

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: CALLAN SUVALJKO

APPLICATION NO: A30/08/322

PANEL: MR J PRIOR (PRESIDING MEMBER)
MR J SYME (MEMBER)
MR F ROBINS (MEMBER)

DATE OF HEARING: 1 OCTOBER 1996

IN THE MATTER OF an appeal by Mr C Suvaljko against the determination made by Western Australian Trotting Association Stewards on 2 September 1996 imposing a 3 month suspension under Rule 440(a) of the Rules of Trotting.

Mr L Austin was granted leave to represent the appellant.

Mr M Skipper represented the Western Australian Trotting Association Stewards.

This is the unanimous decision of the Tribunal.

The appellant appeals against both conviction and penalty. The appellant was convicted of breach of Rule 440(a). The particular rule reads as follows:

"Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly."

He was charged as follows:

"Right. Considering the evidence that we've heard so far Mr. Suvaljko, the Stewards are issuing a charge against you under the provisions of Rule 440(a) and it's a charge of causing interference by foul driving."

The specifics of the charge are;

That as the field's raced into the front straight on the final occasion of Race 1 Mr. Keys had manoeuvred GOLD MINER wider on the track to your inside and from your position on the outside of RIVERLORD when you've commenced to cross down, you've continued to steer TEMPT ME WHITBY down the track, with the end result that you've made contact with GOLD MINER causing interference to that horse and also you've made contact with that horse with your body as well as your sulky. ..."

The Tribunal has had the opportunity of viewing the various video footage of the race in question and perusing the transcript of the Stewards' hearings.

For the appeal against conviction for breach of the rule in question to succeed, the Tribunal would need to be satisfied that the Stewards' opinion was made in error or is not supported on the evidence. Despite some very forceful submissions by the appellant's representative, Mr Austin, it is not a case of us substituting our opinion, or the opinion of the appellant's representative, for that of the Stewards. Having considered all the evidence in this matter and the submissions made, the Tribunal is not satisfied that the opinion of the Stewards should be overturned.

The representative of the appellant, Mr Austin, has suggested that in the event the conviction is sustained, a penalty such as that received in this case is appropriate. Nevertheless, we have considered the circumstances of the case and similar penalties, such as Keys v The Western Australian Trotting Association (Appeal 150) delivered 9 August 1993, and the Tribunal is not satisfied that a three month suspension for a conviction of this nature was excessive.

The appeals against both conviction and penalty are therefore dismissed. The fee paid on lodgement of the appeal is forfeited.

John Prior

JOHN PRIOR, PRESIDING MEMBER

4 /10/96

