

Appeal decision

Date: 16 December 2013

Code of racing: Harness

Appeal panel: Mr B Miller (chair), Mr P James and Mr N Thomson.

Appearances: Driver Robert Gorman appeared on his own behalf.
Mr W Barr, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to drive in races for a period of four weeks – AR149(2).

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the Quest Breakfast Creek Apartments Pace over 1660 metres at Albion Park on 2 December 2013. Driver: Robert Gorman

THE CHAIRMAN: The tribunal has considered the matters and has listened closely to all of the statements made by both you, Mr Gorman, and you, Mr Barr, and having viewed the film has come to the conclusion that the speed at which the first quarter was conducted in the race in question was in fact a direct reflection of the manner in which you, Mr Gorman, drove the horse, and because of your experience it was warranted that you should have taken more care and been more aware of what was likely to occur.

The fact that you were out to beat Reginaldo was in itself, and in our view, noteworthy and credit worthy to you. You were there to try and win the race on your horse. But, unfortunately, what you seem to have done is in taking care of Reginaldo you have destroyed the chances that your horse had, and of course as a trainer and as a driver of horses in particular, you had a duty to those members of the public who bet on your horse with their hard earned, and whose chances simply were destroyed when 27.1 was semaphored at the time, but you persisted in then still trying to challenge for the lead, notwithstanding that Mr Stariha had indicated to you that he was not prepared to hand up the lead.

For that reason we believe that the charge levelled against you had merit, and for that reason we dismiss the appeal against the conviction.

We were, we will say, surprised that a period of four weeks was the penalty that was imposed on a charge against Rule 149(2). As you can appreciate, 149(2) is an all-inclusive charge. It identifies that a person shall not drive in a manner which in the opinion of the stewards is unacceptable. It is far reaching in its consequences and could have significant impact on your and your driving history were it to be used against you in the future.

We think the stewards have in fact been quite lenient with you in imposing only a four-week penalty, and all we can do is ask that you seriously give consideration to your duties to the public and to the industry as a whole. We do not believe that you had any intent to not give your horse the chance of winning. We believe you drove it to the best of your ability, but you failed to take into account the obvious danger that by racing to the lead in the manner in which you did you destroyed its chances.

For that reason the penalty will stand and the conviction will remain.

Further right of appeal information: The appellant and the sStewards 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