



**RACING APPEALS
AND
DISCIPLINARY BOARD**

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APPEAL DECISION

DAMIEN OLIVER

and

RACING VICTORIA STEWARDS

Date of Hearing: 14 October 2016

Panel: Judge Bowman (Chair), Mr Brian Forrest (Deputy), Dr June Smith.

Appearances: Mr Terry Bailey appeared on behalf of the stewards.
Mr Peter Jurkovsky appeared on behalf of Mr Oliver.

At Caulfield on Wednesday 12 October 2016, jockey Damien Oliver was found guilty of a charge of reckless riding, pursuant to AR 137(a), on his mount *Flying Artie* in Race 6 the *Catanach's Jewellers Blue Sapphire Stakes* (Group 3, 1200m).

The particulars of the charge being that, passing the 700m he turned his mount's head out, riding his mount out from a position inside *Dalradian* to a position outside *Dalradian*, and in doing so made heavy contact with *Ken's Dream* resulting in that horse being severely hampered and its rider Dean Yendall becoming unbalanced.

Mr Oliver had his licence to ride in races suspended for a period to commence at midnight on Saturday, 15 October 2016 and to expire at midnight on Monday, 31 October 2016 – a total of 20 race meetings (4 metro, 16 provincial).

In assessing penalty Stewards took into account his overall good riding record, the meetings he will miss and the seriousness of the charge.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Thursday 13 October 2016.

A stay of proceedings was not required.

DECISION: Appeal dismissed.
Penalty to remain standing.

Georgie Gavin
Registrar - Racing Appeals & Disciplinary Board

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE BOWMAN, Chairman
MR B. FORREST, Deputy Chairman
DR J. SMITH**

EXTRACT OF PROCEEDINGS

DECISION

**IN THE MATTER OF THE CATANACHS JEWELLERS
BLUE SAPPHIRE STAKES (GROUP 3) OVER 1200 METRES
AT CAULFIELD ON 12/10/16**

DAMIEN OLIVER

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

FRIDAY, 14 OCTOBER 2016

MR P. JURKOVSKY appeared on behalf of Mr D. Oliver

MR T. BAILEY appeared on behalf of the RVL Stewards

CHAIRMAN: Mr Damien Oliver has been charged with reckless riding in race 6, a Group 3 race at Caulfield on 12 October 2016. He was charged that near the 700-metre mark, he rode his mount, Flying Artie, out from a position inside Dalradian, ridden by Blake Shinn, to outside that horse and in doing so made heavy contact with Ken's Dream, ridden by Dean Yendall, resulting in it being severely hampered and Dean Yendall becoming unbalanced. That is the charge as it is worded. The Stewards found the charge proven and imposed a period of suspension of 20 meetings.

We have viewed the videos that were shown and these include both the head-on and side-on videos. Several things are clear to us. The horses were proceeding past the 800-metre mark towards the 700-metre mark, thus there are no turns that come into play. Blake Shinn's mount was leading and was one horse off the fence. It was proceeding in a straight line. Mr Oliver's mount was directly behind it, one off the fence. Dean Yendall's mount was outside Mr Oliver's and no more than a neck behind it. Blake Shinn did not move off his line, one off the rails. He looked to his left but did not move. There was space for Mr Oliver to take the run on Shinn's inside.

Apparently Mr Oliver believed that Shinn, who was no more than a length and a half ahead of him, would cross to the rails and he, Mr Oliver, who was riding the favourite, would be pocketed behind Shinn, and with Yendall on his outside. Perhaps this anxiety about being pocketed was enhanced by the fact that Shinn and Yendall were riding stablemates.

In any event, it is clear that Mr Oliver turned his mount's head, moved abruptly to his right, away from the rails, and simply bumped Yendall out of the way. Yendall's mount appeared to go close to crossing its forelegs and whilst Yendall appeared to be temporarily unbalanced, he did not appear to be in danger of falling off. However, the bump was a significant one. Mr Oliver went on to win the race. At least for the next several strides after the incident, Shinn's horse did not move closer to the rails.

It seems apparent to us that Mr Oliver was determined not to be pocketed. He may have misread the situation. If he had stopped where he was, there was a clear rails run if he had chosen to take it. The fact of the matter is that he did not stay where he was but moved abruptly to the right and bumped Yendall out of the way. We are comfortably satisfied that the move by Mr Oliver was quite deliberate.

We agree with what was said by Judge Lewis in Nolen's case:

AR 137(a) contains a range of offences of varying severity.

Reckless riding is a more serious charge than careless riding. One of the distinguishing factors is the state of mind of the jockey in question.

As stated, we are comfortably satisfied and indeed have no doubt that the move by Mr Oliver was intentional. He initiated the incident in circumstances where there was no room to his outside. It was a conscious decision.

There was a real risk that the consequences could have been serious; apart from anything else, the bumping of Yendall's mount which occurred at the front of a field of 12 in a 1200-metre race. We would add that we are not satisfied that the racing manners of Flying Artie contributed to the incident.

Given the above, we are comfortably satisfied that the reckless riding charge has been made out and the appeal in relation to guilt or liability is dismissed.

After quite some consideration and taking into account relevant matters, we have come to the conclusion that the approach adopted by the Stewards in relation to the penalty is appropriate. We have taken into account the nature of the charge and we have noted the factors that were taken into account by the Stewards. We are mindful of the potential loss of earnings, but in all the circumstances, we are satisfied that the penalty imposed by the Stewards was a fair and reasonable one and the appeal is dismissed.
