

Appeal decision

Date: 12 September 2014

Code of racing: Thoroughbred

Appeal panel: Mr B Miller (chair), Mr P James and Mr G Casey

Appearances: Trainer Thomas Button appeared on his own behalf.
Mr L Collins, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: \$4000 fine – AR175(k).

Appeal result: Appeal dismissed. Penalty reduced.

Extract of proceedings – in the matter of the BP South Rockhampton CG&E Class 1 Handicap over 1050 metres at Rockhampton on 7 June 2014. Trainer: Thomas Button

THE CHAIRMAN: Thomas Button is the trainer of Paleo, a horse that was entered to race at Rockhampton Jockey Club on Saturday, 7 June. The horse and other horses trained by Mr Button are stabled on course in boxes a little way from the holding area for horses due to race but in an area that is accessible to stewards. On the day in question but before Paleo had been presented for race purposes as such, trainer Button was seen by one of the stewards to have been in the box with Paleo with equipment that was for the facilitation of dripping a horse, and which appeared to be to the steward in question something that was on the day in question against the rules of racing. We say that because the steward identified that in the line of questioning, Mr Button, whilst being somewhat upset with the attitude of the stewards, reacted in a way that to the steward indicated, on his evidence, that the horse Paleo was the horse that had been treated by the trainer.

As a result of the subsequent inquiry, Mr Button was charged under Australian Rule of Racing 175(k) with an offence, the specifics of which were that as a trainer licensed by Racing Queensland, at his registered stables on course at Callaghan Park Racecourse, he was observed in the stable blocks of Paleo, and that Paleo was a racehorse engaged to run in Race 4 on that day a Class 1 Handicap.

Further, that Mr Button had in his possession a substance, namely Lang's Solution, and a giving set attached to a coat hanger, and stewards, on the balance of probabilities, were of the opinion that the conduct could have led to a contravention of Australian Rule of Racing 178(E).

That rule of racing is the administration charge by which it is not permissible to administer any substance or medication to a horse on race day prior to such horse running in the race.

The question that has been posed to us on this appeal is whether or not that charge - that is under 175(k) - is a valid charge in all the circumstances.

This board has no difficulty whatever in determining that what trainer Button did at the time – namely enter the stables of a horse that was due to race with equipment in his possession that could have led to a suspicion of administration or otherwise – was most assuredly an offence against that charge of 175(k). Perhaps more unfortunately for trainer Button was that he seemed to take exception to the manner in which the steward, Mr Meek, accosted him and accused him of certain nefarious activity, or, to put it another way, considered that it had been a possibility that trainer Button had already treated or was about to treat a horse that was due to race.

In the circumstances, we have no doubt whatever in upholding the charge, and in respect thereto to the issue of guilt or conviction we dismiss the appeal.

Of some significance to this board is the manner in which trainer Button has been able to provide a detailed explanation of what he did. Unfortunately, he has thought that by the mere fact of being a non-administering issue he was, for want of a better word, not guilty of the charge and should therefore not be penalised. Unfortunately, that is not something that this board can countenance or agree with.

The penalty that has been imposed is a penalty of \$4000, which for a country trainer with limited horses is a significant impost, both on his bank account but on his everyday living expenses. Similar charges have been significantly different but most of those relate to administration charges under 178(E). There is one charge of an admission of guilt under 178(E) that Mr Button provided to us, which showed that on a plea of guilty the trainer of the horse in question was penalised with a similar \$4000 penalty. That was, however, by stewards in Victoria and not in Queensland.

The question for this board is to determine whether or not the charge or the penalty of \$4000 was adequate, inadequate, or grossly excessive.

In our opinion, the circumstances giving rise to Mr Button's charge warrant that a penalty be imposed but not of the nature or of the size that the stewards in this instance imposed.

It is the determination of this board that a substitute penalty of \$1000 should be imposed and that is the order of the board.

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