

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

IAN FLETCHER

Date of Hearing: 13 July 2016

Panel: Judge John Bowman (Chair).

Mr Daniel Bolkunowicz appeared on behalf of the stewards. **Appearances:**

Mr Fletcher appeared on his own behalf.

Charges 1-7 AR 175(o)(iv)

> The Principal Racing Authority (or the stewards exercising powers delegated to them) may penalise: (o) Any person in charge of a horse who in their opinion fails

at any time: (iv) to provide proper and sufficient nutrition for a horse.

The particulars being that, prior to 6 April 2016 Mr Fletcher failed to provide

proper and sufficient nutrition to 7 horses in his care.

Plea: Guilty to all 7 charges.

Decision: Mr Fletcher is convicted and warned off for a period of 12 months in

respect of each charge, with such periods to be served concurrently. Thus,

Mr Fletcher is warned off for a total period of 12 months.

In accordance with AR 182(1), during the period of warning off, Mr

Fletcher may apply to Racing Victoria for an exemption to the restrictions

listed in that rule.

With the consent of Mr Fletcher, Racing Victoria is to have access to his property at Douglas Road, Swan Hill until 13 September 2016 for the purpose of monitoring any horse located there and to assist with the

rehoming of any horses, as required.

TRANSCRIPT OF

PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD HIS HONOUR JUDGE J. BOWMAN, Chairman EXTRACT OF PROCEEDINGS **DECISION RACING VICTORIA STEWARDS** and IAN FLETCHER

MELBOURNE

WEDNESDAY, 13 JULY 2016

MR D. BOLKUNOWICZ appeared on behalf of the RVL Stewards

MR I. FLETCHER appeared on his own behalf

CHAIRMAN: Mr Ian Fletcher, you have pleaded guilty to seven charges of breaching Australian Rule 175(o)(iv), in that you are charged with seven horses, in failing to provide to them proper and sufficient nutrition.

There are of course seven separate charges, one in respect of each horse. As said, you have pleaded guilty to each.

In arriving at the penalty, I am indebted to the Stewards, including Mr Peter Ryan, who has travelled to be here, and their representation today provided by Mr Daniel Bolkunowicz. I am indebted to them for their very sensible and helpful approach adopted to an unusual problem and the suggestion made in respect of penalty.

In arriving at a penalty, I have borne many factors in mind. My conclusion is that the suggestion made by the Stewards should be adopted as it represents a practical solution to a complicated problem. Of course in imposing penalty, I have been very conscious of the need for general deterrence. A clear message must be sent that the failure to provide proper and sufficient nutrition to horses is a very serious matter and it must be made clear to those in the industry that it will not be tolerated, so that general deterrence is a major consideration. Specific deterrence is also important, but for reasons to which I shall come, in this particular case it is not a factor of the same magnitude.

However, another paramount consideration is the welfare of the animals. That seems to have been remedied in the short term. Mr Fletcher was training at Swan Hill and these particular offences occurred during the recent drought.

.Fletcher 13/7/16

That drought has broken and I am assured that there is now plenty of feed. However, the future welfare of the horses is a factor of major importance.

Another important factor is the image of racing. Word of problems such as this rapidly gets around and could be described as a very poor look.

In arriving at a penalty and bearing in mind that there are seven charges involved, I have also taken into account matters of proportionality and totality.

Turning to some important aspects of this particular matter, I have taken into account the following, concerning which there is no dispute: (1) Mr Fletcher is a 75-year-old man who is a hobby trainer who enjoyed some success some years ago. He has had few horses running in recent times. The couple that have run have not been very successful.

- (2) Mr Ryan has confirmed that Mr Fletcher has always presented his horses at the races in good order, has never been in trouble or a problem for the Stewards in any way, so he has an excellent record.
- (3) Mr Fletcher is mortified and embarrassed because of what has happened. This was not a case of wilful cruelty or deliberate underfeeding for financial reasons. However, there was neglect at a time of drought, complicated by a mice plague that at least partly destroyed the hay that Mr Fletcher did have available. However, sizeable neglect is what it was and the penalty must reflect that.

.Fletcher 13/7/16

- (4) The horses concerned were basically old and retired horses that had won races for Mr Fletcher or been otherwise successful. It seems that he simply did not want to part with them. He is now noticeably embarrassed and extremely sorry for what occurred. He has already found homes for two of these horses and appreciates that the rest of the horses must go.
- (5) Mr Fletcher has this day surrendered his licence to train. Given his situation and age, this is a sensible step to have taken. As a result of the penalty which I am imposing, the balance of the horses, including all those who are not the subject of any charge, will be removed. All of this is doubtless a great blow to him but it is an outcome which is appropriate.
- (6) Mr Fletcher has pleaded guilty and has cooperated fully with the Stewards. Follow-up visits have been made to the paddocks and sheds in which the horses, both those the subject of the charge and those that are not, are located. Clearly the situation has improved substantially. Photographs of the present feed available in the paddocks were put before me. There has been a dramatic improvement. However, the horses will shortly be leaving.
- (7) Mr Fletcher has had almost a lifelong connection with racing, certainly dating back over 50 years. He has been made a life member of the Think Big Club in Swan Hill, which club helps promote and takes part in the annual three-day Swan Hill Cup carnival. He is obviously well regarded. That makes the embarrassment all the greater, but absence from the general racing scene is another aspect of how the penalty which I impose will affect him.

It was drawn to my attention by the Stewards that he can apply for an exemption and this may assist in relation to attending next year's Swan Hill Cup carnival. Whether that exemption will be granted is of course a decision to be taken by the Stewards at that time.

(8) I accept the apologies and regret that Mr Fletcher has expressed. I accept that they are genuine and heartfelt. In addition, it will be a big wrench for him effectively to sever his connection with the racing industry. However, for the reasons previously expressed, an appropriate and sizeable penalty must be imposed.

The penalty is that suggested by the Stewards and in the light of Mr Fletcher surrendering his licence to train this day. Provisions of the penalty are as follows: (1) Mr Ian Fletcher is warned off for a period of 12 months in respect of each charge, with such periods to be served concurrently, thus the total penalty is a warning-off for a period of 12 months from this date. This penalty period is in line with that imposed in the very few previous cases which involve a breach of AR 175(o)(iv). (2) In accordance with Australian Rule 182(1), during the period of warning-off, Mr Fletcher may apply to Racing Victoria for an exemption to restrictions listed in that rule. (3) With the consent of Mr Fletcher, Racing Victoria is to have access to his property at Douglas Road, Swan Hill, until 13 September 2016 for the purpose of monitoring any horse located there and to assist with the rehoming of any horses as required.
