TASMANIAN RACING APPEAL BOARD

Appeal No 09 of 2024-25

Panel:	**Mr Patrick O'Halloran (Chair)**	**Appellant:**	**Mr Mitchell Ford**
Adviser:	**Mr Mike Stiles**	**Rules:**	**AHRR 149(2) Unacceptable drive**
Appearances:	**Mr Neil Finnigan on behalf of Stewards**		**Mr Adrian Hall on behalf of the appellant**
Heard at:	**Conference Room Office of Racing Integrity Prospect Government Offices 171 Westbury Road Prospect TAS**	**Penalty:**	**Suspension of 5 Tasmanian race dates**
Date:	**24 January 2025**	**Result:**	**Varied – 6 Tasmanian Race dates with 1 wholly suspended for 6 months**

EDITED ORAL REASONS FOR DECISION

1. This is appeal number 9 of 2024-25 of Mitchell Ford - an appeal lodged 18 December 2024 in relation to the imposition of a penalty of 5 Tasmanian race dates in regard to a breach of AHRR 149(2). Subsequent to the lodging a stay was sought and granted.

2. The initial notice of appeal lodged sought to appeal against conviction and penalty. Within the substantive appeal listed on 24 January 2025, leave was sought by the appellant's representative to amend the appeal type to one of penalty only. With no prejudice asserted and in the absence of opposition such leave was granted by the Board. That being the case the determination for this Board was in regards to that of penalty and penalty only.

3. In the assessment or determination of the review of that penalty, we proceed on the factual basis that the relevant driving occurred as recorded and particularised within the Stewards report of 15 December 2024, under the heading supplementary report, Launceston Pacing Club, Sunday 1 December 2024, which summarised the inquiry that commenced on 1 December, the nature of the inquiry that was held on 15 December, the rule breach that was laid on that date, the particulars of that rule breach, as is provided there and the penalty imposed, but relevantly to this determination the factual basis for the penalty, is the basis on which proceed today.

4. That report relevantly provided

   Stewards concluded their inquiry into the handling of SHES A TINY DANCER by driver Mitch Ford in Race 5, the 6TY Bandbox, conducted on Sunday December 1, 2024. Stewards opened the inquiry on the evening of the race, taking evidence from

driver Ford and reviewing the official race footage. During the inquiry driver Ford contested that a gear malfunction, that being the tip of the nearside lugging pole had lodged in the ring on the extension bit, had made SHES A TINY DANCER difficult to drive both in restraining and manoeuvrability, however on review Stewards refuted this argument as driver Ford had clearly shown that although SHES A TINY DANCER was keen in running he was able to restrain the filly to the required level to allow SWIATEK LEIS to take the lead near the 1100, and secondly, whilst racing between the 600 and on to the final turn, driver Ford easily moved SHES A TINY DANCER wider on the track and then again back to the inside line. Stewards also took into consideration a later incident where driver Ford had failed to keep or even attempt to keep, SHES A TINY DANCER on the course proper over the concluding stages, racing inside the line of markers, which had brought about the disqualification of SHES A TINY DANCER at an earlier inquiry. Stewards after considering all before them issued a charge against driver Mitch Ford under Australian Harness Racing Rule 149(2) which reads: -

"A person shall not drive in a manner which in the opinion of the Stewards is unacceptable"

With the particulars of the charge being, firstly after racing in an inside line position leading up to the 600, driver Ford eased SHES A TINY DANCER out into the one-out line, however on approaching racing on the final turn he elected to move back to the inside, into a position that left him covered up with no clear running, effectively driving for luck, which did not eventuate, and secondly, once in this pocket, in behind the leader SWIATEK LEIS, driver Ford failed to keep, or to at least, attempt to keep, SHES A TINY DANCER from racing to the inside of SWIATEK LEIS, thereby leaving the course proper, racing inside markers over the concluding stages, which subsequently brought about the disqualification of SHES A TINY DANCER.

On being charged, driver Ford immediately asked for an adjournment, which was granted, primarily due to him being a concession driver who is entitled to have an advocate present if desired, indicating he would be seeking advice from TasRacing appointed concession driver advocate Mr Neville Webberley before the resumption of the inquiry.

At tonight's reconvening, driver Ford confirmed he had spoken with Mr Webberley since the adjournment, and tonight was supported by Mr D Ford. Stewards, after hearing from both driver M Ford and his advocate D Ford, confirmed the original charge. Driver Ford, after consultation with his advocate, pled not guilty. Stewards, after hearing further submissions in support of his not guilty plea, found him guilty as charged. Finally, Stewards after being addressed on penalty, taking into consideration similar breaches of AHR Rule 149(2) and driver Ford's acknowledgment of his error over the concluding stages of the race in question, suspended his licence to driver for five (5) Tasmanian Race dates.

5. Within the substantive appeal Mr Hall, for the appellant, submitted without objection new information that (i) subsequent to the race on 1 December 2024 (that is the race in which the appellant's driving lead to this instant appeal), and (ii) subsequent to the filing of the appeal on 18 December 2024, the appellant had had imposed on him, in regard to driving on 17 January 2025, a 4-race meeting suspension for a breach of AHRR 163. He further submitted that, in practical terms, that that suspension would come into effect on or about the 25 January 2025.

6. In consideration of that timeline the primary submission on behalf of the appellant, was that
    a. in the circumstances of the listing date of this appeal, and
    b. cognisant of the fact that the abandonment of the conviction appeal meant there was no power for this Board (under the legislation that applied at the time of hearing the substantive appeal) to impose any further stay on the 5 race meeting suspension, and
    c. in consideration of the imposition of a 5 race meeting suspension and the imposition of a 4 race meeting suspension imposed in January 2025 and
    d. the requirement under rule 257 of the presumption for any penalties to be served cumulatively

    resulted, in practical terms, that the appellant would be required to serve a cumulative or total suspension period of 9 Tasmanian race meetings.

7. Based on those considerations and practicalities it was Mr Hall's further submissions that when looking at how the penalties would be required to be served, with reference to the legislation and his characterisation of those requirements in total, the circumstances of Mr Mitchell Ford in totality, including his race driving history and his age and the concept of totality, such an outcome in the circumstances of this case would result in a crushing or overwhelming totality of penalties against Mr Ford.

8. In terms of the circumstances more directly personal to Mr Ford, Mr Hall provided some candid and frank submissions in regard to 'the penny dropping' relating to Mr Ford's awareness of the need to balance competitiveness with other aspects of professional driving that are required of him. Mr Hall also pointed to the overarchingly high level of engagement the appellant has had within the driving seasons of 2022-2023, 2023-2024. He further asked this Board to consider the offence report which appears in the appeal papers within the context of both his youth, skill, level of experience and the frequency of his driving.

9. Whilst not addressed by the appellant the Board observes that, quite aside from the timeline of the occurrence of the recent racing events and the personal antecedents of the appellant, such a submission did not directly acknowledge that it was the appellant himself and the appellant alone, who had by his actions created the events that directly lead to the imposition of each of the respective penalties.

10. Mr Finnigan, in relation to the frequency of the appellant's driving submitted without objection from Mr Hall that the total number of drives exceeded at least one thousand in the last 3 year period, 471 starts in 2022, 288 starts in 2023 and 281 starts in 2024. Mr Finnigan further submitted that it was the maintained position that a penalty of 5 Tasmanian race dates in the circumstances as they were, in December 2024 was an appropriate penalty.

11. Both parties have expressed a willingness and a capacity to engage in further consultation with each other with an overarching view to address any potential increasing number(s) of appearances Mr Mitchell Ford is having or may have in the future, before the Stewards. Any such expressions by an appellant in these circumstances should count in his favour – however any such expression would ordinarily need to be followed by actions.

12. The board's determination is that the penalty will be varied. The total effective penalty for Mr Mitchell Ford to be, as of 24 January 2025, is 6 Tasmanian race meetings, with 1 Tasmanian race meeting suspended for a period of 6 months.

13. Within that six month period the appellant may wish to avail himself of the generous offer made on behalf of Stewards to engage with Mr Finnigan, but he does not have to. One would think with this successful appeal, and the assistance of his counsel and advocate Mr Hall, Mr Ford might not just be paying lip service to what he needs to do for better increased awareness of his obligations and responsibilities as a participant in the Harness industry.

14. There is no mandate or requirement from the board for Mr Ford to participate in the engagement with Mr Finnigan, however one would think that if one has a suspended race date hanging over his head for sixth months, that one might use that period to not only not commit further breaches but to take up the opportunity that Mr Finnigan has expressed within the appeal.

15. In real terms, Mr Ford's advocate has impressed upon us as a frank, candid person with some skill, who needs to re-calibrate some aspects of your involvement in this industry.

16. As the decision of the Stewards has been varied, the Board orders that the appellant forfeit twenty five percent of the prescribed deposit to the Secretary of the Department pursuant to s.99(4) and (5)(d).

DATED: 4 MARCH 2025