



**Racing
Victoria**

**RACING APPEALS
AND
DISCIPLINARY BOARD**

400 Epsom Road
Flemington VIC 3031
Telephone: 03 9258 4260
Fax: 03 9258 4848
radboard@racingvictoria.net.au

DECISION

**RACING VICTORIA STEWARDS
and
ROB KIRKPATRICK**

Date of Hearing: 31 January 2017

Panel: Judge Bowman (Chair), Professor Raymond Harbridge,
Mr Graeme Johnson.

Appearances: Mr Simon Carey appeared on behalf of the stewards.
Mr Bruce McGinley appeared on behalf of Mr Kirkpatrick.

Charge: Breach of AR 135(b)

The rider of every horse shall take all reasonable and permissible measure throughout the race to ensure that his horse is given full opportunity to win or obtain the best possible place in the field.

Particulars: At Woolamai on 2 December 2016, whilst riding *Divine Denona* in Race 6 the *George Bass Hotel Open Trophy Race Handicap* (2008m), Mr Kirkpatrick failed to maintain his position behind the leader when it was reasonable and permissible to do so and set a pace between the 1100m and 600m that was detrimental to the mare being given full opportunity to win the race, in contravention of AR 135(b).

Plea: Not guilty.

Decision: The Board finds the charge proved.

Mr Kirkpatrick convicted and suspended for a period of 4 picnic race meetings.

Georgie Gavin
Registrar - Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE J. BOWMAN, Chairman
PROF R. HARBRIDGE
MR G. JOHNSON**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE GEORGE BASS OPEN TROPHY
HANDICAP OVER 2008 METRES AT WOOLAMAI ON 2/1/17**

ROB KIRKPATRICK

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

TUESDAY, 31 JANUARY 2017

MR B. MCGINLEY appeared on behalf of Mr R. Kirkpatrick

MR S. CAREY appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Rob Kirkpatrick, you have been charged with a breach of AR 135(b), in that at Woolamai picnic races on 2 January 2017, when riding Divine Denona in race 6 of 2008 metres, you failed to take all reasonable and permissible measures to ensure that your mount was given full opportunity to win or obtain the best possible place in the field.

We note that the circumstances were as follows: Vodianova, ridden by Maddison Morris, went to the front shortly after the start. Ms Morris was an inexperienced apprentice who had only had about seven rides. Mr Kirkpatrick is a very experienced picnic rider and has also ridden as a professional jumping jockey. Vodianova was carrying 60 kilograms and Mr Kirkpatrick's mount 65.

Vodianova was the equal outsider in the field. Divine Denona was the hot odds-on favourite who started at \$1.70. The meeting was televised and the TAB operated on it. This does not move the goalposts, but jockeys should have been aware of their responsibilities and that, in the case of Mr Kirkpatrick, a lot of money had probably been invested on his mount.

As stated, Vodianova went to the lead shortly after the start. Mr Kirkpatrick moved to second place. At the time that they had just passed the winning post on the first occasion, Divine Denona had moved to the rails in second place and with cover. There were a couple of lengths to the third horse.

At or about the 1200-metre mark, Mr Kirkpatrick then decided that he would no longer sit behind the leader, although the gap to the third horse was widening. His explanation for moving out was that there was some cut-up turf near the rails. That does not explain why he did not move back in and not have the benefit of cover behind the leader or simply let it go and bide his time, as those behind him were doing. Instead, he urged his horse on and drew almost alongside Vodianova. There was then what could be described as a two-horse war over the next 500 or so metres. It is to be remembered that Mr Kirkpatrick was on the hot favourite and was giving five kilograms to an outsider while battling with it. The gap to the rest of the field, headed by the ultimate winner, had become something in the vicinity of six to eight lengths.

The inevitable happened. Both Divine Denona and Vodianova compounded. Neither ultimately ran a place. Divine Denona finished some seven lengths behind the winner. The time for the first half of the race had been faster than that of the second half.

However it is viewed, we are of the opinion that it was a very poor ride by Mr Kirkpatrick. We are not impressed by the argument that he was riding to instructions from owners. His instructions seem to have been to have the horse in a handy position and turn the race into a contest. However, the ultimate responsibility is that of a jockey. With another horse, an outsider with a light weight, taking up the running, Mr Kirkpatrick could still have been handy. To pull out and engage in a two-horse war was a very poor decision.

We are familiar with what has been said in various tribunals, including this board when chaired by Judge Lewis, in relation to the operation of AR 135(b). We accept that the Briginshaw standard of proof operates and that the test is objective. We are also aware that a mere error of judgment is not punishable by this rule. The ride may be culpable in the sense that, objectively judged, it is blameworthy. Where the line should be drawn in relation to errors of judgment in blameworthy riding is not always an easy decision.

In our view, the Stewards have satisfied the Briginshaw standard of proof and established that the rules have been breached. This was not a mere error of judgment but behaviour that was blameworthy. Mr Kirkpatrick made a deliberate decision to move out behind Vodianova and engage in a battle with it over several hundred metres in the circumstances described. In our view, that was blameworthy and did not give the horse full opportunity to win or obtain the best possible place in the field.

We should add that there is no suggestion that there was any betting irregularity or anything of that nature in relation to the conduct of the race. Mr Kirkpatrick simply did not take all reasonable and permissible measures so that his horse would have the full opportunity that is required.

In the circumstances and given the way the race unfolded, and we have expressed our views about that, we think that four meetings is an appropriate penalty for this particular incident, bearing in mind the limited number of opportunities that are available for the picnic meetings and the impact this has

upon it. So four meetings is the period of suspension imposed. As we understand it, this has no impact upon trackwork riding, just to make that quite clear. That is the penalty that we impose.
