APPEAL NO. 773

THE RACING PENALTIES APPEAL TRIBUNAL

DETERMINATION

APPELLANT:	**CLINT HARVEY**
APPLICATION NO:	**A30/08/773**
PANEL:	**MR D MOSSENSON (CHAIRPERSON)** **MR A MONISSE** **MR W CHESNUTT**
DATE OF HEARING:	**6 January 2015**
DATE OF DETERMINATION:	**27 JULY 2015**

IN THE MATTER OF an appeal by CLINT HARVEY against the determination made by Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 24 November 2014 imposing a twelve month disqualification for breach of Australian Rule of Racing 175(a).

Mr D Grace QC, instructed by Michael Tudori and Associates, represented Mr C Harvey.

Mr R J Davies QC represented the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

By a unanimous decision of the members of the Tribunal, the appeal against penalty of 12 months disqualification is dismissed.

DAN MOSSENSON, CHAIRPERSON

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

APPEAL NO. 773

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR D MOSSENSON (CHAIRPERSON)

APPELLANT:	**CLINT HARVEY**
APPLICATION NO:	**A30/08/773**
PANEL:	**MR D MOSSENSON (CHAIRPERSON)** **MR A MONISSE** **MR W CHESNUTT**
DATE OF HEARING:	**6 January 2015**
DATE OF DETERMINATION:	**27 JULY 2015**

IN THE MATTER OF an appeal by CLINT HARVEY against the determination made by Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 24 November 2014 imposing a twelve month disqualification for breach of Australian Rule of Racing 175(a).

Mr D Grace QC, instructed by Michael Tudori and Associates, represented Mr C Harvey.

Mr R J Davies QC represented the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

INTRODUCTION

1. An inquiry was instigated on 20 June 2014, by Racing and Wagering Western Australia (**RWWA**) Stewards of Thoroughbred Racing following receipt of a direction from the Integrity Assurance Committee (**IAC**). The Stewards were directed to inquire into the report of the IAC appointed licensed investigator relating to the urine sample purported to have been provided by senior jockey Mr Clint Harvey on the 5 November 2012. The

sample was found by DNA analysis conducted by the Victorian Institute of Forensic Medicine to be from a female donor. How or why this situation had occurred and whether Mr Harvey was involved in substituting the sample were in question.

2. The original testing of the sample revealed the presence of methamphetamine. As a consequence, from 16 November 2012, Mr Harvey was stood down from riding in races, trials and track work until 4 November 2013 when the DNA results were known. During this period however, Mr Harvey was involved in some track work and consequently received some income.

3. From the outset Mr Harvey emphatically maintained the sample in question was not his. Mr Harvey unsuccessfully applied to the Tribunal for leave to appeal against the refusal by the Stewards to DNA test the urine sample which he had provided. Despite that outcome a DNA test was in fact subsequently carried out. Ironically, this further testing established the sample was not Mr Harvey's as it had come from a female.

4. The investigation revealed Mr Harvey had handed the sample in question to the RWWA investigator at the Lark Hill Training Complex. The investigator did not physically place himself in a position which was compliant with the Official Thoroughbred Policy by being located alongside to observe whilst the sample was being passed and collected. Rather, in keeping with his usual long standing practice, the investigator remained immediately outside the toilet and relied on the honesty of the person inside.

5. In view of the fact that Mr Harvey was not supervised immediately after being told a sample was required, the Stewards were satisfied it had afforded Mr Harvey the opportunity for the sample to be "*substituted or adulterated*". Further, in the Stewards' opinion, Mr Harvey did have time to make arrangements to obtain a sample from someone else.

6. Despite the transgressions connected with the collection of the sample, there was no dispute in relation to how the specimen that was given to the investigator was sealed and handled following collection. The trail and chain of custody were found to be of a very high standard. The Stewards were convinced the urine sample which Mr Harvey gave to the investigator was the sample that was received by the Chemistry Centre, with seals intact. The Stewards were satisfied that there was no mistake or mix up in the sample.

7. The Stewards' inquiry proved to be a fairly length affair. It continued on 3 July 2014. By letter from the Stewards dated 31 July 2014 (ex 10), Mr Harvey was notified the Stewards had decided to charge him under Australian Rule of Racing (**AR**) 175(a). AR 175(a), states:

"The Committee of any Club or the Stewards may penalise;

(a) Any person, who, in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing."

The charge was expressed in the following terms:

" ...that on the 5th November 2012, at the Lark Hill Training Complex, after being requested by RWWA's Principal Investigator Mr Phil O'Reilly to provide a sample of your urine, you provided a sample which upon analysis was found to originate not from you, but from a female donor, which in our opinion is an improper action in connection with racing."

8. The inquiry continued on 17 September 2014. The Stewards ultimately decided to convict Mr Harvey who was informed of the outcome by letter dated 25 September 2014.

9. The Stewards addressed the issue of penalty on 13 November 2014. Following that Mr Harvey was provided with fairly detailed reasons as to how the Stewards arrived at the penalty by their letter dated 24 November 2014. In arriving at the penalty, the Stewards at the outset took into account a wide range of personal circumstances, namely, Mr

Harvey's racing background, his limited schooling, relationship hardships, financial stress, youth, troubled experience, lack of other employment skills and medical history which included depression illness.

10. In the reasons the Stewards then considered the nature of the charge which they had laid, which they described as being an extremely serious one. Due to the substitution which had occurred it obviously was not possible to know what the analysis of Mr Harvey's urine would have revealed. Consequently, the Stewards described this misconduct as "*a deceitful act of outright impropriety*" which "*has perverted the course of justice*". The letter further stated:

> *"The testing of riders is a crucial practice used by the Stewards to ensure that safety standards are not compromised in any way. Race riding is a dangerous profession which involves high risk and it is absolutely essential that jockeys are completely free of any prohibited substances and are not riding under the influence of them, so that welfare of all riders and horses are not jeopardized in any way. Your actions in providing a sample which was not yours strikes at the very heart of integrity and no doubt has caused unnecessary adverse publicity which has a detrimental effect on the industry. As stated on many occasions, the wellbeing of the industry relies heavily on the support of the betting public and unfortunately senior jockeys such as yourself committing such deplorable acts as you have done on this occasion has the potential to have a negative effect and loss of confidence amongst industry participants and the general public.*
>
> *...this was an unusual case and we are not aware of any similar matters whereby the donor successfully provided a sample other than their own, which remained undetected for such a long period of time".*

11. The Stewards also commented that there was ample time for Mr Harvey "*...to own up and put an end to this matter*". Throughout, there had been no admission from Mr Harvey. This factor did not assist Mr Harvey's cause on the question of penalty. The Stewards believed had Mr Harvey been upfront from the outset, there would have been no delays and possibly no requirement to conduct the DNA test of the sample.

12. The Stewards acknowledged in their reasons that they were obliged to consider whether or not the time Mr Harvey was stood down from riding in races, trials and track work, which commenced on 16 November 2012 and ended on 4 November 2013, should be subtracted from the penalty ultimately imposed. They also observed Mr Harvey's *"previous record is nothing to be proud of"* and added *"we will never know what the result of the analysis of your urine might have been which remains a serious concern for the Stewards".*

13. The penalty decision concluded with the following propositions:

    13.1 "*...a disqualification of 18 months is the appropriate penalty for an offence of this nature.*"

    13.2 "*...the Stewards are required to consider the 12 month period that you were stood down. We have carried out a thorough assessment and for the reasons that follow, we believe that a discount is appropriate, but not the entire 12 months*"

    13.3 *"Given the Stewards guilty findings, you had ample opportunity to come forward, acknowledge your actions and put an end to it. The matter could have been resolved expeditiously."*

    13.4 *"The stand down period was one of a suspension and the prohibitions that apply to suspensions are somewhat more lenient that the prohibitions that are associated with a disqualification."*

13.5 *"You did receive some income whilst you were stood down for carrying out track work."*

13.6 *"If the Stewards were to discount this period in its entirety, it would no doubt send out the wrong message and have the opposite effect of encouraging others to attempt to provide alternative urine samples other than their own. The gravity of the offence is one that demands and requires appropriate weight to be placed on the principles of both specific and general deterrent as well as sending a clear message that this type of behavior will not be tolerated. They are important matters in the consideration of an appropriate penalty for what is a very serious offence."*

13.7 *"The message emanating from this inquiry must be clear to the Industry that appropriate retribution will be imposed on those that become involved in similar practices (sic). The penalty should be such that it discourages participants from engaging in this intolerable conduct."*

13.8 *"...6 months of the disqualification should be discounted, meaning that a total of 12 months disqualification is the appropriate penalty which will take effect immediately and expire at midnight on the 19 November 2015."*

APPEAL GROUNDS

14. The grounds of appeal which were pursued are as follows:

"1. The Stewards erred in finding that a disqualification period of 18 months was the appropriate penalty in all the circumstances of the case and of the jockey resulting in a manifestly excessive penalty.

2. The Stewards erred in failing to make themselves fully conversant with the specific circumstances of similar cases, resulting in a penalty that was manifestly excessive in all the circumstances and outside the range of penalties imposed in similar cases.

3. The Stewards erred in failing to discount the period of 12 months (alternatively 46 weeks) from the period of disqualification."

REASONS

15. This case contains a number of unusual elements which are appropriately explained in the Stewards' reasons. The matter involved extensive investigations, testing and hearings which extended over a number of years. It concerned an experienced jockey who maintained his innocence from the outset and who argued the sample which contained a prohibited substance was not his. This caused a detailed investigation to be undertaken into the steps involved in the taking, delivery and testing of the sample. The conclusion which was reached was that the sample that was handed by the jockey to the investigating Steward containing the illicit substance was that of a female rather than the appellant. An appeal against the conviction was not pursued. Rather, only the length of the disqualification was challenged on appeal.

16. Had Mr Harvey not persistently pressed for the DNA testing of the sample, the inquiry instituted at the direction of the IAC would not have taken place and the disqualification under review would not have been imposed. To put matters into perspective, the disqualification which was imposed was not as a punishment for the prohibited contents of the sample, but rather, because of the more serious offence of the improper action of providing someone else's sample.

17. The Stewards in their reasons, as shown above, described the misconduct in very stern terms. They stated it was *"extremely serious", "deceitful"* and a perversion of the course of justice *"involving some degree of pre-meditation"*. There can be no doubting the appropriateness of these descriptions. Equally there can be no faulting the Stewards in their description of the role that testing of jockeys, plays the importance of protecting the safety of participants and the need to maintain the confidence of the betting public in the welfare of the industry.

18. Mr Grace QC who represented Mr Harvey in the appeal attended and represented Mr Harvey at all of the inquiry proceedings before the Stewards. Senior counsel for the appellant relies heavily on the argument that there is a discrepancy between the penalty which the Stewards used as the starting point, compared to other cases. Further, it is submitted there is fault in the fact that the Stewards failed to provide any explanation as to why the 18 months was chosen as the starting point in arriving at the penalty. No analysis was said to be done in justifying it such an excessive period.

19. The Stewards at pages 277 and 278 of the transcript refer to some previous cases where jockeys were disqualified for breaching AR 175(a) or its equivalent. Only a limited amount of information is provided by the Stewards in relation to these cases and nothing of substance was supplemented at the appeal. These cases are simply summarised as follows:

Queensland:	Jason Warrington	12 months disqualification reduced to 6 months disqualification and three months suspension.
New Zealand:	Mr Herd	15 months disqualification
South Australia:	Mr Fagg	12 months disqualification
	Andrew Stead	6 months disqualification
Western Australia:	Andrew Castle (pleaded guilty)	12 months disqualification
	Mr D Hale (pleaded guilty)	12 months disqualification

20. In the course of referring to these previous cases the Stewards admitted that they did not know the full particulars in relation to them.

21. Although Mr Grace argued before the Stewards *"that 12 months seems to be the currency"* the Stewards responded that Mr Harvey's matter was "*somewhat unusual*". I do agree there is little doubt as to the accuracy of the latter description. From the limited information which was presented of the previous cases it is clear the circumstances of

Mr Harvey's case varies from the other two local examples. Rather than admitting the offence as Messrs Castle and Hale both did by entering guilty pleas, Mr Harvey adamantly insisted he was innocent throughout the lengthy affair before the Stewards.

22. Although Mr Harvey had already been suspended in relation to the same sample prior to his disqualification, I acknowledge it is of some relevance that he was afforded a degree of relief as he was given the opportunity to do some track work.

23. The Stewards are the persons responsible to set penalties. They must do so taking into account all of the relevant facts and circumstances and impose what they believe is fair and reasonable both as a punishment and a lesson to others. The Tribunal should only interfere when it is demonstrated that the Stewards have erred in the exercise of their discretion. That discretion is a very wide one under AR 196 which reads:

> *"(1) Subject to subrule (2) of this Rule any person or body authorised by the Rules to penalise any person may, unless the contrary is provided, do so by disqualification, suspension, reprimand, or fine not exceeding $75,000. Provided that a disqualification or suspension may be supplemented by a fine."*

24. In the reasons the Stewards acknowledged they were *"...not fully conversant with the specific circumstances of each case. We are fully aware of the need to apply consistent penalties and within the appropriate range where matters are similar in nature*". They went on to explain:

"However, each case must be dealt with on its own set of circumstances. ...this matter is unprecedented for the reasons outlined and the Stewards are of the view that these special circumstances equate to it being a matter that should attract a penalty outside the normal range."

25. I am satisfied there is nothing inappropriate in these propositions. There was no argument presented to the Tribunal that something less than a penalty of disqualification was appropriate.

26. Mr Grace submitted that the Stewards failed to make themselves fully conversant with the penalties for like offences and did not explain why Mr Harvey's was different. This proposition is true. Unfortunately the circumstances in relation to each of the six previous cases referred was made no clearer by either party during the course of the appeal. The Tribunal therefore does not know what were the starting points in all of these other determinations nor what, if any, discounts were made because of respective circumstances of each of the respective jockeys. No information as to any matters of mitigation is therefore available to apply as a guide or basis of comparison.

27. The Stewards did refer to a range of mitigatory factors in addressing Mr Harvey's penalty. These are listed above. The Stewards also clearly and appropriately described the nature of the offence and its adverse impact. As has already been acknowledged the Stewards quite aptly recognized that Mr Harvey could have let matters rest at the stage of the prohibited substance finding and not pushed for the DNA testing. As a consequence Mr Harvey put the Stewards and others to a considerable amount of effort whilst he continued to protest the sample was not his.

28. Senior counsel for the appellant acknowledged the fact that the Stewards did accept as a matter of fairness there needs to be a discount for the period of the stand down. In view of the circumstances, including the way the principal investigator initially and then in turn the Stewards subsequently were deceived, coupled with the fact that Mr Harvey was given an opportunity to do some track work, I disagree with the proposition that in effect Mr Harvey should have been given credit for the whole period of the stand down.

29. Rather, I agree with the propositions put by Mr Davies QC. The only possible motivation for the substitution was to avoid being detected with whatever was in fact in Mr Harvey's

system at the time. The exercise of presenting a female's sample rather than his own was clearly sinister and devious. It was a calculating action simply designed to thwart those responsible for maintaining the integrity of the industry.

30. The Stewards are well equipped to set any penalty that may become necessary. The Stewards enjoy specialist knowledge and great experience of the practical application of the Rules and the ongoing requirements of their industry. The Rules charge them with the duty to set penalties. It is not the function of the Tribunal to make fresh determinations and to replace penalties imposed by the Stewards simply because the Tribunal may have arrived at different outcomes had it dealt with matters in the first instance. This Tribunal should only interfere in a case of demonstrated error on the part of the Stewards. Such an error may include acting on a wrong principle, taking into account irrelevant matters, making a factual mistake and acting unreasonably or unjustly (*Australian Coal & Shale Employees Federation v Commonwealth* (1953) 94 CLR 612 at 627).

31. I consider the starting point chosen in this case, of 18 months disqualification, and the 12 months penalty which was arrived at, both were appropriate disqualification periods. It has not been shown they are outside the proper discretionary range for such deliberate and serious misconduct. As Mr Davies argued the penalty in this case was appropriate for a deliberate attempt to mislead and pervert the course of justice in a matter that involved the question of use of a prohibited substance. Despite that, the Stewards did afford Mr Harvey substantial mitigation by reducing the penalty by one third.

32. In the light of these comments I have not been persuaded that the Stewards have fallen into error in exercising their discretion. For these reasons I would dismiss the appeal.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

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

APPEAL NO. 773

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR W CHESNUTT (MEMBER)

APPELLANT:	**CLINT HARVEY**
APPLICATION NO:	**A30/08/773**
PANEL:	**MR D MOSSENSON (CHAIRPERSON)** **MR A MONISSE** **MR W CHESNUTT**
DATE OF HEARING:	**6 January 2015**
DATE OF DETERMINATION:	**27 JULY 2015**

IN THE MATTER OF an appeal by CLINT HARVEY against the determination made by Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 24 November 2014 imposing a twelve month disqualification for breach of Australian Rule of Racing 175(a).

Mr D Grace QC, instructed by Michael Tudori and Associates, represented Mr C Harvey.

Mr R J Davies QC represented the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

---

1. This appeal was heard on 6 January 2015 and was restricted to an appeal against penalty.

2. Following a hearing on 17 September 2014, the Stewards found Mr Harvey guilty of a charge laid pursuant to AR 175 (a), which permits the stewards to penalise: *"any*

person, who in their opinion, has been guilty of any dishonest, corrupt, fraudulent, improper or dishonourable action or practice in connection with racing."

3. The particulars of the charge were that *"...on 5 November 2012, at the Lark Hill Training Complex, after being requested by RWWA's Principal Investigator Mr Phil O'Reilly to provide a sample of your urine, you provided a sample which upon analysis was found to originate not from you but from a female donor, which in our opinion is an improper action in connection with racing."*

4. On 24 November 2014, the Stewards wrote to Mr Harvey advising him that they were imposing a penalty of 18 months disqualification. This was to be discounted by 6 months to become an effective period of 12 months disqualification.

5. The reduction was made as an allowance for a 12 months period of suspension which Mr Harvey was subjected to between 16 November 2012 and 4 November 2013. The Stewards indicated in their letter that they were required to decide whether some or all of this period should be allowed to be set off against the 18 months disqualification that they were imposing; and they settled upon a 50% allowance. Their decision not to allow the full period of suspension was argued before us as being incorrect and we were urged to allow the full period. I will return to this later in these reasons.

6. The main argument that was put to us by Mr Grace QC for the appellant was that the penalty of 18 months was outside of what was said to be the range of appropriate penalties for a case of this nature; and that this excessive penalty indicated that an error by the Stewards could therefore be inferred by the Tribunal.

7. Mr. Grace pointed to a number of cases where penalties had been imposed for what he said were similar cases that ranged from 6 months disqualification through to 15

months disqualification. 2 months disqualification was the most common penalty from amongst the cases cited to us.

8. I reject the notion that it is appropriate to look at other, perhaps similar cases, take the lower and upper penalties imposed from that sample of cases, and then insist that these represent an arithmetic "range" within which all future cases must fit.

9. Previous cases may provide an indication of the sort of penalty that is appropriate, but they cannot limit the discretion that the Stewards have when deciding upon the appropriate penalty for any particular case which comes before them.

10. What such previous cases can provide, and all that they can provide, is a rough guide to the sort of period of disqualification that is appropriate. If the Stewards then impose a penalty significantly more severe than this, that may be the starting point from which an error by them may be inferred. In my opinion, this was not such a case.

11. If this Appellant had in fact been disqualified for 18 months, that period would not be so far outside the existing range of penalties as to inevitably suggest that the Stewards had fallen into error in arriving at it. However, that was not in fact the penalty that was ultimately imposed on him.

12. The Stewards stated their view in paragraph 10 of their letter of 24 November 2014, that the special circumstances involved in this case indicated that it should attract a penalty outside the normal range. They then went on to impose what I will call a starting penalty of 18 months disqualification, but reduced that by 6 months to make an allowance for the 12 months period of suspension that Mr Harvey had been subjected to. The end result was therefore a disqualification for a period of 12 months. This final result is not in fact a penalty outside of the normal range at all, it is fairly and squarely

within the range pointed to by Mr Grace QC. I can see no basis for saying that the Stewards have erred in arriving at it.

13. The second limb of the argument put up by Mr Grace QC was that the Stewards ought to have reduced any period of disqualification they decided to impose by giving the Appellant credit for the whole of the period of 12 months for which he had been suspended.

14. The Appellant was asked for a sample of his urine on 5 November 2012. On that day he substituted a sample of urine from an as yet unknown female in place of his own sample, and provided that to the Principal Investigator instead. In a development that has a certain degree of irony to it, his helpful anonymous friend had consumed methyl amphetamine prior to supplying him with the sample, this was detected in the subsequent analysis and was, initially, attributed to him.

15. When this result became known, the Appellant began agitating for the sample to be DNA tested. The Stewards resisted this, and fought proceedings brought by the Appellant to compel them to submit the sample to DNA testing. However, eventually, they acceded and then the truth became known, i.e. that it was not in fact his urine. Throughout this saga the Appellant was suspended - from 16 November 2012 until 4 November 2013.

16. I commence by noting that when the time came to impose a penalty upon the Appellant, the decision whether or not to allow any credit for this period of suspension, and if so, how much, was entirely a matter within the discretion of the Stewards. This Tribunal will not interfere with the exercise of discretion by the Stewards unless some error by them can be shown in the way in which they exercised that discretion. There is no such error that I can see in this case.

17. Indeed, on one view, the Stewards may have been excessively lenient. The entirety of the period of suspension was brought about by the Appellant maintaining the dishonest approach that there was a need for the sample to be DNA tested. However, as the Stewards pointed out at paragraph 9 of their letter, the truth was in fact known to him at all times, and he could have ended the suspension at any time he wished to by admitting to having made the substitution of the sample. Instead, he chose to stick with the lie, and in doing so prolonged his own suspension. In my view, that fact would have entirely justified the Stewards in declining to allow the Appellant any credit at all for the period of suspension, if they had so decided.

18. Notwithstanding this, the Stewards allowed a period of 6 months credit. They have briefly explained the factors they considered in arriving at this decision at paragraph 15 of their letter. It was not suggested that any of the factors listed there were wrongly taken into account, and nor was it argued that there were other factors which should have been considered. There is simply nothing to infer that they erred in any way in coming to the decision to give him credit for 50% of the period of suspension.

19. This appeal has no merit, and should be dismissed.

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

WILLIAM CHESNUTT, MEMBER

APPEAL NO. 773

THE RACING PENALTIES APPEAL TRIBUNAL

REASONS FOR DETERMINATION OF MR A E MONISSE (MEMBER)

APPELLANT:	**CLINT HARVEY**
APPLICATION NO:	**A30/08/773**
PANEL:	**MR D MOSSENSON (CHAIRPERSON)** **MR A E MONISSE** **MR W CHESNUTT**
DATE OF HEARING:	**6 January 2015**
DATE OF DETERMINATION:	**27 JULY 2015**

IN THE MATTER OF an appeal by CLINT HARVEY against the determination made by Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 24 November 2014 imposing a twelve month disqualification for breach of Australian Rule of Racing 175(a).

Mr D Grace QC, instructed by Michael Tudori and Associates, represented Mr C Harvey.

Mr R J Davies QC represented the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

---

1. I have had the advantage of reading the draft reasons of Mr William Chesnutt, Member. Other than the qualification and comment that follows, I agree with those reasons.

2. Mr Chesnutt discusses the range of penalties referred to by the Appellant's counsel at the hearing of this appeal and their impact on this appeal. While guidance can be provided by those penalties, ultimately they are limited in nature as they all involved prior decisions of stewards.

3. This position is to be contrasted with the greater guidance that can be provided by past determinations made by tribunals such as the Racing Penalties Appeal Tribunal of Western Australia. This arises from the statutory function this Tribunal has to hear the appeal of a person aggrieved by a determination of a steward. I also add that this important function should not be qualified to include a general approach indicating a presumption supporting the correctness of the decisions of stewards.

4. The question that the Appellant ultimately sought to be answered at the hearing of his appeal was whether the 6 month discount the Stewards gave him on his disqualification period, in acknowledgment of the earlier 12 month period that he was stood down for from riding in races, trials and track work, should have been greater.

5. In all the circumstances of this matter I am not persuaded that the Stewards erred in deciding that a discount of 6 months was appropriate, such that they then erred in imposing the final penalty imposed of 12 months disqualification.

6. For these reasons I would dismiss this appeal.

A E Monisse **ANDREW MONISSE, MEMBER**