

APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 3 August 2011

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

Panel Mr Brian Forrest (Deputy Chair), Mr Stephen Curtain, Mr Graeme Ward.

Appearances Mr Des O’Keeffe appeared on behalf of Mr Winks.
Mr Corie Waller appeared on behalf of the Stewards.

At Ballarat on Thursday, 28 July 2011 jockey James Winks was found guilty of a charge of careless riding on his mount *Lake View* in Race 9 the *University of Ballarat Equine Centre 0-62 Handicap* (1400m).

The careless riding being that rounding the home turn he permitted his mount to shift out when insufficiently clear of *Countess Delago*, taking that filly out onto *Sharada*, resulting in *Sharada* being placed in restricted room and having to be checked.

James Winks had his licence to ride in races suspended for a period to commence at midnight on Saturday, 30 July 2011 and to expire at midnight on Friday, 12 August 2011 - a total of 13 race meetings (3 metropolitan, 10 country). In assessing penalty Stewards deemed the incident to be in the mid range and took into account James Winks’ good record.

A Notice of Appeal against the **severity of the penalty** was lodged on Friday, 29 July 2011.

A stay of proceedings was not requested.

DECISION: **Appeal allowed.**

Penalty varied – the period of suspension to now expire at midnight on Tuesday, 9 August 2011 – a total of 10 race meetings.

TRANSCRIPT OF PROCEEDINGS

RACING APPEALS AND DISCIPLINARY BOARD

MR B. FORREST, Deputy Chairman
MR S. CURTAIN
MR G. WARD

EXTRACT OF PROCEEDINGS

DECISION

IN THE MATTER OF THE UNIVERSITY OF BALLARAT
0-62 HANDICAP OVER 1400 METRES AT BALLARAT ON 28/7/11

JOCKEY: JAMES WINKS

MELBOURNE

WEDNESDAY, 3 AUGUST 2011

MR C. WALLER appeared on behalf of the RVL Stewards

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

CHAIRMAN: The Board has now considered this matter and reached a unanimous decision.

This is an appeal by jockey James Winks against the severity of a penalty of a suspension of 13 race meetings, three metropolitan, 10 country, handed down by Stewards at Ballarat on 28 July 2011. Winks was found guilty of careless riding on his mount, Lake View, in race 9, 0-62 Rating Handicap of 1400 metres, in that rounding the home turn, he permitted his mount to shift out when not sufficiently clear of Countess Delago, ridden by Michelle Payne, taking that filly out onto Sharada, ridden by Jordan Mallyon, resulting in Sharada, in the Stewards' words, being placed in restricted room and having to be checked.

At the Stewards' inquiry, Payne said she went up on the outside of Mallyon and got pressure from the inside. Mallyon stated that he received pressure from his inside, but as his horse was tiring, he elected to go back and ease out. An unusual feature in this case is that both Payne and Mallyon stated that at the time, their vision was affected as they were racing head-on into the afternoon sun. If nothing else, this is another reminder of the importance of care by jockeys towards their fellow riders.

Before the Stewards, Winks pleaded not guilty to careless riding. Before this Board, Winks, through his advocate, Mr O'Keeffe, did not dispute the guilty finding. In his notice of appeal to this Board, Winks stated that he should have pleaded guilty before the Stewards had he thought things through properly.

The Board accepts that this was not merely a self-serving statement, as on a reading of the transcript at the Stewards' inquiry, it is clear that from the outset of that inquiry, Winks admitted to shifting out; see transcript page 2, line 39 onwards and also on page 3, line 42 onwards.

Winks did not resile from these admissions and accordingly, the Board regards his earlier admissions of guilt as a factor to be taken into account in his favour in considering the appropriate penalty. Additionally, it appears likely that Winks did not have the benefit of all the film evidence at the Stewards' inquiry and we accept, had he had the benefit of that, it is likely that he would have pleaded guilty.

Winks also raised the possibility that Mallyon was also crowded on his outside by Zip Ole, ridden by Kelvin Sanderson, thus contributing to the interference. However, that does not provide an answer to the charge. At best, it is capable of being a factor in mitigation of penalty if it could be shown to be a contributor to the consequences of Winks' riding.

The race film reveals a shift by Winks when insufficiently clear. On his own admission, Winks shifted out around the heels of Ryan Maloney's mount and bumped Payne's mount in the shoulder. Neither Payne, nor Mallyon suggest any shift or pressure from their outside. Additionally, the film is inconclusive as to any suggested interference from Sanderson's mount.

The Board has considered the submissions made by Mr Waller and

Mr O'Keeffe and also the film evidence tendered. In all the circumstances and for the reasons outlined and taking all of these matters into account, the Board has decided that the penalty be varied to a suspension of 10 race meetings, two metropolitan and eight country, to expire midnight Tuesday, 9 August 2011.

END OF EXTRACT