## REASONS FOR DETERMINATION OF

## THE RACING PENALTIES APPEAL TRIBUNAL

APPELLANTS:	ANDRE PAUL VASSALLO, ROSS DAVIES & MARK EVETT
APPLICATION NO:	A30/08/564
PANEL:	MR D MOSSENSON (CHAIRPERSON)
DATE OF HEARING:	23 MAY 2002
DATE OF DETERMINATION:	23 MAY 2002

IN THE MATTER OF an appeal by Andre P Vassallo, Ross Davies and Mark Evett against the determination made by the Stewards of the Western Australian Trotting Association on the 19 March 2002 disqualifying MANHATTAN STAR as the winner of Race 6 run at Pinjarra on 4 February 2002 pursuant to Rule 195 of the Rules of Harness Racing.

Mr G Winston was granted leave to represent the appellant.

Mr WJ Sullivan appeared on behalf of the Stewards.

Following the running of Race 6 at Pinjarra on 4 February 2002 a post-race urine sample taken from MANHATTAN STAR, the winner of the race, revealed the presence of diclofenac, a prohibited substance.

At a Stewards' inquiry held on 19 March 2002 MANHATTAN STAR was disqualified pursuant to Rule 195 of the Rules of Harness Racing. That Rule states:

## "195. Disqualification

A horse which has been presented for a race shall be disqualified from it if blood, urine, saliva, or other matter or sample or specimen taken from the horse is found to contain a prohibited substance."

The owners of MANHATTAN STAR lodged a notice of appeal on 2 April 2002. The ground of appeal is:

"The substance found did not have any effect on the performance of the horse. The WATA veterinarian confirmed this at the Stewards' Inquiry."

No credible argument is presented on behalf of the appellants. The relevant facts are not disputed. MANHATTAN STAR was presented to race. Indeed it did run and actually won. Diclofenac was found to be present in a urine sample taken from the horse. Diclofenac is an anti-inflammatory drug, usually used on humans. There is no dispute it is a prohibited substance under the Rules of Harness Racing.

Rule 195 is very clear in its language. It is couched in mandatory terms. There is no discretion. It is irrelevant that there may not have been any affect on the horse's performance. The Stewards had no alternative but to apply the Rule and disqualify the horse.

For these reasons the appeal was dismissed.

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DAN MOSSENSON, CHAIRPERSON

