

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF BOBBY EL-ISSA

Appeal Panel: **Mr R Beasley SC – Principal Member**
Mr K Langby
Mrs C Tuck

Appearances: **Racing NSW: T McDonald, Chairman of Stewards for Meeting at Gosford on 24 November 2018**
Appellant: Mr M Adams

Date of Hearing: **3 December 2018**

Date of Reasons **3 December 2018**

REASONS FOR DECISION

1. On 24 November 2018, the appellant, licenced jockey Mr Bobby El-Issa, rode the racehorse *Foxy Rocket* in race 1 at the race-meeting at Gosford that day, run over 1000m.
2. Following the race, Stewards conducted an inquiry, and charged Mr El-Issa with careless riding in breach of AR 137(a). The particulars of the offence were that Mr El-Issa:

“...leaving the 600m permit[ed] [his] mount to shift in when insufficiently clear of Exploration, which was bumped and carried in across the running of Ivy Eff, resulting in that runner being checked, making contact with the rail, becoming unbalanced and losing ground. ...Exhilarates also had to be checked off the heels of Ivy Eff.”
3. Mr El-Issa pleaded not guilty, but was found to have breached the rule. His carelessness was graded as “medium”, with a consequence of “checked/lost rightful

running". On the application of the careless riding penalty guidelines, he was penalised with an 8-meeting suspension.

4. On appeal, the Stewards were represented by Mr T McDonald, the Chairman of Stewards for the race meeting. Mr El-Issa was represented with leave by Mr M Adams, and gave evidence to the Panel.
5. The appeal book was tendered and marked as Exhibit A, and the film of the race, taken from multiple angles, was Exhibit B.
6. Mr McDonald submitted that the film established that at about the 600m, Mr El-Issa allowed his mount to shift in, and make contact with the horse Exploration. On the balance of probabilities, and consistent with the evidence of that horse's rider at the Inquiry (Mr Bell - see T 6 L 281), Mr McDonald submitted that Mr El-Issa allowed his horse to bump Exploration. That caused Exploration to shift in, and caused Ivy Eff on the inside to be checked, and contact the rail.
7. Mr El-Issa admitted to the Stewards, and to the Panel today, that his horse did make contact with Exploration: see T5 L 210-220. It was slight or fractional contact he says, and not a bump. He also agrees his horse 'stepped in' at the relevant time, and perhaps intimidated Exploration. By 'stepped in', Mr El-Issa apparently meant his horse stepped into – at least partly – Explorations line of running. He agreed at the Stewards inquiry that he "could have given them [Exploration and Ivy Eff] a bit more room": T 5 L 241 and that he "probably should have ...give it a touch more room": T 17 820-829. He says that Exploration, being a young horse, then over-reacted, and jumped in, causing some interference with Ivy Eff. He said however that horse was racing erratically, and had already hit the rails. He said that as soon as the incident occurred, he engaged in corrective riding, seeking to make his horse shift out again.
8. In the Panel's view, Mr El-Issa did shift in on Exploration, and make contact with that horse. The Panel does not think this involved a severe bump, but we are satisfied that it was at least a slight bump, and Mr El-Issa's horse stepped into Exploration's

running. That horse then shifted in, and caused Ivy Eff to check. Ivy Eff may have raced tight to the rails before this, but the incident clearly caused that horse to check and brush the rails.

9. In these circumstances we are comfortably satisfied the careless riding rule has been breached. Mr El-Issa allowed his horse to shift in, under reasonably vigorous riding by him, and his mount thereby moved into the running of Exploration, and contacted that horse. Exploration then noticeably shifted in itself, as a result of Mr El-Issa's conduct. It then interfered with Ivy Eff. That is clearly a breach of the careless riding rule.
10. Mr Adams submitted that the incident should be graded as 'low' carelessness, not medium. We do believe that the inexperience of the horses played a role in this incident, and we do accept Mr El-Issa took measures to correct his riding after stepping in on Exploration's line. We therefore accept the grading should be low, but the consequences remain the same as the Stewards found – that is, a check occurred.
11. Some evidence was given by Mr El-Issa about the financial strain placed on him as a result of any suspension. We accept that evidence. Some degree of financial hardship or at least loss is almost invariably suffered by riders when suspended, or when any licenced person is suspended or disqualified.
12. The principal purpose of the rules of racing however, and the penalty provisions, is to uphold the integrity and interests of racing, which include – in riding matters - issues of safety. Leaving aside integrity breaches, when it comes to riding, safety simply has to be a paramount concern. Mr El-Issa described himself as an "aggressive rider". The Panel assumes by that he meant that he always uses every proper and reasonable effort to give his horse every chance to win a race, or achieve its best possible placing or position. Riding aggressively or competitively however must still be done within the Rules of Racing. Riding a racehorse is not a risk-free occupation. Conduct by riders that adds unnecessarily to that risk rightly attracts the attention of Stewards, and may be found to be in breach of AR 137(a). The Panel is

conscious of the fact that suspensions cause a loss of income to riders, and may cost them good rides in prominent and important races. However, while most instances of careless riding do not have consequences beyond those to the rider responsible in the Stewards room after a race, careless riding adds to the risk involved in a race – to both riders and horses. It can also lead to serious or catastrophic injury. Given the paramountcy of safety, and the need to uphold the integrity and interests of the racing industry, any loss suffered by a rider as a result of suspension for careless riding, while not entirely irrelevant, is a low-level factor when it comes to imposing penalty.

13. A low grading for carelessness reduces Mr El-Issa's base penalty to 6 meetings given the consequences of his breach. We are also not bound by the careless racing penalty guideline, but would only depart from it for very good reason. We see no reason to here. On the application of other factors, including a premium for record, we would round the penalty down to a 7-meeting suspension.

14. The Panel makes the following orders:

1. Appeal against finding of breach of AR 137(a) dismissed.
2. Breach of AR 137(a) confirmed.
3. Appeal against severity of penalty allowed.
4. Penalty of an 8-meeting suspension set aside, and in lieu a penalty of a 7-meeting suspension is imposed. Such suspension commenced on 26 November 2018, and expires 8 December 2018, on which day the appellant may ride.
5. Half of the appeal deposit forfeited, half to be refunded.