

## RACING APPEALS TRIBUNAL

RAT 19/15

DATE: THURSDAY, 10 SEPTEMBER 2015

TRIBUNAL: PRESIDENT: MR T ANDERSON QC

ASSESSOR: MR J LETTS

MR J PETZER, CHAIRMAN OF STEWARDS,  
THOROUGHBRED RACING SA LTD APPEARS FOR  
STEWARDS

APPELLANT: MR J BOWDITCH

IN THE MATTER of an Appeal by JOE BOWDITCH against a decision of  
Thoroughbred Racing SA Ltd Stewards

BREACH OF RULE: 137 (a) – Careless Riding

PENALTY: SUSPENSION OF LICENCE FOR 3 DATES

### FINAL DETERMINATION

This is an appeal from the decision of the Stewards as a result of an incident which occurred in race 2 at the Balaklava races on Wednesday 2<sup>nd</sup> September 2015 when Mr Joe Bowditch was the rider of a horse called *Hantuchova*.

Following the enquiry by the Stewards, the Stewards charged Mr Bowditch under Rule 137(a) which reads:

*“Any rider may be penalised if, in the opinion of the Stewards:*

*a) He is guilty of careless, reckless, improper, incompetent or foul riding.”*

The Stewards imposed a penalty of suspension for 5 race dates.

The Stewards maintain that the vision of the race from several different angles shows that Mr Bowditch was careless.

Mr Bowditch denies this. Mr Bowditch pleaded not guilty at the time of the Stewards' inquiry.

The Stewards, when telling the Appellant that they found him guilty of the charge gave reasons for their finding.

The reasons were as follows:

- Reason 1: That they believed that the Appellant allowed his mount to shift in near the 1000 metres
- Reason 2: That the Appellant was never at any stage sufficiently clear of Paul Gatt, another jockey in the race
- Reason 3: That the Appellant had taken the running of Mr Gatt
- Reason 4: That whilst taking the running of Mr Gatt when insufficiently clear the Appellant also steadied the pace at the same time.

In consultation with Mr Letts, the appointed Assessor, and based on the whole of the evidence, I have made the following findings in relation to each of those reasons.

- Reason 1: The allegation of allowing his mount, *Hantuchova* to shift in near the thousand metres is not necessarily made out and the Appellant is to be given the benefit of the doubt on that.
- Reason 2: There is evidence to show that at some stage the Appellant was clear of Paul Gatt, and that is reasonably common ground from the race vision and from the evidence of the Appellant and Mr Gatt. For these reasons the Appellant is to be given the benefit of the doubt in relation to that allegation.
- Reason 3: That the Appellant took the running of Mr Gatt. On balance I am of the view that the Appellant did take the running of Mr Gatt.
- Reason 4: The Stewards alleged that whilst taking the running Mr Gatt when insufficiently clear the Appellant steadied the pace at the same time. On the whole of the evidence I am satisfied that the allegation is made out.

Therefore, in my view, the charge of careless riding is made out.

There were other contributing factors to the incident.

They are as follows:

- 1 Jockey Ms Emily Finnigan, riding the leading horse at the time of the incident, slowed the pace and the Appellant followed suit when insufficiently clear of Mr Gatt's horse.
- 2 From Mr Gatt's evidence and from my observations of the race incident, Mr Gatt himself did contribute to the incident, as he observed, by pushing his horse up at that time.

As a result of the actions of the Appellant, two other horses in the race were affected, those being the mount of Mr Gatt and the mount of another jockey Ms Kah, who was at the time riding to the inside of Mr Gatt.

I have reviewed the riding infringement record of the Appellant.

The Appellant last appeared before this Tribunal on 20 August 2015 in relation to a charge of careless riding under similar circumstances as those giving rise to these proceedings.

### **Penalty**

I have considered this matter in consultation with Mr Letts.

Given that I disagree with the Stewards in respect of some of their findings and given that those findings led to a 5 race dates suspension, and because of the other contributing factors I have mentioned, I have decided that the penalty is too harsh.

In all the circumstances the appropriate penalty is three race dates.

Accordingly, the suspension will be reduced from five to three race dates.

The Tribunal has noted the record of the Appellant and is concerned about the number of suspensions imposed in relatively recent times for careless riding.

If the Appellant comes before the Tribunal again, and is found guilty of similar offending, the Tribunal will have some difficulty in extending leniency to the Appellant.

The suspension is to commence at midnight on 13 September 2015, and expires at midnight on 20 September 2015.

I order that the bond money be refunded.