

TASMANIAN RACING APPEAL BOARD

Appeal No 29 of 2007/08

Panel:	Mr R Pearce (Chairman) Mr B McKay Ms R Green	Appellant:	Mr L Dornauf
Appearances:	Mr S Larkins for the stewards Mr Dornauf (in person)	Rule:	Harness Rule AR168(1)
Heard at:	Launceston	Penalty:	6 race date suspension
Date:	29 April 2008	Result:	Dismissed

REASONS FOR DECISION

1. Mr Dornauf drove the horse *Royal Village* in race six at the meeting conducted in Launceston on 20 April 2008. Following an inquiry Mr Dornauf was found by stewards to have breached R168(1) which provides:

“R168(1) A person shall not before, during or after a race drive in a manner which in the opinion of the stewards is careless, reckless, incompetent, intimidatory, improper, foul or likely to endanger persons or horses”

2. Mr Dornauf was suspended for six weeks and has appealed.

3. The stewards allege that Mr Dornauf is guilty of reckless driving. His horse started on the second line. Immediately after the start he and another driver, Mr Hillier who drove *Topnotch Dan* and started on the inside of the second line, each attempted to take a position in the one out line towards the rear of the field. As events occurred there was jostling for a short distance and Mr Hillier was able to successfully retain that position. Consequently Mr Dornauf raced three wide. The field then continued towards and past the winning post and into the turn out of the home straight. At that time Mr Dornauf was following the horse being driven by Mr Hodges, still three wide and with Mr Hillier to his inside. To Mr Hodges' inside was another horse, *Grand Brook*, being driven by Mr Arnott. As they left the home straight Mr Hodges' horse crossed from a three wide position to the one out line in front of Mr Arnott. There were, at that stage, no horses to their inside on the pegs. In doing so he inconvenienced Mr Arnott's horse which was then racing in the one out line and forced it slightly down the track.

4. The field then continued for a distance before the racing incident that gave rise to the charge. Mr Dornauf's horse and Mr Hillier's horse came into contact and Mr Hillier's horse broke. The stewards' case is that Mr Dornauf forced his way from the three wide line into the one out in front of Mr Hillier's horse when there was not room for him to do so. He did so, they say, knowing there was not room or not caring whether there was room or not. We heard evidence from the Chairman, Mr Larkins, and Mr Hillier and viewed the videos.

5. Mr Dornauf had a different version. He asked us to accept that Mr Arnott's horse, *Grand Brook*, was forced all the way to the pegs as a result of Mr Hodges' driving. He said that Mr Hillier followed him down. As a result, Mr Dornauf argued that he was able to move his horse down to the one out line. He said the pressure from his horse to Mr Hillier's horse occurred when Mr Hillier attempted to move out again. His evidence and argument to us was that although he can be seen to drive his horse by leaning inside and pulling the left hand rein, this was designed to protect his one out position as those two horses to his inside moved back up the track. At the stewards' inquiry Mr Dornauf called one other driver to say that he thought Mr Dornauf was clear of Mr Hillier's horse when he crossed.

6. We prefer the evidence of the stewards. Both Mr Larkins and Mr Hillier gave persuasive evidence plainly consistent with the film. We find that Mr Arnott's horse moved about half a cart down the track and fairly soon afterwards moved back out to its position in the one out line. The field then continued, in our assessment, for another 50 to 80 metres at least by which time Mr Arnott's horse, *Grand Brook*, and Mr Hillier's horse, *Topnotch Dan*, were again established in the one out line. Mr Dornauf's horse was still racing three wide. Mr Dornauf was keen to assume a position in the one out line. He pulled on the left rein and leaned to the inside to drive his horse to that position. His horse's head is pulled strongly to the left, down the track. There was clearly not room for him in the one out line at that point. He was not clear of Mr Hillier and there was only about a metre or so to do so between Mr Hillier's horse and the horse in front of it. Mr Dornauf knew Mr Hillier's horse was to his inside because he had been driving alongside him for a considerable distance and he could, at the critical time, see him there. Mr Hillier's horse was in advance of him and his sulky. There was not room for Mr Dornauf to cross. He drove down and forced a passage.

7. We agree that Mr Dornauf's driving amounted to reckless driving. He drove his horse into the one out line either knowing that there was not room for him to do so or with disregard for whether there was room or not. As a consequence of that manoeuvre Mr Hillier's horse was interfered with, broke and lost ground in the race. We do not accept that Mr Hillier's horse raced up the track and that contributed to the pressure that was being exerted from the outside. For those reasons we accept the stewards' case that there has been a breach of Rule 168(1).

8. The stewards have imposed a six week suspension. Given our findings about the nature of the driving, the charge warrants the imposition of a serious penalty. Mr Dornauf's driving involved considerable risk and insufficient regard for the safety of other drivers and horses in the race. He could have caused a fall. The stewards have pointed out to us an increased prevalence of careless driving charges. Reckless driving is even more serious. Mr Dornauf does not have the benefit of a good record and is not entitled to any mitigation that would flow from that. Although he does not drive a great deal his recent driving record is poor. For all of those reasons we do not see any reason to alter the penalty imposed by the stewards. The appeal is dismissed.

Mr Dornauf's deposit will be returned to him.

DATED: 13 May 2008