

Request for Ruling RIU v Mr X and Mr Y - Decision of Judicial Committee Ruling sought by Informant (RESULT ONLY) - Chair,

Hon L Stevens QC

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

**BEFORE A JUDICIAL COMMITTEE OF
THE JUDICIAL CONTROL AUTHORITY
UNDER THE RACING ACT 2003**

AND IN THE MATTER of the New Zealand Rules of Harness Racing

BETWEEN RACING INTEGRITY UNIT (RIU)

Informant

AND MR X

Open Horseman

First Respondent

AND MR Y

Open Horseman

Second Respondent

Information Nos: A7167 & A7168

Judicial Committee: Hon LL Stevens QC, Chairman - Prof G Hall, Member

Appearing: Mr B Dickey and Ms E Smith for the Informant - Mr P Dale and Mr J Eaton QC for the First and Second Respondents

Date: 26 October 2018 at 4.00 pm

DECISION OF THE JUDICIAL COMMITTEE ON RULING SOUGHT BY THE INFORMANT

(RESULTS ONLY)

[1] In the circumstances of the present case a Racecourse Inspector has pursuant to the New Zealand Rules of Harness Racing (the Rules) R 226(1)(b) the duty and the power to take such steps as may be reasonably practicable to prevent undesirable persons from having any connection with or influence on harness racing and race meetings in particular.

[2] Applying R 226(1)(b) of the Rules, the fact that open horsemen X and Y have been charged with offences of race fixing under the Crimes Act 1961 and the then known facts available to the Racecourse Inspector provided a sufficient basis to enable the Racecourse Inspector to conclude that open horsemen X and Y were both an "undesirable person" for the purposes of R 226(1)(b).

[3] In considering whether it was necessary to take any steps to prevent open horsemen X and Y from having any connection with or influence on harness racing and race meetings, the Racecourse Inspector was required to determine among other matters:

- (a) what steps may be reasonably practicable in order to maintain the integrity of harness racing; and
- (b) whether any steps contemplated are proportionate to any harm that might result to open horsemen X and Y.

[4] The decisions of the Racecourse Inspector dated respectively 27 September 2018 (open horseman X) and 28 September 2018 (open horseman Y) (the decisions) that both drivers "cannot drive at any race meeting in which betting is available" failed adequately to take into account the issue of proportionality and are hereby quashed.

[5] It follows that, pending the disposition of the criminal charges against open horsemen X and Y, or alternatively pending the making of any further order by the Judicial Committee, (pursuant to leave granted at [6] below) open horsemen X and Y can drive at any race meeting at which betting is available. The Judicial Committee records the acknowledgement by counsel for both drivers that the

raceday driving of each driver will face additional and heightened scrutiny from the Racecourse Inspectors and the Stipendiary Stewards in order to uphold the integrity of harness racing and associated betting.

[6] The decisions of the Racecourse Inspector were made on the basis of the fact that open horsemen X and Y have been charged with criminal offences and the limited information contained in the Police Summary of Facts in each case. Disclosure by the Police under the Criminal Disclosure Act 2008 is yet to be provided. Accordingly, should further relevant information become available, or if there is a material change of circumstances, the Racing Integrity Unit is granted leave to bring the application for a ruling back before the Judicial Committee for further consideration.

[7] The question of costs are, in each case, reserved.

[8] Detailed reasons of the Judicial Committee will be delivered at a later date.

Hon LL Stevens QC

Professor G Hall

Chair

Member

Penalty: