

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF JOCKEY HEAVELON VAN DER HOVEN

Heard at Racing NSW Offices

Appeal Panel: **Mr L. Vellis - Convenor; Mr P. Losh; Mr C. Tuck**

Representatives: **Appellant - Mr W. Pasterfield, Solicitor for the Appellant**
Racing NSW - Mr T. Moxon, Deputy Chairman of Stewards for Racing NSW

Date of Hearing: **22 January 2024**

Date of Reasons and Orders: **22 January 2024**

REASONS FOR DECISION

1. On 11 November 2023, licensed Jockey Mr Heavelon van der Hoven (**the Appellant**) was charged with a breach of AR 129(2) in relation to his ride on *Oakeys Choice* in Race 4, the Goulburn Hay Supplies Benchmark 50 Handicap, run over 1,000 metres at Goulburn on that day.
2. AR 129(2) is in the following terms:

AR 129 Running and Handling

(2) A rider must take all reasonable and permissible measures throughout the race to ensure that the rider's horse is given full opportunity to win or to obtain the best possible place in the field.
3. The relevant particulars of the charge brought against the Appellant were as follows:
 - a. From the 900 metres to near the 600 metres, when racing at the rear of the field approximately 3 ½ lengths behind *Rare Beauty* and *Watermelon Wine*, he failed to ride his mount with sufficient purpose and vigour to improve its position to be closer to the field, when it was both reasonable and permissible for him to do so.
 - b. From near the 600 metres to near the 350 metres he rode *Oakeys Choice* with insufficient vigour and purpose to improve his mount's position when it was both reasonable and permissible for him to do so.
4. The Appellant pleaded not guilty but was found guilty of the charge and his licence to ride in races was suspended for four weeks. The Appellant applied for, and was granted, a stay of proceedings.

5. The Appellant appealed to the Panel in relation to guilt and the severity of the penalty imposed. He was represented by Mr W. Pasterfield, solicitor. The Stewards were represented by Mr T. Moxon, the Deputy Chairman of Stewards. An Appeal Book containing the transcript of the Stewards' Inquiry and its Exhibits was admitted into evidence. Film of the race taken from multiple angles was tendered, and shown to the Panel. Oral evidence was also given by the Appellant.

Findings of Fact

6. The following relevant findings of fact are not controversial:
 - a. The Appellant has about 10 years' experience as a rider.
 - b. *Oakeys Choice* started favourite and ultimately finished 4th in the race.
 - c. There were no integrity issues in the race from a betting perspective.

Submissions

7. Mr Moxon submitted that between the 900 metres and the 350 metres, the Appellant failed to ride his mount with sufficient vigour, when required to do so. During this extended period of the race Mr Moxon submitted that the Appellant was required to be more aggressive to be closer to the field. Mr Moxon also observed that the horse did respond to pressure when it was applied at the 350 metres and therefore doubted the Appellant's suggestion that sufficient pressure had been applied earlier and the horse had failed to respond to such pressure.
8. Mr Pasterfield made submissions regarding the circumstances of the race, including the significant bump received by the horse as soon as the barriers opened, the impact of the bump on the horse, the top weight of 63.5 kg carried by the horse and the Appellant's evidence that the horse was unbalanced and not responding to riding. Mr Pasterfield also observed that it was the Appellant's first ride on the horse and the trainer's first race with the horse.
9. The Appellant himself in oral evidence and in the inquiry spoke of the horse being "all over the shop" after the bump it received at the beginning of the race, and also spoke of the trainer's instructions not to be too aggressive on the horse early on in the race as it may be a spent force before the finish.
10. On this occasion, whilst we understand the Appellant's views concerning the significant bump his mount received, his riding instructions, the horse's response to riding, and the tempo and rhythm of the race, given the significant and extended opportunity from the 900 metres through to the 350 metres that the Appellant had to ride with more vigour and improve his position, and given that the horse did actually respond when pressure was

applied from the 350 metres onwards, the Panel is unanimously of the view that it was incumbent on the Appellant to ride with more purpose and vigour to improve his position.

11. We understand that there are risks in firing up a horse too early, but in the circumstances of this race some greater attempt needed to be made by the Appellant to ride with more vigour and purpose.
12. In all the circumstances the Panel is comfortably satisfied that the errors made by the Appellant was a culpable one, and in breach of this rule.

Penalty

13. The Panel has a broad discretion as to what penalty to impose here. While breach of the rule is objectively serious and general and personal deterrents are important for the integrity of racing, there are also other factors to consider in imposing a penalty. This is the Appellant's first breach of this rule, which should also be considered.
14. Having taken into account all matters relating to penalty, including the purpose to uphold the image and integrity of the sport, the impact of the significant bump at the beginning of the race and the Appellant's record with respect to this rule, the Panel has unanimously decided to reduce the suspension, agreeing to reduce the penalty from a suspension of four weeks to a suspension of three weeks.
15. The orders of the Panel are:
 - a. Appeal against finding of breach of AR 129(2) dismissed.
 - b. Finding of breach of AR 129(2) confirmed.
 - c. Appeal against severity of penalty for breach of AR 129(2) allowed.
 - d. In lieu of a suspension of the Appellant's license to ride in races of four weeks, the Appellant's license to ride is suspended for three weeks, from Monday, 29 January 2024 until Monday, 19 February 2024, on which day he may ride.
 - e. Appeal deposit to be refunded.
