TASMANIAN RACING APPEAL BOARD

Appeal No 12 of 2016/2017

Panel:	**Kate Brown (Chair)** **Rod Lester** **Sue Martin**	**Appellant:**	**Patricia Quarrell**
Appearances:	**Robin Thompson on behalf of Office of Racing Integrity**	**Decision to which this appeal relates:**	**To place conditions on a licence**
Heard at:	**Launceston**		
Date:	**30 March 2017**	**Result:**	**Dismissed**

REASONS FOR DECISION

1. On the 30th of March 2017, the Tasmanian Racing Appeal Board heard an appeal by Mrs Patricia Quarrel against a decision of the Director of Racing to grant her an owner trainer licence subject to a condition that allows her to train no more than two horses at any time. The grounds of the appeal were:

   "Two horses in work at one time is too restrictive as horses are prone to injury etc. Several of the horses are already 5year olds and will be disadvantaged in balloting if they don't get started. Two horses is not enough work for my rider – who does not want to ride elsewhere."

2. The appeal was brought pursuant to s.28A of the *Racing Regulation Act 2007* which provides that a person may appeal a decision of the Director to impose conditions on the person's licence or registration, granted or approved under the Rules of Racing. The Board had regard to
   a. The application for a trainer's licence completed by the appellant and received by the Office of Racing Integrity ("ORI") on the 5th of December 2016;
   b. The "Questionnaire" completed with the document in a. above;
   c. A National Police Certificate pertaining to the appellant, current to 22 December 2016;
   d. Letter from the ORI to the appellant dated 1 February 2017;
   e. Thoroughbred Stable Inspection Report (undated and completed by person unknown);
   f. Letter from ORI to the appellant dated 1 March 2017; and
   g. Letter from ORI to the appellant dated 9 March 2017
   h. Two pages printed from the internet on the 28 March 2017 which were tendered on the basis that they contained a story published in the Examiner newspaper on the 10th of August 2012 pertaining to an animal welfare conviction apparent on the document in c. above;
   i. A document headed "New Beginnings" written by the appellant.

3. The Board also heard further evidence and submissions from each of the parties. Before moving to that, it is appropriate to note that the method of evidencing the factual basis of the conviction of the appellant, which was key to the placing of the condition on her licence, was less than ideal. A newspaper article represents the report of a person who may or may not have been present in court and may or may not properly reflect the evidential material before the court on the day in question. The Board took the appellant through the article and heard from her with regard to which of the facts asserted therein were accepted by her as an accurate representation of what occurred in court that day and formed the basis of the sentencing process on that occasion. A more appropriate manner of evidencing that conviction would have been to obtain a transcript of proceedings of that day from the Magistrates Court, and a copy of any documentary material available to the Magistrate.

4. Based on the appellant's evidence and National Police certificate, the Board accepts Mrs Quarrell was convicted on the 10th of August 2012, when she pleaded guilty to a charge of cruelty to animals. She had legal counsel when entering that plea. She was fined $3000 and ordered not to have more than thirty adult horses on her property at any time.

5. The factual basis of that conviction was that in November 2010 the appellant had a heavily pregnant mare, "Scenic Wonder" in her care which was suffering from laminitis. The vet who attended had suggested that the horse ought to be euthanased. Some seven months later a complaint was made to the RSPCA that a horse (later identified as Scenic Wonder) was lying in a paddock belonging to the appellant and was apparently unable to stand. The RSPCA investigated the complaint and determined that the laminitis at this stage was so severe that the horse was removed from the property and euthanased two days later.

6. The appellant's further evidence and submissions included:
    a. That a veterinarian visited the property two days prior to the date the mare was due to foal and was of the opinion that the mare was unlikely to have a live foal due the severity of her laminitis. The appellant was reluctant to euthanase the mare at this time as the mare was so close to term and instead gave the mare anti-inflammatory medication. The mare had a live foal three days later;
    b. That the same veterinarian checked the foal when it was about 6 weeks old and did not advise the appellant at that time to euthanase the mare;
    c. That at the time the horse was seized by the RSPCA the veterinarian told the RSPCA that the mare should have been euthanased months earlier but the veterinarian did not say that to the appellant after the foal was delivered;
    d. That the complaint made to the RSPCA was made by 'vindictive' persons who she should not have been let onto her property;
    e. That through the period the mare was in foal the appellant was effectively house bound due to health issues which meant she was reliant on her husband who "is not a horse person" to keep her informed about the horses on the property. Had she been able to keep an eye on the mare herself the mare's condition may not have become so severe;
    f. That the Magistrate who sentenced her on that occasion said it was more a matter of her being misguided than cruel;
    g. That her husband wanted to put the mare down when the vet came on the first occasion but she thought that was "unfair" given the mare was about to foal;
    h. That both she and her husband were charged and she wanted her husband to plead guilty instead of her but the legal advice she received was that the RSPCA

would not proceed against her husband if she took responsibility and pleaded guilty;

i. That the lawyer who represented her on that occasion has since been struck off the roll of practitioners (in the document headed "New Beginnings" the appellant states she "was ill advised by a now defunct solicitor");

7. With regard to the conviction on the 27th of August 2014 for breaching the court order that she keep no more than thirty adult horses on her property, the appellant maintained that although on the 1st of August 2014, when an inspection was done, she did in fact have forty adult horses on the property, she said this was due to the fact that on this date a number of young horses were newly categorised as "adult" and that the RSPCA had deliberately taken advantage of this timing.

8. The appellant stated that although she was again represented in court on that occasion and entered a plea of guilty, she "did not mean to", however she agreed she had not appealed that conviction, although she had complained to the law society about that lawyer but gave no evidence about the outcome of that complaint.

9. The appellant relies on her long involvement in the thoroughbred racing industry: she had been training horses for about fifteen years and at one stage was the state's leading trainer for a period of thirteen weeks.

10. The Director of Racing did not adduce any further evidence but submitted:
    a. That a licence to operate in the racing industry is a privilege and not a right;
    b. That the racing industry must take animal welfare seriously: it depends on its "social licence" around welfare issues to survive;
    c. That by keeping the mare alive to give birth to and raise her foal, rather than having her euthanased prior to foaling, she put her own interests ahead of those of the animal;
    d. That the appellant's history as a licensed person indicates she has had difficulty appropriately maintaining her stables and complying with the steward's recommendations around stable maintenance issues;
    e. That it is not appropriate in all these circumstances to give the appellant an unrestricted licence at this stage, and that granting her a licence with restrictions gives her an opportunity to demonstrate she can work within the regulated environment of the racing industry.

11. At the conclusion of the evidence and submissions of the parties, the Board raised an issue around the eligibility of the appellant to obtain a licence on the basis of the preconditions set by TasRacing for the grant of the particular licence category. The hearing was adjourned to allow for the clarification of that. The Board is satisfied that although the drafting of the criteria is somewhat unclear, the appellant is otherwise eligible to obtain the licence which she sought.

12. Having regard to all of the evidence and submissions, the Board was not persuaded by the appellant's arguments relating to the licencing condition imposed on her restricting the number of horses she be allowed to train. Rather, the Board was satisfied that the condition imposed was responsive to the appellant's particular history, and that the Director had provided the appellant with an appropriate opportunity to demonstrate an ability to recognise the importance of animal welfare and compliance with industry standards to the racing industry.

13. The Board noted that the appellant has a history of not complying with stewards' directions around risk management and maintenance in her stables while being a licenced person. The licence condition will also give the appellant an opportunity to rectify this without undue risk to the horses in her care and the staff assisting with those horses.

14. The appeal is dismissed. Pursuant to s.34 of the *Racing Regulation Act* the Board must make an order regarding the disposal of the prescribed deposit lodged in the appeal. In making that order the Board must have regard to the matters set out in s.34(3). The Board is not satisfied that any of the aggravating factors set out in that section exist. Accordingly, the Board orders that 50 percent of the deposit be forfeited to the secretary of the department.