

REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: LES SAMBA

APPLICATION NO: A30/08/351

PANEL: MR P HOGAN (PRESIDING MEMBER)
MR J PRIOR (MEMBER)
MR A MONISSE (MEMBER)

DATE OF HEARING: 13 MAY 1997

DATE OF DETERMINATION: 13 MAY 1997

IN THE MATTER OF an appeal by Mr L Samba against the determination made by Western Australian Turf Club Stewards on 27 February 1997 imposing a disqualification of 12 months under Rule 175A of Australian Rules of Racing.

Mr R Richardson instructed by S Browne & Co, Barristers and Solicitors, represented the appellant.

Mr R J Davies QC represented the Western Australian Turf Club Stewards.

On 13 May 1997, the Tribunal heard Mr Samba's appeal against conviction. The Stewards conceded the appeal and consequently the appeal was allowed. These are our reasons for allowing the appeal.

The appellant was found guilty of breaching Australian Rule of Racing 175A. The particulars of the charge were:

"... you as a licensed trainer, owner and agent for your wife conducted yourself in a manner which was prejudicial to image, interests and welfare of racing by:

- 1. Instructing that the registered racehorse SPICEY ROLE, owned by your wife, be placed with and cared for by a disqualified person, namely Frank Henry Maynard, and;*
- 2. That by involving disqualified trainers Frank Henry Maynard and George Lionel Way to assist in the sale of the chestnut 2-year old horse by GROSVENOR from PEN BAL LADY, originally registered as GARZONI."*

The ground of appeal against conviction was originally that:

"The conduct, the subject of the charge, was not conduct such as to contravene ARR175A."

A further ground was added by leave, in the following terms:

“That the appellant was not a licensed person within the meaning of Section 175A of the Rules of the Western Australian Turf Club.”

The additional ground does not accurately reflect the wording of ARR175A. The ground of appeal should more correctly have said that the appellant was not a person bound by “these” rules. We are of the opinion that the appellant was not a person bound by the Rules of the Western Australian Turf Club (WATC), and for that reason we allowed the appeal.

The Rules of the WATC provide for the Club to adopt the Australian Rules of Racing. The WATC has in fact adopted ARR175A. The WATC has only promulgated its own Local Rules. Together, Australian Rules and Local Rules comprise the WATC Rules of Racing (L.R.2).

The appellant was a person licensed as a trainer in South Australia. Western Australian Trainer’s Licences are dealt with under Local Rules 35 to 41. The appellant did not hold a Western Australian Licence.

For that reason, the appellant was not a person bound by the Rules of the WATC. He could not be convicted of an offence against ARR175A committed in Western Australia.

P J Hogan

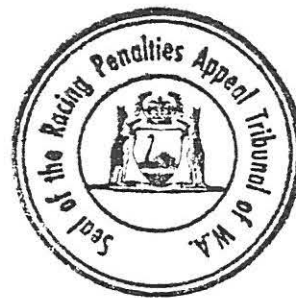
PATRICK HOGAN, PRESIDING MEMBER

A E Monisse

ANDREW MONISSE, MEMBER

John Prior

JOHN PRIOR, MEMBER



DETERMINATION AND REASONS FOR DETERMINATION OF
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Mr J Prior
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The unanimous decision of the Tribunal is that the appeal will be allowed and the conviction quashed.

The fee paid on lodgement of the appeal is refunded.



PATRICK HOGAN, PRESIDING MEMBER

