

TASMANIAN RACING APPEAL BOARD

Appeal No 20 of 2014/15

Panel:	Mr T Cox (Chair) Mrs K Brown	Appellant:	Mr P Ashwood
Appearances:	Mr D Hayes on behalf of the appellant Mr A Crowther on behalf of stewards	Rule:	Australian Harness Rule AR231(2)
Heard at:	Launceston	Penalty:	Two \$200 fines
Date:	30 July 2015	Result:	Penalty varied to one \$200 fine

REASONS FOR DECISION

1. The appellant was the driver of *Call the Marshall* in Race 6 – the Lees Orchard Discretionary, 2,200m - at Launceston Pacing Club on 21 June 2015. Following the race the appellant and another driver, Dylan Ford, entered into a heated verbal altercation that occurred shortly after the drivers passed the winning post, and continued for a short period of time. The race was televised on Sky Channel and the exchange was captured during the course of that telecast. The exchange was also audible to the Chairman of Stewards, although the exact content of the exchange was not determined.

2. After the appellant left the track and while making his way through the mounting yard a further exchange occurred between the appellant and Mr Nathan Ford. Again, the exchange was heated and occurred in the presence of a number of industry participants.

3. A subsequent stewards' inquiry was conducted. The stewards levied two charges of misconduct against the appellant for participating in each of exchanges. The complaint for each breach was simply that the appellant participated in a heated exchange. The stewards, quite properly, could not determine what exactly had been said by any of the men. The appellant pleaded guilty to both charges and was fined \$200 for each breach of the rules.

4. Before this Board, the appellant contended that the fines, in combination, were excessive and not warranted having regard to the following matters:

- (a) this Board should view the conduct as a single course of conduct, which does not warrant the imposition of two separate fines;
- (b) the appellant has been in the industry for some 29 years with only two relevant breaches under this rule. The first of those breaches occurred in November last year and resulted in a reprimand. There was also an earlier breach in 2008 which resulted in fines totalling \$700.

5. In response, the stewards contended that it was appropriate, in the circumstances identified above, to levy two charges and impose separate fines for each breach of the rules. Further, the stewards contended that a fine in the sum of \$200 for each offence was on par for like offences.

6. In our view, it is preferable to view the exchanges as occurring as part of a single course of conduct. It was an altercation that started after the race and continued for a short period until the

appellant had passed through the mounting yard. The subject matter of the altercation is not altogether clear, but what is clear is that it fuelled both altercations.

7. The conduct was inappropriate, but far from grave. Regrettably the first exchange was televised and may have been seen by a large audience. Thankfully, the content of what was said in the first exchange was not captured by audio.

8. The appellant should have simply ignored the comments made by the other men. Because he did not, it was necessary for the stewards to impose a fine, having regard to the appellant's conduct and, in particular, the fact that part of it was captured on television and the another part of it seen by a number of industry participants. However, and taking into account the all of the above matters, we consider that a fine in the sum of \$200 more accurately reflects the totality and gravity of the appellant's conduct.

9. In the circumstances, the appeal will be upheld and the appellant will be fined the sum of \$200.

10. In accordance with Section 34(2) of the *Racing Regulation Act 2004* his deposit will be returned to him.