

TASMANIAN RACING APPEAL BOARD

Appeal No 09 of 2021/22

Panel:	Ms Kate Cuthbertson	Appellant:	Mr Bulent Muhcu
Advisor:	Mr Chris Taylor		
Appearances:	Mr Stephen Shaw (on behalf of the appellant) Mr Ross Neal (on behalf of the Stewards)	Rules:	AR 131(a) Careless Riding
Heard at:	Office of Racing Integrity Prospect Government Office 171 Westbury Road Prospect TAS 7250	Penalty:	Suspension for 3 Tasmanian race dates (commencing midnight 08/12/21 to midnight 22/12/21) – Stay of proceedings granted
Date:	4 March 2022	Result:	Quashed

REASONS FOR DECISION

This appeal concerns an inquiry that was held on 1 December 2021 in relation to Mr Muhcu's ride in race 5, which was the Jackson's Security Tasmanian Newmarket Handicap. That was an important race, during that meeting, it had \$125,000 total stakes.

The incident that was the subject of the inquiry accorded in the very early stages of the race and essentially involved three different horses. The first was Mr Muhcu's mount GEE GEE SECONDOVER, there was also TAKE THE SIT, ridden by Brandon Louis and another horse AND BEYOND, ridden by Jake Toeroek.

Mr Muhcu was charged with careless riding pursuant to AR 131(a) and that rule provides, *A rider must not, in the opinion of Stewards; engage in careless riding.* The particulars delivered by Stewards where that 'Stewards believed Mr Muhcu, you permitted your mount to shift in when insufficiently clear of Mr Louis, so we will be preferring a charge against you under ARR 131(a) and the particulars of that being that passing the 1000 metres you being the rider of GEE GEE SECONDOVER permitted your mount to shift into the line of running of TAKE THE SIT, ridden by Brandon Louis, who in turn was directed inward and onto AND BEYOND, which was crowded and lost, its had to restrain. The Stewards believe that at the point of contact, the particulars being as I have said before that you haven't ridden in there, but you have permitted your mount to shift in. That's where we see your riding sitting in the careless category.'

It's not stated in the particulars, but the transcript and Stewards submissions refer to Mr Muhcu's horse moving in approximately half a horse width inwards.

Mr Muhcu pleaded not guilty to that charge, he was found guilty and given a three-race date suspension.

In Mr Muhcu's submission, he believes this was a racing incident during which he was holding his line. There was tightening of the horses to his inside, but he said he did not cross, but there was movement out by TAKE THE SIT and over racing by Brandon Louis on TAKE THE SIT, in view of the position he was in.

Stewards contend that AND BEYOND had moved into its position and was maintaining its own line and that TAKE THE SIT was in a position that it was entitled to maintain. The Stewards submitted that Mr Muhcu had moved in at a point when he was not sufficiently clear and only about three quarters of a length ahead of TAKE THE SIT. Although it was acknowledged Mr Muhcu relieved pressure on TAKE THE SIT, they say that that occurred too late. It is against this background that the charge has been preferred.

Having carefully considered the race film and sitting with Mr Taylor as an Advisor, who has not been involved in the decision making, but has assisted me in interrupting the race film and the submissions made by the parties.

On the basis of all the submissions and my viewing of the race film, I am not comfortably satisfied that this was an incident involving careless riding. There was an incident, but in my view, Mr Muhcu was essentially maintaining his line. At the time of proceeding and following the critical part of the race that Stewards rely on, I can see Mr Muhcu's horses head being held outwards, not inwards. I am not comfortably satisfied that any move in, is as significant as stated by Stewards or deliberate steering in, or crossing and in deed I note that in Stewards articulation of the particulars there is no suggestion that there's any deliberate shifting in. There is movement of the other horses' outwards, which appears to me to be more significant cause of the incident.

I agree that it is a racing incident in a sense that the horses to Mr Muhcu's inside have tightened and moved accordingly. My interpretation is that Mr Muhcu's conduct during the course of the race, is that he was giving every indication that he was maintaining awareness of what was happening of what was happening to his inside and responding accordingly and on that basis I am not satisfied that it was a careless riding incident as a consequence the decision is quashed.

As the decision of the Stewards has been quashed, the Board orders pursuant to ss 34(2)(e) of the *Racing Regulation Act 2004*, that the Appellant's prescribed deposit be refunded in full.