

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: 8 September 2009

SUBJECT: **APPEAL HEARING RESULT: JOCKEY – MICHELLE PAYNE**

Panel: Judge Russell Lewis (Chair), Mr Graeme Johnson, Mr Graeme Ward

Appearances: Mr Darren Triandafillou, Stipendiary Steward, appeared on behalf of the RVL Stewards.
Ms Payne appeared on her own behalf.

At Swan Hill on Monday 31 August 2009 jockey Michelle Payne was found guilty of two charges of careless riding on her mount *Night Halo* in Race 3 the *Tellers Bar and Restaurant Swan Hill Maiden Plate* (1600m).

The careless riding being that

1. She permitted her mount to shift in approaching the 1000m when not sufficiently clear of *Carol's Call* thereby taking that gelding in across the running of *Irish Diamonds*, resulting in that mare having to be checked.
2. Near the 1000m she permitted her mount to shift in when not sufficiently clear of *Carol's Call* resulting in that gelding having to be checked.

On both counts Ms Payne had her licence to ride in races suspended for a total of 14 race meetings, to commence midnight Tuesday 2 September 2009 and to expire midnight Wednesday 16 September 2009. In determining penalty stewards viewed both charges to be in the mid-range and that both penalties be served concurrently.

A Notice of Appeal against **the severity of the penalty** was lodged on Wednesday 2 September 2009.

DECISION: Appeal allowed.
Penalty varied - suspension to now expire midnight Monday 14 September 2009 (12 meetings).

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 G. WARD**

EXTRACT OF PROCEEDINGS

**IN THE MATTER OF THE TELLERS BAR AND RESTAURANT
SWAN HILL MAIDEN PLATE OVER 1600 METRES**

JOCKEY: MICHELLE PAYNE

DECISION

MELBOURNE

TUESDAY, 8 SEPTEMBER 2009

MR D. TRIANDAFILLOU appeared on behalf of the Stewards

MS M. PAYNE appeared on her own behalf

CHAIRMAN: In this case, the Board is of the opinion that there was a high degree of carelessness, simply because the shift occurred when the horse was only a length or a fraction more than a length clear of Lee Smith's mount. The Board agrees that the degree of interference was not great. However, the question of carelessness is of greater import in these cases than the degree of interference and we know from experience that a severe level of carelessness sometimes causes little or no interference. We know also that a small degree of carelessness can cause catastrophic consequences. The fact is that the degree of carelessness is the major consideration in cases of this kind and we think it was on the high side.

As for the question of whether there should be a discount for a plea of guilty, we do think that a discount should be made. Although it was not made at the time, mature consideration by Ms Payne and her advisers indicated to her that in effect a plea of guilty, albeit after the stewards' inquiry, should be made, and we take that into account.

Despite Ms Payne's explanations of what occurred in the past, the last three suspensions for careless riding, it is a record which she cannot call in aid, nor can the stewards rely on it, and we agree that for the purposes of sentencing, it is a neutral record.

That said, the Board is not in a position to discount the penalty to the extent of four meetings, the only mitigating factor being the plea of guilty made at a later stage. In the circumstances, the Board is unable to accede to Ms Payne's

request.

The Board will vary the penalty from 14 meetings to 12 meetings, so that the penalty will expire at midnight on Monday, 14 September.

END OF EXTRACT