

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT : BRUCE WHITEMAN
APPLICATION NO. : A30/08/198
PANEL : MR D MOSSENSON (CHAIRPERSON)
MR J SYME (MEMBER)
MR T MULLIGAN (MEMBER)
DATE OF HEARING : 6 SEPTEMBER 1994

IN THE MATTER OF an appeal by Mr Bruce Whiteman against the severity of a two year disqualification for breach of Rule 364(a)(as it applied in July 1993) of the Rules of Trotting following a rehearing by the Western Australian Trotting Association Stewards on 5 May 1994 pursuant to the Order of the Tribunal made on 24 March 1994 in respect of the finding of the substance salicylic acid in a sample taken from the horse LORD DENNING on 21 August 1992.

Mr J F O'Halloran appeared for the appellant.

Mr R J Davies QC appeared for the WA Trotting Association Stewards.

The Tribunal handed down its determination on 6 September 1994 and published its reasons for dismissing the appeal against conviction and then entertained submissions on the remaining question of the penalty which was imposed.

Mr O'Halloran presented a wide range of factors which he submitted demonstrates that the Stewards had imposed an excessive penalty on Mr Whiteman in that they had disqualified him from being a trainer for a two year period.

One such factor is that there is a trend occurring elsewhere of imposing more lenient penalties in relation to drug offences. This Tribunal is not persuaded by those supposed trends.

We are persuaded, however, that there are some special circumstances which justify our interfering with the penalty that has been imposed, including the appellant's personal circumstances, the nature of the substance involved and the factors surrounding its administration. In the light of those circumstances, whilst a monetary penalty is not proper in this case, we do consider that a disqualification for a period of one year is appropriate.

The penalty is reduced to a one year disqualification. The order suspending the operation of the penalty which was originally imposed will now automatically cease to operate.

The lodgement fee is forfeited.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

