

Appeal decision

Date: 12 September 2014

Code of racing: Harness

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

Appearances: Mr N Scott appeared for driver Grant Dixon.
Mr W Barr, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to drive in races for a period of four weeks – AR149(2).

Appeal result: Appeal upheld.

Extract of proceedings – in the matter of the Seymour Rising Stars Championship C1 Heat 2 over 1660 metres at Albion Park on 5 August 2014. Driver: Grant Dixon

THE CHAIRMAN: On Tuesday, 5 August at Albion Park Raceway in Heat 2 of the Seymour Rising Stars Championship, driver Grant Dixon on Max Richter attended an inquiry by the stewards as a result of what the stewards perceived to be a drive that did not satisfy their requirements. The circumstances of the race have been well enunciated in the transcript and we have been fortunate in being able to see three views of the film provided by the stewards at the inquiry and at this appeal.

At the outset, perhaps one might say the stewards were well within their rights, in the opinion of this board, to consider the laying of a charge under Rule 149. We say this because the driver in question had on the evening of the drive identified to the stewards prior to the race his intention to take up a forward position if the circumstances demanded and allowed.

Perhaps one might read into the transcript the very first comment by the chairman on the night and that is: "Before the start you informed stewards about your dual runners, and you said that Max Richter would probably follow on the fence but if the tempo dictated that you may work forward." That statement is a direct statement by the chairman and enunciates what Mr Dixon had said. Unfortunately, the stewards seemed to identify that because of the failure of Mr Dixon to do exactly that – namely, if the circumstances arose to move forward – they therefore considered that there was a distinct opportunity and a necessity for a charge to be laid.

What has been provided to us today by the representative for Mr Dixon, Mr Neil Scott, is a very conclusive examination of the times, the distances raced and the circumstances of the race. We are indebted to you, Mr Scott, for having spent so much time doing that. It certainly did assist us, but perhaps one might say that were another appeal to be structured

it would be preferable if you could tender the documents so that the members of the board would have those for future reference in any event.

Notwithstanding that, it seems to this board that Mr Dixon was not a victim of circumstances. He made a determined decision and he followed what he had told the chairman of stewards – namely, that if the tempo dictated then he would take up a forward position. His evidence is that because of the tempo he made a determined decision not to exacerbate the chances of his horse being beaten but to allow the horse to remain three back on the inside in single file and to make the final challenge.

It seems obvious from an examination of the times of the horse in question in previous circumstances, and the times of the then leader, Better Than Money, that Max Richter had limited opportunity to even be contemplated as being able to beat that horse.

It is the decision of this board that the drive by Mr Dixon could not, in all the circumstances, have satisfied the stewards that it was an unacceptable drive.

In the circumstances, we uphold the appeal in respect of both conviction and penalty.

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