

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: GIOVANNI FILARDO
APPLICATION NO: A30/08/425
PANEL: MR D MOSSENSON (CHAIRPERSON)
MR P HOGAN (MEMBER)
MR J HEALY (MEMBER)
DATE OF HEARING 30 JULY 1998
DATE OF DETERMINATION: 30 JULY 1998

IN THE MATTER OF an appeal by Mr G Filardo against the determination made by the Western Australian Trotting Association Stewards imposing a suspension of 12 weeks for breach of Rule 469(b) of the Rules of Trotting.

Mr B Whiteman was granted leave to appear for the appellant.

Mr R J Denney appeared for the Western Australian Trotting Association Stewards.

This is an appeal by Mr Filardo against the severity of the penalty which was imposed by the Western Australian Trotting Association Stewards in relation to incidents which occurred in Race 8, The First Choice Home Insurance Stakes, held at the Northam Trotting Club meeting on Wednesday, 8 July 1998.

Mr Filardo's reinspersons licence was suspended for a period of 12 weeks under the provisions of Rule 469(b) of the Rules of Trotting which states as follows:

"No person shall:

(b) drive in any race in a manner which, in the opinion of the Stewards, is careless and/or incompetent"...

After conducting an inquiry into the incident with Mr Filardo present as well as Mr Kersley, another of the drivers in the race, and after viewing the video the Stewards charged and convicted Mr Filardo of a breach of that particular rule. The particulars of the charge were:

"...when racing in the back straight on the final occasion or out of the back straight on the final occasion you've allowed your drive BRITTANIA BOY to contact the back of Mr. Kersley's drive, your horse then raced roughly, shifted up the track, checking Mr. Keys' drive. And as the field has continued to race towards the front straight and into the front straight proper, on the final occasion, you've attempted to take a run where there was

insufficient room between Mr. Kersley and Mr. Marriott's drive, which resulted in further contact being made to Mr. Kersley's drive and Mr. Marriott's drive, puncturing Mr. Marriott's sulky wheel."

In dealing with the penalty the Stewards conclude (at page 17 of the transcript) that Mr Filardo showed very little expertise. He showed no care for his fellow drivers or for their safety. These considerations are paramount in the Stewards' minds when they consider the quality and competence of drives.

The grounds of appeal states:

"The penalty is grossly excessive given the circumstances, the record of the appellant and the evidence tendered."

Mr Whiteman on behalf of Mr Filardo has put forward a fairly strong argument in which he raises a number of issues including:

- the fact that the level of driving amounted to carelessness and not incompetence;
- that there should have been a charge under Rule 440 rather than 469 of the Rules of Trotting which would have incurred a lesser penalty of between 21 and 28 days suspension;
- that the incidents should be viewed quite differently from the way the Stewards viewed them;
- that there was confusion in the way the matter proceeded in the Stewards' inquiry; and
- that there was some fault in Mr Marriott not having been called to give evidence or to appear in the Stewards' inquiry.

The Tribunal has given careful consideration to each of the propositions that Mr Whiteman has put forward. The only evidence of penalty placed before us for a similar offence for a breach of the rule in question related to the incidence that occurred at the Williams Trotting Club on 1 January 1998 where Mr Salleo was charged and convicted for a breach of the same rule and a 3 months suspension, which is equivalent to 13 weeks suspension, was imposed upon him.

After giving consideration to all of the submissions and having had the opportunity to view the video, the Tribunal is not persuaded that Stewards were in error in imposing an equivalent penalty to that which was imposed earlier this year on Mr Salleo. It is clear from reading the transcript and analysing the reasons which the Stewards enunciated when imposing the penalty that they did give due and proper consideration to the matter. They did take into account the seriousness of it and the standard of driving displayed by Mr Filardo.

For those reasons the appeal fails and is dismissed.

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D. N. MOSSONSON, CHAIRPERSON