

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

TRIBUNAL: JUDGE B. R. THORLEY

ASSESSOR: MR J. SCHRECK

APPEAL OF MR SHANE STIFF

DECISION

This is an appeal against the severity of an order for three months suspension imposed upon the Appellant Mr Shane Stiff by the greyhound stewards following upon incidents which occurred at the Coonamble greyhound racing track on 29 March 2008. It is not necessary for the purposes of these reasons to relate fully the circumstances which led up to the events to which the stewards took exception. It is sufficient to say that they were constituted by a litany of stupidities. In the end result, a gentleman who was present at the race track embarked upon a course of verbal abuse of the Appellant, and perhaps of his female partner, which was not acceptable to the Appellant, who then retaliated both physically and verbally.

Others who were present at the race track observed the events. The matter was reported, and the stewards then made inquiry into it. This originally took place at Dubbo about a month later. Ultimately, at the end of May the stewards charged both of the participants under Rule 86(o) with misconduct. Both pleaded guilty, and both were subjected to a period of suspension of three months. There has been no appeal lodged against that suspension on behalf of the other person.

There were, however, considerable differences between the individuals at stake. To begin with, it is pointed out, as we have recited, that the incidents first commenced when the other party launched his verbal assault upon this Appellant. To that extent, the other party might be regarded as the instigator, although we hasten to say that the measure of resentment and retaliation that was then exhibited by this Appellant was not necessary. The other party is a person who had been involved with the greyhound industry for about fifteen years, had no prior record and, whilst he was the holder of a number of licences, was not at that point currently fulfilling any of the responsibilities that flowed with the tenure of such licences.

On the other hand, this Appellant, who is currently aged just on 40 years, and has been the holder of licences for about 25 years, commencing when he was as

young as 15. He came from a family which has held in its turn bookmakers licences. He himself is an owner/trainer and a studmaster, and he has enjoyed a greyhound bookmakers licence since 2005. Indeed this has been enlarged to include a licence to operate as a bookmaker with the gallopers for the past twelve months or so. He lives with his lady friend, and between them they care for some 70 greyhounds, of which he is the owner or part-owner of about 50. He does indeed have employment, being the secretary of a division of a well-known trade union. This requires of him that he devote some 30 hours work per week, but that period of time can be expended by him on a flexible basis and in such a way that he can still attend to the obligations that present when one has the care of such a large number of greyhounds.

It is argued that the impact of the order for suspension upon this Appellant is greater than that which had effect upon the other party. To the extent that there is a greater impact, there can be no challenge. However, we do not necessarily regard this as a matter which requires us to interfere. Those who have responsibilities which result in a higher impact level than those who do not bear such responsibilities have a corresponding duty to conduct themselves in a manner that recognises their liability to any such punitive order.

What is more to the point, however, is that we think that there is a disparity between the conduct of the two parties which should have reflected in a lessening of the penalty upon this Appellant as compared with that imposed on the other party.

In the course of his submissions, Mr Degan, who appeared on behalf of the stewards, we understood to tell us that he was unaware of any precedent which would have resulted in the imposition of a period of less than three months, be it by way of disqualification or suspension, for a breach of the misconduct rule. If this was intended to convey to us that he was of the view that any breach of the misconduct rule should be visited with a penalty of not less than three months, then we would hasten to correct him. Misconduct is a word which is capable of describing a whole spectrum of behaviour, one that ranges from something which is utterly minor to something which may be indeed very serious.

We cannot fit this particular incident at Coonamble into anywhere other than towards the bottom of that range, and to the extent to which this Appellant is to be regarded as not being the instigator and simply over-reacting to that which was said to him and of his friend, we think there is a case to interfere. We are comforted in the fact that over the long period of his involvement in the greyhound industry he has incurred the wrath of the stewards on but one occasion, and that relating to a completely remote matter involving his bookmaking activity.

The submission by Mr Walters, who appears for the Appellant, is that there should be either no penalty or, at the most, the imposition of a fiscal penalty. We do not share that view. We think that the conduct in front of other people at the Coonamble race track resulting in complaints being received is indicative of the need to display a measure of firmness, albeit one of lesser quality than that which was imposed by the stewards.

Hence, in lieu of the stewards' order, we impose a period of one month's suspension.

The Appellant has been on a stay of proceedings at all relevant times. The order will date from today.

He has been partly successful in his appeal. Hence it is directed that a moiety of his appeal deposit be returned to him.

B. R. Thorley, Judge
23 June 2008