

## TASMANIAN RACING APPEAL BOARD

Appeal No. 16 of 2020-21

<b>Panel:</b>	<b>Patrick O'Halloran (Chair) Suzanne Martin (Member)</b>	<b>Appellant:</b>	<b>Stan Tsaikos</b>
<b>Adviser:</b>	<b>Chris Taylor</b>		
<b>Appearances:</b>	<b>Bruce Free (on behalf of the Stewards)</b>	<b>Rules:</b>	<b>AR 131(a)</b>
<b>Heard at:</b>	<b>1 Civic Square LAUNCESTON TAS</b>	<b>Penalty:</b>	<b>Suspension for 1 Tasmanian race date</b>
<b>Date:</b>	<b>8 April 2021</b>	<b>Result:</b>	<b>Appeal against conviction dismissed. Penalty varied to a reprimand</b>

### REASONS FOR DECISION

1. The appellant was the jockey riding *White Hawk* in Race 9 of the Ladbrokes Hobart Cup 2400m held on 7 February 2021 at the Tasmanian Racing Club Meeting.
2. Following an inquiry into his ride on that date, the Stewards found that the appellant had breached AR131(a), which provides:

*" A rider must not, in the opinion of the Stewards:*

*(a) Engage in careless....riding"*

3. The particulars of the charge were stated as:

*'We do specify "careless riding" the particulars of the charge are that you as the rider of White Hawk approaching the 600 metres have allowed your mount to shift in resulting in Shady Hustle ridden by Daniel Ganderton being tightened in on to Sh'bourne Renegade being ridden by Mr Bowditch, which hit the running rail and had to check and lose its position'.*

4. The Appellant plead not guilty to the charge. Following the inquiry, he was found guilty, and his licence was suspended for one Tasmanian race date.

5. On 9 February 2021 the appellant filed an appeal against conviction and penalty. The Appellant was granted a stay of the penalty pending the determination of the appeal.

### Conviction Appeal

6. During the inquiry, Stewards heard evidence from the appellant and Daniel Ganderton and Joe Bowditch, the jockeys of *Shady Hustle* and *Sh'bourne Renegade*.
7. The Stewards questioned Mr Bowditch regarding the interference that had occurred at the 600-metre mark in Race 9. Mr Bowditch stated that he initially believed that leading into the 600 metre corner he had a full run but then subsequently '*got pressure that pushed me on to the running rail, and I was, I eventually lost that spot*'. He confirmed that *Shady Hustle* was to his outside. He also indicated that his lack of experience riding on that track may have impacted some of his decisions and actions.
8. Mr Ganderton was also questioned regarding the incident and gave the following evidence:

"Yeah, well, I was actually to the front actually. Yeah, I was in the run, obviously Stan's horse sort of shifted away from the fence. I probably didn't immediately react to the that but then I felt that I was within my rights to go up in there, but at that stage I didn't really know that Joe was to my inside and admit to being a smidge surprised that he ended up there. However, he probably then established himself but we'd gone to a stage where I had committed to being inside of Stan, there was pressure from, I think it was possibly *Mandela Effect* and possibly a couple of the other runners to his outside started to come down and create a little bit of pressure on Stan and he looked to roll back. There was all of a sudden, you know, three horses in the spot where there's probably only room for, neatly for two."

9. Mr Ganderton further indicated that at that race mark '*the pace has sort of come out of the race and they've bunched up and it was quite messy through that period...*' and that there had been contact from *Sh'bourne Renegade* to his mount leading up to the 600m turn.
10. The appellant was also questioned regarding the incident and stated as follows:

CHAIRMAN: ..... Now to you Mr Tsaikos.

MR TSAIKOS: Sir. I was sort of tracking the leader and I was just to his outside looking to sort of come out so I wasn't, probably I guess you could say half casting. I was quite surprised there was two in there and as Daniel stated, like he surmised it pretty well, the pace came out of the race and there wasn't a lot of room at all anywhere, and there was,

obviously coming in to the corner, there was pressure from the outside as well so we were all sort of a little bit scrimmaged there for a few strides.

CHAIRMAN: Were you aware of how many runners were to your inside?

MR TSAIKOS: I wasn't aware there was three 'til I heard them all calling, like, I don't, I didn't believe there was room for three personally cause I was only, I was one and a half off the fence. I wasn't actually too, racing too wide, I was just to the outside of Mr Baker's heels as you can see in the photo there. So, yeah I was surprised there was a few in there, two in there sorry, and then yeah, just as Mr Ganderton said, the pace was out of the race and there wasn't a lot of room anywhere and as we come in to the corner I had *Mandela Effect* three quarters of a length in front of me and he's come in as well which just made it even tighter for the three of us.

CHAIRMAN: So you were aware that it was tight obviously because of the calling.

MR TSAIKOS: Once I heard the calling, yes, I was trying to obviously alleviate and I was just, I looked over my shoulder and thought, well, there's two inside me, which I was surprised, but as Mr Bowditch said he, his probably first time riding on the track and you know, they tend to roll in coming up the hill round the corner but I, yeah, I didn't solely commit to being two off, I was just in a spot where I was sort of in between the two leaders.

11. The appellant further provided:

MR HARDING: Just to Mr Tsaikos, you said you may have got a bit of pressure from *Mandela Effect* but that caused you to take evasive action?

MR TSAIKOS: Yeah, yeah, well as Mr Ganderton said, there was no pace in the race, the pace had come out of the race and you can how bunched the field is and we're all looking for a bit of room and, yeah. I had *Mandela* just three quarters of a length in front of me, to my outside, and he was dictating to me. I had to call several times, once I realised there was two inside me, I was, I was on the call to Mr Pires to let him know, you know, give us a bit of room, give us a bit of room, there's two inside me.

12. Following the race film being viewed the appellant was asked to clarify his evidence. He provided that the film demonstrated that by the 600m mark when his mount shifted in:

- a. 'I firmly believe that I was racing the two -line position'
- b. there had been and was still interference between *Shady Hustle* and *Sh'bourne Renegade* with 'those two runners continuously (making) contact for three or four strides'

13. Having considered all evidence, Stewards found the charge proved. Within the discussion as to penalty the Stewards stated:
- a. They agreed with the appellant that there was initial jostling between the other two mounts however it was when the appellant got to the point of the 600 metre turn that he had shifted in;
  - b. That in terms of his racing history the appellant had a 'very good record'

### **The Appellant's Notice of Appeal and Submissions**

14. In his notice of appeal, the appellant stated that '*I feel there where (sic) contributing factors in the incident, between myself and the two other riders*'. Further – although in regard to the basis for seeking a Stay of Proceedings - he relevantly stated '*I don't believe I'm solely to blame for the interference which occurred. I feel there where (sic) contributing factors between myself and the other two riders involved in the incident*'.
15. Within the appeal the appellant largely re-stated the submissions and position that he had made within the Stewards inquiry. These submissions included:
- a. That at all relevant times he had appropriately and legitimately held his line in the 'two-line position' and was not solely to blame (or the sole cause) for the interference that occurred between the other two mounts;
  - b. That a contributing factor in *Sh'bourne Renegade* losing their position was that Mr Bowditch was not entitled to be in the position he was at the relevant time and that he had placed himself in close proximity to *Shady Hustle* when there was insufficient room to do so;
  - c. That Mr Bowditch - whilst an experienced senior rider - did not have experience on that track which contained at the 600m metre mark a very tight corner which runs uphill.

### **Steward's Submissions**

16. The Stewards referred to:
- a. That in the lead up to the 600 metre mark that:
    - i. (although tight) there was an available run for Mr Bowditch, and;
    - ii. notwithstanding that the horses ridden by Mr Bowditch and Mr Ganderton were making contact or buffering each other – they were permissibly 'racing tight';
    - iii. That the appellant should have stayed out wider – and not rolled in at the 600 meter mark.
  - b. *Sh'bourne Renegade* did not make contact with the rail until the appellant shifted across.

17. That it was the consideration of those factors and that the race was the Hobart Cup that lead them to deem this to be in the medium range of interference.
18. That in regard to penalty they had considered that the appellant was a senior rider who had a relatively good record.
19. The Board was assisted by Mr Free's (for the Stewards) submissions as to what factors are generally considered when assessing whether an interference was either (i) low range, (ii) low to medium, (iii) medium to high.

### **Race Film**

20. The Board had available to it the film of the race. Both the appellant and the Stewards helpfully and succinctly referred to that footage within their submissions to the Board – specifically the camera views and footage from 'head on' and '600 metre mark'.
21. The Board had the benefit of the advice of the adviser, Mr Chris Taylor, and carefully considered the race film. Having considered the submissions of the parties, the race film and the advice of the adviser, the Board was satisfied that there was careless riding in in this case.
22. It is the view of the Board that the film shows that at the 600 metre mark whilst there was pre-existing interference (for up to 12 strides) between *Shady Hustle* and *Sh'bourne Renegade* when they were racing tight - it can clearly be observed that at the point of the 600 metre turn that *White Hawk* commenced and continued to shift inwards when there was not sufficient room to do so.
23. It was this movement by *White Hawk* that in part contributed to *Shady Hustle* being tightened into *Sh'bourne Renegade* - causing that horse to contact with the running rail and lose its position.

### **The Decision on Conviction Appeal**

24. The Board is satisfied that based in those circumstances as observed (and detailed above) that the appellant's ride was careless. However, the Board characterises the interference (in the scale confirmed by Mr Free) as low level.
25. The appeal against the conviction is dismissed.

### **Appeal Against Penalty**

26. Having made the above determination in regard to the manner of riding and conviction (and the appellant's hitherto good record, the level at which he rides and the number of races that he participates in) it was the Board's

view that the suspension of licence for one Tasmanian race date was excessive in the circumstances.

27. The decision to suspend the appellant for one Tasmanian race date is varied to a reprimand.
28. The decisions of the Stewards having been varied, the Board orders pursuant to ss 34(1A), (2), (4A) and (4B) of the *Racing Regulations Act 2004* that 25 per cent of the Appellants prescribed deposit is forfeited to the Secretary of the Department and that the Appellant pay 25 per cent of the cost incurred in the preparation of the transcript of the Steward's inquiry.