



APPEAL DECISION

TAYLOR MARSHALL and RACING VICTORIA STEWARDS

Date of Hearing: 4 December 2017

Heard By: Judge Bowman (Chair)

Appearances: Geoff Hausfeld appeared on behalf of the stewards.
Matthew Hyland of the VJA appeared on behalf of Mr Marshall.

At an adjourned stewards' inquiry on 29 November 2017, jockey Taylor Marshall was found guilty of a charge of careless riding on his mount *Subutai* in Race 3 the *bet365 Maiden Plate* (1953m) at Yarra Valley on Saturday, 28 October 2017.

The careless riding being that approaching the 400-metre mark, he permitted his mount to shift ground outwards when insufficiently clear of *Red Crown*, ridden by Arron Lynch, resulting in that horse being tightened for room out onto *Castagne*, ridden by Sam Payne. As a result of this tightening, *Red Crown* appeared to clip heels and knuckle badly, resulting in Arron Lynch being dislodged from his mount.

Mr Marshall his licence to ride in races suspended for a period to commence at midnight on Saturday, 2 December 2017 and to expire at midnight on Monday, 25 December 2017 – a total of 26 race meetings.

In assessing penalty stewards took into account Mr Marshall's good record and the fact that the carelessness resulted in a fall to Arron Lynch.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Thursday, 30 November 2017. A stay of proceedings was granted effective to midnight Sunday, 3 December 2017.

DECISION: Appeal against decision dismissed.
Appeal against severity of penalty allowed.

Taking into account the stay of proceedings, the penalty is varied so that the period of suspension expires after the day meeting on Friday, 22 December 2017 (22 race meetings).

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

HIS HONOUR JUDGE J. BOWMAN, Chairman

EXTRACT OF PROCEEDINGS

DECISION

TAYLOR MARSHALL

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

MONDAY, 4 DECEMBER 2017

MR M. HYLAND appeared on behalf of Mr T. Marshall

MR G. HAUSFELD appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Taylor Marshall, you have pleaded not guilty to a charge of careless riding, in that in race 3 over 1953 metres at Yarra Valley on 28 October 2017, approaching the 400-metre mark, you permitted your mount, Subutai, to shift ground when not sufficiently clear of Red Crown, ridden by Arron Lynch, resulting in it being tightened out onto Castagne, ridden by Sam Payne. As a result, Red Crown did clip heels and stumbled badly, resulting in Arron Lynch being dislodged and suffering personal injury. Other jockeys, Jarrod Fry and Ben Thompson, were also questioned. The Stewards, Mr Torpy and Mr Terp, also gave evidence.

The Stewards found the charge proven. They took into account your good record and the fact of Arron Lynch's fall. They suspended you for a total of 26 meetings. You are appealing against the decision and the severity of the penalty.

I have viewed the video footage. I say at the outset that the available video is most unsatisfactory, as mentioned by all concerned. It makes it very difficult for Stewards and indeed for all those people who are involved to carry out a proper analysis of what has occurred in a race without there being adequate vision. Head-on footage would play a vital role in this.

This was no meeting at a racecourse used once a year. It was not a picnic meeting. This was a Saturday TAB meeting at one of the leading and busiest tracks outside of Melbourne, namely at Yarra Valley. That there is no head-on video available for an incident that took place near the 400-metre mark, being

the location used in every race, is surprising and disappointing. Something should be done to remedy this and make available for Stewards and all parties proper video coverage, including important head-on footage.

The video that is available is of only limited use. It does show that Sam Payne was holding a line outside Arron Lynch and you were inside Lynch. It shows that Ben Thompson went around the field and was then directly ahead of you.

What happened at the time of the fall is not so clear. Arron Lynch effectively became caught between you and Sam Payne. The central issue is whether his mount clipping heels was caused at least partially by you moving out or, as submitted by Mr Hyland on your behalf, whether you kept a straight line and the clipping of heels was in essence caused by Sam Payne pressing or turning towards the rails. That Arron Lynch became caught in the sandwich seems beyond dispute.

As stated, the issue is whether you moved out off your line to get to the outside of Ben Thompson or whether you did not move because a run outside Ben Thompson was presented to you and it was movement or pressure from Sam Payne onto Arron Lynch that caused the fall.

In the circumstances where it is quite difficult to tell from the video, the observations of the Stewards from the towers and the evidence given by the jockeys, particularly Arron Lynch, becomes important. Mr Torpy was one of the Stewards; he viewed the situation from behind. He believed that Sam

Payne held his ground; see the transcript of 28 October 2017, page 4. Mr Terp had probably a better view from the tower just after the 400-metre mark. He believed you attempted to take a run to the outside of Ben Thompson when there was very little room. He has described your continuing "to sort of push to create that run" and in so doing, Arron Lynch clipped heels.

Arron Lynch was interviewed on 18 November 2017, he having been taken to hospital following the fall. He stated that he looked to take a run to the outside of Ben Thompson and he noticed you trying to do the same. He felt that Sam Payne held his position and kept a straight path. He stated that he was dictated to by your mount which was going better than he was and he stated that he called out, "No, stay there," or words to that effect. He thought that Ben Thompson kept a straight line.

On page 4 of the transcript of 18 November 2017, Arron Lynch maintained that there was a shift from you on the inside into his line, a shift of a full horse. At page 7, he stated that as he established the run to the outside of Ben Thompson, he received pressure from the inside, that is, from you, with Sam Payne trying to hold his line outside.

I have gone through these matters in some length because this is not a case where the video tells the story. My overall conclusion is that the Stewards' case has been made out. I do not accept that you never moved off your line. I accept the observation of Mr Terp and the evidence of Arron Lynch. For those reasons, I am of the opinion that the appeal against the decision fails and is

dismissed.

Mr Marshall, turning to the question of penalty, whilst you do not get the benefit of a plea of guilty, in the absence of any proper video footage, it undoubtedly would have made it harder for you to be satisfied that it was your carelessness that caused the incident. As everyone has agreed, had there been adequate video coverage, we probably all would not have been here today. I accept that you firmly believe that you are not at fault and perhaps video material may have persuaded you to the contrary.

It is an unfortunate and unusual situation. I appreciate the policy of the Stewards where there has been a fall and personal injury has resulted, particularly personal injury that will keep a jockey on the sidelines for several months. On balance in these unusual circumstances, I am prepared to vary your penalty. The minimum penalty in recent times imposed in the case of a fall resulting from careless riding has been 22 meetings, which incidentally exceeds penalties imposed for reckless riding and improper riding. You may consider yourself unlucky, but of course Arron Lynch is unlucky to a much greater extent. In any event, bearing in mind your very good record, I reduce the penalty to 22 meetings. The appeal against penalty is upheld and the penalty varied accordingly.
