

Media Release

Racing Appeals & Disciplinary Board

15 September 2016

HRV RAD Board – Joe Bajada

The Harness Racing Victoria (HRV) Racing Appeals and Disciplinary (RAD) Board today considered charges issued against licensed trainer Joe Bajada under Australian Harness Racing Rules (AHRR) 193(1), 190B and 90A(2.9) relating to a stable inspection conducted by HRV Stewards on 29 April 2016. A charge under AHRR 193(3) was issued in the alternative to AHRR 193(1).

AHRR 193(1) states:

A person shall not attempt to stomach tube or stomach tube a horse nominated for a race or event within 48 hours of the commencement of the race or event.

The particulars of this charge were that on 29 April 2016 Mr Bajada stomach tubed the horse Major Calipso which was engaged to race at Tabcorp Park Melton that evening.

Mr Bajada pleaded not guilty to this charge and the HRV RAD Board heard evidence from HRV Stewards Kylie Harrison and Amy Glide, along with Veterinarian Dr Richard Cust and Mr Bajada himself. In considering the charge, the HRV RAD Board acknowledged the circumstantial nature of the evidence tendered however stated that “given the confluence of circumstances we could be satisfied that is really the only reasonable inference to be drawn” and found the charge to be proven.

After considering submissions regarding penalty, including recent comparable matters and Mr Bajada’s personal offence history, Mr Bajada was disqualified for a period of 12 months.

The Racing Appeals & Disciplinary Board (RADB) is established under section 50B of the Racing Act (1958). The RADB is an independent Board established to hear and determine appeals in relation to decisions made under the rules to impose penalties on persons and to hear and determine charges made against persons for serious offences.

With the charge under AHRR 193(1) proven, the HRV Stewards withdrew the alternate charge issued under AHRR 193(3).

AHRR 190B(1) states, in part:

A trainer shall at all times keep and maintain a log book

This charge was issued due to the log book being kept by Mr Bajada failing to provide the adequate detail and description required by this rule.

Mr Bajada pleaded not guilty to this charge however the HRV RAD Board found the charge proven and issued a fine of \$250.

AHRR 90A(2.9) states:

(a) The holder of a trainers licence shall ensure all persons carrying out the activities of a stable hand are licensed as stable hands.

This charge related to Mr Raymond Apap assisting Mr Bajada in the care and preparation of Major Calipso prior to its engagement at Tabcorp Park Melton that evening when not licensed to do so.

Mr Bajada pleaded not guilty to this charge however the HRV RAD Board found the charge proven and issued a fine of \$200.

HRV RAD Board – Raymond Apap

The Harness Racing Victoria (HRV) Racing Appeals and Disciplinary (RAD) Board today consider a charge issued against Raymond Apap under Australian Harness Racing Rule (AHRR) 91(1) which states:

Subject to sub-rule (4) a person shall not carry on an activity regulated by licence –

(a) If that person is not the holder of a current licence;

The particulars of this charge were that on 29 April 2016 Mr Apap assisted licensed trainer Mr Joe Bajada in the care and preparation of Major Calipso prior to its engagement at Tabcorp Park Melton that evening when not the holder of a stable hand licence.

Mr Apap was not able to be in attendance at the hearing and entered a not guilty plea, however gave instructions that the matter could be heard in his absence. The HRV RAD Board, with consideration to the simultaneous charge issued to Mr Bajada, found the charge proven and issued Mr Apap with a fine of \$200.

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**HARNESS RACING VICTORIA
RACING APPEALS AND DISCIPLINARY BOARD**

ANTHONY BURNS, Chairman

REBECCA OLIVER, Member

HUGH MILLAR, Member

EXTRACT OF PROCEEDINGS

JOE BAJADA

DECISION

WEDNESDAY 14 SEPTEMBER 2016

MR N CONDER appeared on behalf of the HRV Stewards

MRS A BAJADA appeared on behalf of MR BAJADA

In this case against Mr Bajada and Mr Apap the Stewards rely on a body of circumstantial evidence. The charges Mr Bajada is alleged to have offended against are contrary to Rule 193(1), 193(3), 190B and 90A(2.9). Charge 2 was laid in the alternative to Charge 1. He pleads not guilty to all charges. Mr Apap faces one charge, a breach contrary to the Rule 91(1) and in his absence he pleads not guilty to that charge.

The strands in the cable of circumstantial evidence relied upon by the stewards, particularly in relation to Charge 1 or 2 are as follows. On the 29th of April 2016 at about 3pm, Senior Steward Kylie Harrison made an unannounced race-day stable visit to Mr Bajada's stables at Rockbank. On arrival she observed Mr Bajada holding a funnel attached to a tube and a small bucket. It is common ground that this was nasogastric stomach tubing equipment.

The horse Major Calipso, due to run in Race 1 at Tabcorp Park Melton that evening, was the only horse in the stable area at the time and was within metres of Mr Bajada when he was first seen with stomach tubing equipment. He was being groomed, that is the horse Major Calipso, was being groomed by Raymond Apap, a co-accused in this case. Mr Apap does not hold a stable hands or any other licence under the Australian Rules of Harness Racing.

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When challenged by Ms Harrison as to the reason for having the stomach tubing equipment Mr Bajada indicated that about midday he had stomach tubed a different horse known as Arts Professor. This horse was some 200 metres away from the stables in a paddock. Mr Bajada indicated, and today gave evidence, confirming his position that he did not stomach tube the horse Major Calipso.

He testifies that he stomach tubed Arts Professor, a horse only back at work after a spell the day before when he indicated he worked Arts Professor in the morning and slow ran him for some 12 kilometres. He gave him the stomach drench after sensing that the horse was tied up or tired. Mr Bajada agreed the drench contained an alkalinising agent being bicarb and amongst other things some epsom salts. Ms Harrison inspected Arts Professor just after 3 pm this day. She has over 30 years' experience in harness racing as a professional driver and later as a Steward for the past 18 years. She noted that Arts Professor had no front shoes and in her opinion did not appear to have been worked. Both horses were kept under observation after this time.

Following its transport to Melton a Stewards inquiry was held and Major Calipso was stood down from the race it was due to take part in. It was withdrawn at 5.10pm.

A series of blood swabs were taken from both horses. Analysis of samples taken from both horses was conducted by Racing Analytical Services Ltd. In relation to Arts Professor the following samples and results apply:

Sample at	3.59 pm – 28.6 mmol/L
	7.08 pm – 28.9 mmol/L
	8.06 pm – 29.8 mmol/L
	9.02 pm – 30.6 mmol/L

In relation to Major Calipso the results are as follows:

Sample at	3.49 pm – 30.3 mmol/L
	5.38 pm – 36.6 mmol/L
	6.45 pm – 35.4 mmol/L
	7.50 pm – 35.8 mmol/L
	8.50 pm – 33.3 mmol/L

These are the levels of total carbon dioxide.

These results were plotted into a graph found at page 146 of the Stewards materials. The results prove a sharp spike in the TCO₂ levels of Major Calipso between 3.49 pm and 5.38 pm where in an hour and 49 minutes the TCO₂ level rose from 30.3 to 36.6 mmol/L. This was an increase of more than 20 per cent. Its readings declined slowly after that time.

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The results of Arts Professor showed no such pattern with it remaining fairly stable but rising from 28.6 to 30.6 over four hours.

An analysis of the liquid in the nasogastric tube and bucket showed it contained sodium bicarbonate at a level at just over 50 grams per litre.

Expert veterinarian Dr Richard Cust opined that the blood results indicated that there was a far greater probability that Major Calipso had been treated nasogastrically with an alkalinising agent than Arts Professor. Indeed he could offer no other explanation for the sharp spike in Major Calipso's levels.

The treatment diary kept by Mr Bajada was entered into evidence with regard to the records of Arts Professor it showed chronological entries on the 28 March 2016, 4 April 2016, 8 April 2016, 18 April 2016, 24 April 2016, 4 May 2016 then out of chronological order an entry for 29 April 2016 for the drench in question.

This diary wasn't seized until the 5 May 2016. Mr Bajada now acknowledges that the details were inadequate and pointedly Charge 3 is made out as against Mr Bajada.

Mr Apap was an unlicensed person. Mr Bajada had an obligation to ensure a person assisting raceday grooming as he was, was licensed. He did not so ensure. It follows that this Charge 4 against Mr Bajada and Charge 1 against Mr Apap is made out against both.

As to Charges 1 or 2 we are comfortably satisfied on the balance of probabilities that the more probable inference is that Major Calipso was given a drench by stomach tubing on 29 April 2016. In fact given the confluence of circumstances we could be satisfied that it is really the only reasonable inference to be drawn. Accordingly, Charge 1 is also made out. Given Charge 2 is an alternative we make it withdrawn.

So Charges 1, 3 and 4 are proven against Mr Bajada and Charge 1 is proven against Mr Apap.