

Appeal decision

Date: 27 May 2014

Code of racing: Harness

Appeal panel: Judge W Carter (chair), Mr B Miller and Mr G Casey.

Appearances: Mr S Neaves, counsel, appeared on behalf of trainer Fran Bahr.
Mr D Farquharson, chairman of stewards, appeared on behalf of the stewards.

Decision being appealed: Disqualification for a period of six months – AR191.

Appeal result: Appeal dismissed. Penalty reduced.

Extract of proceedings – in the matter of the Follow the Trottips Best Bet Trotters Handicap (TRO-TR2) over 2138 metres at Albion Park on 24 March 2014. Trainer: Fran Bahr

THE CHAIRMAN: This is a quite unusual case. The unusual aspects of it have been sufficiently emphasised during argument and need not be repeated. I need only say that there is a likelihood – and one would put it no higher than that – that some form of error was made in the administration of the relevant substance which produced the positive swab. We of course make no comment about the second matter, which is yet to be dealt with.

On the other hand, we are compelled to recognise the seriousness of this offence. The need for drug-free racing bears no repetition. It is of significance that this offence is committed irrespective of whatever explanation may be offered, and indeed it is committed regardless of the circumstances.

However, there are cases – and this may be one of those - where there is the capacity to, in fairness and justice, qualify the harshness of a penalty which might otherwise be imposed because of the peculiar circumstances which we think may, and again we put it no higher than that, have occurred in this case.

We think the appropriate way of dealing with it is to vary the period of six months disqualification in these terms.

The appeal is allowed. The order for disqualification for six months is set aside. By way of penalty, the appellant is disqualified for three months. At the expiration of that period the appellant's licence will be suspended for a further period of three months. The three-month period of disqualification will be subject to the same conditions imposed by the stewards.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au