

RACING NEW SOUTH WALES APPEAL PANEL

IN THE MATTER OF THE APPEAL OF LICENSED JOCKEY DEAN HOLLAND

Appeal Panel: **Mr R Beasley SC – Principal Member**
Mr T Marney
Mrs S Skeggs

Appearances: **Racing NSW: Mr M Van Gestel, Chairman of Stewards**
Appellant: Mr P O’Sullivan, Solicitor

Date of Hearing: **05 October 2018**

Date of Reasons **05 October 2018**

REASONS FOR DECISION

Introduction

1. On 29 September 2018, the Appellant, Dean Holland, rode the racehorse Miss Admiration in the Group 1 Metropolitan Handicap 2400m at Randwick Racecourse. Following the race the Stewards conducted an inquiry. Mr Holland was charged with ‘improper riding’ in breach of AR131 (a) of the Australian Rules of Racing. The particulars of the charge were as follows:

We specify the improper portion of that rule and that being that in race 8, the Metropolitan Handicap, conducted at Randwick on 29 September, as the rider of Miss Admiration near the 1200m, after your mount was taken out slightly when bumped by James McDonald’s mount, Wall Of Fire, you then did improperly direct your mount in, resulting in Wall Of

Fire being heavily contacted on a number of occasions by your mount and resulting in Wall Of Fire being forced in across the heels of Sikandarabad, which resulted in Wall Of Fire being taken from running which it had established on the back of Jake's Hill, and also crowding the running Patrick Erin."

2. Mr Holland pleaded not guilty, but was found to have breached the rule. A penalty of a three-week suspension of his licence was imposed. He has appealed against the finding of guilt, and the severity of his penalty. He was represented on appeal by Mr P. O'Sullivan, solicitor. The Stewards were represented by Mr Marc Van Gestel, the Chairman of Stewards.
3. The appeal book containing the transcript of the Stewards' Inquiry was tendered as Exhibit A on the appeal. Exhibit B was film of the race. Mr Holland also gave evidence. As is commonly the case, Exhibit B was of most assistance to the Panel.
4. During the hearing, the Panel was provided with a decision from the Racing Appeals and Disciplinary Board of Victoria in the *Appeal of Schofield*, where the test in relation to improper riding was set out in the following way:

"The Board accepts Dr Pannam's characterisation that it involves an element of deliberate or intentional conduct which creates danger or potential for danger."

5. Further on in *Schofield*, the Board said:

“The question of whether a ride is improper will be answered by an examination of and an evaluation of all the circumstances of the case. In this case, the circumstances would include such matters as the point of the race where the incident or incidents occurred, the relative positions of horses involved, the nature and extent of the acts of interference, the appellant’s state of mind and the consequences which flowed and/or the potential consequences which may have flowed from the appellant’s actions.”

6. *Schofield* has been followed by this Panel in the *Appeal of Thomas Huet* on 25 January 2016. The Panel accepts it as setting out the test for improper riding.

7. The Stewards’ submissions as to why the appeal should be dismissed can be summarised in this way:
 - (a) At about the 1200m mark in the race the pace slackened.

 - (b) Mr McDonald on Wall Of Fire shifted out. That horse made contact with the Appellant’s mount, Miss Admiration.

 - (c) During the course of this manoeuvre, Mr McDonald’s mount obtained a run behind the horse Jake’s Hill.

 - (d) Rather than electing to ride safely four wide, the Appellant pulled the right rein of his horse, and bumped Mr McDonald’s mount more than once.

(e) This bumping caused Mr McDonald's mount off the line it had momentarily obtained, and behind the horse Sikandarabad. As the margin behind that horse was only about a length, this exposed Mr McDonald and his mount to danger. The bumping also caused the horse Patrick Erin to also be crowded.

(f) In the circumstances, all elements of the offence of improper riding are made out.

8. Mr O'Sullivan (in combination with the evidence of Mr Holland) characterised the incident differently. He submitted that it was clear that Mr McDonald came off his line on his horse, and took the Appellant's rightful running. The appellant said this contact made his horse go "skewiff". The film does show that the rear of his mount shifted out. The appellant deliberately pulled the right rein, but he says only to straighten up his mount, and to keep his rightful running.

9. Considering the test in *Schofield*, the Panel finds that the appellant did deliberately pull the right rein after his horse was bumped by Mr McDonald's horse. His actions in shifting in after that may have put Mr McDonald's mount in some minor danger, but not great danger. The Panel accepts, however, the Appellant's evidence that his intent in deliberately pulling the right rein and turning his horse's head in was only to straighten up his horse, and maintain the line that he had been clearly running on, and not to deliberately knock Mr McDonald's horse off its line.

10. In all the circumstances, we are not comfortably satisfied that the appellant should be found to have engaged in improper riding under the test set out in *Schofield*. The Panel would, however, emphasise what is said also in *Schofield* on page 3, that the safety of horse and

rider in the conduct of racing is paramount. Riders have an obligation to observe the rules of safety, which include not to interfere with the right of another horse to its running, as well as the rules under which they ride and are licensed. Nothing in these Reasons for Decision should be seen to indicate anything other than total agreement with that statement. However, we are satisfied that the appellant's conduct here falls short of what should be considered improper riding.

The orders of the Panel are as follows:

- 1) Appeal against finding a breach of AR137(a) for improper riding upheld.
- 2) Finding a breach of AR137(a) set aside.
- 3) Penalty of three-week suspension set aside.
- 4) Appeal deposit to be refunded.