

**RACING APPEALS TRIBUNAL
QUEENSLAND**

NOTICE OF DECISION

APPEAL NO: RT003-07
DATE: 22 March 2007
APPELLANT: Sheree Ann Drake
RESPONDENT: Queensland Racing
APPEARANCES: Mr J Murdoch QC of counsel on behalf of the
appellant
Mr John Hackett on behalf of the respondent
CHARGE: Breach of Rule – AR137(a)

REASONS FOR TRIBUNAL'S DECISION

Mr Leo Williams AO - Chairman

Mr Brockwell Miller - Deputy Chairman

Mr Dennis Standfield - Member

Apprentice Sheree Drake was the rider of Tropiqualo when that horse participated in Race 5 at Eagle Farm Racecourse on Saturday, 24 February 2007. On that date Stewards convened an enquiry into interference suffered by the horse Qualo ridden by jockey A Spinks and took evidence from jockey Spinks, the appellant and apprentice Melanie Price, the rider of Foxmore. During the course of the enquiry jockey Spinks was asked to comment on interference that had occurred at the 100 metres when Qualo, his mount, struck interference. He said *I was just trying to hold*

my ground at that point, sir. I was probably – maybe – I could have run into a hole but – and got Melanie's – I just got a bit of pressure from the outside. Melanie sort of swooped around and, you know, I had just – she has sort of come in on me a little bit and I have just got tightened out of it. I have had to sort of – I have had to really sit up and ease out of it because I was sort of just still there and, yeah, I just got a bit of pressure from the outside, sir.

In response to that evidence apprentice Price, having heard what jockey Spinks had to say, was asked whether she wished to ask him any questions or to make any statement and in response apprentice Price said *I recall going past jockey Spinks and my mount was wanting to lay in a little bit as I was going past him and, you know, he may have laid in a little bit on him as I went past, that's all.*

The appellant, Sheree Drake, who was racing to the inside of jockey Spinks' mount, in her evidence made the following statement:

I was racing to the inside of Mr Spinks. I realised he was there and I had Sir Monashee in front of me, he was actually starting to like – not going quite as well as my mount, and there was a gap between it and Mr Spinks and I was – I did come out to go around the heels of, I think, Sir Monashee in front of me, and in doing so there was a – I thought there was a little bit of a – you know, I have had to come off the heels of the horse in front and I may have stepped

out half a stride as well, which may have caused a little bit of the interference that you are talking about, sir.

The Chairman then addressed the three riders and was able to simply identify that the horse Sir Monashee, to which the appellant had referred, was in fact the horse "Black Suit". Nothing turns on that aspect of the issue other than to explain that jockey Drake may have been, and obviously was, mistaken. The Chairman opined *I believe that Sheree Drake, when attempting to gain clear running, has tried to position Tropiqualo to the outside of the heels of Black Suit, but in doing so she has shifted out into the running of Qualo, and I believe that Qualo was taken out onto Foxmore and Qualo has had to be checked by jockey Spinks.*

The Chairman indicated that he did not think that there was any movement inwards from Foxmore and suggested that the only involvement Foxmore may have had is that while it was holding its line, jockey Spinks and his mount had been taken out onto Foxmore.

One other issue that deserves some consideration is that the appellant gave evidence that jockey Spinks called out, when a run came to the inside of his mount to enable the appellant to force her mount between Spinks' and Black Suit, words to the effect: *You're right.*

During the course of the enquiry, trainer P Duff, the acting master of the appellant apprentice, gave his view of the incident to the effect that she was obliged to take the run in question, that the horse Qualo's run had ended and that in his opinion any interference suffered was a combination of issues not solely to be visited upon any action of his apprentice.

The stewards in their deliberations believed that a charge should be levelled against Sheree Drake and they charged her with contravening Australian Rule of Racing 137(a) which reads:

Any rider may be punished if, in the opinion of the Stewards,

(a) he is guilty of careless, reckless, improper, incompetent or foul riding.

The Stewards identified that the basis of the charge was that of **careless** riding in that she, near the 100 metres, permitted her mount to shift out into the running that was occupied by Qualo, resulting in the rider of Qualo having to check his mount and lose his position. Apprentice Drake pleaded not guilty to the charge and after hearing all of the evidence the Stewards found her guilty and suspended her licence for a period of eight meetings.

The appellant thereafter lodged an appeal to the First Level Appeals Committee which heard the Appeal on 6 March. Mr Murdoch of counsel represented the appellant before that First Level Appeals Committee and stressed that his client had,

in his opinion, placed her horse into a run that was **legitimately available**.

Mr Murdoch accepted that while the horse (Tropiqualo) was in the run there was no doubt that there had been what appeared to be shoulder to shoulder contact with the horse on its outside – page 2 Appeal transcript.

Mr Murdoch further suggested that Qualo appeared to have reached the limit of its run and that it was either going to struggle to maintain its ground or drop out. He raised with the members of the Appeal Committee the issue that when one sees the video one will see that Qualo goes back and does lose its position and that it appears to then over-react. He stresses that this was not a case where apprentice Drake had crossed because the horses were actually running side by side at the time when the supposed over-reaction occurred. Mr Murdoch suggested that there was momentary contact which appears to have been caused by his client's mount moving out only slightly and perhaps further than what she wanted it to do which, in his opinion, could well have been dictated by the horse immediately in front of her (Black Suit) and he raises the suggestion that the rider of that horse was using the whip legitimately but in what he believed to be a very exaggerated fashion in his left hand.

Mr Hackett for the Stewards also appeared at the First Level Appeals Committee hearing and on page 3 of the transcript of proceedings said:

We don't disagree that a run did become available, but we would submit that as Sheree was in the process of going for that run, she was riding her horse

along, but it is as she was in the process of progressing forward in that run, she has allowed her horse to shift out further and it is as a result of the horse shifting out further whilst being ridden along by Sheree Drake that it has contacted the hind quarters of Spinks's (sic) horse. Spinks's (sic) horse has been checked.

Mr Hackett went on further to suggest that the Stewards did not believe that the outside horse had moved in and been causative of any problem or that Sir Monashee, had any bearing on the incident, or that any movement by Black Suit contributed although he does accept that there perhaps may have been some minor contribution by that horse but not by the jockey's use of the whip on that horse.

The First Level Appeals Committee made its determination on page 14 of the transcript and noted:

The committee is reasonably satisfied after close examination of the evidence that approaching the 100 metre mark the appellant had her mount positioned behind Black Suit and to the inside of jockey Spinks's (sic) mount Qualo when she has endeavoured to take an opening which had presented itself to the outside of Black Suit. Whilst the committee acknowledges that she was obliged to take the run, we find that in doing so she shifted outwards and moved Qualo from its rightful position and consequently caused that horse to make contact with Foxmore which was racing on the outside of Qualo. We

also find that jockey Spinks was forced to check his mount as a result of the initial contact made by the appellant's mount when it was forced onto Foxmore. We are satisfied the appellant's attempt to relieve the situation was belated and the appeal is dismissed.

During the course of the Appeal before this Tribunal the video was shown on a number of occasions and it is quite apparent that at one point in time the horse Qualo, ridden by jockey Spinks, seems to stumble as if it had been the subject of severe interference. It seems to us that both the Stewards initially and the First Level Appeals Committee subsequently have alighted upon this stumbling to identify that therefore the horse Qualo had been the subject of interference which would have warranted the imposition of a penalty against the appellant.

Our view of the video of the race certainly showed that there was adequate room for apprentice Drake to manoeuvre her horse into the gap to the inside of Qualo. What also becomes very apparent from a view of the video is that Qualo was losing ground and would not be participating in or figuring in the placings at the finish of the race. Of course that does not excuse a rider from causing interference as such interference might ultimately result in the horse in question being the subject of a fall and the jockey being the subject of a substantial and severe injury.

We are not convinced that the incident in question was anything more than what might be conveniently termed a "racing incident". On the one hand jockey Spinks

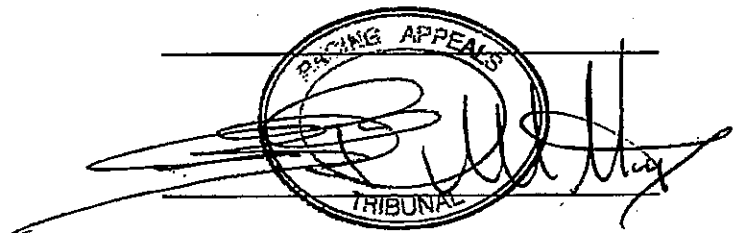
has identified to the appellant that she was right in going for the run by calling out *You're right*. It may well be that the mount of the appellant moved fractionally more than what she intended but our view of the video support the suggestion that she certainly tried to alleviate any problem as soon as it became apparent to her. The fact that Qualo stumbles is more because, in our opinion, the horse's run had come to an end and that it was struggling than that it was the subject of interference. We are of the opinion that the exaggerated performance of that stumbling was not as a result of the act of jockey Drake. We believe that the stumble occurs after jockey Drake has moved into the gap and has properly taken the run in question. In fact the First Level Appeals Committee seems to be of a similar opinion when one views its use of the word *reasonably* and of the words *the committee acknowledges that she was obliged to take the run*. We are not convinced that either the Stewards or the First Level Appeals Committee was correct in their determinations.

For that reason we uphold the Appeal and order that the conviction be quashed and that the deposit paid both at this Appeal and at the appeal to the First Level Appeals Committee be refunded.

Mr Leo Williams AO
Chairman

Mr Brockwell Miller
Deputy Chairman

Mr Dennis Standfield
Member

A circular stamp with the text "RACING APPEALS" at the top and "TRIBUNAL" at the bottom. A handwritten signature is written across the stamp. The signature appears to be "Leo Williams".