RACING APPEALS TRIBUNAL

Tribunal: The Hon Justice Kavanagh
Advisor: Mr A Mullins

APPEAL OF GUY CHAPPLE
(Breach of Rule 163(1)(a) of the Rules of Harness Racing)

DECISION

1 On 21 May 2011, Harness Racing New South Wales Stewards opened an inquiry into the driving of Guy Chapple. The relevant inquiry concerned the driving tactics adopted by Mr Chapple in his driving of *"Lombo Solitaire"* in race two on 21 May 2011 held at Newcastle. The Stewards determined to charge Mr Chapple under Rule 163(1)(a) of the Harness Racing Rules which states:

> A driver shall not -
>
> (a) cause or contribute to any crossing, jostling or interference.

The charge against Mr Chapple was read by the Stewards as follows:

> ... that when approaching the turn to the front straight ... you directed your horse out when insufficiently clear of Princess Uneek, which has caused that horse to be checked, which in turn then has shifted out and checked Duchess of Dubai, which resulted in driver Jason Proctor being dislodged from his sulky.

2 Mr Chapple pleaded not guilty to the charge.

The Inquiry

3 The Chairman of Stewards observed that, during the race, there was an incident involving three drivers and their horses, namely: Mr Jason Proctor, who was the driver of *Duchess of Dubai;* Mr Clayton Harmey, who was the driver of *Princess Uneek* and Mr Chapple, who was the driver of *Lombo Solitaire*. Mr Proctor was dislodged from his sulky at the point where the

horses were rounding the turn into the front straight on the final occasion. Mr Westwood, an observing Steward on duty at Newcastle that day and well placed to clearly see the incident, recounted that Mr Proctor, on *Duchess of Dubai,* was the widest of the three horses. To his inside was *Princess Uneek,* driven by Mr Harmey, and to Mr Harmey's inside was *Lombo Solitaire,* driven by Mr Chapple.

4 As the field made their way to the home straight, it is agreed by the observing Steward and Mr Chapple that *Lombo Solitaire* made two separate shifts. The first shift saw the horse move from a position one wide to a position one and a half wide, which did not appear to effect the other runners. The second shift saw the horse move to a fully three wide line. The Steward observed that Mr Chapple appeared to have clearance over Mr Harmey to complete the first manoeuvre, however the second shift resulted in a contact to the nearside foreleg of *Princess Uneek,* driven by Mr Harmey, which resulted in that mare racing roughly and shifting out sharply until its offside hind leg caught *Duchess of Dubai's* nearside wheel causing its driver, Mr Proctor, to be dislodged from his sulky.

5 Mr Chapple contends that while he intended to make the first shift, the second shift was the result of his horse running out in a circumstance where the horse in front started to come out to make its run which movement caused his horse (wearing a "Murphy blind") on that near side to make the second shift, not a shift intended by Mr Chapple who contends he had, as the Stewards acknowledged, clearance.

6 The Stewards questioned Mr Proctor, the driver of *Duchess of Dubai,* and Mr Harmey, the driver of *Princess Uneek,* and reviewed DVD footage of the relevant race.

7 The Stewards determined on the evidence before them that Mr Chapple was guilty of a charge of causing interference under rule 163(1)(a) of the Harness Racing Rules in that near the 300 metres he directed his mare out when insufficiently clear of *Princess Uneek.*

8 Mr Chapple made some submissions in mitigation of penalty as follows, contending: his good record for the preceding 12 months during which he had completed around a thousand drives; his last suspension for causing interference was at Newcastle on 21 October 2010.

9 The Stewards noted that such an infringement (when a driver has been dislodged from a sulky) normally attracts a suspension of a driver's licence that starts at a period of 35 days allowing discounts for what they believe are good driving records. The Stewards accepted Mr Chapple has a good driving record and were satisfied to give him the maximum discount allowable, a discount of 14 days for achieving 600 drives or more since his last suspension.

10 The Stewards determined to suspend Mr Chapple's licence to drive in races for 21 days.

The Appeal

11 The transcripts of proceedings before the Stewards and a DVD showing footage of the race in question were placed in evidence before the Tribunal, together with submissions from the parties.

12 The grounds of the appeal filed were as follows:

- My not guilty plea
- I feel the horse in front of Lombo Solitaire has shifted out causing my second movement and thus causing interference to Mr Harmey's horse
- I feel the inquiry was rushed (partly due to me having drives in most races) not giving me time to view all dvd angles of the incident
- I wish to view all angles of the incident and request copies sent to me before my inquiry

13 Mr Chapple appeals against conviction and penalty. He presented a similar argument before the Tribunal as that outlined in [4] and [5]. The Tribunal has sighted three angles of the race on DVD.

14 The Tribunal finds Mr Chapple guilty of the offence as charged. We discount the words used by Mr Chapple in his written document where he says causing 'my' second movement. The real defence to the charge has been the horse in front shifted out causing Mr Chapple's horse to make the second move. In the Tribunal's view the DVD does not clearly establish this defence. We must re-iterate the driver is responsible for control and direction of his horse at all times. This cannot be viewed as a racing incident. The DVD satisfies us the horse hung to the right and that caused the incident. However the driver controls the movement of his horse especially when it is the driver's intention to move forward in a tight circumstance.

15 Unlike the stewards, the Tribunal is not bound to a system of prearranged or concluded penalty regimes. The fact that the stewards do that is totally within their domain and in many respects understandable but this Tribunal has the capacity to come to the issue of penalty forming a fresh view.

16 The Stewards acknowledge Mr Chapple has a good driving record although since the incident we note there has been a single further offence under this rule that resulted in a $50 fine.

17 We accept that while it appeared on the first movement there was clearance the immediacy of the second uncontrolled movement closed off what was a tight opening and, while there was driver error, it was a simple error of judgment in a tight racing situation. Mr Chapple has a good driving record. Mr Chapple shall be suspended from Harness Racing driving for a period of 14 days from midnight tonight.

18 The orders of the Tribunal are as follows:

(a) the appeal is dismissed;

(b) the suspension of 21 days imposed by the Stewards is set aside and in lieu thereof a penalty of 14 days suspension is imposed;

(c) the Stay order granted by the Tribunal in relation to the Stewards' penalty is extended to midnight tonight;

(d) the appeal bond is retained by Harness Racing NSW.

22 July 2011

The Hon Justice T M Kavanagh