

HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 15 May 2015

SUBJECT: **HEARING RESULT – TRAINER: JASON WARREN**

Panel Judge Russell Lewis (Chair), Mr Chris Fox, Dr June Smith.

Appearances Mr Tony Burns appeared as Counsel for Mr Warren.
Mr James Ogilvy appeared as Counsel for the stewards.

Charge 1 Breach of AR 140(a)(ii)(a)

'The trainer of a horse that is included in the final acceptors for a race must: (ii) report to the Stewards: (a) by acceptance time, any occurrence, condition, or treatment that may affect or impact on the horse's performance in the race where the occurrence takes place, condition is present or treatment is administered before acceptance time;...'

The charge relates to Mr Warren intentionally failing to report to the stewards by acceptance time the treatment (throat surgery) to the horse *Baron Archer* which was included in the final acceptors for Race 4 at Echuca on 8 March 2015.

Charge 2 Breach of breach of AR 175(g)

'The Committee of any Club or the Stewards 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.'

The charge relates to Mr Warren making a false or misleading statement during a stewards' inquiry on 8 March 2015 as to whether he had reported *Baron Archer's* throat surgery to the stewards in accordance with the rules.

Plea Charge 1 – guilty.
Charge 2 – guilty.

Decision

Charge 1 – Mr Warren convicted and fined \$10,000.

Charge 2 – Mr Warren convicted and fined \$10,000 of which \$7,500 is made cumulative with the fine for Charge 1.

A total of \$17,500 due on or before 31 August 2015.

**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 C. FOX
DR J. SMITH**

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: JASON WARREN

MELBOURNE

FRIDAY, 15 MAY 2015

MR J. OGILVY appeared on behalf of the RVL Stewards

MR A.G. BURNS appeared on behalf of Mr J. Warren

CHAIRMAN: Jason Warren, you have pleaded guilty to one charge laid under Australian Rule 140(a)(ii)(a) and to one charge laid under Australian Rule 175(g). At all material times you were the trainer of the horse, Baron Archer.

The first charge relates to your failure to report to Stewards that the horse which ran in a race at Echuca on 3 March 2015 had undergone throat surgery in October 2014. This omission to inform the Stewards was not due to misadventure, nor to carelessness, but as paragraph 6 of the particulars of charge states, was intentional, which you have admitted.

The evidence relating to this aspect and the explanation you offered to the Stewards is to be found at tab 2E which is a transcript of the Stewards' inquiry of 15 April 2015. That inquiry was chaired by Mr Peter Ryan, the Steward. On pages 3, 4 and 5, commencing at line 32 on page 3, the following appears:

MR RYAN: All right. Through the conversation, basically - correct me if I'm wrong - you've basically told us or you have told us that you're not sure whether you notified, and if you didn't, it was an oversight. Is that what you put before us?

MR WARREN: That's correct.

MR RYAN: Then cutting straight to the chase, we did - off your phone records, there was a text message on the 6th of the 3rd from yourself to Julian -

referring to Julian Hay, your racing manager -

sorry, I beg your pardon, from Julian to yourself, and it says here from Julian, ""Should we tell the stewards about Baron's surgery? I think we were supposed to." Your answer to that was, "We are supposed to but I'd rather not tell anyone." Now, that's only two days before the horse has raced. Can you explain to us how you weren't sure that you hadn't notified, because quite plainly, two days beforehand, you knew you hadn't, for whatever reason.

MR WARREN: My response to Julian's text message was at - it reads simply because I felt we had missed the boat to notify the stewards of the horse's throat surgery. The acceptances had closed the day before. I felt we'd missed the boat and by me then going down that path, I was concerned that it would draw a red flag to the horse and either he may get scratched - I wasn't sure what the process going forward from there was. I was concerned that after we had already made a mistake, which I admit that we had done, I was more concerned that the horse would be either (a) scratched or (b) I would be then fined for doing - you know, not doing my - filling out my obligations.

Then line 30 on page 4:

So you were aware of what you had to do and your obligations?

That was Mr Ryan speaking.

MR WARREN: That's right.

MR RYAN: So having put to us that we'd get it late, wouldn't it have been better having that scenario and us getting it out there, which would have happened, we would have got the message out there, rather than the scenario that we're dealing with now?

MR WARREN: Oh, yeah, look, hindsight is a wonderful thing. It's like trying to clean up a car crash now. But to be quite honest, I didn't know what the best path going forward was, so I felt that burying my head in the sand would actually be a better approach, which it wasn't. I regret that very much now. Yeah, look, I know we did the wrong thing in not notifying the stewards of the throat surgery but I felt that I'd already missed the boat on that and all I was doing was red flagging that we'd done the wrong thing which in hindsight you probably would have said, "Look, maybe there's a fine. You've missed acceptances" - I don't know - or a reprimand or something, instead of all this process.

MR RYAN: Because obviously the process has flowed on and flowed on and flowed on.

MR WARREN: That's right.

In the Board's opinion, the explanation then provided is far from persuasive, indeed does not have the ring of truth about it. First, it does not address the conflict in your evidence to the Stewards, when earlier you told them that you were not sure whether you had notified Stewards of the surgery and, secondly, it seems extraordinary that you, an experienced trainer, knowing that notification had not been given to the stewards and notwithstanding that the horse had accepted for the race, did not correct the omission and notify stewards.

Your failure to inform the stewards was irresponsible, particularly as the horse had undergone a serious form of treatment, and represents a significant breach

of the rule. An aggravating feature of your conduct is that you deliberately withheld the information. However, the Board is not satisfied that you formed the intention to withhold the information at an earlier stage as submitted by the Stewards.

In this case, the principles of general deterrence, denunciation of your conduct, the tarnishing of the image of racing and the preservation of the integrity of racing are important sentencing considerations. Apart from failing to notify the stewards of the surgery, the racing public was left in the dark in relation to treatment which may or may not have affected the performance of the horse. Transparency is vital if the integrity of the sport is to be upheld.

The Board takes into account your plea of guilty, that you have no relevant past history of offending and the references tendered by your counsel, Mr Burns. Nevertheless, the Board is of the opinion that a substantial monetary penalty is called for. The message must be loud and clear that should a trainer deliberately withhold important information relating to treatment to a horse which has accepted to race, that trainer will pay the price, either by way of a substantial monetary penalty or, in an appropriate case, suspension - in this case, a monetary penalty. Accordingly, on this charge, you are fined the sum of \$10,000.

In relation to charge 2, many of the sentencing principles which apply to charge 1 are relevant. The evidence you gave to the Stewards on 8 March was false and you knew it to be false. This is clear from the evidence given on

15 April; see tab 2E, page 9, lines 33 to page 10, line 1. You had the opportunity after 8 March 2015 to notify Stewards and to correct the evidence you had given, but you failed to do so. As a result, it was left to the Stewards to take steps to uncover the true situation. Further, on 15 April 2015, you sought to implicate Mr Hay, which was inconsistent with the content of the text message to which I have already referred.

This charge is serious, since it strikes at the heart of the integrity of racing. There is simply no excuse for a trainer not being prepared to be open and frank when questioned at a stewards' inquiry. The appropriate penalty in this case is a fine of \$10,000, \$7500 of which is to be added to the penalty imposed in relation to charge 1, a total monetary penalty of \$17,500, which is to be paid on or before 31 August 2015.
