

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 9 November 2012

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: JAMES MCDONALD**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy Chair), Mr Darren McGee.

Appearances Mr Des O’Keeffe appeared on behalf of Mr McDonald.
Mr Terry Bailey appeared on behalf of the Stewards.

At Flemington on Tuesday 6 November 2012, jockey James McDonald was found guilty of a charge of careless riding on his mount *Fiorente (IRE)* in Race 7 the *Emirates Melbourne Cup* (G1, 3200m).

The careless riding being that after passing the 800m he directed his mount out from behind *Ethiopia* where there was no room, making heavy contact with *Sanagas (GER)* resulting in *Sanagas (GER)* being knocked off balance and N Hall, rider of *Sanagas (GER)* becoming unbalanced and losing the use of his off side iron.

James McDonald had his licence to ride in races suspended for a period to commence at midnight on Thursday, 8 November 2012 and to expire at midnight on Tuesday, 20 November 2012 – a total of 14 race meetings (3 city, 11 country).

In assessing penalty Stewards took into account the incident and carelessness were in the high range but did make some concessions for *Ethiopia* weakening in front of him.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Wednesday, 7 November 2012. A stay of proceedings was not required.

DECISION: **Appeal dismissed. Penalty to remain standing.**

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman
MR B. FORREST, Deputy Chairman
MR D. McGEE**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE EMIRATES MELBOURNE CUP
(GROUP 1) OVER 3200 METRES AT FLEMINGTON ON 6/11/12**

JOCKEY: JAMES McDONALD

MELBOURNE

FRIDAY, 9 NOVEMBER 2012

MR T. BAILEY appeared on behalf of the RVL Stewards

MR D. O'KEEFFE appeared on behalf of the Appellant

CHAIRMAN: In this well-argued appeal, the Board has come to the following decision. The Board is satisfied that the Appellant, whose mount was travelling well, saw that McLeod had given Ethiopia a cut with the whip when the Appellant's mount was approximately one and a half lengths astern of Ethiopia. He made a decision to ride his mount along and not be held up by Ethiopia. He continued to ride his mount along and at the same time, he rode his mount out, thereby causing interference to Nick Hall. In so doing, the Board is satisfied that the Appellant was careless. The Board rejects the argument that it was the Appellant's only option to do what he did. Accordingly, the appeal against conviction is dismissed.

DISCUSSION

The Board is not disposed to interfere with the Stewards' penalty. The Appellant cannot call in aid a recent good record in relation to careless riding. One other point: it seems to the Board that the Stewards were extremely generous in this disposition. The Board, having made its finding, does not believe that Ethiopia had anything to do with the carelessness. It is argued that the horse came back, but the Board has made a finding that it was obvious to Mr McDonald that when McLeod drew the whip, he had to get out of there, which he attempted to do. The Board finds it difficult to understand therefore why Ethiopia really had anything to do with it. It certainly believes that the interference was in the high range and that, indeed, Mr McDonald was lucky to have got away with 14 meetings.
