

## TASMANIAN RACING APPEAL BOARD

### Appeal No. 18 of 2021-21

<b>Panel:</b>	<b>Kim Backhouse (Chair) Rod Lester (Member)</b>	<b>Appellant:</b>	<b>Bulent Muhcu</b>
<b>Adviser:</b>	<b>Chris Taylor</b>		
<b>Appearances:</b>	<b>Stephen Shaw (on behalf of the Appellant) Scott Quill (on behalf of the Stewards)</b>	<b>Rules:</b>	<b>AR 131(a)</b>
<b>Heard at:</b>	<b>Elwick Racecourse GLENORCHY TAS</b>	<b>Penalty:</b>	<b>Suspension for 1 Tasmanian racing meeting</b>
<b>Date:</b>	<b>10 May 2021</b>	<b>Result:</b>	<b>Appeal against conviction dismissed. Penalty varied to a reprimand</b>

### REASONS FOR DECISION

1. The appellant was charged under AR 131(a) as a result of an incident in Race 3 at Elwick Racecourse on Sunday 2nd May 2021. The charge was that as the rider, Bulent Muhcu of THE BEEKEEPER, near the 150 metre mark of the race track he permitted his mount to shift out when insufficiently clear of SPICEWOOD, resulting in that filly having to be restrained away from his heels and then being held up for some distance.
2. The appellant reserved his plea at the Stewards' inquiry on 2 May 2021 at the Tasmanian Racing Club and was subsequently suspended for 1 Tasmanian race meeting, commencing at midnight on 9 May 2021 and expiring midnight on 16 May 2021. Mr Bulent Muhcu has appealed the severity of the sentence and the conviction.
3. The appellant, Mr Bulent Muhcu was represented at the hearing by Mr Stephen Shaw. The appellant argued in relation to this matter that the incident was contributed to by SPICEWOOD and that horse's tendency to shift out. Furthermore, it was his contention that SPICEWOOD's jockey, was an inexperienced apprentice, that had aggravated the situation at the time and admitted at the Stewards inquiry that she had been under pressure at the time.
4. It was noted by Mr Shaw that SPICEWOOD runs in behind THE BEEKEEPER, and continues to roll in behind him. Mr Shaw noted that Miss Hope's horse SPICEWOOD was green and under pressure in the race and her horse was

getting into difficulties. Reference was made in relation to points 12<sup>1</sup>, 25<sup>2</sup> and 32<sup>3</sup> in evidence of the Stewards' inquiry on 2<sup>nd</sup> May 2021.

5. The appellant and his representative Mr Stephen Shaw were afforded the opportunity to present their case to the Panel members. In a similar vein, Mr Scott Quill on behalf of the Stewards was afforded the opportunity to discuss evidence from the race meet and Stewards' inquiry held on 2 May 2021. Mr Quill confirmed the view based on the evidence before the Panel that Mr Bulent Muhcu had breached Rule AR 131 (a) Careless Riding and was of the view that the penalty was reasonable under the circumstances.
6. Mr Quill noted that THE BEEKEEPER had shifted in to the lane of Miss Hope. Rule of thumb in racing is that the person shifting ground has to be 2 lengths clear and in this case there was only 1 length clear. He raised that Mr Bulent Muhcu did not know she was there and kept his head down.
7. The Deputy Chair requested further information from Mr Quill on the shifting ground rule. Mr Quill highlighted the carelessness of Mr Bulent Muhcu's riding on THE BEEKEEPER warranted a careless riding charge.
8. Mr Shaw emphasised Miss Hope's evidence that she was in a bad spot and was never going to get there because the horse was under pressure. Mr Shaw noted that it was general industry practice that often the 2 length rule is not observed by jockeys and while the rule is used broadly within the industry it really comes down to common sense and how it is applied at any given time. Mr Shaw noted that the 2 length rule becomes important with interference.
9. The Panel spent considerable time viewing the official race footage in the presence of both parties and Mr Bulent Muhcu requested that the Panel allow him to go back over the footage and point out the incident around the one hundred and fifty metre to two hundred metre mark and discuss his version of the events as he was of the view that due to his comprehension of the English language that he may have confused himself when giving evidence at the Stewards' inquiry on 2 May 2021.
10. Mr Stephen Shaw noted to the Panel that the penalty was too harsh under the circumstances and given Bulent Muhcu's excellent track record that the Panel should take this into consideration.
11. Mr Muhcu also stated that he was aware of SPICEWOOD's presence and had noted comprehension issues with the English language at the time when asked by the Stewards at the inquiry on the 2<sup>nd</sup> May 2021. This is contrary to the statement at the inquiry on 2 May 2021 where he noted when asked:

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<sup>1</sup> Miss Hope: "...Sir, under pressure long way out from home. Being a first starter was very green and just wandering, down the straight I was under pressure. Did have to slightly, in saying that my horse, like I said, it was pretty green and under pressure".

<sup>2</sup> Chairman: "...did you have to ease away from the heels of Mr Muhcu at any stage? Miss Hope: For a stride...".

<sup>3</sup> Mr Muhcu: "... he looked like he was going on top of Troy's horse and then sort of any (inaudible) the horse coming from that, they kind of, a bit of nearing from outside ...".

*were you aware your horse was shifting ground because you were riding it out at the time you had it under the whip and was shifting ground. Were you aware of that?*

*MR MUHCU: No, as I said, I was bearing out, I wouldn't say it was shifting, maybe marginal, like, probably looking for bigger horse to come near him...*

12. Mr Scott Quill noted that any interference from SPICEWOOD's jockey was minimal. Mr Quill also noted that Bulent Muhcu was an experienced jockey with an excellent track record, albeit that the penalty was an appropriate penalty at the time.
13. Mr Quill also noted the 'Not guilty' plea entered, a couple of recent suspensions in 2021 and noted that Bulent Muhcu's appeal noted that financial hardship would be imposed on himself. He further stated that "We cannot have horses wandering all over the place ... and put this in the lower range i.e. 1 to 2 race meeting suspension and decided a 1 race meeting was warranted".
14. Mr Shaw believes in this instance the penalty is unfair and should be a reprimand. Bulent Muhcu noted that the stewards could not understand him and he thinks he answered the question 'wrongly' and suggested that maybe the stewards did not understand him. Bulent Muhcu noted throughout this hearing that the miscommunication was due to his language difficulties.
15. When considering the appropriateness of the penalty the Board accepted the Steward's argument, however, the Panel were of the view the penalty was too harsh.
16. The Board determined that the jockey had breached the rule AR131(a) however, in light of all the evidence presented and taking into consideration his racing record and the inexperience of SPICEWOOD's jockey and the evidence around her contribution to the incident in Race 3, the Board ordered unanimously that the appeal against the conviction should be dismissed and the appeal against penalty upheld and the penalty varied to a reprimand.
17. In accordance with section 34 of the *Racing Regulation Act 2004* the Board orders that 25% 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 25% of the cost of preparing the inquiry transcript.