

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION**

REVIEW AND REGULATION LIST

VCAT REFERENCE NO.Z201/2017

APPLICANT	Mr Daryl Douglas
RESPONDENT	Harness Racing Victoria
WHERE HELD	Melbourne
BEFORE	Member E Wentworth
HEARING TYPE	Hearing
DATE OF HEARING	19 April 2017
DATE OF ORDER	19 April 2017

FINDINGS

On the evidence at the hearing the Tribunal makes the following findings:

On 9 November 2016:


- 1 The applicant, Mr Daryl Douglas was present at 735 Cuthberts Road, Cardigan, the registered training establishment of a licensed trainer, Emma Stewart.
- 2 Mr Douglas was carrying on an activity related to the harness racing industry within the meaning of Australian Harness Racing (AHR) Rule 299, namely driving horses in track work at a registered training establishment and was thereby deemed to have knowledge of and be bound by the AHR Rules.
- 3 Mr Douglas did not hold a licence in the harness racing industry. He had previously held grade A driver and grade B trainer licences for a number of years.
- 4 Mr Douglas carried on an activity regulated by licence, when not the holder of a licence, in breach of 91 (1) (a): driving a horse in track work at a registered training establishment is an activity regulated by a Stablehands Licence in that it is assisting with the training, management, care and control of horses. It is irrelevant that the horses may have been unnamed. Charge 4 (breach of AHR Rule 91(1)(a)) is proven.
- 5 HRV Stewards John Packer and Russell Anderson, together with vet Dr Simon Bray were at the registered training establishment to conduct Out of Competition Testing and had authority under the AHR Rules to give orders and directions to persons there.

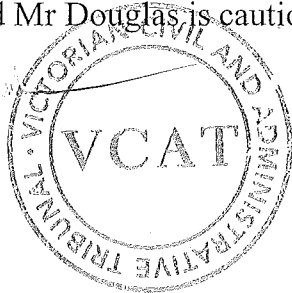
- 6 HRV Steward John Packer, who was known to be a steward by Mr Douglas, gave Mr Douglas a clear direction to stop for the purpose of answering questions. HRV Steward Russell Anderson, who was not known to be a steward by Mr Douglas and who did not identify himself also directed Mr Douglas to make himself available to answer questions. Mr Douglas did not stop. Mr Douglas did not answer questions immediately but some 12 minutes later, after making some calls from his car to establish the identity of HRV Steward Anderson approached and made himself available to HRV Steward Anderson to answer questions.
- 7 In the circumstances Mr Douglas did not refuse to make himself available to answer questions, nor did he refuse to answer questions. Charge 2 (breach of AHR Rule 187 (2)) is not proven. He nevertheless failed to stop when directed. Charge 1 (breach of AHR Rule 187(3)) is proven.
- 8 There is insufficient evidence to find that any comments Mr Douglas made when speaking on his mobile telephone to a third party about an unidentified person were about HRV Steward Packer. The comments were not made to or directed at HRV Steward Packer. In the circumstances Charge 3 (breach of AHR Rule 231(1)(d)) is not proven.

ORDERS

Having found Charges 1 and 4 proven and Charges 2 and 3 not proven, for the reasons given orally at the hearing including a comparison with the penalties given in more serious cases, the Tribunal orders as follows:

- 1 The decision of the Racing Appeals and Disciplinary Board dated 14 February 2017 finding Charges 1, 2 and 4 proven and disqualifying Mr Douglas for a period of 12 months is set aside.
- 2 In substitution, Charges 1 and 4 are found proven, Charges 2 and 3 are dismissed and Mr Douglas is cautioned.


E Wentworth
Member



APPEARANCES:

For Applicant:	In person
For Respondent	Mr N Conder, Steward