

**DETERMINATION AND REASONS FOR DETERMINATION OF  
THE RACING PENALTIES APPEAL TRIBUNAL**

**APPELLANT :**                    **RODNEY SHANE KIRKUP**  
**APPLICATION NO. :**        **A30/08/267**  
**PANEL :**                        **- MR D MOSSENSON (CHAIRPERSON)**  
**DATE OF HEARING :**        **6 SEPTEMBER 1995**

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**IN THE MATTER OF** an appeal to the Tribunal by Mr R Kirkup against the decision of the Western Australian Turf Club Stewards on 26 August 1995 imposing a 16 day suspension under Australian Rule of Racing Rule 137(a).

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Mr B Ryan was granted leave to represent the appellant

Mr B Lewis represented the WA Turf Club Stewards.

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Rule 137(a) states:

*" Any rider may be punished if, in the opinion of the Stewards:*

*(a) He is guilty of careless, improper, incompetent or foul riding ..."*

At the Stewards' inquiry the appellant was charged with a breach of Australian Racing Rule 137 as follows:

*"...with careless riding in that approximately at the 250 metres you allowed your mount ZIPMARK to shift inwards carrying ALLSTON ridden by T Stubberfield in causing BLACKHAVEN ridden by M Forder to blunder and shift inwards and bump POWER CHIEF ridden by B Schmidt...."*

I have had the opportunity of viewing the video and listening to the statements made on behalf of the respective parties.

I am satisfied from the evidence which is contained in the transcript and also from my observations of the film that the Stewards were entitled to conclude that Mr Kirkup did cause the incident to occur from his actions. Without Mr Kirkup having shifted from the outside this incident would not have occurred. Even although there was only a relatively slight amount of movement it was sufficient to put pressure on the inside horse, which inturn moved inwards as the evidence reveals. In those circumstances, the Stewards were entitled to come to the opinion which they did in relation to the incident.

Accordingly, I confirm the conviction and dismiss the appeal.

The lodgement fee that has been paid will be forfeited.

*Dan Mossenson*

DAN MOSSENSON, CHAIRPERSON



31 /10/95