

# TASMANIAN RACING APPEAL BOARD

## Appeal No 19 of 2017/18

<b>Panel:</b>	<b>Kate Brown (Chair) Rod Lester</b>	<b>Appellant:</b>	<b>Peter Dornauf</b>
<b>Appearances:</b>	<b>Anthony O'Connell on behalf of the Appellant Adrian Crowther on behalf of the Stewards</b>	<b>Rules:</b>	<b>AHHR 163(1)(d)</b>
<b>Heard at:</b>	<b>Office of Racing Integrity 1 Civic Square Launceston, Tasmania.</b>	<b>Penalty:</b>	<b>Two race meeting suspension</b>
<b>Date:</b>	<b>17 April 2018</b>	<b>Result:</b>	<b>Appeal against conviction dismissed Penalty varied</b>

### REASONS FOR DECISION

1. On the 17<sup>th</sup> of April 2018 the Tasmanian Racing Appeals Board heard an appeal against conviction and penalty arising out of an incident in Race 10 at Launceston Pacing Club on the 31<sup>st</sup> March 2018. The conviction was for a breach of HR 163(1)(d) although there was some inconsistency in the documentation as to that. It is noted that by the time the appeal was heard the appellant had served the two race meeting suspension as he had failed to obtain a stay of penalty in anticipation of the appeal.
2. The Appellants case was that he was not primarily responsible for the sequence of events which lead to the inside horse, Vapar Glenn driven by Kate McLeod, shifting inside the marker pegs. It was submitted that the appellant's horse Jimmy De Panda, Vapar Glenn and the horse on the outside of the appellant, El Jays Monza driven by John Walters, were all racing tight leading into the point at which Ms McLeod crosses the marker pegs, and that while the appellant made some effort to give Ms McLeod, on his inside, some room he simply had nowhere to go as Mr Walters was coming in on his outside. It was put by the appellant's representative that the appellant could be seen taking the corner, trying to steer his horse out against the camber, but that Mr Walters continued to come in and the appellant could not do anything further to alleviate the pressure on Ms McLeod.
3. Stewards conceded that Mr Walters was momentarily tight on the appellant but he checked away. They submitted that while the appellant may have made some effort to give Ms McLeod room, in fact he continues to drive with the whip thereby negating the efforts he was making to correct his horse. It was submitted that there was some 56 meters between the point that Mr Walters checked away and the point

at which Ms McLeod crossed over the marker pegs and there was an opportunity in that time for the appellant to give Ms McLeod the room she needed.

4. The Board was not positively persuaded that the conviction ought to be quashed. While Mr Walters clearly played a role it was not so great as to render the appellant not guilty of the offence, and noted particularly that the appellant continued to use his whip and drive forward, and that the sequence of events that set up the breach occurred over a relatively long period of time. It did not accept that the appellant was as limited in his opportunity to affect the situation as his representative argued. Drivers must be able to anticipate problems such as occurred and manage them safely.
5. With respect to penalty it was noted by the appellant that he been a licensed person for some forty years and has had no similar convictions for a number of years. He said that his record would show that he was always to prepared to concede his guilt when has been in the wrong. It was argued essentially that in handing down a two race suspension, stewards had given insufficient weight to the role played by Mr Walters in the incident, and the limited options available to the appellant to prevent it from occurring. It was further noted that there were no serious consequences of the breach in terms of safety or the race results.
6. Steward submissions with respect to penalty were that the tariff for an offence of this kind was a two meeting suspension, that the appellant pleaded not guilty and that he also had received two recent suspensions for shifting ground.
7. The Board determined to affirm the conviction and vary the penalty to a one race meeting suspension. Pursuant to s.34 of *the Racing Regulation Act 2007*, the appellant will forfeit fifty percent of the prescribed deposit and pay fifty percent of the transcript costs.