

# RACING APPEALS TRIBUNAL

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RAT 4/06

DATE: Monday, 10 April 2006

TRIBUNAL: PRESIDENT: MR D LOVELL

ASSESSOR: MR J JOHNSON

THOROUGHBRED RACING SA LTD:  
MR G LOCH, CHAIRMAN OF STEWARDS

APPELLANT: MR S LECKEY

**IN THE MATTER** of an Appeal by **SCOTT LECKEY** against a decision of Thoroughbred Racing SA Ltd Stewards.

BREACH OF RULE: ARR 137 (a)

Rule 137:

*"Any rider may be punished if, in the opinion of the Stewards,*

- (a) *he is guilty of careless, reckless, improper, incompetent or foul riding".*

PENALTY: SUSPENSION OF LICENCE FOR 7 MEETINGS

## DETERMINATION

The appellant pleaded guilty to a charge of a breach of Rule 137 (a) of the Australian Racing Rules as a result of an incident that occurred in Race 4 on the 18<sup>th</sup> March 2006. The appellant was charged with a breach of Rule 137 (a) in that as the rider of DESERT MISSION, in the vicinity of the 1000 metre mark, he directed his mount to shift in restricting the running of the horse HERE'S HORPEN ridden by Chris Bryant when insufficient clear of HERE'S HORPEN.

As a result of his plea of guilty the appellant received a penalty of suspension for 7 meetings.

The appeal was only in relation to penalty.

It was common ground both before the Steward's inquiry and this Tribunal that the act or carelessness was a minor one. The Stewards relied heavily when assessing the appropriate penalty on the appellant's prior record which was described as "not one of the better records that we have in the jurisdiction" - (Transcript line 310).

At the Stewards Inquiry, the Steward's panel emphasized the need for specific deterrents both of a personal nature and as more general nature when penalty was assessed.

Mr Loch appeared for the Stewards at the appeal. Mr Leckey appeared in person with Mr James, his Racing Manager.

The Tribunal had the advantage of the transcript of the Stewards Inquiry in addition to being able to view the video footage of the race. It is clear that the actual racing incident was at the lower end of the scale of seriousness and indeed it was common ground that the appellant cross over when 1-1/4 to 1-1/2 lengths clear rather than 2 lengths clear of Mr Bryant's mount. Mr Bryant was only inconvenienced to a minor extent, possibly about half a length.

Before the Tribunal Mr Loch again emphasized the need for deterrence and referred the Tribunal to a decision from the Queensland Racing Appeals Tribunal of Mr El-Issa of the 28<sup>th</sup> February 2006. The Deputy Chairman of the Tribunal Mr Brockwell Miller stated that as follows:

*"I am asked to identify by jockey El-Issa that the penalty of 12 meetings is much too severe in the circumstances. The Stewards, of course, identified to me that one of the most important aspects of penalties is the deterrent factor and the question of the history of the jockey. I agree with their proposition in that respect. I am not prepared to make a finding that a determination of a suspension of licence for 12 meetings is, in the circumstances, too high".*

With respect, the Tribunal is happy to adopt the remarks of the Deputy Chairman in Queensland. The question of deterrence is an important factor as is the question of the history of the jockey. I note that, not surprisingly, the Deputy Chairman went on to look at all of the circumstances in deciding the penalty.

One needs to bear in mind that the appellant pleaded guilty to the charge. It was of a minor matter and it is certainly possible that other jockeys may have attempted to argue that no offence had been committed. The appellant must get some credit for his honesty. He clearly conducted himself well before the Stewards and indeed he conducted himself extremely well in front of the Tribunal. He received a good character reference from Mr James.

It is true, as suggested in the transcript and also again before the Tribunal by Mr Loch that this was the fifth suspension within 12 months. However, on closer examination of the appellant's record it can be seen that two of those suspensions occurred late in April of 2005. When one comes to assess appropriate penalty in the appeal, it can be seen that in the last 11 months the appellant has only had two suspensions. In our view on a closer analysis of

his record it is not necessarily as bad in more recent times as suggested by the Stewards.

In all of the circumstances, and taking into account deterrents both of a general nature and specifically related to Mr Leckey, and allowing for the fact that there was a plea of guilty and that the incident was minor, in our opinion the penalty is too high. It is the decision of the Tribunal that an appropriate penalty would be four meetings in all of the circumstances.

The bond will be refunded.