

## TASMANIAN RACING APPEAL BOARD

Appeal No 21 of 2007/08

<b>Panel:</b>	<b>Mr R Pearce</b>	<b>Appellant:</b>	<b>Mr D Medhurst</b>
<b>Appearances:</b>	<b>Mr T Pullicino for the appellant Mr S Larkins for the stewards</b>	<b>Rule:</b>	<b>Harness Rule AR163(1)(a)</b>
<b>Heard at:</b>	<b>Launceston</b>	<b>Penalty:</b>	<b>4 race date suspension</b>
<b>Date:</b>	<b>20 March 2008</b>	<b>Result:</b>	<b>Dismissed</b>

### REASONS FOR DECISION

Mr Medhurst was suspended for four race dates for causing interference contrary to Rule 163(1)(a) of the harness racing rules. Mr Medhurst drove *Wittelsbach* in Race 6 at the meeting conducted at Devonport on 9 March 2008.

This was a mobile start in the front straight. Mr Medhurst was at gate four. *Berezovsky Leis*, driven by Bill Dornauf, started from gate one. Five horses on the front line showed gate speed including the horse in gate three, driven by Mr Johnson. As the field headed down the back straight Mr Medhurst was three wide and Mr Dornauf was in the lead on the pegs. Mr Medhurst cleared the horse that was one out as it eased to take a sit and raced for a few strides outside Mr Dornauf. He then continued to press forward and as the field commenced the turn out of the back straight, Mr Medhurst's horse crossed to the lead. It was the act of him doing so that led to the charge that is the subject of this appeal.

The stewards allege that Mr Medhurst allowed his horse to shift to the pegs when insufficiently clear of Mr Dornauf's horse. I viewed the race films. I heard evidence from Mr Dornauf and from steward, Mr Manshanden. I heard opinions also from Mr Pullicino, an experienced driver, who acted as Mr Medhurst's advocate in the appeal. Mr Medhurst himself did not give evidence and although he is not obliged to do so I am entitled to infer from his failure to do so that his evidence would not have assisted his case.

Mr Dornauf said that he was very keen to maintain the lead but that Mr Medhurst, as he came down the track on the corner, got tight on him and in Mr Dornauf's words "squeezed him out". He said that had he not restrained his horse he would have been forced inside the pylons or even caused a fall. He said he shouted out as he saw what was happening but received no response.

Mr Manshanden had a direct view of the incident and gave essentially the same version. Mr Pullicino's opinions were based on his observations of the video. He said I should conclude that some minor tightening occurred when Mr Medhurst was racing outside the lead but that at the time he was crossed he was clear, having applied some brief pressure on the right rein to straighten his horse.

I have looked again at the video. It is entirely consistent with the evidence given by Mr Dornauf and Mr Manshanden. I accept their evidence. I find that Mr Medhurst allowed his horse to come down the track on the corner to the pegs when he was not clear of Mr Dornauf. Although there was no contact this was because Mr Dornauf anticipated what was happening and restrained his horse. If there was any pressure applied by Mr Medhurst to the right rein of his horse to straighten its course it was insufficient to achieve that object. As a result Mr Dornauf lost his position. That constitutes interference under R163(1)(a). Had Mr Dornauf not taken hold the interference may well have been of a much more serious nature. For all of those reasons I find the charge proved.

I am not persuaded that I should interfere with the penalty that the stewards imposed. I view this as a relatively serious case. It happened at the fastest part of the race where drivers are either trying to reach the lead or trying to maintain the lead. Crossing cases always involve risk to horses and drivers. I take into account Mr Medhurst's record, which recently has not been good. I note Mr Pullicino's submission that the suspension will effectively see out the rest of the time that Mr Medhurst has junior driver status. However, I agree with the stewards that for reasons of specific and general deterrence a four meeting suspension is appropriate. I dismiss the appeal.

Mr Medhurst's deposit will be returned to him.

**DATED: 28 March 2008.**