

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

**TRIBUNAL: JUDGE J. C. MCGUIRE**

**ASSESSORS: MR K. RUSSELL  
MR J. SCHRECK**

**APPEAL OF Ms C. RIXON**

**DECISION**

On Friday 18 July 2008 at Harold Park Cindy Rixon drove Merry Lamb and Greg Bennett drove Golden Navajo. An incident occurred as a result of which Golden Navajo broke and lost all prospect of success in the race. Steward Mr Livingstone had a head-on view of the incident, and he gave evidence in the stewards inquiry to the effect that Bennett was leading a three-wide line and in a favourable trailing position was Merry Lamb. Halfway down the back straight Cindy Rixon did manoeuvre Merry Lamb when that mare was not clear of Golden Navajo and, to Mr Livingstone's observation, there appeared to be contact with Golden Navajo and as a result that mare galloped.

Cindy Rixon, the Appellant, was charged with a breach of Rule of Racing 163(1)(a), which provides:

*A driver shall not—*

*(a) cause or contribute to any crossing, jostling or interference.*

The conduct alleged against her was that she caused interference, particulars of the charge being that in the back straight she drove Merry Lamb out when insufficiently clear of Golden Navajo, resulting in contact to that runner and causing it to be checked and break. Ms Rixon maintained at the stewards inquiry, and again before this Tribunal, that she was not guilty of the charge.

From the Tribunal's consideration of the transcript before the stewards, Ms Rixon's account as contained in her evidence before the stewards and in a letter tendered before this Tribunal, and from the Tribunal's numerous viewings of the video, it appears that Bennett moved up three wide to the outside of Ms Rixon's horse, hoping to flush her out with a view to getting a tow home. When he got to a position where his horse was striding beside her wheel she moved out fairly sharply.

Having regard to the respective positions as demonstrated on the video depiction, such a manoeuvre could not be performed safely. Ms Rixon maintained that she moved out not hard and with safety, that she did not hit Bennett's horse, and that it was not her action which caused his horse to break. She pointed out that Bennett had not appealed for room; that, with a driver of his eminence and experience, if he had anticipated any danger there would have been such a call. As to whether there was contact is not absolutely clear. Bennett seemed to be unable to arrive at a firm conclusion on this point.

This Tribunal agrees with Mr Livingstone's description of the incident, and concludes that clearly there was a real chance that there would be contact between Bennett's horse and her wheel. True it is that Bennett's horse had its head turned in at the relevant moment. However, that horse's head was so positioned for some time prior to the incident. The Tribunal accepts that Ms Rixon believed that Bennett's horse was being manoeuvred onto her back. However, it does not accept that she was entitled to manoeuvre her horse as she did. The Tribunal is comfortably satisfied, on the balance of probabilities, that the charge has been made out.

The Appellant was suspended for 21 days for causing a horse to be checked and break. In fixing penalty, the stewards had regard to her record, which could not be described as bad. However it does reveal that there were two suspensions within the previous twelve months. Ms Rixon's conduct involved a serious breach of the said rule. Such conduct is to be deprecated and the penalty imposed should serve as a deterrent to her and other drivers.

Owners, trainers, drivers and punters are entitled to have races decided on merit rather than on chance. Having horses taken out of the running by careless interference cannot be tolerated.

The appeal is dismissed and the suspension of 28 days is confirmed. That suspension is to commence on 20 August 2008 and is to expire on 17 September 2008.

The appeal deposit is forfeited.

J. C. McGuire, Judge  
15 August 2008