

**GREYHOUND AND HARNESS RACING APPEALS TRIBUNAL
NEW SOUTH WALES**

TRIBUNAL: JUDGE B. R. THORLEY

**ASSESSORS: MR A. G. MULLINS
MR J. SCHRECK**

APPEAL OF MR DAVID WILKINS

DECISION

The driver David Wilkins has been a driver for about 16 or 17 years. In that time he has incurred the wrath of the stewards on a number of occasions, but never has he appealed to this Tribunal. This appeal by him is his first foray into the appellate jurisdiction of the racing industry. He told us that he did not wish to bother us with any appeal prior, but we regret to say that his concern for our workload, whilst that is appreciated, has not enabled him to meet with much success in the instant appeal.

Very shortly after the start of the first race at Bulli on 5 May 2008 the Appellant, who was in charge of Toronado (drawn in barrier 5), drove his horse at somewhat of an angle down the straight approaching the first bend. In so doing he clearly interfered with the progress of Shelleys Touch, driven by driver McElhinney. This caused Shelleys Touch to gallop and move right back in the field. The stewards opined that whatever chance Shelleys Touch had in the race was then gone for all purposes. So they charged the Appellant under rule 163(1)(a), found him guilty and subjected him to a penalty of 28 days suspension, having discounted for him 7 days on the basis that his record so entitled him.

We have viewed the video of the race in question on a number of occasions. Frankly, there is no reason to doubt the accuracy of the stewards' observations as they are particularly outlined and described in the evidence of Mr Bentley, which appears on page 3 of the transcript. The most that can be said for the Appellant is that it seems likely that Mr McElhinney was not paying as much

attention to his own course as perhaps he should, since his attention was being diverted to the fact that yet another horse on the inside had broken its gait. To that extent, perhaps it can be argued that there was some contribution on his part. It is only for that reason that we would interfere with the stewards' assessment, which otherwise we would have thought was not untoward or disproportionate.

The appeal is dismissed, the stewards' findings are confirmed, but in lieu of the stewards' penalty we would impose a period of 21 days suspension, to run from today.

There is just one feature to which we would wish to draw attention. When this inquiry opened before the stewards at Bulli the first contribution that was sought was from driver McElhinney. We doubt the wisdom of this. We think it more appropriate that the stewards make their allegations at the very outset, and then seek contributions from the drivers. This would afford a more regular approach and inform the drivers of what it was that was at stake.

The Appellant's appeal deposit is forfeit.

B. R. Thorley, Judge
4 June 2008