

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 18 May 2016

SUBJECT: **APPEAL HEARING RESULT – TRAINER: ROBERT (BOB) CHALLIS**

Panel Judge Bowman (Chair).

Appearances Mr James Ogilvy appeared as counsel for the stewards.
Mr Paul O’Sullivan appeared as counsel for Mr Challis.

At a stewards’ inquiry on Wednesday 11 May 2016, trainer Bob Challis pleaded guilty to two charges under AR 53A, as follows:

- Charge 1 – breach of AR 53A(2) - in that as the trainer of *Handicap Honours*, he did fail to report to Stewards without delay that *Handicap Honours* suffered a bleeding attack on Tuesday 12 April 2016.
- Charge 2 – breach of AR 53A(6) - in that as the trainer of *Handicap Honours*, he did fail to report to Stewards without delay that *Handicap Honours* displayed blood at one nostril on Saturday 16 April 2016.

Mr Challis’ licence to train was suspended for a period of 6 weeks in relation to Charge 1, and a period of 3 weeks in relation to Charge 2. Stewards ordered that both suspension be served concurrently - a total of 6 weeks effective from midnight Wednesday, 11 May 2016.

A Notice of Appeal against **the severity of the penalty** was lodged on Wednesday, 11 May 2016. A stay of proceedings was granted effective until midnight Tuesday, 17 May 2016.

DECISION: **Appeal allowed.**

**In relation to the Charge 1, the penalty is varied to a fine of \$1,250.
In relation to Charge 2, the penalty is varied to a fine of \$750.**

A total fine of \$2,000 – with 28 days to pay.

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

TRAINER: ROBERT CHALLIS

MELBOURNE

WEDNESDAY, 18 MAY 2016

MR J. OGILVY appeared on behalf of the RVL Stewards

MR P. O'SULLIVAN appeared on behalf of Mr R. Challis

CHAIRMAN: Mr Bob Challis, you have pleaded guilty to two charges under AR 53A(2) and (6). It was alleged that, as the trainer of the horse, Handicap Honours, you failed to report to the Stewards without delay that the horse had suffered a bleeding attack on 12 April 2016. Further, you failed to report to the Stewards without delay that the same horse had displayed blood in one nostril on 16 April 2016.

Your licence to train was suspended for a period of six weeks in relation to charge 1, the bleeding attack, and a period of three weeks in relation to charge 2, for the blood in the one nostril, the period of suspension to be served concurrently. You are appealing against the severity of that sentence.

There are a couple of unusual features in this case, one of interest and one of considerable impact. Firstly, on the day of first being interviewed, Mr Challis was told by a Steward at page 10 in a conversation as follows:

I won't have to go to a RAD Board inquiry or anything, will I?

The Steward replied:

No, I wouldn't think so.

Obviously that turned out to be inaccurate. Secondly, and considerably more importantly, I accept that Mr Challis's main source of income is as a clerk of the course, a position which he has occupied for some 25 years or more.

There is no suggestion that he has done other than carry out the duties of that employment diligently. When interviewed on 11 May 2016, he was specifically told by the Chairman of the panel of Stewards conducting the investigation, at page 36:

Certainly your role as a clerk of the course continues. That's separate.

Now I am told, and accept without reservation, as of yesterday the Human Resources Department at Racing Victoria has in fact ruled to the contrary. If Mr Challis is suspended as a trainer, he would also be suspended from his clerk of the course duties. I consider this intervention to be not only unfortunate but would place Mr Challis in a situation of what could be described as double jeopardy. If suspended, he will lose his principal source of income for a period, in addition to losing the right to train. Certainly this is so, despite his excellent record and the distinction between the two roles, as acknowledged by the Chairman of the Stewards' panel.

I agree with Mr Ogilvy that the case which perhaps is of greatest relevance and assistance in the present situation is that of *Vilcins*, a decision of Judge Russell Lewis and members of 16 May 2011. I also fully agree with and adopt the observations of Judge Lewis concerning the seriousness of the offence and the importance of general deterrence. In *Vilcins*, the Board imposed a period of suspension of one month and a fine of \$500.

There are certain significant differences between the facts in *Vilcins* and those in the present case, and there are additional matters to consider. Firstly, in *Vilcins*, there was what Judge Lewis described as "an implied plea of guilty". He regarded the explanation given by Vilcins as "pure invention". In the present case, there has been a plea of guilty from the outset. I do not accept that any part of the evidence of Mr Challis, either in the interviews or before me, could be described as pure invention.

Secondly, in *Vilcins*, the Board referred to the good record of that trainer. The record of Mr Challis is not just good, it is excellent, if not outstanding. He has been in the industry in various capacities for in excess of 40 years. Apart from a couple of minor matters, his record is free from blemishes.

Next, the bleeding attacks were clearly recorded and were seen by Stewards on a routine visit to check on treatment records. Further, the response from Mr Challis and his staff was to obtain veterinary advice after the first bleed and to retire the horse from racing after the second, having consulted the owner.

Then there is the situation of what I have already described as being apparent double jeopardy and I will not go into it again. Finally, I was impressed by Mr Challis as a witness and note that he has gone to the trouble of arranging legal representation via Mr O'Sullivan.

When the penalty of one-month suspension in *Vilcins* is considered and all of the above factors taken into account, it seems to me that in this unusual case, a fine is appropriate. I agree with Mr O'Sullivan that it is the one cause of action but they are two separate offences that must be considered.

In any event, the appeal is allowed. On the first charge, relating to the bleed on 12 April 2016, Mr Challis is fined \$1250. On the second charge relating to what happened on 16 April 2016, he is fined \$750, a total of \$2000, with a stay of 28 days.

I would add and emphasise that I regarded this as a pretty unusual case and frankly I would be surprised if I strike a similar one where a potential double jeopardy situation arose.
