



HEARING RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 31 July 2015

SUBJECT: **HEARING RESULT – STABLE EMPLOYEE: DANIEL SCHMITT**

Heard By Mr Brian Forrest (Acting Chair).

Appearances Mr Schmitt appeared on his own behalf.
Mr Dayle Brown appeared on behalf of the stewards.

Charge Two breaches of AR 175A

Any person bound by these Rules who either within a racecourse or elsewhere in the opinion of the Committee of any Club or the Stewards has been guilty of conduct prejudicial to the image, or interests, or welfare of racing may be penalised.

The charges relating to tweets published by Mr Schmitt.

Plea Guilty – both charges.

Decision The Board finds both charges proved with convictions recorded.

The Board orders that Mr Schmitt write letters unreservedly apologising to Mr Adam Goodes and Mr Bachar Houli via their respective AFL Clubs (in relation to Charge 1) and to the Chairman of Stewards Mr Terry Bailey (in relation to Charge 2) within 14 days of today's hearing.

If Mr Schmitt does not comply with this order the Board will reconvene to consider penalty otherwise the matter will be concluded.

**RACING APPEALS AND DISCIPLINARY BOARD
(Original Jurisdiction)**

*RVL Stewards v Daniel Schmitt
Reasons for Decision*

Mr B Forrest

Deputy Chair

Daniel Schmitt was charged by Racing Victoria Stewards with two offences under AR 175A for engaging in conduct prejudicial to the image or interests or welfare of racing.

Schmitt, a former jockey now licensed stablehand, was the author of three published tweets in 2015 the subject of Charge One which were said to be racist, derogatory, discriminatory and/or offensive.

The first read: *“Orang-utan loose from Melbourne Zoo here is a last known picture, approach with care”* above a photo of Adam Goodes in a Sydney Swans football jumper.

The second read: *“Adam Goodes celebrating indigenous round, sook, I hate him”* above a photo of a monkey surround by bananas.

The third read: *“To save a lot of arguing first send Adam Goodes and Bachar Houli to the firing squad with the Bali 2....nothing but pests the lot of them.”*

Three other tweets, one in 2014 and two in 2015, which were said to be derogatory and/or offensive and were the subject of Charge Two.

One said: *“If this is workplace harassment Terry Bailey you’re a joke wake up to yourself”* a comment made apparently in relation to an incident between two jockeys in the jockeys room.

Another said: *“Course curators and stewards after the last at Sandown yesterday trying to figure out the track debacle”* above a caricature depicting stewards as monkeys dressed in shirts and ties sitting around a table strewn with banana skins.

Another read: *“Here is a picture of the stewards that charged Chad Schofield yesterday”* above a picture of the characters in Sesame Street.

The primary subject of the tweets in Charge One is the champion Aboriginal footballer Adam Goodes; Brownlow medallist and Australian of the Year 2014. Goodes is a passionate advocate for the welfare of the Aboriginal community. His highly publicised words and deeds have provoked in some sections of the wider community an ugly reaction towards him.

The references to Goodes and to Bachar Houli, a well-known footballer of Muslim faith, were grossly offensive with an underlying ingredient of racial, and in Houli’s case, religious vilification.

In relation to Charge Two, the references to the stewards were disparaging and offensive.

In the day to day administration of racing, stewards are responsible for ensuring racing is run in accordance with the Rules and are entitled to expect that in performing their duties licensed persons refrain from commentary of the kind described above, in a public forum.

The question whether the relevant conduct constituted conduct which was prejudicial to the image or interests or welfare of racing for the purposes of AR 175A was considered by the Board in the decision of Robert Smerdon on 13 February 2013.

In the present case the comments and images were published on social media. The tweets attracted electronic and print media coverage. Many of Schmitt's followers on Twitter were aware of his background as a jockey and current involvement in racing.

Having regard to the content of the tweets there was a real prospect of creating in the minds of readers a negative impression of industry participants. Also, it is a poor reflection on the image of the racing industry when stewards are publicly derided by a licensed person.

Additionally, the conduct can properly be categorised as blameworthy in that Schmitt authorised tweets that were a public display of offensive commentary directed towards named persons.

I am satisfied the conduct was prejudicial to the image and interests of racing.

On the question of penalty. Mr Schmitt, who represented himself at the hearing and pleaded guilty, was unable to provide an explanation for his actions. He acknowledged his culpability and that his tweets had caused offence.

The offending tweets have been removed, some on the days of posting and all others within two months of publication. Schmitt has closed his Twitter account.

I regard his remorse for his actions as genuine.

Mr Brown for the stewards submitted the behaviour was intolerable and deserving of punishment. He drew attention to the Social Media Policy developed by Racing Victoria, circulated to licensed personnel and to which they are expected to adhere.

Schmitt's personal circumstances reveal that he began his jockey apprenticeship in 1994 and was a senior jockey from 2002-2012 when a serious race day injury ended his career. For the past year he has been a stablehand/trackrider. His current employer, respected trainer Pat Carey, provided a testimonial which was of assistance in determining what sanction should be imposed in this matter.

In all the circumstances the decision of the Board is in the form of the following direction, given orally at the conclusion of the hearing, that:

1. Within 14 days of the hearing (31 July 2015) Mr Schmitt give an unqualified apology to both Adam Goodes and Bachar Houli in writing, addressed to each of their respective football clubs and likewise also to Terry Bailey, Chairman of Stewards at Racing Victoria.
2. A copy of each letter be provided to the Registrar of the RAD Board within the same 14 days.
3. Thereafter, the charges will be permanently stayed.

Finally, the Board has noted Mr Schmitt's consent to this direction.