

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 28 May 2013

SUBJECT: **HEARING RESULT – TRAINER: ANDREW SAWDEN**

Panel Judge Russell Lewis (Chair), Mr Josh Bornstein, Mr Ron Taylor.

Appearances Mr Sawden appeared on his own behalf.
Mr James Hitchcock appeared on behalf of the Stewards.

Charge 1 Breach of AR 175 (q) – misconduct and/or improper conduct.

Charge 2 Breach of AR 175(p) - fail to comply with any order, direction and/or requirement of the Stewards

Charge 3 Breach of AR 54(1) - fail to lodge a stable return

The charges relate to an incident that took place at Geelong Racing Club on Wednesday, 27 March 2013 involving the horse *Balmattum Belle*, trained by Mr Sawden.

Plea Charge 1 - not guilty.
Charge 2 - guilty.
Charge 3 - guilty.

Decision Charge 1 - The Board finds the charge proved. Mr Sawden convicted & fined \$1000.
Charge 2 - Mr Sawden convicted and fined \$500.
Charge 3 - Mr Sawden convicted and issued with a severe reprimand.

The total fine of \$1500 due on or before 30 June 2013.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR J. BORNSTEIN
MR R. TAYLOR**

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: ANDREW SAWDEN

MELBOURNE

TUESDAY, 28 MAY 2013

MR J. HITCHCOCK appeared on behalf of the RVL Stewards

MR A. SAWDEN appeared on his own behalf

CHAIRMAN: The Board has heard evidence in this case from two witnesses who have observed Mr Sawden to strike the horse with the lead rope in the vicinity of the head. We have also heard evidence from Dr Stewart.

Based on the evidence which we have heard, the Board is not satisfied that kicking a horse in the area of the stomach constitutes misconduct, particularly having regard to the evidence of Dr Stewart that, in the circumstances, it can provide a circuit-breaker and carries no risk of damage to the horse. The Board is satisfied, however, that Mr Sawden did strike the horse in the vicinity of the head with the end of the lead rope and that that striking occurred above the nostril area and, having regard to Mr Sawden's state of mind at the time, there was always the potential that a strike could be made which involved the horse's eyes, so there was always a risk of injury to the horse. In those circumstances, using the lead rope in the fashion I have described was unacceptable and constituted misconduct within the meaning of the section. Accordingly, charge 1 has been proved.

The Board has come to the following decision in relation to the question of penalty: in relation to charge 1, the Board regards the striking of the horse in the vicinity of the head as a significant matter, not only from the point of view of perception but, having regard to the evidence of Dr Stewart, it is quite unacceptable behaviour and carries with it the potential risk of injury to the horse. In the circumstances, the Board believes that this is the more serious of the three charges and Mr Sawden is fined \$1000 in relation to charge 1.

In relation to charge 2, the failure to obey the direction of the steward, Mr Koch, was an act of defiance by Mr Sawden who was in an angry mood and did not give mature consideration to what he was being told. It was a spontaneous reaction, and in the circumstances, the Board takes that into account. On charge 2, Mr Sawden is fined the sum of \$500.

In relation to charge 3, the Board agrees that a severe reprimand is the appropriate disposition.

Accordingly, the total financial penalty in this case is the sum of \$1500 which is to be paid on or before 30 June 2013.

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