

REASONS FOR DETERMINATION OF
THE RACING PENALTIES APPEAL TRIBUNAL

<u>APPELLANT:</u>	NEIL CHAPMAN
<u>APPLICATION NO:</u>	A30/08/627
<u>PANEL:</u>	MR D MOSSENSON (CHAIRPERSON)
<u>DATE OF HEARING:</u>	30 NOVEMBER 2004
<u>DATE OF DETERMINATION:</u>	30 NOVEMBER 2004

IN THE MATTER OF an appeal by Neil Chapman against the determination made by the Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 15 November 2004 imposing 4 weeks suspension for breach of Rule 137(a) of the Australian Rules of Racing.

Mr A R Taylor was granted leave to appear for the appellant.

Mr B W Lewis appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

Following the running of Race 7 at Ascot Racecourse on 13 November 2004 the Stewards opened an inquiry into the reason for DEAD EYE DICK, ridden by Neil Chapman, and PENNYWEST, ridden by Jason Brown, having raced tightly and bumping on a number of occasions. Both those riders were called to the inquiry as was Kevin Forrester the rider of CHANGING LANES.

The inquiry was adjourned after hearing evidence from the three riders and viewing the patrol films. At the resumption on 15 November 2004 having heard further evidence from jockeys Chapman and Brown, the Chairman of the inquiry announced a charge in these terms:

'Mr Chapman, after considering all that has been said at this inquiry, the Stewards believe that you should be charged with improper riding under Australian Rule of Racing 137(a), the rule reads: Any rider may be punished if in the opinion of the Stewards: part a: He is guilty of careless, improper, incompetent or foul riding. As I said the charge is one of improper riding being that when riding DEAD EYE DICK in the Asian Beau Stakes at Ascot on Saturday, November 13 you applied undue pressure to PENNYWEST ridden by Jason Brown by turning your mount's head into towards PENNYWEST causing both horses to race very tightly and bump on several occasions from the 850m to 650m with PENNYWEST being pressured inwards near the 650m.'

After confirming that he was pleading not guilty to the charge, Mr Chapman sought clarification as to the specifics of the charge. The Chairman responded as follows:

'Improper riding, by placing an undue amount of pressure, this is paraphrasing, undue amount of pressure on PENNYWEST between the 850m and the 650m with PENNYWEST having to race very tightly and bump on several occasions and eventually near the 650m being pressured inwards.'

Further explanations were provided by the appellant. The Chairman then announced a finding of guilt in these terms:

'Stewards have considered all the evidence and the charge and what you said subsequently to the charge being laid, Mr Chapman, and we wish to make the following comments. After establishing itself in the three-wide line DEAD EYE DICK is seen to make contact on several occasions with PENNYWEST between the 850m and the 650m. The Stewards believe this is due to DEAD EYE DICK's head being turned in and pressure being applied to PENNYWEST. At no stage was this pressure relieved, nor was the pressure caused by PENNYWEST shifting ground outwards. If DEAD EYE DICK was hanging out to the extent that you put forward. It is difficult for the Stewards to accept that pressure should continue to be placed on PENNYWEST for 200 metres. Stewards are of the opinion that the pressure applied to PENNYWEST was with the intent of obtaining a racing position closer to the fence to the detriment of PENNYWEST. Therefore those reasons, Mr Chapman, we do find you guilty.'

Having considered submissions made by the appellant, the inquiry Chairman announced the penalty finding as follows:

'Just a number of factors to a penalty, Mr Chapman. We see this as a serious offence involving a deliberate action happening over a considerable time and distance in a race. Potentially although the interference was extremely bad to PENNYWEST, other horses could also have been involved. PENNYWEST, as I said, was severely disadvantaged because your (sic) actions. Generally, penalties for this type of thing range from one month to three months. We've taken into account this is your first offence and you've been riding for seven years and it was also evident from your evidence throughout that you believe the position behind ROCK OF CASHEL was rightfully yours. The Stewards do not share your opinion, however, it may go some way in explaining your actions between the 850m and the 650m. We see that as a mitigating factor in regard to a penalty and we also looked at the fact that this

suspension does include the Railways (sic) Stakes which is on the 4th of December. Normally we'd be looking at a penalty for this offence of six weeks but because of the mitigating factor mentioned previously, and also the fact that it's carnival time and the Railway Stakes will be missed, we believe a suspension of four weeks to be appropriate and we believe that should start on Thursday, midnight Thursday so it allows you to take your rides as Ascot and the provincial meeting on Thursday and it will expire 28 days after that.'

Mr Chapman lodged a Notice of Appeal on 22 November 2004 and was granted a stay of proceedings until midnight, Thursday 2 December 2004 or as otherwise ordered. The ground of appeal was simply stated to be '*...against the charge as I deny any wrong doing.*'

At the outset of the appeal Mr Taylor sought leave for Mr Ryan to give evidence on Mr Chapman's behalf. Normally in a case involving an appeal in relation to a rule couched in terms of '*in the opinion of the Stewards*' such a course is refused. However, in view of the fact the Stewards did not object to the proposal Mr Ryan was given permission to testify. Mr Ryan commented on the incident and stated his own conclusions as to the quality of the riding in the race. It was apparent from what Mr Ryan said that he had not read the transcript of the Stewards' inquiry and had no knowledge of the evidence which Jockey Brown had presented to the Stewards. This type of evidence can have no influence.

It was argued by Mr Taylor amongst other things, that:

- Mr Brown's riding had initiated the problem.
- Mr Chapman did not interfere with Mr Brown's mount.
- Mr Brown's bumping and interference with Mr Chapman's mount virtually cost Mr Chapman the race.

Mr Lewis replied to the argument and backed up his contentions with references to the evidence by citing passages in the transcript. In so doing he demonstrated there was an abundance of supporting evidence presented at the Stewards' inquiry to justify the Stewards' finding. It was submitted the Stewards had concluded that the evidence corroborates what was revealed in the film of the race. Further it was argued the decision was not unreasonable and was based on the evidence.

I viewed the film of the race and have had the opportunity to evaluate the evidence which the Stewards received. Nothing that was presented on behalf of the appellant persuaded me the Stewards had fallen into error. Accordingly, I dismissed the appeal.

An argument then ensued as to the point in time from when the penalty operates. Mr Taylor pleaded for Mr Chapman to be able to ride on the forthcoming Saturday in the Carnival Railway Stakes.

In response Mr Lewis acknowledged:

- Mr Chapman had a good record;
- there may be difficulties for a replacement rider to be found;
- the connections would be disadvantaged;

- the horse in question in the forthcoming race was a difficult one to ride;
- Mr Chapman had already served three days of his suspension;
- due to Mr Chapman's age, his good record and the significance of the ride that it would not be inappropriate to allow him the concession provided in doing so a precedent was not set.

I concluded this was an unusual case, the surrounding circumstances of which were not likely to be readily repeated. Accordingly, I was persuaded to allow the suspension to recommence to operate as from midnight on 4 December 2005. In so doing I emphasise this decision should not be taken as any indication that in any future cases of suspension for improper riding one can expect a deferment to be granted.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

