

TASMANIAN RACING APPEAL BOARD

Appeal No 20 of 2015/16 – ANTHONY DARMANIN

Panel:	Mrs Kate Brown (Chair)	Appellant:	Mr Anthony Darmanin
Adviser:	Mr Chris Taylor		
Appearances:	Appellant (by telephone) Mr Scott Quill on behalf of the stewards	Rule:	Thoroughbred RuleAR137A (5)(a)(ii)
Heard at:	Launceston	Date:	18 April 2016
Penalty:	A \$400 fine	Varied	
Decision:	A \$400 fine	\$200 suspended on condition	

REASONS FOR DECISION

1. This is an appeal against the severity of a penalty imposed against the appellant for excessive whip use during Race 1 – Brendon McCoull Class 12 Handicap – 1200 metres at the Tasmanian Turf Club on 16 March 2016.
2. The relevant rule is Rule 137A(5)(a)(ii) of the Australian Rules of Thoroughbred Racing which was introduced on 1 December 2015 and states:

*“In a race, official trial or jump-out prior to the 100 metre mark,
The whip shall not be used on more than 5 occasions.”*
3. It is a recent rule, adopted from December 2015. Its effect is simple: a jockey must not strike their mount with the whip on more than five occasions prior to the 100 metre mark. From the 100 metre mark to the finishing line a jockey may use their whip on as many occasions as time and their discretion permits.
4. In the incident in question the appellant was riding *Global Squire*. As he entered the home straight he commenced to strike his mount. By the 100 metre mark from the winning post he had used his whip on six occasions. He was charged with excessive whip use by striking his mount on six occasions (one more than is permissible) before the 100 metre mark from the winning post.
5. The appellant pleaded guilty before the stewards, accepting that he had used the whip on six occasions prior to the 100 metre mark but noted that over the last 100 he only used it once.
6. Having regard to the appellant’s plea of guilty and his poor record (as outlined in the following table), stewards proceeded to impose a fine of \$400.

7. The appellant's prior breaches of the relevant rule are as follows:

Date	Penalty	Location	comment
11/12/15	Fine \$100	Devonport	8 occasions (3 over)
11/12/15	Fine \$100	Devonport	7 occasions (2 over)
11/12/15	Severe reprimand	Devonport	8 occasions (3 over)
11/12/15	Reprimand	Devonport	6 occasions (1 over)
18/12/15	Fine \$100	Hobart	7 occasions (2 over)
27/12/15	Fine \$100	Devonport	7 occasions(2 over)
05/02/16	Fine \$300	Hobart	7 occasions (2 over)
08/02/16	Suspension – 1 race date	Hobart	11 occasions (6 over)
08/02/16	Suspension – 1 race date& \$500 fine	Hobart	9 occasions (4 over) Served concurrently with one above
21/02/16	Fine \$400	Launceston	6 occasions (1 over)
16/03/16	Fine \$400	Launceston	6 occasions (1 over)

8. The appellant contends that the penalty is excessive for the following reasons:

- The rule prohibiting the use of a whip in excess of five occasions was only introduced on 1 December 2015 and the appellant, like many other jockeys, has had significant difficulty in changing his riding style to ensure compliance with the rules.
- At the time he thought that he had only hit the horse on five occasions but conceded at the inquiry that it was in fact six.
- He finished sixth which did not affect the betting on the race.
- The fact that he used the whip minimally over the final 100 metres should be given some weight.

9. The stewards contend that:

- It was common ground that the appellant used the whip on six occasions and that while it was on the lower end of the scale his record is not good.
- The appellant has offended 11 times since the rule was introduced and had had 126 rides by the time this offence occurred.

10. The Board took into account that the appellant has a poor record for offending under this rule. However, it is important to note that four of the previous eleven breaches all occurred during one race meeting at Devonport.

11. The breach of the rule was a minor transgression from the standard of whip use the appellant was expected to meet. Having regard to the circumstances of his ride, the manner of the striking, his early plea of guilty, the fact that he used the whip minimally over the final 100 metres, the modest force he applied, and the perception that his use of the whip, taken as a whole, did not appear aggressive or unnecessary the Board considered it appropriate to uphold the appeal.

12. The appellant is fined the sum of \$400, however, \$200 of that fine will be suspended provided he is not in breach of Rule 137A(5)(a)(ii) for the remainder of this racing season.

13. As the appeal was one against penalty and is therefore wholly successful, the appellant's deposit will be returned to him pursuant to s.34(2)(e) of the *Racing Regulation Act 2004*.