

## TASMANIAN RACING APPEAL BOARD

Appeal No 2 of 2007/08

<b>Panel:</b>	<b>Mr R Pearce (Chairman)</b>	<b>Appellant:</b>	<b>Mr A Dornauf</b>
<b>Appearances:</b>	<b>Mr D Tyson for the stewards Mr L Dornauf for the appellant</b>	<b>Rule:</b>	<b>Harness Rule AR231(2)</b>
<b>Heard at:</b>	<b>Launceston</b>	<b>Penalty:</b>	<b>\$400 fine</b>
<b>Date:</b>	<b>8 November 2007</b>	<b>Result:</b>	<b>Suspension of \$150 conditionally upon no similar breach within 12 months</b>

### REASONS FOR DECISION

This is an appeal by Alec Dornauf against a fine of \$400 imposed on him by the harness racing stewards for misconduct contrary to Australian Harness R231(2). Mr Dornauf is aged 27. He is a licensed harness racing driver but only drives for his father who has a few horses. On nights when he is not driving he is employed as a barman by the Launceston Pacing Club. He has been so employed for about five years and usually if a second person is required in the "top bar" he works with his partner, Sandy.

The alleged misconduct arises out of an incident at a meeting at the Launceston Pacing Club on 12 August 2007. At the time Mrs Gayle Menegon was the Acting Secretary/Manager of the Club. Mr Dornauf was due to work on that night and came expecting to work alone, although he was accompanied to the races by his partner and her two children. When he got to the top bar before the first race another person had been rostered on. He was upset about this because his understanding of the arrangement with the Club was that if a second person was required to work that it would always be Sandy. Mr Dornauf's reaction was partly a result of what happened on that night but also partly a consequence of earlier events concerning his employment. He thought, and these are my words, that Mrs Menegon had it in for him and Sandy. As a result he left the bar and went to the Secretary/Manager's Office. Mrs Menegon was there. Access to her office from the outside is obtained by walking through double glass doors into a reception area known as the "acceptance room". Her office is through a door immediately to the left and directly adjacent to the acceptance room. One staff member was working there and at least two other persons, probably owners or trainers, were there attending to formalities prior to the races.

The account of what then happened varies. Mr Dornauf agrees that he may have spoken loudly to Mrs Menegon. The substance of his evidence is, however, that he expressed what he believed to be a genuine grievance forcefully but not in a manner that was aggressive or inappropriate.

He called evidence by phone from a trainer, Michael Laughner, who was in the acceptance room for at least some of the time while the exchange took place. Mr Laughner could hear a disagreement but did not characterise the exchange as abusive. Mr Dornauf also called evidence from Mr Hammond and Mr Arnott, the Chairman and Treasurer respectively of the Launceston Pacing

Club. They were not witnesses to the exchange and gave evidence of these background matters from a point of view based, I must say, largely on Mr Dornauf's version of events.

I was impressed by the evidence of Mrs Menegon. She gave her evidence calmly and logically. She described Mr Dornauf's manner when he came to her office as aggressive and loud. She does not seem to me to be a shrinking violet. I have no doubt that she replied to Mr Dornauf, perhaps even loudly, but she told me, and I accept, that the exchange reduced her to tears. She thought that Mr Dornauf swore at her but couldn't remember precisely what he said.

I am not concerned about the employment matters that have been raised in this appeal. What I am concerned about is how licensed persons conduct themselves at the races and in particular whether in this case Mr Dornauf misconducted himself. He was plainly angry and upset, so much so that he took himself, in company with his partner, from where he should have been working all the way to the Secretary/Manager's Office to let her have his view of how unfairly his partner had been treated. During the argument he resigned on the spot. The effect of Mrs Menegon's evidence is that he was not in the mood to be reasoned with at the time and I have no hesitation in accepting the truth of that proposition. I find that the exchange was likely to be heard by persons other than Mr Laughler. I find that Mr Dornauf, as he left the office, said, "I hope you bloody go broke" or words to that effect in a loud and aggressive manner. I am not satisfied on the evidence that he swore but I do find his manner to have been as I have described. It reflected poorly on him, particularly in the light of Mr Hammond and Mr Arnott's evidence about his good employment record and his good relationship with the Club, but it also reflected poorly on the industry. Luckily he was observed by only a few.

Mrs Menegon held the position of Secretary/Manager. Whatever disagreement Mr Dornauf had with her, she should not have been confronted as she was. More respect should have been shown to her and her office, especially during a race meeting. Mr Dornauf's complaint should have been raised in another way and at another time. Although the argument was mostly about employment issues it was at the races and he is a licensed person.

For all of those reasons I find the charge proved.

I do not consider this case to be as serious as the one recently dealt with by the Board concerning Mr Barker. Mr Barker was fined for publicly confronting stewards in an unacceptable manner during a race meeting. Mr Dornauf's conduct was less public and of a lower degree of seriousness. Nevertheless, it was conduct directed to an official of the Club. Although his anger resulted from issues mostly concerning his employment, it is incumbent on him, as a licensed person, to conduct himself properly at race meetings, particularly towards officials.

I do not propose to interfere with the amount of the fine. I do however suspend the operation of part of it. I think that Mr Dornauf should pay \$250 of the fine. I suspend \$150 of the fine on condition that Mr Dornauf commits no further offence under this rule or any similar conduct rule for a period of 12 months.

Mr Dornauf's deposit will be returned to him.

**DATED: 12 November 2007.**