

## TASMANIAN RACING APPEAL BOARD

### Appeal No 4 of 2014/15

<b>Panel:</b>	<b>Mr R Foon (Chairman)</b>	<b>Appellant:</b>	<b>Mr S Amano</b>
<b>Adviser:</b>	<b>Mr C Taylor</b>		
<b>Appearances:</b>	<b>Mr K Ring on behalf of the appellant Mr S Quill on behalf of the 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 meeting suspension</b>
<b>Date:</b>	<b>16 September 2014</b>	<b>Result:</b>	<b>Appeal upheld</b>

### REASONS FOR DECISION

1. The appellant rode *Moonless* in Race 7 at the Devonport Racing Club meeting held on 31 August 2014.
2. The stewards' race day report from that meeting stated that: "*Shuji Amano rider of Moonless was found guilty of a charge under AR 137(a) careless riding the particulars being that passing the 1600 metres he permitted his mount to shift in when insufficiently clear of Am I There Yet resulting in David Pires having to check his mount. Stewards deemed the interference and carelessness to be of a low level. Shuji Amano's licence to ride in races was suspended for 1 Tasmanian race meeting to commence at midnight 7 September 2014 and to expire at midnight 14 September 2014*".
3. The appellant has appealed that conviction and the penalty imposed.
4. The rule in question is Rule 137(a) of the Australian Rules of Thoroughbred Racing which states:

*"Any rider may be penalised if, in the opinion of the Stewards,*

*(a) He is guilty of careless, reckless, improper, incompetent or foul riding."*
5. Mr Ring on behalf of the appellant submitted that if Mr Amano crossed when approximately 1-3/4 lengths clear, the two length rule is only a rule of thumb and it is not the "be all and end all". In this case he came across at about 1-3/4 lengths running away. He submitted there was no interference as a consequence of Mr Amano crossing. In essence, the submission was that the stewards, having heard the evidence of Mr Amano and Mr Pires, should not have found that Mr Amano caused interference.

6. Mr Quill, on behalf stewards, submitted that Mr Amano crossed whilst inside two lengths and that although Mr Pires bumped prior to Mr Amano crossing, he grabbed hold of his mount as a consequence of Mr Amano crossing whilst insufficiently clear. He submitted having viewed the footage they were entitled to reject the evidence of Mr Amano and Mr Pires. He stated that the onus is always on the jockey crossing to ensure that he or she is clear to do so.
7. I had the opportunity to view the varying angles of the footage of the incident and also the transcript of the proceedings. Mr Pires' evidence at the hearing was that he believed Mr Amano was clear and he states he believed he was clear on more than one occasion and that prior to Mr Amano crossing him he had been bumped by *Musique Player*.
8. At Page 8 in Line 13 of the transcript Mr Pires stated "*Because I honestly do not believe that the check was from Moonless and that's my opinion from being out there sir*".
9. In answering questions from Mr Amano, Mr Pires' evidence at Page 8, Line 7 was "*I believe it was an awkward view because ... initial bump from Mr Toker has actually pushed me into your running line. Where I was quite happy to sit and then make a run behind Landstar*". Mr Pires maintained his belief that Mr Amano was two lengths clear and that he wasn't checked.
10. For the stewards to find Mr Amano guilty of the charge they had to reject both his version and Mr Pires' version of what occurred. In my view they could have only rejected that version if the footage was sufficiently inconsistent with that version.
11. Having viewed the footage it is clear that Mr Pires' mount was bumped very shortly before Mr Amano shifts in. I could not, based on the footage, reject their versions of what occurred. I cannot reject the suggestion that Mr Pires' mount's head was turning as a consequence of the preceding bump ie that it wasn't because he was checked. Further, it is apparent from the race footage that Mr Pires' mount's head was turned in during periods where there was no alleged interference.
12. I have no doubt that often rider's versions of what occurred are completely inconsistent with the footage and at times ought be rejected, however, this in my view was not one of those cases.
13. Having regard to the evidence given before the stewards and viewing the footage, I cannot be satisfied that the appellant permitted his mount to shift in when insufficiently clear.
14. The appeal against conviction and penalty is upheld. The stewards' decision of 31 August 2014 is quashed.
15. I order 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 I make no order as to transcription costs.