



## APPEAL RESULT

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**DISTRIBUTION:** Chief Executive  
Group Integrity Services  
Group Racing and Group Racing Development  
VJA  
TVN  
Office of Racing  
T Moxon – National Drug Register  
Racing Press

**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 13 December 2011

**SUBJECT:** **APPEAL HEARING RESULT – TRAINER: TERRY KELLY**

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**Panel** Mr Brian Forrest (Deputy Chair), Mr Stephen Curtain, Dr June Smith.

**Appearances** Mr Kelly appeared on his own behalf.  
Mr James Hitchcock appeared on behalf of the Stewards.

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At Stawell on Friday, 18 November 2011 trainer Terry Kelly was found guilty of a charge of under AR 140(a) and fined the amount of \$400.

Mr Kelly was represented at the Stawell meeting by Ms Angela Bridges.

It was alleged that connections of *Royaltown Road* failed to report to Stewards that the gelding had recently had boils over its back and as a consequence missed work leading into its running in Race 6 at Stawell that day. As a consequence this condition may have affected the performance of *Royaltown Road* which performed below market expectations.

A post race veterinary examination of *Royaltown Road* did not reveal any significant abnormalities.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Monday, 21 November 2011.

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**DECISION:** **Appeal against decision dismissed.**

**Appeal against severity of penalty allowed and the penalty varied to a reprimand.**

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**MR B FORREST (CHAIRMAN)  
MR S CURTAIN  
DR J SMITH**

**IN THE MATTER OF: TERRY KELLY – BREACH OF AR140(a) -  
DECISION**

**MELBOURNE**

**TUESDAY, 13 DECEMBER 2011**

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CHAIRMAN: Thank you. The Board has now reached a unanimous decision on the position of this appeal. Trainer Mr Terry Kelly has appealed a conviction and a fine of \$400 imposed by Stewards at Stawell on 18 November 2011, for a breach of AR140(a) which relevantly reads:

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(a) A trainer of a horse that is included in the final acceptors for a race must ensure that such horse is fit and properly conditioned to race, and shall report to the Stewards as soon as practicable any condition or occurrence that may affect its running in the race.

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Mr Kelly, as the trainer of *Royaltown Road*, on Friday 18 November at Stawell, *Royaltown Road* started \$3.50 favourite in the 0-68 1600 metre and finished fifth of eleven runners, beaten six lengths. Stewards queried the performance; they also ordered a veterinary examination which revealed no significant abnormality. Mr Kelly was not at Stawell, his stable was represented by Ms Angela Bridges, she told Stewards *Royaltown Road* was probably a bit out of condition, he was a grass horse and had missed some work, she explained that the day after his previous run at Ararat on 6 November, boils were discovered on his back. Consequently the horse missed two sets of normal pace work, on the Saturday prior to Stawell he worked under saddle for the first time since the Ararat run and on the Tuesday before Stawell worked 1400 metres in evens, between runs he also worked on the treadmill and did some swimming. In the Ararat race 0-68 Class, 1600 metre event, *Royaltown Road* finished fourth, less than one length from the winner, starting price \$5.00. The Stawell race was of similar class and distance, when questioned by Stewards after the Stawell race, Ms Bridges thought the losing margin was four lengths, in fact it was six, in defending the run, she pointed out that *Royaltown Road*'s best form is over a longer distance. The Board notes here that prior to the Stawell run, *Royaltown Road* had raced 13 times for 1 win, a 2000 metre maiden at Donald and two placings both at Stawell. It is apparent to the Board from Ms Bridges explanation that she believed that missing some work was a factor in the horse's performance, telling Stewards that he was probably a bit out of condition and he needed a run. The Stewards for their part, considered the interruption to the horses training programme should have been relayed to them beforehand. Mr Hitchcock's admitted at acceptance time. Mr Kelly in evidence to the Board believed the horse was fit to run, he did not regard the condition was one that required reporting. It may be said, that given the form displayed at Ararat and the previous placings at Stawell, it was reasonable to expect that *Royaltown Road* would be a fancied runner at Stawell. Equally and surprising is that the performance would be questioned by Stewards. In the Board's opinion, in the Stewards case of a breach of rule 140(a) has been proven, the rule requires trainers inform Stewards of any condition or occurrence that may affect the horse's performance that did not occur here. The rule is designed to protect punters and the more information that is

available, then more likely are they to have confidence in the conduct in running the racing. The Board has decided that having considered the circumstances of this matter, including the nature of the breach, and Mr Kelly's good record over a long period as a trainer, that the appropriate disposition of the matter is not to record a conviction, to set aside the monetary penalty and substitute instead a reprimand to Mr Kelly. The Board hopes this reprimand will be a warning to Mr Kelly and others like minded that when in doubt of such a matter, that it ought to be reported to Stewards. Thank you, that's the decision of the Board.

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MR KELLY: Thanks very much for your time.

**MATTER ADJOURNED ACCORDINGLY.**

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