

# TASMANIAN RACING APPEAL BOARD

## Appeal No 18 of 2022-23

<b>Panel:</b>	<b>Ms Kate Cuthbertson SC (Chair) Ms Amber Cohen Ms Wendy Kennedy</b>	<b>Appellant:</b>	<b>Mr John Tindall</b>
<b>Adviser:</b>	<b>Mr Rob Higgins</b>		
<b>Appearances:</b>	<b>Ms Tracy Canham (on behalf of the Stewards) Ms Susan Gittus (on behalf of the Appellant)</b>	<b>Rules:</b>	<b>GAR 123 Marring</b>
<b>Heard at:</b>	<b>Stewards Room Elwick Racecourse 6 Goodwood Road Glenorchy TAS</b>	<b>Penalty:</b>	<b>BAROQUE SERVE stood down for a period of 3 Months and until the completion of two satisfactory trials</b>
<b>Date:</b>	<b>19 July 2023</b>	<b>Result:</b>	<b>Dismissed</b>

### REASONS FOR DECISION

On 19 July 2023, the Board heard this appeal. It delivered its decision that day together with brief oral reasons. This decision sets out those reasons in full.

The appellant, Mr John Tindall, was the trainer of a greyhound BAROQUE SERVE. This appeal concerns race 8, the Surepick grade 5, on the 8<sup>th</sup> June 2023 that was held by the Hobart Greyhound Racing Club and relates to the racing conduct of BAROQUE SERVE.

During the course of the race and close to the finish line there was an incident which included contact between BAROQUE SERVE and another greyhound, LIGHTS OUT MICK. Stewards reviewed the race footage, noted the incident, and called for BAROQUE SERVE to be vetted. The vetting identified that BAROQUE SERVE had an injury to its outside shoulder. BAROQUE SERVE was stood down for a period of 10 days as a consequence of that injury.

Stewards further reviewed the footage and formed the opinion that BAROQUE SERVE had marred LIGHTS OUT MICK. As it was BAROQUE SERVE's third marring charge, pursuant to GAR127, BAROQUE SERVE was stood down for the mandatory period of 3 months and until the completion of two satisfactory trials

The appellant has appealed against the conviction, and in his notice of appeal says the following:

*“Nowhere in that race did the dog marr [sic] or fight. She is a noted wide runner and got to the outside of the tiring leader looking for racing room up the straight. She has been penalised on suspicion due to previous offences (that are very questionable). Rather than what actually occurred in the race.”*

During the course of this hearing the appellant was represented by Ms Gittus. She conceded that there had been contact between the greyhounds but said that BAROQUE SERVE did not intend to mar. She submitted that BAROQUE SERVE tends to drift up the track, that the contact between BAROQUE SERVE and LIGHTS OUT MICK was incidental contact and did not involve any intent to go for the other greyhound. She submitted that the whole of BAROQUE SERVE’s body remained in line and that any contact occurred during the course of its running. There was initial contact which caused it to be off balance and that the subsequent contact between the dogs was not intentional.

Stewards submitted that, having reviewed the race footage, they formed the opinion that it was a case of marring. They determined that the greyhound turned its head and made head and muzzle contact with LIGHTS OUT MICK. Further, although not necessary to establish a marring, Stewards formed the view that that contact between the dogs caused LIGHTS OUT MICK to be pushed out of its running line. According to Stewards, there was sufficient racing room for BAROQUE SERVE to get through to its position. It was pointed out that LIGHTS OUT MICK did not turn its head towards BAROQUE SERVE at any stage but was pushed off its own line.

The detection of an injury was relevant to any charge of failing to pursue, however not relevant to marring.

GAR 123 provides that:

*“Where, in the opinion of the Stewards, a greyhound is found to have marred during an Event, the Stewards must impose a period of suspension in respect of the greyhound pursuant to rule 127, which is to be recorded by them as part of the identification record.”*

The terms *mar* and *marring* are defined in the rules as follows:

*“the act of a greyhound which turns its head and makes head or muzzle contact with another greyhound.”*

Importantly the definition makes no reference to any intention of the greyhound. It is the combination of the greyhound’s act of turning its head and making contact with its head or muzzle with another greyhound that constitutes marring.

The Board has carefully considered the submissions of each of the parties to this appeal. The Board has also viewed very carefully the footage and has had the benefit of the assistance of the greyhound racing adviser, Mr Higgins, in relation to this matter.

The Board is comfortably satisfied that the footage of the race clearly indicates an occasion of marring. There is a clear turning of BAROQUE SERVE’s head towards LIGHTS OUT MICK and consequent muzzle contact with that greyhound. The Board does not regard BAROQUE SERVE’s turning of its head to be a consequence of earlier contact. The Board agrees with Stewards that BAROQUE SERVE had room to get up the track but made contact with LIGHTS OUT MICK before turning its head towards that greyhound, contacting it with

its muzzle. It is a clear case of marring. As a consequence, the appeal is dismissed and the decision of Stewards affirmed.

Pursuant to ss 34(1A) and (2)(a) of the *Racing Regulation Act 2004* (the Act), the appellant is ordered to forfeit fifty percent of the prescribed deposit. Further, pursuant to ss 34(4A) and (4B), the appellant is ordered to pay fifty percent of the costs incurred in the preparation of the transcript prepared in relation to this appeal.

**DATED: 1 September 2023**