

APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL OF JOCKEY TYLER SCHILLER

Heard at Racing NSW Offices

Appeal Panel: **Mr L. Vellis - Convenor; Ms J. Foley; Mr P. Losh**

Representatives: **Appellant - Mr W. Pasterfield, Solicitor for the Appellant**
Racing NSW - Mr S.G. Railton, Chairman of Stewards for Racing NSW

Date of Hearing: **13 November 2023**

Date of Reasons and Orders: **13 November 2023**

REASONS FOR DECISION

1. On Saturday, 4 November 2023, following his ride on *Strait Acer* in the James Squire Golden Eagle at Rosehill Gardens Racecourse, licensed jockey Mr Tyler Schiller (**Appellant**) was charged with a breach of AR 131(a) of the Australian Rules of Racing.
2. The particulars of the charge were that the Appellant engaged in "careless" riding in that:
"...that when you rode Strait Acer you did fail to stop riding and straighten your mount sooner than you did near the 300 metres when your mount shifted in and, as a consequence made contact with Age of Kings, which was severely hampered and crowded onto Amelia's Jewel, which, as a consequence of that severe crowding, was severely checked when crowded also onto the hindquarter of Coin Toss, which became badly unbalanced and also was severely hampered."
3. The Appellant pleaded not guilty, but was found to have breached the rule. Using the Careless Riding Penalty Template (**Template**), he was penalised with an eight meeting suspension on the basis of a grading of "medium" carelessness, that had the consequence of "severely checked with numerous horses involved".
4. The Appellant has appealed to the Panel against the finding of breach. He was represented by Mr W. Pasterfield, solicitor. Mr S.G. Railton, the Chairman of Stewards, appeared for Racing NSW. Film of the race and the transcript of the Stewards' Inquiry was tendered, with oral evidence of the Appellant being called.
5. Both Mr Railton and Mr Pasterfield agreed on numerous aspects of the race, in that the contentious parts of the race appeared to be whether the Appellant reacted quickly enough once his mount begun to lay-in, and whether the Appellant should have been on notice that *Strait Acer* was a chance of again laying-in as he had been wanting to do during the race.

6. Mr Pasterfield contended that upon straightening *Strait Acer* had switched lead legs and was tracking as "straight as an arrow", thus indicating that there was no warning to the Appellant that there would be an issue in the straight.
7. The Appellant in his oral evidence noted that when his mount shifted in, he reacted as quickly as possible by pulling the left rein almost instantaneously with the shift but the horse did not respond as quickly, and while the consequences of the shift were severe, there was no carelessness in his actions.
8. The Panel viewed film of the race multiple times from different angles. We make the following findings primarily based on the film, rather than placing too much weight on the evidence of the riders to the Stewards:
 - a. At the top of the straight, *Strait Acer* had straightened without laying-in.
 - b. At the 300 metres, while *Strait Acer* did shift in, we are not comfortably satisfied that *Strait Acer* shifted in because of any culpable or careless shift in by the Appellant.
 - c. As soon as *Strait Acer* started to shift in, the Appellant almost immediately pulled the left rein to correct his mount. While there were severe consequences arising from the shift, we do not believe there any further action or response open to the Appellant.
9. The Panel has debated the outcome and has reached a majority decision, with Ms Foley disagreeing with the majority decision. Two reasonable people viewing the film could draw different conclusions. Further, the Panel is very conscious that AR 131(a) is a rule of safety, which is of paramount concern. However, the Panel must still be comfortably satisfied that a breach of the rule has occurred. As much as anything else, the burden of proof on the Stewards (the standard being balance of probabilities) explains the outcome of the appeal. We were left uncertain that the actions of the Appellant were in any way careless, and for that reason the appeal must be allowed.
10. The orders of the Panel are:
 - a. Appeal upheld.
 - b. Finding of a breach of AR 131(a) set aside.
 - c. Penalty of an eight meeting suspension set aside.
 - d. Appeal deposit to be refunded.