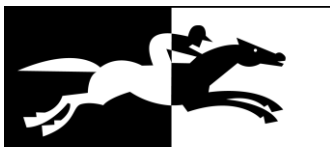


RACING VICTORIA LIMITED
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RACING APPEALS AND
DISCIPLINARY BOARD



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APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 30 November 2009

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: DAMIEN OLIVER**

Panel Judge Russell Lewis (Chair), Mr Graeme Johnson, Mr Bill Knights

Appearances Mr Dayle Brown, General Manager Integrity Services, appeared on behalf of the Stewards.
Mr Peter Randles of Randles Cooper & Co. appeared on behalf of Mr Oliver.

At an adjourned inquiry on Tuesday, 24 November 2009 jockey Damien Oliver pleaded guilty to a charge under the provisions of AR81A(1)(a). The charge relates to Mr Oliver providing a urine sample containing the substance Ephedrine at Flemington on Saturday, 31 October 2009.

Mr Oliver had his licence to ride in races suspended for a period of one month, to commence midnight Wednesday, 25 November 2009 and to expire midnight Friday, 25 December 2009.

A Notice of Appeal against **the severity of the penalty** was lodged on Tuesday, 24 November 2009.

A stay of proceedings was granted effective until midnight Sunday, 29 November 2009.

DECISION: **Appeal allowed – penalty varied to a severe reprimand.**

Georgie Curtis
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR G. JOHNSON
MR B. KNIGHTS**

EXTRACT OF PROCEEDINGS

DECISION

JOCKEY: DAMIEN OLIVER

MELBOURNE

MONDAY, 30 NOVEMBER 2009

MR D. BROWN appeared on behalf of the Stewards

MR P. RANGLES appeared on behalf of the Appellant

CHAIRMAN: The facts and circumstances relating to this matter have been well canvassed during the course of the plea and I do not intend to repeat them.

There is a fundamental obligation on a licensed person to acquaint him or herself with the rules. This was not done in this case. However, for reasons which have been well elucidated, the appellant, Damien Oliver, had no reason to believe that he was in breach of the rules by taking the preparation known as Thermolift, which contained an unacceptable amount of ephedrine.

The Board is of the view that the system and method of communicating the Rules of Racing to riders in particular falls well short of what should be expected of the governing body of racing. It is not an answer to say that the Rules of Racing are there and that any rider may obtain a copy. The Board accepts Mr O'Keeffe's statement that few riders, if any, would be in possession or would have requested a copy of the Rules of Racing.

Inside Racing and a system of emailing are useful tools but unsatisfactory mediums for dissemination. To expect the executive of the Victorian Jockeys Association, Mr O'Keeffe, to act as a conduit for RVL and inform all riders of each and every change to the rules is unfair.

The question of dissemination is difficult. Various suggestions have been canvassed during the course of the plea and the Board recommends that urgent attention be given by RVL to the problem.

In all the circumstances and taking into account the appellant's plea of guilty, the other mitigating factors which have been established, as well as the precedent to which the Board has been referred, the Board upholds the appeal and varies the penalty by issuing a severe reprimand, adding that the appellant and any other rider must ensure in future that any preparation he or she takes, whether herbal or otherwise, is of a kind which is within the Rules of Racing.

END OF EXTRACT