

RACING APPEAL PANEL OF NEW SOUTH WALES

APPEAL OF MR BLAKE SHINN

Appeal Panel: **Mr R. Beasley SC – Principal Member; Mr R Clugston; Mr J Murphy; Mrs J Foley**

Date of hearing: **26 February 2018**

Date of decision: **26 February 2018**

Appearances **Appellant – Mr P O’Sullivan, Solicitor**
Racing New South Wales – Mr Marc Van Gestel, Chairman of Stewards

REASONS FOR DECISION

Mr R Beasley SC (Mr Clugston, Mr Murphy and Mrs J Foley agreeing)

Introduction

1. The appellant, licensed Jockey Mr Blake Shinn, rode the racehorse ‘Danzie’ in the TAB Hcp, which was race 4 run over 1550m at the Canterbury Racecourse on 21 February 2018 (‘the race’). Danzie, which started a \$1.35 favourite, finished 3rd in the race, beaten a nose for second.
2. Following the race, the Stewards conducted an inquiry into the appellant’s ride, and then charged him with a breach of AR 137 (b) of the Australian Rules of Racing, which is in the following terms:

AR 137 Any rider may be penalised if, in the opinion of the Stewards,
(b) He fails to ride his horse out to the end of the race and/or
 approaching the end of the race

3. The particulars of the charge were as follows:

“..that you, Blake Shinn, as the rider of the third placed Danzie in race 4 run at the Canterbury Park meeting held on Wednesday, 21 February 2018 did fail to ride that gelding out to the end of the race.”

4. The appellant pleaded guilty to breach of the rule, and was suspended for a total of two weeks. His suspension is due to commence on 3 March, and will expire on 17 March, on which day he may ride.
5. On appeal to the Panel today, the appellant confirmed his guilty plea. In this appeal he challenges only the severity of the penalty imposed. By leave, he was represented by his solicitor, Mr O’Sullivan. The Stewards were represented by Mr Marc Van Gestel, the Chairman of Stewards.

Evidence and submissions

6. While an appeal to this panel from a determination of the Stewards is by way of re-hearing, both parties relied on the transcript from the Stewards’ Inquiry, and the film of the race (exhibits A and B on the appeal).
7. The only oral evidence was given by the appellant. While he accepted he had not ridden his mount out to the line, he explained his actions as follows:
 - (a) He said that even from the top of the straight, he felt Danzie was inclined to shift out because it was being ‘worried’ by the horse to the inside, Budderoo Knight.
 - (b) At the relevant part of the race nearing the winning post, Danzie was shifting out, and the winner, Hand from Above, had past him, but was shifting in.
 - (c) He had a concern that a safety issue had emerged, and was worried that if he rode Danzie vigorously to the line, there was the risk of clipping heels with Hand from Above.
8. Despite the above, the Panel notes that Mr Shinn agreed in his evidence today when questioned by Mr Van Gestel that he had the opportunity to ride Danzie right out to the line, but did not.

9. Mr O'Sullivan submitted that the appropriate penalty here is a fine. As an alternative, he contended for a combination of reduced suspension, and fine. His submissions can be summarised as follows:

(a) If the Panel follows the Panel decision in the *Appeal of Brown* (18/7/2017), the penalty here should be a fine of less than \$5000. In *Brown*, the appellant pleaded not guilty to breach of AR 137(b). The appeal against finding of breach was dismissed. *Brown* involved a contravention of the rule in a Saturday meeting. There is some precedent for viewing such a breach as more serious than a breach occurring in a mid-week meeting such as here, because of reduced prizemoney and betting interests: See the *Appeal of Looker*, 9/7/08;

(b) Mr Brown's horse finished third, beaten a nose for second as in this case;

(c) Mr Brown received a two-week suspension from the Stewards, reduced to a fine in the sum of \$5000 by the Panel. This was despite the fact that no discount for plea was relevant, and, unlike in this case, the offending took place in July, rather than at the current time of the year where Group races for large amounts of prizemoney are being contested.

10. Further, Mr O'Sullivan drew the Panel's attention to the penalty imposed on Hugh Bowman on 15/2/17, where in what appear to be similar factual circumstances to this appeal, Mr Bowman was suspended for 5 days, and fined \$1000.

11. Mr Van Gestel submitted that the Panel should not follow the decision in *Brown*. In his view, a suspension was appropriate here for the following reasons:

(a) The appellant stopped riding two or three strides from the line when he had clear running, and could have ridden the horse out vigorously to the line;

(b) His actions cost the horse second place. This cost the connections \$4000 in prizemoney.

(c) In a 7-horse field, there was no dividend for third, hence punters were also affected.

Resolution

12. It has been said many times that the main purpose of the Rules of Racing, and its penalty provisions, is to protect the integrity, image and interests of the racing industry. In our view, despite the reasoning of the Panel in *Brown*, we do not consider that in this case anything other than a suspension of some kind properly reflects the purposes of the Rules. We do not consider that a fine alone is a sufficient penalty for these reasons:
 - (a) We are comfortably satisfied that the appellant's conduct cost Danzie second place.
 - (b) His conduct impacted both punters and connections, as indicated above.
13. For those two reasons alone, a suspension not a fine is appropriate.
14. The Stewards considered that the breach warranted a 3-week suspension, discounted to two weeks for early plea and the importance of upcoming races.
15. The appellant has rides in important races coming up – see exhibit C. The suspension imposed would prevent him riding on 3 March when he has confirmed rides in important races, and also 10 March when he has likely rides in important rides. We take that into account, and we take into account the appellant's early plea. We have also considered his prior breaches of the rule, which have involved horses outside of the first four placegetters, and have resulted in fines or reprimands.
16. In considering penalty, we have had most regard to the penalty imposed on Hugh Bowman on 15/2/17. In that case, Mr Bowman was found guilty of a breach of AR 137(b), in circumstances where his horse dead-heated for 2nd. He was given a five-day suspension and a fine of \$1000. While the offending in this case might be marginally more serious, we do not consider it to be significantly more serious.
17. In our view, an appropriate penalty here is a ten-day suspension. We then discount this for early plea, and for the importance of upcoming meetings, and would reduce the suspension down to a seven-day suspension. We also impose a fine of \$2,500.

18. The Panel makes the following orders:

1. Finding of guilt for breach of AR 137(b) confirmed.
2. Appeal against severity of penalty allowed.
3. In lieu of a two weeks' suspension, a penalty of a seven-day suspension is imposed. Such suspension is to commence on 3 March, and expires on 10 March 2018, on which day the appellant may ride.
4. Fine in the sum of \$2,500 imposed.
5. Appeal deposit to be refunded.