

DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: TERRENCE GEORGE TAPPER
APPLICATION NO: A30/08/506
DATE OF HEARING: 25 SEPTEMBER 2000
DATE OF DETERMINATION: 21 DECEMBER 2000

IN THE MATTER of an appeal by Mr T G Tapper against the determination made by the Stewards of the Western Australian Turf Club Stewards on 25 May 2000 imposing a disqualification of 12 months for breach of Rule 178 of the Australian Rules of Racing.

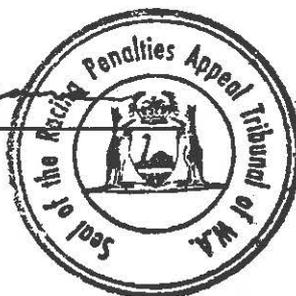
Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

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

This is a unanimous decision of the Tribunal.

For the reasons published the appeal against both conviction and penalty is dismissed.

Dan Mossenson



DAN MOSSENSON, CHAIRPERSON

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR J PRIOR (MEMBER)

APPELLANT: TERRENCE GEORGE TAPPER

APPLICATION NO: A30/08/506

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IN THE MATTER of an appeal by Mr T G Tapper against the determination made by the Stewards of the Western Australian Turf Club Stewards on 25 May 2000 imposing a disqualification of 12 months for breach of Rule 178 of the Australian Rules of Racing.

Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

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

I have read the draft reasons of Mr D Mossenson, Chairperson. I agree with the reasons and conclusions and have nothing to add.

John Prior



JOHN PRIOR, MEMBER

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR A MONISSE (MEMBER)

APPELLANT: TERRENCE GEORGE TAPPER

APPLICATION NO: A30/08/506

DATE OF HEARING: 25 SEPTEMBER 2000

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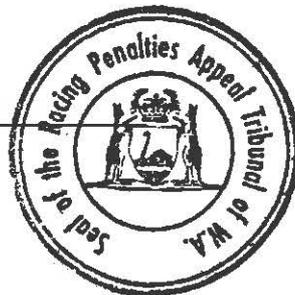
IN THE MATTER of an appeal by Mr T G Tapper against the determination made by the Stewards of the Western Australian Turf Club Stewards on 25 May 2000 imposing a disqualification of 12 months for breach of Rule 178 of the Australian Rules of Racing.

Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

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I have read the draft reasons of Mr D Mossenson, Chairperson. I agree with the reasons and conclusions and have nothing to add.

A E Monisse



ANDREW MONISSE, MEMBER

THE RACING PENALTIES APPEAL TRIBUNAL

**REASONS FOR DETERMINATION OF
MR D MOSSENSON (CHAIRPERSON)**

APPELLANT: TERRENCE GEORGE TAPPER

APPLICATION NO: A30/08/506

DATE OF HEARING 25 SEPTEMBER 2000

DATE OF DETERMINATION: 21 DECEMBER 2000

IN THE MATTER of an appeal by Mr TG Tapper against the determination by the Stewards of the Western Australian Turf Club on 25 May 2000 imposing a disqualification of 12 months for breach of Rule 178 of the Australian Rules of Racing.

Mr TF Percy QC and Mr S Davies, instructed by DG Price & Co, appeared for the appellant.

Mr RJ Davies QC appeared for the Western Australian Turf Club Stewards.

Background

This is an appeal against the conviction and penalty of disqualification for 12 months for breach of Rule 178 of the Australian Rules of Racing. That Rule states:

'When any horse which has been brought to a race-course for the purpose of engaging in a race is found by the Committee of the Club or the Stewards to have had administered to it any prohibited substance as defined in A.R. 1, the trainer and any other person who was in charge of such horse at any relevant time, may be punished, unless he satisfy the Committee of the Club or the Stewards that he had taken all proper precautions to prevent the administration of the prohibited substance.'

EXIT LANE won Race 8 over 1200 metres at Bunbury on 21 March 2000. A post race urine sample taken from EXIT LANE was subsequently found to contain an elevated level of testosterone. The reported level of testosterone in the urine sample from the two official laboratories was 32 micrograms per litre in each instance.

Australian Rule of Racing 178B(2) provides that anabolic agents are prohibited substances. Testosterone is an anabolic agent. Rule 178B(2) is subject to Rule 178C which states:

'The following prohibited substances when present at or below the levels respectively set out are excepted for the provisions of AR 178B:

- ...
- (g) *Free and conjugated testosterone at a mass concentration of 20 micrograms per litre in urine from geldings.*
- ...'

Consequently a Stewards' inquiry was held on 25 May 2000 into the matter. Present at the inquiry were Mr Tapper, his wife Mrs Tapper, Ms Megan Midgley, part owner of EXIT LANE and the Racecourse Investigator, Mr P O'Reilly. There was no dispute at the inquiry that:

1. Mr Tapper was registered as the trainer of EXIT LANE at all material times,
2. Mr Tapper presented EXIT LANE for racing at Bunbury on 21 March 2000, and
3. EXIT LANE is a gelding.

After hearing evidence Mr Tapper was charged with a breach of ARR 178, the particulars being:

'...that at the relevant time, you were the Trainer of the Racehorse EXIT LANE which was brought to the Bunbury Racecourse on Tuesday the 21 of March, 2000 for the purpose of engaging in race 8 the McNaughton Gardiner Insurance Handicap run over 1200m at that course on that day, and was found to have administered to it, the prohibited substance testosterone a prohibited substance as defined in AR. 1.'

Mr Tapper pleaded not guilty. After hearing further evidence the Chairman of Stewards announced a finding of guilt in these very brief terms:

'Mr. Tapper, Mrs. Tapper the, the Stewards are quite happy with, that you were the Trainer of the horse on the day in question and that EXIT LANE was

found to have administered to it, a prohibited substance as defined under AR.1 and that the horse EXIT LANE was brought to Bunbury Racecourse on the, on the day in question for the purpose of participating in that race and as such we do find you guilty of the charge Mr. Tapper.'

Submissions were then sought on the question of an appropriate penalty. At the completion of hearing this further evidence, the penalty of disqualification was announced in the following way:

'Mr. Tapper in assessing what would be an appropriate penalty, the Stewards have taken into consideration all the submissions that you've placed before us. We've taken into account your record which shows in 1972 you were disqualified for 12 months under Australian Rule of Racing 175(a), however this was for a drug related case. In 1992 you were disqualified for four months under Australian Rule of Racing 178, in 1993 you received a 15 month disqualification under Australian Rule of Racing 175(h) part (ii). The Stewards also believe, this horse was racing at the second most important raceday for the Bunbury Turf Club, which was somewhat of a high profile from the point of view of the fact that it was a winner and is now subsequently disqualified which has a negative aspect and impact on racing. The presence of prohibited substances in the horses has the ability to downgrade integrity of the Racing Industry and there's one Appeals Tribunal, another governing body stated, "Those who enter horses in racing events, governed by the Rules of Racing are entitled to expect that their entrants will be in competition with horses which are free of drugs as defined by the Rules.' Mr Tapper in taking into consideration all of those aspects that I've just pointed out, the Stewards believe that the appropriate penalty in this case, is that your Licence to train be disqualified for a period of 12 months.'

The Appeal

Mr Tapper lodged an appeal to the Tribunal on 26 May 2000 against the penalty only and sought a suspension of operation of the penalty. I refused the application to stay the penalty.

At the commencement of the appeal hearing in September the appellant was granted leave to substitute the amended grounds of appeal as follows:

'A. CONVICTION

1. *The Respondents erred in convicting the Appellant of the charge under Rule 178 of the Australian Rules of Racing in that the Respondents failed to adequately address the question of whether the Appellant had satisfied the Respondents under the terms of the proviso to Rule 178, that he had 'taken all proper precautions to prevent the administration of the prohibited substance'.*

Particulars

- (i) *The Respondents did not allege that the Appellant had administered the prohibited substance himself or caused the prohibited substance to be administered nor was the Appellant charged as such.*

- (ii) *The proviso to rule 178 requires that where the defence is raised the Respondents must examine whether or not the Appellant had or had not taken 'all proper precautions' within the meaning of the Rule.*
 - (iii) *The Appellant squarely raised the question as to whether or not he had taken all proper precautions to prevent the administration of the prohibited substance.*
2. *The Respondents erred in finding that there had been a breach of the appropriate standard of security, such finding being contrary to the uncontradicted evidence of the witness O'Reilly.*
 3. *There was no evidence upon which the Respondents could reasonably have concluded that the appellant had not take (sic) all proper precautions to prevent the administration of the prohibited substance.*
 4. *The Respondents erred in failing to give any or any adequate reasons for their findings.*

B. PENALTY

5. *The penalty imposed by the Respondents was manifestly excessive in all the circumstances of the case and having regard to previously imposed penalties for similar offences under Rule 178.*
- Particulars**
- (i) *The Respondents placed excessive weight on the Appellant's previous record.*
 - (ii) *The Respondents failed to consider that none of the Appellant's previous convictions were for this particular type of offence.*
 - (iii) *The Respondents failed to take into account that there had been no conviction since 1993.*
 - (iv) *The Respondents failed to take into consideration that the result of the race had been unaffected by the administration of the substance.*
6. *The Respondents erred in that they failed to consider the appropriateness of alternative penalties other than a period of disqualification.'*

Appeal Against Conviction

The argument for the appellant included the following propositions:

1. The Stewards erred by treating the offence in effect as one of strict liability and failing to address the critical question of whether Mr Tapper had brought himself within the terms of the proviso.
2. Mr Tapper had squarely raised the question that he had taken all proper precautions to prevent the administration of the prohibited substance, having claimed:

*'... I take more precautions than anybody else does. (p47), and
You can't take any, what other precaution can I take?'(p47)*

3. The witness O'Reilly, a police officer trained in investigation having subjected Mr Tapper's stable to a searching examination, had turned his mind to the question of whether there could have been anything more done security-wise states (at p 26 of the transcript) that:

'...I thought that, that looking at the property and structure and the things in place, that he probably couldn't have security-wise.'

4. There was no evidence for the Stewards to reasonably conclude that Mr Tapper had not taken all proper precautions to prevent the administration of the prohibited substance.
5. The Stewards' failure to give any or any adequate reasons for their findings in itself vitiated the conviction, however their error transcends this fundamental failure by virtue of their total absence of findings in respect of the critical issue.
6. There was no evidence whatever which would have entitled the Stewards to come to any finding adverse to Mr Tapper on the question of whether Mr Tapper had brought himself within the terms of the proviso.
7. The Tribunal should make findings accordingly and should substitute a verdict of acquittal (see MAYNARD Appeal 202).

It is submitted by senior counsel for the appellant the only point in issue is the proper precautions issues. Did the Stewards address that question, did they do so properly and assuming they did, was there any evidence upon which they could be satisfied that Mr Tapper did take proper precautions?

I agree with underlying point in proposition 5 regarding the quality of the findings. As quoted above, in pronouncing guilt, all the Stewards said in effect was Mr Tapper was the trainer at the time the horse was found to have the prohibited substance in it when presented to race. The failure to make full findings which addressed all component parts of the relevant Rule under which the charge was laid and to give reasons is an unsatisfactory matter which potentially could justify upholding the appeal. All those interested in racing are

entitled to know the precise factual outcome of such an important investigation involving a charge of a very serious breach of the Rules by a trainer at the crucial time of racing one his horses. The reputation of the racing industry is diminished, or at least is clearly at risk, due to any breach of the drug free racing rules. Further, the livelihood of a trainer of 20 years standing with 20 horses currently on his books is at stake in this matter. One should reasonably expect a reasoned and more detailed result to have been enunciated in such an important matter. Without reasons there is no way of analysing how the determination was reached. This fact could adversely affect a party's rights to have the decision of the Stewards reviewed on an appeal.

Despite what was submitted on the appellant's behalf at points 2 and 3 above I am of the view that the evidence does not establish the defence is made out. As was pointed out by Mr Davies QC, after the charge was laid and Mr Tapper had pleaded not guilty he was asked by the Stewards:

'...is there anything you can put to us to help the Stewards deliberate over the charge, anything further, any witnesses?'

Mr Tapper replied in the negative. The Chairman of Stewards continued by asking *'or evidence that you could produce?'*, to which Mr Tapper replied *'no witnesses, no evidence, I've got not (sic) witness or no evidence'*. The exchange which then ensued (at pages 43 to 47 of the transcript), is material and, despite its length, is now set out in part as follows:

'TAPPER *If I could if I had it, I would have.*
 ...
 *I have nothing ...(inaudible)... nothing physically to do
 with the horse the whole time it was there, if you know what
 I'm trying to say, you know I mean...*
 ...
 I never rode the horse, I work every horse.
 ...
 You know, I ride 10 horses every morning.
 ...
 *I do everything physical as far as the horses are concerned,
 from the yards, to feeding them to everything. That horse I
 had nothing to do with it.*
CHAIRMAN *But you were the nominated Trainer...*
TAPPER *I'm responsible.*
CHAIRMAN *For the, of the horse.*
TAPPER *Yeah, I'm responsible for it. Yeah that's it.*
 ...

CHAIRMAN *So Mr. Tapper if you say you never even brushed this horse or mucked out his stable or nothing, that was all down to Ms Midgley?*

TAPPER *I picked up the yards a few times, but that's about it you know and I don't, my wife does the yards while I work the horses. It's just a combination, we work together and that's how it goes you know.*

CHAIRMAN *All right so why was EXIT LANE different?*

...
TAPPER *Why, why was it different to the other horses?*
Because she, she wanted to work it her ways, you know I mean you know what girls are like or women are like, they've got their own ideas and she wanted to work it her way and when it first came there, the horse was a real ratbag, it wouldn't go out on its own so that was one of the reasons she brought it there and since it, two horse went out together you know.

...
CHAIRMAN *So would, would you or your son ride out with ms Midgley on one of your horses or would she work...*

TAPPER *Yeah, yeah, yeah at first, that's first when the horse started to behave itself and...*

CHAIRMAN *So she got...*

TAPPER *It's got a nickname "Shooter" because you know it used to leave them on the ground that's why Vicki didn't really want to carry on with it, because it used to drop her off and often used to come back on its own you know.*

...
And that's how it got its nickname "Shooter" and she used to be, Megan was pretty scared of it at first, but you get confident, well...

...
Megan's a very confident rider...

CHAIRMAN *So you're, you are happy with the way she was...*

TAPPER *Yeah.*

CHAIRMAN *Working and looking after the horses?*

TAPPER *Yeah, yeah she was...*

CHAIRMAN *Under your care?*

TAPPER *Yeah, I was observing what she was doing, I mean she didn't actually do any, you know we galloped the horse the usual days and we did the usual training procedures...*

CHAIRMAN *Yes.*

TAPPER *You know what I'm trying to say? Like I mean nothing, there was nothing out of the ordinary.*

...
The only different thing, she used to swim it every night, well you know or put it in the paddock well that's her prerogative you know.

...
Some people say it's the right thing to do, but everybody's got different ideas you know.

CHAIRMAN *So you were sort of Trainer on paper, but she was the Trainer physically?*

TAPPER *Virtually yeah, because the only, why she come there, she wanted to get a Licence...*

CHAIRMAN Yes.
TAPPER *She got Sharon, she got kicked out from Sharon, Sharon didn't have any room for her and she come to my place one day and she said, reckon you can give me a yard? And started off a yard right down the back and then went into a better yard and then into a box.*

...
You know what I'm trying to say, it's gradually worked up the, the chain and into a box.

CHAIRMAN *As it performed better, it got better accommodation?*
TAPPER *Virtually...(inaudible)... you know, she wanted you know and we didn't have many horses there at the time, so it didn't really make much difference.*

CHAIRMAN *Right.*
TAPPER *You know. She said she was going to get a Licence and she was going to try and get a Licence and she wanted to learn and do it on her own.*

...
That was the principle of the thing.

CHAIRMAN *Under your tutorage?*
TAPPER *Yeah, yeah, I know, I said ...(inaudible)... there's no Stable in Western Australia she hasn't worked in ...(inaudible)...*

MRS TAPPER *She hasn't taken any notice of you anyway.*
TAPPER *She's got a mind of her own, but that's what happened.*
CHAIRMAN *All right anything further Mr. Tapper or Mrs. Tapper that you can put to us to help us at all. All right if there's nothing further, I'd just ask you, is there any questions from the Stewards?*

NALDER *Mr. Tapper you were happy with the arrangement with Ms Midgley?*

TAPPER *Yeah going, yeah I didn't charge her anything. She virtually covered that because when we, you know get people to come and, trackriders around here and you got to, cost you \$10 for a horse in the morning so she'd work a couple of horses some mornings and that's about what it was you know that was just and I was hoping she was going to go, I didn't want the horse there in the first place. I thought I was doing a favour.*

...
You know, but as you know Ross Dearings' got his horses there too and they come there one day and they're still there...

...
That's two years ago. I mean I'm a mug, I know I'm a mug, but you know. And I take more precautions than anybody else does.

MRS TAPPER *Except for ...(inaudible)...*
CHAIRMAN *Well Mr. Tapper as I said, under, under the Rule, the last part of the rule is that, "...unless he can satisfy the Committee of the Club or the Stewards that he has taken all proper precautions to prevent the administration of the prohibited substance." Could, do you want to speak us on, on that proviso?*

TAPPER *Well...*
CHAIRMAN *Is there anything...*

TAPPER *You can't take any, what other precaution can I take?*
CHAIRMAN *All right, so...*
TAPPER *You know, you physically can't be there 24 hours a day I mean...*
CHAIRMAN *Right.*
TAPPER *You know there is no way, you can be with the horse 24, you know and you've got to trust your staff, you know common sense, I mean if you don't trust them, well I trusted a hundred percent...*
...
CHAIRMAN *You know, until this come up.*
TAPPER *So do you have a, a doubt over her now?*
TAPPER *Oh, it leaves a doubt you know, I mean I don't know when, where, when and why or how, but there is, there is a bit of a doubt there, I mean...*
MRS TAPPER *You can't prove anything. How can you make accusations if you can't prove it?*
...
TAPPER *If I could prove it would be all right, but you can't.*
MRS TAPPER *I mean someone's got to the horse, I mean it's only ... (inaudible)...*
TAPPER *We wouldn't use hormone, you know that's the queer part about it, but if anybody wanted to come to do your horse up, there's plenty of other ways of doing it, you know come along with a couple of bute powders in the feed or you know, like to use hormones.*
MRS TAPPER *She was ... (inaudible) ... out of spite all the time, someone's done this and hopped over the fence and done out of spite. With a thing like that, we wouldn't do that out of spite, like Terry said you'd put some bute powders or something like that in its feed, so to me this is, someone's been helping and thought they're doing the right thing and, and given this to the horse, that's my theory. It's not a spiteful thing, but then who can, who can you say who's done it...*
...
CHAIRMAN *Mm, all right. It there's nothing further, I'd just ask you to wait outside.'*

As Mr Davies QC points out trainers are granted a privilege upon being issued a licence to train. The privilege is not lightly issued and depends on a range of factors including the applicant's suitability, the suitability of the premises and the staff. The responsibility imposed when presenting a horse to race is an onerous one.

As to point 7 above Mr Percy QC argues that on the authority of MAYNARD's case the Tribunal can intervene in this matter. Senior counsel submitted the Tribunal itself needs to answer the question in relation to the defence, that is ought the Stewards to be satisfied on the evidence. It is said the Tribunal should

decide the matter for itself and it should not be sent back to the Stewards. I agree with these propositions.

Determination

Despite what is stated in terms of the evidence at 2 and 3 above, there clearly was other contradictory evidence before the Stewards regarding the effectiveness of the watch dogs (pp 25 and 26 of the transcript) access and the lack of fencing at the rear of the stables which throws doubt on the effectiveness of the security.

More importantly the questioning of the Tappers (as reflected in the passages of the transcript quoted above) establishes that Mr Tapper was trainer of EXIT LANE on paper only but not in fact. The reality is that Mr Tapper was trainer of EXIT LANE in name only having abrogated his duty to the horse and his responsibilities under the Rules. The right to hold a trainer's licence is a contractual one. The application form to be completed by those seeking approval to train contains an acknowledgment that the licence which may be issued is:

'.... subject to the following conditions:-

- (a) That it may be revoked at any time by the Committee of The Western Australian Turf Club in accordance with the Rules of Racing of the said Club.*
- (b) That I shall be bound at all times by the said Rules and By-laws of the Club in force from time to time and any other lawful Rules, Regulations, Conditions and Directions as may from time to time be formed, made or given by the Committee, Stewards or Officials of the Club.*
- (c) That the training of all horses in my care will be under my personal supervision.....' (emphasis added).*

In those circumstances I cannot see how it can be claimed Mr Tapper is entitled to the benefit of the proviso. It is no longer open to him as EXIT LANE was under the care and control of a person who was not licensed as the horse's trainer. I am satisfied there is no basis for successfully arguing that '*... all proper precautions to prevent ...*' (my emphasis) the administration of the prohibited substance had occurred. On the contrary it could well be said that by giving control and possession of EXIT LANE to Ms Midgley Mr Tapper had in effect abandoned precautions. He was in no position to prove, despite his bold assertion of taking more precautions than anyone, precisely what was happening to EXIT LANE at all material times prior to the race.

Looked at in this light I am satisfied there is no merit to grounds 1 to 3 inclusive. Whilst I have agreed ground 4 amounts to a fair criticism of how the Stewards dealt with the matter it does not justify the appeal succeeding in view of my earlier comments. The duties and responsibilities which rest on the shoulders of a trainer are onerous ones under the Rules. This is an obvious case where those responsibilities have clearly not been discharged by Mr Tapper. In the face of that failure to discharge them and his abrogation of responsibility I am satisfied that it cannot be said that the defence is open to Mr Tapper in all of the circumstances.

The Penalty

It was argued for Mr Tapper breaches of Rule 178 for elevated levels of testosterone nationally have in the main attracted fines. Where periods of suspension or disqualification have been imposed the usual period is 3 months, with 2 cases attracting a period of 6 months, although in respect of one such case the penalty was varied on appeal to a fine. Only one case has attracted a penalty of greater than 6 months disqualification, namely 9 months disqualification, however, the penalty was varied on appeal to 3 months suspension. Mr Percy QC also submits as a fundamental principal of law the existence of previous convictions can never aggravate an offence nor increase the appropriate penalty (see *Veen v R (No . 2)* (1998) 164 CLR 465). The existence of the previous convictions will only serve to limit the extent to which any mitigating factors will apply. It is argued the Stewards failed to consider or to give adequate consideration to the fact that none of the appellant's previous convictions were for this particular type of offence. The prohibited substances involved in the appellant's previous convictions are ephedrine in 1972, terbutaline in 1992 and fenadene in 1993. It is submitted that none of these convictions ought to have had any significant bearing on the penalty to be imposed. Further the Stewards failed to take into account or to adequately take into account the fact that there had been no conviction since 1993. It is submitted that this is a significant mitigating factor. The Stewards failed to adequately take into account the non-performance enhancing nature of testosterone as a prohibited substance. The Stewards' veterinarian, witness Symons, was unable to say that the horse's performance had actually or was likely to be enhanced by the prohibited substance. Witness Symons states at pp14-15 of the transcript that:

'Well, in horses it's generally used as an aid to training. It's done to improve horses' blood count, to improve their appetite, to improve their lean muscle mass and in some horses, it'll give them a increased confidence and probably courage, and other people also use it for recovery from training and racing and from injury.'

Mr Percy QC goes on to claim the Stewards erred in that they failed to consider the appropriateness of a fine rather than a period of disqualification. Despite Mr Tapper having previous convictions the offence ought to have been dealt with on its own facts and there was nothing in the circumstances of the offence which would have made it an inappropriate case for the imposition of a fine.

Despite all of these propositions I agree with senior counsel for the Stewards that Mr Tapper showed a lamentable lack of regard for his contractual duties under the Rules. I am entirely satisfied a fine is out of the question. The length of disqualification is the only issue. As I concluded in O'DONNELL (Appeals 263 and 264) the penalties imposed in the other states are often quite different for similar offences despite there being a national set of rules.

Mr Tapper's conduct is a blatant offence justifying a very severe penalty. The lack of personal supervision by an experienced trainer of a horse which has been brought to the racecourse to race is an aggravating factor justifying a tough sentence. Although the penalty appears to be close to the top of the range I am not persuaded the Stewards are in error. I am satisfied there is no merit in grounds 5 and 6.

Conclusion

I would dismiss the appeal in its entirety.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON



DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANT: TRAVIS ADAM BETTESWORTH
APPLICATION NO'S: A30/08/503-505
DATE OF HEARING: 25 SEPTEMBER 2000
DATE OF DETERMINATION: 7 DECEMBER 2000

IN THE MATTER of appeals by Mr T A Bettsworth against the determinations made by the Western Australian Turf Club Stewards on 22 May 2000 imposing:

1. a 4 years disqualification for breach of ARR 175(h)(i),
 2. a 12 months disqualification for breach of ARR 8(e) read with Local Rule 70B, and
 3. a 6 months disqualification for breach of ARR 175(gg).
-

Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

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

By a majority decision of the Tribunal the appeal against penalty for breach of ARR 175(h)(i) is upheld and the period of disqualification is varied to 2 years.

By a unanimous decision of the Tribunal the appeal against penalty for breach of ARR 8(e) read with Local Rule 70B is upheld and the period of disqualification is varied to 6 months.

By a unanimous decision of the Tribunal the appeal against penalty for breach of ARR 175(gg) is dismissed and the period of disqualification of 6 months is confirmed.

All penalties are to be served concurrently

Dan Mossenson



DAN MOSSONSON, CHAIRPERSON