



4. Following their finding of breach of A131(a), the Stewards penalised the appellant by suspending his licence to ride for 9 meetings. This penalty was imposed in accordance with the Careless Riding Penalty Template. The carelessness was graded as “low”, with the consequence of a “fall”, resulting in a base penalty of a 16-meeting suspension. This was reduced by 25% because of the significance of upcoming race meetings, and a further 20% as the Stewards considered that jockey A. Layt, the rider of Loveland, contributed to the fall in that he could have taken some evasive or corrective action as well in order to steer his mount out after it had been dictated in by the appellant’s mount.
5. The appellant has appealed against the finding of breach of the rule, and the severity of the penalty imposed upon him. He was represented on appeal by Mr P O’Sullivan, solicitor, while the Stewards were represented by the Chairman of Stewards, Mr M Van Gestel.
6. 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.

**AR 131(a)**

7. As with some appeals relating to AR131(a) where matters of judgment and impression are involved, reasonable minds can differ as to whether the rule has been breached. That has happened in this appeal. Before stating the opposing views however, there are a number of matters that the Panel are in agreement on, both in relation to the facts, and in relation to AR131(a) itself.
8. AR 131(a) is an important rule of racing. The careless riding rule is primarily about safety, and safety must be paramount in racing. The consequence of a careless ride can sometimes be minor. On other occasions, carelessness from a rider may jeopardise his or her safety, and the safety of their mount, as well as the safety of other riders and horses. Carelessness can lead to injuries to both riders and horses, or worse. When that happens, it not only has serious consequences for those hurt, but

also has a detrimental impact on the sport. A high standard of care is expected from all riders, and especially so from an experienced rider like the appellant.

### **Facts and submissions**

9. As to this race, the facts that the Panel all agree on are these:
  - (a) The appellant's mount does shift in significantly passing the 100m.
  - (b) That shift was not due to the manner that the appellant rode the horse, and was not due to any carelessness on his behalf. It was caused by the horse, possibly because it changed lead leg, and possible because it was tiring.
  - (c) The appellant rode the horse on for about 3 or 4 strides – about 1.6 seconds of race time.
  - (d) The appellant then took strong corrective measures. He had gathered the reins, shifted weight, and used the left reign to manoeuvre his horse out.
  - (e) Before this, his horse had at least dictated Loveland inwards, if not pushed it slightly. That horse shifted inwards onto Media Man, and then that horse caused Invincible Fire to suffer the fall.
10. Mr Van Gestel submitted that the appellant rode his horse on after it started to shift in, and failed to take corrective measures soon enough. Those measures were significant and appropriate when taken, but were not taken quickly enough. Once the appellant noticed his mount change lead legs, and then shift in, the appellant – Mr Van Gestel submitted – should have taken action sooner than he did to correct the shifting in of his mount.
11. Mr O'Sullivan submitted that the appellant took “drastic” action to stop his horse shifting in (and to get it to change course outwards), and did so within a reasonable time of becoming aware of that shift. This in effect is what the appellant said in his evidence to the Panel.

## **Resolution**

12. Mr Losh and I are not comfortably satisfied that the careless riding rule has been breached. We consider that the appellant did take corrective action on his horse, and that such action was not taken so late that the appellant should be found in breach of the rule. While the standard of care is high, it should not be so high that it risks becoming unattainable. Watched in real time, and bearing in mind that the appellant is riding a large and tiring animal that cannot be manoeuvred instantaneously, we think his reaction to the horse shifting in was reasonable, and taken with sufficient speed to avoid breach of the rule. Racing is an inherently dangerous sport, and sometimes bad things happen even when due care is shown by all riders. We consider that what has happened here is an unfortunate accident caused by the inherent dangers and vicissitudes of racing, not by any carelessness on behalf of the appellant.
  
13. For his part, while finding no carelessness under the rule, if he had done so, Mr Losh would have assessed the contributing factor from the rider of Loveland as greater than 20%.
  
14. Ms Foley disagrees. While not assessing the carelessness as more than “low”, and while mindful of not finding the appellant in breach of the rule only because there has been a fall, she is of the same view as the Stewards – that the appellant should have reacted more quickly to his horse shifting in, and taken measures to straighten and shift out slightly before he did, which would have avoided the consequences that followed.
  
15. By majority then, our orders are as follows:
  1. Appeal against finding of breach allowed.
  2. Finding of breach of AR 131(a) set aside.
  3. Penalty of a 9-meeting suspension set aside.
  4. Appeal deposit to be refunded.