

TRNT Appeals Committee

APPEAL of Trainer C Conron

APPEAL COMMITTEE: Mr P McIntyre (Chair), Mr J McNally and Mr C Burkitt.

DATE of HEARINGS: 2 May and 9 May 2019

## REASONS FOR DECISION

### Appearances

At the Appeal;

- a. Mr D Hensler (Chairman of Stewards) represented the Stewards.
- b. Mr N Henson represented Trainer C Conron who also attended.

### Background

1. Trainer C Conron appealed against a decision of the Stewards made on 26 April 2019 finding him guilty of a breach of AR 140 (1) (a) in that at the Darwin Turf Club race meeting conducted on 25 April 2019 at 5.33pm following the running of Race 5 he did provide a breath analysis test at the direction of the Stewards which detected a banned substance, namely alcohol at a concentration in excess of 0.05%.
2. Trainer C Conron had his trainer's licence suspended for a period of 3 months with the suspension commencing on 4 May 2019 and expiring on 3 August 2019.
3. Trainer C Conron filed a Notice of Appeal dated 30 April 2019 seeking to have the conviction set aside.
4. Whilst Trainer C Conron did not indicate on his Notice of Appeal that he wished to do so, he later made a verbal application to have the imposition of the suspension stayed until the determination of his appeal.

### Stay Application

5. The stay application was heard and determined by this Appeals Committee on 2 May 2019.
6. Trainer C Conron declined to make any submissions to this Appeals Committee on the stay application.

7. Mr D Hensler (Chairman of Stewards) made submissions on the stay application to this Appeals Committee by way of letter dated 30 April 2019.
8. Prior to the hearing of the stay application this Appeals Committee had the benefit of considering:
  - a. submissions on the stay application to this Appeals Committee by way of letter dated 30 April 2019 from Mr D Hensler (Chairman of Stewards);
  - b. the Notice of Appeal dated 26 April 2019;
  - c. the transcript of the Stewards Inquiry into Breath Analysis of Trainer Craig Conron after Race 5 at Fannie Bay Racecourse 25 and 26 April 2019 (the Transcript);
  - d. TRNT Stewards Report 26 April 2019.

#### **Order on Stay Application**

9. On 2 May 2019 the TRNT Appeals Committee dismissed the stay application for reasons to be subsequently published. These are our reasons for that decision.
10. During the Steward's Inquiry Trainer C Conron admitted;
  - a. Having had medical advice that he should not consume alcohol;
  - b. The high alcohol reading asserted by the Stewards; and
  - c. Having a prior conviction for a breach of AR 140 (1) (a).
11. In the circumstances this Appeals Committee determined that it was not in the interests of either of the racing industry nor the public to grant a stay and declined to do so.

#### **Hearing on the Appeal**

12. At the hearing of the appeal on 9 May 2019 the Appeals Committee had the benefit of considering the following further material provided by Trainer C Conron :
  - a. An affidavit of Neil Henson declared on 7 May 2019;
  - b. A letter submitted to the Appeals Committee for our consideration by Trainer C Conron dated 9 May 2019.
13. At the hearing of the appeal on 9 May 2019 the Appeals Committee had the benefit of considering the following further material provided by Mr D Hensler:
  - a. A table described as 'Offences relating to licensed persons testing positive to banned substance back to 2014'.
14. It is clear from the Transcript that the following matters are common ground:
  - a. Trainer C Conron had consumed alcohol on 25 April 2019 whilst exercising his duties as a licensed trainer;

- b. Had saddled 'Fizzy One' for Race Five on 25 April 2019 approximately 30 minutes prior to the first breath analysis test;
  - c. There were two breath analysis tests conducted 15 minutes apart from 5.17 pm that resulted in the following readings;
    - i. 0.171%
    - ii. 0.151%
    - iii. The second reading is reduced to .146% as relied upon by the Stewards to take account of the measurement of uncertainty of 0.005% in the use of the alcolizer unit.
15. On behalf of Trainer C Conron, Mr N Henson submitted that the alcohol testing was inappropriate and should be ignored because it took place well after Trainer C Conron had retired for the day and handed responsibility for any horses under his control to others.
16. The Appeals Committee rejected this submission.
17. The Transcript reveals that after the first breath analysis Trainer C Conron twice asked Mr D Hensler if he could 'go and fix my horse up' and in any event the breath analysis took place within a reasonable time of Trainer C Conron saddling 'Fizzy One' for Race Five on 25 April 2019.

#### **Finding on Appeal**

18. The appeal against conviction is without merit.
19. Accordingly, at the conclusion of the hearing the Appeals Committee dismissed the appeal.

#### **Consideration on Penalty**

20. Whilst the Notice of Appeal did not include an appeal on sentence it was clear from the letter referred to at paragraph 12 (b) above that Trainer C Conron wished to pursue such an appeal and the Appeals Committee permitted Mr N Henson on behalf of Trainer C Conron to make the following submissions on penalty:
- a. Trainer C Conron has been involved in the racing industry for over 40 years; and
  - b. This is only his second offence of this nature.
21. The Appeals Committee concluded that the penalty imposed was not excessive.
22. In so concluding the Appeals Committee took into account the following:

- a. It is important for the racing industry as a whole and for members of the public to be able to rely on licensed trainers properly discharging their duties in compliance with the rules of racing;
- b. There is a high risk of danger to jockeys and to members of the public when licensed trainers conduct their duties under the influence of alcohol at race meetings.
- c. Trainer C Conron had an alcohol breath analysis in the high range on each of the occasions referred to in paragraph 14 (c) above.
- d. It is important to ensure that licensed trainers are aware that neither the Stewards nor the Appeals Committee intend to exhibit a tolerance for breach of AR 140 (1) (a).

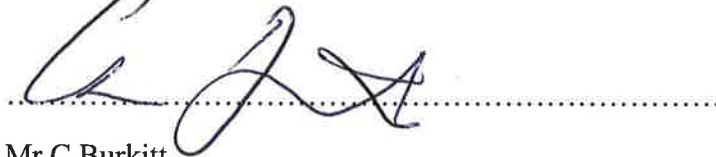
Dated the ..... 12<sup>th</sup> ..... day of July ..... 2019



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P F McIntyre (Chair)



Mr J McNally



Mr C Burkitt