

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 10 February 2015

SUBJECT: **APPEAL HEARING RESULT – RACEHORSE: SCHALOT**

Panel Judge Russell Lewis (Chair), Mr Shaun Ryan, Dr June Smith.

Appearances Mr Tim Wilson appeared on behalf of the owners of *Schalot*.
Mr James Ogilvy appeared on behalf of the stewards.

On 19 January 2015 a ban was imposed by the stewards on the racehorse *Schalot* under AR 50 whereby all future nominations or entries would be declined or rejected due to its post race behaviour posing an unacceptable safety risk to itself, other horses, riders, strappers and the general public.

AR 50 states that:

All nominations and entries are subject to approval, and the Committee of any Club, or the Stewards, may decline to receive, or at any time after having received, reject any nomination or entry without giving any reason for so doing. If any nomination or entry be rejected under this Rule, the fees paid in respect thereof shall be refunded.

A Notice of Appeal against **the decision and severity of the penalty** was lodged by the owners of *Schalot* on 22 January 2015.

DECISION: **Appeal dismissed.**

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR S. RYAN
DR J. SMITH**

EXTRACT OF PROCEEDINGS

DECISION

RE: SCHALOT

TRAINERS: MATHEW ELLERTON AND SIMON ZAHRA

MELBOURNE

TUESDAY, 10 DECEMBER 2015

MR J. OGILVY appeared on behalf of the RVL Stewards

MR T. WILSON appeared on behalf of the Appellants

CHAIRMAN: On this appeal, the Board has given mature consideration to the written submissions provided by Mr Ogilvy, who appears on behalf of the Stewards, and the oral submissions made by Mr Wilson, who appears on behalf of the Appellants.

The evidence is clear that the best person to evaluate the condition of the horse was Dr Ledger, who observed and treated the horse post-race at Kilmore. So much was conceded by Dr Brownlow, called on behalf of the Appellants. An issue has arisen as to what Dr Ledger knew of the history of the horse and as to what treatment she provided. The Board has no hesitation in accepting her evidence on these aspects. It rejects the assertion made by Mr Wilson in paragraph 2 on page 2 of his statement which was attached to the notice of appeal, the source of his information being third-hand hearsay at best.

Although Dr Brownlow's opinion as to the actual diagnosis differed from that of Dr Ledger, she nevertheless accepted that given the horse's history and accepting her diagnosis that the horse was suffering at Kilmore from a level 2 to 3 exertional heat illness, that it was in the end a matter for those advising the stewards as to what should be done with the horse. In this context, both Dr Ledger and Dr Stewart were of the view that an embargo on the horse was appropriate, in particular having regard to animal welfare considerations, the risk of danger to the horse and other horses and to people.

Dr Brownlow conceded in cross-examination that it was not inappropriate for the stewards to place an embargo on the horse based on the horse's history and what occurred at Kilmore. The Board adds that the image of racing is also a consideration, as well as a strain on the resources of Racing Victoria Ltd.

Upon a consideration of the whole of the evidence, the Board is of the opinion that the Stewards were entitled to place an embargo on the horse. Accordingly, the appeal is dismissed.
