



**APPEAL of MATTHEW HART: AR 135(b)**

**APPEAL COMMITTEE: Mr John Stewart (Chairman), Mr Charles Burkitt and Mr Craig Lambley**

**DATE OF HEARING: 25 November 2012**

**REASONS FOR DECISION**

Jockey Matthew Hart rode "Hussinger" into third place in the 0-58 Handicap at Alice Springs on 28 October 2012.

Stewards found Jockey Hart guilty of a breach of AR 135(b) which provides:

"The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field."

At the Stewards' Inquiry particulars of the charge were presented to the rider in these terms: "The specifics of the charge being that in the early stages of the event you neglected to take the option of placing your mount closer to the fence and rounding the first turn and along the back straight you allowed your mount to shift out wide away from the field and again neglected to bring your mount closer to the field."

Jockey Hart's licence was suspended for 2 meetings. He appealed against the finding of guilt and the severity of the penalty on these grounds:

1. He was denied procedural fairness in that the Stewards did not give him the opportunity to call Mr Lamprecht, the trainer of "Hussinger", as a witness.
2. The trainer was happy with his ride.
3. The horse did not like the "kick back" from the dirt.
4. It was his first offence against this rule.

We granted a stay of the penalty pending the hearing of the appeal.

At the Stewards' inquiry Jockey Hart defended his tactic of keeping the horse out wide. He drew barrier 11, the field was kicking up clods which the horse resented as it moved towards the inside so he elected to stay out wide. The instructions from the trainer were to push the horse along from the 700 metres mark. While some ground would have been saved by moving closer to the fence, he felt that the horse had a better chance of making a sustained run if kept wide. At any event, he said while the horse was running wide from about the 1200 metres mark to

the 600 metres mark the course is pretty well straight at that interval so not much extra ground is covered by running wide. He took the final turn wider than he would have liked but was a victim of circumstances as the field fanned out. The horse finished third, starting at 20 to 1 so the punters "got a fair showing".

The trainer, Mr Lamprecht, did not appear at the Stewards' inquiry. In fairness to the Stewards it is not clear that Jockey Hart requested or indeed wanted Mr Lamprecht to give evidence.

At the appeal hearing the Stewards were represented by Mr David Westover, Stipendiary Steward. Mr Kevin Ring of the Australian Jockeys Association appeared for and with Jockey Hart. We viewed the video recording of the race and, at Mr Ring's request which was not opposed, gave leave for evidence to be adduced from Mr Lamprecht.

Mr Lamprecht confirmed that "Hussinger" did a little more work than if ridden closer to the rail but he didn't think it made much difference to the result. He emphasized that if ridden forward early the horse will drop out at the finish. He confirmed that the horse appears to dislike the dirt spray from the field ahead and that he needs a long distance, perhaps even from 950 metres out, to wind up.

Mr Westover informed us that Stewards usually keep a close eye on wide runners and he produced several reports mentioning that element. We commend the Stewards for their vigilance. Punters would generally expect the Stewards' attention to be attracted by a runner covering extra ground when running wide.

It is obvious that the rule will not be infringed every time a horse makes a wide run. We agree with this statement from the recent decision of the Queensland Civil and Administrative Tribunal in *Racing Queensland Limited v Cassidy* [2012] QCAT 31:

"Even a decision which appears poor with the benefit of hindsight will not offend the rule without more. What is needed to offend AR 135(b) is the availability of a measure to improve the horse's success in the race and an unreasonable failure to take that measure."

We are not satisfied that Jockey Hart made a poor decision. Given the trainer's instructions and the behaviour of the horse, his explanation for remaining wide on the track appears to be reasonable. We do not agree with the Stewards that it was likely that the horse would have been given a better opportunity if ridden closer to the rail in the early stages of the race. It is true that the horse took the final bend very wide but that was in part a result of pressure from inside horses making their runs. Jockey Hart was able to ensure that "Hussinger" was unimpeded and the horse gradually improved its position in the field until it secured third place. It is not clear that the horse would have done any better if ridden differently.

We are not satisfied that the rule has been breached on this occasion. The appeal is upheld and the deposit will be refunded.

Dated 6 December 2012

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Chairman 