

RACING APPEAL PANEL OF NEW SOUTH WALES

APPEAL OF MS DEANNE PANYA

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

Date of hearing: **15 August 2017**

Date of decision: **15 August 2017**

Appearances **Appellant – Herself**
Racing New South Wales – Mr Marc Van Gestel, Chairman of Stewards

REASONS FOR DECISION

The Panel

Introduction

1. The appellant is an apprentice jockey who rode the racehorse ‘Lass Vegas’ (“the horse”) in the All Too Hard@Vinery Handicap, which was a 1250 m race conducted at the Canterbury Racecourse on 9 August 2017 (“the Race”).
2. Following the race, the Stewards conducted an inquiry into alleged interference caused by the appellant approaching the 1100m mark. She was ultimately charged with a breach of AR 137 (a), which is in the following terms:

AR 137 Any rider may be penalised if, in the opinion of the Stewards,
(a) He is guilty of careless, reckless, improper, incompetent or foul riding.

3. The particulars of the charge were as follows:

“...as the rider of Lass Vegas ...at around the 1100 metre mark you permitted your mount to shift in when not clear of Colosimo, which was taken in across the running of Funoon, which was checked and lost its rightful running.”

4. The appellant pleaded not guilty to the charge. After hearing submissions, the Stewards found the charge proven, and imposed a penalty of a five meeting suspension – such penalty commencing on 15 August and ending on 24 August. The penalty was arrived at by the application of the Penalty Guidelines for Careless Riding. The carelessness involved in the appellant’s ride was found to be ‘Medium’, and the level of interference was graded as 2 – ‘checked and or lost rightful running’. This would ordinarily result in a seven meeting suspension. However, a ten percent discount was applied for the guilty plea, and a further discount of 15% as the appellant is an apprentice. This reduced the penalty to a five meeting suspension.
5. In this appeal, the appellant maintains her plea of not guilty, and also appeals against the severity of penalty imposed.

Evidence and submissions

6. The appellant represented herself on appeal. The Stewards were represented by Mr Marc Van Gestel, the Chairman of Stewards. No oral evidence was called on the appeal. Both parties instead relied on the transcript from the Stewards’ Inquiry, and the film of the race (exhibits A and B on the appeal). Ms Panya also tendered a still photograph of the film which became exhibit 1.
7. Mr Van Gestel first drew the Panel’s attention to the evidence of Mr Berry at the Stewards’ Inquiry, who rode the horse Funoon. Mr Berry said he lost his position, and had to check his horse: T1 L46; T2L 49. Having seen the film, we consider that Funoon suffered perhaps more than a check, and was probably severely checked. The key issue for us to decide however is what was the cause of that severe interference.
8. Mr Van Gestel, in support of the Stewards’ determination, submitted that Ms Panya’s horse at the relevant part of the race shifted in, and “dictated” the line to Mr Shinn’s mount Colosimo. This, Mr Van Gestel submitted, left Mr Shinn with no-where to go,

and as a consequence his mount shifted in as well, thereby causing the interference to Mr Berry on Funoon.

9. Ms Panya denied that her ride caused her mount to dictate the line to Mr Shinn on Colosimo. She submitted that Mr Shinn shifted in, and this had nothing to do with her actions on her horse. She asserted that the cause of the interference to Funoon was Mr Shinn shifting in on Colosimo. She made submissions to the Panel about the direction of Colosimo's head prior to the interference, and the way Mr Shinn was holding his reins.

Resolution

10. The Panel respects the view of the Stewards concerning the cause of the interference to Funoon. Having watched the race however on multiple occasions, including in slow motion, we are unable to agree with the Stewards' view about the appellant's ride.
11. On our viewing of the film, we did not observe any contact between the appellant's horse and Mr Shinn's. Both horses do shift in, but this either happens simultaneously, or, if anything, Mr Shinn's mount shifts in fractionally before the appellant's. Before the interference is caused, we consider that Mr Shinn's mount was marginally shifting in. We are not comfortably satisfied that the appellant dictated the line to Mr Shinn on his horse. To the extent that the appellant shifts in on her horse, she seems to be filling the space left by Mr Shinn shifting in on his horse. To our eyes, Mr Shinn made no effort to keep his own mount running straight when he should have, and could have. Leaving that aside, as we are not comfortably satisfied that the appellant's ride was one which dictated the line of Mr Shinn's mount, or caused interference to it, we are not comfortably satisfied that the appellant has ridden carelessly. Looking at the particulars of the charge, we are not satisfied that the appellant's ride caused Colosimo to shift in and take Funoon's running. In those circumstances, the appeal against the finding of guilt must be upheld.

Orders

12. The Panel makes the following orders:
 1. Appeal against finding of guilt upheld.

2. Finding of guilt for breach of AR 137(a) set aside.
3. Penalty of a five-week suspension set aside.
4. Appeal deposit to be refunded.