APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY CIEREN FALLON

Heard at Racing NSW Offices

Appeal Panel:	**Mr L. Vellis - Convenor**; **Mrs S. Skeggs**; **Mr P. Losh**
Representatives:	**Racing NSW – Mr S. Railton, Chairman of Stewards**
	Appellant – Mr W. Pasterfield
Date of Hearing:	**26 November 2024**
Date of Reasons and Orders:	**26 November 2024**

REASONS FOR DECISION

1. Following the riding of the James Squire Golden Eagle at Rosehill Gardens Racecourse on Saturday, 3 November 2024, licensed jockey, Mr Cieren Fallon (**Appellant**) was charged with a breach of AR 131(A), the careless riding rule. The particulars of the charge were as follows:

   "*…the careless riding being that, as the rider of Lake Forest, you did allow your mount to shift out a significant amount of ground over the concluding stages of the race, which resulted in your mount making heavy contact with Lazzat, which was severely hampered and was forced out across the rightful running of Makarena, which was checked*."

2. The Appellant pleaded guilty to the breach of the rule. Given the feature race status involved and the high degree of carelessness, the Stewards imposed a one-month suspension upon Mr Fallon and also issued him with the maximum fine permitted under the rules of racing, which is $100,000.

3. The Appellant has appealed to the Panel against the severity of the penalty imposed with respect to the fine only. He has already begun serving his one month suspension, which expires on 10 December 2024. E3

4. The Appellant was represented by Mr Wayne Pasterfield, solicitor. The Stewards were represented by Mr Steve Railton, the Chairman of the Stewards for Racing New South Wales. No oral evidence was called on the appeal. An appeal book containing transcripts of the Steward's inquiry was tendered as Exhibit A and film of the race from various angles was viewed.

5. In support of the quantum of $100,000 being appropriate, Mr Railton relied upon several matters. He emphasised the high degree of interference and carelessness in the incident itself. He submitted that where there is that level of carelessness in races of significance, the Stewards believe that the use of a fine is helpful and an additional deterrent to encourage jockeys to ride safely and not put horses and other jockeys unnecessarily at risk in such races.

6. In this case, Mr. Railton submitted that it was more good fortune than anything else that *Lazzat* and *Makarena* did not take a tumble and that the consequences were not more severe for the horses and jockeys involved. He also pointed to the very substantial prizemoney that is available in these significant races, with the Golden Eagle being the second richest race in New South Wales and the second most waged upon race in New South Wales, and that this level of possible prizemoney may sway jockey to take certain actions to win a race that they would not otherwise take.

7. Mr Railton also pointed out that Mr Fallon's winning fee for the race was in excess of $242,000. Mr. Railton also submitted that Mr Fallon only straightened his mount at the winning post when he realised that the race was won. He submitted that Mr Fallon used the whip on his mount three times while *Lake Forest* was shifting in and did nothing to straighten his mount until the race was won, and that this was highly careless.

8. Mr Pasterfield raised a number of points in support of a submission that the penalty was excessive. He first sought to draw a comparison between the fine imposed upon Mr Fallon with a careless riding charge against Mr Antonio Orani in the same race, where Mr Orani also received a one month suspension as well as a fine of $30,000. Mr Pasterfield submitted that Mr Orani caused more interference than the Appellant did in the same race but received a substantially lesser fine. Mr Pasterfield also submitted that consistency was important and that the imposition of a materially higher fine upon Mr Fallon was not consistent with the way Mr Orani was treated by the Stewards. The Panel notes that one notable difference between the Mr Fallon and Mr Orani penalties was that Mr Fallon's mount won the race, which the Panel considers to be a relevant factor, particularly when considering the difference in prizemoney.

9. Mr Pasterfield further submitted that the carelessness of Mr. Fallon occurred at the winning post when the race was already won. The Panel does not fully support this submission as there were steps that could have been taken by Mr Fallon prior to the winning post as he straightened his mount. Mr Pasterfield also submitted that the imposition of the maximum fine where the charge was not even at the highest level of reckless riding is harsh and excessive.

10. Mr. Pasterfield also submitted that imposing the maximum fine did not factor in Mr Fallon's guilty plea or good record.

11. In determining this matter, the Panel confirms that here is no doubt that the Stewards have power under the rules of racing to impose a fine in addition to suspending a jockey for careless

riding. The Panel accepts and endorses the reasoning of the Panel in the *Callow* and *Berry* matters where references is made to a particular need for deterrence in feature races with substantial prizemoney. These races are also the showcase of the industry and many eyes are watching whether live at the track or in the media. Very substantial amounts of money are invested in the horses and in the betting markets. It is very important in such races that jockeys do not exhibit high levels of carelessness with the possibility of injuries or with the result of the race being affected. It is also noted that prior to this particular race, all jockeys were warned about their conduct in this race.

12. In the present case, the degree of carelessness was high. There is no doubt about that. While Mr. Fallon has a good record and we accept that the risk of suspension does deter jockeys from riding carelessly, the risk of being fine and therefore not receiving the whole of the money that might be available if a jockey was to win a race is an additional and, in our view, reasonable deterrent in these very valuable races. This approach would be consistent with the reasoning of the Panel in *Callow* and *Berry*.

13. There is no doubt that consistency is also an objective for the Panel and of the approach to sanctions, but all cases need to be considered on their merits. Whilst recognising that and accepting the right of the Stewards to impose such additional sanctions in big races, given Mr Fallon's plea of guilty, his good record and the nature of the charge being careless riding rather than the even more serious charge of reckless riding, the Panel does not view consider the imposition of the maximum fine permitted to be appropriate in this matter. Having regard to all these factors, we consider that a fine of $50,000 would be sufficient. We therefore partially allow the appeal and reduce the fine to $50,000 and in the circumstances we refund the appeal deposit.

14. The orders of the Panel are:

    a. appeal against severity of penalty upheld;

    b. penalty of a fine in the amount of $100,000 set aside;

    c. in lieu of that penalty, a fine in the sum of $50,000 is imposed; and

    d. appeal deposit to be refunded.
