



THOROUGHBRED RACING SA LIMITED
STIPENDIARY STEWARDS' REPORT - Marcel From Madrid

TRSA OFFICES - WEDNESDAY 20 NOVEMBER 2019

Stewards conducted an inquiry following receipt of correspondence from Mr. Mark Hoare, managing owner of the racehorse **Marcel From Madrid**, in which he expressed concern about the riding of this gelding in Race 8 at Morphettville on Saturday, 12 October 2019.

In correspondence dated 14 October and 28 October Mr. Hoare expressed that the ride by Barend Vorster was either incompetent, highly questionable, corrupt or such that he failed to give **Marcel From Madrid** every opportunity to obtain the best finishing position in the race.

Stewards heard evidence from Mr. Hoare, who attended the inquiry and acted on behalf of the owners of the gelding and also from Barend Vorster.

Mr. Hoare made a number of submissions and during the course of such referred to the vision of the race, which was viewed extensively at the hearing. In essence, Mr. Hoare contended that Barend Vorster:

1. Was unbalanced after being loaded into his barrier stall and was not ready for the start,
2. Was 2 lengths off the "pack" near the 1000 metres,
3. Had several options available to him to follow **Petrelle** (D.Tourneur) before reaching the 800 metres which would have given him the one - two position inside the 800 metres, which would have resulted in **Kemelpasa** (J. Toeroek) being positioned wider and to the outside of **Petrelle** approaching the home turn,
4. Had several opportunities in the straight but was "hell bent on the fence", and should have considered his options to shift out at the top of the straight and improve into clear running to the outside of the field.

Mr. Hoare also tendered correspondence from the Paul Preusker stable, signed by Holly McKechnie, in which they advised the extent of the instructions provided to Barend Vorster, which were - *"He was advised to let the horse settle where comfortable, with cover, and as the horse has at times made a noise when pulling, he was to give him plenty of galloping room and to make an uninterrupted run on the horse. He was not to ride him for luck under these circumstances"*.

Barend Vorster explained that in interpreting the instructions he considered such to mean that, having regard for the fact that the gelding had breathing problems previously, he should keep the horse comfortable in the run. He added that he:

1. Did not agree with the assertion that he was unbalanced in the barriers and consequently not ready for the start - his view is that the horse began awkwardly,
2. Anticipated the interference which occurred ahead of him near the 1000 metres, and when that did occur he was inconvenienced and was obliged to take hold and momentarily fell back in his seat,
3. Allowed the gelding to settle and find its own rhythm,
4. Commenced to be active (urging his horse forward in a hands and heels motion) from inside the 800 metres,
5. Had no option to improve his position near the 800 metres as has been suggested, owing to the positioning of runners, in particular **Petrelle**,

6. Had gradually improved his position and at the entrance to the straight considered his options, and having regard for the positioning of several runners to his outside, and the fact that a run had commenced to develop to the inside of the field closer the running rail, he elected to take that option. He added that in making that election he took the view that the “outside” option was unlikely to give him an uninterrupted run, whereas the “inside” option appeared more reasonable in the circumstances,
7. Was obliged to check his horse near the 200 metres when improving between **Karlovasi** (J. Maund) and the inside running rail, as **Karlovasi** shifted in, and consequently had to alter course to the outside of that runner to improve his position, but was then unable to ride his horse out fully and in a vigorous manner over the concluding stages when in restricted room between the heels of **Karlovasi** and **Arrow Lane**.

Stewards questioned both Mr. Hoare and Mr. Vorster and had extensive reference to multiple angles of the race vision. In addition, Stewards also noted information provided, on request, from a betting exchange, concluded that there was no betting activity on the race, which was outside the normal parameters of any account holder, with that betting provider.

In determining matters which allege or assert that a rider had not taken all reasonable and permissible measures to obtain the best possible placing in a race, Stewards are mindful of the standard to be applied in making a judgement as to whether the riding was of a standard which could breach the rule relating to giving a horse every opportunity. A well-accepted interpretation of the rule is that of the Honourable T.E.F Hughes QC in the appeal of Chris Munce in 2003. In his judgement in that matter, Mr. Hughes said the following:

“The task of administering this rule is not always easy. One must keep it clearly in mind that on its true interpretation it is not designed to punish a Jockey unless on the whole of the evidence in the case the Tribunal considering a change under this rule is comfortably satisfied that the person charged was guilty of conduct that, in all the relevant circumstances, fell below the level of objective judgement reasonably to be expected of a jockey in the position of the person charged in relation to the particular race. The relevant circumstances in such a case may be numerous. They include the seniority and experience of the person charged. They include the competitive pressure under which a person charged was riding in the particular race. They include any practical necessity for the person charged to make a sudden decision between alternative courses of action. The rule is not designed to punish jockeys who make errors of judgment unless those errors are culpable by reference to the criteria that I have described.”

Further, Stewards also apply, in cases such as these, the principles in *Briginshaw*, which requires Stewards to be *reasonably satisfied* and that determinations of this kind, which include serious allegations, cannot be determined by a mere mechanical comparison of probabilities.

Having regard for the evidence at the inquiry, their own observations, and judging the ride by Barend Vorster against accepted and tested interpretation principles developed over some period of time in respect of the rule relating to giving a horse every opportunity to obtain the best possible placing in a race, when viewed objectively, that there is no evidence that suggests that Barend Vorster had ridden **Marcel From Madrid** in the manner alleged by Mr. Hoare. Stewards also note that the Stewards report on the day stated;

“MARCEL FROM MADRID (B. Vorster) – began awkwardly, shifted out and contacted SCHILLDORA. Near the 200 metres, when improving into a run to the inside of KARLOVASI, was obliged to be restrained as KARLOVASI shifted in under riding, and as a consequence MARCEL FROM MADRID was obliged to alter course to that horse’s outside, and thereafter was unable to improve its position over the concluding stages when in restricted room between the heels of KARLOVASI and ARROW LANE.”

Stewards are satisfied and determined that Barend Vorster;

1. Was not unbalanced in his seat prior to the start being affected but was awkward to being,
2. Raced back in the field as a consequence of being awkward to begin, and had no option but to take hold momentarily near the 1000 metres when the interference immediately in front of him occurred,
3. Did not err in his judgement to improve his position near the 800 metres and the suggested course by Mr. Hoare would not have resulted in **Kemelpasa** being positioned wider on the track, and in any event considered he was active in his riding and agree with his view that he could not improve his position at that point to the extent suggested by Mr. Hoare,
4. Did not have several opportunities in the straight and the course elected, to improve to the inside of the field was entirely reasonable, Stewards noted that there was no clear option to the outside of the field that would have advantaged Barend Vorster, and had he not elected an inside run Stewards may very well have expressed concern as to why he had not considered that option. In this regard, Stewards are also mindful that a decision between alternative options taken by a rider needs to be judged, as to culpability of a breach of the rules of racing, against the accepted principles as enunciated in the *Munce* case referred to above.

In the circumstances, Stewards are of the view that Barend Vorster had ridden the horse in compliance with the rules of racing and consequently have decided to take no action against him in this matter. Stewards are satisfied with the explanations provided by Barend Vorster and are of the view that he had given the horse all reasonable opportunity to obtain the best possible placing in the event.

J Petzer

CHAIRMAN OF STEWARDS

2 December 2019