

Appeal decision

Date: 16 January 2014

Code of racing: Thoroughbred

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

Appearances: Mr P O'Sullivan appeared on behalf of trainer Marcus Wilson.

Mr I Brown, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Six months disqualification – AR178.

Appeal result: Appeal upheld. Penalty reduced.

Extract of proceedings – in the matter of the Class 3 Handicap over 1200 metres at Doomben on 11 December 2013. Trainer: Marcus Wilson

THE CHAIRMAN: The tribunal has considered the matter in some detail and we have taken into account certainly the representations made by you, Mr Brown, and you, Mr O'Sullivan, in respect to your client and his condition. What we should say is there is no doubt in our opinion that Mr Wilson's reputation is a good reputation. The stewards have acknowledged that in the transcript. The stewards have also identified that he has a good record. He has been licensed for a period of six to seven years and is regarded as a reasonably top trainer and never been in trouble before. Ordinarily that would indicate that as a cleanskin, any penalty imposed for whatever offence there may be would be taken into account by the stewards and reduced on the basis of either a plea of guilty initially or by the good record factor.

This matter is a little more confused than that in that, in the opinion of the tribunal, the stewards did err in considering the level of toxicity and the level of the reading and made an apparent attempt to dissuade themselves from having to effectively grant a significant discount.

Whether they did so by mistake or whether it was an intentional error on their part is something that need not be addressed by this tribunal. The tribunal, however, is persuaded that Mr Wilson does deserve to have his penalty reduced. It is not something that we can simply identify as saying that six months is a penalty imposed for all TCO2 disqualifications. Certainly, if Exhibit 21 is of any benefit to this tribunal, and to any other organisation, it is that

the tribunals both at QCAT and other areas have identified that six months no longer seems to be the norm. We are not going to make any comment on whether that is the case or otherwise, but suffice to say we believe that the period of disqualification here should be reduced to four months and we allow the appeal in that respect.

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