

**Appeal RIU v J Riddell - Decision dated 14 September 2018**

**Rules:**

**Repondent(s)/Other parties:**

**Name(s):**

**Decisions:**

**BEFORE AN APPEALS TRIBUNAL  
OF THE JUDICIAL CONTROL AUTHORITY  
UNDER THE RACING ACT 2003**

**IN THE MATTER** of the New Zealand Thoroughbred Racing Rules

**BETWEEN THE RACING INTEGRITY UNIT (RIU)  
APPELLANT**

**AND JONATHAN RIDDELL**

**RESPONDENT**

**Appeals Tribunal:** Mr Murray McKechnie, Chairman and Mr Richard Seabrook, Member

**Present:** Mr John Oatham, Chief Stipendiary Steward, Mr Jonathan Riddell, Licenced Jockey, Mr Ginger Tankard, Advocate for Mr Riddell

**Registrar:** Mr Brady Jones

**DECISION OF APPEALS TRIBUNAL**

**DATED THIS 14th DAY OF SEPTEMBER 2018**

**1. THE NATURE OF THE APPEAL**

1.1 This is an appeal before an Appeals Tribunal under the Rules of New Zealand Thoroughbred Racing brought by the Racing Integrity Unit. The RIU appeals a decision of the Raceday Judicial Committee at Hawkes Bay on the 1st day of September 2018. Following race No 1 Mr Riddell was charged with two (2) counts of careless riding. The first incident occurred early in the race. Mr Riddell pleaded guilty. More will be said of that in paragraph No 5 below. The second incident occurred at around the 400m mark. Mr Riddell pleaded not guilty to that count of careless riding and the charge was dismissed by the Raceday Judicial Committee.

1.2 The Raceday Judicial Committee was a senior and experienced committee as was appropriate for a premier race day. The Committee heard evidence from Mr Goodwin Stipendiary Steward, submissions by Mr Oatham the Chief Stipendiary Steward and evidence from the jockeys Mr Riddell, Mr Chris Johnson and Mr Tony Allan. All three jockeys are senior and experienced.

1.3 At the hearing today Mr Riddell has been represented by the Lay Advocate Mr Ginger Tankard who is vastly experienced in matters to do with thoroughbred racing and with the functions of Judicial Committees and the Appeals Tribunal.

1.4 Mr Oatham told the Tribunal in his opening remarks that this was the first occasion in his fifteen years' experience and that he as the informant had appealed a decision of a Raceday Judicial Committee dismissing a charge of careless riding.

**2. THE CASE FOR THE RIU**

2.1 The films of the race were shown to the Tribunal from four (4) different angles. It is the RIU position that Mr Riddell allowed his mount LOOKOUT to shift inwards at the 400m mark thereby dictating the line of the horse on its inside named AONGATETE EXPRESS and that this caused that horse to move inwards checking the horse SWISS ELLE. Mr Chris Johnson was the jockey riding AONGATETE EXPRESS and Mr Tony Allen the jockey riding SWISS ELLE.

2.2 The horse SWISS ELLE was plainly tiring from about the 600m mark and this was very apparent from the films. The films demonstrate that Mr Johnson moved his mount out from a trailing position to be alongside SWISS ELLE. As the horses approached the turn Mr Riddell moved his mount out from behind Mr Johnson and as the horses approached the 400m mark they were almost three abreast. Mr Oatham pointed to the head carriage of Mr Riddell's mount which was pointed in towards the running rail. There was

a quite sudden and dramatic check to SWISS ELLE and fortunately the jockey was able to maintain his mount but the films demonstrate that the check was very significant. It is not relevant for the purposes of a charge of careless riding that the horse checked had little prospect of finishing in a dividend bearing place.

2.3 Mr Oatham was critical of the Raceday Judicial Committee having considered the circumstances leading up to the check that occurred at the 400m mark. What the Raceday Judicial Committee was told in evidence was that from about the 600m mark Mr Johnson was endeavouring to find a run and so too was Mr Riddell and that between the 600m and 400m the riding was described repeatedly as "competitive". What is clear to the Tribunal is that by the time the horses reached the 400m mark the mount of Mr Riddell was in a 3-wide position. That horse moved in perhaps no more than half a horse width and that caused Mr Johnson's mount AONGATETE EXPRESS to in turn move inwards and bring about the check to SWISS ELLE.

2.4 In the Tribunal's view Mr Johnson's mount was in a legitimate one out position quite some time before the 400m mark had been reached. Mr Tankard made some criticism of how Mr Johnson got his mount into that position. Mr Johnson has not been charged with any breach of the rules and in the Tribunal's view the critical issue is to examine what was causative of the serious check received by SWISS ELLE at the 400m mark. In the Tribunal's view that check resulted from Mr Riddell's mount moving in albeit not by a significant distance. The position of the horse's head has already been noted and further the Tribunal records that there was no horse on the outside of Mr Riddell which may have tightened his position and caused his horse to move inwards.

2.5 In the Tribunal's view the Raceday Judicial Committee was in error in describing the decision it reached as having been arrived at by "viewing the incident in its entirety". While the Committee was right to find that both Mr Johnson and Mr Riddell were riding competitively the Committee was in error in ascribing the interference to both Messrs Johnson and Riddell. Mr Oatham made the point that however Mr Johnson got his mount into the one out position that was quite some distance before the 400m mark. That is demonstrated by the films. It is necessary to concentrate on what happened at the 400m mark to determine how that check came about and in the Tribunal's view it came about as a result of Mr Riddell's horse moving in towards the running rail.

### **3. THE POSITION FOR MR RIDDELL**

3.1 Mr Tankard sought to persuade the Tribunal that Mr Johnson's mount was not legitimately in a one out position as the horses approached the 400m mark. Further that Mr Riddell was riding competitively and legitimately and that the movement of his horse arose from that competitive riding and not from any lack of care on Mr Riddell's part. As remarked earlier there was no horse to the outside of Mr Riddell's mount. Mr Tankard conceded that the films demonstrated that Mr Riddell's did move in perhaps half a horse width. As to the nature of the interference suffered by SWISS ELLE Mr Tankard pointed to the fact that this horse was tiring quite dramatically and that this may have caused the interference to look more serious than would otherwise have been the case.

### **4. DECISION**

4.1 Hearings before Appeal Tribunals are by way of rehearing. The Tribunal must make its own assessment of the evidence. The film coverage is comprehensive. While regard must be had to the decision of the Raceday Judicial Committee it is for the Tribunal to reach its own assessment of the material that is presented to it. While conscious of the seniority and experience of the Raceday Judicial Committee it is the Tribunal's view that the Committee was in error in the manner in which it approached the assessment of the interference which occurred at the 400m mark. It is the Tribunal's view that the interference and serious check suffered by SWISS ELLE arose from Mr Riddell's allowing his mount to move inwards and that in turn causing Mr Johnson's mount AONGATETE EXPRESS to check SWISS ELLE. In all of the circumstances explained the Tribunal takes the view that the Raceday Judicial Committee ought properly to have found the charge proved and it is the Tribunal's view that the appeal therefore must be upheld and the charge of careless riding is sustained.

### **5. PENALTY**

5.1 The Tribunal has heard helpful submissions on penalty from Mr Oatham and Mr Tankard. The first consideration that needs to be addressed is that Mr Riddell had been charged with careless riding as a result of an incident earlier in the very same race. He pleaded guilty to charge of careless riding and was suspended for nine (9) days being a period from the close of racing on the 8th day of September to the close of racing on the 21st day of September.

5.2 In speaking of the previous careless riding charge in the same race Mr Oatham described the penalty of nine days as quite severe. He submitted that the period of nine days had been almost certainly influenced by Mr Riddell's record. That careless riding charge being the sixth within twelve months. It follows that the Tribunal is now concerned with the seventh charge of careless riding within the last twelve months.

5.3 Mr Tankard pointed to Mr Riddell's considerable success particularly since his move to the Waikato and his close involvement with the Baker Forsman stable. Both members of the Tribunal are from their own knowledge aware of Mr Riddell's ability and success. Mr Tankard pointed out that given the upcoming spring racing a further significant disqualification would have serious consequences with lost opportunities.

5.4 Mr Oatham categorised the carelessness as being above midrange. He further submitted that he believed that the actions of Mr Riddell were retaliatory towards Mr Johnson. This Mr Oatham explained was because he (Mr Oatham) considered that Mr Riddell held Mr Johnson responsible for him being pushed 3 wide and that the actions he took at around the 400m mark were to use Mr Oatham's

word "retaliatory". The Tribunal does not accept that the retaliatory description is appropriate. A careful viewing of the films does not demonstrate any deliberate action by Mr Riddell – rather that he simply did not take sufficient care to ensure that the horses to his inside had sufficient racing room.

5.5 As set out in the body of the decision above the Tribunal considers that the level of carelessness was not substantial. The Tribunal's view is that this was not beyond midrange. Conscious of the suspension already in place and the rather unusual circumstance of there being two (2) careless riding charges arising from the same race the view that the Tribunal has reached is that the appropriate period of suspension is for seven (7) national days. There was some discussion as to when the seven (7) day period of suspension would run out. The suspension will commence on the 22nd day of September and run through to and include Sunday the 30th day of September. On that day there is a thoroughbred race meeting at Te Aroha which is a jumps meeting. Mr Riddell is a licenced jumps jockey and although he does not ride as frequently over jumps as was formerly the case when he had a very successful jumping career the Tribunal considers it appropriate to include that day. So to repeat the suspension is from the 22nd day of September to the conclusion of racing on the 30th day of September.

## **6. COSTS**

6.1 Appeals in most cases result in a costs award being made in favour of the party whose appeal is successful and also it is frequently the case that the unsuccessful party is required to make some contribution towards the costs incurred by the Judicial Control Authority. In the rather unique circumstances of this case outlined earlier in the decision the Tribunal considers that it is not appropriate to require any payment of costs by either party or that either party make any contribution of the JCA.

**DATED** this 14th day of September 2018

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Murray McKechnie

Chairman

Signed pursuant to Rule 1007(5)

**Penalty:**