

RACING APPEALS TRIBUNAL

RAT 09/16

DATE OF HEARING: 28 April 2016

TRIBUNAL: DEPUTY PRESIDENT: MR M KING

ASSESSOR: MR J LETTS

MR M SANTORO, ACTING CHAIRMAN OF STEWARDS,
THOROUGHBRED RACING SA LTD

APPELLANT: MR J TOEROEK

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

BREACH OF RULE: AR 137 (a) which states:

“Any rider may be penalised if in the opinion of the stewards, he is guilty of careless, reckless, improper, incompetent or foul riding”.

PENALTY: SUSPENDED FOR 3 MEETINGS

DETERMINATION

The Appellant, Jake Toeroek, is a licensed jockey. On Saturday, 9 April 2016, in Race 7 at Morphetville, the The Laelia Stakes, he rode the horse *Optimize*.

Following that race, the Stewards convened an Inquiry. Evidence was called from jockeys Linda Meech, Emily Finnegan and the Appellant. The vision of the race was viewed on a number of occasions.

At the conclusion of the Inquiry, the Stewards reached a view that there were proper grounds to charge the Appellant under Rule 137(a). Rule 137(a) states:

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

Stewards advised the Appellant that the relevant aspect of the rule was the “careless” riding aspect. Particulars were provided to the Appellant as follows:

“While riding Optimize in Race 7 at Morphetville on Saturday, 9 April 2016, you allowed your mount to shift out when approaching the 400 metre when insufficiently clear of

Thames Court, ridden by Linda Meech, resulting in that horse's running being taken and Linda Meech having to check her mount to avoid your horse's heels."

The Appellant reserved his plea, which the Stewards accepted as a not guilty plea.

At the hearing of the charge, the Appellant conceded that his mount did roll out because he was looking after the horse on his inside, but argued that he did roll out "that much".

He conceded that at the time he rolled out, he was not two lengths clear of Ms Meech's mount and estimated that he was probably one length ahead.

Ms Meech agreed that she checked her mount but stated on a number of occasions in Inquiry that she checked it more than she had to. She repeated this on a number of occasions without giving a convincing explanation about why she would check her mount more than she needed to.

The Appellant's defence was primarily that the evidence did not establish that he had shifted his mount out to a sufficient extent to bring it into the running lane of Ms Meech.

He suggested that Ms Meech may have checked her mount in anticipation of him coming into her running lane when the evidence did not establish that he had done so.

After considering the evidence, the Stewards found the Appellant guilty of the charge and after considering submissions as to penalty, the Appellant was suspended for three meetings.

The Appellant appealed to this Tribunal against both conviction and penalty.

The Appellant, with the assistance of Mr Winton, ably presented his appeal. In support of his appeal against conviction, the appellant referred to the vision of the race and called evidence from the jockey, Mr Bowditch.

He based his appeal firstly on the movement of the horse, *Valley Brit*, ridden by Mr Bowditch on his inside, which he said placed pressure on him to shift out; secondly, on the fact that he was called out vigorously by Mr Bowditch on his inside and thirdly, that on the evidence of Ms Meech given at the enquiry, that she had over-reacted to his horse's movement.

In hearing this appeal, I have had the benefit of the assistance of the appointed assessor, Mr Letts. Mr Letts is a very experienced jockey and brought the benefit of his skill and experienced judgment to this Tribunal. In reaching my decision, I have been greatly assisted by his analysis of the movement of the horses and the analysis of the vision of the race.

In his argument on appeal, the Appellant again conceded that his mount rolled out when he was responding to pressure, largely verbal, from Mr Bowditch on his inside. As he rolled out, Ms Meech checked her mount.

The vision establishes sufficiently that he rolled out at a sharp angle and did encroach onto Ms Meech's line. The movement out was the cause of Ms Meech's checking, not an over-reaction on her part.

The Tribunal takes the view that the vision supports the Stewards' finding that the Appellant's movement out was careless and that the offence has been made out.

The appeal against conviction is dismissed.

As to the appeal against penalty, the Stewards arrived at the penalty taking into account no reduction for guilty plea, the Appellant's good record, the extent of interference, being a check, and the degree of carelessness being mid-level.

The consideration of those factors by the Stewards appears well-balanced and the penalty arrived at by the Stewards reflects those factors.

The appeal against penalty is dismissed also.

I order that the refundable portion of the bond be returned to the Appellant.