

## TASMANIAN RACING APPEAL BOARD

### Appeal No 16 of 2013/14

<b>Panel:</b>	<b>Mr R Foon (Chair)</b>	<b>Appellant:</b>	<b>Mrs K Moore</b>
<b>Adviser:</b>	<b>Mr C Taylor</b>		
<b>Appearances:</b>	<b>Mr K Ring on behalf of the appellant Mr S Quill on behalf of stewards</b>	<b>Rule:</b>	<b>Thoroughbred Rule AR137(a)</b>
<b>Heard at:</b>	<b>Launceston</b>	<b>Penalty:</b>	<b>A 2 race date suspension</b>
<b>Date:</b>	<b>20 June 2014</b>	<b>Result:</b>	<b>(1) Appeal against conviction dismissed (2) Appeal against penalty upheld and a one race date suspension substituted</b>

### REASONS FOR DECISION

1. The appellant was the rider of *Mr McCartney* in Race 8 at the Devonport Racing Club meeting held on 1 June 2014. Passing the 100 metre mark on the first occasion her mount shifted in on *Digger's Sunrise*, ridden by David Pires.
2. As a result of the incident an inquiry was held before the stewards and the appellant was convicted of careless riding in breach of AR137(a).
3. AR137(a) provides that:

*“Any rider may be penalised if, in the opinion of the Stewards - he is guilty of careless, reckless, improper, incompetent or foul riding.”*
4. The stewards found that:

*“...passing the 100 metres on the first occasion in race 8 when you rode MR McCARTNEY you allowed your horse to shift in when insufficiently clear of David Pires on DIGGERS SUNRISE who had to check off your heels.”*
5. Stewards found the carelessness, and also the interference, to be in the mid-range and subsequently suspended her licence to ride in races for two race meetings.
6. The appellant has appealed against her conviction and the penalty imposed. She applied for and was granted a stay of proceedings until determination of the appeal or further order.
7. The Appeal Board sat with an adviser, Mr Taylor, which is provided for in the *Racing Regulation Act 2004* under s.23(4)(a). The role of an adviser in hearing appeals before the Board is not dealt with at all in the legislation. The adviser is not, however, a member of the Board. The adviser has no role as an advocate, nor do they have any role in the decision making process. The adviser was present to hear all the evidence and the submissions and the parties were made aware of the adviser's role.

8. Mr Ring on behalf of the appellant, submitted that the appellant's riding was not careless as Mr Pires had contributed to the incident as he had the opportunity to go to the rails but chose to turn his mount's head to the outside and stay one off the fence. His submissions were in effect as follows:

- That Mr Pires did not check and that Mrs Moore crossed when sufficiently clear;
- The crossing was accentuated by Mr Pires' actions to go to the outside rather than to the rail; and
- That his horse was already turning before it was crossed.

9. For the stewards, Mr Quill submitted that it was open for the stewards to find the appellant guilty because:

- Mrs Moore was not two lengths clear when she crossed; and
- Mr Pires had to check off her heels as a consequence.

The onus is always on the jockey crossing to ensure that he or she is clear to do so.

10. The appellant's appeal against her conviction is dismissed. Having reviewed the race footage I agree with Mr Quill's submission that the appellant was guilty of careless riding. The Rule concerning a jockey being two lengths clear when crossing is a rule of thumb. It is a generally accepted one by everyone in the racing industry but of course the objective circumstances of each matter need to be considered.

11. There is no doubt having viewed the footage that Mr Pires could have gone to the rail but instead started to go to the outside. Having viewed the footage my view is that his horse does check as it is crossed and not before. In the action of crossing Mrs Moore's horse has eased and it is that that has led to her being insufficiently clear.

12. Whilst I accept that Mr Pires could have gone to the rails there is no obligation on him to do so.

13. In relation to the finding of careless riding, I am not satisfied that the stewards erred in making that finding.

14. As to penalty Mr Ring submitted that the appellant has a good record. He said that she derives her income from riding and at this time of the year, with fewer race meetings, it makes it difficult for a jockey to earn a living.

15. I am not satisfied that the penalty imposed is appropriate. I am satisfied that the carelessness was in the low range, however, I agree with the stewards' assessment as to the level of interference. Mrs Moore received a severe reprimand for careless riding in May 2014 and a reprimand in March 2014. In January 2014 she was suspended for two race dates. In December 2013 she received a two race date suspension for the same offence. Prior to that she had not been charged under that Rule since June 2013.

16. In light of the severe reprimand on 21 May I am of the view that a one race date suspension is appropriate.

17. I order that the appellant forfeit 50% of her deposit pursuant to Section 34(2)(a) of the *Racing Regulation Act 2004* and pay 50% of the costs of the transcript in accordance with section 34(4B)(a) of the Act.

18. Pursuant to s.34(1)(B) the decision is to take effect immediately.

DATED: 7 July 2014