

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF GLEN BOSS

Appeal Panel: **Mr R Beasley SC – Principal Member**
 Mr J Murphy
 Mr T King

Appearances: **Racing NSW: Mr T Moxon**

Appellant: Himself

Date of Hearing: **17 February 2020**

Date of Reasons: **17 February 2020**

REASONS FOR DECISION

1. This Appeal is by licensed Jockey Glen Boss, in relation to a finding that he engaged in careless riding in breach of AR131(a) of The Australian Rules of Racing. The charge and the finding of breach resulted from the appellant's ride on the horse *Larimer Street* in the Inglis Millennium 2yo's race run at Warwick Farm racecourse over 1100m on 12 February 2020. *Larimer Street* finished third in the race.

2. The particulars are as follows:

"...near the 100m you did direct Larimer Street to the outside of Prime Star when insufficiently clear of Kerrin McEvoy's mount, Osamu, resulting in Osamu having to be steadied and losing its rightful running at that point, and, further, resulting in Osamu being taken out across towards Fixated, crowding that colt and also resulting in Fixated having to be steadied".

3. Following a Stewards' hearing, Mr Boss was charged with a breach of the careless riding rule, and pleaded guilty. His carelessness was assessed as "medium" grade, and the consequences were said to be that Osamu "lost its rightful running". This resulted in a base penalty using the Penalty Template for Careless Riding of a seven-meeting suspension. After discounting for the appellant's plea, the significance of upcoming race meetings, and his good record, while also applying a premium for the fact that this breach of the rules occurred in a feature race, Mr Boss was penalised by way of a three-meeting suspension. His appeal is limited to the severity of the penalty imposed.
4. At the appeal hearing, the Stewards were represented by Mr T Moxon. Mr Boss represented himself.
5. The most significant evidence presented at the appeal was film of the race. Mr Moxon submitted that it supported the Stewards' assessment of the appellant's ride. As to medium grading, Mr Moxon relied on the extent of the shift (3-4 horses out), and the fact that Mr Boss continued to ride his horse with vigour rather than straightening.
6. Mr Boss contended that his inexperienced horse shifted more than he thought it would, he did try and straighten it, and most of the shift happened after any interference was suffered by Osamu.
7. Having viewed the film, the Panel is in agreement with the Stewards on grading. We think the extent of the shift, and the lack of sufficient attempt to straighten his mount, puts the appellant's carelessness squarely in the category of medium grade.
8. Mr Moxon also supported the Stewards' assessment that Osamu lost its rightful running by film of the race. He said the appellant's mount crossed Osamu when only at most a length and a quarter clear, and that the horse lost its rightful running for at least a stride.

9. Mr Boss pointed to Mr McEvoy's assessment in the transcript from the race inquiry that Osamu was a length and three quarters behind Mr Boss's horse, and was not travelling as well.
10. Although it is a fine judgment, the Panel takes the view that Osamu did not lose its rightful running. It was not quite in a run to lose, and we think it was more hampered than lost its running.
11. As to the penalty template, this results in a base penalty of a four-meeting suspension. Mr Boss is entitled to a 10% discount for plea, and a 25% discount because of feature races coming up. A premium of 15 percent has been added for the fact that this breach of the careless riding rule occurred in a feature race.
12. One issue that has only arisen on appeal is Mr Boss's record in Singapore, which relevantly includes two careless riding offences, resulting in 2 and 3 meeting penalties respectively. He was given a forty percent discount for his good record when penalised by Stewards, that they now say he should not have the benefit of – rather, taking into account his Singapore record, no discount should have been applied to the penalty imposed on the appellant for his good record.
13. As we said in a previous appeal concerning Mr Boss, (4 November 2019), the Panel does consider that we should take into account the appellant's record in Singapore, but there may be a real issue as to whether in applying either a premium (or failing to apply a mitigating percentage), those findings in breach of the careless riding rule in Singapore should be afforded the same weight as a suspension in Australia for a breach of AR 131(a). Mr Boss's evidence remains that the careless riding rule is very strictly enforced in Singapore, and pointed to the short duration of the penalties imposed on him there, one of which was the then minimum of two meetings, and the other only one meeting longer.
14. The Panel is not bound by the Template, but we consider, in general, we should apply it. We assess base penalty as a four-meeting suspension. Applying discounts and premiums in the fashion the Stewards have results in a three-meeting suspension. However, while we consider that the Singapore meetings

should be taken into account, there is some scope to consider them here – given their short duration - with perhaps more circumspection than penalties imposed in Australia. Further, and exercising our overall discretion, we would impose a two (2) meeting suspension in lieu of a three (3) meeting suspension.

The Panels orders are:

1. Finding of breach under AR131(a) confirmed.
2. Appeal against severity of penalty allowed.
3. In lieu of a penalty of a three-meeting suspension, a two-meeting suspension is imposed. Such penalty commenced on Sunday 16 February 2020, and expires on Saturday 22 February 2020, on which day the appellant may ride.
4. Appeal deposit refunded.