

# TASMANIAN RACING APPEAL BOARD

Appeal No 03 of 2020-21

<b>Panel:</b>	<b>Kate Brown (Chair) Rod Lester (Member)</b>	<b>Appellant:</b>	<b>Brandon Louis</b>
<b>Adviser:</b>	<b>Chris Taylor (by phone)</b>		
<b>Appearances:</b>	<b>Cameron Thompson (on behalf of the appellant) Scott Quill (on behalf of the stewards) Stephen Maskiell (witness for the appellant)</b>	<b>Rules:</b>	<b>AR 131 (a)</b>
<b>Heard at:</b>	<b>Launceston, Tasmania</b>	<b>Penalty:</b>	<b>Suspension for 2 race meetings</b>
<b>Date:</b>	<b>7 September 2020</b>	<b>Result:</b>	<b>Penalty varied to a 2 race meeting suspension (with 1 race meeting suspended for a period of 6 months, provided that the appellant is not convicted of an offence under AR 131(a) during that period)</b>

## REASONS FOR DECISION

1. The appellant was charged under AR 131(a) as a result of an incident in race 9 at Devonport on Sunday 30<sup>th</sup> August. The charge was that as the rider of *Galway Girl*, when racing tightly to the outside of *Audrey* approaching the 700m he permitted his mount to shift in, tightening *Audrey* between his mount and the rail and resulting in *Audrey* having to be severely checked. The appellant pleaded guilty at the Stewards enquiry and was subsequently suspended for 2 race meetings. He had appealed the severity of the sentence.
2. The appellant, Mr Louis, was represented at the hearing by trainer Cameron Thompson. At the commencement of the hearing Mr Thompson requested that Mr Louis be allowed to change his plea from guilty to not guilty and that the hearing be for an appeal against both conviction and penalty. Mr Thompson contended that Mr Louis, being a relatively inexperienced apprentice, should have had representation or assistance at the original hearing, and if that has been the case then he would have pleaded not guilty.

3. The stewards indicated that Mr Louis had been offered the ability to have someone present to assist him through the hearing but had declined that offer. Unfortunately that offer was not evidenced in the transcript of the hearing, however Mr Louis accepted that the offer had been made, although indicated that due to the timing of the enquiry he had little realistic opportunity to have anyone present. The Board proceeded on the basis that an offer had been made and declined. In considering the request the Board took into account that there had been some considerable time between the offence and the hearing, giving the appellant ample opportunity to raise the issue of changing his plea. The Board considered it unreasonable that the issue had not been raised until the appeal hearing had commenced and declined the request to allow the plea to be changed. The hearing continued as an appeal against penalty.
4. Mr Thompson's case was that the incident was substantially contributed to by *Audrey*, and that horse's tendency to shift out. Furthermore it was his contention that *Audrey's* jockey, an inexperienced apprentice, had exacerbated the situation by substantially overreacting to any contact between the two horses.
5. Mr Thompson called Stephen Maskiell, the apprentice jockey coach, as a witness. Mr Maskiell was supportive of the assertion that *Audrey's* jockey contributed to any interference, as well as the alleged overreaction by that jockey to the incident. He also spoke about the characteristics of the Spreyton track and the tendency for horses to shift ground around the turn into the straight.
6. Mr Thompson suggested that any interference from the appellant was minimal, and with his good record, an appropriate penalty would be a reprimand or a severe reprimand at most.
7. The Steward's proposition was that the race film gave clear evidence that the appellant's horse had shifted in on *Audrey*, resulting in that horse having to be restrained and ultimately in two other horses being inconvenienced. Mr Louis had received a number of reprimands over the past few months for similar offences and that a period of suspension was necessary as the past reprimands did not appear to be acting as a sufficient deterrent.
8. The Board was satisfied from the race films that *Galway Girl* had shifted in on *Audrey* at or around the 700m mark of the race. As a consequence of that shift *Audrey* was restrained and dropped back through the field sharply. Unfortunately the available race films did not allow the Board to form a definitive view on how much *Galway Girl* had moved in and how much room was available for *Audrey* at that time, however it appeared to the Board that the incident had been exacerbated by the reaction of *Audrey's* jockey and that the seriousness of the shift was certainly at the lower end of the scale.

9. When considering the appropriateness of the penalty the Board accepted the Steward's position that reprimands had not to that point had the desired result in modifying the appellant's approach: he had had seven reprimands or severe reprimands for careless riding since late March, including one earlier in the day this incident occurred. The Board was satisfied that a suspension was appropriate. The Board did, however, feel that stewards characterization of the incident somewhat overstated the appellant's culpability and that a reduction in the penalty was appropriate.
10. The Board determined that the appropriate penalty was a two-meeting suspension, with one meeting of that suspension suspended for a period of 6 months, provide the appellant is not convicted of an offence under AR131(a) during that period.
11. In accordance with section 34 of the *Racing Regulation Act 2004* the Board orders that 50% of the appellant's deposit be forfeited to the Secretary of the Department and the appellant is ordered to pay to the Secretary of the Department 50% of the cost of preparing the inquiry transcript.