

# RACING APPEALS AND DISCIPLINARY BOARD

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#### **DECISION**

#### RACING VICTORIA STEWARDS

and

#### **WAYNE CURIE**

**Date of Hearing:** 6 October 2016

**Heard By:** Judge Bowman (Chair).

**Appearances:** Mr James Hitchcock appeared on behalf of the stewards.

Mr Curie appeared on his own behalf.

Charges 1 & 2 Breach of AR 175(q)

The Committee of any Club or the Stewards may penalise: any person who in their opinion is guilty of any misconduct, improper conduct or unseemly

behaviour.

The charges relate to a message sent by Mr Curie on social media to two

registered racehorse owners.

**Plea:** Guilty - both charges.

**Decision:** Charge 1 – Mr Curie convicted and fined \$3,000.

Charge 2 - Mr Curie convicted and fined \$1,000.

A total fine of \$4,000.

## TRANSCRIPT OF

### **PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD
HIS HONOUR JUDGE BOWMAN, Chairman
EXTRACT OF PROCEEDINGS
DECISION
RACING VICTORIA STEWARDS
and
WAYNE CURIE
RACING VICTORIA CENTRE, FLEMINGTON
THURSDAY, 6 OCTOBER 2016
MR J. HITCHCOCK appeared on behalf of the RVL Stewards
MR W. CURIE appeared on his own behalf

CHAIRMAN: Mr Wayne Curie has pleaded guilty to two charges of breaching Australian Rule 175(q). On 5 August 2016, he sent highly offensive social media messages to two female horse owners. Mr Curie is the partner of Ms Allison Sheehan, a licensed trainer.

Without going into detail, there is the background of a dispute involving remarks made on social media between Ms Sheehan and the two ladies, Ms Patricia Lincoln and Ms Brooke Douglas. The dispute concerns the stallion, Sharkbite, of which they are co-owners. Mr Curie was a licensed stablehand for part of the 2015-16 racing season but is no longer licensed. His full-time employment is that of a barrier attendant; thus, he is an employee of Racing Victoria and he is a relevant person for the purposes of the Racing Act.

As an employee of Racing Victoria, Mr Curie has been dealt with in that capacity. He has been given a first and final warning. However, he has also breached the Rules of Racing and is now being dealt with in relation to those breaches. Were it not for the fact that his work as a barrier attendant is his livelihood and that he has already been dealt with by his employer, I would have been looking at a period of warning off for these offences.

The message that Mr Curie posted on Facebook, particularly that to Ms Lincoln, that is the first charge, are highly offensive. The message the subject of the first charge could be described as vile and vicious. Mr Curie himself, when interviewed on 15 August 2016, twice described the message as "probably the lowest thing you could say to a woman" and "disgusting".

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However, he refused to apologise, and was still in a way attempting to justify it before me today.

Further, it would be bad enough if the words were uttered spontaneously in the heat of a furious face-to-face argument, they would still be disgusting, but this was a message composed and sent on social media. In addition, both messages were sent under a pseudonym. Doubtless this caused the recipients of the messages even more concern. It was not a particularly courageous way of sending a highly offensive message. The message sent to Ms Douglas was also offensive, employing bad language, but was not as offensive as the disgusting message sent to Ms Lincoln.

Mr Hitchcock, on behalf of the Stewards, pointed out that Ms Lincoln was "absolutely appalled" by the Facebook message addressed to her and Ms Douglas "frightened" by that addressed to her. Mr Hitchcock stated that the Stewards' initial reaction was that the offence warranted a period of disqualification, suspension or warning off, but it moved from that position when it became apparent that Mr Curie's sole income came from his work as a barrier attendant. A period away from the races would destroy his livelihood.

Mr Hitchcock stated that the Stewards' view was that a substantial fine was warranted. No parallel case could be found to give assistance in this regard.

I fully agree that a substantial fine is warranted. I can think of no parallel case. Perhaps the closest is that of Mrs Sarah Moody who was fined a sizeable amount, in the vicinity of \$2000, for her social media remarks directed at

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Mr Terry Bailey. That was a vastly different situation. The remarks were more innuendo and not vicious, disgusting and offensive, or using the type of language employed in the present case. On the other hand, the subject of her remarks was the Chief Steward and that had to be taken into account, but they were not remarks that would frighten, threaten or cause a person to be appalled, so it is hard to line up the case of Mrs Moody as a perfect comparator but I do note the size of the penalty in her case.

In my opinion, this is a very nasty case. There is no great indication of remorse in the sense of an apology. There is an acknowledgment of how disgusting and low the message sent to Ms Lincoln was. In the circumstances, on the charge relating to Ms Lincoln, Mr Curie is fined \$3000. On that relating to Ms Douglas, he is fined \$1000, a total of \$4000, with a stay of 28 days in relation to the payment of it.

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