

TASMANIAN RACING APPEAL BOARD

Appeal No 18 of 2015/16 – SIGRID CARR

Panel:	Mrs Kate Brown (Chair)	Appellant:	Ms Sigrid Carr
Adviser:	Mr Chris Taylor		
Appearances:	Mr Kevin Ring on behalf of the appellant Mr Anthony O’Connell on behalf of the stewards	Rule:	Thoroughbred Rule AR137(a)
Heard at:	Launceston	Date:	18 March 2016
Penalty:	A one meeting suspension	Decision:	Dismissed

REASONS FOR DECISION

1. Ms Carr was charged on the 23rd of December 2015 with a breach of AR 137(a) careless riding in that in Race 9 at Launceston ‘near the 300 metre mark she (on *Powercharged*) shifted out and took *Mikaylas Raider* out onto *Ash for Cash*’.
2. Evidence was heard that evening and on Ms Carr’s application the matter was adjourned to allow her the opportunity to be represented. It was not possible to reconvene the panel until the 21st of February at which time the inquiry resumed and further evidence was taken.
3. Stewards found the breach proved and imposed a penalty of a one race date suspension.
4. Ms Carr lodged an appeal on the 25th of February against both conviction and penalty. The ground on the appeal was “*I feel I didn’t cause any interference*”.
5. The Board heard her appeal on the 18th of March and was assisted by the Thoroughbred Adviser Mr Chris Taylor, who whilst present to hear all the evidence and submissions did not take part in the decision making process.
6. At the hearing the appellant was represented by Mr Ring and the stewards were represented by Mr O’Connell.
7. During the hearing the Board had regard to:
 - (a) A copy of Notice and Grounds of Appeal and Application for Stay of Proceedings lodged on 25 February 2016.
 - (b) Transcript of Stewards’ Inquiry held on 23 December 2015.
 - (c) Transcript of Stewards’ Inquiry held on 21 February 2016.
 - (d) A copy of Miss Carr’s recent offence record.
 - (e) A copy of Stewards’ Report from the Tasmanian Racing Club meeting held on 21 February 2016.

- (f) Copy of race patrol film of Race 9 at the Tasmanian Turf Club meeting on 23 December 2015
8. Submissions were heard from Mr Ring and Mr O'Connell as to both the conviction and the penalty and each had the opportunity to have the race film played and direct the Board's attention to aspects of the footage. The hearing was conducted in accordance with s.30 of the *Racing Regulation Act 2004* (the Act).
 9. In his submissions, Mr Ring relied on the fact that there was no contact between *Powercharged* ridden by Ms Carr and *Mikaylas Raider* ridden by Ms Maher. He submitted that the alleged interference amounted to a non-culpable racing incident. He submitted that to the extent that any interference occurred, it occurred behind Ms Carr; that Ms Carr had no bearing on it; and that Ms Maher's mount moved out of its own accord. He relied on the submission that Ms Maher did not have to check at any stage and that it was not Ms Carr's fault that Maher's horse has dropped back into McCarthy's lap. He also relied on the fact that Mr Maskiell on *Calavera* on the outside of Ms McCarthy (on *Ash for Cash*) was riding tight, which had had an impact on Ms McCarthy. Mr Ring referred to the transcript of both parts of the Inquiry in making his submissions and regard is had to those references.
 10. In response Mr O'Connell noted that the particulars of the charge against Ms Carr were that *Powercharged* shifted out and took *Mikaylas Raider* on to *Ash For Cash*. He noted that it was not alleged that Ms Maher had to check or that there was any contact between the two horses. He conceded that the interference alleged was at a low level. Mr O'Connell submitted that the evidence taken on the 23rd of December should be preferred to that taken on the 21st of February to the extent that there were differences between the versions given by the jockeys on each occasion. The basis of that submission was that the event was fresh in their minds at that time and untainted by any retrospective analysis, or subsequent watching of the race film. The Board accepts that submission. To a large extent, the evidence of Ms McCarthy and Mr Maskiell remained the same on each occasion, but Ms Maher's evidence on the resumption of the inquiry is less strong than it was initially and Ms Carr made concessions on the 23rd of December that she apparently contradicted on the 21st of February. It is accepted that the details of the race were fresher in the minds of the riders on the 23rd of December.
 11. Mr O'Connell made particular reference to the concession of Ms Carr that she came out (at page 3, line 37 of the transcript of the 23rd of December) and to the evidence of McCarthy (page 2 line 13 of the transcript of the 23rd of December) that she believed she was getting pressure from the inside. It is noted that Ms Maher (on the 23rd of December) stated that she was aware she had a horse on the inside of her shifting her out on the turn and she estimates it took her one and a half horses out.
 12. The Board notes that the concession Mr O'Connell relies upon Ms Carr making is not particularly clear and she moves from that position later in the transcript. However, the shift she made is able to be viewed in the film. The film and the evidence of Ms Maher (on the 23rd of December) and of Mr Maskiell and Ms McCarthy are largely consistent with each other and inconsistent with the version given by Ms Carr. On that basis those aspects of the evidence are preferred.
 13. Further there was a submission made by Mr Ring that at no stage did Ms Maher have to check her horse (which, he submitted, she would necessarily have done had there been interference to a culpable level) however, it appears from the film that Ms Maher did in fact stop riding with her hands and heels for a few strides after Ms Carr moved out.
 14. The appeal against conviction is dismissed. The Board accepts that the totality of the evidence demonstrates a shift occurred sufficient to warrant a charge pursuant to AR 137(a).
 15. With respect to the appeal against penalty, the concession of the appellant that the interference was at a low level is noted. However, the consequences of that interference were significant for *Ash for Cash* and that needs to be borne in mind. Regard is had to Ms Carr's status as an

experienced apprentice jockey and that her record must be considered in the context of the number of races she has. It is noted that at the time this occurred she had already had two suspensions under the same charge this racing season. In all the circumstances it was appropriate to impose more than a severe reprimand and a one race date suspension was warranted. The appeal against penalty is dismissed.

16. In accordance with s.34(1A) of the *Act*, 50% of the appellant's prescribed deposit is to be forfeited to the Secretary of the Department. The appellant is also ordered to pay 50% of the cost incurred in the preparation of the transcript in accordance with s.34(4A) of the *Act*.

DATED: 30 March 2016