

Racing Victoria

RACING APPEALS AND DISCIPLINARY BOARD

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DECISION

RACING VICTORIA STEWARDS and ADAM MCCABE

Date of Hearing: 22 February 2017

- Heard By: Judge Bowman (Chair).
- <u>Appearances:</u> Mr James Hitchcock appeared on behalf of the stewards. Mr Matthew Hyland appeared on behalf of Mr McCabe.
- <u>Charge</u> Breach of AR 175(gg)

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise: (gg) Any person who makes any false or misleading statement or declaration in respect of any matter in connection with the administration or control of racing.

Particulars The particulars of the charge are that on 26 December 2016, Mr McCabe made two false or misleading statements to the stewards in relation to being unable to attend the Penshurst race meeting where he had five riding engagements that day. Noting that four of those horses had to be scratched as no alternative riders were available.

Plea: Guilty.

Decision: Mr McCabe convicted and fined \$2,500.

Fine to be paid within 3 months from today's date or in accordance with an agreed payment plan.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

RACING VICTORIA STEWARDS

and

ADAM McCABE

RACING VICTORIA CENTRE, FLEMINGTON

WEDNESDAY, 22 FEBRUARY 2017

MR J. HITCHCOCK appeared on behalf of the RVL Stewards

MR M. HYLAND appeared on behalf of Mr A. McCabe

CHAIRMAN: Mr Adam McCabe, you have pleaded guilty to a charge of breaching AR 175(gg), in that you made two false or misleading statements in respect of a matter in connection with the administration of racing.

On Boxing Day, 26 December 2016, there were races at Penshurst. You had five rides there. At approximately 12.21 pm, when you were on your way to Penshurst and at Geelong, you telephoned the racecourse and spoke to Mr Hitchcock, who was the Chairman of the Stewards conducting the meeting that day. The essence of the conversation was that you said that your partner who was pregnant had collapsed and was at the hospital, so you had turned around and you were heading there. Mr Hitchcock advised you that this was okay, but three or four horses, which turned out to be four, would have to be scratched and he would need some confirmation from the hospital. You said you would obtain something in writing.

You then seemed to have done little or nothing about supplying this. The Stewards tried to text message or ring you but apparently you had changed your email address. In any event, when interviewed again on 18 January 2017, you stated that you would not be able to get a doctor's certificate because by the time that you got back, your partner had been discharged and at home. You still maintained that she had been admitted to hospital. Ultimately your version of this story changed, to the effect that she had not been at the hospital but to a doctor's clinic. Finally, you admitted to it being no visit to the hospital or to the doctor on that day, that it had occurred on a day earlier, but you claimed that your partner had also been unwell on Boxing Day. You were interviewed again on 19 January 2017. You had received some assistance from Mr Matthew Hyland, who is representing you here today. Both of the interviews were conducted in Melbourne. You admitted that the whole collapse in hospital story had been false and you stated that you panicked. You had been having a lot of difficulties, including with weight. Indeed, you have since been suspended for a month for testing positive to a diuretic, the second time you have been suspended for such an offence. The knowledge of this was hanging over you, and that you had probably tested positive was also playing on your mind. You had been sweating at the races, there were some problems at home, and you were sweating in the car when driving to Penshurst. So you panicked, made the call and turned around.

I accept that you were under considerable pressure at the time of this offence. You made a serious error and unfortunately persisted with it. Making two false statements to the stewards is a serious offence. I appreciate that at the second interview, you ultimately virtually tapped the mat, if I can use that phrase. As a result of your not going to Penshurst, four horses had to be scratched, doubtless causing a lot of disappointment and annoyance to the connections. Various owners probably had their day ruined.

General deterrence is an important sentencing consideration. This sort of behaviour is bad for the image of racing and must be discouraged. Specific deterrence is also relevant. You persisted with the false story until it became inevitable and apparent that you would be caught out. I also take into account the pressure that you were under on the day, both domestically and in relation to your weight, and with the possible swab hanging over you. I accept that you have an ongoing struggle with weight and that you are heavy at the moment. Your only income is from trackwork riding. Your partner, being pregnant, is not working. I have also taken into account the very good reference provided by Mr Des O'Keeffe, chairman of the AJA.

Given that you are currently not race riding, an appropriate period of suspension would effectively be no penalty. Offences of this type have usually attracted a fine by way of penalty and I agree with Mr Hitchcock that a substantial fine rather than a nominal one is warranted. It is also to be borne in mind that there were two false statements involved, even if the second one virtually faded out. Nevertheless, you did persist with an untruthful version of events.

In all the circumstances, it seems to me that a fine of \$2500 is appropriate, to be paid within three months or in accordance with an agreed payment plan.
