

TASMANIAN RACING APPEAL BOARD

Appeal No 8 of 2014/15

Panel:	Mr Tom Cox (Chair) Mr Graham Elliott Mr William Burnett	Appellant:	Mr Nathan Ford
Adviser:	Mr David Arnott		
Appearances:	Mr Ian Swain on behalf of the appellant Mr Adrian Crowther on behalf of stewards	Rule:	Australian Harness Rule AR163(1)(c)
Heard at:	Launceston	Penalty:	A 4 race date suspension
Date:	25 November 2014	Result:	Dismissed

REASONS FOR DECISION

1. The appellant, Mr Ford, was the driver of *Star Chamber* which raced in race 6 over 2200 metres at the Launceston Pacing Club meeting on 5 October 2014. A stewards' inquiry was commenced at that race meeting and concluded on 26 October 2014. Stewards subsequently charged Mr Ford with a breach of AR163(1)(c), which states:

“A driver shall not – allow the driver’s horse or the sulky or any part thereof to shift inside or make contact with the marker post.”

2. The stewards' race day report from the meeting held on 26 October 2014 stated that:

“Stewards concluded an inquiry relating to STAR CHAMBER contacting and racing inside marker pegs on the home turn. After taking evidence from drivers Nathan Ford (STAR CHAMBER), Rohan Hillier (BEEF CITY BEAU) and Christian Salter (SPOT NINE) Mr Ford pleaded not guilty to a charge under AR 163(1)(c), the particulars being that he allowed his sulky to contact and race inside marker pegs when pursuing an inside run between the 400 and 300 metres. Mr Ford was found guilty of the charge and after hearing submissions on penalty his licence to drive in races was suspended for four race meetings, commencing at midnight 26 October 2014 and expiring at midnight 16 November 2014. In determining penalty Stewards took into consideration Mr Ford’s not guilty plea, that it was his first offence under this rule and also the serious nature of the offence which also resulted in the horse being disqualified from the race.”

3. The appellant contends that as the field approached the home turn, Mr Salter, on *Spot Nine*, drifted up the track allowing Mr Ford a clear run on the inside. Although Mr Ford maintained that the run which was available was of sufficient width to allow both his horse and sulky room to advance, there is no dispute that Mr Ford's sulky contacted a number of marker pegs and, for part of the turn, was inside the marker pegs. This was so for the simple reason that there was insufficient room for Mr Ford's horse and sulky to remain in a running line without contacting or shifting inside the marker pegs.

4. We do not accept Mr Ford's claim that there was sufficient room for him to embark on the course he did. The footage showed and the stewards' evidence, along with the evidence of

Mr Salter, confirmed that there was not enough room for the sulky. Mr Salter summed up the situation in his evidence, as follows:

“Can I just speak frankly about this ... clearly there is not enough room for a sulky, but there is clearly enough room for the horse to get in there.”

5. Rule 163(1) and (2) are clear in their design. The rule is designed, in the first part, to discourage drivers from allowing a horse driven by them, or its sulky, from travelling inside the marker pegs and, in the second part, to require drivers to take specific steps to remedy that situation quickly if it occurs.

6. There is no dispute that Mr Ford allowed his horse and sulky to shift inside the marker pegs and, in the process, contact them. It is equally clear that having found himself inside the marker pegs Mr Ford decided not to restrain the horse and, without interference to another runner, regain position in the true running line at the first opportunity. That is what rule 163(2) required. At no point did he seek to restrain his drive. The appellant did not assert otherwise.

7. In our view, there is no merit to the appellant’s contention that he was not in breach of rule 163.

8. As a result of the breach of this rule, stewards imposed a suspension of four race meetings. In addition, the horse was disqualified pursuant to rule 66 and Mr Ford suffered further loss as a result.

9. The penalty imposed by the stewards was substantial, but not one which this Board is inclined to interfere with. This was a serious offence for it involved risk of injury to horses and drivers and resulted in Mr Ford obtaining an unfair advantage. It may be said that the manoeuvre saved little distance. However, by performing the manoeuvre Mr Ford obtained a better position in the race by racing inside the pegs. He and his drive may have won the race by taking alternative action, as required by rule 163(2). To speculate about that is of little help. What is known is that by taking the course he took, in contravention of rule 163, he obtained a position he was not entitled to take. No doubt, it was for this reason that rule 66 was invoked and the horse disqualified.

10. For these reasons, the appeal is dismissed.

11. Pursuant to s34(2)(e) of the *Racing Regulation Act 2004*, 50% of the prescribed deposit is to be forfeited to the Secretary of the Department and the appellant is to pay the Secretary of the Department 50% of the costs incurred in preparation of the transcript.

12. Pursuant to s.34(1)(B) the decision is to take effect immediately.