

TASMANIAN RACING APPEAL BOARD

Appeal No 23 of 2016/2017

Panel:	Mrs Kate Brown (Chair)	Appellant:	Mark Yole
Appearances:	Mr David Arnott as Advisor Mr Reid Sanders on behalf of the Stewards Mr Ben Yole on behalf of the Appellant	Rules:	AHRR163(1)(c)(iii)
Heard at:	Launceston	Penalty:	2 race dates suspension
Date:	24 May 2017	Result:	Varied to 1 race date suspension

REASONS FOR DECISION

1. On 24th May 2017 the Tasmanian Racing Appeal Board (the “TRAB”) heard an appeal by Mark Yole, filed on 1 May 2017, against a conviction for contributing to interference contrary to AR 163(1)(a)(iii) in a harness meeting at Launceston on the 28th of April 2017, and the 2 race date suspension imposed by way of penalty.
2. At the hearing the Board had regard to
 - a. The Notice and Grounds of Appeal and Application for Stay lodged 1 May 2017;
 - b. Copy of Fine and Notification of Penalty issued 28 April 2017;
 - c. Transcript of Stewards Inquiry 28 April 2017;
 - d. Copy of Appellant’s Offence record;
 - e. Stewards Report 28 April 2017;
 - f. Race film race 4 LPC meeting 28 April 2017;
 - g. Evidence and submissions from the appellant during the hearing;
 - h. Submissions from Mr Sanders at the hearing.
3. In his “Grounds of Appeal” which effectively set out his evidence around the race, the appellant stated *“I never moved from my racing line at that point in the race. I believe video evidence showed this. However pressure did come from horses directly outside of Lake Eyre NZ, the horse that was interfered with”*. He asserted that the interference was caused by *About Alice* and *Sultan Fella* on the outside and submitted that Stewards had failed to take into account that there was no actual contact caused by the alleged interference. The transcript sets out that the appellant believed he had a run there to take.
4. After viewing the race film the Board considered that while there was a gap opening up, there was not a run there for the appellant to take. To do so required him to take the run of Mr Rattray on *Lake Eyre* who had horses outside of him and was left with nowhere to go. The film shows that playing out and Mr Rattray on *Lake Eyre* checking. It is noted that the shift is not a significant one and that no contact was made, but the obligation is on the

appellant to be aware of the horses around him and the shift was not permissible in the circumstances. While Mr Rattray did not support the Stewards at the inquiry and tended to minimise the role played by the appellant, the film is to be preferred.

5. The Board affirms the conviction for contributing to interference.
6. With respect to the appeal against penalty, it is noted that the inquiry apparently did not hear from the appellant at all as to penalty, and Stewards do not set out the basis upon which a two race meeting suspension was imposed. At the appeal hearing the Board was told that the appellant is the second most used driver in the State and because of that the financial impact of a two meeting suspension is higher. That is, of course, something of a double edged sword, as his level of experience is relevant to good judgment he ought to demonstrate on the track. Stewards conceded that the appellant's record is reasonable in view of his level of activity, but noted he had been suspended for three race dates in February under the same charge and two race dates in March under a different one. Those matters are taken into account however, it is noted that the shift made was slight and the consequences not significant. The penalty was higher than it ought to have been in those circumstances and is reduced to a 1 race meeting suspension.
7. Accordingly, the outcome of the appeal is that the conviction is affirmed but the penalty is reduced to a one (1) race meeting suspension.
8. Pursuant to s.34 of the *Racing Regulation Act 2004* the Board orders that 50% of the deposit paid be forfeited to the Secretary and that the appellant pay 50% of the cost of preparation of the transcript for the appeal.