

# RACING APPEALS TRIBUNAL

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RAT 12/10

DATE: FRIDAY, 24 SEPTEMBER 2010

**TRIBUNAL:**            **DEPUTY PRESIDENT:**    MR P ERIKSEN  
**ASSESSOR:**                    MR G PRETTY  
**MR J PETZER**, for CHAIRMAN OF STEWARDS,  
THOROUGHBRED RACING SA LTD  
**APPELLANT:**                    MR S PATEMAN  
**MR S HYLAND** appears for the Appellant (by leave)

**IN THE MATTER** of an Appeal by **STEVEN PATEMAN** against a decision of Thoroughbred Racing SA Ltd Stewards.

**BREACH OF RULE:**        ARR 137(a)

Rule 137:    'Any rider may be penalised if, in the opinion of the Stewards,

(a) He is guilty of careless, reckless, improper, incompetent or foul riding.'

**PENALTY:**    SUSPENSION OF LICENCE FOR 4 MEETINGS TO TAKE EFFECT  
FROM THE START OF THE JUMPING SEASON IN 2011

## DETERMINATION

The Appellant appeals against the conviction and penalty the Stewards imposed on a charge of incompetent riding in breach of Rule 137(a) of the Australian Rules of Racing.

After pleading not guilty to the charge the Appellant was found guilty and his licence was suspended for a period of 4 meetings to commence at the start of the jumping season in 2011.

I would just like to first and foremost thank both sides for the thorough way in which the material has been presented to the Tribunal, and in particular there has been a clear effort to make things concise, straight to the point, and it has assisted us a great deal in our deliberations.

## **BACKGROUND**

The Appellant was riding the horse "REGAL HEIR" in Race 1 at the racing meeting held at the Morphetville Racecourse on 14 July 2010.

Immediately after the race, Stewards conducted an enquiry into the Appellant's manner of riding at a point in the race, after jumping the third last hurdle, approximately 600 meters from the finish.

The initial enquiry was adjourned and reconvened on 24 July 2010.

The Appellant, on both occasions, admitted that, in his opinion, he had ridden the horse at the time that the Stewards were identifying, in a manner which he himself, in retrospect, considered to be inappropriate, in that, he should have attempted to take his horse to the outside of "HULA DANE", rather than persist with trying to obtain a run along the fence, on the inside of this horse.

On the second occasion that the enquiry proceeded, the Appellant was specifically asked by the Stewards, if he still considered his riding, in retrospect to have been inappropriate and he still adhered to this view.

In summary, the Appellant and the Stewards, both agreed that the Appellant's manner of riding the horse, at the particular point in time constituted a poor decision in all of the circumstances.

At the Hearing before this Tribunal, the Appellant argued that whilst his decision making, in retrospect, was inadequate, it was a reasonable decision to make at the time and unfortunately, the inside rails run, that he anticipated, never eventuated.

The Stewards' case is that the error of judgement was such a departure from the standard of skill required of a jumps jockey that it equates to an error of judgement of a significant nature and constitutes incompetence.

However, the Appellant strongly argued, that the poor decision made during the race, did not fall into a category which constituted grounds for finding that he rode in an "incompetent" manner.

As previously stated, it is agreed on both sides that there was an error of judgement and that is not in dispute.

There may be various errors of judgement that may occur in any race meeting.

The degree of departure from the standard of care required to be exercised by a licensed jumps jockey, to substantiate a charge of “incompetent” riding, in the Tribunal’s opinion, is a significant departure from the appropriate standard.

After viewing the DVD coverage of the race on several occasions before and during the Hearing, and having conferred with my experienced colleague, I have come to the conclusion that the departure from the standard of care required to be exercised by a licensed jumps jockey in these particular circumstances, does not sustain a finding of a significant departure from the standard required of a licensed jumps jockey and therefore, does not support a finding of “incompetent” riding.

I therefore find that this appeal against conviction should be upheld.

There is just one matter I would like to mention, which does not require a formal decision from this Tribunal in this Hearing, however, I consider it worthy of mention.

The Appellant was a licensed jumps jockey.

As I understand the reasoning of the Stewards during the Hearing, they visited on a more successful and experienced jumps jockey, an expectation of skill and judgement that may be different than that of a novice or a less experienced and successful jockey, I have some concerns about the appropriateness of this reasoning, in considering if a jockey is guilty of a breach of Rule ARR 137(a).

I think that that is the sort of consideration that has reflection in penalty more so than the initial threshold point of whether or not someone has been “incompetent”.

The Appeal against conviction is upheld and I order that the fee paid at the time of initiating the Appeal be refunded.

The bond is refunded.