

RACING APPEALS TRIBUNAL

RAT 12/14

DATE: 12 AUGUST 2014

TRIBUNAL: **DEPUTY PRESIDENT:** MR M KING

ASSESSOR: MR G PRETTY

MR M SANTORO, AND WITH HIM MS L MICHALANNEY,
APPEARS FOR CHAIRMAN OF STEWARDS,
THOROUGHBRED RACING SA LTD

APPELLANT: MR SIMON PRICE

IN THE MATTER of an Appeal by **SIMON PRICE** against a decision of
Thoroughbred Racing SA Ltd Stewards.

BREACH OF RULE: ARR 137(a)

Rule 137 *Any rider may be penalised if, in the opinion of the Stewards,
(a) He is guilty of careless, reckless, improper, incompetent or foul
riding.*

PENALTY: SUSPENSION OF LICENCE FOR 4 MEETINGS

DETERMINATION

This is an appeal by the Appellant, Mr Simon Price, a licensed jockey, against a decision of Stewards made on 26 June 2014. The Appellant appeals to this Tribunal against both his conviction and the penalty imposed.

At the conclusion of Race 4, at the meeting at Port Augusta on 26 June 2014, the McDouall Peake Benchmark 72 Handicap of 1396 metres, the Stewards, led by acting chairman L Michalanney (assisted by Stewards Ryan and Packard) convened an Inquiry into an incident which had occurred at approximately the 1200 metre mark of the race.

In the Inquiry, the Stewards heard evidence from three jockeys in the race, Mr Zac Spain who had ridden GENTLE MELODY, Mr Ashley Doyle who had ridden TONI'S CONNECTION, and Mr Simon Price who had ridden AL CHICAGO. In addition, the Stewards reviewed the vision of the race in detail.

I shall address some of the evidence given at the Inquiry in more detail below.

No evidence was given at the Inquiry by the Steward Mr R Packard who had been in the tower positioned with the best vantage point to observe the incident.

At the conclusion of the Inquiry, Stewards reached a decision to charge the Appellant with careless riding under Rule 137(a) of the Australian Racing Rules. Rule 137 states:

*“Any rider may be penalised if, in the opinion of the Stewards,
(a) He is guilty of careless, reckless, improper, incompetent or foul riding.”*

Particulars of the charge were provided to the Appellant in the following terms:

“The particulars of the charge being you Simon Price, while riding AL CHICAGO in Race 4 at Port Augusta today, Thursday, 26 June 2014, inside the 1200 metres, shifted in when insufficiently clear of GENTLE MELODY, ridden by Zac Spain, resulting in that rider being forced to check his mount to avoid your heels.”

The Appellant pleaded not guilty.

After consideration, and hearing further submissions from the Appellant, the Stewards found the Appellant guilty of the charge.

The Stewards provided brief reasons for their decision:

“The brief reasons for finding you guilty are that whilst we acknowledge that Zac Spain’s horse was, had a tendency to over-race prior to the incident, we believe that you had shifted inwards and you were not clear of Zac Spain at the time that you did shift.”

After hearing submissions as to penalty, the Stewards reached a decision to suspend the Appellant’s licence for a period of four race dates. The Stewards expressed that this suspension was based upon an assessment that the carelessness of the incident was in mid-range and that the consequences of the incident were mid-range.

At the Appeal before this Tribunal, the Appellant represented himself, Mr Santoro represented the Stewards with Ms Michalanney.

In his appeal, the Appellant made a detailed and careful submission as to why the appeal against conviction should be upheld. In essence, he pressed three issues:

1. That insufficient weight had been attached to the evidence of the jockey, Mr Spain;
2. That he had exercised care in the way he rode on the day and that there were no indications from other jockeys that his riding had inconvenienced other jockeys; and

3. That if there had been significant inconvenience into other jockeys, the incident would have been evident to the Steward in the tower who would then have given evidence.

The Appellant took the Tribunal through the vision of the race in detail on a number of occasions to illustrate his points.

In referring to the vision of the race, the Appellant drew the attention of the Tribunal to the riding of Mr Spain on GENTLE MELODY, with a view to demonstrating that the riding of Mr Spain bore out the evidence he had given at the Stewards' Inquiry, namely that he was endeavouring to take up a position behind the leading horses but that his mount was pulling. In response, Mr Santoro, on behalf of the Stewards took the Tribunal carefully through the evidence given at the Inquiry to demonstrate that the Stewards had taken notice of the evidence given at the Inquiry by Mr Spain.

He advised the Tribunal that the Steward positioned in the tower, a district Steward, Mr Packard, did not have an observation of the incident at the time and therefore was not able to offer testimony at the Inquiry.

He took the Tribunal through the vision of the race again, acknowledging that Mr Spain had restrained his mount on a number of occasions but drawing a distinction between what occurred before the incident, which he described as Mr Spain's horse over-racing, and Mr Spain taking hold of the horse, and what occurred at the time of the incident, which he described as a distinct check causing Mr Spain's horse's head to turn slightly inward because of pressure from the outside.

Whilst he acknowledged that the Appellant had looked on at least three occasions to his inside before and as he crossed from his outer barrier, he submitted that the Appellant had not looked for some 15 to 18 strides before the incident.

Each of the parties made carefully considered and thoughtful submissions to the Tribunal which were of assistance to the Tribunal in reaching a decision.

In considering both the evidence given at the Inquiry and at the Appeal, and the submissions made, the Tribunal was greatly assisted by the guidance provided by the appointed assessor, Mr G Pretty. Mr Pretty brought his considerable experience to his role and provided valuable guidance in assessing the competing views.

At the Inquiry, the evidence of Mr Spain was to the effect that he had been directed by his trainer to urge his horse out of the gates and then to try and make it sit. As the lead horses slowed, his mount continued to charge and was pulling. He had to grab hold "*Because mine was just pulling that hard.*" Of the incident when the Appellant's horse moved in front of his mount, he stated:

"I've had to grab hold but not very much, just eased."

A review of the vision of the race demonstrates that Mr Spain was restraining his mount before the incident, at the time of the incident, and continued to restrain it after the incident for some distance.

At page 6 of the transcript of the Stewards' Inquiry, Mr Spain gave the following passages of evidence:

"My horse was always over-racing and I could always see that Simon was always going to go forward and come across so I was always easing from most of the start, from most of the run."

"Because my horse was always over-racing."

"I was in trouble probably, I wouldn't say in trouble, it was just over-racing for probably 150 metres out the gates, 200 metres out the gates."

Later in the Inquiry, Mr Doyle gave evidence. From his position slightly further back, on his mount, TONI'S CONNECTION, he took the view that there was always room on the inside of the Appellant's horse for a horse to pass through. At page 6 of the transcript, he stated:

"Yeah, where incident is, there definitely was at least two and three quarter (inaudible) at least a length and three quarters in between those horses because I was looking and I thought if my horse is over-travelling, I could have took that gap but I didn't want to go in there and I wanted to stay on the rail but that was there. I reckon I could have took that option if, you know, if my horse was really travelling, I could have snuck into there or even Zac could have snuck in there if his horse, and I reckon there was plenty of room for a horse to go in between them."

The inference to be drawn from Mr Doyle's evidence that if Mr Spain was checking his horse, it was not directly or solely caused by the movement of the Appellant's horse as there was still room for his horse to move forward inside the Appellant's horse.

There is little support in evidence from the jockeys for the charge against the Appellant.

The Stewards relied heavily on the vision of the race.

The vision of the race offers some insight but is insufficiently clear to contradict the evidence of the jockeys.

Whilst it can be observed on the video that the head of Mr Spain's horse turned inwards, the restraining of that mount up to the time of the incident by Mr Spain does not make it safe to assume that the horse's head movement was necessarily a result of the movements of the Appellant's horse. Whilst from the vision, the restraining or checking movement of Mr Spain on his mount can be observed, and that incident properly caused concern to the Stewards, the view provided by the various angles of the vision is insufficiently clear to establish to

the required level of proof that the movements of the Appellant's horse were the cause of a significant check to Mr Spain's horse.

To the extent that the movement of the Appellant's horse may have contributed to the decision of Mr Spain to further check his horse, the degree of contribution is minimal, and insufficient to support a charge of careless riding under Rule 137(a).

Whilst the Stewards' concern at the incident is understandable, it is the view of the Tribunal that the evidence available is not sufficiently clear to support the conviction of the Appellant.

After considering the evidence and arguments, the view of this Tribunal is that the conviction should be overturned and the Appellant's appeal upheld.

The Tribunals order is:-

1. The Appellant's appeal against conviction is upheld.
2. That there be a refund of the applicable portion of the bond to the Appellant.