a high level, and you used others to carry out such practices.

(5) The commission of these offences significantly tarnished not only the bookmaking profession, but, the image and reputation of racing, and flies in the face of the requirement of transparency in bookmaking activities.

The principle of general deterrence is the overriding consideration in this case. The aggravating features of the case also require the Board to take into account the principle of special deterrence. Any penalty must also send a message to those who are tempted to go down the path of nondisclosure that such conduct will not be tolerated and

will be met with severe punishment.

In the Board's opinion, the only appropriate punishment for each offence is a period of disqualification as well as a monetary penalty.

On Charge 1, you are disqualified from racing for a period of three years.

On Charge 2, you are disqualified from racing for a period of three years.

One year of the period of disqualification imposed in relation to Charge 2, is to be served cumulatively on the period of disqualification imposed in relation to Charge 1. An effective period of disqualification of four years is, therefore, imposed.

In addition, the Board imposes a fine of \$50,000 to be paid on or before the 30th of April 2009. Thank you.

11:51 A.M. MR SHEALES: If the Board pleases. Mr. Chairman, I understand this application is consented to on behalf of the stewards: there is a horse which Mr Beasley part owns entered for Moonee Valley tonight. Arrangements are being made to sell his interests, and as I understand it, they're not going -- an application for them to be transferred --

11:51 A.M. THE CHAIRMAN: The stewards aren't opposing --

11:51 A.M. MR SHEALES: For the disqualification to start tomorrow.

11:51 A.M. THE CHAIRMAN: I think that's fair.

11:51 A.M. MR FORREST: Or perhaps midnight tonight, and let's hope the horse handles the going.

11:51 A.M. THE CHAIRMAN: Yes, thank you gentlemen.

ADJOURNED AT 11:51 AM.