

TASMANIAN RACING APPEAL BOARD

Appeal No 30 of 2016/2017

Panel:	Mrs Kate Brown (CHAIR) Mr Rod Lester	Appellant:	Bulent Muhcu
Appearances:	Mr David Farquharson on behalf of the Stewards Mr Edwin Batt on behalf of the Appellant	Rules:	AR137(a)
Heard at:	Launceston	Penalty:	One race date suspension
Date:	5 July 2017	Result:	Dismissed

REASONS FOR DECISION

1. On 5th of July 2017 the Tasmanian Racing Appeal Board (the “TRAB”) heard an appeal by Bulent Muhcu, lodged on 7th of June 2017, against a conviction for careless riding contrary to AR 137(a) in a race meeting on the 4th of June 2017, and the 1 race meeting suspension imposed by way of penalty.
2. At the hearing the Board had regard to
 - a. The Notice and Grounds of Appeal lodged 7 June 2017;
 - b. Copy of Fine and Notification of Penalty issued 4 June 2017;
 - c. Transcript of Stewards Inquiry 4 June 2017 (including transcript of protest);
 - d. Copy of Appellant’s Offence record;
 - e. Stewards Report 4 June 2017;
 - f. Race film race 3 DRC meeting 4 June 2017;
 - g. Evidence and submissions from Mr Batt and Mr Muhcu during the hearing;
 - h. Evidence and Submissions from Mr Farquharson at the hearing.
3. The Board considered all of the above in reaching a decision on the appeal. It had particular regard to the race film and the submissions of the parties as to that. The appellant argued that he had not allowed his horse to shift across and, in any event, there was never a run there for *Amber in Paris*, the horse which was affected by the shift. While that may have been the appellant’s perception, it was very clear from the race film that there was a run there for *Amber in Paris*, and more than sufficient room off the fence for that to be taken.
4. The Board finds that Ms Carr on Amber in Paris had committed to that run in the home straight, and at that point the appellant failed to ensure *Pura Vida* maintained the straight line to the finish, causing Ms Carr to take evasive action. The Board accepts that the appellant did take steps to correct the shift, but Ms Carr had already been forced to shift across, thereby impacting *Argillite*. The Board accepts the evidence of Ms Carr at the Protest hearing that she had committed to the run and that

as the appellant shifted she was right on *Pura Vida*'s hindquarters. Accordingly, the board determined to uphold the conviction for careless riding.

5. With respect to penalty, the Board accepted that the carelessness was, as noted above, constituted by the failure to prevent the shift out and was for a split second. However, it considered that Stewards had given proper weight to that, and the appellant's recent good record (which was not in dispute), when imposing the penalty of a one race meeting suspension. The potential for harm in this incident was significant and it is fortunate for all riders that the consequences were not more serious.
6. The Board affirmed both the conviction and the penalty imposed by stewards.
7. 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.