

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: 20 January 2010

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: MARK ZAHRA**

Panel Judge Russell Lewis (Chair), Ms Barbara Phelan, Mr Ron Taylor

Appearances Mr Allan Reardon, Deputy Chairman of Stewards, appeared on behalf of the Stewards.
Mr Zahra appeared on his own behalf.

At Flemington on Saturday, 16 January 2010 jockey Mark Zahra pleaded guilty to a charge of careless riding on his mount *Growl (NZ)* in Race 5 the *Rain Lover Handicap* (2000m).

The careless riding being that he permitted his mount to shift in over the concluding stages when not clear of *Lady Avacan* which had to be steadied and then made contact with *Testa Jesta*.

Mark Zahra had his licence to ride in races suspended for a period to commence at midnight on Saturday, 16 January 2010 and to expire at midnight on Tuesday, 27 January 2010 - a total of 12 race meetings, (3 metropolitan and 9 country). In assessing penalty Stewards took into account Mark Zahra's guilty plea and that the careless riding was in the mid-range category.

A Notice of Appeal against **the severity of the penalty** was lodged on Monday, 18 January 2010.

A stay of proceedings was not requested.

DECISION: **Appeal allowed.**

Penalty varied – suspension to now expire at midnight on Monday, 25 January 2010.

Georgie Curtis
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MS B. PHELAN
MR R. TAYLOR**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE RAIN LOVER HANDICAP OVER
2000 METRES AT FLEMINGTON ON 16/1/10**

JOCKEY: MARK ZAHRA

MELBOURNE

WEDNESDAY, 20 JANUARY 2010

MR A. REARDON appeared on behalf of the Stewards

MR M. ZAHRA appeared on his own behalf

CHAIRMAN: In this case, as was referred to earlier, there is some debate about the range of categories of careless riding. It has been the view of this Board, apart from the Spring Racing Carnival, that there are three categories, all with parameters; that is, low, seven to 10; medium, 10 to 14, and high, 14 and above, or above 14.

The problem is one in which the Board would like to have some certainty and I would encourage Mr Reardon perhaps to take it up with Mr Bailey so that a definitive approach can be made to the categories. The problem is highlighted even in this case in the transcript of the inquiry, where at page 11, there is a discussion about the categories and Ms Lester, one of the stewards on the panel that day says, " No, medium is just 14, isn't it?" The chairman then said, "Medium is 14."

He earlier refers to the medium range and indeed that was the situation which the Board was facing at the time of this appeal. So, so far as the Stewards were concerned, it seems to us that there was some confusion or debate about what constituted medium or medium range.

At all events, the Board takes the view that each category, to apply commonsense, should have a range, and that there ought to be a range in low, ought to be a range in medium and ought to be a range in high.

The other aspect in this case which seemed to be of relevance is that the side-on view, whilst favourable to Mr Zahra, is supported to some extent by the

transcript in which Craig Robertson gives his evidence, and it also seems to us that there was little, if any interference to Luke Nolen's mount, that the main victim of the interference was Craig Robertson, who said that his horse was coming to a bit of an end of its run, he was battling away and his wanted to get in and then made contact with Luke Nolen. That description by Robertson, taken on its face, would seem to be consistent with what you saw on the side-on view. In other words, there is, to the Board's view, room for suggesting, and the Board does so find, that this was not a top-end medium offence but rested in the middle of the mid-range; that is, 12 meetings was the mid-range.

After applying the discount which the Stewards did, that would bring it down to 10, and therefore the appeal is allowed and the penalty is varied so that the suspension expires at midnight on Monday, 25 January 2010.

END OF EXTRACT