

**RACING APPEALS TRIBUNAL
QUEENSLAND**

NOTICE OF DECISION

APPEAL NO: RT020-08

DATE: 27 June 2008

APPELLANT: Damien Oliver

RESPONDENT: Queensland Racing

APPEAL FROM: Decision of the First Level Appeal Committee

BREACH OF RULE: AR137(A) – Careless Riding

APPEARANCES: Mr Des O’Keeffe as agent on behalf of the appellant
Mr Oliver; and
Mr Reid Sanders, Chief Stewart for the respondent
Queensland Racing

REASONS FOR TRIBUNAL’S DECISION

Mr Leo Williams AO – Chairman

Mr Brockwell Miller - Deputy Chairman

Mr Dennis Standfield – Member

Damien Oliver was charged with an offence arising out of interference that was occasioned during the running of the Doomben 10,000 on 24 May 2008. As a result of the determination of the Stewards he was found guilty of careless riding and a penalty of ten meeting suspension of licence together with a \$2,000.00 fine was imposed.

The appellant then lodged an appeal to the First Level Appeals Committee seeking to have the period of suspension reduced with the end result being that he would, if successful in that representation, be available to ride during the June long weekend

at Eagle Farm in the Stradbroke and Brisbane Cup meetings. During the course of that appeal Jockey Oliver acknowledged that were he to be successful in his application there would, in all probability, be a fine imposed in excess of the \$2,000.00 that was imposed by the stewards.

Mr Sanders in his submissions before that Appeal Committee suggested that were such a fine to be imposed then it should be of a value that was representative of something more than \$20,000.00. In the end result the First Level Appeals Committee determined that they had considered the submissions made by Mr Sanders and identified the following:

In respect to the degree of carelessness, we accept Mr Sanders' submission that on a scale of 1 – 10 the degree of carelessness is about a 6. However, one cannot look at the degree of carelessness in isolation. One must also consider the nature of the interference caused to the other riders and horses in the race.

The First Level Appeal Committee confirm that as the incident occurred in a Group 1 race that, in their view, made the carelessness even more serious. In the decision they confirmed a variation of the penalty by imposing a suspension of seven meetings and in lieu of the fine of \$2,000.00 they imposed a fine of \$20,000.00.

From that decision the appellant sought this Tribunal to reduce the penalty as in his opinion the fine of \$20,000.00 was, in all of the circumstances excessive. In support of the appellant's argument Mr O'Keeffe referred to the summary of fines imposed by Queensland stewards identifying that there had been no suggestion prior to this incident of any fine being of the order of \$20,000.00. A review of the summary does confirm that the same appellant was visited with a fine of \$5,000.00 as a result of an incident in 2007 in the Group 1 Queensland Derby. Mr O'Keeffe was of the view that there was a lack of consistency in both the imposition of suspensions and fines by stewards when dealing with Group races. He accepted, as does this Tribunal, that penalties during the Winter Carnival are invariably increased both for the period of suspension and for a fine if one is imposed but his comments were significant in that the First Level Appeal Committee, in his opinion, erred when it sought to reduce the

suspension by a period of three days but to thereafter increase the financial impost by \$18,000.00.

Mr Sanders on the part of the Respondent was staunch in his overtures and exhorted this Tribunal to maintain the financial penalty because of the seriousness of the interference, the number of horses that suffered the interference and the calibre of race and extent of prize money that the appellant was able to both ride in and win by virtue of his having the suspension reduced. To be frank there is merit in what Mr Sanders suggested but it is the obligation of this Tribunal to consider each case on its merits and it is most appropriate when considering an appeal against penalty that one identify at least some consistency such that this does not appear to be a one-off situation.

The Tribunal has considered all of the submissions that have been made and has come to the inevitable conclusion that the correct penalty was not imposed by the First Level Appeal Committee. This Tribunal believes that one cannot equate a reduction in the number of meetings for which a licence is suspended with reference to the possibility of winning substantial prize money. It is not appropriate that the benchmark be nominated in monetary terms purely for each day by which a suspension is reduced. There must be some clarity and consistency in arriving at a monetary penalty unless the reduction in the suspension is of such significance that the jockey perhaps serves only one day's suspension. That is not the position here.

In the circumstances this Tribunal considers that the correct penalty would have been a suspension of the licence of Mr Oliver for a period of seven meetings with a corresponding imposition of a fine of \$5,000.00. This Tribunal so finds and orders that the deposit be refunded to the appellant.

Mr Leo Williams AO
Chairman

Mr Brockwell Miller
Deputy Chairman

Mr Dennis Standfield
Member
