

## TASMANIAN RACING APPEAL BOARD

Appeal No 17 of 2007/08

<b>Panel:</b>	<b>Mr R Pearce (Chairman)</b>	<b>Appellant:</b>	<b>Mr S Maskiell</b>
<b>Appearances:</b>	<b>Mr W Hadley for the stewards Mr D Cooper for the appellant</b>	<b>Rule:</b>	<b>Thoroughbred Rule AR137(a)</b>
<b>Heard at:</b>	<b>Launceston</b>	<b>Penalty:</b>	<b>Three race meeting suspension</b>
<b>Date:</b>	<b>1 February 2008</b>	<b>Result:</b>	<b>Dismissed</b>

### REASONS FOR DECISION

Mr Maskiell rode the horse *Reunification* in the Morilla Stakes, a listed race, in Hobart on 27 January 2008. He was suspended for three meetings for careless riding contrary to AR137(a). The stewards found that at “about the 1000 metre mark he rode his mount inwards when insufficiently clear of *Gee Up* dictating to and carrying that gelding in onto *Regal Chivas* which was in turn carried in onto *General McAllister* resulting in *General McAllister* being severely checked and losing its position”.

Mr Maskiell’s appeal concerns penalty only. Mr Maskiell’s principal argument was that the financial consequences of the suspension, it being at a peak time of the racing year, resulted in a penalty out of proportion to the offence. At the hearing he was represented by counsel, Mr Cooper.

It was a 1200 metre race which started from the top of the back straight. The horses had a long run to the first turn. *Reunification* began well from a wide barrier. The appellant informed me, through his counsel, that he had no predetermined plan or instruction to lead. He wanted to go forward quickly and see what transpired underneath him. As Mr Maskiell rode down the track he can be seen to be looking to the inside. He says, and I accept, that as the events unfolded he formed the intention to take up a position immediately outside the leading horse. However as he crossed the field his mount tightened a horse to his inside, *Gee Up*. The rider of that horse, Mr Murphy, was forced to take hold of his mount and turn its head inwards. It in turn went down onto *Regal Chivas* which in turn was forced onto *General McAllister* near the rail. All three horses were interfered with to some extent and *General McAllister* was interfered with most. It lost about two to three lengths. It was an outsider in the field. It had begun only fairly and had little prospect of reaching the lead. However, it is a noted on pace runner and was forced back to worse than midfield before improving again along the rail.

The level of interference to the other horses was less severe but still of some effect. Although I was invited to find that the interference made no real difference to the prospect to each of them in the race, I consider that such a finding would be too speculative. In my view there is a realistic possibility that at least one of the horses other than *General McAllister* would have, but for the interference, assumed a more favourable racing position.

The appellant conceded that he crossed *Gee Up* when not sufficiently clear. He said that he did so, however, without making contact and without affecting that horse until his mount reduced its speed more quickly than he expected once he crossed and attempted to ease. He concedes that this, in itself, was careless, but probably less serious than would have been the case if he had caused interference in the act of crossing. Whether or not that proposition is correct, and I tend to the view that it is, I

do not accept the appellant's version to be an accurate description of events. My observations lead me to conclude that Mr Murphy was forced to take evasive action on *Gee Up* to avoid contact well before the act of crossing had been completed. As the appellant crossed he forced Mr Murphy's horse down on to the horse to its inside. It was not just the easing of the pace (if indeed that occurred) that constituted the carelessness. I find that Mr Maskiell was careless by continuing to ride his horse down the track when he should have known that he was not sufficiently clear. I accept that he appears to have looked at and been aware of the horses to his inside but seriously misjudged whether he should have continued to cross before first ensuring that he could do so without causing interference.

Mr Maskiell is a senior and successful rider. He does not, however, come to this appeal with an unblemished record. There are a number of careless riding offences over the last seven months. He was suspended for two meetings on 24 June 2007. He was suspended for three meetings for two separate offences on 8 July 2007, such suspensions being served concurrently. He was suspended for a further two meetings on 28 November 2007. Whilst I acknowledge that he rides frequently he is not entitled the mitigation to which a jockey with a better recent record would be entitled.

At the time of the hearing of this appeal Mr Maskiell had already served one meeting of the penalty. He declined rides on one further meeting, St Ledger Day, in Hobart on 3 February 2008. If the three meeting suspension is to stand, he would also miss the Derby Day meeting, part of the Hobart Cup carnival on Saturday 9 February 2008. The appellant points out that the direct and indirect financial consequences of this suspension at this important time of year are serious. He will miss rides in almost all of the races on St Ledger Day and Derby Day. The financial consequences are constituted by not only the direct loss of riding fees but the loss of the opportunity for direct gratuitous entitlements for successful rides in valuable races.

As I have previously pointed out in other appeals I am entitled to take into account the consequences that a penalty will have on a particular appellant but I must also be mindful of the nature and gravity of the breach. I consider that this case involves serious carelessness. Mr Maskiell was, to my mind, plainly not clear of the runner to his inside when he crossed. Interference to varying degrees was caused to three other runners in a valuable and prestigious race. I treat as a matter of considerable importance that interference, such as was caused in this race, places other horses and jockeys in the race at serious risk of injury. In this case that seems to have been avoided only as a result of the anticipation, skill and experience of the other riders involved.

Mr Cooper argued persuasively that the consequences of suspension on his client are considerable. I accept that this is so. However I find that any lesser period of suspension than that imposed by the stewards would not adequately reflect the seriousness of the appellant's breach. For all of those reasons I decline to interfere with the penalty imposed by the stewards and I dismiss the appeal.

Mr Maskiell's deposit will be returned.

**DATED: 5 February 2008.**