

RACING NEW SOUTH WALES

APPEAL PANEL

4 May 2016

MR R CLUGSTON — PRINCIPAL MEMBER
MR K LANGBY
MR T CARLTON

IN THE MATTER OF THE APPEAL OF
MICHAEL HEAGNEY

REASONS FOR DECISION

CHAIRMAN: This is an appeal by licensed jockey Michael Heagney (hereinafter referred to as “the Appellant”) against a finding of guilt and the penalty imposed by Stewards at the Sapphire Coast Racecourse on 1 April 2016 in respect of a breach of AR 137(a).

The particulars of the charge were that as the rider of *Mazurka* in Race 1 at the Sapphire Coast Racecourse on 1 April 2016 the Appellant did after the 1100 metres permit his mount to shift in when insufficiently clear of *Smart Remark* contributing to that runner having to be checked.

The Appellant pleaded not guilty to the charge before the Stewards however the charge was found proved and the Appellant’s licence was suspended for four (4) meetings to commence on 11 April 2016 and to expire on 20 April 2016 on which day he may ride. The Appellant was granted a stay of proceedings on 5 April 2016 until further order of the Panel.

The Appellant maintained his plea of not guilty to the charge in the proceedings before the Panel. Consequently this appeal is a rehearing on the questions of guilt and penalty. The Stewards were represented in the proceedings before the Panel by Mr J Walshe, Chief Steward, South East Racing Association and the Appellant appeared in person unrepresented. The transcript of the Stewards’ inquiry conducted

at the Sapphire Coast Racecourse on 1 April 2016 and the transcript of the hearing of the charge which took place on the same day and the video recording of the race in question have been admitted into evidence in the proceedings before the Panel.

The evidence discloses that the Appellant's mount *Mazurka* jumped from barrier seven (7) in a field of eight (8) and took up a forward position in the field. After travelling about 100 metres *Mazurka* was in second position travelling wider on the track than the leader *Martini Girl* (B Ward) and there was a line of three (3) horses travelling rearward of the leader *Mazurka*; *Little River Road* (W Pearson) was on the inside of those three (3) horses *Penny Face* (apprentice B Ryan) was travelling outside *Little River Road* and *Smart Remark* (S Guymer) was travelling outside *Penny Face*. As the field approach the 1100 metres the speed of the leading horses reduced and the gap between the leaders and the three (3) horses travelling rearward of the leaders also reduced. At that point of the race *Smart Remark* (S Guymer) suffered a check and the charge against the Appellant relates to that incident in the race.

In his evidence before the Stewards jockey S Guymer indicated that at the point where his mount was checked the Appellant's mount was travelling a length and a half in front of his mount when the speed of the leaders slackened and his mount shifted out one (1) horse and the Appellant's mount shifted in a half ($\frac{1}{2}$) a horse.

In his evidence before the Stewards jockey W Pearson said that shortly after jumping his mount was travelling inside the line of the fence (running rail) and he did move out a fraction from that position. In the same vain apprentice B Ryan said that he was aware that W Pearson was inside him and moving away from the fence and his mount shifted out about half ($\frac{1}{2}$) a horse as it raced erratically.

In summary, the Appellant's evidence before the Stewards was as follows (at page 17 lines 806-811):

"Well, as you see, Brock's horse is overracing as well. It comes out a good horse because it comes from behind Wardie to outside his heels. So he comes out a horse. The inside horse was slow to begin; it's Willie's horse. He's got to come out to avoid the inside running rail. At the same time Shaun Guymer's horse is overracing, comes out, runs into me and then runs back in and that's when the interference happened. You are trying to put all the blame on me."

and (at page 17 lines 827- 832):

“I’m just saying the three horses on my inside are the ones that shift. I shift marginally if I do shift at all. Shaun’s horse comes out, overraces. They’re all overracing because the speed of the race came off. Shaun’s horse overraces, comes out, runs into me and then runs back in and at the same time the two horses from the inside are already heading out and it puts the pressure on Shaun. I mean, it is not just all one horse.”

The Stewards in finding the charge of “careless riding” proved rejected the Appellant’s contention that he was not responsible for the check suffered by S Guymer’s mount. The Stewards’ reasoning was outlined by Mr Walshe as follows (at page 20 lines 965-977):

“-----We acknowledge that there has been a minor shift outward from Shaun Guymer’s mount but we think the predominant shift, the significant shift, is from your mount in. As we indicate, we believe the video will show at all times that you have not provided the required two lengths clearance when you have shifted in. Furthermore, we believe that your actions in the process of having shifted in when not clear, exacerbate the interference in that you are also restraining your mount.

You allude to Brendan Ward also steadying. Well, he’s entitled. He has cleared runners to his inside and he has done so safely. We don’t believe that you have provided the same level of care to your inside. It is because of that evidence that we do formally find you guilty of the charge as we believe that the charge can be sustained.-----“

The Appellant gave oral evidence before the Panel. His version was that the interference was caused by W Pearson missing the start then improving along the fence shifting out towards apprentice B Ryan’s mount which the put pressure on S Guymer’s mount and those three (3) horses overracing at the same time.

The Panel has considered the evidence and the submissions on the question of guilt. The Panel considers that the essential facts of this case are clearly depicted in the video recording which is in evidence. The video indicates that after jumping well from an outside barrier the Appellant rode his mount in an inwards direction towards the fence in the first 100 metres of the race and at the 1100 metres his horse was travelling one and a half (1½) lengths in front of S Guymer’s mount when it crossed the running line of that horse and then easing causing it be checked. The Panel rejects the Appellant’s contention that the interference to *Smart Remark* was caused by the two (2) horses travelling inside that horse shifting out.

The Panel has had the advantage of citing the “Careless Riding Penalty” template utilised by Stewards in determining the penalty imposed by them. The Panel notes the following relevant entries in that document:

1. Stewards assessed the level of carelessness as grade two (2) on an ascending scale of one (1) to three (3);
2. Stewards assessed the consequences of the Appellant’s careless riding (as it involved a check) as grade two (2) on an ascending scale of one (1) to six (6);
3. Stewards applied a discount of twenty five (25) percent to take into account that the Appellant has incurred one (1) suspension for careless riding in the previous twelve (12) months;
4. Stewards applied a discount of fifteen (15) percent to reflect the contribution of another horse (*Smart Remark*) shifting out.

The Panel in forming its own opinion in relation to the appropriate penalty in this case agrees with the approach taken by Stewards when completing the Penalty template.

The Appellant’s Disciplinary Record is before the Panel. The Appellant has been a licensed jockey for thirty four (34) years and the Panel considers that his overall record since 1999 to be a relatively good record.

Ultimately the Panel considers that the appropriate penalty in this case is licence suspension for four (4) meetings.

The orders of the Panel are as follows:

1. Appeals dismissed;
2. Finding of guilt made by Stewards on 1 April 2016 confirmed;
3. Penalty of licence suspension for four (4) meetings imposed by Stewards confirmed, such suspension to commence on 7 May 2016 and to expire on 15 May 2016 on which day he may ride;
4. Appeal deposit of \$200 forfeited.