

TASMANIAN RACING APPEAL BOARD

Appeal No. 08 of 2021-22

Panel:	Dr Kim Backhouse (Chair) Ms Wendy Kennedy (Member) Mr Rod Lester (Member)	Appellant:	Mr Barrie Rattray
Adviser:	Nil		
Appearances:	Steve Shinn on behalf of the stewards Mr Barrie Rattray	Rules:	Australian Harness Racing Rule 231(2) A person shall not misconduct himself in any way.
Heard at:	Virtually via Microsoft Teams	Penalty:	Fined \$1000 fine with \$500 suspended for 24 months
Date:	Thursday 20 January 2022	Result:	Penalty varied to a fine of \$400.00

REASONS FOR DECISION

1. Mr Barrie Rattray was charged under AHRR 231(2) as a result of an incident at Launceston Pacing Club (LPC) on 28 November 2021.

2) a person shall not misconduct himself in any way.
2. The charge was that Mr Barrie Rattray approached licensee Mark Yole and called him a 'low life maggot', among other words.
3. The appellant, Mr Barrie Rattray has appealed against the penalty imposed upon him by stewards following an inquiry during which he pleaded guilty to a charge under 231(2) of the Australian Harness Racing Rules on the basis that the penalty is 'excessive and not consistent with similar incidents'.¹

¹ Notice and Grounds of Appeal dated 3 December 2021.

BACKGROUND

4. A Stewards' inquiry was held on 28 November 2021 at the LPC.
5. At the Inquiry into the misconduct by Mr Barrie Rattray at the LPC, on 28 November 2021, the Chair Mr Shinn noted that any licensee 'should be able to conduct their professional duties without being abused and without fear of being abused...'.²
6. This inquiry established that Mr Mark Yole formally complained to the stewards in relation to Mr Barrie Rattray calling him a 'filthy little maggot'.³
7. The stewards noted at the Inquiry that Mr Barrie Rattray had a charge to answer for under AHRR 231(2) which states that a person shall not misconduct themselves. Mr Barrie Rattray pleaded guilty.
8. Mr Barrie Rattray was fined the sum of \$1000.00 with \$500.00 suspended for 24 months on the provision that he does not reoffend under this Rule during this time.

APPEAL

9. Mr Barrie Rattray appealed the penalty he received for the breach of AHRR 231(2) based on it being "excessive and not consistent with similar incidents".⁴
10. The appellant was afforded the opportunity to present their case to the Panel members. In a similar vein, Mr Shinn on behalf of the Stewards was afforded the opportunity to discuss evidence from the race meet and Stewards' inquiry held on 28 November 2021.
11. Mr Barrie Rattray submitted that he was guilty of the charge and that he regretted using reference to the word 'maggot'. He noted that at no stage did he threaten Mr Yole.
12. Mr Barrie Rattray noted other misconduct matters with lower fines and on that basis, he believed that the penalty was excessive.
13. Mr Barrie Rattray further submitted that he since resigned as industry president for BOTRA and young driver mentor, as he felt that his behaviour on the day after this incident was inappropriate and not representative of a leader.
14. Mr Shinn provided a verbal submission to the Panel on behalf of the stewards.

² Record of Inquiry into the misconduct by Mr Barrie Rattray at the LPC Meeting on 28 November 2021, at page 10.

³ Mr Rattray evidence in the Record of Inquiry into the misconduct by Mr Barrie Rattray at the LPC Meeting on 28 November 2021, at page 5.

⁴ Notice and Grounds of Appeal dated 3 December 2021.

15. Mr Shinn highlighted Mr Barrie Rattray's behaviour and that he purposely sought out Mr Yole and conducted himself in an aggressive manner towards Mr Yole. The effect of this behaviour on Mr Yole was negative and upsetting given his history of mental health issues.
16. Mr Shinn confirmed the view based on the evidence before the Panel that Mr Barrie Rattray had breached AHRR 231 (2) and was of the view that the penalty was reasonable under the circumstances.
17. Mr Shinn and Mr Rattray both referred to several misconduct cases (including Pullen's matter) from 2019 including a variety of penalties and noted that the stewards take each case on its merits.
18. Mr Shinn argued that Mr Barrie Rattray was not remorseful and this penalty was 'not excessive'.
19. The Panel spent considerable time listening to the submissions by both Mr Shinn and Mr Barrie Rattray.
20. The Panel considered the following matters are of particular relevance in determining penalty:
 - i. Mr Barrie Rattray was remorseful for his inappropriate behaviour and as a consequence of his behaviour were to stand down from two leadership positions within the industry immediately including: his long-term role with BOTRA and his role as the Young Driver Mentor;
 - ii. Recent misconduct matters within the Tasmanian Racing Industry;
 - iii. Mr Barrie Rattray's excellent reputation within the industry;
 - iv. Mr Barrie Rattray had a solid record within the industry;
 - v. Mr Barrie Rattray has no recent misconduct offences;
 - vi. Consideration of other penalties imposed for similar misconduct matters within the Tasmanian Racing Industry;
 - vii. The negative impact on Mr Yole from Mr Barrie Rattray's behaviour; and
 - viii. The appellant's extensive time in the industry, his near unblemished record and the high regard in which he is held within the industry.
21. The Panel determined that the appellant's appeal against penalty is varied to a fine of \$400 only.
22. In accordance with section 34 of the *Racing Regulation Act 2004* the Board orders that 25% of the appellant's deposit be forfeited to the Secretary of the Department and the appellant is ordered to pay to the Secretary of the Department 25% of the cost of preparing the inquiry transcript.

Date: 14 February 2022