



APPEAL DECISION

PATRICK MOLONEY and RACING VICTORIA STEWARDS

Date of Hearing: 23 February 2017

Heard By: Judge Bowman (Chair), Mr Geoff Ellis, Mr Chris Fox.

Appearances: Mr Darren Triandafillou appeared on behalf of the stewards.
Mr Peter Jurkovsky appeared on behalf of Mr Moloney.

At an adjourned stewards' inquiry on Thursday, 16 February 2017, jockey Patrick Moloney was found guilty of a charge of improper riding under the provisions of AR 137(a). The charge relating to his ride on *Percivall Pott (NZ)* in Race 7 the *House Proud BM64 Handicap* (2219m) at Sale on Tuesday, 14 February 2017.

The particulars of the charge are that near the 1500 metres he deliberately shifted his mount in onto *Time For Dancing* in an attempt to take up the one off position that horse held, taking *Time For Dancing* off its course, tightening that gelding and making heavy contact with it, which resulted in *Time For Dancing* becoming badly unbalanced and forced off its rightful running.

Patrick Moloney's licence to ride in races was suspended for a total of 28 meetings to commence at midnight on 16 February 2017 and to at expire midnight on 10 March 2017 (7 metro, 21 provincial). In assessing penalty the Stewards took into account that this was his first offence under this rule. The suspension will be served concurrently with the suspension imposed for careless riding in the same race.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Friday, 17 February 2017. A stay of proceedings was not requested.

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

The period of suspension will now expire at midnight on 8 March 2017 (24 race meetings).

**Georgie Gavin
Registrar - Racing Appeals & Disciplinary Board**

**TRANSCRIPT OF
PROCEEDINGS**

RACING APPEALS AND DISCIPLINARY BOARD

**HIS HONOUR JUDGE J. BOWMAN, Chairman
MR G. ELLIS
MR C. FOX**

EXTRACT OF PROCEEDINGS

DECISION

PATRICK MOLONEY

and

RACING VICTORIA STEWARDS

RACING VICTORIA CENTRE, FLEMINGTON

THURSDAY, 23 FEBRUARY 2017

MR P. JURKOVSKY appeared on behalf of Mr P. Moloney

MR D. TRIANDAFILLOU appeared on behalf of the RVL Stewards

CHAIRMAN: Patrick Moloney, you have pleaded not guilty to a charge of improper riding pursuant to AR 137(a). The charge arises out of the running of race 7 over 2219 metres at Sale on 14 February last. It is alleged by the Stewards that near the 1500-metre mark, you deliberately shifted your mount, Percivall Pott, on to Time For Dancing, ridden by Jarrod Todd, in an attempt to take up the position held by that horse. This resulted in Time For Dancing having to be tightened. Your mount made heavy contact with it, causing it to become badly unbalanced and forced off its rightful running.

In essence, the Stewards allege that you were attempting to move from your position three wide by forcing Todd's mount to shift towards the rail, where there was room. It is alleged that near the 1500-metre mark, you deliberately shifted your mount in onto Time For Dancing in an attempt, as I have said, to take up that one-off position.

You are appealing against the decision and the severity of the penalty. The standard of proof to be applied is the Briginshaw test. We have to reach a state of comfortable satisfaction that the charge has been proved. We have viewed the video which was shown to us several times. We are satisfied that the charge of improper riding has been made out.

It is quite apparent from the film that you looked once, if not twice to your left and then began to steer or veer your horse towards that of Todd's in an attempt to force it closer to the rails. It should be said that the Stewards had been informed of the change of tactics on Time For Dancing who was to be ridden

forward. Jarrod Todd also told the Stewards that he had been instructed to stay off the rails.

As said, you steered your horse towards his in an attempt to force him closer to the rails. This went on over approximately 40 or so metres and ultimately your horse made quite heavy contact with that of Todd's, resulting in it becoming badly unbalanced and bumping the hindquarters of your mount. We do not accept your explanation that Todd was moving towards the rails with you and suddenly remembered that it was contrary to his instructions. You deliberately knocked Todd's mount off its rightful running and took up the position that it had held.

We are comfortably satisfied that your riding is improper because (a) it was intentional and deliberate; (b) it posed a risk of potential danger and (c) it was an intentional act to wrongfully take the running of another horse which had found its position and was trying to maintain it. We do not agree with the proposition advanced on your behalf that this was really only careless riding. In short, the appeal against conviction is dismissed.

We have decided to vary the penalty, given it is a first offence and coming into a busy time of racing with the carnival. It has been said that Mr Moloney's record is not perfect but we have seen worse, if we can put it that way. We intend to vary the period of suspension from 28 to 24 meetings to expire midnight, 8 March 2017.
