

RACING NEW SOUTH WALES

APPEAL PANEL

29 January 2016

MR R CLUGSTON — PRINCIPAL MEMBER
MR J FLETCHER
MR C CLARE

IN THE MATTER OF THE APPEAL OF
GLYN SCHOFIELD

REASONS FOR DECISION

CHAIRMAN: This is an appeal by licensed jockey Glyn Schofield (hereinafter referred to as “the Appellant”) against the severity of the penalty imposed by Stewards at the Warwick Farm Racecourse on Wednesday 20 January 2016 in respect of a breach of AR137(b).

That Rule provides that:

“Any rider may be penalised if, in the opinion of Stewards,
(b) he fails to ride his horse out to the end of the race and/or approaching the end of the race.”

The particulars of the charge were that as the rider of the second place getter Springbok Flyer in Race 2 the McGrath Handicap at Warwick Farm Racecourse on 20 January 2016 the Appellant did over the final two (2) strides of the event fail to ride his mount out to the end of the race.

The Appellant pleaded not guilty to the charge before the Stewards however the Stewards found the offence proved and suspended the Appellant’s licence for a period of five (5) weeks commencing on 24 January 2016 and expiring on 28 February 2016 on which day he may ride.

The Appellant lodged a Notice of Appeal on 21 January 2016 indicating that he was appealing against the severity of the penalty imposed by Stewards and he

entered a plea of guilty to the charge before the Panel. The appeal is therefore a rehearing on the question of penalty. The Stewards were represented in the proceedings before the Panel by Mr M. Van Gestel, Deputy Chairman of Stewards – Operations and Mr W. Pasterfield, Solicitor, appeared for and with the Appellant by leave. The transcript of the Stewards’ inquiry conducted of Warwick Farm Racecourse on 20 January 2016 and the transcript of the hearing of the charge which took place on the same day and the video recording of the race in question were admitted into evidence in the proceedings before the Panel.

The short facts are that the Appellant rode Springbok Flyer in Race 2 the McGrath Handicap over 2400 metres at Warwick Farm Racecourse on 20 January 2016. There were seven (7) starters in the race in which Springbok Flyer was the \$3.40 second favourite. Springbok Flyer was taken to the lead by the Appellant shortly after the field jumped from the barriers and continued to occupy that position until shortly before the finishing line eventually finishing in second position beaten a short head by *Evason* (ridden by apprentice K. Jennings).

The essence of the Stewards’ case was described in the observations made at the Stewards’ inquiry by Mr G. Rudolph, Deputy Chairman of Stewards and the inquiry Chairman, Mr M. Van Gestel. In his evidence Mr Van Gestel said (at page 3 lines 112-128):

“I watched the running of Race 2 from the same Stewards’ tower opposite winning post. It gave me a lateral view of the finish. It was my observation that Springbok Flyer, as Mr Rudolph indicated, led. It appeared to kick near the 200 metres to establish a break on the remaining field. As you then continued to test your mount vigorously inside the 200 metres, I felt there was a point two strides from the winning post where you did stop riding. Your vigour noticeably eased up on Springbok Flyer. The eventual winner, to your outside, was finishing out wide, *Evason*, and, as Mr Rudolph indicated, I was unaware as to which horse in fact won the event, but from my observations it was clear to me that over the final two strides that you had in fact stopped riding. Your vigour had noticeably decreased and, as a consequence of that, the eventual winner, *Evason*, finished fast to the outside and ended up getting the photo.

Similarly, I didn’t see any reason as to why you would have stopped riding. The horse didn’t appear to be shifting significant ground, but that was from a lateral observation.”

The Appellant's explanation for his manner of riding approaching the finishing line of the race was given in the following exchange between him and Mr. M Van Gestel (at pages 4 and 5 lines 186-217):

“Q. And as we both said in evidence, you tested the horse up until that point. How would you compare the manner in which your right arm is moving forward with the horse over the final two strides as compare to prior to that?”

A. I don't think it's changed at all. You can quite clearly see there I'm pushing there. Then he runs off a straight course. I put the whip away to straighten him. I'm still pushing him there. My arm goes straight and there's the winning post. So it's a stride at the most.

Q. So in your view you don't feel, looking at that head-on video, the movement of your right arm as you're pushing the horse out that it changes or reduces in vigour?

A. Absolutely not. Just because I put my whip away to straighten my horse doesn't mean that I've desisted in riding or my vigour has changed because I believe the horse on the outside has pretty much collared me three maybe - the reason I changed my whip to the left hand was because I could feel him coming, as I said earlier, but that doesn't alter the fact that I've continued to ride my horse out, even though I've put the whip down.

Q. Why do you put the whip down?

A. Because he shifted off a straight course and, whilst I'm aware that's close to the line, if I shift ground it's going to get close, then I'm losing ground in relation to what I would be doing if I was going straight. So I don't believe for one second that putting the whip away has desisted in my riding out of the horse at all. The whip is part of my riding. It's not all of my riding.

Q. No, I understand that, but we'll consider whether we agree with your submission in respect to your right arm or not, but if you were putting the whip away because your horse was shifting in, wouldn't we expect to see you put your hand on the left rein and try and straighten the horse up?

A. Well, I had to try, but the horse had been rolling in and, as I say, it's at the death of the race. I believe that the winner has collared me pretty much before then.”

The Stewards' findings in relation to the question of guilt were outlined by Mr. Van Gestel when he said (at page 20 lines 955-961):

“we say that your vigour and purpose, when you look at the film and take into account the evidence, it desists. It’s clear to us when we look at your riding style over the final two strides that your seat in the saddle alters and it alters from being a rider riding with purpose to a rider that has stopped riding his mount out to the finish of the race and we say your riding style shows that there’s no intent over those final two strides to continue to ride your horse out to the finish of the race”.

The Panel is satisfied that Mr. Van Gestel’s remarks are consistent with and supported by the images depicted in the video recording of the concluding stages of the race in question.

The Panel considers that the Appellant’s manner of riding in the concluding stages of the race involving as it did a significant error of judgement was a serious breach of the obligations of a licensed jockey to ride his mount out to the end of a race. In assessing the objective seriousness of the breach the Panel agrees with and adopts the following remarks made by Mr Van Gestel (at page 23 lines 1108-1112):

“Now, we’re satisfied in the circumstances that you’re riding out or the failure to ride your horse out to the finish of the race has prejudiced your mount’s chances of winning. We don’t go as far as saying that it has cost you the win, but certainly it’s the view of the Stewards that your failure to ride your horse out has prejudiced your chances of winning the race”.

The Panel is unable to accept the Appellant’s submission that his mount was a beaten horse at the time that he altered his manner of riding two (2) strides from the finish of the race.

The Appellant’s Disciplinary Record is before the Panel. The Appellant was first licensed to ride in South Africa in approximately 1986 and he was licensed to ride in New South Wales in 2007. The Appellant has incurred numerous breaches in both South Africa and Australia including six (6) prior breaches of “fail to ride horse out to end of race” the most recent being at Rosehill Gardens on 15 November 2014 and at Royal Randwick on 11 July 2015. The Panel considers that the Appellant’s overall disciplinary record does not assist him. On the other hand, the Appellant’s plea of guilty before the Panel entitles him to a discount on the penalty which otherwise would be appropriate for this breach.

The Panel has also taken into account the precedent table of penalties for breaches of AR 137(b) in the period 1 January 2010 to 20 January 2016.

The Panel notes that each of the cases referred to in the table were cases in which the jockey in question was riding a horse in a competitive position in the race in question. The Panel further notes that in each of those cases a penalty of licence suspension was imposed. Ultimately, the Panel considers that in all of the circumstances of this case and having regard to issues of personal and general deterrence the appropriate penalty is licence suspension for three (3) weeks:

The orders of the Panel are as follows:

1. Appeal against penalty upheld;
2. Penalty of five (5) weeks licence suspension imposed by Stewards varied to licence suspension of three (3) weeks, such suspension to commence on 24 January 2016 and to expire on 14 February 2016 on which day he may ride;
3. Appeal deposit of \$200 forfeited.