

# TASMANIAN RACING APPEAL BOARD

## Appeal No. 17 of 2020-21 – Jim Kefalas

**Outcome:** Dismissed for want of jurisdiction

A directions hearing was convened by the Chairperson of the Tasmanian Racing Appeal Board (the Board) on 5 May 2021 to hear from the parties as to whether the Board had jurisdiction to hear the appeal regarding the decision of stewards on 20 April 2021 to relegate BULLYS DELIGHT from first (1<sup>st</sup>) place to fourteenth (14<sup>th</sup>) place in Race 7 - Ladbrokes Tasmania Cup Final at Elwick on 13 March 2021.

Representing the appellants at the directions hearing were Mr. Jim Kefalas and Mr. Phil Winder (owners of BULLYS DELIGHT) and Mr. John Nicholson (trainer of BULLYS DELIGHT). Representing the stewards at the directions hearing was Mr. Dean Cooper.

Stewards argued that as the decision that was the subject of the notice of appeal concerned the relegation of a horse, rather than its suspension or disqualification, the decision was not one that was within the Board's jurisdiction. Mr Cooper referred to s.28(1) of the *Racing Regulation Act 2004* (the Act) in support of this submission.

The appellants argued that they understood that they would have a right of appeal, however, the Chairperson determined that the Board had no jurisdiction to hear and determine the appeal.

The Board is a creature of statute and can only exercise the jurisdiction which is provided to it under the Act. The Act provides that the Board has jurisdiction to hear appeals in relation to the following matters:

### **28. *Persons may appeal to TRAB about certain matters***

- 1) *A person may appeal to the TRAB if the person is –*
  - a) *aggrieved by the decision of Tasracing or a registered club to issue the person with a warning-off notice under section 54 ; or*
  - b) *aggrieved by the decision of the stewards to –*
    - (i) *impose a fine on the person; or*
    - (ii) *impose a suspension or disqualification on the person or on a horse or greyhound owned, leased or trained by the person.*

...

### **28A. *Other rights of appeal to TRAB***

- 1) *A person may appeal to the TRAB if the person is aggrieved by a decision of the Director to –*
  - a) *refuse to grant a licence, or approve a registration, under the Rules of Racing, of the person or a horse or greyhound owned, leased or trained by the person; or*
  - b) *refuse to register the person as a bookmaker or bookmaker's agent; or*

- c) *cancel or suspend the person's registration as a bookmaker or bookmaker's agent; or*
  - d) *refuse to endorse the person's certificate of registration as a bookmaker with an on-course telephone betting endorsement, an off-course telephone betting endorsement or an off-course function betting endorsement; or*
  - e) *cancel or suspend the person's on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement; or*
  - ea) *refuse under section 75C(4)(b) to issue to the person an off-course function approval; or*
  - eb) *cancel under section 64(1) or (2) or section 75D(1) an off-course function approval issued to the person; or*
  - f) *refuse to register a club of which the person is a member; or*
  - g) *cancel or suspend the registration of a club of which the person is a member; or*
  - h) *impose conditions on the person's licence, or registration, granted or approved under the Rules of Racing; or*
  - i) *impose conditions on the person's registration as a bookmaker or bookmaker's agent; or*
  - j) *impose conditions on the person's on-course telephone betting endorsement, off-course telephone betting endorsement or off-course function betting endorsement; or*
  - ja) *impose conditions on an off-course function approval; or*
  - k) *impose conditions on the registration of a club of which the person is a member; or*
  - l) *issue the person with a warning-off notice under section 54 ; or*
  - m) *impose a fine on the person.*
- 2) *A wagering operator may appeal to the TRAB if the wagering operator is aggrieved by a decision of Tasracing to –*
- a) *refuse to grant approval to the wagering operator to publish Tasmanian race field information; or*
  - b) *impose conditions, other than conditions referred to in section 54B(2)(a) and section 54B(2)(b)(i) , in respect of a race field information publication approval; or*
  - c) *cancel a race field information publication approval; or*
  - d) *vary the conditions, other than conditions referred to in section 54B(2)(a) and section 54B(2)(b)(i) , in respect of a race field information publication approval.*
- 3) *A person may also appeal to the TRAB if the person is –*
- a) *in dispute with a bookmaker regarding the placement, acceptance, payment, non-payment or amount of a bet; or*
  - b) *aggrieved, as a registered bookmaker or bookmaker's agent, by the decision of a registered club to withdraw its permission for the person to engage in bookmaking on a racecourse under its control.*

The decision the subject of the notice of appeal concerned the relegation of BULLYS DELIGHT pursuant to Australian Harness Racing Rule (AHRR) 174. As the horse was relegated, and not suspended or disqualified, the decision does not fall within the description of matters, and particularly those in s.28(1) of the Act, that are capable of being heard and determined by the Board. If the decision of stewards had been to disqualify the horse pursuant to AHRR 174, it would appear that the appellants would have had a right of appeal to the Board.

In those circumstances, the Chairperson determined that the Board had no jurisdiction to hear and determine the appeal.

The appellant's prescribed deposit will be returned to him.