APPEAL - 533

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR P HOGAN (MEMBER)

APPELLANTS:	**STANLEY DAVID HUGHES & LILLIAN EMILY HUGHES**
APPLICATION NO:	**A30/08/533**
PANEL:	**MR D MOSSENSON (CHAIRPERSON) MR P HOGAN (MEMBER) MR A MONISSE (MEMBER)**
DATE OF HEARING:	**17 JULY 2001**
DATE OF DETERMINATION:	**22 AUGUST 2001**

IN THE MATTER OF an appeal by Stanley David Hughes and Lillian Emily Hughes against the determination made by the Stewards of the Western Australian Turf Club on 18 May 2001 disqualifying THE TIN MAN as the winner of Race 7 at Ascot on 28 October 2000 pursuant to Rule 177 of the Australian Rules of Racing.

Mr J D Hughes was granted leave to represent the appellants.

Mr R J Davies QC appeared for the Stewards of the Western Australian Turf Club.

BACKGROUND

THE TIN MAN won Race 7 at Ascot on 28 October 2000. A post race urine sample revealed the presence of methamphetamine. A Stewards' inquiry commenced on 22 December 2000. Further sittings were held on 9 March 2001, 15 March 2001, 18 May 2001 and 22 May 2001. The persons appearing at the inquiry included the managing part owner of THE TIN MAN, Mr S D Hughes, and the trainer, Mr Hector McLaren.

At the hearing on 18 May 2001 the Stewards disqualified THE TIN MAN pursuant to the provisions of Rule 177 of the Australian Rules of Racing. At the hearing on 22 May 2001, Mr McLaren was disqualified by the Stewards for a period of 6 months for a breach of Rule 178.

The appellants in this appeal are the owners of THE TIN MAN. They have appealed against the disqualification. Mr McLaren appealed against his penalty. The Tribunal, constituted by the same panel, heard both appeals on the 17 July 2001, one following the other. The Tribunal by a unanimous decision dismissed Mr McLaren's appeal against penalty. The Tribunal then reserved its decision in this appeal by the owners.

THE STEWARDS' REASONS

Rule 177 of the Australian Rules of Racing states:

"Any horse which has been brought to a race-course and which is found by the Committee of the Club or the Stewards to have had administered to it any prohibited substance as defined in A.R. 1 may be disqualified for any race in which it has started on that day."

At that part of the Stewards' inquiry which took place on 18 May 2001,the Stewards announced their finding in the following terms:

> *"Mr Hughes in relation to the issue under Australian Rules of Racing 177 the Stewards are satisfied that with regards to the analytical evidence of the detection of methamphetamine in the urine sample taken from THE TIN MAN when it raced on the 28th October 2000 at Ascot, and considering the provisions of the Australian Rule of Racing 177 which is read, the Stewards have referred to the determination of Judge Goran in the case of RED POCO in New South Wales where on the issue of the effect of substances on the performance of a horse, Judge Goran had this to say, he said that "I do not believe it is relevant however in deciding whether or not a horse with a positive finding to a prohibited substance should be disqualified. The Rules make it clear that all horses in a race, in the race are subject to the same necessarily stringent drug rules, and they all enter a race on level terms within the Rules. A failure to disqualify a horse which in,* (sic) *is in breach of this fundamental condition of its entry is an official condonation of this breach, whatever sympathy one may have for the connections." But after considering the issue carefully Mr Hughes, on behalf of your parents we believe THE TIN MAN should be disqualified from the Paul Murray Handicap run over 1400 metres at Ascot on 28th October 2000 and the amended placings will be:*
>
> *MR TANZANIA 1st, GRAND TURISMO 2nd, FREEDUF 3rd, MYSTERY MORN 4th."*

GROUNDS OF APPEAL

The grounds of appeal are:

> *"1. The respondents erred in disqualifying the appellant's horse (The Tin Man) under Rule 177 of the Australian Rules of Racing in that the respondents did not adequately address the question of whether the appellant's horse had been "administered a prohibited substance".*

Particulars

a) *The respondents failed to consider the evidence of Dr Shawn Stanley that he could not conclude that the horse had been administered methamphetamine and not some substance which was metabolised to methamphetamine.*

b) *The respondents failed to seek clarification of the analytical procedures undertaken to ensure that all known precursor substances for methamphetamine had been screened for and would have been detected in the analytical process used to determine the presence of methamphetamine.*

c) *The respondents failed to taken (sic) into consideration that an enantiomer analysis was not undertaken and the significance of the existence of different enantiomers in the possible origin of the methamphetamine in the urine.*

d) *The respondents failed to seek clarification of the levels of detection of the analytical procedures used and the sensitivity and specificity of the analytical procedures at the lower limits of detection, hence the reliability of the assay.*

2. *The respondents failed to take into consideration that the presence of the methamphetamine could have been the result of accidental contamination.*

3. *The respondents failed to take into account the very low levels of methamphetamine detected in the urine of The Tin Man.*

4. *The respondents failed to take into consideration, the uncontradicted evidence of the witness Craig Staples, that there was no change in the demeanour or behaviour of The Tin Man at the time of the race.*

5. *The respondents failed to take into consideration the result of the race had been unaffected by urine analysis results."*

THE UNCONTESTED EVIDENCE

It was common ground that methamphetamine is a prohibited substance. Dr P J Symons, Veterinary Steward with the WA Turf Club, gave evidence at pages 7 to 10 of the transcript of proceedings before the stewards. (T7-10). His evidence was to the effect that it is a central nervous system stimulant. It has no legitimate use in horses. It acts to enhance performance.

Official racing laboratories undertake the analysis of samples. In this case the presence of methamphetamine was detected by the Australian Racing Forensic Laboratory in Randwick, New South Wales. The analysis was done by Dr Shawn Stanley, whose report to the Stewards became exhibit A. Dr Stanley later gave oral evidence at the inquiry. The Racing Chemistry Centre (Perth) detected the same substance in the reserve portion of the sample. A report to that effect from Mr Horsten, Senior Chemist, became exhibit B. Methamphetamine was not detected by either laboratory in the control solution of the sample.

The method of dealing with the samples complied with Rule 178D of the Australian Rules of Racing. That rule is in the following terms:

> *"(1) Samples taken from horses in pursuance of the powers conferred on the Stewards by AR.8(j) shall be analysed by only an official racing laboratory.*
> *(2) Upon the detection by an official racing laboratory of a prohibited substance in a sample taken from a horse such laboratory shall;*
> *(a) notify its finding to the Stewards, who shall thereupon notify the trainer of the horse of such finding; and*
> *(b) nominate another official racing laboratory and refer to it the reserve portion of the same sample and, except in the case of a blood sample, the control of the sample, together with advice as to the nature of the prohibited substance detected.*
> *(3) In the event of the other official racing laboratory detecting the same prohibited substance, or metabolites, isomers or artifacts of the same prohibited substance, in the referred reserve portion of the sample and not in the referred portion of the control, the certified findings of both official racing laboratories shall be prima facie evidence upon which the Stewards may find that a prohibited substance had been administered to the horse from which the sample was taken."*

The Rules do not require the Stewards to actually prove the act when, or the event by which, the administration occurred. There is an evidentiary presumption which can be used to find that fact, namely Rule 178D(3). The presumption was available in this case because the first laboratory detected the prohibited substance, and the second laboratory detected the same substance. The Stewards therefore had before them prima facie evidence that the prohibited substance had been administered to THE TIN MAN. This was evidence on which they could act, and disqualify the horse. Following on from that, if found to be the case, the Stewards had a discretion as to whether or not to disqualify. That is because Rule 177 is expressed in discretionary rather than in mandatory terms.

Ground 1 of the grounds of appeal seeks to challenge the Stewards' finding that the prohibited substance had been administered to the horse. Grounds 2 to 5 seek to challenge the Stewards' finding that they should go on to disqualify, assuming that the fact of administration had been proved on the evidence. Ground 1 needs to be considered first and separately.

GROUND 1

The pharmacological evidence proved that methamphetamine had been detected in the urine sample of THE TIN MAN. It did not prove that methamphetamine had been administered. That is evident from the evidence of Dr Stanley, who gave oral evidence in addition to his report. The following exchange took place at T282:

> *"HUGHES* *OK. But you cannot definitively say that methamphetamine was given to the horse.*
>
> *STANLEY* *No, I'm saying methamphetamine was present in the urine sample."*

It is this concession in the evidence that the appellants rely on as the launching pad for their submission to the Stewards and to us. It is this fact which underpins ground 1 of the grounds of appeal. In layman's terms, the appellants' submission was that there could have been some other substance given to the horse, and that substance was metabolised so as to produce the methamphetamine found in the urine. It is useful to deal with each of the particulars of ground 1. Particulars (a) and (b) can conveniently be dealt with together.

(a) *The respondents failed to consider the evidence of Dr Shawn Stanley that he could not conclude that the horse had been administered methamphetamine and not some substance which was metabolised to methamphetamine.*

(b) *The respondents failed to seek clarification of the analytical procedures undertaken to ensure that all known precursor substances for methamphetamine had been screened for and would have been detected in the analytical process used to determine the presence of methamphetamine*

The question and answer referred to above came at the very end of Dr Stanley's oral evidence. Dr Stanley was being questioned by Mr J D Hughes, who is the son of the managing part owner, Mr S D Hughes. By coincidence, Mr J D Hughes is also qualified in pharmacology, being a pharmacist and senior lecturer in clinical pharmacy at Curtin University. Dr Stanley's evidence, and the questions put to him, was of a scientific nature. However, the Stewards were engaged in a fact-finding exercise which went beyond the scientific evidence. Further, the Stewards were not obliged to find the facts according to any scientific standard of proof. The standard of proof which the Stewards were bound to apply was the balance of probabilities, paying due regard to the seriousness of the issue. (***Briginshaw v Briginshaw (1938) 60 CLR 336***)

Some of the relevant evidence which went before Dr Stanley's last answer is as follows:

> *"STANLEY What, in what of sort of, you're saying that this is pro, that the horse was given a pro drug, which is then changed to methamphetamine and amphetamine?*
>
> *HUGHES That, that that's one possibility..."* (T269)

The questions went on to further explore that possibility with Dr Stanley. Dr Stanley replied in a number of different ways, as follows:

> *"STANLEY ...(Inaudible) explain to you that it is, it is not a possibility that there was, are you suggesting that there was selegiline there, present for example?"* (T269)

Mr Hughes then gave to Dr Stanley a list of all the known pre-cursor molecules for amphetamine. That was at T270.

Dr Stanley went on to say:

"STANLEY I don't see anything on that list would present too much of a problem for us at this laboratory." (T270)

"STANLEY All I can say to you, I don't see there is a problem. If you, if the urine had come through with any of those compounds in the list, we do have the screening which will pick those up, yes." (T271)

Mr Hughes then went on to ask questions about the methodology, and then returned to the subject of the possibility of ingestion of pre-cursor molecules. Dr Stanley continued to give answers as follows:

"HUGHES OK, so we go back and you said that there shouldn't be any reason that you couldn't find all of those pre-cursor molecules, but in realistic terms there would be some of those pre-cursor molecules that you wouldn't look for because they're currently not available here in Australia. Is that reasonable to... (Inaudible) (T273)

STANLEY That would be an incorrect assumption. ... (T273)

STANLEY What I said to you was that the substances that you gave to me on the list which are known pre-cursors of methamphetamine, we will pick those up. I'm, I'm, that is, that is a statement that I'm prepared to make. ... (T275)

CHAIRMAN Is there anything further on that list he hasn't confirmed that he can or can't detect, I think the words you used was he didn't think the laboratory would have a problem in detecting. (T277)

HUGHES That's right. (T277)

CHAIRMAN Is there anything else on there? (T277)

HUGHES No." (T277)

In my opinion, the various answers given by Dr Stanley amount to sufficient evidence such that particulars (a) and (b) have no substance. The apparent concession made by Dr Hughes in his last answer was a concession made in the context of proof of a scientific matter to a scientific standard. Whatever the standard of that proof, it is not the same standard of proof to be applied by the Stewards in their fact-finding exercise. The Stewards had available to them the evidentiary presumption in Rule 178D(3). Following that, it was incumbent on Mr Hughes to demonstrate, on all the evidence, the hypothesis he put forward. No evidence was led or called to prove, to any standard, the administration or even possible administration, of the pre-cursors discussed. No evidence was led or called to demonstrate what those substances were in their common forms and why or how they could have been ingested by the horse. Even more, the evidence of Dr Stanley discounted the possibility of ingestion of those substances, because the effect of his evidence was that they would have been found if they were there. Mr Hughes extracted the apparent concession from Dr Stanley in what appears to me to have been an argumentative exercise in

scoring points about strict scientific matters. There was no attempt to relate the evidence to the other facts and the real merits of the case.

For these reasons, I find that there is no substance in particulars (a) and (b). Particular (c) can conveniently be dealt with next, because Mr Hughes' questions and Dr Stanley's evidence went on to cover that subject.

(c) *The respondents failed to taken (sic) into consideration that an enantiomer analysis was not undertaken and the significance of the existence of different enantiomers in the possible origin of the methamphetamine in the urine.*

Mr Hughes questions concerning the lack of an enantiomer analysis were framed as propositions and again Dr Stanley largely disagreed with the propositions.

> *"HUGHES ... if you knew which enantiomers you actually had, you could definitively say that the compound came from methamphetamine. Would that be of any value do you think?* (T277-278)
>
> *STANLEY No. I, as far as I, I read this article and it says that you could definitely tell whether this, this, well actually it doesn't even definitively it says, there's a way of discriminating between selegiline and methamphetamine used. It doesn't say that, that you can, you can broaden that scope and say I've got this enantiomer and therefore it could only have come from methamphetamine.* (T278)
>
> *HUGHES ... given that in humans the major enantiomer is the dextro then we would expect even if there is some conversion in the horse that, that's not going to be converted to a 50/50 mixture. So I think it would be, it would have provided some extra information that we've not been privy to at this point in time.* (T279)
>
> *STANLEY No, I don't understand how you can say that, you know, you're extrapolating from one thing to the other. ..."* (T279)

In my view, there is no substance in particular (c), for the same reasons as there is nothing in particulars (a) and (b).

Particular (d) is as follows:

(d) *The respondents failed to seek clarification of the levels of detection of the analytical procedures used and the sensitivity and specificity of the analytical procedures at the lower limits of detection, hence the reliability of the assay.*

This particular requires consideration of the whole of the evidence of Dr Stanley. The proposition contained in (d), is that the assay was not reliable. It is said to be not reliable because there was no level of the prohibited substance (quantitative analysis) given in the evidence, and a level is necessary in order to determine the reliability.

The fact of their being no quantitative analysis assumed an importance in the inquiry from the beginning of Dr Stanley's oral evidence. It became a matter which was vigorously debated between witnesses, and differences of opinion were expressed. At the outset, the issue was raised and Dr Stanley defended his position. Dr Stanley was questioned by Ms Lonsdale, counsel for Mr McLaren. At T54 the following exchange took place:

> *"LONSDALE Yes Dr Stanley, I understand that the best you've been able to do to date is provide a qualitative analysis of, of the sample is that correct?*
>
> *STANLEY The Rules of Racing simply ask for a qualitative identification of the drug in question.*
>
> *LONSDALE All right, was that what you were asked to do, to provide a qualitative analysis?*
>
> *STANLEY No. I wasn't asked to do that, I'm following the Rules of Racing.*
>
> *LONSDALE All right, if you could do, if you were asked to do a quantitative analysis, could you in fact do that?*
>
> *STANLEY I don't see the significance of that question, I mean the Rules of Racing don't ask me to do a quantitation, so it's actually an irrelevant question."*

The more technical evidence concerning the need for a quantitative analysis was given at that part of the inquiry which took place on 18 May 2001. Dr Stanley gave oral evidence. He was questioned by Dr T Rieusset, a veterinary surgeon. Dr Rieusset was acting on behalf of Mr McLaren. Dr Rieusset was of the opinion that levels were particularly important. Dr Rieusset challenged Dr Stanley at the outset. At T240:

> *"RIEUSSET The question is why other than the fact, if you're trying to help this Inquiry, why we are being left in the dark as to not being allowed to have a, have a level...*
>
> *STANLEY ... the absence of a validated quantitative method which we all agree on that the laboratory doesn't have a validated quantitative method for doing amphetamine..."*

Dr Stanley went on to repeat that the Rules did not require a quantitation, the laboratory did not have a validated method, and also that a level would be of no use to anybody (T241). Dr Rieusset disagreed that a level would be of no use. Dr Rieusset went on to say that quantity was important in respect to dosage, method and time of administration (T241). Dr Rieusset, on behalf of Mr McLaren, accepted that methamphetamine was found in the urine. Therefore, there was nothing in the evidence so far as the case for Mr McLaren was concerned to cast doubt on the reliability of the (qualitative) assay.

Mr J D Hughes on behalf of the owners here then questioned Dr Stanley concerning quantitation. Dr Stanley maintained that the qualitative analysis was correct. It did not depend upon quantitation for its correctness.

> *"STANLEY The threshold is an information threshold. If we look at the information coming out from the sample and we look at and see if it matches the information which we know to be consistent with methamphetamine. If the two are compatible, then it's considered as being detected."* (T264)

In my view, there was nothing in the evidence to cast doubt on Dr Stanley's evidence that the assay (qualitative analysis) was accurate. In my view, there is no substance to particular (d). It is simply an assertion of fact which is contrary to the evidence.

For all of the above reasons, I am of the opinion that ground 1 of the appeal has not been made out.

GROUNDS 2 to 5

The Stewards' power to disqualify is governed in the rules by the word "may" rather than "shall". Despite that, there is conflicting authority on whether or not there is a discretion. In ***The Owners of Red Poco***, delivered on 6 August 1991 (Racing Appeals Reports Issue 2), His Honour Judge Goran considered the effect of substances on the performance of a horse. His Honour said at page 178: *"A failure to disqualify a horse which is in breach of this fundamental condition of its entry is an official condonation of this breach, whatever sympathy one may have for the connections."* In ***Gazalie***, delivered on 3 May 1999 (Racing Appeals Reports Issue 24), His Honour Judge Thorley said: *"I note the decision in New Zealand in the case of **Bradley**, delivered on 5 February 1997. To the extent to which that decision propounds the view that disqualification should invariably follow the fact of a finding of guilt under AR 178, I would not dissent, although I would have some hesitation in saying that the phrase "may be" should be construed in imperative terms."*

In ***Skalato*** (Racing Appeals Tribunal Victoria, Appeal No 4 of 2001 delivered on 8 May 2001), His Honour Judge McNab referred with approval to ***Runyon***, a decision of His Honour Judge Nixon delivered on 9 May 1994. (Racing Appeals Reports Issue 11). At page 79, Judge McNab said: *"Further, and I paraphrase, Judge Nixon went on: While the effect or lack of effect of a prohibited substance is a relevant matter to be taken into account, in the exercise of the discretion it is only one of several relevant factors involved in the exercise of the discretion. Rule 177 should not be looked at as if it were in a vacuum. It must be viewed in the overall context of the rules which are directed towards drug free racing."* Judge McNab went on to say: *"Judge Nixon went on, "I accept that that in general the owners should be held responsible for the actions of those whom they employ or engage. An owner should be held in general, responsible for the acts or omissions of his trainer which are negligent acts or omissions" and I agree with those comments."*

I prefer the statements of Judge Nixon and Judge McNab, as correct statements of the interpretation of the rule and the considerations to be taken into account in exercising the discretion under Rule 177. To hold or imply that there is no discretion, would be to ignore the word "may". That is what the Stewards did in this case. The Stewards failed to take into account any relevant consideration, because they took the position that there was no discretion. They adopted the position as in the ***Red Poco*** case: *"... and considering the provisions of the Australian Rule of Racing 177 which is read, the Stewards have referred to the*

determination of Judge Goran in the case of RED POCO in New South Wales..."

It follows that each of grounds 2 to 5 would be made out if (1) the consideration mentioned in each ground was a relevant consideration; and (2) the fact asserted in each ground was supported by the evidence.

GROUND 2: *The respondents failed to take into consideration that the presence of the methamphetamine could have been the result of accidental contamination.*

Amphetamine, methamphetamine and like drugs are prohibited in their use by humans as well as in their use in horses. Despite the unlawfulness, they are also well known to be used by humans. In an effort to establish possible accidental contamination of the horse by humans, Mr McLaren requested the Stewards to interview and call various people whom he thought could have been involved with the use of the drugs, and who had contact with the horse. These people were called and gave evidence on 15 March 2001. There was an apprentice, a trackrider, a former stable employee, a licensed jockey and a stablehand. Broadly speaking, the evidence from those people explored the possibility of amphetamine in some form being transferred from someone to the horse by some sort of accidental touching.

Only Mr McLaren, and those representing him, addressed the possibility of accidental contamination. It is relevant to the appellants here, because they are responsible for the negligent acts of Mr McLaren. The issue of possible accidental contamination was put to Dr Stanley at T251:

"CHAIRMAN ...if someone was a user and happened to have amphetamines under their fingernails or something in their mouth and dropped a capsule or, is it possible that a person as a user of illicit preparations could contaminate a horse by way of orally or its feed or whatever to the extent that you might see a low level of methamphetamine?

STANLEY ...but if the level was quite low I would say had the person had some on their hands and they had their hands licked, I, I don't know, I, I already, I've got no experience of those sorts of levels and whether they actually produce a positive in the urine..."

The absence of a quantified analysis, referred to earlier in these reasons, hampered Mr McLaren in pursuing this possibility further within the pharmacological evidence. However, that is not to say that the Stewards failed to take the possibility into account. In my view they did so, for the following reasons. First, they did so because of the volume of evidence which they themselves called on the subject. Second, it was the Chairman himself who asked the question above, which came during the examination of Dr Stanley by Dr Rieusset. It was an attempt to bring the expert evidence back to the facts of the case. Third, in their finding Mr McLaren guilty, the Stewards must have discounted this possibility.

In summary, this fact was a relevant consideration, and the Stewards did not take it into account in deciding whether or not to disqualify. Had they taken it into account, they would not have applied the consideration in favour of the appellants, because it remained the case that it did not excuse Mr McLaren. On any view of the authorities, the owners are responsible for the actions of those who they engage. In my view, ground 2 is made out. However, no miscarriage of justice resulted from the failure.

GROUND 3: *The respondents failed to take into account the very low levels of methamphetamine detected in the urine of The Tin Man.*

GROUND 4: *The respondents failed to take into consideration, the uncontradicted evidence of the witness Craig Staples, that there was no change in the demeanour or behaviour of The Tin Man at the time of the race.*

GROUND 5: *The respondents failed to take into consideration the result of the race had been unaffected by urine analysis results."*

These three grounds can be treated together, because they amount to the same thing. Ground three is contained within ground 5, in that the greater the level, the more the likelihood that the result would be affected. Although there had been no quantitative analysis, Dr Stanley did say in his evidence that the level was low (T56). Ground 4 asserts part of the evidence given at the inquiry. It is a correct statement. It is part of the evidentiary foundation for the assertion of fact made in ground 5.

On the authority of the cases of ***Skalato*** and ***Runyon***, the effect or otherwise on the result of the race is a relevant consideration. The Stewards did not take it into account, because they took the view that they had no discretion. It follows that grounds 3, 4 and 5 would be made out if the factual bases for the assertions made within the grounds were accurate. It is the factual basis for the assertion in ground 5 which is important. The effect of the drug on the horse was the subject of evidence given by Dr K Steel a veterinary surgeon. She gave evidence at T285 to T286 as follows:

"CHAIRMAN Dr Symons said it was a central nervous system stimulant, does a central nervous system stimulant necessarily predispose to outward behavioural changes in the horse?

STEEL I would anticipate that normally it would.

...

CHAIRMAN Dr Symons says it's a potent stimulant that acts on the brain to increase the level of adrenalin.

STEEL Mm.

CHAIRMAN And adrenalin itself is theoretically that would predispose to a horse being enhanced in its performance ability.

STEEL Potentially, yes..."

The Stewards thus had available to them prima facie evidence that the prohibited substance did affect the horse. That is because the prohibited substance was in the urine sample, and there was an inference available that it had got there in the normal manner, namely from the cardiovascular system. The inference back from there, equally open, was that the substance had had an effect on the central nervous system. In short, there was an evidentiary presumption that the result of the race had been affected by the methamphetamine which had been administered to the horse. The evidence to the contrary was that of the witness Craig Staples, the Jockey who rode the horse on the day. His evidence was to the effect that there had been no change in the demeanour of the horse on the day.

In my view, the evidence does not support the assertion of fact made in ground 5. The Stewards would have been obliged to take the fact into account if it was available on the evidence, but it was not. Grounds 3 and 4 are subsidiary to ground 5, and the facts therein were also not required to be taken into account. For these reasons, grounds 3, 4 and 5 are not made out.

CONCLUSION

For all of the above reasons, I would dismiss the appeal.

PATRICK HOGAN, MEMBER

Seal of the Racing Penalties Appeal Tribunal of WA

APPEAL - 533

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR D MOSSENSON (CHAIRPERSON)

APPELLANTS:	**STANLEY DAVID HUGHES & LILLIAN EMILY HUGHES**
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Mr J D Hughes was granted leave to represent the appellants.

Mr R J Davies QC appeared for the Stewards of the Western Australian Turf Club.

I have read the draft reasons of Mr P Hogan, Member. I agree with the reasons and conclusions and have nothing to add.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

Seal of the Racing Penalties Appeal Tribunal of WA

APPEAL - 533

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR A MONISSE (MEMBER)

APPELLANTS:	**STANLEY DAVID HUGHES & LILLIAN EMILY HUGHES**
APPLICATION NO:	**A30/08/533**
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I have read the draft reasons of Mr P Hogan, Member. I agree with the reasons and conclusions and have nothing to add.

A E Monisse

ANDREW MONISSE, MEMBER

Seal of the Racing Penalties Appeal Tribunal of W.A.

APPEAL - 533

DETERMINATION OF

THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANTS:	**STANLEY DAVID HUGHES & LILLIAN EMILY HUGHES**
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Mr J D Hughes was granted leave to represent the appellants.

Mr R J Davies QC appeared for the Stewards of the Western Australian Turf Club.

This is a unanimous decision of the Tribunal.

For the reasons published the appeal is dismissed.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

Seal of the Racing Penalties Appeal Tribunal of WA