

**RACING APPEALS TRIBUNAL
QUEENSLAND**

NOTICE OF DECISION

APPEAL NO: RT021-08

DATE: Monday, 14 July 2008

APPELLANT: Queensland Racing

RESPONDENT: B El-Issa

APPEARANCES: Mr NE Torpey, Steward for Queensland Racing; and
Mr B El-Issa on his own behalf.

CHARGE: Rule AR135(b) – Failure to take all reasonable and permissible measures to win or obtain best possible placing on *Jugerston*.

Mr Brockwell Miller - Deputy Chairman

REASONS FOR JUDGMENT

On 14 May 2008 at the Sunshine Coast Turf Club, jockey Bobbie El-Issa rode *Jugerston* in Race 2. During the course of that race the Stewards had reason to specifically identify that, in their opinion, jockey El-Issa breached Rule 135(b) in that he failed to take all reasonable and permissible measures to win or obtain the best possible placing on the horse in question. The transcript of proceedings conducted at the Sunshine Coast Turf Club on Sunday, 14 May and at the offices of Queensland Racing on Monday, 26 May, sufficiently particularise all of the issues in respect to which the Stewards officiating at the meeting had concern.

As a result of evidence submitted and determinations made by those Stewards, the Respondent, jockey El-Issa, was charged with an offence as noted previously herein.

The particulars in support of that charge were:-

That approaching the 400 metres when a run presented itself between Sagarmatha and Regal George, you failed to show sufficient purpose and vigour in your riding of Jugerston to place that horse into a position to take advantage of that run.

Furthermore, the Stewards allege that at no stage approaching the 400 metres until passing the 150 metres did you exercise sufficient vigour on Jugerston in order to ensure that that horse was given full opportunity to win or to obtain the best possible place in the field when in the opinion of the Stewards it was reasonable and permissible for you to do so.

The Respondent pleaded not guilty and was vehement in his protestations that he had done absolutely nothing wrong. The Stewards, having heard the jockey's representation, considered that the charge should be maintained and convicted jockey El-Issa and imposed a penalty by way of a suspension of his licence to ride in races for a period of eight (8) weeks. Against that decision, jockey El-Issa appealed to the First Level Appeals Committee.

That Committee had recourse to the video evidence and determined that jockey El-Issa was a victim of circumstances in that he missed the start and then did all that he could immediately thereafter. In representations before that Committee, the Stewards alleged that at the top of the straight was where the charge originated in that the horse had travelled and the jockey had an obligation to bring the horse into the race and improve his position. In the Stewards' opinion, the jockey failed to do so, given his experience and capability. It was alleged that he failed to show the necessary purpose and vigour and the Stewards relied upon those issues.

The First Level Appeals Committee noted that there were difficulties in identifying an exhaustive list of factors that must be considered when determining a charge under Rule 135(b). They referred specifically to the decision of the Racing New South Wales Appeal Panel on 5 June 2003 in respect of jockey Chris Munce. This Tribunal does not propose to reprint that decision here, but suffice to say that it accepts that the First Level Appeals Committee in Queensland carefully considered all relevant factors in making a determination and scrutinised all oral evidence and video evidence. The First Level Appeals Committee accepted that the jockey's explanation although it did acknowledge that the Stewards certainly had a right to question his riding method. They stipulated that they were reasonably satisfied that once he did enter clear running, he exhibited sufficient vigour and they considered that the benefit of the doubt should be given to the jockey on that issue and accordingly upheld his appeal.

The Appellant has now appealed to this Tribunal, suggesting that the First Level Appeals Committee were wrong in their view of the video evidence and of the oral evidence in question. This Tribunal has had an opportunity of considering that oral evidence and of also reviewing all of the video evidence in detail. It is of the opinion that there is no basis upon which there should be any interference by this Tribunal with the decision of the First Level Appeals Committee. The Tribunal is satisfied that had the Appeal been directed immediately to it (in the event that the jurisdiction of the First Level Appeals Committee was untenable), then this Tribunal would have likewise found that the jockey was not at fault in all of the circumstances.

The Appeal is dismissed and the deposit is forfeit.

Mr Brockwell Miller
Deputy Chairman
