

RACING APPEALS TRIBUNAL

QUEENSLAND

NOTICE OF DECISION

APPEAL NO: RH003-07

DATE: 18 July 2007

APPELLANT: Mr Chris Petroff

RESPONDENT: Queensland Harness Racing Board

APPEAL FROM: Decision of the Stewards of the Queensland Harness Racing Board to disqualify the Appellant for a period of 3 months. Appeal against penalty only.

BREACH OF RULE: Rule 243

DECISION: Appeal against penalty upheld with the penalty varied to a period of one month's suspension to commence from midnight 18 July 2007 and a fine of \$2,500 to be paid by 18 August 2007.

APPEARANCES: Mr Rod Hinze with the approval of the Tribunal appeared on behalf of the Appellant.

Mr Martin Knibbs, Chairman of Stewards appeared on behalf of the Respondent.

REASONS FOR TRIBUNAL'S DECISION

Mr Leo Williams AO - Chairman

Mr Dennis Standfield - Member

This appeal is against penalty only and concerns the three months disqualification imposed by the Stewards after finding that Mr Chris Petroff did at the Gold Coast Harness Club on 28 June 2007 breach Rule 243 under the Rules of Australian Harness Racing. Rule 243 states:

“Rule 243

A person employed, engaged or participating in the Harness Racing industry shall not behave in a way which is detrimental to the industry.”

The particulars of the charge are stated by the Stewards (at page 58 from line 5 of the Inquiry Transcript) as:

“The Stewards are alleging after the running of race 3 that you have confronted Mr Small after verbally abusing him, have struck him and caused him to fall to the ground in full view of the licensees and betting public. The stewards believe that this was detrimental to the industry.”

The ground of appeal is stated by the Appellant as “severity of sentence”. To consider whether the Stewards penalty was appropriate it is necessary to go beyond the brief particulars given by the Stewards.

The background to the confrontation between the Appellant and Mr Small as understood by the Tribunal from a review of the Stewards Inquiry Transcript is:

1. The Appellant’s brother Clint Petroff is the driver of Likebeckham.
2. Mr Geoff Small who is a Licensed Stablehand was the authorised person of Mr Trembath the trainer of Likebeckham.
3. Mr Geoff Small is also employed as a Steward by the Greyhound Racing Authority.

4. Prior to the running of Race 3 Mr Small advised Clint Petroff of the tactics for driving Likebeckham.
5. Mr Small had some “suspicions” and “kept an eye on” Clint Petroff.
6. Mr Small observed Clint Petroff communicate with his brother Chris Petroff who was driving Poker Palace in the same race.
7. Mr Small again spoke to Clint Petroff and changed the driving instructions previously given.
8. Mr Small referred his concerns to the Starter Mr Neil Finnigan who in turn referred the matter to the Chairman of the Stewards for the day Mr Larry Wilson and while doing this both Mr Small and Mr Wilson observed the Petroff brothers on the track in conversation.
9. After the race Chris Petroff while driving his gig in the stall area confronted and struck Mr Small.

The Stewards Inquiry also related to the driving instructions given to Clint Petroff. Mr Clint Petroff was charged and found guilty under Rule 208 of divulging his driving instructions and a fine of \$500 was imposed. At the time of hearing of this appeal it was understood that Mr Clint Petroff may be appealing to the First Levels Appeal Tribunal with respect to his matter. The Stewards also inquired into Mr Chris Petroff's driving tactics and although they stated they were of the opinion that he had prior knowledge of the tactics of Likebeckham did not take any further action stating (at page 57 from line 30 of the Inquiry Transcript):

“... .. With regards to the change of driving tactics that may or may not have occurred in the running of race 3, in relation to the charge that has been laid against your brother, we are of the opinion that you had prior knowledge to the tactics of Likebeckham, and having said that there was possibly - not unreasonably – and may have not contributed to be in the best interests of your horse to go out for a speed battle, and therefore we feel that under those circumstances, and also the evidence given by Mr Darryl Graham, that we are going to give you the benefit of the doubt with regards to the drive and no action will be taken over the drive.”

At the hearing there were initial statements made by Mr Rod Hinze that the Appellant was justified in his actions as he was provoked by Mr Small. Mr Hinze said that Mr Small made disparaging remarks about the Appellant to his brother Clint Petroff.

The Tribunal advised that it was prepared to allow the Appellant to appeal the finding of the Stewards and adjourn the hearing so that Mr Small could give evidence. To consider this aspect of the matter the Tribunal suggested the Appellant have an adjournment to consider the matter further. After the adjournment the Appellant advised he wanted the matter to proceed and that his Appeal was to be for penalty only and he would not contest the finding of the Stewards.

From the transcript and particularly the evidence of the independent witness Mr Van Roosmalen it is clear that the Appellant did strike Mr Small and the Tribunal is of the opinion that the Stewards had no other option than to make that finding.

Before handing down their penalty the Stewards were advised that driving is the sole source of income of the Appellant and he has young twins to provide for.

The Appellant advised that his drives vary from between five drives to 15 drives per week. The Appellant advised that he would rather pay a fine than be either suspended or disqualified. When handing down penalty the Stewards advised (page 64 from line 32 of the Inquiry transcript):

“THE CHAIRMAN: Mr Chris Petroff, we have certainly taken into consideration and given a lot of thought with regards to your submissions on penalty. I'd also like to point out the seriousness of your actions by means of confronting Mr Small and striking Mr Small in full view of licensees and participants and patrons. This is certainly unacceptable and won't be tolerated under any circumstances.

These actions do nothing for the image of harness racing in these times when we are trying to lift the profile of harness racing. These actions certainly detract from us. As you are fully aware, we are in a very competitive market, and we certainly need to be on our best foot at all times.

Having said that we feel that the penalty should reflect on the seriousness of the offence, and believe that you be disqualified for a period of 3 months. This disqualification will be effective immediately.”

At the hearing Mr Hinze has presented a number of references for the Appellant from persons well known in the industry. It is clear from those references that the referees have a high opinion of the Appellant and he is obviously a talented driver. It is also noted the Appellant has invested heavily in the industry and he accepts that his future is to continue to be involved with harness racing.

While confrontations between licensees can never be condoned the Tribunal is of the opinion that this was not premeditated but more a “spur of the moment” act on the part of the Appellant. He had just finished driving. He was no doubt angry because of Mr Small's disparaging comments passed onto him by his brother. Although the Appellant is 29 years of age it is obvious that he will have to do more to control his temper when he perceives that he has been wronged.

As a talented driver he should realise that any conduct of this nature does nothing either for his own image or the image of the industry. It is understood that this is the Appellant's first offence of this nature and it is obvious that by being unlicensed he and his family will suffer severe financial hardship. It is only hoped that he reflects on what he has done and ensures that there will not be any repeat of such behaviour in the future. For these reasons and to lessen the financial hardship imposed upon him the Tribunal considers the three months disqualification was not the appropriate penalty.

The Tribunal makes the following orders:

1. Appeal against penalty upheld.
2. Penalty varied to a period of one month's suspension to commence from midnight 18 July 2007 and a fine of \$2,500 be paid by 18 August 2007.
3. Appeal deposit fee is forfeited.

Mr Leo Williams AO
Chairman

Mr Dennis Standfield
Member