

**RACING APPEALS TRIBUNAL
QUEENSLAND
NOTICE OF DECISION**

APPEAL NO: RG002-09
DATE: 15 April 2009
APPELLANT: Peter John Milani
RESPONDENT: Greyhound Racing Authority
APPEARANCES: Mrs Julie Milani together with her husband Peter Milani for the appellant and Mr Danny Ryan on behalf of the Greyhound Racing Authority

REASONS FOR JUDGEMENT

Mr Brockwell Miller – Deputy Chairman

Mr Dennis Standfield - Member

The appellant was charged with an offence under Rule 86(F)(4) of the Rules of Greyhound Racing in that he verbally abused Mrs R Black in the kennel area at Cairns Greyhound Racing Club on Saturday 7 February 2009. Mrs Black was alleged to have been the Treasurer of the Cairns Greyhound Club at the time although in evidence that was submitted to this Tribunal there was no proof that she was an official of the Club at the time, it appearing that she became Treasurer at about the time of the incident in question. The relevant section identifies that:

A person (including an official) shall be guilty of an offence if the person –

(f) Engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting or offensive language, conduct or behaviour in any manner or form towards, or in relation to –

(iv) Any other person having official duties in relation to greyhound racing.

The rule obviously is intended to ensure that persons conduct themselves appropriately when dealing with officials, stewards, committee members or controlling body members in pursuit of the Greyhound Racing Industry. There is no doubt, from the evidence submitted, that at the time of the alleged allegation Mrs Black was not acting in any official capacity whether she was or was not the Treasurer of the Club. It is the opinion of this Tribunal that before anyone can be charged under the rule for abuse or untoward treatment towards a person that person who makes the complaint alleging he/she was abused must have been acting officially. At the relevant time Mrs Black was acting in the capacity of a trainer of a dog in a race in which another dog trained by Mr Milani participated.

The initial Inquiry was opened by the Chairman of Stewards Mr Peter Wilson. He had received a letter of complaint from Mrs Black and a corroborative letter confirming abuse from a Mr Towers-Picton. The letter from Towers-Picton was dated 15 February 2009. The offence occurred on Saturday 7 February some eight days prior. It was suggested to this Tribunal that Towers-Picton was to leave for overseas for some indefinite time. How he came to provide the letter is uncertain but the Inquiry on the first day was convened on 21 February. At that opening Inquiry day Mr Towers-Picton and Ms Accatino who was an assistant junior kennel attendant aged approximately 17 years were the only persons present with Mr P Wilson and other members of the committee of Inquiry. The letter from Mrs Black and that from Towers-Picton counter signed by Ms Accatino was handed to the Inquiry.

At the next hearing date on 28 February Mr Milani was required to be present. He had not been appraised of required to be present, on the first date of the Inquiry. It would appear that the failure to appraise him of the opening of the Inquiry and the tendering of letters would fly in the face of the requirement that natural justice must be seen to have been applied and one would think therefore that simply on that point alone this appeal should have been upheld however that is not, it would appear, to be the end of the matter.

During the course of the hearing Mr Wilson as Chairman identified to Mr Milani that he had been found guilty before any charge had been levelled against him. The Chairman not only pre-empted the determination of the stewards he compounded the earlier failure to comply with the rules of natural justice which again raises another basis for a successful appeal.

It should be noted that Mr Milani complained bitterly of the failure of the stewards not to have warned him of the opening of the Inquiry on 21 February and he maintained that complaint during his appearance by video link before this Tribunal. It seems that from what this Tribunal can glean the evidence that was adduced was from a certain section of the Cairns Greyhound Racing participants. This Tribunal opined that some trainers and owners appear to be of the belief that they should control racing without any interference and that Mr Milani was not welcome.

It is the opinion of this Tribunal that the charge was improperly levelled against Mr Milani and that the conduct of the stewards Inquiry and of the stewards themselves was unacceptable and demanded that any determination made by that committee of Inquiry be set aside and this Tribunal so orders.

If the Tribunal was capable of awarding Mr Milani any legal costs, and in this respect it should be noted that Mr Milani was not represented by any legal firm during the course of the Inquiry or appeal, the Tribunal would certainly do so but as no costs have been incurred it is not appropriate. The manner in which the North Queensland stewards acted was simply not acceptable.

It should be noted that Mr Ryan who appeared for the stewards was extremely concerned with the manner in which evidence had been presented and the manner also in which the Inquiry had been undertaken. The Tribunal congratulates Mr Ryan for his honesty and perspicacity in that regard

and notes that it is indeed unfortunate that he could not have had more control over persons who it would appear are not acting in the best interests of the Greyhound Racing Industry.

The appeal is allowed and the deposit is refunded.

Mr Brockwell Miller

Mr Dennis Standfield
