APPEALS 503-505

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR D MOSSENSON (CHAIRPERSON)

APPELLANT:	TRAVIS ADAM BETTESWORTH
APPLICATION NO'S:	A30/08/503-505
DATE OF HEARING	25 SEPTEMBER 2000
DATE OF DETERMINATION:	7 DECEMBER 2000

IN THE MATTER of appeals by Mr TA Bettesworth against the determinations made by the Western Australian Turf Club Stewards on 22 May 2000 imposing:

1. **a 4 years disqualification for breach of ARR 175(h)(i),**
2. **a 12 months disqualification for breach of ARR 8(e) read with Local Rule 70B and**
3. **a 6 months disqualification for breach of ARR 175(gg).**

Mr TF Percy QC assisted by Mr S Davies, instructed by DG Price & Co, appeared for the appellant.

Mr RJ Davies QC appeared for the Western Australian Turf Club Stewards.

Background

These 3 appeals arise out of an inquiry of the Stewards of the West Australian Turf Club held on the 22 May 2000. The inquiry was into a report from the Australian Racing Forensic Laboratory in Sydney that a level in excess of 36mmol per litre of total carbon dioxide had been detected in the blood sample taken from STEFF before it ran in Race 6 at Pinjarra Park Race Course on the 10 May 2000.

The reserve blood tubes were sent to the Racing Analytical Services in Melbourne which reported a plasma total carbon dioxide level greater than 39mmol per litre.

Mr O'Reilly, the racecourse investigator, gave evidence before the Stewards that he and 3 Stewards visited Mr Bettesworth's property on 12 May 2000 to give him details of the notice of irregularity. In his report Mr O'Reilly stated that during the visit he heard Mr Bettesworth tell Dr Symons the Turf Club Veterinarian:

> *'...that he did not tube horses and that he did not have a tube at the property.'*

The report continued:

> *'I was present and participated in a search of Mr. Bettesworth's premises On entering the laundry with Mr. Bettesworth I observed a long wooden cupboard, a basin structure and a cardboard box, which had a top on it, in the corner of the room. I checked the cupboard before I turned to the cardboard box. On lifting the lid I observed a clear plastic tube and plastic funnel. A closer inspection revealed a bag of white powder and several plastic containers'.*

The contents of the bag was sodium bicarbonate powder. When asked what this was Mr Bettesworth replied:

> *'I have never seen it before. It is not mine. Someone must have put it there to set me up'.*

The box also contained a receipt for a quantity of bicarb power in the name of Mr Bettesworth. When asked about the receipt Mr Bettesworth acknowledged that the bicarb was his but that:

> *'... I don't know anything about the tube or funnel, I don't lock the laundry door and someone must have come in and placed them there'.*

A short time later Mr Bettesworth telephoned Mr O'Reilly and requested that he return to the premises. On Mr O'Reilly's return Mr Bettesworth stated:

> *'I would now like to change my statements made in relation to that box of equipment. The box belongs to me. It lives there. The bicarb I purchased from Bio-John, The tube and funnel I have had for a long time. I am an*

experienced horseman. I have been tubing horses since I was 17 years old. I lied at the time the Stewards were at my home because I was very nervous and beside myself. The reason the equipment is kept in the laundry is that I do not want anyone visiting the stables to see a tube and funnel in a bucket with bicarb. It would be pretty stupid. I didn't think the Stewards would search so thoroughly so I didn't get rid of the box. On Wednesday, 10 May 2000 I was shocked when advised that my horse STEFF was going to be pre-raced. I thought someone must have dropped me in. I have been shitting myself since the race because I thought there was a chance the reading would come back elevated. I thought also there was a chance the reading may have come back under. I haven't been able to sleep with worry. In the days leading up to the race at Pinjarra on Wednesday, I have been feeding STEFF a mixture of neutraliser, electrolytes and sodium bicarbonate in her feed. I should have realised that the bicarb content I was feeding STEFF would naturally elevate the TCO2 level. For a number of reasons including my current financial situation I decided to drench STEFF on the day of the Pinjarra race. …I have drenched STEFF on one previous occasion when she raced at Bunbury. It was the same mixture of bicarb and barrocca tablets, only a bit less in quantity. It was the 13 April 2000. On that occasion my girlfriend Jo helped me. She knows nothing. Not even that it is illegal. ….I am aware that it is illegal to produce a horse for racing with an elevated level of TCO2. You'd be a fool to say differently. I read the papers.'

Mr Bettesworth went on to explain:

'For a number of reasons including my current financial situation I decided to drench STEFF on the day of the Pinjarra race. …My motive for my actions was simply to win the prize money to pay my rent which is a month behind.'.

As a consequence the Stewards laid a hat trick of charges. The first was under ARR 175(h)(i) which states:

'The Committee of any Club or the Stewards may punish:

…

(h) any person who administers, or causes to be administered, to a horse any prohibited substance;

(i) for the purpose of affecting the performance or behaviour of such horse in a race or of preventing its starting in a race

(ii) which is detected in any sample taken from such horse prior to or following the running of any race.'

The particulars of that charge were:

'…that by your own admission you have administered a bicarbonate drench to STEFF prior to her competing in Race 6, the Terry Russell Handicap at Pinjarra Park on Wednesday, 10 May 2000, with a pre-race blood sample that was taken from the mare resulting in a level of TCO2 in excess of 36 mmol/L and that you have administered this drench with the purpose of affecting the performance of that mare.'

The second was under ARR 175(gg) which states:

'The Committee of any Club or the Stewards may punish:

…

(gg) any person who makes any false or misleading statement or declaration in respect of any matter in connection with the administration or control of racing.'

The particulars were:

'… that you gave false statements to Deputy Chairman of Stewards, Brad Lewis, when he questioned you about the notification of irregularity, and whether you drenched STEFF prior to it racing at Pinjarra on 10 May 2000.'

Finally, under ARR 8(e) with a breach of LR 70B. The first of those rules states:

'To assist in the control of racing, Stewards shall be appointed according to the rules of the respective Principal Clubs with the following powers.

…

(e) To punish any person committing a breach of the Rules or refusing to obey, or failing to obey any proper direction of any Official, or whose conduct or negligence has led, or could have led, to a breach of the Rules.'

This charge was put on the following basis:

'Now, we're charging you under that Rule, Mr. Bettesworth, with breaching LR.70B and that Rule, part (i) of that Rule states: "No horse, which has been nominated for a race or trial, may be stomach tubed within 24 hours of the commencement of such a race or trial, unless prior approval has been granted by the Stewards.'

Mr Bettesworth pleaded guilty to all charges. Before the Stewards considered the penalties Mr Bettesworth produced a personal statement which he read to the Stewards. The statement was in the following terms:

'On Wednesday, 10 May 2000, I Travis Bettesworth, made a very foolish mistake. This mistake was made out of desperation and for the well-being of my horse. I thought it to be reasonably common practice for racehorse trainers or vets to tube horses on the day of the race. I did not read my May calendar thoroughly and realise it was against regulations to stomach tube a horse within 24 hours of its engagement. I had read and heard it was being discussed but had seen no notices to say it had come into effect. I must now take responsibility and be punished for my actions in addition to dealing with my already tarnished reputation. I was not trying to defraud the public or set up a betting plunge or anything else sinister. I could currently be training around five or six horses but now only have one left with my owners waiting for today's outcome. I am currently renting a house and stables in Ascot and at a rate of $280 per week. I have no other job and I have no experience with any other line of work than that with horses. I was trying to set up a business as a professional racehorse trainer, now I must start again. The lease on my stables does not run out until October. I may now have to seek an early termination of this contract with the owners as I cannot keep this rent up without horses in the backyard. I don't want to go on the big sob story but I would hope that when assessing my penalty you could take these words into account. I have a completely clean record with the WATA and I will sign my name to any document in my defence that apart from this horse on two occasions, referring to STEFF, I have never tubed or treated in any other manner any of my other racehorses on or even close to their races before. I have four photos on my loungeroom wall of winners I have trained this season of which I am very proud. These horses went to the races on a balance of correctly planned work, quality feed and good management. Yours sincerely, Travis Bettesworth.'

The Stewards imposed penalties of 4 years, for the first charge, 12 months, for the second charge and 6 months for the third charge, all to be served concurrently.

The Appeal

The grounds of appeal are:

'A. PENALTY UNDER RULE 175(h(i)

1. The penalty of four years disqualification was manifestly excessive in all the circumstances of the case having regard to:

(i) The nature of the substance, the level detected in the horse, and the inconclusive evidence as to whether the horse's performance was enhanced,

(ii) The minor nature of the event and the outcome of it.

(iii) The absence of any significant betting transactions.

(iv) *The fact that the Appellant was a first offender in both racing and trotting.*

(v) *The Appellant's remorse and plea of guilty.*

(vi) *The amateurish nature of the commission of the offence.*

2. *Having regard to the factors set out in Ground 1 hereof, the Stewards erred in placing the offence into the highest category for offences of its kind.*

Particulars

(a) *Whilst there were some aggravating features to the case, it was not in the higher category of offending under the rule.*

(b) *offences falling into the highest category involve –*

(i) *high readings;*

(ii) *successful outcomes;*

(iii) *large scale betting;*

(iv) *feature races;*

(v) *serious loss to the public, and*

(vi) *a high degree of professionalism.*

3. *The penalty of four years disqualification was manifestly excessive having regard to penalties recently imposed by the Stewards and by this Tribunal for similar offences.*

B. *PENALTY UNDER LR 70B*

4. *The penalty of one year disqualification was manifestly excessive having regard to the factors set out in Ground 1 hereof.*

5. *The penalty was also excessive having regard to the fact that the rule was very new and no date of effectiveness had then been published.*

C. *PENALTY UNDER RULE 175(gg)*

6. *The penalty of six months disqualification was manifestly excessive in all the circumstances of the case having regard to the factors set out in Ground 1 hereof.*

7. *The penalty was also excessive as it failed to adequately reflect:*

(i) *the fact that the misleading statement was retracted shortly after it was made; and*

(ii) *the fact that the statement was not made to an inquiry.*

8. *The penalty was also excessive having regard to other penalties imposed by the Stewards and by this Tribunal for similar offences.'*

The Administration Offence

Senior counsel for the appellant concedes at the outset that a period of disqualification was appropriate for the administration offence. Further, he admits there are aggravating circumstances. The administration was carried out

to make a profit by improving the horse's prospects of winning and Mr Bettesworth had previously tubed a horse. But then a persuasive argument follows on each aspect of the appeal grounds supported by fairly comprehensive written submissions. I have closely considered all of the arguments raised including the written submissions. I now summarise the more significant of them.

The penalty of 4 years disqualification is said by Mr Percy QC to be manifestly excessive having regard to the wide range of factors specified in the grounds. It is argued the level detected of 37.8mmol/L, only marginally exceeded the limit provided under Rule 178C(a) and there is inconclusive evidence as to whether the horse's performance was enhanced. It is said that there was no evidence before the Stewards that TCO_2 is a performance enhancing substance and as to the effect of a marginal elevation of the level of TCO_2 on a horse's performance. Dr Symons' evidence at p14 of the transcript is relied on in that it merely states that:

> *"...alkalinising agents act on the muscular system, neutralise lactic acid produced by exercise, they act on the digestive system as an antacid and they also act on the uro-genital system as an alkaline diuretic."*

It is submitted that were the Stewards intent to impose a punishment consistent with there having been an enhancement of the horse's performance then that fact ought to be proven in evidence. The race was a minor provincial race of inconsequential stake money. There was no evidence of serious fraud. The appellant was a young first offender having been a licensed trainer with the WA Turf Club for about 15 months and a licensed trainer with the WA Trotting Association for about 6 years. After a brief initial denial Mr Bettesworth cooperated fully with the Stewards, signed a statement as to his guilt and entered a plea of guilty at the first opportunity. Although he initially denied any knowledge of the tube, bag of bicarbonate, funnel and cup found in the laundry of his home when first questioned by the racecourse investigator the misleading statement was retracted shortly after it was made. Mr Bettesworth is remorseful, acknowledging the error of judgment on his part, and is highly unlikely to reoffend.

In view of these factors it is said the Stewards erred in placing the offence into the highest category for an offence of its kind. Whilst there are some aggravating features to the case, it is argued it is not in the highest category of offending under

the Rule. Offences falling into the highest category involve high readings, successful outcomes, large scale betting, feature races, participation of other parties in the commission of the offence, serious loss to the public and a high degree of professionalism. Further, having regard to penalties imposed by the Stewards and the Tribunal for similar offences, Mr Bettesworth's was manifestly excessive. It is argued the relevant factors are considered in the case of *Lalich* (Appeal 368) which ultimately resulted in a period of 2 years disqualification. It is said that was manifestly a more serious case than the present one, particularly in the light of the not guilty plea. On the basis of *Lalich* the penalty of 4 years disqualification is well outside the proper range of penalties for the offence in question.

By way of reply Mr Davies QC for the Stewards argues that, whereas in the *Lalich* matter because of the travelling time administration could not have been done at home, this was a case where the administration was able to occur in the privacy and secrecy of Mr Bettesworth's stable. The timing of the administration could be calculated to achieve maximum benefit. Further, the prospect of getting away with it is enhanced. It is put to the Tribunal that there is a vast difference between administration and presenting offences, a point which it is submitted was not properly drawn out in the *Lalich* determination. Mr Bettesworth admitted administration of a performance enhancing substance for an improper purpose which was carried out in circumstances where the likelihood of it being detected was reduced. Those circumstances it is claimed made it inappropriate to compare the seriousness of this offence with run of the mill bicarbonate cases. The full background circumstances were known to the Stewards. The offence occurred some years after the *Lalich* offence at a time when the Stewards were entitled to take a stand to protect the integrity of the industry with a 'flag waving penalty'. The Tribunal was invited to take into account what the Stewards were trying to achieve at a time when these offences were occurring far too commonly.

Conclusions on the Administration Offence

It is clear from my reasons in *Lalich* that TCO_2 in excess of 36 mmol/L is regarded as a serious potent performance/behaviour affecting substance. Mr Bettesworth made the conscious decision to use it for the purpose of enhancing the horse's prospects of winning. In *Lalich* (from page 12 onwards) I referred to previous examples of penalties. Clearly the penalty imposed on Mr Bettesworth is much higher than any

of the penalties referred to in *Lalich.* This includes the *Lalich* penalty itself which originally was a 3 years disqualification which was reduced on appeal to 2 years.

Like *Lalich,* the present appeal is not comparable with the other cases which are presenting cases. Presenting cases are not normally as serious as is this one. This offence is one of these rare situations where the precise facts and circumstances of the administration are known to the Stewards and can be fully evaluated. I fully agree with Mr Davies QC that this is not a run of the mill case.

The essential question is whether it has been shown that the Stewards erred in imposing a penalty twice as long as that ultimately imposed in *Lalich.* In the 2 cases both trainers deliberately and unlawfully attempted to gain an advantage. Clearly such behaviour cannot be tolerated by the racing industry. Both can be categorised as amongst the *'worst type of administration offence'.* They involve deliberate acts on the trainers' behalf in circumstances where, but for an element of good fortune, there were reasonable prospects that the trainers could well have perpetrated the administration without being caught. Despite that at the same time I do accept Mr Percy QC's argument that additional factors, such as a betting plunge, could make such an offence all the more serious and warrant an even stiffer penalty than 4 years.

In order to reach a conclusion whether the Stewards erred in imposing the 4 year penalty one must carefully consider and evaluate all of the wider range of relevant factors. This is far from an easy task. There are competing interests to be considered. On the one hand are the rights of the trainer. On the other hand are the industry and public interest factors. Both must be carefully weighed and balanced. All factors must be looked at in the light of penalties previously imposed, always bearing in mind what is considered appropriate to suit the particular circumstances of each individual case.

There can be no doubt there is simply no place in racing for trainers plying competing horses with prohibited substances. The Stewards must be supported in their fight against such illegal practices in the sport. Any drug administration to a competing horse clearly undermines the integrity of the industry and needs to be addressed by the authorities with very stiff penalties. As stated earlier in this case, the trainer here has acknowledged that his motivation was to win the prize money

to help with his personal financial circumstances. This element of a deliberate act is clearly an aggravating circumstance. To make matters worse the trainer tried to cover things up initially by telling lies. However, very soon after that he did exhibit remorse and cooperated fully with the authorities. What then is the appropriate sentence?

In view of the nature of the substance, the effect that it can have on horses depending on the timing of the administration and the distance of the race, coupled with the improper motivation behind this particular administration, I am not convinced that grounds 1 and 2 should be upheld. I say this even though I acknowledge the seriousness of the offence would have been even more acute if all of the additional factors referred to in the particulars to ground 2(b) were present. I see no merit in the appellant's argument as to the lack of actual evidence of performance enhancement in this case.

Where the circumstances of administration of TCO_2 are unknown penalties usually will be considerably less than where the facts are known. I am satisfied that it is appropriate and in the best interest of the industry that Stewards should impose long periods of disqualification in any administration case. But is a 4 year period justified in the circumstances? In the light of *Lalich*, even after being influenced by Mr Davies QC's comments regarding the aspect of administration having occurred in the secrecy of Mr Bettesworth's stables, I am satisfied that it is not supportable. Whilst the circumstances of this offence in a general sense still place it at the top end of seriousness, 4 years is unjustifiably long in my opinion. I am satisfied the Stewards have fallen into error in this regard.

In *Lalich* the trainer maintained his denials and claims of innocence to the end. There was no cooperation with the Stewards. The conviction depended on circumstantial evidence. In these 3 material factors *Lalich* differs from Mr Bettesworth's position. From the moment Mr Bettesworth changed his story and confessed to his ownership of the offending items he was fulsome in his cooperation with the Stewards. This included readily admitting his guilt at the Stewards' inquiry. The task of the Stewards was greatly simplified from the point of Mr Bettesworth's phone call to Mr O'Reilly inviting the return visit. The Stewards in Mr Lalich's matter, on the other hand, were put to a great deal of trouble and effort to prove the charge, although admittedly there was an extra

argument run regarding failure to comply with guidelines and procedures regarding taking of the samples. Further, Mr Lalich had been in racing for many years, unlike Mr Bettesworth. However, one should not lose sight of the fact that this was a deliberate attempt to break the rules. Weighing up all of these factors I am satisfied that 2 years is at the top end of harshness for this particular case. Despite halving the length of the term 2 years disqualification should still reinforce the necessary message to the industry. The outcome of this appeal should not be regarded in any way as detracting from the legitimate stand of the Stewards in attempting to drive this pernicious conduct out of the industry. Equally, my decision should not be interpreted in any way as a weakening of my general attitude to these type of offences. This reduction will in no way prevent the Stewards from imposing a longer period of disqualification in a case with additional aggravating elements such as a much higher reading, a lack of cooperation, no remorse, repeat offending, large scale betting and loss to the public occurring in a feature race.

Stomach Tubing Prior to a Race

Mr Percy QC argues the stomach tubing penalty was excessive having regard to the fact that the rule was very new and no date of effectiveness had then been published. This was in itself, whilst not a defence, a significant mitigating factor and ought to have been taken into account.

The rule was adopted by the Respondents at a Committee Meeting on 11 April 2000. It was subsequently published in May 2000 edition of the WATC Racing Calender which did not specify a date of effectiveness. The race took place on 22 May 2000.

There is no doubt on the material before me that this was a deliberate calculated administration designed to improve the horses' prospects in the race. It was carried out in the secrecy of the trainer's stables where the chances of observation and detection were very low. It was carried out at a time when, as Mr Davies QC put it, tubing horses with bicarbonate of soda was "rife". Clearly the Stewards need assistance in controlling this terrible problem in the industry. To assist the Stewards in controlling racing the punishment for this type of breach of the Rules which occurred close to the time of racing needs to be severe to be a strong deterrent.

This apparently is the first conviction under this new Rule. It is said by senior counsel for the appellant that the Tribunal needs to fix an appropriate penalty and therefore there is very good reason to be lenient for this non professional trainer. I am not greatly persuaded by this argument. I am satisfied that in some cases a 12 month penalty may be appropriate. However, in this case, taking into account the factors referred to in ground 5 coupled with the fact Mr Bettesworth was unaware of the Rule I consider the Stewards have erred in imposing such a penalty. I believe a six month penalty to be appropriate here.

The False Statements

It is argued for Mr Bettesworth that the 6 month disqualification for his false statements was manifestly excessive bearing in mind the nature of the substance, the minor nature of the event, the lack of evidence of serious fraud, the fact the appellant was a young first offender, the appellant's remorse, the plea of guilty as well as the amateurish nature of commission of the offence. I am told in the past 5 years there have been 13 cases before the Stewards for offences of this type (excluding the present case). In 8 of the cases the Stewards imposed fines. In 4 cases periods of suspension ranging from 30 days to 3 months were imposed. In one of the suspension cases the penalty was varied on appeal to the Tribunal from a 1 month suspension to a fine of $300. A period of disqualification has been imposed by the Stewards on only one previous occasion (JOHNS). This case involved a stable employee giving a false name for the purposes of deceiving the Stewards as to his previous history of offences in Queensland. The circumstances of this case it is argued clearly place it in the higher category of offending under the rule making it distinguishable from the present case, which is in the lower category of offending having regard to the fact the statement was not made at an inquiry and was quickly retracted.

It is further argued by Mr Percy QC that despite the concurrent nature of the penalty imposed, the Stewards were required to impose a penalty which was correct in the circumstances of the case. It is not sufficient that the overall head sentence be correct (see *Pearce v R* (1998) 103A CRIM. R 372). Notwithstanding that a period of disqualification exceeding that imposed in respect of this charge was appropriate on the substantive offence the penalty imposed on this charge ought to be corrected.

What is not addressed in those arguments is the fact that in Mr Bettesworth's case there was no element of ambush or surprise to him at the time that he made the false statements. He was not caught in the act of committing an offence resulting in him responding reflexively prior to having had the opportunity to gather his wits and realise the need to respond honestly. He had plenty of time to act and to think about how he would deal with the matter. After all the meeting at Mr Bettesworth's property was prearranged. An appointment had been made to meet him. Mr Bettesworth was at the outset of the meeting given a copy of the Notice of Irregularity. The Stewards at the inquiry knew that the Notice had been read out and explained to Mr Bettesworth before he was called upon to give an explanation. Further Mr Bettesworth was clearly anticipating the matter in that he had already placed the equipment in the laundry because *'I'd didn't think the Stewards would search so thoroughly so I didn't get rid of the box'*. I believe false statements in the context of this behaviour warrant a very stiff penalty. I am satisfied that a 6 month disqualification is appropriate. Not only did Mr Bettesworth lie about not having a tube on the property and not having tubed horses, but he also lied about the contents of the box and his knowledge about the tube and funnel.

Outcomes

Ground A should be upheld with a period of 2 years disqualification substituted for the 4 years disqualification.

Ground B should be upheld with a period of 6 months disqualification substituted for the 1 year disqualification.

Ground C should be dismissed.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

Seal of the Racing Penalties Appeal Tribunal of W.A.

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APPEALS 503-505

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR J PRIOR (MEMBER)

APPELLANT:	**TRAVIS ADAM BETTESWORTH**
APPLICATION NO'S:	**A30/08/503-505**
DATE OF HEARING:	**25 SEPTEMBER 2000**
DATE OF DETERMINATION:	**7 DECEMBER 2000**

IN THE MATTER of appeals by Mr T A Bettesworth against the determinations made by the Western Australian Turf Club Stewards on 22 May 2000 imposing:

1. **a 4 years disqualification for breach of ARR 175(h)(i),**
2. **a 12 months disqualification for breach of ARR 8(e) read with Local Rule 70B, and**
3. **a 6 months disqualification for breach of ARR 175(gg).**

Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

Mr R J Davies QC appeared for the Western Australian Turf Club Stewards.

I have read the draft reasons of Mr D Mossenson, Chairperson. I agree with the reasons and conclusions and have nothing to add.

John Prior

Seal of the Racing Penalties Appeal Tribunal of W.A.

JOHN PRIOR, MEMBER

APPEALS 503-505

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR A MONISSE (MEMBER)

APPELLANT:	**TRAVIS ADAM BETTESWORTH**
APPLICATION NO'S:	**A30/08/503-505**
DATE OF HEARING:	**25 SEPTEMBER 2000**
DATE OF DETERMINATION:	**7 DECEMBER 2000**

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Mr T F Percy QC assisted by Mr S Davies, instructed by D G Price & Co, appeared for the appellant.

Mr R J Davies QC appeared for the Western Australian Turf Club Stewards.

I have had the advantage of reading the draft reasons of Mr D Mossenson, Chairperson.

I agree with those reasons, although in respect of the penalty to be imposed for the charge contrary to Rule 175(h)(i), I would discount it in recognition of matters such as the Appellant's cooperation with the Stewards' investigation and the remorse he has demonstrated for his actions.

In all the circumstances I would substitute a period of disqualification of 1 year and 9 months.

Seal of the Racing Penalties Appeal Tribunal of W.A.

A E Monisse

ANDREW MONISSE, MEMBER