

**RACING APPEALS TRIBUNAL
QUEENSLAND**

NOTICE OF DECISION

APPEAL NO: RT016-07

DATE: 9 July 2007

APPELLANT: Shane Ernst George Scriven

RESPONDENT: Queensland Racing

APPEARANCES: Mr Michael Grant-Taylor SC on behalf of the Appellant; and
Mr Matthew Tutt on behalf of the Respondent.

REASONS FOR JUDGMENT

Mr Brockwell Miller - Deputy Chairman

The Appellant rode Take The Plea in the BMW Queensland Derby at Eagle Farm Racecourse on 9 June 2007. An inquiry was opened into an incident in that race which occurred shortly after passing the crossing near the 600 metre mark when Fuji Fantasy was checked when ridden by jockey G Boss. As a result of the Inquiry the Stewards levelled a charge against jockey Scriven, this Appellant, under Australian Rule of Racing 137(a) which stipulates:-

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

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

In their consideration the Stewards stipulated that the offence with which jockey Scriven was charged related to his careless riding in that as the rider of Take The Plea he *rode in a careless manner, that being at a point near the 600 metres you rode your mount, Take The Plea, to the outside of Sands Of Time in an endeavour to obtain a run between Sands Of Time and Fuji Fantasy, and as a result your mount shifted out, tightening the running of Fuji Fantasy between your horse Take The Plea, and jockey Forrester's mount, Danziba, and as a result jockey Boss, the rider of Fuji Fantasy, has had to check his mount when tightened for room between, ... , Danziba and your mount Take The Plea.*

When asked to plead to the charge jockey Scriven entered a plea of Not Guilty and was offered the opportunity of questioning riders that had not been produced at the Inquiry to date. One such rider was Craig Williams who was the rider of Sands Of Time. As it eventuated, jockey Williams was not called to give evidence to the Inquiry and his evidence of what actually occurred is therefore lost for the purposes of considering what actually happened other than from what one can glean from a view of the video of the race in question.

The Tribunal has considered the video evidence and there is no doubt that Sands Of Time does move out at or about the 600 metre crossing. It is at this point that jockey Scriven has angled his mount to take a run to the inside of Fuji Fantasy ridden by jockey G Boss. Danziba ridden by jockey Forrester is rounding the outside of those horses and appears to be moving slightly inwards however there is, in my opinion,

sufficient room for it to be satisfactorily implied that this horse's movement did not contribute to the incident in question.

The Appellant has correctly identified the movement outwards by jockey Williams just prior to or upon the crossing. He has again identified, correctly in my view, that Williams' mount then moves back towards the rail to stop the forward progress of the horse ridden by Brad Stewart. The Appellant, of course, has concentrated on the video reconstruction of the race. As his counsel has pointed out, Fuji Fantasy does suffer interference which is then exacerbated by jockey Boss taking hold and attempting to alleviate himself and his mount from further peril. In doing so there seems to be an overreaction and the horse moves backwards at a rapid rate. Jockey Boss, in his evidence, identifies that *the move has come from the inside, and it is not even such – it's more like a rolling effect. and unfortunately I'm the bloke with absolutely nothing to stand on, and so any shift is going to – I'm the one that is going to cop it, and ...* (page 26, line 17 of the Steward's Inquiry).

In earlier evidence, jockey Boss identified after being asked or noted that he had to take hold of his mount:-

Yes, I was stopping really quick. It was just like horses were going left, right and passing me quickly, and it was just like I had hit a brick wall and I just had to take hold. I think there was a shift from both ways. I couldn't tell you who it

was they went past me that quick but there was a definite shift from both ways. It was just flag in the air – not going anywhere. (Page 2, line 27).

In my opinion, jockey Williams had moved slightly outwards at the initial stage and it was at this point in time that the Appellant started to move forwards to take a run that he believed had offered itself to be available. At the point of the crossing jockey Scriven seems however to have urged his mount forward and even in the slow motion replay it becomes quite apparent that he moves abruptly out and connects or contacts Fuji Fantasy. It was this initial contact or movement that was the precursor, to the interference although that interference certainly did not, in my opinion, result in the end consequence of Fuji Fantasy dropping out to near the rear of the field as that, as I have stated earlier herein, seems to have been as a result of an overreaction by jockey Boss. The movement and contact however was certainly, in my opinion, careless.

It was in the Appellant's power to restrain his mount at that point in time as the mount ridden by jockey Williams was not dropping back. Had jockey Scriven waited, even for a limited time, a run would have presented itself to the inside of Fuji Fantasy. What may have been a spur of the moment decision has, unfortunately, resulted in interference being suffered by Fuji Fantasy.

As a result, in my opinion, the charge levelled against jockey Scriven had a good basis and I am not prepared to consider overturning the decision of both the Stewards and the First Level Appeal Committee. I therefore dismiss the Appeal.

The issue of penalty was also the subject of an appeal. The Stewards, quite rightly in my opinion, imposed a less than normal penalty for a race of the calibre of this type. In all probability those Stewards contemplated that the interference was of a less compelling nature than other interference that occurred in the same race. For that reason they imposed only a nine meeting suspension but added to it a penalty of \$1,000.00 . The First Level Appeals Committee, whilst dismissing the Appeal, reduced the fine to \$500.00 but appears to have given no real reason for having done so.

I am not prepared to vary the penalty of the First Level Appeals Committee although in all probability it is difficult to understand why there should have been any reduction in the monetary penalty as all jockeys had been fully aware of the probable consequences of their actions should they be the subject of a careless riding charge during the course of the Winter Carnival, particularly in races of a Group 1 calibre.

The Appeal is dismissed both as to finding and penalty and the deposit is forfeited.

Mr Brockwell Miller
Deputy Chairman
