

RACING APPEAL PANEL OF NSW

APPEAL OF TYE ANGLAND

PANEL: Mr R Beasley SC, Principal Member; Mr R Clugston; Mr J Fletcher

Appearances: Racing NSW: Mr M Van Gestel, Chairman of Stewards

Mr Angland: Mr W Pasterfield, solicitor.

REASONS FOR DECISION

1. On 18 March 2017, following the running of the Golden Slipper Stakes at Rosehill Racecourse, the Appellant, Mr Tye Angland (a licensed jockey), was charged with a breach of AR 137(a) for careless riding. That rule is in the following terms:

'Any rider may be penalised if, in the opinion of the Stewards,

(a) He is guilty of careless, reckless, improper, incompetent or foul riding.'

2. Mr Angland rode the horse Single Bullet in the race. The particulars of the charge against him were that *"...prior to straightening, you permitted your mount Single Bullet to shift out when not clear of Diamond Tathagata, resulting in Diamond Tathagata losing running to which it was entitled."*
3. Mr Angland pleaded guilty to the charge. In assessing penalty, the Stewards assessed the carelessness to be of medium grade, and having resulted in Diamond Tathagata losing its rightful running. The Stewards' then used the Penalty Guidelines for careless riding to ultimately arrive at a penalty of a six meeting suspension. The Guidelines provided for a 25% discount for Mr Angland's good record, a further ten percent reduction for his plea, but a 25% loading as the offence occurred in a feature race. Ordinarily medium grade careless riding causing a loss of rightful running would result in a seven meeting suspension, but the ten percent discount left as a balance

reduced it to six. Mr Angland's appeal today is in relation to severity of penalty. He is represented with leave by Mr Pasterfield solicitor, and the Stewards are represented by the Chairman of Stewards Mr Van Gestel

4. Before finalising the appeal, some observations (made in prior appeals) can immediately be made about the Penalty Guidelines. First, they do not bind the Panel. The Panel is free to reach its own view on a penalty to be imposed, and need not follow the Guidelines.
5. Secondly, however, the Panel nevertheless considers that regard should be had to the Guidelines as part of its own assessment. They are a relevant and useful tool, no doubt prepared after careful consideration, and one of the important aims they seek to achieve is consistency in sentencing.
6. Mr Angland gave brief evidence on the appeal about his ride. The appeal book – containing the relevant transcript from the inquiry, and other exhibits, was marked Exhibit A on the appeal. Film of the race, which the Panel was shown, was marked as Exhibit B.
7. In support of an overall submission that the penalty should be reduced, Mr Pasterfield made the following submissions in relation to what he says are anomalies or flaws with the Penalty Guidelines:
 - (a) "Lost rightful running" is grouped with "checked", but is not as serious. Further, "hampered" may be worse, but is considered less serious.
 - (b) A ten percent reduction for plea is insufficient.
 - (c) A twenty five percent premium for the Golden Slipper is too much, and inconsistent with the approach to other Group 1 races that carry less prizemoney at the same meeting.
 - (d) The twenty five percent reduction for good record does not reflect the good record of Mr Angland in Group 1 races.

8. Mr Pasterfield also submitted that the carelessness here was low, not medium. He said that Mr England's mount was a length and a half clear of Diamond Tathagata when it crossed that horse, and little interference was caused to that horse.
9. Mr Van Gestel made submissions in support of the Guidelines, and explained that a twenty five percent premium on penalty had long been applied by Stewards for the Golden Slipper, but a lesser premium applies for less prominent Group 1 or Feature Races. He referred to the somewhat notorious record of careless or dangerous riding in the Slipper.
10. The Panel takes the view that the Guideline should be generally followed in this case. We consider a twenty five percent premium for a race as prominent as the Golden Slipper is appropriate. We consider a discount for plea for this sort of offence of ten percent is also appropriate.
11. We consider Mr England's mount crossed in front of Diamond Tathagata when only just over a length clear of that horse. Mr Schofield who rode that horse said he lost his position, and had to stop riding briefly. We agree with the Stewards assessment, also bearing in mind the state of the track, that the grade of carelessness here is medium.
12. The application of all relevant matters to the Guideline results in a six meeting suspension.
13. Mr Pasterfield drew the Panel's attention to the fact that this suspension will cost the appellant rides not only this Saturday, but also next Saturday, being the first day of the Championships at Randwick. We pay little regard to that. The Panel is highly unlikely to reduce penalties because it may prevent a jockey riding in feature races. That would send the wrong message.
14. However, the Panel takes the view that the suspension here should be reduced to a five meeting suspension for one reason. That is, we consider that there was very

little interference caused to Diamond Tathagata by the appellant's careless riding. That horse lost very little momentum, if any. For that reason, while still applying the Guideline, but not being completely bound by it, we would reduce the six meeting suspension to a five meeting suspension.

15. The Panels orders are as follows:

- (a) Appeal against penalty allowed.
- (b) In lieu of a six meeting penalty, a five meeting penalty is imposed. Such suspension commenced on 23 March, and the penalty concludes on 30 March 2017. The appellant is free to ride on Saturday 1 April 2017
- (c) Appeal deposit to be refunded.