

TASMANIAN RACING APPEAL BOARD

Appeal Number 5 of 2016/17 - PAUL HILL

Panel:	Mr Tom Cox (Chair) Ms Kate Cuthbertson Mr Graham Elliott	Appellant:	Mr Paul Hill
Adviser:	Mr David Arnott		
Appearances:	Mr David Hayes on behalf of the appellant Mr Adrian Crowther on behalf of the stewards	Rule:	Australian Harness Rule 149(2)
Heard at:	Launceston	Date:	5 December 2016
Penalty:	A 6 race meeting suspension	Decision:	Upheld

REASONS FOR DECISION

1. This is an appeal by Mr Paul Hill against a finding by the stewards that, in their opinion, the manner in which he drove REGAL STRIDE in Race 7 at the Tasmanian Club Pacing Meeting on 23 October 2016 was unacceptable contrary to AR149(2). Consequent to that finding the stewards suspended Mr Hill for six race dates.
2. The race was a standing start with Mr Hill drawn at the front with five other horses. Two further horses were drawn ten metres behind. Mr Hill's drive immediately attempted to take the lead after the start of the race. So too did another horse TISU TOOTA driven by John Walters. Over much of the first quarter of the race the two horses duelled for the lead. As the race caller noted they were at it "hammer and tongs" until shortly before the end of the first quarter when Mr Walters relinquished his efforts. The first quarter was raced in 29.3 seconds. The horses were, as the race caller noted, "flying" over this section of the race. Over the second and third quarters, both raced in 31.3 seconds, Mr Hill attained and maintained a significant lead of about 20 metres over the field. Not surprisingly, REGAL STRIDE tired over the last quarter and was passed by the two \$3.00 favourites down the home straight. REGAL STRIDE, at \$13.20, finished third. Interestingly, only the two favourite horses passed REGAL STRIDE with the balance of the field, including TISU TOOTA, failing to gain ground on REGAL STRIDE, particularly over the home straight.
3. It is common ground that Mr Hill was instructed by REGAL STRIDE'S trainer, Mr Yole, to try and take the lead early in the race. It is also common ground that there was nothing unacceptable or remarkable about this instruction.
4. The basis of the stewards' opinion is set out in the stewards' report dated 6 November 2016:

".....after an extended challenge for the lead which resulted in the fastest ever lead time for this distance. This being 4 seconds faster than the average and had then failed to ease the pace and give his drive any respite which has then seen him increase his lead once taking

control of the race. The stewards state his actions were the major contributing factor of his horse then tiring to finish 3rd beaten 19 metres. The course of action which in the opinion of the stewards is unacceptable."

5. The central issue in this appeal is whether or not Mr Hill should have restrained REGAL STRIDE over the second and third quarters of the race.

6. Mr Hill contends that the ride was not unacceptable for the following reasons:

- (a) His instructions were to take the lead early and that was the usual pattern for this horse.
- (b) The horse can pull heavily once in the lead and he was better off simply taking hold of the reins to ease the horse over the second and third quarter rather than pull the horse back to the field and squander the lead.
- (c) Having taken a lead of 20 metres he knew that the field would have to expend energy in making up the difference and this was to his advantage.
- (d) Although the first quarter was very fast the times for the second and third quarter are consistent with him "easing" up the horse over those quarters.
- (e) Although he was beaten by the two favourites none of the other horses passed his drive, in particular TISU TOOTA which finished sixth several metres behind him.

7. Before this Board Mr Hill said of his actions in the critical period:

"after the mile peg I had eased [the] horse, I haven't grabbed him ... I eased him gradually. I gently took hold of him and eased him back, between the first and second quarter."

8. By contrast the stewards contend that the drive was unacceptable for the following reasons:

- (a) The lead time for this race was 34.8 seconds.
- (b) It was the fastest lead time on record (over the last 12 years), some 4.2 seconds faster than the average lead time of 38.99 seconds.
- (c) Mr Hill used the whip on 14 occasions before he took the lead.
- (d) Mr Hill, effectively, drove the horse into the ground over the first and to a lesser extent the second and third quarters.
- (e) Mr Hill made no demonstrable effort to pull the horse back or give it any respite over the second and third quarters in the result that it tired over the last quarter and was beaten by 19 metres by the winner.
- (f) The drive did not amount to a mere error of judgment.
- (g) Mr Hill did not have a "plan B".

- (h) His only plan was to undertake a prolonged aggressive challenge to take the lead.
9. Any driver who engages in an extended duel for the lead and then proceeds to take a considerable lead over the field will draw the attention of the stewards and the betting public. As was noted by the race caller over the second and third quarters, “*can he (Mr Hill) maintain it?*” Mr Hill’s tactics clearly brought the risk that the horse would fade and may do so dramatically. It is a balancing act. As was noted by this Board almost three decades ago in [Terry \(28.6.1990\)](#), where a driving style is adopted that wins a race a driver may be lauded as a very good driver. But where the same driving style may result in the loss of a race by a short margin the same driver may be called a “mug”. The facts in that case bear no resemblance to the facts in this case, but the question posed by the Board remains apposite. Were the tactics unacceptable in all the circumstances?
10. By majority, we are not comfortably satisfied that Mr Hill’s drive was unacceptable within the meaning of AR 149(2). The tactics he adopted brought the very real risk that his drive would spectacularly falter over the last part of the race. However, that risk did not materialise. The horse tired and lost to the two favourites, but it did not lose its lead over the rest of the field, including TISU TOOTA which had pulled back and taken cover after the initial duel for the lead. Further, we accept Mr Hill’s evidence that he did ease REGAL STRIDE to some degree over the second and third quarters. The times reflect as much. His finishing position also reflects as much. We also accept his explanation for not pulling the horse back in the middle period of the race. The margin he had earned would have been lost and the tactical advantage in having the other horses work to breach the gap was reason enough to ease the horse rather than pull it back to the field. We also observe that the race caller commented, as Mr Hill crossed the line, that he had driven “well”. We would not necessarily describe the drive in the same way, but when viewed as a whole the drive can be seen as a clear attempt to give the horse every opportunity to win or obtain the best place. The horse tired but it did not do so spectacularly. It simply could not maintain its pace to stave off the two favourites.
11. The appeal is upheld. The decision of the stewards is quashed.
12. The Board orders that the appellant have his deposit returned to him pursuant to Section 34(2) of the *Racing Regulation Act 2004*. The appeal having been successful the Board makes no order as to transcription costs.