

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 21 February 2013

SUBJECT: **HEARING RESULT – TRAINER: MICHELLE ALLEN**

Panel Judge Russell Lewis (Chair), Mr Geoff Ellis, Mr Chris Enright.

Appearances Ms Allen appeared on her own behalf.
Mr James Ogilvy appeared on behalf of the Stewards.

Charge 1 Breach of AR 175(a)

Any person, who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.

Charges 2 & 3 Breach of AR 175(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.

The charges relate to the sale of the racehorse *Fraazam* and allegations that Ms Allen made false statements in relation to the horse.

Plea Charge 1 – guilty.
Charge 2 – guilty.
Charge 3 – guilty.

Decision Charge 1 - Ms Allen convicted and disqualified for a period of 12 months, commencing midnight 24 February 2013.

Charge 2 - Ms Allen convicted and disqualified for a period of 3 months.

Charge 3 - Ms Allen convicted and disqualified for a period of 3 months.

The period of disqualification for Charges 2 & 3 to be served cumulatively with the period of disqualification for Charge 1 – a total of 18 months disqualification.

Application to VCAT for a review of the decision.

The RAD Board's decision affirmed, penalty set aside and new penalty imposed of a suspension of Ms Allen's licence for a total period of 12 months.

Georgie Gavin
Registrar - Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR G. ELLIS
MR C. ENRIGHT**

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: MICHELLE ALLEN

MELBOURNE

THURSDAY, 21 FEBRUARY 2013

MR J. OGILVY appeared on behalf of the RVL Stewards

MS M. ALLEN appeared on his own behalf

CHAIRMAN: Michelle Allen, you have pleaded guilty to three serious offences. The sale of the horse and the false statement to the owner and her mother that the horse had died clearly represent dishonest, fraudulent, improper and dishonourable conduct.

The false statements the subject of Charges 2 and 3 were discrete offences, in that they were premeditated lies to racing authorities and, accordingly, strike at the integrity of racing. The integrity of racing in the context of these charges is critical to the proper conduct and administration of racing.

The offending in this case represents deceit at a high level, together with a series of lies and actions to support that deceitful conduct. The principles of special and general deterrence apply in this case; special deterrence because the course of conduct was ongoing and the offending was perpetuated by a series of lies.

The principle of denunciation of your conduct also applies, and the integrity of racing must be upheld. There was also a breach of trust in relation to the owner of the horse. It should be noted that these were not victimless offences.

In the Board's view, there is an absence of mitigating factors. However, the Board takes into account your plea of guilty, but notes that your plea of guilty was simply a recognition of the inevitable. You have no prior convictions and the Board takes that into account. It also takes into account your cooperation with the Stewards when a formal inquiry was undertaken.

The Board also takes into account the references which you have tendered and has concluded that you have a genuine love of horses and are concerned about their welfare.

On Charge 1, you are disqualified for a period of 12 months, effective from midnight, 24 February 2013. On each of Charges 2 and 3, you are disqualified for a period of three months. The penalties imposed in relation to Charges 2 and 3 are to be served cumulatively upon the period of disqualification in Charge 1 and upon each other. A total of 18 months' disqualification is therefore imposed.

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VCAT | victorian civil &
administrative
tribunal
REVIEW AND REGULATION LIST

VCAT Reference: B87/2013
Your Reference:

28 May 2013

Racing Appeals Disciplinary Board
400 Epsom Road
FLEMINGTON VIC 3031

Dear Sir/Madam

Re: Michelle Allen v Racing Appeals Disciplinary Board

I enclose a copy of VCAT's Order in this matter.

Yours faithfully



Melissa Biram
Registrar, Administrative Division

Enc:

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION**

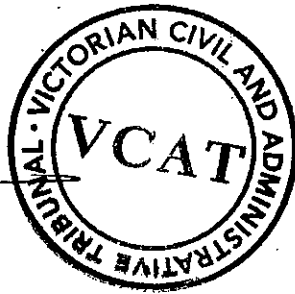
REVIEW AND REGULATION LIST

VCAT REFERENCE NO. G87/2013

APPLICANT	Michelle Allen
RESPONDENT	Racing Appeals Disciplinary Board
WHERE HELD	Melbourne
BEFORE	Judge Macnamara, Vice President
HEARING TYPE	Hearing
DATE OF HEARING	24 May 2013
DATE OF ORDER	24 May 2013

ORDER

The respondent's determination is set aside and there is substituted therefore a determination that the applicant be suspended for a period of 12 months on Charge 1 and three months on each of Charges 2 and 3. All such suspensions to run concurrently and to commence midnight 24 February 2013.



Judge Macnamara
Vice President

APPEARANCES:

For Applicant	Mr S. Mukerjea of Counsel
For Respondent	Mr J. Ogilvy, solicitor