

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

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

**APPEAL OF MR TROY HARLEY**

**DECISION**

Troy Harley (the Appellant) was charged by the stewards with misconduct pursuant to Rule 86(o), which provides:

*A person (including an official) shall be guilty of an offence if the person –*

- (o) *has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct;*

The charge arose out of an unseemly incident at Dubbo involving a brawl between the Appellant and Neville Owers following a race in which the Appellant's dog competed.

Following a stewards inquiry, he was disqualified for six months on 25 April 2009. The Tribunal is considering his appeal against the severity of the penalty imposed. His guilt was not disputed.

Before the Tribunal is a transcript of the stewards inquiry, the Appellant's grounds of appeal and the further submissions he has made this day, together with the submissions of Mr Scott Matthews, representing the stewards.

There are somewhat varying descriptions of the altercation between the Appellant and Neville Owers (Owers) which gave rise to the charge. The Appellant and Owers gave their versions, which in some respects are different from those of witnesses. Doing the best I can to resolve the conflicting accounts, the incident involved a confrontation and mutual violence between the Appellant and Owers.

The evidence reveals that apparently the Appellant was running late to get his dog out of the kennels. Owers, an official employed at the Dubbo track, made a comment to Phillip Bush, "Scratch it." He repeated those remarks. Owers conceded that his comments were "snide" and stated that he was "mouthing off". He claimed that he had not seen the

Appellant in the vicinity. However, he agreed that his remarks must have been heard; they involved loud comments. Owers had no authority to scratch the dog.

The Appellant subsequently approached Owers, who gave evidence that:

*"... after the race was over, Troy, as I was coming off the track, came up to me and said, 'Have you got a problem? Why are you telling them to scratch my dog?' I think I might have said, 'F... off. I've got a problem with you.' They wouldn't listen to me anyway, even if I did say it. ... I'm pretty sure I said 'F... off. I have got a problem with you.' "*

He presumed that the Appellant had taken offence. Owers told the stewards of a previous argument with the Appellant some months before. As stated, Owers was an employee of the Dubbo race club. He agreed that as an official he should never have made comment and apologised for his conduct in bringing the sport into disrepute.

As to the subsequent physical altercation, which followed this confrontation, Owers claimed that although punches were thrown, he did not punch the Appellant, but pushed him away by placing his fist in the Appellant's "tummy". This occurred after the Appellant approached him, saying, "Come on", as Owers was sitting down. Owers claimed that he responded by saying, "If you've got a problem, we'll go out to the front." That is when he pushed the Appellant, with both men advancing forward. Although he could not recall being hit, he said that all punches were thrown by the Appellant, albeit he agreed that he made the first contact.

The Appellant's version is that he had heard Owers' comments and initially decided to let the matter lie. However, he subsequently decided to speak to Owers. He asked him to "come round the back so we could sort it out—not physically, but sort it out." It was his claim that Owers punched and shoved him, and that is when he reacted and threw punches. At that point they had both gone round the side of the building to "sort it out". As to the prior incident, the Appellant stated that this involved him making nasty verbal remarks for which he had apologised. As to the subject incident, he stated that he was apologising again for the way in which he conducted himself.

The incident occurred outside the kennelling area and an audience of some 50 people watched the altercation. The Appellant readily acknowledged to the inquiry that his actions were not appropriate and that, as an administrator and licensed person, he realised immediately the stupidity of his conduct. Before the inquiry, he and Owers exchanged mutual apologies and expressed their sincere regrets.

William Wright, a club director, was on duty cleaning kennels and doing weight on the scales. He heard the two men exchanging words and saw Owers give the Appellant what he described as "a couple of touches up the guts" with a clenched fist, "a couple of jabs". He separated them once, however they re-engaged. The Appellant retaliated to the jabs by throwing punches.

Phillip Bush, an identification steward, described his actions in seeking to prevent trouble. He claimed to have observed both men "trying to go at each other" as Mr Wright sought to restrain them. Bush picked up a chair to protect Owers, one of his best mates, and endeavoured to hit the Appellant. Bush considered his conduct to be

appropriate and had no regrets. The Appellant cannot be held responsible for the totally inappropriate conduct of Bush.

After hearing the evidence, the stewards charged both men with a breach of Rule 86(o). When charged, the Appellant entered a plea of guilty.

The Appellant addressed the stewards on the question of penalty. He pointed out that he had been a licensed trainer for some six years, and that training was a hobby, as was his breeding of dogs. He pointed out his involvement at an administrative level for the best part of 20 years and his participation in the industry for some 20 to 25 years.

This was the Appellant's first appearance before the stewards for any reason whatsoever. Apparently he had an exemplary record.

When questioned as to his role in administration, he told the stewards that he had worked as Operations Manager for the NCA, that he had served as the Racing Manager for the Newcastle Jockey Club, the Singleton Greyhound Club, that he had been Regional Manager for Racing NSW as well as serving as administrator for a couple of clubs on behalf of Racing NSW, and that he was the Secretary of the Dubbo Turf Club until twelve months prior to the incident. Additionally, he worked in the media with 2KY, dealing with thoroughbreds. He pointed to his family situation, his infant child and the fact that his wife worked.

In considering the question of penalty, the stewards took into account that the Appellant had entered a guilty plea, that he had proffered an apology to Mr Owers, and that his evidence before the inquiry was forthright. They further took into account his good record. A matter, however, which concerned them was the gravity of the incident which had taken place and the image that it would have on racing. They recognised that he held a part-time position with 2KY which required him to attend a track on racedays, his good standing in the racing industry and the official positions that he had held.

The stewards have the duty to ensure that race meetings involve a pleasurable experience for patrons. Without their attendance and support, greyhound racing would wither and die. Neither they nor this Tribunal can ignore the loutish conduct of the Appellant in full public view, particularly as he was a licensed person.

With respect, this Tribunal endorses and embraces the stewards' remarks as to the necessity of imposing a penalty which will deter others from similar conduct. A high standard of propriety must be demonstrated by licensed persons.

The Appellant possessed a vast experience in all aspects of greyhound, harness and thoroughbred racing, as a participant, official and administrator. He well knew how seriously his stupid and aggressive conduct could be viewed by members of the public simply seeking a good day's entertainment and how gravely it would be considered by responsible race officials. He did not simply confront Owers, state his case and vent his indignation. He deliberately placed himself in a position where physical conflict was a real possibility.

However, it is to be noted that he did not instigate the physical violence. He rather ineptly retaliated by throwing seemingly ineffectual punches, in retaliation for the closed-fist jabs to his stomach.

The Tribunal has considered the detailed submissions put by the Appellant which particularise his lengthy contact with and participation in many aspects of racing, as an administrator and responsible official. It is to his credit that he gave a frank account before the stewards. He proffered an apparently genuine apology to Owers. The Tribunal has no doubt that he regrets his conduct, which the Tribunal considers to be a one-off incident unlikely to be repeated.

Just as a bad record is relevant on the question of penalty, a person of previous good character who has been a real contributor to the sport is entitled to have called into account his exemplary record. He has suffered a significant penalty already in that he has dispossessed himself of five greyhounds, and to date has lost some \$2,500 by way of income he would have received from 2KY.

Despite the serious breach of the rule, the Tribunal considers that the appropriate penalty is a disqualification for three months. Such disqualification is to commence on 25 April 2009 and is to expire on 24 July 2009.

The appeal deposit is forfeited.

24 June 2009

J. C. McGuire, Judge