

## TASMANIAN RACING APPEAL BOARD

Appeal No 15of 2014/15

<b>Panel:</b>	<b>Mr R Foon (Chair)</b>	<b>Appellant:</b>	<b>Mr V Wong</b>
<b>Adviser:</b>	<b>Mr C Taylor</b>		
<b>Appearances:</b>	<b>Mr L Wells on behalf of the appellant</b>  <b>Mr D Tyson on behalf of stewards</b>	<b>Rule:</b>	<b>Thoroughbred Rule AR137(a)</b>
<b>Heard at:</b>	<b>Launceston</b>	<b>Penalty:</b>	<b>A one race date suspension</b>
<b>Date:</b>	<b>26 March 2015</b>	<b>Result:</b>	<b>(1) Appeal against conviction dismissed</b> <b>(2) Appeal against penalty upheld and a severe reprimand substituted</b>

### REASONS FOR DECISION

1. The appellant was the rider of *She's Drahmatic* in Race 6 at the Tasmanian Racing Club meeting held on 8 March 2015. Approaching the 1200 metre mark he allowed his mount to shift in when insufficiently clear of *Geegees Drummerboy*, ridden by Chantal Willis.
2. As a result of the incident an inquiry was held before the stewards and the appellant was convicted of careless riding in breach of AR137(a).
3. AR137(a) provides that:  
  
*"Any rider may be penalised if, in the opinion of the Stewards - he is guilty of careless, reckless, improper, incompetent or foul riding."*
4. The stewards reported the incident as follows:  
  
*".....approaching the 1200 metres, he allowed his mount to shift in when insufficiently clear of Geegees Drummerboy resulting in this gelding having to be continually steadied and checked off the heels of Drahmatic (NZ)"*
5. Stewards found the carelessness to be in the lower end of the range and the interference to be in the low to mid-range and subsequently suspended Mr Wong's licence to ride in races for one race meeting.
6. The appellant has appealed against his conviction and the penalty imposed. He applied for and was granted a stay of proceedings until determination of the appeal or further order.
7. The Appeal Board sat with an adviser, Mr Taylor, which is provided for in the *Racing Regulation Act 2004* under s.23(4)(a). The role of an adviser in hearing appeals before the Board is not dealt with at all in the legislation. The adviser is not, however, a member of the Board. The adviser has no role as an advocate, nor do they have any role in the decision

making process. The adviser was present to hear all the evidence and the submissions and the parties were made aware of the adviser's role.

8. Mr Wells, on behalf of the appellant, submitted that the appellant's riding was not careless as Miss Willis contributed to the incident because she eased to get the best run. His submissions were in effect as follows:

- That Miss Willis' horse was in fact over-racing;
- The crossing was accentuated by Miss Willis' actions in trying to get the best run; and
- That Mr Wong's horse was laying in a bit.

9. For the stewards, Mr Tyson submitted that it was open for the stewards to find the appellant guilty because:

- Mr Wong was not two lengths clear when he crossed; and
- Miss Willis had to check away as a matter of safety.

The onus is always on the jockey crossing to ensure that he or she is clear to do so.

10. I have reviewed the race footage and had regard to the evidence at the inquiry. The commencement of the evidence was for some reason not recorded, however, Miss Willis' evidence was:

*...maintain the one off the horse, the leader there. ... as I did not want to work around it, eventually stay off the fence ... Mr Wong was to my outside. I noted that he was ... he was looking to come in ... I was yelling quite a bit just to either allow him to make another decision or ... but it didn't look like it was really ... he was ... he was gonna cross regardless, so I've had to, you know, I knew that he was gonna try and cross so I've had to ease and then I've really had to over ... like check when he's just ... he's just left me a little bit tight there.*

Later at page 5, line 7-38

*No Sir. I could see that ... Victor's horse was rolling in a bit and I was just letting him know he was there and I could just see what ... he was just gonna keep rollin' in, so I've eased before he's even ....*

*Chairman: ... okay ...*

*Miss Willis: ... come in and it's...just come in quite abrupt. So that's where I've had to check.*

*Chairman: And you were calling?*

*Miss Willis: Yes the whole time.*

*Chairman: The whole time, from ...*

*Miss Willis: ... from basically, the moment he was posted three wide here.*

*Chairman: Yeah.*

*Miss Willis: "Cause I ... I was a little bit unsure about rollin' in between there 'cause he was ... just wavering a little bit....I wanted to maintain a position there because that's where I wanted to be running but ... I've ...*

*Chairman: ... and that's the point there ...*

*Miss Willis: ... I've had to ... I just ...*

*Chairman:* ... where you take hold off his heels.

*Miss Willis:* Yep.

11. There is nothing in the inquiry or from watching the footage which would lead me to reject that evidence.
12. Having reviewed the race footage I do not believe the stewards erred in finding the appellant guilty of careless riding. The Rule concerning a jockey being two lengths clear whilst crossing is only a rule of thumb. However, the fact Mr Wong was inside two lengths when he crossed was the substantial cause of why Miss Willis had to check.
13. The appellant's appeal against his conviction is dismissed.
14. As to penalty Mr Wells submitted that this is a very minor incident and a reprimand would have been sufficient under all the circumstances. The appellant derives his income from riding and even a one race meeting suspension can make it difficult for a jockey to earn a living.
15. I am not satisfied that the penalty imposed is appropriate. I am satisfied that both the carelessness and the interference were in the low range. Mr Wong received both a reprimand and a severe reprimand for careless riding on 21 January 2015 and a reprimand on 25 January 2015.
16. Notwithstanding the fact Mr Wong has previously received reprimands for careless riding this act could not in my opinion justify a one week suspension, even when taking into account the stewards need to consider the education and deterrence of Mr Wong.
17. In light of the objective seriousness of the carelessness and interference caused on this occasion my view is that at most, even given Mr Wong's relatively recent instances of careless riding, a severe reprimand should be imposed. Therefore in the place of the one week suspension I order Mr Wong be severely reprimanded.
18. I order that the appellant forfeit 25% of his deposit pursuant to Section 34(2)(d) of the *Racing Regulation Act 2004* and pay 25% of the costs of the transcript in accordance with section 34(4B)(c) of the Act.