

RACING APPEALS TRIBUNAL

RAT 22/16

DATE OF HEARING: 20 December 2016

TRIBUNAL: PRESIDENT: MR T R ANDERSON QC

ASSESSOR: MR G PRETTY

MR A HALES, ACTING FOR CHAIRMAN OF STEWARDS,
THOROUGHBRED RACING SA LTD

APPELLANT: MR MATTHEW POON

REPRESENTATIVE FOR APPELLANT: MR R JOLLY

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

BREACH OF RULE: ARR 137(a) - careless, reckless, improper, incompetent or foul riding.

PENALTY: SUSPENSION OF LICENCE TO RIDE FOR 4 RACE MEETINGS

FINAL DETERMINATION

In this matter, the apprentice rider, Mr Matthew Poon, was suspended by the Stewards for careless riding in Race 6 at Gawler on 23 November 2016. He rode the horse *Bit Spensive*.

The particulars alleged by the Stewards were that at about the 700 metre mark in a 1100 metre race, he allowed his mount to shift in when insufficiently clear of *Sandhill Ruler*, ridden by Ms Jemma Frew. As a result, she had to check her horse and altered course and shifted to the outside of *Bit Spensive's* heels.

It should be noted that Mr Poon has a reasonable but not fluent understanding of the English language.

Mr Poon pleaded guilty at the hearing.

When he appeared before the Tribunal, he was represented by his master, Mr Richard Jolly.

They indicated that they wished to change the plea because Mr Poon did not really understand the procedure at the Steward's hearing. They gave me sufficient reasons to allow them to do this and the Stewards did not object.

As a result, I allowed Mr Poon to change his plea to not guilty to the charge of careless riding.

I warned him at the time that it may mean that he could be given no credit for a guilty plea if indeed he was ultimately found guilty of careless riding.

At the time of the incident, Mr Poon was travelling towards the lead on *Bit Spensive* but he was three deep when he shifted across when only about 1 ¼ lengths clear.

The vision of the race which was viewed several times, is not all that clear but there is sufficient footage which shows that the rider, Jemma Frew, did check her horse and move to the outside of *Bit Spensive*. In other words, Mr Poon on *Bit Spensive* took the running of Jemma Frew on *Sandhill Ruler* and she had to check and move outside *Bit Spensive* to avoid an incident.

The Stewards imposed a penalty of five meetings which they reduced to four because of the guilty plea. Apart from now pleading not guilty, Mr Poon also appeals against the severity of the sentence.

Having viewed the vision several times and having conferred with my assessor, Mr Glyn Pretty, I am of the view that there was a degree of carelessness involved in Mr Poon's crossing over at the time he did.

I disagree with the Stewards in categorising that riding as mid-range carelessness. In my view it is at the lower end of the range and it is at the lower end because Mr Poon clearly misjudged in crossing when he did.

Mr Poon started riding in South Australia in October 2015. He has been a very successful rider in that time.

Unfortunately, however, since beginning in South Australia and prior to this occasion, he has been suspended for careless riding on three other occasions in the last nine months. Each time he has been suspended for three meetings.

That is not a good record from a young and promising apprentice jockey. He has no other source of income than his apprentice wage.

As I have said, I regard the carelessness as low range and therefore disagree with the Stewards' starting point which was five meetings. I think the appropriate starting point would be three meetings.

I can give no discount for a guilty plea because of the change in plea and there are no other factors causing that to be varied. Therefore I am of the view that the correct suspension is for three meetings.

I allow the appeal on penalty but uphold the conviction. I order that the bond be refunded.

The three meetings which will be the basis of the suspension are Port Lincoln on 27 December, Strathalbyn on 28 December and Morphettville on 31 December.

I mentioned at the time and I mention again for the benefit of the Stewards and other apprentice riders and their masters, that in future it would be appropriate for an apprentice to be represented in the hearing before the Stewards. This is all the more so if the apprentice has some language difficulties.