24 January 2024

**DECISION**

**RACING VICTORIA**

**and**

**TORY LAVELLE**

**Date of hearing:** 17 January 2024

**Panel:** Judge John Bowman (Chairperson) and Mr Josh Bornstein.

**Appearances:** Mr Marwan El-Asmar appeared on behalf of the Stewards.

Mr Tory Lavelle represented himself.

**Charge:** Local Rule(“LR”) 94A states:

**No intimidating or abusive conduct**

A person must not, at any time or for any purpose:

a. engage in any form of intimidation or abusive conduct (either physical, verbal or otherwise), in any way related to racing, of:

i. any Steward, Official, or employee or officer of Racing Victoria; ii. any person representing Racing Victoria and/or its employees or officers;

iii. any employee or officer of a Club or Association;

iv. the Racing Appeals and Disciplinary Board, any member of the Board; or

v. any person who is, or may be, a witness in any investigation, inquiry or disciplinary proceeding under the Rules.

**Particulars of charge:** 1. You were, at all relevant times, an owner of a racehorse registered with Racing Australia.

2. You were, at all relevant times, the part owner of the horse Vieste (the Horse).

3. On 9 November 2023, you attended the Victoria Racing Club ‘Oaks Day’ race meeting at Flemington racecourse, in which the Horse was engaged to run in Race 8 – Kennedy Oaks over 2500 metres (the Race). The Horse was subsequently withdrawn from the Race by Stewards acting on veterinary advice.

4. On 9 November 2023, following the running of Race 5, you accompanied licensed trainer, Benjamin Smith, into the Stewards’room for the purpose of an inquiry into Mr Smith’s conduct following the Horse being withdrawn from the Race.

5. On 9 November 2023, at the adjournment of the Stewards’ inquiry into the conduct of Mr Smith, you engaged in the following conduct:

a. You directed the below comments at Racing Victoria Stewards and employees present in the Stewards’ room: “Can I just say something? I will be taking you to the Supreme Court. I've spent $5 million on this fuckin' industry. I pay your wages. I will be taking you. So if you want to fuck me up for - the industry, go for it. Tory Lavalle, 5 million bucks here. You scratch my horse in the last minute? Fuck youse. Watch me. And I fuckin' - on my fuckin' brother's oath, I'm gunna fuck youse over, 'cause youse just - that's the point, you're not even owners.”

b. Prior to exiting the Stewards’ room, you spat on your hand and held your hand up towards the Racing Victoria Stewards and employees.

6. Your conduct, as outlined in particular 5, was intimidating and/or abusive towards Stewards and employees of Racing Victoria

**Plea:** Guilty

**DECISION**

Mr Tory Lavalle, you have pleaded guilty to a breach of LR 94A, which deals with intimidation, certain bad conduct and the like. It concerns your behaviour in the Stewards’ room at Flemington Racecourse on Oaks Day, 9 November 2023. You were a part-owner of Vieste, which was to run in Race 8, the Group 1 Kennedy Oaks.

On the day, Vieste was withdrawn by the Stewards acting on veterinary advice. Following Race 5, you accompanied the trainer of the horse, Mr Benjamin Smith, into the Stewards’ room. An inquiry into the behaviour of Mr Smith following the horse being withdrawn from the Oaks was to be conducted. After it was adjourned, you, whilst still in the Stewards room, engaged in a tirade against the Stewards, which tirade was filled with bad language, the words “fuck” or “fuckin” being used some seven times.

You also spat on your hand and held it up towards the Stewards and Racing Victoria employees. In addition to Deputy Stipendiary Steward Ms Georgina Lewis, there were three female employees present. There were approximately twelve people within the room. It is clear that some were understandably frightened by your outburst and by the spitting incident.

This was really very bad behaviour. The work of the Stewards and the staff is demanding enough, particularly on Day 3 of the Spring Carnival, without having to put up with behaviour such as this.

We accept that you are truly remorseful for your outburst. We note that your family’s interest in the racing industry are extensive and that this was particularly so in relation to your brother. He died some eight years ago. You have undertaken at least part of his duties and interests in relation to the ownership of a large number of horses. You were particularly keen to have a runner in the Oaks it being run on the very anniversary of your brother’s death some eight years previously. Having a runner in a Group 1 Race, and particularly on Oaks day, meant a lot to you.

That does not excuse your behaviour. It does at least help us to understand why you did engage in such an outburst and such frightening behaviour. As stated, we accept that you are truly remorseful and have sought some help in relation to your behaviour. In addressing us, you accepted full responsibility and, as stated, you were particularly remorseful.

In arriving at a penalty, we have taken all the above factors into account. We have also borne in mind the penalties imposed in the cases which Mr El-Asmar, on behalf of the Stewards, brought to our attention. We thank him for the detailed summary which he presented and which also included some of the ameliorating factors.

In our opinion, a period of disqualification must be imposed. The gravity of the offending in such that a suspension or fine would be inadequate. Participants in the industry must be conscious of their obligation to act in a proper and respectful manner towards the Stewards and towards racing staff generally. In the present case, clearly some were shocked and fearful as a result of your outburst and gesture.

As stated, we take into account what seemed to us to be your genuine remorse, and the circumstances and timing of the offending. However, a period of disqualification is appropriate.

Weighing up all the above, our finding is that you are disqualified for a period of three months, effective immediately. If you have any doubt, Mr El-Asmar or the Stewards can explain to you the full ramifications of the disqualification for that three month period.

Mark Howard

Registrar, Victorian Racing Tribunal