

Appeal decision

Date: 16 January 2014

Code of racing: Harness

Appeal panel: Mr B Miller (chair), Mr P James and Mr D Kays.

Appearances: Trainer Gary Bond appeared on his own behalf.
Mr D Farquharson, chairman of stewards, appeared on behalf of the stewards.

Decision being appealed: Two years disqualification – AR190(1).

Appeal result: Appeal dismissed. Penalty reduced.

Extract of proceedings – in the matter of Race 4, the C1, C2 Mobile Start, at the Gold Coast on 5 September 2013. Trainer: Gary Bond

THE CHAIRMAN: The tribunal has considered all of the matters in your absence. We think it appropriate we make some comments in respect to the issues and they are simply these. There is no doubt that the stewards are of the view that the appellant has for consistently long periods of time effectively been the trainer of the horses in question, and that is so regardless of whether he had held a licence or otherwise. The problem the stewards are visited with is that for them to be able to rely on that material they would need evidence to do so. That evidence appears not to be available but one would think that further investigation may well result in the future in issues like this being paramount in the investigations of those stewards to try and identify not just the qualifications of a dummy trainer but the qualifications of the person who is the trainer as of note.

Having said that, there is no doubt that the stewards have been faced with a very difficult and unusual case. The circumstances are depicted in the transcript and identify that Mr Bond received a licence to train the horses from 1 September, and that on 5 September a horse raced whilst under the influence of a drug, which was a prescribed and prohibited drug for the purposes of horses. Therefore, Mr Bond, as the trainer, was guilty of the offence of presentation. The appeal against the conviction was withdrawn by Mr Bond, and we are asked to consider only the question of penalty.

A penalty of two years is a significant period of time. It is a period of time that will have an impact of far reaching consequences on both Mr Bond and any family associates and any

business associates. Ordinarily, one would be constrained to significantly reduce a penalty of two years if there were no other features or extraneous features that could give the basis of formulating such a penalty.

In respect to Mr Gary Bond there have been three previous convictions, all of which have resulted in a disqualification. Mr Bond has purported and attempted to explain those convictions, all the while saying he was not guilty of any of them, albeit the stewards were able to satisfy various appellate bodies and the convictions on at least two of those stood.

The issues, however, are not simply whether or not to disqualify a person's livelihood for a period of two years without formal evidence. Our concern is that the evidence that the stewards have is conjecture. They do not have any basic ground rules that would facilitate their being able to prove in any court of law that Mr Bond was guilty of an offence of administration, that he was the trainer or that he had acted in any way wrongly or illegally against the rules. Having said that of course, he is guilty of the presentation rule, and he has three prior convictions that must be considered.

On that basis, this tribunal has determined that the penalty of two years be reduced to a penalty of 12 months. One would, however, hope that the next time Mr Bond or his associates are brought before any tribunal of a like nature, the stewards would have sufficient material and ammunition and evidence to support a much longer penalty being imposed in the future. One would hope that this tribunal's views in that respect are considered by all the parties here.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au