

RACING APPEALS TRIBUNAL

RAT 6/16

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 D CABOCHE

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

BREACH OF RULE: ARR 137A (5) (a) (ii) which states:

- (a) In a race, official trial or jump-out prior to the 100 metre mark;
- (ii) The whip shall not be used in a forehand manner more than on 5 occasions

PENALTY: FINED \$600

DETERMINATION

The Appellant is a licensed jockey. On Wednesday, 16 March 2016 at Strathalbyn, the Appellant rode a horse *Penny for a Pound* in Race 7.

Following that race, the Stewards convened an Inquiry regarding excessive use of the whip prior to the 100 metre mark.

At that Inquiry careful examination of the film was carried out in conjunction with the Appellant.

Of the seven occasions that the Stewards identified use of the whip prior to the 100 metre mark the Appellant conceded readily that four had made contact with the horse but contended that the remaining three had not made contact.

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

Particulars of that charge were provided to the Appellant, namely that he used the whip on more than five occasions prior to the 100 metres, being seven occasions, two more than are permitted.

The Appellant pleaded not guilty and after further consideration and discussion with the Appellant, the Stewards found a charge proven. The Appellant was convicted and penalised with a fine of \$600.

The Appellant appealed to this Tribunal and presented his appeal with the assistance of an experienced jockey, Mr Simon Price.

The Appellant took the Tribunal through the film and identified the occasions where he conceded that his whip made contact with his horse. The occasions where the stewards alleged contact were also viewed.

Submissions were made on behalf of the Stewards and the vision looked at on a number of occasions.

In reviewing the vision, I have had the benefit of the assistance of the appointed assessor, Mr Letts, who is a most experienced jockey. His assistance and experience and analysis of the vision, the movement of the whip and motions of the jockey were of great assistance.

This Tribunal's role is to determine to its reasonable and comfortable satisfaction that the whip contacted the horse on more than five occasions prior to the 100 metre mark.

The vision of the race does not allow the Tribunal to be comfortably satisfied about that.

Whilst it is clear that there were at least four contacts, it is not possible for the Tribunal to be satisfied to the requisite level of confidence that the number of contacts were above five.

After considering carefully the detailed submissions made by both the Appellant and the Stewards and on reviewing the vision, the decision of this Tribunal is that the appeal is to be upheld and the charge dismissed.

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