

## Appeal decision

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**Hearing date:** 10 December 2015

**Decision date:** 10 December 2015

**Code of racing:** Harness

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

**Appearances:** Mr J. Murdoch, QC, appeared on behalf of trainer/driver Mr S. Gillespie.  
Mr D. Farquharson, Chairman of Stewards, appeared on behalf of the stewards.

**Decision being appealed:** Disqualification for a period of six months – AR137(a).

**Appeal result:** Upheld.

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### **Extract of proceedings—in the matter of participation in harness racing activities whilst disqualified: Trainer Mr S. Gillespie**

THE CHAIRMAN: Shaun Gillespie is the owner/operator of a livestock transport business known as Five Star Horse Transport. On the day in question he was engaged by a Mr Carozzel to collect seven standard bred fillies and one unnamed standard bred colt from Monarch Stud and transport them to Egmont Park Stud Farm. This occurred on Friday 16 October. The normal provisions that applied in his business were that his driver was engaged purely and simply to collect all stud animals, registered horses and do anything associated with matters involving the racing industry, and Mr Gillespie, by his own admission and by evidence presented, is purely and simply confined in his activities to the use of his trucking business to work with Amart and other non-racing associations.

As a result of information that was provided to the racing stewards, they became aware that an issue had arisen which would result in Mr Gillespie being located upon a stud property, which is said by the stewards to be part of the harness racing industry. That of itself is an issue that causes some slight determination and consideration, and there are two opportunities or differences that can be looked at. On the one hand, Mr Farquharson, for the stewards, identifies that the owner of the stud farm and the operation of the stud is within the parameters of what is known as the horse racing industry.

Mr Murdoch, on behalf of Mr Gillespie, has identified that legally, in his view, the operation of the stud has nothing whatsoever to do with the interests of harness racing. It is a moot point whether it be that or not, but for the purposes of this appeal we are inclined to the view that even were the property to have been subject to and involved in the harness racing industry, it would have been improper for the stewards to have imposed any penalty in any event.

Notwithstanding what we have said in that regard, it is our view that Mr Gillespie attended on the premises on a one-off basis. Had the stewards been made aware that the person in question who normally drove the truck was incapacitated or otherwise engaged, there would, in our opinion, have been no doubt whatsoever that Mr Farquharson and his stewards would have granted leave to Mr Gillespie - as has been done previously - to undertake the operation in question. The fact that they did not do so seems to be that they were intent on ensuring that the rules of the harness racing industry were upheld to the absolute degree.

In our view, that was an error on the part of the stewards, and whilst he breached to a limited degree that possibility, it is our view that he did not do so intentionally, he did not do so within the parameters of the legislation, and he has not breached this rule. We consider that he acted appropriately.

We uphold the appeal in respect of conviction and penalty.