

APPEAL DEAN SLATTERY – STAY OF PROCEEDINGS REASON FOR DECISION

Mr Slattery is a part owner of a racehorse HALOGEM and stewards inquired into complaints relating to the circumstances in which that racehorse was removed from the registered stables of Thoroughbred Racing Northern Territory (TRNT) licensed trainer Mark Nyham in early a January 2020. The panel reported:

After considering the evidence accumulated during this investigation, registered part owner of HALOGEM Mr Dean Slattery was charged with two breaches of the Australian Rules of Racing.

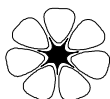
Charge 1 under AR 228 – As a part owner of the race horse HALOGEM, on or about the 9th January, 2020 he did facilitate the removal of that gelding from the registered stables of trainer Mark Nyhan located at the Alice Springs Turf Club and relocate the gelding to an undisclosed location. This was done whilst the trainer was overseas and without his knowledge, and he has since refused to advise the managing part owner Mr Mark Pickering of the location of the gelding. The Stewards were of the opinion that the above mentioned conduct was prejudicial to the image and interests of racing.

Charge 2 under AR 232(c) - As the part owner of HALOGEM he has refused to comply with a direction of the Stewards to disclose the location of the gelding.

Mr Slattery was found guilty of charge 1 and pleaded guilty to charge 2.

In consideration of a penalty for each charge the following was taken into account:

- The Stewards are currently satisfied that HALOGEM is being properly cared for and in good condition as evidenced by a recent inspection of the gelding by a veterinarian at an Alice Springs veterinary practice*
- The serious nature of each charge and his plea of guilty to charge 2*
- His continued refusal to disclose the location of HALOGEM during the proceedings*
- The impact his conduct has on the other part owners*
- The implications his actions have on the control of thoroughbred racing and compliance with the Rules of Racing*
- Precedents for similar breaches*
- The penalty must serve as a specific and general deterrent*
- His limited submissions of his personal circumstances*



Mr Slattery was disqualified on charge 1 for a period of 8 months. In relation to charge 2 he was disqualified for a period of 18 months. The Stewards determined that the penalties should be served concurrently and therefore the total period of disqualification will be 18 months.

Against these decisions Mr Slattery has his right of appeal to the NT Racing Appeals Tribunal which must be lodged within 7 days.

Mr Slattery on 18 February 2020 has appealed in the following terms “*Chairman, I’m appealing on the 2 counts*”, as follows:

First charge I’m pleading on the guilty verdict as there are some outside legal circumstances involved

The second charge for the severity of the sentence

In support of a stay Mr Slattery sent correspondence to the Secretary on 18 February 2020, as follows:

Chairman

*Please consider the below also as for granting me a stay of proceedings
Monday 24th February an appointment in Adelaide with cardio specialist
Tuesday 25th February tests (pre operation)
Tuesday 3rd March operation on Heart*

The stay of proceedings will enable me to firstly to have my hospital operation without the stress.

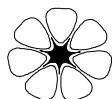
Secondly allow time to seek legal advice and also allow relocation and transfers of some 10 horses.

The power to grant a stay is expressed in very general terms in Section 145W of the *Racing and Betting Act 1983* as follows:

- (1) Subject to subsection (2), the Chairman may, pending the determination of an appeal, order, subject to such conditions as the Chairman thinks fit, a stay of the execution of the penalty, decision or order appealed against.*
- (2) Before making an order under subsection (1) the Chairman shall invite submissions from the appellant and the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and shall take into account any submissions received in determining whether or not to make an order under that subsection.*

I have not received a submission from the stewards other than a request that I decide by today so that if the stay is refused arrangements might be made in respect of a racehorse part owned by Mr Slattery and listed to race at Kangaroo Island this week. I authorised the Secretary to advise the stewards and Mr Slattery that I have refused to grant a stay before these reasons will be ready for publication so that the parties can organise their affairs accordingly.

Two of the three matters Mr Slattery raises for my consideration in seeking a stay are not relevant to the exercise of my discretion in the absence of compelling circumstances that hardship or unfairness (as I explain below) were to follow. These are firstly to allow time to seek legal advice which will only come into play when the transcript of proceedings is produced and dates for hearing are discussed. It is no ground for a stay. The second is to allow relocation and



transfer of some 10 horses. In my experience over many years in this Tribunal relocation and transfers can easily be arranged with the active support of stewards and I do not consider this, in the absence of further support for this ground, to justify a stay of proceedings

The third matter concerned with an operation Mr Slattery is to undergo in early March which he expresses this way. "The stay of proceedings will enable me to firstly to have my hospital operation without the stress." I do not consider this a proper ground for a stay of proceedings.

I should first note that the decision of the stewards is to be regarded as correct unless it is shown to be in error, which may include that to this Tribunal the penalty is excessive. It may occur that a disqualification is prima facie excessive and if no stay were granted until the appeal were heard and decided then the appeal would be futile, the penalty already having been served. A stay might be justified if serious difficulties arrive that cannot be avoided without a stay. In the past some stays have been granted but the power is not there to be called upon for the convenience of an appellant without solid grounds. None exist in this application and I refuse to order a stay.

TOM PAULING AO QC
CHAIRMAN

