

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF BLAKE SHINN

Appeal Panel: **Mr R Beasley SC – Principal Member**
 Mr C Tuck
 Mr J Avellano

Appearances: **Racing NSW: Mr P Dingwall, Deputy Chairman of**
 Stewards
 Appellant: Mr P O’Sullivan, Solicitor

Date of Hearing: **12 December 2017**

Date of Decision **12 December 2017**

REASONS FOR DECISION

Introduction

1. The appellant, Mr Blake Shinn, was the rider of WHYPEEO which ran in Race 4 at Canterbury Park on 1 December 2017. WHYPEEO started \$1.85 favourite and ran 3rd in the race.
2. Following the race, the Stewards conducted an inquiry into the appellant’s ride. After hearing evidence and viewing film of the race the appellant was charged under AR137(a) of the Australian Rules of Racing. The charge and its particulars are as follows:

AR137 *Any rider may be penalised if, in the opinion of the Stewards,(a) he is guilty of careless, reckless, improper, incompetent or foul riding.*

The particulars of the charge being, that as the ride of WHYPEEO in race 4 run at the Canterbury Park Race Meeting on December 1 2017, YOU [Blake Shinn] permitted your mount to shift in when approaching the 800m when insufficiently clear of SAMADOUBT, causing that horse to lose its rightful running and having to be steadied.

3. The appellant ultimately pleaded not guilty to a breach of the rule. After a further brief hearing, the appellant was found to have breached the rule. He was penalised with a nine-meeting suspension through the application of the penalty guidelines for careless riding.
4. At this appeal today Mr Shinn was represented with leave by Mr P O'Sullivan, Solicitor. The Stewards were represented by Mr P Dingwall, the Deputy Chairman of Stewards.
5. Having had the benefit of advice this morning and after viewing the film, Mr Shinn changed his plea to guilty, but maintained his appeal against severity of sentence.
6. The evidence on the appeal consisted of the Appeal book, containing transcript of the Steward's Inquiry (Exhibit A), and film of the Race (Exhibit B). Mr Shinn also gave brief oral evidence.
7. Mr Dingwall's submission was that the penalty guidelines should be applied, and the appropriate penalty is the nine-meeting suspension imposed. He maintained that the appellant's ride was of medium carelessness due to following reasons:
 - i) Mr Shinn took insufficient steps to assess how far he was clear of SAMADOUBT when crossing that horse; and
 - ii) he crossed when only 1 ¼ lengths clear of that horse, took its rightful running causing it to be steadied.
8. Mr O'Sullivan submitted that the Panel should rate the carelessness as low. He said Mr Shinn did look before crossing in front of SAMADOUBT, a matter Mr Shinn addressed in his evidence.
9. Mr O'Sullivan also submitted that SAMADOUBT suffered a minor inconvenience. Mr Shinn said the horse only had to be steadied, change direction, and did not lose ground.

10. As to penalty, Mr O'Sullivan said Mr Shinn should get a discount for his guilty plea today. He pointed to the appellant initially seeking to reserve his plea, ultimately pleading not guilty in hurried circumstances between races, and changing that plea upon reflection on the film today.

11. As to the 33% premium for record, whilst the strict application of the guidelines would result in that premium, Mr O'Sullivan pointed out the appellant has had 541 rides since his last suspension on 20 July this year. He suggested a 20% premium for careless riding instead.

Resolution

12. The Panel considers the carelessness here to be low rather than medium. A clear breach of the rule has been made out as Mr Shinn did cross SAMADOUBT when insufficiently clear of that horse (about 1 ¼ lengths) and that conduct did cause that horse to lose its rightful running. The horse had to be steadied, and change direction. We do not accept the submission of Mr O'Sullivan that the grade of carelessness is necessarily to be assessed by its consequences, but in all the circumstances consider carelessness here to be appropriately assessed as low.

13. While it will not necessarily apply in every case, in the circumstances of this matter, based on the evidence of Mr Shinn, we do consider it appropriate to apply a discount for plea. We apply a 10% discount as per the penalty guidelines.

14. We do not consider it appropriate to disregard the 33% premium for the appellant's record, despite the number of rides he has had since his last suspension. We are not bound by the guidelines but to alter the premium would potentially set a precedent for re-writing them. We are not convinced we should do that today.

15. By grading the carelessness as low, the initial penalty is a six-meeting suspension.

16. Applying the premium of 33% for record and a 10% discount for plea would result in a seven-meeting suspension. While we support the application of penalty

guidelines, in all the circumstances of this matter and based purely on its individual facts, we consider the appropriate penalty is a six-meeting suspension.

The Panel's orders are:

1. Leave granted to the appellant to change his plea from not guilty to guilty for breach of AR137(a).
2. Finding made of breach AR137(a).
3. Appeal against severity of penalty allowed.
4. In lieu of a nine-meeting suspension, a penalty of a six-meeting suspension imposed, such suspension commenced on 7 December 2017 and expires on 17 December 2017, on which day the appellant is free to ride.
5. Appeal deposit to be refunded.