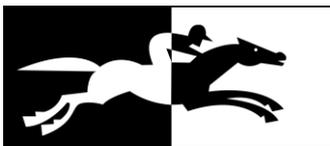


RACING VICTORIA LIMITED
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RACING APPEALS AND
DISCIPLINARY BOARD



Racing Victoria Limited
www.racingvictoria.net.au

Racing Victoria Centre
400 Epsom Road
Flemington Victoria 3031
Tel: 03 9258 4260
Fax: 03 9258 4707
g.curtis@racingvictoria.net.au
www.racingvictoria.net.au

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 9 December 2009

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: DANNY NIKOLIC**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy Chair), Mr Graeme Ward

Appearances Mr Terry Bailey, Chairman of Stewards, appeared on behalf of the Stewards.
Mr Nikolic appeared on his own behalf.

At Caulfield on Saturday, 5 December 2009 jockey Danny Nikolic was found guilty of a charge of careless riding on his mount *Cabeza(NZ)* in Race 3 the *CFV Community Connect Plate* (1400m).

The careless riding being that after passing the 1200m he permitted his mount to shift in to a point outside of *Morossa* and in doing so left insufficient room for three runners to his inside, they being *Our Inheritance*, *Dorsoduro* and *Excuse My French*, resulting in those three runners being placed in restricted room and *Dorsoduro* having to be checked and lose his rightful running.

Danny Nikolic had his licence to ride in races suspended for a period to commence midnight Sunday, 6 December 2009 and to expire midnight Thursday, 17 December 2009 a total of 12 race meetings, (4 metropolitan, 8 country). In assessing penalty, Stewards took into account Danny Nikolic's good race riding record and that the careless riding was in the mid-range category.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Monday, 7 December 2009.

DECISION: Appeal dismissed.

Penalty varied – suspension to now expire at midnight on Tuesday,
15 December 2009 (a total of 10 race meetings).

Georgie Curtis
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST
MR G. WARD**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE CFV COMMUNITY CONNECT PLATE
OVER 1400 METRES AT CAULFIELD ON 5/12/09**

JOCKEY: DANNY NIKOLIC

MELBOURNE

WEDNESDAY, 9 DECEMBER 2009

MR T. BAILEY appeared on behalf of the Stewards

MR D. NIKOLIC appeared on his own behalf

CHAIRMAN: In this appeal, the Stewards' case is that the appellant, knowing that things were tight to his inside, failed to take any measure to relieve the pressure. The appellant's case is that he knew that horses were racing tight on his inside but they still had galloping room and that his obligation was simply to ensure that he did not increase the pressure. Accordingly, he maintained his course over a distance of about 200 metres.

The question of whether a rider is careless is an objective test, not a subjective test. That is, even if the appellant genuinely believed that what he was doing was within the rules, it does not determine the matter. The question is whether in riding as he did, the appellant should have taken some positive action to relieve the pressure on his inside, rather than be content to stay where he was.

In the Board's opinion, the appellant's riding fell short of what was required of a reasonable rider in the circumstances by not relieving the pressure.

Accordingly, the appeal against conviction is dismissed.

The Board has given consideration to the question of penalty and we see a distinction can be made in this case because the carelessness was really an act of omission, rather than of commission. Most of the cases of careless riding are cases where a jockey has done something of a more positive nature to cause interference or otherwise, and therefore in the circumstances we feel that some allowance should be made for that.

We would be prepared to vary the penalty, so that the suspension expires at midnight on Tuesday, 15 December 2009.