

**RACING APPEALS TRIBUNAL
QUEENSLAND
NOTICE OF DECISION**

APPEAL NO:	RT03008
DATE:	18 November 2008
APPELLANT:	Danny William BALLARD
RESPONDENT:	Queensland Racing
CHARGE/RULE:	Make false and misleading statements under AR.175(gg)

REASONS FOR JUDGEMENT

Mr Leo Williams AO – Chairman

Mr Brockwell Miller – Deputy Chairman

The appellant, Danny William Ballard, is a licensed jockey who on Wednesday 23 July 2008 at the offices of Queensland Racing Limited in Townsville was interviewed by Steward Cooper when he was questioned as to his involvement in respect of an alleged jump-out that was said to have occurred before the Julia Creek Race Meeting on Saturday 19 July.

The series of questions directed to the appellant by Steward Cooper related to the barrier jump-out and enquired into the time of the jump-out, the other persons who participated, the horses which also participated and whether any contact had been made of the appellant relative to how he came to be involved in the jump-out.

Subsequently on Saturday 26 July a further Stewards' Panel comprising Mr Reid Sanders as Chairman with Mr P Cooper and Mr R Smith as members was convened at which Ballard was again interviewed about the same matter. During that interview Mr Sanders quite properly identified that

“given some evidence that we have received in the last couple of days, that the evidence you gave to Mr Cooper may not be entirely correct and so we will be speaking to you in the next couple of weeks or so regarding the evidence you gave to Mr Cooper.”

Ballard then confessed that what he had told Steward Cooper was false and that there had been no jump-out. He commented that he was under instructions from another Queensland Racing Steward, Chris Waters, that were he to be questioned about the issue of the jump-out he was to relay the information which he had given in the interview with Steward Cooper.

Ballard was then charged during the course of an inquiry held on 7 October 2008 with a breach of the Rules. The evidence presented to the October Stewards' Inquiry confirms that Ballard did give false and misleading information in answer to the questions of Cooper. It also became apparent that, at the time of the initial interview by Cooper, that Cooper was fully aware that no trial or jump-out had ever taken place.

There is no doubt whatever that what Ballard did was improper. The evidence presented to this Appeal is such that it identifies that the appellant was remorseful for his actions. It is also clear that he gave a false account of the jump-out because he believed that he was under explicit instructions from the QR Steward Waters to assist in an attempt to allow a horse that was meant to have participated in a barrier trial to successfully pass that trial.

The circumstances leading up to the jump-out are canvassed in the transcript and in the transcripts of the matters of Bell and Kenning. It is not necessary to embark on a complete revisit of all of the facts. Suffice to say that Cooper did not at any point in time warn or put to Ballard information to which he was privy and continued to question him as though he were merely seeking to identify facts relative to the jump-out.

Ballard was without doubt led on by the line of questioning and it was in his answers thereto that he committed the offence with which he had been charged. Had Ballard been warned of the information of which Cooper was aware, it is probable that he would have committed no offence and would have given a correct account of what had taken place at Julia Creek on the day in question.

To compound his difficulties and problems, Ballard also felt constrained by the warning he had received from the other QR Steward, Chris Waters. This Tribunal is of the opinion that it was not proper for Cooper to lead Ballard on without warning him or at least putting the true facts to him.

This Tribunal is also of the view that the involvement in the issue by Steward Waters and his directions to Ballard are also improper. While one might contemplate that Ballard should have determined not to follow Waters' directions, it is reasonable to assume that in the industry in question and in the area of involvement in North Queensland, Ballard would have been cautious not to ignore any direction that a Steward had given him.

This Tribunal has been asked to decide whether in all of the circumstances the penalty imposed on Ballard is reasonable.

Having considered all the evidence and reviewed the references of support for Ballard and having considered also his age and experience in the industry and his youth, this Tribunal is of the opinion that the penalty imposed by the Stewards was unfair.

The Tribunal does not condone what the appellant has done but believes that the Stewards should have taken a more reasonable attitude when one looks at all of the facts. The Stewards came to the conclusion that this was a most serious offence but gave no regard for the involvement of

Steward Waters or of the line of questioning by Cooper or his obligations to conduct an inquiry fairly and justly.

In all the circumstances the Tribunal determines that the appeal should be upheld and finds that a penalty of \$1,000 should be imposed with one month to pay.

It is ordered that the deposit be refunded.

Mr Brockwell Miller

Deputy Chairman

Mr Leo Williams

Deputy Chairman