



DECISION
RACING VICTORIA STEWARDS
and
SHANE BOTTOMLEY

Date of Hearing 11 December 2018

Panel Judge John Bowman (Chair)

Appearances Daniel Bolkunowicz appeared on behalf of the Stewards.
Ross Ingliss appeared on behalf of Shane Bottomley.

Charge 1 AR 175(g)

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise:

(g) Any person who gives at any interview, investigation, inquiry, hearing and/or appeal any evidence which is false or misleading in any particular

Summary

Mr Bottomley had in his care the 3-year-old filly *Comanderbrae Bonny*, which subsequently died at his registered stables on 21 June 2018.

In telephone interviews on 29 June 2018 with Frank De Rango (Senior Advisor - Dispute Resolution and Mediation Services, Racing Victoria) in relation to *Comanderbrae Bonny*, Mr Bottomley made the following false remarks:

- a) He got the knackery to take the horse away;
- b) He asked the knackery to tell him what the cause was - when he cut her up;
- c) They said it was a twisted bowel;
- d) It was the Tooradin Knackery; and
- e) He called Tooradin and asked whether they would take it and they asked him how long it had been dead and he said no he wouldn't take it coz it had been dead too long.

Charge 2 AR 175(q)

The Principal Racing Authority (or the Stewards exercising powers delegated to them) may penalise:

(q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly behaviour

Summary

Mr Bottomley had in his care the 3-year-old filly *Comanderbrae Bonny*, which subsequently died at his registered stables on 21 June 2018 (the “Carcass”).

Without the knowledge or consent of *Comanderbrae Bonny*’s owner, he:

- (a) cut into the Carcass and performed his own autopsy to ascertain its cause of death; and
- (b) burnt the Carcass in a bonfire

Plea

Charge 1: Guilty

Charge 2: Guilty

Penalty

Charge 1: Mr Bottomley convicted and fined \$6,000.

Payment – due 1 March 2019.

Charge 2: Mr Bottomley convicted and suspended for three months. The suspension will begin on 18 December 2018.

Grace Gugliandolo
Registrar
Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

RACING VICTORIA STEWARDS

and

SHANE BOTTOMLEY

RACING VICTORIA CENTRE, FLEMINGTON

TUESDAY, 11 DECEMBER 2018

MR D. BOLKUNOWICZ appeared on behalf of the RVL Stewards

MR R. INGLIS appeared on behalf of Mr S. Bottomley

CHAIRMAN: Mr Shane Bottomley, in this very unusual case, you have pleaded guilty to two charges. You have pleaded guilty to a charge of AR 175(g) which will be summarised as being the giving of false evidence which, in this case, was false evidence given to Mr Frank De Rango, a senior adviser of Dispute Resolution and Mediation Services. The essence of that charge is that you told him that the horse, Comanderbrae Bonny, was in your care and died, had been transported to a knackery and cut up there. This was patently false and was discovered and admitted so to be comparatively rapidly.

The second charge is based on a factual scenario which I have not encountered before and neither had anyone present. Mr Bolkunowicz, on behalf of the Stewards and on their instructions, could not point to a similar factual situation and nor could Mr Inglis, a most experienced practitioner and advocate before this Board and its predecessors. The second charge to which you pleaded guilty is a breach of AR 175(q), essentially misconduct, improper conduct or unseemly behaviour.

The factual background is as follows: you had under your care the horse Comanderbrae Bonny. The ownership of that horse is a little complicated but effectively the breeder and registered owner was Ms Shona Gilmore. The horse had been with you previously and was returned to your care on approximately 20 June last. On the following day, you found it dead in its stall. Later that day, you moved the carcass to a large rubbish dump on your property. When you were attempting to move it, a fork or tine at the front of

the tractor pierced the hide of the dead horse. You then used a knife to cut into it in order to ascertain the cause of death which was discovered to be a twisted bowel. You then moved the carcass to a large rubbish dip and ultimately lit a fire there. This was a very substantial fire, involving a lot of rubbish, and the carcass was completely destroyed.

In the meantime, you had not told the registered owner, Ms Gilmore, what had occurred. She left messages. She attempted to find you at the property. Effectively she threatened to go to the police. Ultimately on 26 June 2018, you informed her that the horse was dead. You have described her reaction on being informed that the horse was dead as being hysterical, and that was before she heard anything about the cutting up of the corpse and the burning of the carcass.

This is a highly unusual and unpleasant case. Dealing with the charges one at a time, I accept that the breach of AR 175(g), the giving of false evidence to Mr De Rango, was a breach that did not persist for long. It was always doomed to fail as soon as a check was made at the knackery, and the whole episode with the false evidence seems to have come to a conclusion in approximately a day. Nevertheless, the giving of false evidence to an official brings into the spotlight the whole question of the integrity of racing and the importance of registered owners giving truthful and accurate accounts to officials. This may have been a brief and ill-fated attempt at false evidence, but it is still a serious matter.

The second charge of misconduct, improper conduct or unseemly behaviour is certainly more serious, which has been effectively stated by all concerned. This is not an animal welfare case. The horse was already dead when the conduct occurred. It is very much an image of racing case. It is also very much a case that focuses upon the whole vitally important question of the relationship between owners and trainers.

From both viewpoints, what occurred had not just a very poor look but a dreadful look, not just the cutting into and burning of the carcass but the manner in which Ms Gilmore, the owner, was treated. No attempt to contact her at all was made or days. Her attempts to contact you were ignored.

I turn now to the matters in your favour. You have been in the racing industry for 25 years and a licensed trainer for 18 years. You have virtually a spotless record, effectively one breach for which you were fined three years ago, to do with stabling arrangements and premises. I regard you as having an excellent and exemplary record.

Next, there are your pleas of guilty. They have been received early and I accept that they are heartfelt. You will certainly receive the benefit of those early pleas of guilty.

Next, there is the bundle of references that have been put before me. I have seldom seen such an extensive and impressive bundle of references and they come from people in various branches of the industry, as well as from people

such as one of your brothers and from your former wife, with whom you are still on good terms. I have not counted them precisely but there seem to be at least 30 of these references. It is apparent that you have an excellent reputation in the industry, both generally and particularly in relation to the way you look after and educate problem horses. That is in addition to the eight horses which you currently train.

The references include mention of the great care that you have shown for other members of your family, including a brother who has major health problems and who lives at your premises. I accept that you are a very good family man and virtually a model citizen. One other matter that I bear in mind is that you live on your training establishment and that you have a very large mortgage to service.

I have borne all of the above in mind. All of these matters have to be weighed up and an appropriate balance struck. There are many factors in your favour. But the fact remains that what occurred is particularly poor for the image of racing generally and for the very important matter of owner-trainer relationships.

I say now that in my view, despite the eloquence and persuasive arguments of Mr Inglis, the imposition of a fine does not represent an adequate penalty, particularly insofar as the second charge is concerned. However, bearing in mind such matters as the fact that you live with your ill brother at one of your racing or stabling properties and the various other matters to which I have

referred, I consider the impact of a period of disqualification to be too severe a penalty in the circumstances.

On the breach of AR 175(g), a doomed attempt at a false story which quickly failed, you are convicted and fined the sum of \$6000, to be paid by 1 March 2019. On the breach of AR 175(q), the misconduct and the like that you engaged in, concerning the cutting up and destruction of the carcass and your behaviour towards the owner, you are convicted and suspended for a period of three months. I contemplated a larger period of suspension or indeed disqualification but your outstanding record and numerous, most impressive references and the submissions of Mr Inglis have played a significant role in my thinking. The suspension will begin on 18 December 2018.
