

RACING NEW SOUTH WALES

APPEAL PANEL

22 December 2014

MR R CLUGSTON — PRINCIPAL MEMBER
MR J FLETCHER
MR C CLARE

IN THE MATTER OF THE APPEAL OF
SAMUEL CLIPPERTON

REASONS FOR DECISION

CHAIRMAN: This is an appeal by licensed jockey Samuel Clipperton (hereinafter referred to as “the Appellant”) against a finding of guilt and the penalty imposed by Stewards at the Canterbury Park Racecourse on 3 December 2014 in respect of a breach of AR 137(a).

The particulars of the “careless riding” were that as the rider of *Wedding* in Race 2 the Hyland Race Colours Plate at Canterbury Park Racecourse on 3 December 2014 he did over the concluding stages permit that filly to shift in causing *Absolute Empress* to be taken in contributing to *Gossamer* being hampered and *Bayrock* having to be checked on the fence.

The Appellant pleaded not guilty to the charge before the Stewards however the charge was found proved and the Appellant’s licence was suspended for five (5) meetings commencing on 13 December 2014 and expiring on 21 December 2014 on which day he may ride. The Appellant was granted a stay of proceedings on 5 December 2014 until further order of the Panel.

The Appellant entered a plea of not guilty to the charge in the proceedings before the Panel. Consequently, this appeal is a rehearing of the charge on the questions of guilt and penalty. The Stewards were represented in the proceedings before the Panel by Mr M. Van Gestel, Deputy Chairman of Stewards – Operations,

and the Appellant appeared unrepresented. The transcript of the Stewards' inquiry conducted at Canterbury Park Racecourse on 3 December 2014 and the bearing of the charge which took place on the same day and the video recording of the race in question have been admitted into evidence in the proceedings before the Panel.

That evidence discloses that approaching the winning post *Bayrock* (T Clark) was travelling on the fence, *Gossamer* (G Schofield) was improving to the outside of *Bayrock* and moving past that horse, *Absolute Empress* (T Marshall) was travelling to the outside of *Gossamer* and shifted in and *Wedding* (the Appellant) was travelling on the outside of *Absolute Empress* and shifting in. At that point (near the winning post) *Gossamer* is hampered and *Bayrock* is severely checked.

In his evidence at the Stewards' inquiry jockey T Clark (*Bayrock*) said that he had to severely check his mount at the winning post as G Schofield's mount (*Gossamer*) passed him and moved in as T Marshall's mount (*Absolute Empress*) shifts in after the outside horse *Wedding* (the Appellant) shifted in slightly. Jockey G Schofield's evidence was that the riders to his outside viz. T Marshall and the Appellant shifted in towards him and T Marshall's evidence was that he received pressure from the Appellant's mount which was travelling on his outside.

Trainer R Quinton (the trainer of *Absolute Empress*) gave evidence at the Stewards' inquiry (at page 2 lines 53-63) as follows : "The way I look at it is my horse is basically in front and then when it was joined from the outside, it did shift in ever so slightly and I think the outside horse did brush my filly. My filly was having its first run in a race and I believe she has reacted to Sam's horse when it's basically brushed her and she's gone away from Sam, and as we know, it's that close to the post, it's - you know, it's very close to the post anyway. There's no doubt the boys on the inside got squashed up a bit, but I do believe that's a thing that happens in racing. The outside horse has got the better of my filly. It did shift in slightly, maybe just brushed her and my filly is probably getting tired and she reacted and has gone away from Sam's horse and, as we say, it's that close to the post it's unfortunate." and later (at page 3 lines 71-75) : " I would be saying it's more blame to my horse for reacting and getting away from Sam when Sam's horse went in and basically just brushed her and she was getting a bit tired and her inexperience - so I would be blaming the horse more than Taylor."

The Appellant gave his version of events at the Stewards' inquiry by responding to a number of questions put to him by Mr Van Gestel. The Appellant said

(at page 3 lines 80-85) : “I'm in the heat of the battle, fighting out the finish. My horse has shifted in very marginally. It was inclined to lay in. It shifted in marginally and has given the horse to my inside a slight brush and it's just reacted, having its first start. I'm aware my horse was hanging in and did get in slightly but it was right on the post and I felt I made a good effort to keep my mount straight right to the finish.”

Mr Van Gestel then said to the Appellant (at page 3 line 86) : “What do you say you are doing to keep your mount straight” and the Appellant replied (at page 3 lines 87 and 88) : “Well I'm trying to push my horse's neck out as best as possible but my left arm is trying to pull it left while still trying to win the race”.

At a later point, in answer to the charges, the Appellant said (at page 4 lines 124-132) : “ It's quite clear in the film obviously I'm fighting out the finish. I mean, putting the whip away has cost me, probably, the race, perhaps. I put the whip away, my left elbow is out, my arm is trying to keep my horse's head down, my left knee is in and my left heel is digging in trying to keep straight. I felt like I only shifted in a very, very marginal space and I felt I did try to keep my horse straight. Taylor Marshall has allowed his inexperienced horse to continue to roll in after I've straightened. I might have shifted in a tiny little bit and I straightened and Taylor's horse has continued to roll in and I feel that's what has caused the interference.”

The Panel has considered the evidence and the submissions on the question of guilt. The undisputed evidence is that in a driving finish approaching the winning post in the race in question there were four (4) horses across the track with a fifth horse (the eventual winner *Tree of Jesse*) finishing rapidly to the outside of those four (4) horses. As the field approached the winning post the horse which had been leading but weakening (*Bayrock*) was severely checked and the horse travelling to the outside of that horse (*Gossamer*) was hampered as the two horses travelling to *Gossamer's* outside shifted in as they each finished on and passed *Gossamer*.

It is clear from the video and oral evidence that at that point of the race both *Absolute Empress* (T Marshall) and *Wedding* (the Appellant) shifted in and that at no stage before the winning post did the Appellant stop riding and straighten his mount. The end result was that there was insufficient room for the two (2) horses travelling to the inside of *Absolute Empress* causing *Bayrock* to then be severely checked and *Gossamer* to be hampered. The Panel is comfortably satisfied that in the circumstances as they developed at the finish of the race the Appellant was obliged

to stop riding and straighten his mount and that his failure to do constitutes careless riding as charged.

The Panel has had the advantage of citing the “Careless Riding Penalty” template utilised by the Stewards in determining the penalty imposed by them. The Panel notes the following relevant entries in that document:

1. The Stewards assessed the level of careless riding as grade one (1) on an ascending scale of one (1) to three (3);
2. The Stewards assessed the consequences of the Appellant’s careless riding (as it involved a horse being severely checked) as grade three (3) on an ascending scale of one (1) to six (6);
3. The Stewards applied a premium of an additional ten (10) percent on the basis that the Appellant had incurred four (4) suspensions in the previous twelve (12) months;
4. The Stewards applied a discount of thirty (30) percent to take into account the contribution of T Marshall’s mount to the interference suffered by two (2) horses;
5. The Stewards applied a further discount of twenty (20) percent as the suspension imposed by them would include the Villiers’s Handicap meeting at Randwick.

The Panel notes that the Villiers’s Handicap discount is no longer applicable, otherwise, the Panel in forming its own opinion in relation to the appropriate penalty in this case agrees with the approach taken by Stewards when completing the Penalty template.

Ultimately, the Panel considers that whilst a more severe penalty could be considered that the appropriate penalty is a suspension of five (5) meetings. The orders of the Panel are as follows:

1. Appeal dismissed;
2. Finding of guilt made by Stewards on 3 December 2014 is confirmed;
3. Penalty of five (5) meetings suspension imposed by Stewards on 3 December 2014 is confirmed such suspension to commence on 26 December 2014 and to expire on 2 January 2015 on which day he may ride;
4. The appeal deposit of \$200.00 is forfeited.