

THE GREYHOUND AND HARNESS RACING APPEALS TRIBUNAL OF NEW SOUTH WALES

Tribunal: Justice W R Haylen
Assessor: Mr J Schreck

APPEAL BY MRS DEBBIE PREST AGAINST FINE IMPOSED ON 3 DECEMBER 2008 BY THE GREYHOUND AND HARNESS RACING REGULATORY AUTHORITY NEW SOUTH WALES

DECISION

1. In December 2008, Stewards of the Greyhound and Harness Racing Regulatory Authority charged Mrs Debbie Prest and found her guilty of a breach of Rule 86(o) namely, that she was guilty of an offence in relation to greyhound racing because of misconduct. The particulars of the charge were that Mrs Prest misconducted herself by having sworn at another person in the betting area at the Young Greyhound meeting held on 5 July 2008. Mrs Prest entered a plea of guilty to the charge and made short submissions on the issue of penalty. Mrs Prest was fined \$220.00
2. During the Stewards' Inquiry and the hearing, Mrs Prest accepted that she had sworn at a person known to her as Mr Craig McCorkindale in a public area of the Young track. Mrs Prest readily admitted that there were a number of people in the vicinity and that, unfortunately, she had lost her self-control because of a complaint made by Mr McCorkindale to the Stewards which she regarded as attacking her integrity. Mrs Prest stated that there was a history between Mr McCorkindale and herself and that there were surrounding circumstances, including the illness of her husband, that had led her to lose self-control and swear at Mr McCorkindale in a public place on the race track. She stated that the incident did not represent her normal conduct.
3. Mrs Prest is a well-known identity in greyhound racing and for many years had also been involved as a thoroughbred racehorse trainer.

For several years she had been the secretary of the Young District Greyhound Racing Club, was President of the Greyhound Racing Clubs Association and had trained and raced thoroughbreds for many years. She was also a councillor on the Young Shire Council and at the time of this incident was a member of the Board of Greyhound Racing New South Wales, having been appointed in February 2006 as the nominee of Country Racing Clubs.

4. The Stewards had acted on a complaint by Mr McCorkindale. Mr McCorkindale was present at the meeting at Young and had noticed Ms Prest acting as a dog handler. Mr McCorkindale made an enquiry of a Steward at the track as to whether Mrs Prest had an owner/trainer or attendant's licence to handle dogs. The Steward made enquiries of Mrs Prest who was able to show him her licence although it had been knocked from the pin securing it and Mrs Prest had then kept it in her pocket. The Steward later informed Mr McCorkindale that Mrs Prest had a relevant licence and that he should leave the matter alone. Mr McCorkindale said he was standing in the betting ring when Mrs Prest walked over to him, held her licence to his face and said, "There fuckhead I have got one". Mr McCorkindale said that there was no need for Mrs Prest to speak to him in that manner as he had only asked a question and he expressed the view that her conduct did not set a good example for the Club and the public. He pointed out that Mrs Prest was on the Greyhound Board and it was disgraceful of her to speak in that way while holding such a position and he asked for an apology.
5. During the course of the Inquiry, Mrs Prest, although accepting that she had sworn at Mr McCorkindale and had acted inappropriately, made some attempt to suggest that she had used the term "F...wit". There was other evidence that made it clear that Mrs Prest used either the word "fuckface" or "fuckhead". The Stewards did not make a finding as to which words were actually used but regarded them all as swearing and constituting inappropriate conduct for a person holding an official position within greyhound racing.
6. During the course of the Inquiry, Mrs Prest said that she had become incensed at Mr McCorkindale's questioning of her integrity and that there was a history between them and that added to her unusual conduct on the day. She accepted that she had over-

reacted, that she did walk up to him and swear at him but on several occasions, despite Mr McCorkindale's request, stated that she would not apologise. She did not deny the incident but said that she spoke in a "slightly raised" voice. She was not particularly proud of the way she had behaved and it did not represent the manner in which she usually behaved in all her years as a Club Secretary or a racing participant. She thought there were "extenuating circumstances on the day". Mr McCorkindale had appeared adamant in the betting ring, telling a number of people that she did not have a licence yet she was handling a greyhound. Although Mr McCorkindale was unable to say if there were many people around at the time of the incident, Mrs Prest promptly stated that there were possibly 30 people within 10 feet, including bookmakers and that what was said would have been easily audible in those few feet. Mrs Prest had then spoken to other people at the track indicating how she had acted ridiculously because of Mr McCorkindale's slight on her character and how she had felt she had let herself down. She talked about having "lapsed" when she should not have and stated that she was "ashamed" of herself and the fact that she had let somebody like Mr McCorkindale "get to her". On the day, Mrs Prest saw herself only as a person at the track acting as an attendant handling a greyhound and noted that, on that day, she was not acting as a club official nor as a board member of Greyhound Racing NSW.

7. On the question of penalty Mrs Prest said that she had been involved in the greyhound industry for approximately 11 years and had served as an official of the Young Club for 9 years as its Secretary and was currently a Board member of Greyhound Racing New South Wales. She had been Deputy President and President of the Country Clubs' Association and had participated in the industry as an owner/trainer and an attendant. She was a licensed thoroughbred trainer having held such a licence for over 20 years. She had never been before the Stewards in either industry throughout her involvement in those industries. She thought the most appropriate penalty was a reprimand.
8. In announcing the penalty, the Chairman of Stewards stated:

Mrs Prest, the stewards have given consideration to the matter of penalty. What we have taken into

account here today is obviously your good record in the industry. You have served as a secretary of the Young club for a number of years. You held senior positions with the Country Greyhound Association. You are a board member of GRNSW. All of those matters are to your credit. Quite frankly, without people like yourself who are willing to put the time and effort into greyhound racing, the industry would be in dire straits.

However, having said that, with those official positions come the responsibility for people like yourself to conduct themselves as figureheads of the industry, showing the way in which people should be conducting themselves. Unfortunately, as you stated, and I certainly agree with you, there are incidents of an unsavoury nature at greyhound race meetings involving inappropriate language on occasions, and when matters are brought to the stewards the stewards will investigate and take action where we feel that is needed. Unfortunately, with someone of your profile within the industry, these incidents do not go unnoticed. They do not present a good image for greyhound racing - because you are such a prominent person.

We have taken into account your plea of guilty, your good previous record and, as I have said, your profile. We believe the stewards are being as lenient as we possibly can today in regard to the matter of penalty, and that is to impose a fine of \$220 against you, being two penalty units. You do have the right of appeal against that decision, if you so desire.

9. Mrs Prest lodged an appeal to the Greyhound and Harness Racing Appeals Tribunal challenging the severity of the penalty. The Notice of Appeal indicated that Mrs Prest would not be legally represented and that she did not wish to produce additional evidence to that presented to the Stewards' Inquiry. She did not require any of the Stewards who participated in the decision to be present for cross-examination.

10. After Mrs Prest had been informed of the hearing date for the appeal, she sent the following letter to the Secretary of the Tribunal:

I, Debbie Prest will be unable to attend the hearing set down on the 6th February 2009 as I will be in Tasmania. I am happy for the hearing to proceed in my absence.

The grounds for my appeal is simply that I believe the fine imposed is excessive given my perfect record in both greyhound and thoroughbred industries as a long-term participant. I have been licensed in thoroughbreds since I was 15 years old as a track rider, strapper and as an adult as a public trainer. In the greyhound industry I have been licensed as an owned/trainer, attendant as well as working as club administrator and volunteering in all aspects of the sport on and off for approximately 10 years.

I do not deny that I acted inappropriately, but I was very stressed at the time and Mr McCorkindale's questioning of my integrity was the final straw.

11. On the hearing of the appeal and in accordance with the terms of the letter, Mrs Prest did not attend. The Stewards submitted that it was important to maintain a proper racetrack atmosphere of decorum and that appropriate conduct was to be expected of persons holding official positions within the greyhound industry. A survey of penalties imposed for misconduct by swearing showed that the fine imposed on Mrs Prest was at the lower end of the range and reflected the leniency afforded to the appellant having regard to her good record and her contribution to the industry.
12. It was unfortunate that Mrs Prest chose to have the appeal dealt with in her absence. That course leaves the Tribunal in a difficult position, without the assistance and explanation from the appellant as to why another course should be adopted and it does not permit any interchange between the Tribunal and the parties. Such a course can also give the impression that the appeal is not seriously

pursued although in the present case, the transcript before the Stewards and the terms of Mrs Prest's letter (which, in effect, is taken as a written submission on appeal) makes it quite clear that Mrs Prest feels aggrieved by the decision and that in all the circumstances, including her blameless and lengthy participation in the industry, a more lenient approach should be adopted. It is important to make clear that appellants should not think that, by not appearing and leaving the matter to be dealt with by the Tribunal, the Tribunal may find, by its own assessment and investigation, grounds for upholding the appeal. It must be stated in the clearest terms that is not the role of the Tribunal and in normal circumstances, appellants who fail to appear run the risk of having their appeal treated as being abandoned actually or constructively.

13. In the present case, Mrs Prest's conduct was inappropriate and she accepts that is so and that she let herself down by swearing at Mr McCorkindale over a matter that, if somebody else had made the enquiry, would have passed without a second thought on her part. While Mrs Prest relied upon her good record and the various positions she has held in the industry, the holding of those very positions requires that a proper example be set to the greyhound racing community. Importantly, Mrs Prest could not bring herself to offer an apology for her conduct. Mrs Prest's behaviour failed to meet that standard and the modest fine imposed by the Stewards is entirely warranted. The appeal against penalty is dismissed. In all the circumstances, the deposit paid on appeal is forfeited.

ORDERS

15. (i) the appeal against penalty is dismissed and the findings of the Stewards as to penalty are confirmed;
- (ii) the deposit lodged on appeal is forfeited.

The Hon Justice W R Haylen
10 February 2009