



## APPEAL RESULT

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**DISTRIBUTION:** Chief Executive  
Group Integrity Services  
Group Racing and Group Racing Development  
VJA  
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Office of Racing  
T Moxon – National Drug Register  
Racing Press

**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 24 September 2013

**SUBJECT:** **APPEAL HEARING RESULT – STABLE EMPLOYEE: MICHELLE OWENS**

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**Panel** Judge Russell Lewis (Chair), Mr Stephen Curtain,  
Professor Raymond Harbridge.

**Appearances** Mr Peter Jurkovsky appeared on behalf of Ms Owens.  
Mr Sam Shinsky appeared on behalf of the Stewards.

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At a Stewards inquiry on Thursday 19 September 2013, stable employee Michelle Owens pleaded guilty to a charge under the provisions of AR 81A(1)(a).

The particulars of the charge being that at Caulfield on Monday, 26 August 2013 Ms Owens provided a urine sample which was found upon analysis to contain a substance banned under AR 81B, 11-nor-delta-9-tetrahydrocannabinol-9-carboxylic acid (cannabis).

Ms Owens had her permit to ride trackwork and in trials suspended for a period of 2 months to commence at midnight on Wednesday 11 September 2013, on which day she was stood down from riding, and to expire at midnight on Monday, 11 November 2013. Prior to resuming riding Ms Owens must also provide a sample clear of any banned substances.

A Notice of Appeal against **the severity of the penalty** was lodged on Sunday, 19 September 2013. A stay of proceedings was not requested.

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**DECISION:** **Appeal allowed.**

**Penalty varied so that one month of the two month penalty is suspended for a period of 12 months on the condition that Ms Owens does not commit a further breach of this Rule.**

**The current period of suspension will now expire at midnight on Friday, 11 October 2013. Ms Owens must also provide a sample clear of any banned substances prior to resuming riding.**

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman  
MR S. CURTAIN  
PROF R. HARBRIDGE**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**STABLE EMPLOYEE: MICHELLE OWENS**

**MELBOURNE**

**TUESDAY, 24 SEPTEMBER 2013**

MR S. SHINSKY appeared on behalf of the RVL Stewards

MR P. JURKOVSKY appeared on behalf of the Appellant

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CHAIRMAN: This has not been an easy appeal to resolve but the overwhelming aspect of the case is that trackriders who have cannabis in their system pose a significant risk, not only to themselves, not only to the animal they are riding but to other riders should the cannabis in their system affect their reasoning and ability to control a horse. The Board is of the view that the Stewards have taken the correct stance in relation to penalties by regarding the case as serious enough in all cases to warrant suspension.

In this case, the Board takes into account the Appellant's plea of guilty at an early stage, her absence of prior convictions and her expression of moral contrition. On the evidence before the Board, the Board is of the opinion that Ms Owens is unlikely to reoffend, although that situation is very much a matter for her. However, the Board accepts her statement which has not been challenged, that apart from the weekend when she smoked marijuana, she has not used that substance since. Nevertheless, a penalty of suspension is, in the Board's opinion, the only appropriate penalty.

The penalty of suspension of two months is affirmed. However, one month of that penalty is suspended. The period of the operation of the order is 12 months. That is to say, if Ms Owens reoffends in the next 12 months, then she will be brought back before the Board. The one-month period of suspension will be reactivated and she will be dealt with for the reoffending as well. Therefore, effectively, the penalty of suspension will expire at midnight on 11 October 2013.

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