

# TASMANIAN RACING APPEAL BOARD

## Appeal No 2 of 2017/2018

<b>Panel:</b>	<b>Mr Tom Cox (Chair) Ms Wendy Kennedy</b>	<b>Appellant:</b>	<b>Mr Dylan Ford</b>
<b>Appearances:</b>	<b>Mr Adrian Crowther on behalf of the Stewards</b>	<b>Rules:</b>	<b>Australian Harness Racing Rule 163(1)(a)(iii)</b>
<b>Heard at:</b>	<b>Hobart</b>	<b>Penalty:</b>	<b>3-race date suspension</b>
<b>Date:</b>	<b>Friday 3 November 2017</b>	<b>Result:</b>	<b>Varied to a 2-race date suspension</b>

### REASONS FOR DECISION

1. The appellant, Mr Dylan Ford, was the driver of YOIES GIRLS which raced in Race 10 - the Impartial Stakes – over 1680 metres at the Launceston Pacing Club on 13 August 2017. Following an inquiry into his drive, which was conducted during the course of the race meeting, the Stewards found the appellant had breached AHRR163(1)(a)(iii), which provides: “*a driver shall not cause or contribute to any interference*”.
2. The appellant pleaded not guilty at the inquiry. His driver’s licence was suspended for a period of three (3) race dates. The appellant was subsequently granted a stay with respect to the operation of that penalty. The appellant now seeks to move this Board to quash the Stewards’ findings he was in breach of the rule and, failing that, quash the penalty for being manifestly excessive.
3. A useful summary of the particulars of the charge is set out in the Stewards race report dated 13 August 2017. It provides as follows:  
*Stewards inquired into the reasons for SEA SKY (Adrian Collins) being checked and breaking racing off the back straight on the final occasion, resulting in ANGELINA RAINBOW and KARALTA BOOMER also being checked and after taking evidence from drivers Adrian Collins (SEA SKY), Dylan Ford (YOIES GIRLS), Wade Rattray (KARALTA BOOMER) John Walters (ANGELINA RAINBOW) and M Yole (MIDAIR MELTDOWN) driver Dylan Ford was charged pursuant to AHRR 163(1)(a)(iii), causing interference. The particulars being that in shifting up the track at that stage of the race his shift has resulted in SEA SKY being taken outwards and contacting the sulky of MIDAIR MELTDOWN and breaking. Mr Ford pleaded not guilty however after considering the evidence tendered, the official race replays and their own observations Stewards found Mr Ford guilty of the charge and his licence to drive was suspended for three race dates. Mr Ford sought and was granted a nine-day deferment. His suspension commences midnight 20 August and expires midnight 10 September 2017.*

4. It is important to note that the Stewards' complaint relates to the appellant's conduct racing off the back straight on the final occasion and not for any earlier conduct by the appellant which relates to him shifting up the track on the turn at the end of the back straight. That earlier conduct can be clearly seen in the video footage. What can be seen to occur is that the appellant, at that stage of the race, shifts off the pegs and, quite fairly, forces Adrian Collins, on SEA SKY, up the track from the one out position. It was a fair jostle between those two drivers with Mr Ford gaining the upper hand. It can also be seen on the footage that as these drivers jostle for position, Mark Yole on MIDAIR MELTDOWN, traverses the turn, gaining ground, and in the process moves down the track from the four out to the three wide position. In this process Mr Collins' drive, SEA SKY, was heavily under pressure from both sides.
5. A further 80 yards passes with these three drives in close proximity. At the end of that distance the footage clearly demonstrates that the appellant's drive's head is turned sharply to its right, up the track. A moment passes and Mr Collins' drive moves further up the track contacting Mr Yole's drive. As a result, Mr Collins' drive breaks gait.
6. The appellant contends that he was entitled to jostle with Mr Collins as the drivers traversed the turn on the back straight; that Mr Yole, on the outside, did not allow sufficient room for Mr Collins drive; that Mr Collins' drive simply faulted under pressure; that Mr Yole can be seen to jig his cart to stop it from shifting down the track; that just because the appellant's horse's head was turned out does not mean that he steered his drive up the track; and, ultimately, that it was the pressure from Mr Yole from the outside that caused any interference.
7. With the exception of the appellant's proposition that his drives' head was not turned out on account of any conduct on his part, the appellant's submissions may be accepted. However, we do not accept that the appellant did not shift up the track at the end of the 80 metre distance off the back straight and did not, in that process, contribute to interference with Mr Collins' drive. We accept the Stewards submission that the appellant shifted up the track on two occasions and that Mr Collins' horse broke its gait on account of the appellant's second shift up the track.
8. In the circumstances, we are satisfied that the appellant was in breach of the rule. However, we are minded to reduce the penalty from 3 race dates to 2 race dates, having regard to the pressure that was applied by Mr Yole to Mr Collins from the outside. While we do not make any finding as to whether or not Mr Yole's drive contributed to the interference, we consider that the Stewards should have taken into account the pressure that was applied from the outside when reaching penalty. It does not appear that any regard was had to this circumstance.
9. The appellant's penalty is varied accordingly.
10. Pursuant to s.34(2) the Board orders that:
  - 50% of the prescribed deposit paid by the appellant is to be forfeited to the Secretary of the department; and
  - The appellant pay 50% of the cost incurred in the preparation of the transcript of the Stewards' inquiry.