

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPLICANT : PETER LESLIE ANDERSON
APPLICATION NO. : A30/08/235
PANEL : MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING : 12 DECEMBER 1994

IN THE MATTER OF an appeal by Mr P L Anderson against the determination of the WA Trotting Association Stewards for imposing a \$400 fine under Rule of Trotting 474.

Rule 474 states:

"No person shall do in connection with harness racing any other matter or thing which, in the opinion of the Controlling Body or Stewards, is fraudulent, corrupt or detrimental to the interest of the sport of harness racing."

At a hearing before the Stewards the appellant was charged as follows:

"... it is the opinion of the Stewards your action in failing to attend a Trophy presentation when requested to do so by the Officials of the Bunbury Trotting Club on Saturday the 24th of September 1994 was detrimental to the interests of the sport of harness racing."

A number of factual matters have emerged in the course of this hearing regarding the background circumstances to the presentation of the 1993 annual award made to Mr Anderson which occurred at a time when he was a disqualified licensed person. Some of the facts were not canvassed in detail at the inquiry before the Stewards. There is a conflict as to some of the new material which was put to me. No sworn evidence has been presented in support of the respective points of view and I simply cannot resolve the conflict. In any event I do not believe that the resolution of the conflict is relevant to my determination of the matter the subject of the appeal.

It is clear that the action taken by Mr Anderson in failing to attend the trophy presentation was premeditated and was his personal protest in respect of something that occurred which upset him the year before. I am satisfied that this personal protest was in all of the circumstances inappropriate and unsatisfactory in view of his obligations imposed by the Rules of Trotting. By boycotting the trophy presentation, there was the potential to upset the relevant sponsor and the conduct constituted a refusal to comply with a reasonable request of an official associated with the running of the meeting.

Collectively they do amount to conduct which is capable of being described in terms of Rule 474 as being detrimental to the interests of the sport of harness racing. I am therefore satisfied that the Stewards were entitled to come to the conclusion which they did in regard to the incident. Accordingly, I do confirm the conviction which has been imposed and in regard to the first aspect of the appeal I dismiss the appeal.

The second aspect concerns the severity of the penalty. Whilst I do have some sympathy for certain things that Mr Anderson has told me regarding the size of the fine in relation to the amount of the percentage he received in relation to the race, I am not satisfied in the circumstances of this premeditated action which has adverse consequences to the sport of harness racing, that the sum of \$400 is inappropriate. Accordingly, I confirm the appropriateness of the penalty and dismiss the appeal against penalty.

The fee which was paid on lodgement will be forfeited.



DAN MOSSENSON, CHAIRPERSON

9/1/1995

