

**RACING APPEALS TRIBUNAL**

**QUEENSLAND**

**NOTICE OF DECISION**

**APPEAL NO:** RT001-08

**DATE:** 11 February 2008

**APPELLANT:** Mr Jeffrey George Walters

**RESPONDENT:** Queensland Racing

**APPEAL FROM:** Decision of the Stewards imposing fines totalling \$4,500 and a suspension of the Appellant's Bookmakers Licence for 3 months. Appeal on finding with respect to LR113(3) and LR119(l) and appeal on penalty with respect to all matters.

**BREACH OF RULE:** LR113(3)(i), LR113(3)(k), LR119(m), LR119(n), LR119(q), LR119(s), LR113(3)(j) and LR119(l)

**DECISION:** Appeal dismissed.

**APPEARANCES:** Mr Jeff Walters appeared on his own behalf.

Mr Norm Torpey Senior Steward appeared on behalf of the Respondent.

**REASONS FOR TRIBUNAL'S DECISION**

Mr Leo Williams AO - Chairman

Mr Brock Miller - Deputy Chairman

Mr Dennis Standfield - Member

On 25 January 2008 Mr Jeffrey George Walters a Licensed Bookmaker lodged a Notice of Appeal with the Tribunal stating that his appeal was against the finding of a committee (sic) and penalty. The Rules referred to in the Notice were LR119(l) and LR113(3)(j) and Penalty at \$1,000 and 3 months suspension. There was also reference in the Notice of the Appeal to "also appealing against severity of suspension on other charges". While no grounds of appeal were stated in the Notice

there was an Application for Stay (which was denied) lodged with the Notice of Appeal with the grounds stated as:

“Stewards disregarded evidence to support by defence. I feel penalty imposed was too severe in comparison to penalties imposed on other far more serious rule breaches. e.g. performance enhancing drugs.”

The Tribunal accepts these grounds as the grounds of appeal.

The documents provided to the Tribunal by the Respondent comprised a 134 page transcript with 15 exhibits of the Stewards Inquiry which was held on 11 December 2006 and on 19 February 2007 when it was adjourned by the Stewards. In addition to the Inquiry transcript and exhibits copies of correspondence between Queensland Racing, the Appellant and Solicitors then acting for the Appellant have also been provided to the Tribunal.

The details of the charges laid against the Appellant and the particulars of each charge were set out in a letter from Mr Reid Sanders the Chief Steward of Queensland Racing to the Appellant dated 13 July 2007. That letter, omitting formal parts, states:

**“RE: The issuing of Charges under Local Rules of Racing against you.**

In regard to the inquiry conducted on 11 December, 2006 and 19 February, 2007 Stewards after considering the evidence presented have decided to issue the following charges against you relation your activities as a licensed bookmaker whilst officiating at licensed race meetings between the period September 30 and November 7, 2006;

Charge 1 – Issued against you under LR.113(3)(i) which reads:

*L.R.113:*

- (3) *A bookmaker at a meeting may make a bet with a person (the “bettor”) who is not present at the racing venue where the meeting is being held if:*

- (i) *any bets placed by a bookmaker via telephone during the currency of a meeting upon which he is conducting his business as a bookmaker shall only be by a bookmaker operating at another registered race meeting or Government licensed auditorium within Australia and for whom specific approval has been given by the Principal Racing Authority for such facility. Such bets may only be for the express purpose of reducing the liability on bets already laid by the bookmaker against the particular horse in such race on which he is currently fielding. Full details of the transaction including the name of the bookmaker with whom such bet is made must be recorded separately and shall be lodged with the Betting Supervisor at the conclusion of the race meeting concerned;*

**SPECIFICS OF CHARGE:**

That during the period 30 September and 7 November 2006 you had bets with bookmakers Karangis, Pippas, Bird and Tew which were not for the express purpose of reducing your liability.

Charge 2 – Issued against you under LR.113(3)(j) which reads:

- (j) *the bookmaker whether as a bettor or the layer restricts any inquiries made or information given to the current prices being offered or sought during the currency of better and ensures such telephone better operations might not be regarded in the opinion of the Principal Racing Authority or the stewards as a prices service. Information of a general nature must not e given or received via telephone;*

**SPECIFICS OF CHARGE:**

That you during the period 30 September and 7 November 2066 did convey in telephone conversations with a Tim Magnus and your wife information relating the price of horses engaged in race meetings which Stewards regard as a price service.

Charge 3 – Issued against you under LR.113(3)(k) which reads:

- (k) *the details of all bets received by telephone shall be recorded separately and shall be lodged with the Betting Supervisor at the conclusion of the race meeting concerned;*

**SPECIFICS OF CHARGE:**

That during the period 30 September and 7 November 2006 you failed to record all bets received by Tim Magnus.

Charge 4 – Issued against you under LR.119(3)(l) which reads:

*L.R.119. A bookmaker or approved bookmaker's clerk acting on behalf of the Bookmaker shall:*

- (l) *where a bet is a credit bet, deliver or cause to be delivered to the bettor the betting ticket issued by or on behalf of the bookmaker in respect of that credit bet.*

**SPECIFICS OF CHARGE:**

You during the period 30 September and 7 November 2006 failed to deliver to Tim Magnus betting tickets for any credit bet made with you.

Charge 5 – Issued against you under LR.119(3)(m) which reads:

- (m) *forthwith upon making a bet whether as a layer, or when betting back, enter or cause to be entered in his betting sheets particulars of the bet, the number of the betting ticket issued in respect of the bet;*

**SPECIFICS OF CHARGE:**

That during the period 30 September and 7 November 2006 you failed to enter in your betting records details of bets made with Tim Magnus.

Charge 6 – Issued against you under LR.119(3)(n) which reads:

- (n) *upon making any bet, clearly record in his betting book immediately such bet is made and the name of the bookmaker with whom the bet was made and, in the case of a cash bet, shall set out the number of the relevant betting ticket. If such bet is placed on the totalisator, it must be indicated when the bet was made and full details must be shown in his betting records;*

**SPECIFICS OF CHARGE:**

That during the period 30 September and 7 November 2006 you failed to enter in your betting records details of bets made with bookmakers made to reduce your liability as a form of betting back.

Charge 7 – Issued against you under LR.119(3)(q) which reads:

- (q) *deliver to the offices of the club conducting the meeting a carbon copy of every entry made in the betting sheets or a copy of such other approved recording system at the conclusion of the race meeting.*

**SPECIFICS OF CHARGE:**

During the period 30 September and 7 November 2006 by omitting entries relating to bets by Tim Magnus you failed to deliver to the Club a copy of your betting sheets that had details of every bet taken by you.

Charge 8 – Issued against you under LR.119(3)(s) which reads:

- (s) *produce on demand and deliver to any steward or racing official any book, document, card, paper ticket, record, equipment, device or thing of any kind which the steward or*

*racine official has reasonable grounds for believing is being or has been used in any way for the purpose of making records covering betting transactions.*

**SPECIFICS OF CHARGE:**

During the period 30 September and 7 November 2006 you failed to provide on request to stewards any document or other thing of any kind which was used by you for the purpose of making records covering betting transactions.

Can you please provide in writing within seven (7) days as to your intention to place either written, oral or either both submission before the Stewards.”

While the Appellant initially through his Solicitors entered a plea of not guilty to the charges when the matter was set down for continuation of the hearing on 13 December 2007 the Appellant wrote to the Stewards an undated letter which omitting formal parts stated:

“Re: Inquiry due for hearing in regards to charges under Local Rules of Racing set down for 13<sup>th</sup> Dec 2007.

After much consideration of the charges your committee has made against me, I now intend to change my plea to guilty to a number of charges over the non recording of bets placed on Mr Magnus’ behalf. I refer to charges in your letter dated 13<sup>th</sup> July 2007.

Charge 1 – Guilty

Charge 2 – In relation to the charge of providing a pricing service, I still plea not guilty as bookmakers are allowed to offer prices of specific horses to clients for the purpose of betting.

Charge 3 – Guilty

Charge 4 – Mr Magnus never made any credit bets with me as I obtained funds from him prior to placing bets on his behalf. Details of bets were conveyed verbally as requested hence I still plea not guilty.

Charge 5 – Guilty

Charge 6 – Guilty. Even though I had no liability with these bets, I do understand that for recording purposes that I needed to show betbacks that would liability in the betting ledger.

Charge 7 – Guilty

Charge 8 – Guilty

I was of the belief at the time that I was not required to enter bets placed on Mr Magnus' behalf in my ledger as I did not believe I was acting in a bookmaking capacity. I now realize this is was against the rules of racing. My omissions were made as a result of inexperience and a lack of care taken to seek the required procedure. For this I do apologise.

However, I do still repute claims that I held a portion of some bets conveyed over my on-course phone. I was aware Mr Magnus was winning consistently and it would be common sense and a poor business risk to absorb any of these bets. This was also confirmed by his statement.

The high volume of bets listened to at the inquiry occurred over 2 meetings where Mr Magnus was having a poor betting day and continued to ring me in order to win money he was losing on those days. This was definitely stretching the favour I had offered. Initially there was a handful of bets phoned to me on my personal mobile in the morning which I in turn gave to bookmaker Ray Karagnis when I arrived at the track. I did not want to be responsible for introducing someone to another bookmaker if they were ever to have any settling problems. To ensure this I obtained funds from Mr Magnus and placed bets on his behalf.

Prior to the Equine Influenza outbreak in Queensland, I had just reduced the number of hours I was working at my full-time job at Jupiter's Casino on the Gold Coast in order to concentrate on a racing career as a bookmaker. This could not have been more ill timed. I enquired about getting assistance from the government over this period and was told I was deemed ineligible to receive any payments as bookmakers and their clerks have nothing to do with horses!

I am contacting you now to resolve this issue as quickly as possible as I need to some certainty to decide what direction I take with my racing business and for my clerk's future, who is a single mum and may need to find other work. As you can appreciate the past 3 months has caused much financial hardship to my family and my future.

In relation to the charges against me, I would like Queensland Racing to appreciate the fact my actions were as a result of inexperience and not one of deception. My acts did not have any detrimental effect on the health, safety, finance of any other participant nor did it influence the running of any race. This was purely an accounting blunder on my behalf and I trust Queensland Racing can acknowledge this is the case. This has been the first time Queensland Racing has needed to reprimand me over the rules of racing and trust you consider this when deciding on a penalty. I have definitely learnt now to ask questions before acting.

I would appreciate if Queensland Racing will consider my change in making an early plea to the outstanding charges in order to resolve this matter harmoniously. I trust Queensland Racing will act responsibility and compassionately when deciding a penalty. If you could advise me as soon as possible if there is any change in your position it would be much appreciated."

By letter dated 13 December 2007 Mr Sanders wrote to the Appellant advising that the Stewards have considered the matter and with respect to the pleas of not guilty entered with respect to charge 2 (LR113(3)(j)) and charge 4 (LR119(3)(l)) stated:

“Stewards today after considering the evidence presented relevant to this matter have found you guilty of Charge 2 for the contravention of LR113(3)(j). The Stewards do believe that your advice to Tim Magnus and your wife conveyed via telephone calls relating to the prices of specific race horses can be regarded as providing a price service.

Further, Stewards also do find you guilty of Charge 4 regarding the contravention of LR119(3)(s)(sic) as you failed to deliver or cause to be delivered a betting ticket for bets taken by you on behalf of Tim Magnus.”

Mr Sanders letter of 13 December 2007 went on to give the Appellant the opportunity to put matters before the Stewards with respect to the issue of penalty to which the Appellant responded by a letter received 11 January 2008 which letter omitting formal parts stated:

“I refer to your letter dated 13<sup>th</sup> December 2007 and wish submit this document for discussion in reference to penalty.

When attempting to research past penalties imposed by Qld Racing for similar offences, I found it very difficult to locate any at all. However I did find numerous breaches of the rules of racing and resulting penalties. I wish to compare the affects of their actions and corresponding penalties in comparison to my case.

I believe my actions would be considered as careless but having no detrimental effect on any other racing participant. My actions were a result of inexperience and were concealed to an accounting mistake.

I believe my actions to be nowhere as serious as those I will mention, therefore giving a guideline for possible penalty.

Recently jockey Rick McMahon received a \$5000 fine and 1 month suspension for breaching protocol placed during the E.I. outbreak. The repercussions of his actions could have been astronomical and affected the whole industry. Surely this must have been considered by Qld Racing as the most serious act possible for someone acting carelessly and therefore the maximum penalty must have been imposed. In addition, he effectively served no time as racing was suspended while serving his sentence as also the case was with trainer John Wallace also serving a sentence during this period.

When researching I found numerous inquiries regarding the use of prohibited substances used in horses being presented to race. I would view this type of breach of rules as one of the most serious possible. These acts give a damaging reputation to the industry and affect many other participants. The general penalty imposed was \$5000 and in some cases prior convictions had already been recorded. (e.g. trainer Robert Bradshaw Sept 2005, \$5000 and 1 month disqualification and had prior convictions).

During the E.I. outbreak I attempted to claim assistance for the loss of income. I was advised from the government assistance hotline that I was ineligible as I did not have direct contact with horses. I feel I have been unfairly treated by the industry as I derive around 70% of my income from racing and could have expected to earn around \$12,000 (based on last year's tax return) during this period. I believe tote operators even received assistance from authorities yet bookmakers were completely ignored by the industry to fend for themselves. I believe any monetary fine considered to be imposed on me, I have more than sufficiently absorbed by the industry beyond all reasonability, as a result of the industry's negligence to assistance all essential participants during the E.I. crisis.

On the matter of possible suspension, E.I. once again has penalised me severely as with others, however, those who were serving a suspension had no addition time added when all licensees could not race therefore effectively having their suspensions reduced by 3 months. They have been penalised less than everyone else. This inquiry was pending over that period and any suspension incurred could have been served then.

I would also wish you to consider no suspension imposed on the grounds of financial hardship that a suspension would cause my family and my staff. I draw your attention to an inquiry involving trainer Mark Goodwin in May 2006. He was charged for the use of a prohibited drug and after pleading guilty earlier and being his first offence, he was given no suspension due financial hardship and his clean record. I believe there are many similarities with my situation. I also raise the possibility of a suspended sentence. This type of penalty is very commonly in civil law for first offenders and I recognise you have exercised your discretion in this way before as with part of penalty imposed on jockey Katsidis in January 2007.

When this inquiry commenced, I had been bookmaking for just 13 months and obviously having little experience. My acts were admittedly careless but not one of deceit. This inquiry has been going for 14 months and during this time have been co-operative and provided all information requested to the the best of my knowledge and ability. I have not contested most charges in an effort to resolve this issue harmoniously and for certainty of my business. The unnecessary length of this whole process has caused a lot of undue stress together with being ignored by the industry during E.I., an industry that my bookmaking business helps support by way of providing a service to punters, race clubs and my staff. I believe my peers consider my character to be one of integrity.

I trust Queensland Racing will responsibly and compassionately consider the suffering I have already endured in the last 14 months and would appreciate leniency based on the issues I have raised.

The inquiry is due to recommence on 16<sup>th</sup> January 2008. As I field on the mid week meetings, I request permission to field on this day regardless of the outcome of your meeting as I need to prepare for this racing meeting and advise staff.”

The penalties imposed by the Stewards were conveyed to the Appellant in a letter dated 23 January 2008 which omitting formal parts states:

**“RE: CHARGES ISSUED AGAINST UNDER LOCAL RULES OF RACING**

I write regarding the above matters. As a bookmaker you are granted a valuable licence. You are expected to value that licence and uphold and comply with the rules of racing. To simply suggest that you found yourself in this situation through carelessness is unacceptable and incorrect to suggest that such behaviour does not have a detrimental effect on the image of bookmakers and racing in general.

The Stewards, after carefully considering all evidence relating to this matter, as well as your submissions relating to penalty and your guilty plea to charges 1, 3, 5, 6, 7 and 8, have decided the following penalties shall be applied to you:

- **Charge 1 -** Contravention of LR113(3)(i)  
**Penalty:** Fine of \$1000
- **Charge 2 -** Contravention of LR113(3)(j)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- **Charge 3 -** Contravention of LR113(3)(k)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- **Charge 4 -** Contravention of LR113(3)(l)  
**Penalty:** Fine of \$1000
- **Charge 5 -** Contravention of LR113(3)(m)  
**Penalty:** Fine of \$1000
- **Charge 6 -** Contravention of LR113(3)(n)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- **Charge 7 -** Contravention of LR113(3)(q)  
**Penalty:** Fine of \$1000
- **Charge 8 -** Contravention of LR113(3)(s)  
**Penalty:** Fine of \$500

It would draw to your attention the requirements of AR183C which reads:-

*“A Bookmaker suspended by the Stewards or a Principal Racing Authority or the relevant supervising body shall not field at any race meeting conducted under The Rules or be in any way concerned in the operation of a bookmaker during the period of that suspension.”*

Further acting under the provisions of AR196(2) Stewards order that the penalties of suspension be served concurrently and that the suspensions shall commence at midnight on Wednesday, 23 January 2008 and expire at midnight on 23 April 2008.”

It is from these matters which the Appellant appeals to the Tribunal.

At the hearing of the Appeal Mr Torpey was asked why the matter took so long when the matter related to the Respondent's actions in late 2006 and whether it was because of the Equine Influenza crisis. Mr Torpey confirmed that this was the primary cause of the delay. The Tribunal accepts that and finds no fault with the Stewards in this regard.

At the hearing the Appellant restated the basis of his defences to Charge 2 and Charge 4 as stated in his correspondence. With respect to penalty the Appellant stated that it was both the fines and the suspension which concerned him. He stated that in addition to the fines there was legal fees that he had paid to his Solicitors and this will cause hardship to him as well as to his wife, his two children and the part-time clerk who fields with him. The Appellant stated that while he would be the Bookmaker with the smallest holds at meetings, the amount he does earn supplements his full time wage and it is required to enable him to meet living expenses and specifically his mortgage costs.

In considering whether the Appellant has breached LR113(3)(j) (Charge 2), it is clear that the wording of that rule requires the Bookmaker to ensure the information given concerning prices will not be regarded as a prices service. The Tribunal accepts the intent of that clause is for the person who is betting with a bookmaker to enquire as to the price of a horse or horses on which that person has an intention to bet. While

it will always be difficult to ascertain the true intention of persons enquiring of the price with bookmakers it is considered that the ability for a bookmaker to give prices under this rule is limited with the reference to what occurs to be at the opinion of the Stewards. In the Inquiry Transcript there were a number of recorded telephone conversations between the Appellant and Mr Tim Magnus as well as the Appellant and his wife. The Tribunal particularly notes the telephone conversations recorded from page 31 to 35 of the Inquiry Transcript which were taken on Derby Day 4 November 2006 where Mrs Walters asks for prices in a number of phone calls and prices for a number of horses are given to her. Indeed the Appellant acknowledges that he was giving the prices to his wife (page 32 line 18 of the Inquiry Transcript) but seemed to accept it was only a limited giving of prices and that was allowed. The Tribunal is of the opinion that the telephone conversations can be regarded as a price service within the scope of LR119(3)(j). The Appellant's appeal against a breach of this rule is dismissed.

LR119(3)(l) concerns the requirement to deliver a betting ticket where there is a credit bet. The Appellant disputes this charge on the basis that he never made any credit bets and he obtained funds from Mr Magnus prior to placing the bets on his behalf. While the Appellant did place bets with other bookmakers after telephone conversations with Mr Magnus, the Tribunal does not see all these bets as simply acting as an agent and it is clear where some of the bets were made they were "laying off". One of the recorded telephone conversations was on 11 November 2006 and the call recorded at 12.46 pm is recorded at page 52 from line 19 of the Stewards Inquiry transcript as follows:

"MR WALTERS: Hello

MR MAGNUS: Yes, mate, it's me.

MR WALTERS: Yes.

MR MAGNUS: Mate, do you want 5000 on the 4 here or do you want me to have it elsewhere?

MR WALTERS: It's been well backed already. You've probably missed the price but I could get some on here if you want.

MR MAGNUS: I'll back it with you if you want it?

MR WALTERS: Sorry?

MR MAGNUS: I'll have it with you if you want it.

MR WALTERS: Yeah, I'll take it.

MR MAGNUS: All right. What price is it?

MR WALTERS: It's at \$3.

MR MAGNUS: All right.

MR WALTERS: Okay. \$5000 on the 4 in Brisbane.

MR MAGNUS: Thanks, mate.

MR WALTERS: Okay, mate.

MR MAGNUS: Thanks, mate."

While the Appellant advised the Stewards that he had placed \$4,000 of that bet with Bookmaker Hayden Flyn and \$400 with Bookmaker John McLeod Snr he stated that the "... rest I couldn't get on...". While the Appellant also tried to say that the other conversation stated that he would try to get on for monies, he did say "Yeah, I'll take it". The context in which the bet was made was that it was a credit bet and the Appellant failed to deliver a betting ticket for the bet to Mr Magnus. The Appellant's appeal against a breach of this Rule is also dismissed.

The Appellant's appeal on penalty concerns hardship and the Tribunal accepts the requirement to pay the fines and the suspension will cause the Appellant a degree of hardship. While the Appellant submitted that these breaches of the rules are minor being caused by ignorance, inexperience and inadvertence on his part and of no real consequence, the Tribunal does not see those charges in the same light. The

requirements imposed on bookmakers to comply with the rules are an important aspect in the industry. The failure of bookmakers to comply with those charges are a serious matter. While the Appellant may feel that no harm was done there is a prospect that the image of the industry is tarnished if bookmakers do not record bets taken or fail to fully comply with the requirements under the rules. While the Appellant has stated that he will not re-offend the penalty does have to reflect the seriousness of the breaches of the rule. Fines coupled with periods of suspension are appropriate in the circumstances of this matter. The Tribunal finds that the fines and suspension periods imposed are appropriate being:

- Charge 1 -** Contravention of LR113(3)(i)  
**Penalty:** Fine of \$1000
- Charge 2 -** Contravention of LR113(3)(j)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- Charge 3 -** Contravention of LR113(3)(k)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- Charge 4 -** Contravention of LR113(3)(l)  
**Penalty:** Fine of \$1000
- Charge 5 -** Contravention of LR113(3)(m)  
**Penalty:** Fine of \$1000
- Charge 6 -** Contravention of LR113(3)(n)  
**Penalty:** Suspension of your bookmakers licence for a period of 3 months
- Charge 7 -** Contravention of LR113(3)(q)  
**Penalty:** Fine of \$1000
- Charge 8 -** Contravention of LR113(3)(s)  
**Penalty:** Fine of \$500

The Tribunal accepts this is a matter where the suspensions imposed should be concurrent and reaffirms the suspension period commencing at midnight on Wednesday 23 January 2008 and expiring at midnight on 23 April 2008.

The Tribunal does allow a period 12 months being to 22 January 2009 for the Appellant to pay the fines which total \$4,500.

The Appeal deposit fee is forfeited.

Mr Leo Williams AO  
Chairman .....

Mr Brock Miller  
Deputy Chairman .....

Mr Dennis Standfield  
Member .....