

**DETERMINATION AND REASONS FOR DETERMINATION OF**  
**THE RACING PENALTIES APPEAL TRIBUNAL**

**APPELLANT :** ALLAN CHRISTOPHER LEWIS

**APPLICATION NO. :** A30/08/265

**PANEL :** MR D MOSSENSON (CHAIRPERSON)

**DATE OF HEARING :** 21 AUGUST 1995

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**IN THE MATTER OF an appeal to the Tribunal by Mr A Lewis against the decision of the Western Australian Trotting Association Stewards on 4th August 1995 imposing a 7 day suspension from driving under Rules of Trotting Rule 440(a)**

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Mr R J Davies QC instructed by Michael J Bowden represented the appellant.

Mr T Styles represented the WATA Stewards.

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Rule 440 (a) states:

*" Any driver who, in the opinion of the Stewards, caused or contributed to any crossing, jostling or interference by foul, careless or incompetent driving shall be deemed guilty of an offence against these Rules and may be dealt with accordingly."*

There is no dispute that Mr Lewis is a person recognised in the industry for his ability and driving skills. Indeed Mr Styles described him as "probably being a role model."

It is clear from the transcript and from the submissions that have been made that in determining the appropriate penalty for the offence in question the Stewards should have taken into account Mr Lewis' outstanding record as well as the particular consequences of the penalty. The adverse consequences at this late stage in the season are that Mr Lewis' prospects of winning the "Australian Driver Premiership" and his entitlement to win the "J D Watts Award" will be jeopardised in the event of him being unable to continue driving.

It is also clear from what has been said by the Stewards in the transcript that the incident occurred through a small error of judgement on the part of Mr Lewis.

I am persuaded in all of the circumstances of this matter that the Stewards were in error in imposing the penalty which they did. Accordingly, I am disposed to interfere with the seven days suspension.

It is not easy to conclude what is the appropriate substitute penalty. Doing the best I can with all the material before me including the benefit of the submissions from both parties I am satisfied that the fine of \$400 is an appropriate penalty. Accordingly, I vary the penalty imposed by the Stewards by substituting a fine of \$400.

The lodgement fee will be refunded.

*Dan Mossenson*

CHAIRPERSON

DAN MOSSENSON,



00/10/95