



APPEAL RESULT

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FROM: Registrar – Racing Appeals and Disciplinary Board

DATE: 26 September 2014

SUBJECT: **APPEAL HEARING RESULT – JOCKEY: CHAD SCHOFIELD**

Panel Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy), Mr Josh Bornstein (Deputy).

Appearances Mr Paul O'Sullivan appeared on behalf of Mr Schofield.
Dr Cliff Pannam QC appeared on behalf of the Stewards.

At Mornington on Wednesday 17 September 2014, jockey Chad Schofield was found guilty of a charge of improper riding on his mount *Saguaro (NZ)* in Race 7 the *W&P Truck Sales Handicap* (1600m).

The improper riding being in that passing the 1100m he turned his horses head in when racing in a three wide position without cover and made contact with *Something To Share*, and then on two occasions after this bumped heavily with *Something To Share* resulting in his mount eventually taking *Something To Share's* position in a one off position behind *Surging Wave* near the 850m.

Mr Schofield had his licence to ride in races suspended for a period to commence at midnight on Saturday, 20 September 2014 and to expire at midnight on Friday, 17 October 2014 – a total of 32 race meetings.

In assessing penalty, Stewards took into account that this is Chad Schofield's second incidence of improper riding.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Saturday, 20 September 2014.

A stay of proceedings was not requested.

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 J. BORNSTEIN, Deputy Chairman

EXTRACT OF PROCEEDINGS

DECISION

JOCKEY: CHAD SCHOFIELD

MELBOURNE

FRIDAY, 26 SEPTEMBER 2014

DR C. PANNAM QC appeared on behalf of the RVL Stewards

MR P. O'SULLIVAN appeared on behalf of the Appellant

CHAIRMAN: This is an appeal by jockey Chad Schofield against the decision by Stewards finding him guilty of improper riding, resulting in a suspension for a period commencing midnight on Saturday, 20 September 2014, and concluding at midnight on Friday, 17 October 2014, a total of 32 race meetings. The relevant rule under which the appellant was charged is Australian Rule of Racing 137(a):

*Any rider may be punished if in the opinion of the Stewards
(a) he is guilty of careless, reckless, improper, incompetent or
foul riding.*

The particulars of the charge were as follows: at Mornington on Wednesday, 17 September 2014, Chad Schofield, the rider of Saguario, when passing the 1100-metre mark, turned his mount's head in when racing in a three-wide position without cover and made contact with Something To Share, ridden by Michelle Payne, and then on two occasions thereafter, bumped heavily with Something To Share, resulting in his mount eventually taking up Something To Share's position in a one-off position behind Surging Wave near the 850-metre mark.

The initial question in this appeal is whether the Stewards have satisfied the Board that the appellant's riding was improper, rather than an example of competitive riding. The standard of proof is that laid down in the well-known case of *Briginshaw v Briginshaw*, that is, the Board must be comfortably satisfied that the charge has been proved, taking into account inter alia the

gravity of the charge and the consequences which flow from the conviction.

There is no definition of "improper riding" in the Rules of Racing. However, the Board accepts Dr Pannam's characterisation that it involves an element of deliberate or intentional conduct which creates danger or potential for danger.

The Stewards took the view that in all the circumstances, the appellant's riding took him outside the boundaries of competitive riding and represented an egregious example of improper riding.

The appellant argues that what he did was simply an example of competitive riding involving himself and an experienced rider, Ms Payne, who he has alleged for the first time today was partly responsible for the first bump and fully responsible for the second bump.

It is clear that the Rules of Racing as they apply to riders are primarily about safety. They are not penal. The safety of horse and rider in the conduct of racing is paramount. Riders have an obligation to observe the rules of safety which include not to interfere with the right of another horse to its running, as well as the rules under which they ride and are licensed.

The standard of care is that of a rider of reasonable competence, skill and ability. Whether a rider rides improperly will depend upon the extent to which that rider departs from the standard of care imposed on him.

The question of whether a ride is improper will be answered by an examination of and an evaluation of all the circumstances of the case. In this case, the circumstances would include such matters as the point of the race where the incident or incidents occurred, the relative positions of horses involved, the nature and extent of the acts of interference, the appellant's state of mind and the consequences which flowed and/or the potential consequences which may have flowed from the appellant's actions.

Mornington is a tight turning track. The race was run over 1600 metres. The start is from a chute and joins the course proper about the 1500-metre mark. There is then a straight run until just past the 1200, when the turn commences and continues until the top of the straight. Accordingly, should a horse be caught three wide without cover as the field negotiates the 1200-metre turn, it is normally disadvantageous and detrimental to his chances. Chad Schofield found himself in such a position. As he approached the 1100 metres, he was caught three wide outside Michelle Payne's mount which was racing one off the rails, that is, in the two-wide position. She was riding to instructions. There was no horse immediately to her inside.

Schofield was faced with a dilemma. If he went forward, he would probably have made his run too soon and probably would still be caught wide. If he went back, he would lose ground and still not be able to get in to obtain cover. He decided to put pressure on Payne's mount, expecting, at least hoping, that she would concede and take up a position on the rails, thereby enabling Schofield to take up a two-wide position with cover.

Initially, Payne had other ideas and held her position. It became obvious to Schofield that to achieve his objective, he had to put more pressure on Payne's mount. Accordingly, he turned his mount's head in and it remained turned in until it made contact with Payne's mount in the form of a bump. The extent to which he turned his mount's head in and the degree of contact involved is in dispute. Shortly after the first bump, Schofield's mount again bumped Payne's mount.

Schofield said in relation to the first bump that Payne came out to meet him, he, Schofield, believing that he was then in a one-off position behind Noonan. As to the second bump, Schofield said that he was in the one-off position and Payne, by now on the fence, sought to recover her one-off position. That is, Schofield put the blame for the cause of the second bump squarely on Payne. Schofield at all times denied that the horses' heads made contact.

Conclusions

As conceded by Mr O'Sullivan, the best evidence in this case is the vision which was shown. In the Board's opinion, the films clearly show that the horses' heads made contact. The Board finds that approaching the 1100 metres, Schofield rolled up beside Payne's mount and applied pressure to her mount by turning his mount's head in. He maintained that pressure over the next 200 metres. When the horses first made contact, Schofield's mount was racing three wide. Schofield persisted in applying pressure until Payne was

forced to give ground and Schofield took up a position behind Noonan. The Board finds that by his actions, Schofield was responsible for the two bumps which occurred. The Board rejects Schofield's evidence that Payne was partly responsible for the first bump and wholly responsible for the second bump.

In the Board's opinion, the pressure applied by Schofield, including the two bumps, represented deliberate and intentional conduct on the part of Schofield. The Board is comfortably satisfied of the following: Schofield's riding was improper because (a) it was intentional and deliberate; (b) it posed a risk or potential danger to Payne or her mount or possibly others, which Schofield accepted in cross-examination.

Accordingly, having considered all of the evidence placed before it, the Board is of the opinion that the appeal against conviction is dismissed.

In this case, the principles of specific and general deterrence are important sentencing considerations. The Board accepts that the penalty imposed by the stewards is significant, but given the appellant's record and the nature of the offence, the Board sees no good reason to interfere with the penalty.

Accordingly, the appeal against penalty is dismissed.
