

DETERMINATION AND REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: MAURICE CARL THORNLEY
APPLICATION NO: A30/08/325
PANEL: MR J PRIOR (PRESIDING MEMBER)
MR J SYME (MEMBER)
MR F ROBINS (MEMBER)
DATE OF HEARING: 1 OCTOBER 1996

IN THE MATTER OF an appeal by Mr M C Thornley against the determination made by Western Australian Turf Club Stewards on 23 September 1996 imposing a \$300 fine under Rule 175(a) and a 2 month suspension under Rule 175(g) of the Rules of Racing.

Mr B Ryan was granted leave to represent the appellant.

Mr J Zucal represented the Western Australian Turf Club Stewards.

This is the unanimous decision of the Tribunal.

This matter concerns two appeals against penalty arising out of Stewards' inquiries held on 18 and 23 September 1996. The appellant has abandoned his appeals against conviction.

The appellant was fined \$300 for breach of Rule 175(a). Rule 175(a) reads as follows:

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

(a) Any person, who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing.

..."

The appellant was charged as follows:

"... Now you are charged under that rule with an improper action in that after weighing out on BENDASSE in Race 6 at Belmont Park on September the 18th, 1996 you changed your riding boots. ..."

The appellant was also suspended for two months for breaches of Rule 175(g). Rule 175(g) reads as follows:

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

...

(g) Any person who gives at any inquiry or appeal any evidence which in their opinion is false or misleading in any particular.

..."

The appellant was charged as follows:

"... You are charged under that rule in that in the opinion of the Stewards you gave false evidence in relation to the inquiry initiated on the 18th September, 1996 into your weighing out in Race 6 on BENDESSE. ..."

In an appeal against penalty, it is necessary for the appellant to satisfy the Tribunal that the penalty was manifestly excessive in the circumstances or outside the appropriate range of penalties for such a breach of the relevant rule. It is not a case of the Tribunal merely substituting its opinion to that of the Stewards.

With respect to the penalty of a \$300 fine for breach of Rule 175(a), an admission of guilt was not made until the second inquiry before the Stewards. Both parties to this matter agree that the normal penalty for a breach of the rule in this manner is a fine. The appellant had been warned with respect to similar behaviour previously. The Tribunal can find nothing in the circumstances of this case which suggests an amount of \$300 for such a fine was manifestly excessive. This appeal against penalty is therefore dismissed.

With respect to the penalty of two months suspension for breach of Rule 175(g), like the Stewards, we consider a breach of this rule extremely serious. This type of misconduct strikes at the heart of the administration of racing and adversely affects the ability of the Stewards to properly perform their functions. The Tribunal considers therefore that a suspension is an appropriate penalty and we are not satisfied that a two month suspension was excessive in the circumstances. This appeal against penalty is therefore also dismissed.

The fee paid on lodgement of the appeal is forfeited.

John Prior

JOHN PRIOR, PRESIDING MEMBER



4/10/96