

Appeal decision

Date: 8 December 2014

Code of racing: Thoroughbred

Appeal panel: Mr B Miller (chair), Mr P James and Mr D Kays.

Appearances: Jockey Tracy O'Hara appeared on her own behalf.
Mr L Collins, stipendiary steward, appeared on behalf of the stewards.

Decision being appealed: Suspension of licence to ride in races for a period of one calendar month; suspended \$1000 fine – AR175(q).

Appeal result: Appeal dismissed. Penalty varied.

Extract of proceedings – in the matter of an incident which occurred at Callaghan Park race course, Rockhampton, during trackwork on 10 November 2014. Jockey: Tracy O'Hara

THE CHAIRMAN: Jockey Tracy O'Hara was charged with an offence pursuant to the rules of racing in that she used her whip on two occasions in attempting to strike jockey Dale Evans, and grabbed his vest soon after. That is conduct that obviously is not something that is condoned within the industry. The stewards have a duty and an obligation to ensure that disputes are resolved unless there can be any or some definite evidence to support the contention that there are circumstances that identify differently.

Miss O'Hara has provided evidence to this board both in the transcript and today identifying that there is a history of personal ill will between herself and jockey Evans. That is something that is of concern to the board and obviously must also be a concern to the racing industry as a whole and to the stewards that are identified as effectively the police of that industry. That being said, it is not something that can simply be washed under the carpet with what jockey O'Hara wishes to have imposed, such as a penalty of a reprimand or otherwise.

Evidence before this board identifies that jockey O'Hara had been under pressure and more likely than not to be under considerably more pressure as this matter goes on. One would hope that some attempt will be made to resolve that issue with jockey Evans, either by her or by the stewards in question. Having said that, it is not the obligation of the stewards to do so but one would think there will be some input.

The board has come to the conclusion that there is a penalty imposed ordinarily of some three months for an offence that would be regarded as a proper penalty for a person who is the instigator of an assault, and that is exactly what this was. The circumstances here are slightly different. On the one hand jockey Evans is alleged by Tracey O'Hara to have ridden

his horse towards her in a threatening and menacing manner. There is no doubt that she is extremely upset both now and at the time, and as she quoted to us today he used the horse as a weapon. That is something that has resulted in her reaction by way of self defence, albeit somewhat an over-reaction, which she admitted in her own words.

The board has considered the penalty that has been imposed and believes that whilst there has been some mitigation allowed by Racing Queensland stewards in reducing what would be the norm, that mitigation is perhaps in the circumstances inadequate. We believe that there is a necessity for a suspension to be imposed. We also believe that the imposition of a \$1000 fine that hangs over the head of jockey O'Hara, such that if she offends again in a like manner she will forfeit this \$1000, is a deterrent that should also be taken into account as forming part and parcel of the penalty.

In the circumstances, we reduce the four-week suspension to a two-week suspension. We do not interfere with the \$1000 penalty that has been imposed and which will become forfeited if jockey O'Hara reoffends in a like manner.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au