

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: MICHAEL CAMPBELL

APPLICATION NO: A30/08/289

PANEL: MS P HOGAN (PRESIDING MEMBER)
MR F ROBINS (MEMBER)
MR T MULLIGAN (MEMBER)

DATE OF HEARING: 23 JANUARY 1996

IN THE MATTER OF an appeal by Mr M Campbell against the determination made by Western Australian Turf Club Stewards on 24 November 1995 imposing a \$1000 fine under Rule 175A.

Mr Campbell represented himself.

Mr J Zucal represented the WA Turf Club Stewards.

At the Stewards' inquiry the appellant was charged under Australian Rule of Racing 175A as follows:

"...with conduct contrary to the image of racing in that you phoned the home of race horse owner Carmello Marino in Harvey on Tuesday 31 October 1995 and on Thursday 2 November 1995. Those calls being in the opinion of the Stewards of an unseenly (sic) and offensive nature."

Australian Rule of Racing 175A states:

"Upon complaint being made to the Stewards that a licensed person has either within or outside the boundaries of a racecourse been guilty of conduct contrary to the policy, or prejudicial to the interest, or welfare, or image of racing, the Stewards shall have power to deal with such complaint and in exercise of the powers hereby conferred may disqualify, suspend, fine, or otherwise deal with such licensed person it finds after due inquiry to have been guilty of such conduct."

Mr Campbell is a licensed trainer and there exists a long running feud between himself, another licensed trainer, Mr John, and Mr Marino. Mr John is Mr Campbell's neighbour and trains a horse or horses that belong to Mr Marino. Shortly before the phone calls were made the truck used by Mr Campbell to transport his horses broke down. He apparently has grounds for believing that the truck had been interfered with. He had been informed that it would cost some sixteen and a half thousand dollars to repair, a sum that is well beyond his means.

On 31 October 1995 Mr Campbell rang Mr Marino's phone number and uttered the words "sabotage, sabotage sabotage". Two nights later he rang again. This time he gave his name and said a number of things. He admitted to the Stewards that he was looking to frighten Mr Marino a little bit. Mr Campbell explained to the Tribunal that he wanted to frighten Mr Marino into admitting that he had been involved in the interference to the truck. Mr Campbell also admitted to the Stewards that he had "boiled over" and that "it was a stupid thing to do". Mr Campbell informed the Tribunal that on 2 November 1995 Mr John, whilst in company with Mr Marino, had intimidated Mr Campbell at the racetrack when he deliberately bumped into him. After this, Mr Campbell told both the Stewards and the Tribunal, he had a few beers at the track. He then clearly continued to dwell on the issue and about three hours later made the second of the calls and during that call voices were raised and name calling occurred.

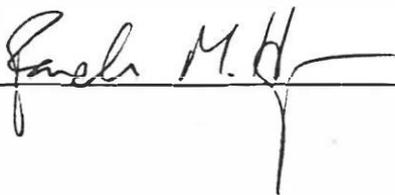
Rule 8(d) of the Rules of Racing empowers the Stewards to regulate and control, enquire into and adjudicate upon the conduct of all licensed persons and certain others, who in the Stewards' opinion are guilty of improper conduct or unseemly behaviour. In the circumstances of this case the Tribunal can find no reason to upset the determination of the Stewards that in their opinion such conduct on the part of Mr Campbell was unseemly and offensive. Given that Mr Campbell is a licensed trainer with an obligation to conduct himself properly; that both Mr Campbell and Mr Marino are closely involved with the racing industry; that Mr Campbell was reacting to suspicions he had about interference with his horse transport; and that the second and lengthier phone call was made after and prompted by an incident at the racetrack, the Tribunal finds that the Stewards were correct to find the behaviour to be contrary to the image of racing.

The appeal against conviction is therefore dismissed.

Mr Campbell should not have taken the law into his own hands. However, it is clear that there is a long running feud where Mr Campbell is not the only party involved. In the opinion of the Tribunal this incident is not as serious as the previous incident that occurred in a public place and resulted in Mr Campbell being fined \$500. In that incident there was a physical altercation between Mr Campbell and a registered owner at the racetrack.

The Tribunal can see no reason to justify the penalty being doubled on this occasion. Accordingly, the decision of the Stewards in regard to penalty is varied by setting aside the fine of \$1,000 and substituting a fine of \$500.

The fee paid on lodgement of the appeal is forfeited.



PAMELA HOGAN, PRESIDING MEMBER

31/1/96

