

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

APPELLANT : GREGORY DONALD HARPER
APPLICATION NO. : A30/08/274
PANEL : MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING : 15 NOVEMBER 1995

IN THE MATTER OF an appeal by Mr G D Harper against the determination made by Western Australian Turf Club Stewards on 17 October 1995 against a fine of \$500 under Australian Rule of Racing 175(j).

Mr M J Hayter, instructed by M J Hayter & Co, represented the appellant.

Mr R J Davies QC represented the WA Turf Club Stewards.

Australian Rule of Racing 175 states:

"The Committee of any Club or the Stewards may punish:

...

(j) *Any person guilty of improper or insulting behaviour at any time towards the Committee of any Club or Association or any member thereof, or Stewards, or any Official in relation to their or his duties."*

At the Stewards' inquiry the appellant was charged as follows:

"... with improper behaviour, the improper behaviour being, in the Stewards' assessment, you spoke to Mr. Goddard in an offensive manner on Tuesday, the 26th of September, 1995. ..."

The offence occurred shortly before 8pm on 26 September 1995 at Mr Harper's home at Lot 8 Mandurah Road, Anstey Beach.

Mr Goddard is the Racecourse Investigator with the Western Australian Turf Club. He was accompanied at the relevant time by his assistant Mr Mackintosh. The purpose of the visit was to hand to Mr Harper and to Ms McGuire official letters from the Deputy Chairman of the West Australian Turf Club Stipendiary Stewards. Mr Harper is a registered owner of racehorses and Ms McGuire a registered trainer.

Mr Goddard was entitled to be at the property at the time for the purpose of carrying out his duties. The evidence before the Stewards was that whilst at Mr Harper's property Mr Goddard felt threatened and intimidated by Mr Harper during the course of the conversation that ensued. Mr Goddard's version of the events is fully supported by the evidence of Mr Mackintosh.

I am not persuaded by the argument on behalf of Mr Harper that in the circumstances the Stewards were in error in the manner in which they considered the evidence and arrived at a conviction in respect of the charge. Mr Harper is bound by the Rules of Racing. It clearly was open to the Stewards to find that Mr Harper's conduct did constitute improper behaviour.

For these reasons the appeal is dismissed.

The fee which was paid on lodgement of the appeal is forfeited.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

28 /11/95

