

TASMANIAN RACING APPEAL BOARD

Appeal No. 09 of 2018/19

Panel:	Tom Cox (Chair) Suzanne Martin (Member) Wendy Kennedy (Member)	Appellant:	Phillip Ford
Appearances:	Anthony O’Connell (on behalf of the Appellant) John King (Director of Racing)	Rules:	Not applicable
Heard at:	1 Franklin Wharf HOBART, Tasmania	Penalty:	Not applicable
Date:	30 November, 2018	Result:	Decision quashed

REASONS FOR DECISION

1. The appellant has appealed against a decision of the Director of Racing to refuse to grant him an unrestricted stable hand licence by reasons for decision dated 12 November 2018.
2. The basis of the Director’s refusal is succinctly set out as follows:

“I am aware that you have not been charged with any offences since you last held a conditional stable hand licence however I am of the view that issuing you a new licence would be detrimental to the integrity of the Tasmanian Racing Industry.

I formed this view after reviewing your licence history, offence history and recent inquiries you have been involved in. As the Director of Racing I am required to regulate and control the industry to ensure it is conducted with integrity. I am strongly of the view that I would not be upholding that requirement if I issued you with a licence.”

3. Of particular relevance is the Director’s reference to the “*recent inquiries (the appellant) has been involved in*”. Those inquiries relate to allegations by the appellant’s daughter, Taylor Ford, that she had been assaulted by her father following an argument which had begun between the pair because, she claimed, the appellant had administered and intended to administer prohibited substances, by injection, to various horses. The alleged assault and argument occurred when Taylor Ford was transporting those horses by float on 18 September 2018. The alleged administration of those horses occurred on unknown dates.
4. Those allegations were faithfully recorded in writing by Stipendiary Steward Roger Brown. However, when the Stewards proceeded to a formal inquiry about the

allegations, Miss Taylor Ford retracted the allegations and claimed that they were false and made solely for the purpose of causing harm to the appellant.

5. Miss Ford was recently dealt with by this Board in Decision No. 07 of 2018/19 after she complained about the severity of the imposition of a 2 month period of disqualification by Stewards following an inquiry on 9 November 2018 in which she admitted giving false and misleading evidence to the Stewards contrary to AHRR187(2).
6. In that appeal we observed the following:

The appellant submits the disqualification is unduly harsh, given her troubled mindset at the time of the initial complaint. She claims that she made the allegations against her father because she was "lashing out at him." Further, it is submitted that her limited education and ability to articulate herself should have been taken into account by the stewards. It was also submitted with supporting medical evidence, that she is impulsive and prone to strike out at persons, in particular family members, with false allegations of fact. She had also broken up with her girlfriend in the period before the first complaint and this had a dramatic effect on her, aggravated by her difficult familial relationships.

In our view, the period of two months disqualification is entirely appropriate. The giving of false and misleading evidence to stewards significantly undermines the integrity of the industry; hinders the stewards' performance of their duties; engenders cost and delay; and, above all, poses the risk that persons who have not breached the rules may be subject unfairly to investigation and sanction.

7. Given Taylor Ford retracted the allegations, the appellant submits to this Board that he ought not be refused a licence on the basis that, effectively, false allegations were made against him to the effect that he assaulted Taylor Ford and administered or proposed to administer prohibited substances to horses.
8. In those circumstances, the appellant submits that nothing has changed since he was granted a stable hand licence earlier this year and once the false and misleading allegations made by Taylor Ford are put to one side, his licence should be renewed.
9. In our view, the matter is more complicated than that. The fact of the matter is that the Director made his determination in circumstances where:
 - (a) the allegations against the appellant had not been finally heard and determined;
 - (b) the appellant had a continuing obligation to satisfy the Director and, if necessary, this Board that he is a fit and proper person to hold a licence;
 - (c) one of the principal reasons he was granted a licence by this Board earlier this year was to assist his daughter to develop as a driver;
 - (d) his daughter has made false allegations against him whilst under his tutelage;
 - (e) alternatively, a thorough inquiry may have resulted in a finding that the allegations were true;

- (f) the Director imposed a condition on the appellant's stable hand licence that he only assist trainer Dylan Ford;
 - (g) the basis of that condition has not been explored, but assuming it to be sound, the appellant now seeks an unrestricted licence;
 - (h) the appellant has applied for renewal of his licence without any supporting documentation or evidence to satisfy the Director as to matters such as where he proposes to perform his duties and for whom.
10. The Director has also submitted to this Board that he has received telephone calls from a number of trainers, who wished to remain anonymous, stating that the appellant had contacted them and inappropriately attempted to bully them into transferring a percentage of ownership in a number of horses to the appellant. The appellant denied any inappropriate conduct in that regard before us and, of course, neither this Board nor the appellant has had the opportunity to consider any detailed allegations to that effect, the identity of those making the allegations and the circumstances around those allegations.
11. It is necessary to reiterate that the appellant bears the onus of satisfying the Director and this Board that he is a fit and proper person to hold a stable hand licence. This principle has particular application in circumstances such as the present. The appellant cannot simply come to this Board, nor can he simply state to the Director, that "nothing has changed" since he obtained his stable hand licence. Clearly, the incident with his daughter is a material change in circumstances and his involvement in her development in the industry for better or for worse is a material consideration. Moreover, he has a history of offences for breaches of the Rules of Racing. Obtaining a licence of any sort is very much a privilege and one which he must earn. It remains for him to satisfy the Director and, if necessary, this Board, not merely that he is a fit and proper person to hold a stable hand licence, but the circumstances in which he will operate within the industry. Those requirements can only be satisfied by the appellant candidly disclosing to the Director allegations such as the type made by his daughter, and providing detailed evidence concerning the manner in which he will operate in the industry. We note the previous condition that he only assist trainer, Dylan Ford. We further note that the only evidence as to the manner in which he intended to operate within the industry was his assertion that he would assist a relative, a trainer, at her property at Stoneyfield. No further detail was forthcoming.
12. In our view, the Director was not in a position to make an informed assessment of the appellant's application (and nor is this Board) without an inquiry (not necessarily a formal inquiry) into the allegations and having made an assessment of all the other relevant matters attending his application. He may have done so by various means but, at the least, he should have articulated each of the allegations or relevant matters of concern and asked the appellant to address them. If necessary, a formal inquiry with any relevant witnesses may have been convened and any allegations thrashed out. The identity of prospective trainers, the terms of any engagement as a stable hand, the persons with whom he would be working and matters of the like could all have been considered. In a process of that type, the Director could make an informed assessment of the application and form a proper view as to whether or not he should grant a licence and, if so, on what conditions, if any.
13. In the circumstances, we consider the only appropriate course is to quash the Director's refusal to renew the appellant's licence. We will not make an order granting the appellant a licence. Rather, it remains for the appellant to satisfy the

Director that he is a fit and proper person to hold a stable hand licence. He will need to make further application to the Director and the Director will, in turn, need to allow the appellant an opportunity to meet any allegations against him and provide such information as is necessary to satisfy the Director of any other relevant matter attending his application.

14. The appellant's deposit will be returned.