

## APPEAL RESULT

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**FROM:** Registrar – Racing Appeals and Disciplinary Board

**DATE:** 1 December 2011

**SUBJECT: APPEAL HEARING RESULT – APPRENTICE JOCKEY: TALIA RODDER**

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**Panel** Judge Russell Lewis (Chair), Mr Brian Forrest (Deputy Chair), Mr Graeme Ward.

**Appearances** Mr David Grace QC, instructed by Mr Peter Jurkovsky of Ebejer & Associates Lawyers, appeared as Counsel for Ms Rodder.

Mr Anthony Burns appeared as Counsel for the Stewards.

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At Moonee Valley on Saturday, 19 November 2011 (and at an adjourned hearing on Thursday, 24 November 2011) apprentice jockey Talia Rodder was found guilty of a charge under the provisions of AR 135(b) for failing to take all reasonable and permissible measures throughout the race to ensure her mount had full opportunity to win or to obtain the best possible place in the field.

The charge relating to her ride on *Serene Tanie* in Race 3 the *Corporate Interiors Australia Handicap* (1500m) at Moonee Valley on Saturday, 19 November 2011.

The particulars of the charge being that after having asked her mount to do significant work in the early stages to take up a forward position, that between the 1100 metres and the 800 metres, Ms Rodder failed to make sufficient effort to restrain her mount during that point of the race. Also from the 800 metres, Ms Rodder then allowed her mount to stride forward and passing the 600 metres, Ms Rodder placed her mount under further pressure by riding it along.

Talia Rodder had her licence to ride in races suspended for a period to commence at midnight on Monday, 28 November 2011 and to expire at midnight on Monday, 9 January 2012 – a period of 6 weeks.

A Notice of Appeal against **the decision and severity of the penalty** was lodged on Friday, 25 November 2011. A stay of proceedings was granted effective until midnight on Wednesday, 29 November 2011.

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**DECISION:** Appeal allowed.

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

**TRANSCRIPT OF  
PROCEEDINGS**

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**RACING APPEALS AND DISCIPLINARY BOARD**

**HIS HONOUR JUDGE R.P.L. LEWIS, Chairman  
MR B. FORREST, Deputy Chairman  
MR G. WARD**

**EXTRACT OF PROCEEDINGS**

**DECISION**

**IN THE MATTER OF THE CORPORATE INTERIORS AUSTRALIA  
HANDICAP OVER 1500 METRES AT MOONEE VALLEY ON 19/11/11**

**APPRENTICE JOCKEY: TALIA RODDER**

**MELBOURNE**

**THURSDAY, 1 DECEMBER 2011**

MR A. BURNS appeared on behalf of the RVL Stewards

MR D. GRACE QC, with MR P. JURKOVSKY (instructed by Ebejer and Associates) appeared on behalf of the Appellant

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CHAIRMAN: On Thursday, 24 November 2011, Talia Rodder was found guilty by Racing Victoria Ltd Stewards of a charge laid under Australian Rule of Racing 135(b). The rule is in the following terms:

*The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field.*

Details of the charge were as follows: on Saturday, 19 November 2011 at Moonee Valley that Talia Rodder, as the rider of Serene Tanie in the Corporate Interiors Australia Handicap over 1500 metres, having asked her mount to do significant work in the early stages to take up a forward position, failed to make sufficient effort to restrain her mount between the 1100 metres and the 800 metres and/or from the 800 metres allowed her mount to stride forward, and/or passing the 600 metres, placed her mount under further pressure by riding it along. In respect of any or all of the above particulars, Talia Rodder failed to take all reasonable and permissible measures throughout the race to ensure her mount was given full opportunity to win or obtain the best possible place in the field.

Talia Rodder has now appealed to the Racing Appeals and Disciplinary Board against the conviction and the penalty imposed by the Stewards, the penalty being a suspension of six weeks commencing at midnight, 28 November 2011, and expiring at midnight, Monday, 9 January 2012. A stay of proceedings was granted until midnight, 29 November.

The onus is on the Stewards to prove that the Appellant has been in breach of the rule. The Appellant is, in the circumstances, required to give an explanation for her actions. However, the onus always remains with the Stewards. This is a serious offence. The standard of proof is that referred to in the well-known High Court case of *Briginshaw v Briginshaw* (1938) CLR 336. The standard is on the balance of probabilities. However, the Board must have a reasonable degree of satisfaction that the charge has been proved. It is not a matter of mechanical comparison between competing views. Matters which the Board must take into consideration include the seriousness of the allegation and the gravity of the consequences flowing from the particular finding.

The rule imposes an objective standard of care. The standard of care takes into account, amongst other things, the views and the explanations of the rider and the views and opinions of the Stewards. A mere error of judgment is not a sufficient basis for a finding that the rule has been breached. The rider's conduct must be culpable, in the sense that, objectively judged, it is found to be blameworthy.

Putting the issue in context, the Board must be comfortably satisfied that in the circumstances which existed and viewed objectively, the manner in which Talia Rodder rode her mount and the degree of control which she exercised over her mount in the stages of the race specified in the charge fell well short of what would be reasonably expected of a rider in her position. Accordingly, not only is the Board required to consider the evidence given at this appeal but it must consider the circumstances as they existed on the day.

Talia Rodder is aged 28 years and is a mature-age apprentice. She has ridden for five and a half years and completes her apprenticeship in February 2012. She has ridden 120 winners, mainly in Western Australia and Tasmania, where she was leading apprentice in 2010-2011. She had not ridden Serene Tanie before. Serene Tanie, who was eligible for a 62-class race, was a four-year-old mare carrying 50 kilograms in an 82-banded race for mares. She carried three kilograms under the minimum. The race was won by her stablemate, Maquina, which carried one kilogram under the minimum. Serene Tanie firmed in the betting from \$17 to \$15. Maquina eased from \$4.20 to \$4.60. It was a wide betting race, the favourite being Limerock at \$4.40. Another horse of relevance is Saint Angers which carried 57 kilograms after the claim of 1.5 kilos for Jake Noonan. The record shows that Serene Tanie was an on-pace runner, often led, and if held up, overraced.

Pre-race instructions were given by the trainer, Mr Robert Laing, to Talia Rodder. They are set out in page 2 of the transcript at line 10:

*MR LAING: I said, "It's drawn wide." I said, "Don't be in a hurry to lead," because it generally leads. Sat second the other day; the start before here, led by a big margin with Boothy on it, drew wide. I said, "Don't use her all up in one hit, come across gradually." I said, "If you're second into the first corner, good." I said, "With your light weight, down the side," I said, "try and roll away and you might get a break on 'em."*

The Stewards' case: the Appellant could have and should have done more to settle her mount between the 1100 and 800, rather than go on and, as it was put by the chairman, "eyeball the other horse", referring to Saint Angers. Further, between the 800 and 600, the Appellant could have and should have steadied her mount in order to keep something in reserve. Further, rather than conserve the horse's energy, the Appellant put pressure on her mount from the 600. In short, the Appellant gave her mount little or no chance of obtaining the best possible place in the field. The sectional times confirmed just how inept and incompetent the ride was. The first 1000 metres was run in 59.8 and the first 800 in 47.3.

The Stewards rejected the Appellant's explanation that she simply made an error of judgment. The Appellant's case is that she puts it that her riding was purely an error of judgment. She freely admitted that she was not satisfied with the way she rode the horse. She made her error of judgment in relation to pace.

There is no doubt that the Appellant rode a poor race. There is abundant evidence to support that conclusion: the Appellant's own admission, the sectional times, the observations of the Stewards, the films which were presented and trainer Laing's opinion. In relation to the latter's opinion, the Board agrees that the Appellant and Jake Noonan, both apprentice riders, showed lack of judgment by going too quickly in the race.

The question for the Board is: was the Appellant's ride an error of judgment or was it, in all the circumstances, culpable in the sense that objectively judged, it was deemed to be blameworthy? This is not a case where, for example, a horse with a definite racing pattern was ridden upside down or where a clear run existed and was not taken. It is a case where a horse travelled much too quickly to have any chance. Riders, even experienced intelligent riders, have been known to make mistakes in rating a horse by either travelling too fast or too slow at crucial stages of the race.

The Stewards in this case did take into account the fact that the Appellant is a three-kilo claiming apprentice but were nevertheless satisfied that a breach of the rule had been established. The Board is unable to agree with the Stewards' conclusion. First, the Board is of the opinion that even although the Stewards specifically absolved Mr Laing from any wrongdoing by, as it were, instructing the Appellant to act as a pacemaker, such an allegation, unconsciously or otherwise, influenced the Stewards' approach to the case. The suggestion was made almost from the beginning of the inquiry and was persisted in by the chairman.

In any event, the Board accepts that in all the circumstances which have been established, the failure to obtain the best placing was due to an error of judgment. The Board is not satisfied to the requisite standard that the error of judgment was of a kind which could be characterised as culpable or blameworthy. In the circumstances, the appeal is allowed.

**END OF EXTRACT**

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