

RACING VICTORIA LIMITED
ACN 096 917 930

RACING APPEALS AND
DISCIPLINARY BOARD



Racing Victoria Limited
www.racingvictoria.net.au

400 Epsom Road
Flemington VIC 3031

Telephone: 9258 4260
Facsimile: 9258 4848
radboard@racingvictoria.net.au
www.racingvictoria.net.au

HEARING RESULT

Distribution: Chief Executive
Group Integrity Services, Group Racing
Group Racing Development
Credit Controller
ATA
TVN
Office of Racing
S. Carvosso – Racing NSW
Racing Press

FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 5 March 2010

SUBJECT: **HEARING RESULT – NEVILLE CLEMENTS**

Panel Mr Brian Forrest (Deputy Chair), Mr Stephen Curtain, Mr Jeremy Rosenthal

Appearances Dr Cliff Pannam QC appeared on behalf of the RVL Stewards.
Mr Tim McHenry appeared on behalf of Neville Clements.

Charge Breach of AR 175(p) – [fail to comply with a direction of the Stewards].

The particulars of the charge being that Mr Clements failed to comply with a direction of the RVL Stewards made on 12 February 2010. That direction being to produce his telephone records to the Stewards for inspection.

Decision The Board finds that Mr Clements is subject to the Rules of Racing.

Given the decision of the Board on the question of whether Mr Clements is subject to the Rules, the Board extends the time for Mr Clements' compliance with the direction of the Stewards for a further 7 days, commencing from today, Friday 5 March 2010.

Georgie Curtis
Registrar - Racing Appeals and Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**MR B. FORREST, Deputy Chairman
MR S. CURTAIN
MR J. ROSENTHAL**

EXTRACT OF PROCEEDINGS

IN THE MATTER OF: NEVILLE CLEMENTS

MELBOURNE

FRIDAY, 5 MARCH 2010

DR C. PANNAM QC appeared on behalf of the Stewards

MR T. McHENRY appeared on behalf of Mr N. Clements

DEPUTY CHAIRMAN: The question of the application of the Rules of Racing to Mr Clements arises in this matter. Mr Clements, who is a non-licensed person, disputes that he is bound by the Rules of Racing. The question involves consideration of the nature of the right or power which is sought to be exercised and what is the extent of the power.

Many persons who frequent racecourses, although they have not given any express undertaking to do so, are bound by the Rules of Racing and may become subject to the disciplinary powers exercised by persons controlling the racecourses while races are being held. The courts have established as a matter of general principle that persons who in one way or another take part in racing are prima facie bound by the rules.

Given that betting is an integral part of racing and a number of the rules regulate betting, people who are engaged in betting would generally be regarded as taking part in racing. Interviews with stewards established that Mr Clements is a professional punter, betting on thoroughbred horse racing in Victoria and to a lesser extent, interstate. Mr Clements bets on his own account and "for a few mates"; transcript of 3 February 2010, page 7.

The Board is satisfied that Mr Clements, by his actions as outlined in paragraph 5 of the written submissions on behalf of the stewards, brings himself within the purview of the rules. In saying that, we adopt the principle established in *Stephen v Naylor* and subsequent cases. Consequently, the

Board finds that the rules relevantly apply to Mr Clements.

END OF EXTRACT