

further questions and obtained some additional information. They then arrived at their conclusion in regard to the penalty as set out in the following terms:

"Mr Holly the Stewards have considered the penalty or the circumstances of the penalty. We've, taking into consideration your financial circumstances, degree of provocation in relation to this matter. However, the Stewards do view this as you would be aware, as a very serious incident. It's occurred in a public place on a Licensed Racecourse, Geraldton. We believe that it's inappropriate behaviour for a Trainer as I think you would agree. Mr Holly the range of penalties for incidents similar to this ranges from \$500 to \$3,000. You probably are aware of a similar incident here, which did bring a penalty of \$3,000 last season. Whilst this is a different incident, the Stewards have initially considered that the penalty should be \$1,500 however, with taking into account the degree of provocation which I spoke about a moment ago, we feel that a fine of \$1,000 to be the appropriate penalty on this occasion and you have your right of Appeal against that decision."

Mr Holly put forward a number of submissions explaining or justifying why he considers that a fine of \$1,000 is inappropriate in the circumstances and indicates that he prefers a disqualification or a suspension in lieu of a fine. I have also been sent from the Geraldton Turf Club Incorporated a letter dated 8 May 2000 which communicates the concerns expressed by the Geraldton Turf Club Committee at the severity of the fine imposed on Mr Holly and indicates that Mr Holly acted totally out of character and is highly regarded in the Geraldton racing fraternity both as a Trainer and as a supporter of the Club extending over a number of years.

Mr Nalder in response to the submissions from Mr Holly has given some explanation as to the basis upon which the Stewards arrived at their determination. In the course of so doing, he has referred me to a number of cases which the Stewards have relied upon in order to justify the \$1,000 fine which was imposed. Those cases include penalties imposed for offences by licensed participants under the rule in question or other rules of an analogous nature. The cases are:

- Mr C Cousins - an Owner whose six month disqualification for abusive language and pushing a jockey after a race in full public view on the race track was varied to a three month disqualification by this Tribunal.
- Mr K Allen - a Trainer for unseemly behaviour against the course curator whose \$1,000 fine was reduced on appeal to \$300.
- Mr P Dyson - a Jockey, whose \$1,000 fine in respect of physically manhandling an Apprentice in full public view was ratified on appeal.
- Mr M Campbell - a Trainer whose \$1,000 fine for a threatening telephone call was reduced on appeal to \$500.
- Mr Newnham - who was fined \$3,000 for striking another person at a two up game after the conclusion of a race meeting.

Mr Nalder has explained that in evaluating all of those other offences the Stewards were particularly concerned with the fact that Mr Holly's offence took place in full public view adjacent to the Betting Ring and that the incident involved Mr Starling's head having struck a post.

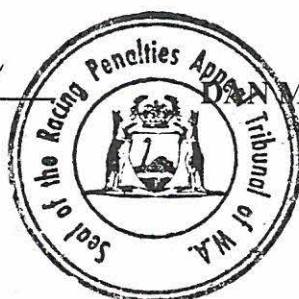
After giving consideration to these submissions and after having had the opportunity of studying the transcript I am not persuaded that Mr Holly has demonstrated that the Stewards were in error in imposing the \$1,000 fine which they did in regard to this particular offence. I take into account the fact that this offence occurred on the racecourse in public view, that there were potential adverse physical repercussions to Mr Starling, that this is a serious matter. Further I am satisfied that the

Stewards adjusted the penalty to accommodate the fact that there was the element of provocation involved and that this behaviour was out of character in regard to Mr Holly. I am also conscious of the seriousness of the different categories of penalty. I confirm that a penalty of disqualification does leave a stigma on the record of a licensed person and is only an appropriate penalty in the case of more serious offences rather than less serious offences which justify lesser penalties by way of monetary impositions.

In all of those circumstances I am satisfied that the Stewards have imposed a penalty that is appropriate for this particular offence and falls within the range of penalties that have been imposed on other occasions.

For these reasons the appeal is dismissed.

Don Mossenson



MOSSENSON, CHAIRPERSON