

THE RACING PENALTIES APPEAL TRIBUNAL
REASONS FOR DETERMINATION

APPELLANT: FRANCESCO ENRICO VITANZA

APPLICATION NO: A30/08/665

PANEL: MR D MOSSENSON (CHAIRPERSON)
MR R NASH (MEMBER)
MR S PYNT (MEMBER)

DATE OF HEARING: 6 FEBRUARY 2007

DATE OF DETERMINATION: 6 FEBRUARY 2007

IN THE MATTER OF an appeal by Francesco Enrico Vitanza against the determination made by the Racing and Wagering Western Australia Stewards of Harness Racing on 6 December 2006 imposing a disqualification of 6 months for breach of Rule 190(1) of the Rules of Harness Racing.

Mr V Carbone was given leave to appear for the Appellant.

Mr B Delaney appeared from Racing and Wagering Western Australia Stewards of Harness Racing.

Following the hearing of this matter the Tribunal, by a unanimous decision, dismissed the appeal and undertook to publish its edited reasons in due course.

REASONS

The Stewards inquired into the report received from the Racing Chemistry Laboratory in Perth regarding the urine sample taken from MILE HIGH HEAT after it won Race 7 at Gloucester Park on 3 October 2006. Caffeine and its metabolites theophylline, theobromine and paraxanthine

were detected in the sample. The Queensland Racing Science Centre detected the same substances in the sample.

As a consequence Mr Vitanza was charged under Harness Rules of Racing 190(1) as a licensed harness trainer who had presented MILE HIGH HEAT to race at Gloucester Park not free of a prohibited substance in its system. Mr Vitanza pleaded not guilty to the charge. The Stewards convicted. The penalty imposed was disqualification for a period of 6 months.

Mr Vitanza's written Notice of Appeal states the grounds of appeal to be:-

"Negligence on the part of the vet and his assistants in obtaining (swab) from my horse (Mile High Heat) by not following proper procedure which led to the contamination of squab."

Further particulars provided by the Appellant's representative, Mr Vittorio Carbone, which were emailed to the Registrar and read out at the hearing of this appeal, state as follows:-

"After reading the transcript of the Stewards Inquiry held on 6 December 2006, Mr Vitanza contends that he did not observe the washing and cleaning of the utensils, namely the pail and sample bottles before the swab was taken on 3rd October 2006, from Mile High Heat. Mr Vitanza further contends that this raises the question of contamination of the process, the results of the process and the penalty he received as a result of that process."

The Tribunal had the benefit of listening to the submissions from both sides and the opportunity of viewing the swab room video which featured the preparation of the bottles in question, the taking of sample, the putting of the sample into the bottles and the sealing of the bottles. We also had the opportunity of studying the transcript, and in particular those passages that appear on pages 14 and 15 dealing with the evidence presented of the video tape which was taken of the swab room.

Nothing was presented in support of the appeal to suggest that there was any impropriety in the taking of the swab, in the placing of the swab into the bottles or any other aspect of the process. From the material before us we were satisfied that the protocols had been strictly adhered to.

