



**APPEAL OF SHANE CAHILL: AR 137(a)**

**Appeal Committee: Mr John Stewart (Chairman), Mr Brett Dixon and Mr Cameron McNally**

**Date of Hearing: 28 July 2016**

**Date of Decision: 28 July 2016**

**REASONS FOR DECISION**

**Stewards' Inquiry**

1. On 23 July 2016 Jockey Shane Cahill rode 'Bentley Tycoon' in the 'Allora Gardens Nursery Handicap' at Fannie Bay. After conducting an inquiry, later that day the stewards found Jockey Cahill guilty of a charge of careless riding and imposed a penalty of suspension for one Northern Territory race meeting.
2. The particulars of the charge were that Jockey Cahill permitted his mount to shift out when not sufficiently clear, resulting in 'Bestihaveeverhad' (ridden by Jockey Wayne Davis) being tightened for room and restrained.
3. At the inquiry evidence was given by Jockey Davis and Apprentice Steven Brown (the rider of 'French Tusson'). Jockey Davis told the stewards that his mount was pressured by 'French Tycoon' shifting out and 'French Tusson' coming around on the outside. Apprentice Brown maintained that his mount kept a straight line around 'Bestihaveeverhad' which shifted in while Jockey Cahill's mount 'came out a little bit'.
4. Jockey Cahill pleaded not guilty on these grounds:  
'I didn't steer the horse to make a run out. I was on the back of the winner and had no intention of trying to go any wider because the winner had got away from me so I was going to follow it through.'  
And  
'Then my horse wobbled for a stride or two and Wayne had to grab hold of it. I think, to be honest, I thought he might have overreacted a touch as well. I'd say not guilty sir because, like I said, I didn't steer it out there. As you can see in the film my horse's head is turned in, trying to maintain my run behind the eventual winner.'
5. Stewards determined that the degree of carelessness was low, the degree of interference 'low to mid' and that Jockey Cahill had 'a very good record'.

**The Appeal**

6. Jockey Cahill disputed the finding of guilt and the severity of the penalty. In addition, he applied for a stay of the stewards' decision pending the hearing of the appeal. The stewards did not oppose the latter application. The stay was granted.
7. Jockey Cahill appeared at the hearing of the appeal with his representative, Mr Des O'Keefe. Stewards were represented by the Chairman of Stewards, Mr David Hensler.

8. Mr O'Keeffe made these submissions:
  - (a) Stewards should have given Jockey Cahill's evidence more weight.
  - (b) There was some contribution by Apprentice Brown. The incident could have been recorded as a mere racing incident.
  - (c) Alternatively, a suspension for one meeting 'at this time of year' is excessive.
  - (d) Jockey Cahill's record is exceptional – he has had about 450 rides in the last 16 months since his last suspension for this type of offence.
9. Mr Hensler made these submissions:
  - (a) Jockey Davis' evidence about 'French Tusson' shifting in is not supported by the video of the race.
  - (b) Jockey Cahill was held up from around the 700m mark to the 500m mark then shifted out when trying to improve thereby causing interference to 'Bestihaveeverhad'.
  - (c) Jockey Cahill has received 3 reprimands for careless riding since his last suspension.
10. Mr Hensler referred to the decision of the Appeal Committee in the *Appeal of Jan Cameron* (28 May 2014) to the effect that careless riding is a particularly serious offence, that a period of suspension is generally warranted and that it is always desirable to achieve consistency in outcomes on penalty.

#### Determination

11. On 28 July 2016 we dismissed Jockey Cahill's appeal against the finding of guilt but upheld the appeal against the penalty, substituting a severe reprimand for the penalty imposed by the stewards. We reached that conclusion for the following reasons.
12. In our opinion, the video of the race was not consistent with Jockey Cahill's assertions that his horse did not shift out or that Jockey Davis overreacted. It supported the evidence given by Jockey Davis, including his evidence that 'French Tusson' contributed to the pressure and we regarded this as a mitigating factor to be weighed in favour of Jockey Cahill. The video also supported the stewards' finding that Jockey Cahill was guilty as charged.
13. We agree with the stewards' evaluation of the degree of carelessness and the degree of interference. We also endorse the remarks made in the decision in the *Appeal of Jan Cameron*. However, taking into account the stewards' evaluation and Jockey Cahill's record, we felt that he was entitled to additional lenience on this occasion.
14. We specifically reject Mr O'Keeffe's submission that Jockey Cahill was deserving of special consideration because the suspension would have prevented him from riding at a race meeting during the Darwin Cup Carnival. NTR 17 provides for deferment of penalty for no longer than 3 days where a rider has been officially declared as the rider of the horse. Aside from that provision, the best way for Jockey Cahill to avoid the risk of losing future opportunities by way of suspension was to ride within the rules.
15. The deposit will be refunded.

Dated: 24 August 2016.

  
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John Stewart  
Chairman