

rightful running. Applying the Careless Riding Penalty Template, a penalty of a suspension of the appellant's licence to ride in races for three meetings was imposed.

4. The appellant has appealed against the severity of the penalty imposed upon him. He was represented on appeal by Mr T Crisafi, CEO of the NSW Jockeys Association, while the Stewards were represented by Mr M Van Gestel, the Chairman of Stewards.
5. An appeal book was tendered that contained the transcript of the Stewards' Inquiry into the race (Ex. A), as was film of the race (Ex. B). The appellant also gave oral evidence, and also called evidence of an expert kind from Mr C Brown, a highly successful former rider.
6. The appeal involved only two issues:
 - (i) Should the carelessness be graded as "low" instead of "medium"?
 - (ii) Should any further discount of penalty be applied because of any contribution to the consequences as a result of any actions by Grant Buckley.
7. All members of the Panel were in no doubt that approaching the home turn the appellant shifted in on his horse, causing the interference as particularised. While he had looked to his right on a couple of occasions just prior to shifting in, a final look may have alerted him to the position of Mr Buckley and Flying Witness, who was only about a length behind the appellant, and who suffered the check as particularised.
8. All members of the Panel also agreed that just prior to the incident, Mr Buckley rode aggressively into a space just behind and to the inside of the appellant. This was legal riding, but Mr Buckley would have been able to see that the appellant was shifting into the same spot that he was seeking to take up. This manoeuvre was the subject of criticism by Mr Brown, and the Panel agreed it contributed to the consequences of the appellant's shift in.
9. While I would have maintained a grading of "medium" carelessness as a result of the failure of the appellant to take a look immediately before shifting in, I would also have considered a discount for contribution. However, both Mr Tuck and Mr Losh

consider that the carelessness should be graded as “low”, not “medium”. They consider the actions of Mr Buckley, although not in breach of the rules, took the appellant by surprise. They are of the view that the appellant’s ride was not the kind of ride seen where a rider has no regard for the safety of other riders and horses.

10. By majority then, the grading of carelessness is assessed by the Panel as “low”. This means the appeal must be allowed, and the three-meeting suspension reduced to two meetings.

11. The orders of the Panel are:

By majority:

1. Appeal against severity of penalty for breach of AR131(a) upheld.
2. In lieu of a three-meeting suspension, the appellant’s licence to ride is suspended for two meetings (the meetings the suspension covers were agreed at the appeal hearing).
3. Appeal deposit to be refunded.