

RACING APPEALS TRIBUNAL

QUEENSLAND

NOTICE OF DECISION

APPEAL NUMBER: RH001-08
DATE: 18 August 2008
APPELLANT: **Clinton John PETROFF**
RESPONDENT: Harness Racing Queensland
BREACH OF RULE: Rules 147(1) and 149(1) of the Rules of Harness Racing.
DECISION: The appeal is dismissed.
APPEARANCES: Mr B Banton of Grahame W Howe & Co, Solicitors of Sydney appeared on behalf of the Appellant.
Mr Callaghan SC instructed by Mr Andrew Harris of Schweikert Lawyers for the Respondent

REASONS FOR TRIBUNAL'S DECISION

Mr Leo Williams AO – Chairman
Mr Brockwell Miller – Deputy Chairman

This is an appeal by Clinton Petroff against two decisions of the Stewards of Harness Racing Queensland which convicted him of breaches of Rules 147(1) and 149(1) of the Rules of Harness Racing. The convictions resulted in penalties of 12 months' disqualification and 6 months' suspension respectively.

Rule 147(1) relates to allowing a horse to run on its merit and Rule 149(1) obliges the driver to take all reasonable and permissible measures to obtain the best place.

Each conviction arose out of the driving by the appellant of the horse, Woodlands Boy, in Race 6 at the Gold Coast on 17 July 2008.

The Stewards found that in two separate incidents the appellant firstly failed to maintain a position in the field and then failed to drive his horse to the line with sufficient vigour.

Each incident on its own sustained a conviction under both Rules.

The video of the race was of itself conclusive evidence of the offences but it was coupled with the evidence of the two Stewards, Messrs Finnegan and Farquarson, who gave clear and unequivocal evidence sufficient to support the findings.

Both incidents are obvious on the video particularly the second in the straight which shows the appellant exhibited no vigour in driving his horse to the line. It finished second.

In the first incident, the appellant at about the 1200 metre mark initially took up a trail on a horse driven by Mr Cini but appeared to back off and allow another driver on his inside to move out and take his position. That driver subsequently won the race. The Stewards were influenced by the fact that the horse for whom the appellant made room was a stable mate of Woodlands Boy and was driven by the appellant's brother. This incident took place close to where the Steward, Mr Farquarson, was stationed and he gave a clear account of what happened.

The Rules allow for the two charges but the penalties have been ordered to be served concurrently.

Mr Banton argued for the appellant that in the absence of evidence that the horse was actually restrained the charge should not be sustained. The evidence of restraint came from Mr Farquarson but the other evidence is clear enough to sustain the charges.

The evidence was sufficiently compelling to satisfy the standard of proof required and the Tribunal finds the Stewards' findings were justified and correct.

There is also an appeal on the question of the penalty imposed by the Stewards. The 12 month disqualification on the charge of not allowing the horse to run on its merits is not out of the range that could be reasonably expected for that offence. Equally the 6 months' suspension for failing to take all reasonable and permissible measures to win is reasonable and not excessive.

The Tribunal would not interfere with either penalty.

The appeal is dismissed. The deposit is forfeit.

Leo Williams AO
Chairman

Brockwell Miller
Deputy Chairman
