

**RACING APPEALS TRIBUNAL
QUEENSLAND**

NOTICE OF DECISION

APPEAL NO: RT027-08

DATE: 27/10/2008

APPELLANT: Julie Anne Bell

RESPONDENT: Queensland Racing

CHARGE/RULE: Make false and misleading statements under AR.175(gg)

PENALTY: Three (3) months disqualification

APPEARANCES: Mr JE Murdoch SC instructed by Mr Barry Taylor of Emanate Lawyers on behalf of the Appellant; and Mr R Sanders on behalf of the Respondent.

REASONS FOR JUDGMENT

Mr Brockwell Miller - Deputy Chairman

The Appellant was the trainer of a thoroughbred race horse *Bethel Two* which had been the subject of a Notice from Stewards that it had to barrier trial to the satisfaction of Stewards before being allowed to again participate in the races. It seems apparent from the evidence that for reasons simply unknown, a Steward, Chris Waters, determined that the imposition of the Notice was wrong and he then embarked upon, what appears to have been, a crusade to have that bar lifted. The evidence reflects that there was a suggestion that a number of parties would fabricate a story to facilitate a report being provided to the Head Steward in

Townsville identifying that the horse had performed satisfactorily in a barrier trial such that the bar would then be lifted. The Appellant was the trainer of the horse and was not privy to any discussions with Mr Waters or with anyone else leading up to the supposed *phantom barrier trial*. Her lifetime partner was the jockey, Mr William Henry Kenning, who has also been involved in this subterfuge and who has also lodged an Appeal against the penalty that has been imposed upon him. The evidence supports the contention that Mr Kenning had been persuaded by Mr Waters to participate in the proposal and was more likely than not going to be asked to persuade others to support the charade.

It is not relevant for the purposes of this Judgment to embark upon a concerted and detailed examination of all of the evidence and of all of the witnesses who were either interviewed by the Steward in Townsville or who had agreed to make statements supporting the phantom trial. It is, however, necessary to note that Ms Bell and subsequently Mr Kenning, were interviewed by Mr P Cooper, a Steward from Queensland Racing. That interview occurred on 24 July at 8.38am and a transcript of that interview was marked Exhibit 2 when an Inquiry was opened and conducted on Monday, 6 October. During that first interview, Ms Bell was questioned by Mr Cooper as to events that occurred at the Julia Creek Race Meeting on Saturday, 19 July, with particular reference to the barrier jump-out for the horse in question. Ms Bell falsely stated that the horse had been a participant and answered the questions during the course of the interview without in any way attempting to provide a truthful and factual account of what actually happened. This subsequently became

important because Ms Bell, after the interview, realised that it was wrong for her to have been untruthful and determined, no matter what the consequences, that she would rectify the position. This she did by subsequently making contact with the Steward and at a later interview, confessing that there had been no trial and that she had been told by her partner, Mr Kenning, that he had been under explicit instructions from Mr Waters to go along with the subterfuge.

There is no doubt that what Ms Bell did was blatantly wrong and improper. It, however, did cause her considerable grief and through no prompting, she later confessed. During the course of the Inquiry opened and conducted on 6 October, she was charged under Australian Rule of Racing 175 which stipulates:-

The committee of any club or the Stewards may punish:

(gg) Any person who makes any false or misleading statement or declaration in respect of any matter in connection with the administration or control of racing.

Had the matter simply rested there, then there is no doubt that Ms Bell, were it not for her repudiation of the charade, would have been subjected to the highest punishment available to the Stewards. The Stewards themselves imposed a disqualification of three (3) months after they considered the evidence and found her guilty.

What appears to have occurred is that prior to the initial interview at 8.38am on 24 July, Mr Cooper, the Chief Steward in North Queensland, had been made aware by a part time Steward, Mr Mawhinney, that no trial had ever taken place. Mr Cooper should have, in the opinion of this Tribunal, made Ms Bell aware of this information and should then have questioned her about the circumstances. He elected, however, not to do so and acted, it appears, as an agent provocateur leading Ms Bell and subsequent persons to concoct this fabricated story for what appears to be absolutely little, if any, gain. There is no doubt that had Mr Cooper warned Ms Bell of the evidence of which he had been made aware that she would then, in this Tribunal's view have agreed that there had been no such trial. Had that situation arisen, then no offence whatever would have been committed. On that issue alone, this Tribunal would have had difficulty in determining that a three (3) months disqualification was reasonable in all the circumstances.

The matter was, however, compounded even more by the influence that was exerted upon Ms Bell and the other participants by the Steward, Mr Waters. It seems that Mr Waters had an axe to grind with either Mr Cooper or with Queensland Racing and determined that this was going to be an avenue through which he would be able to vent his frustration. Ms Bell seems to be one of the unfortunate individuals who has been dragged into this calculated exercise which had little, if any, chance of success when one considers that Mr Mawhinney was a Steward who was alleged to have been supporting Mr Waters in his endeavours. Mr Waters was a person who exercised some considerable influence on the parties, not the least because of his

position as a Steward of Queensland Racing. His was a position of power and Ms Bell was a person who believed, in the opinion of this Tribunal, that she was obliged to comply with his directions. She did this presumably because she believed that the embargo placed upon her horse had been improperly presented in the first place, but there is not a lot of evidence that details the foundations of that issue. It is, however, the opinion of this Tribunal that the influence of Mr Waters was of significant persuasion.

This Tribunal considers that a penalty is most assuredly required to be imposed, but because of the limited involvement of Ms Bell in the arrangement, one finds great difficulty in identifying that anything other than a monetary penalty could be even countenanced. It is for that reason that this Appeal as to penalty is upheld and in lieu thereof a penalty of \$1,000.00 is imposed with one (1) month to pay. The deposit is refunded.

Mr Brockwell Miller
Deputy Chairman
