

RACING PENALTIES APPEAL TRIBUNAL DETERMINATION

APPELLANT: CHRISTOPHER JAMES PARNHAM

APPLICATION NO: A30/08/825

PANEL: MS K FARLEY SC (CHAIRPERSON)

DATE OF HEARING: 9 MAY 2019

DATE OF

DETERMINATION: 26 JUNE 2019

IN THE MATTER OF an appeal by CHRISTOPHER JAMES PARNHAM against the determination made by Racing and Wagering Western Australia Stewards of Thoroughbred Racing on 23 April 2019 imposing a 23 day suspension, for breach of Rule 137A of the Australian Rules of Thoroughbred Racing.

Mr T Percy QC assisted by Ms J Byrne represented the appellant

Mr Davies QC with Mr D Borovica represented the respondent

Background

1. This is an appeal against conviction and penalty by Mr C Parnham, the rider of HE'S A PARKER which raced in race 7 at Bunbury race meeting on Sunday, 24 March 2019.
2. At about the 400m point of that race, thoroughbred BURGER TIME ridden by Jockey Clinton Johnston-Porter, fell, dislodging Mr Johnston-Porter in the process. Mr Johnston-Porter suffered severe back injuries as a consequence of the fall, together with a concussion. No significant injuries were suffered by BURGER TIME in the fall.
3. Stewards convened to hold an inquiry into the running of the race on 3 April 2019. During the course of that enquiry, Stewards had access to race footage taken from certain angles during the race (known as the Hawkeye system). In addition, Stewards heard evidence from Jockeys Parnham and Johnston-Porter together with Jockey Jason Whiting, who was riding number 4 DARK MUSKET in the race, and who was effectively racing between Mr Parnham's mount and Mr Johnston-Porter's mount at the relevant time.
4. At the conclusion of the enquiry, the Chairman, Senior Steward Mr Brown (at p17 PS) stated:

"...so Stewards have considered all the evidence put forward by all riders and after viewing a number of angles of the patrol film, at this stage of the inquiry we do believe you have a charge to answer to. And its under AR 131(a) – Riding Offences, which reads:

A Rider must not, in the opinion of Stewards, engage in careless, reckless, improper, incompetent, or foul riding.

And Stewards allege you, Mr Parnham, have engaged in careless riding with the particulars of the charge being that – you have shifted your mount, HE'S A PARKER, outwards and as a result have dictated DARK MUSKET, ridden by Jockey Jason Whiting, outwards causing that runners hindquarters to bump with BURGER TIME ridden by Jockey Clinton Johnston-Porter, which blundered and fell at the 400m dislodging Jockey Johnston-Porter."
5. Mr Parnham pleaded not guilty to the charge.
6. Following further discussion between the panel of Stewards, Mr Parnham, Mr Johnston-Porter and Mr Whiting, the Chairman of Stewards offered Mr Parnham the opportunity of an adjournment to consider putting forward further submissions to the Stewards in relation to his defence to the charge.
7. The inquiry was consequently adjourned to 23 April 2019.

8. On that day, Stewards heard further from Mr Parnham, Mr Whiting and Mr Johnston-Porter.
9. At the conclusion of that hearing, the Stewards found (p45 transcript) Mr Parnham guilty of careless riding. He was suspended for 23 days. He appealed both the finding of guilt and the penalty imposed.

The Evidence

Clinton Johnston-Porter

24. Mr Johnston-Porter was the rider of BURGER TIME, the horse that fell.
25. He told the inquiry that his horse was starting to tire badly at about the 500m mark. He went on to advise the inquiry that he "*copped the slightest bump from my inside and then my horse just came down*" (p3 transcript). He said it was from his inside but added that it wasn't anything severe at the time. It was not an abrupt bump.
26. Later on in the proceedings, when questioned by Mr Parnham as to whether his horse may have shifted in marginally and that being a contributing factor to the fall, Mr Johnston-Porter replied "*I did I definitely think so. Well it hasn't really shifted, it was more me trying to ride it round the corner. My mount might have, at, it was tiring, so it could have slightly shifted in. I think we were all quite, were all quite tight and I feel like I was holding a four deep line pretty well before I fell. But I could have maybe rolled in just enough to attribute me to come down, but at the same time I don't really know how my horse fell because it shouldn't have, realistically. Like I was in, any other horse that was travelling around the corner would never have done that. So I just, it is a hard one*" (p24 transcript).

Jason Whiting

27. Mr Whiting was riding DARK MUSKET and at the time of the fall was positioned in between Mr Parnham's mount and Mr Johnston-Porter's.
28. Mr Whiting gave evidence that he felt a slight contact to his horse's hindquarters (to the outside). He said that both he and Mr Parnham were "edging close" and there were not any abrupt movements. He explained that any edging into the open was minimal, and that "*not at any stage did anyone say "right, and just hook out and try and go in for it like that"*" (p5 transcript).
29. When specifically asked by the Chairperson whether Mr Whiting felt any pressure from his inside as a result of Mr Parnham coming out, he replied "*no, its just hard to say you know? Its just when the, he can, when they've got an advantage on you they can just*

dictate your line a little bit, you know, when you are out there riding and that. But as I said, I'd, you know, I didn't think there was any abrupt movement or anything like that. It was just sort of edging slowly looking for clear ground, but, as you do, when you are out there" (p6 transcript).

30. Mr Whiting consistently maintained that his interpretation of the video was that all 3 horses were pretty much holding their lines and that there were no abrupt movements. Insofar as to whether Mr Parnham had, by his actions, "dictated" Mr Whiting's line of racing, he said that after the fall had happened, the video appeared to show that he and Mr Parnham do fan wider into the straight, but he was of the view that at the time of the fall, he, Mr Johnston-Porter and Mr Parnham were still holding their lines.
31. Later in the inquiry (p39 transcript), Mr Whiting agreed that his horse may have been laying out slightly, but "it didn't really look like there was too much movement from anyone". Later (p41 transcript) he concluded "*when the incident happened it really, it doesn't, hard to say, if anyone has moved any ground to me, watching the films*".

Mr R Mance

32. Mr Mance is a Steward who was monitoring the "hawkeye system" on 24 March 2019 at Bunbury.
33. The hawkeye system involves Mr Mance being able, in real time, to view the race from a number of different camera angles at the same time. Mr Mance stated "*it looked as though Mr Parnham on He's a Parker racing in a one out position and was looking to angle outwards to shift into a three wide position. He had Mr Whiting racing to his outside with DARK MUSKET and Mr Parnham has shifted to that three wide position to be on the back of COME PLAY WITH ME, Mr McGruddy's mount and that's meant that Mr Whiting has been carried out further and at that stage Mr Porter, CJ Porter with BURGER TIME was riding his horse along outside of DARK MUSKET. He was in a position where he was virtually at its hindquarters and losing a bit of ground and as the shift has come towards him BURGER TIME in that position, has quickly blundered and then fallen as the movement was being carried out to him. So that's, that's how, that's how I viewed it with the hawkeye system*" (p7 transcript).
34. Mr Mance puts to Mr Parnham (p12 transcript), that the reason that Mr Whiting shifted out was because of his movements outwards which was causing him (Mr Whiting) to shift out. Mr Whiting maintained that he continued at three deep for "quite a long time". Mr Mance maintained that, in his observation, it was Mr Parnham's movement from Mr Whiting's inside which was causing Mr Whiting to shift out to be full wide. Mr Mance later said (p22 transcript) that Mr Whiting was "*shifted to a four wide position from Mr Parnham's shift*".

Mr Parnham

35. Mr Parnham denied vehemently that he had interfered with DARK MUSKET, causing it to veer outwards and coming into contact with BUGER TIME at any stage.

36. Mr Parnham stated that he was taking advantage of a movement out by Mr Whiting, which allowed him to improve his position on the track for a run home. Mr Parnham was of the view that the video footage was inconclusive. At (p38 transcript) he states *“look I don’t believe my conduct and actions were sort of unreasonable or careless. I think any Jockey in that position, when runs are opening up in front of them, will do the same thing. I mean this sort of stuff happens every race. Like I am just, I am on the favourite and I am putting my horse into gaps that are opening up in front of me. Like I’m not riding in a careless way”*.

The Finding of there being a Charge to Answer, and the Decision in Relation to that Charge

37. At page 17 of the transcript, the Chairman advises Mr Parnham that on the evidence put forward by the riders and after viewing a number of angles of the patrol film, they do believe that he had a charge to answer to. They continue *“and its under AR 131(a) Riding Offences, which reads:*

A rider must not, in the opinion of Stewards, engage in careless, reckless, improper, incompetent, or foul riding.

And Stewards allege you, Mr Parnham have engaged in careless riding with the particulars of the charge being that –

you have shifted your mount He’s a Parker, outwards and as a result, have dictated DARK MUSKET, ridden by Jockey Jason Whiting outwards causing that runner’s hindquarters to bump with BURGER TIME, ridden by Jockey Clinton Johnston-Porter, which blundered and fell at the 400m dislodging Jockey Johnston-Porter.”

38. Following further inquiry, the Stewards provide these reasons for the finding of guilt against Mr Parnham:

“...we’ve considered all of the evidence in its entirety and put the following reasons forward. Based on the evidence provided by Jockey Clint Johnston-Porter, he advised he had a full recollection of the incident and that he received a bump from his inside and as a result his horse come down and that pressure came from his inside but was not severe. Jockey J Whiting, who was racing to your outside and to the inside of Jockey Clinton Johnston-Porter, advised he felt slight contact to his horse’s hindquarters at the time of the incident and that you Mr Parnham, were travelling well and had a bit of an advantage to Mr Whiting’s inside and that you were edging slowly. Mr Whiting put forward that you were travelling a lot better than him and had the advantage on him and that you were starting to look at edging for a bit more room. You advised in your initial evidence you thought Mr Whiting’s mount was hanging on the corner

and that were moving into space that was opening up in front of you and that you were travelling better than Mr Whiting's horse at the time. Mr Whiting advised that he was always trying to hold his position in the three wide line and was happy to follow Come Play With Me, ridden by Shaun McGruddy, into the race as he was not travelling well enough to try and get going at that stage of the race. Mr Mance, who was watching the Hawkeye vision of the incident on the day, gave his reading of the incident at the inquiry on the 3rd of April 2019. Where he was of the opinion that prior to the incident, you had shifted to a three wide position to be behind Shaun McGruddy's mount and that as a result of your shift outwards, DARK MUSKET was carried outwards and at that stage Clinton Johnston-Porter was riding BURGER TIME along to the outside of DARK MUSKET and the shift has come out towards Jockey Porter his mount BURGER TIME has blundered and fallen as the movement was being carried to him. I was of the opinion, after the patrol films that you were on a continual outward movement from the 600m until the incident occurred at the 400m. Although not abrupt, it has been a continual gradual shift outwards, which has dictated DARK MUSKET outwards causing that runner's hindquarters to bump with BURGER TIME, which has blundered and fell dislodging Jockey Clinton Johnston-Porter at the 400m. BURGER TIME underwent a full veterinary examination following the race, which revealed lameness to its near hind, however there was no report to Stewards that any of the toe clips on the horse's shoes had been bent or displaced. Further the section of the track was inspected at the 400m following the race and found to be in good order and Stewards did not have any concern with the state of the track at any stage during the running of the race meeting. Stewards are of the opinion, taking into consideration the evidence of Jockeys Clinton Johnston-Porter and Jason Whiting, that the bump to BURGER TIME has been a result of it blundering and falling at the 400m. It does not appear as you suggested, after viewing the patrol films and from the evidence of Mr Whiting that DARK MUSKET is laying outwards or that BURGER TIME has shifted inwards. So for all those reasons Mr Parnham, we find you guilty as charged for careless riding" (p44-6 transcript).

39. Following that finding, the Stewards considered a penalty and imposed the penalty of 23 days suspension. Their findings (p47-8 transcript) were as follows:

"...we've taken some time to consider penalty. We've taken into account the level of carelessness in the incident. We believe that to be at the lower end of the scale, the shifting outwards, however it's only a gradual shift. The level of interference to be at the higher end of the scale. The shift outwards has resulted in a runner being bumped and blundering and as a result has fallen dislodging its rider. Jockey Clinton Johnston-Porter received three fractures in his back including his T7, T8 and T11 and will require further medical test and could be out of race riding for up to six

months. Your records show your last suspension was in November 2018 for careless riding. Prior to that April 2018. The suspension in November 2018 was 10 days. April 2018, 11 days and prior to that January 2018 for 18 days. So 3 suspensions in in 2018. You've had 272 since your last suspension so weighing all of that up we would say that is overall a fair record in relation to careless riding. Weighing all that up Mr Parnham, we believe a suspension is appropriate and we are going to grant you the 9 days. So that would take you through until midnight the 1st of May. We believe suspension of 23 days to be appropriate. Midnight the 1st of May until midnight the 24th of May, back for a Saturday Belmont meeting on the 25th of May. During that time you'll miss 3 Saturday metro meetings, 2 midweek meetings, 4 provincial meetings, 4 country meetings and that would include the Group 3 Roma Cup. So that's our decision Mr Parnham. Against conviction and penalty you do have your Right of Appeal and you need to lodge that within 14 days of today's decision. That concludes the inquiry" (p44-6 transcript).

The Arguments on Appeal

40. At the hearing of this Appeal against the finding of careless riding and the imposition of a penalty of 23 days suspension, it was common ground between Senior Counsel for Mr Parnham and for the Stewards that this Tribunal may not substitute its own opinion for that of the Stewards when it comes to a finding pursuant to AR 131(a).

41. More significantly, as was said by the previous Chairperson Mr Mossenson in *Luciani V RWWA Stewards Appeal 626 of 2004*, which was also an appeal against the finding of careless riding:

" The only opinion that is relevant for the purposes of the Rule is that of the Stewards and not the opinion of any other person or party, not the jockey, not other riders in the race, nor the person representing the appellant in the course of an appeal. In order for this Tribunal to overturn a decision of the Stewards in relation to this particular rule and upset a conviction for this type of offence, it must be demonstrated to the reasonable satisfaction of the Tribunal that, armed with all the relevant facts and information, no reasonable body of Stewards could have reached the decision and formed the opinion which the Stewards in question have of the particular racing incident".

42. In *Rogers v RWWA Stewards Appeal 739 of 2012* Mr Mossenson said, having quoted from *Luciani* above:

" Judging the quality of any ride can clearly be an onerous and technical responsibility. It is entirely appropriate for it to be left to the Stewards under the Rules. Stewards are the best persons equipped to deal with such

matters...It is an integral part of their overall responsibility to set and then reinforce the standards and qualities applicable to competitive riding by the industry's professional racers. Whether or not a charge should be laid and thereafter a person be convicted of a riding offence is appropriately left largely to their assessment. They are in a unique position to form an opinion and decide the fate of any rider under review."

43. This matter differs factually, and in the findings of the Stewards, from both *Luciani* and *Rogers*.
44. In *Rogers*, Stewards were clearly in error in their factual findings, insofar as the problem identified as the basis for the charge as framed was not attributable to Mr Rogers horse or his riding.
45. In *Luciani*, where the decision of the Stewards was upheld, Mr Lewis for the Stewards had made clear findings that the quality of Mr Luciani's riding had simply not been good enough. Mr Luciani in fact had acknowledged that he "over did it a bit" in the course of the inquiry.
46. Mr Parnham's situation differs from both Mr Rogers and Mr Luciani. There was no clear error made by Stewards as in the case of Rogers, but there was also no clear finding on the part of Stewards that Mr Parnham's quality of riding was unacceptable, as in Mr Luciani's case.
47. At the hearing of this matter, Mr Davies QC for the Stewards argued that the Stewards were entitled on the evidence before them, and particularly upon the video footage of the race, to form the conclusion that Mr Parnham was guilty of careless riding (leading to the fall of Mr Porter-Johnston).
48. Mr Percy QC for Mr Parnham maintained however that Stewards could not conclude from the evidence of the jockeys involved and from a viewing of the race footage that MrParnham's riding was careless.
49. Stewards found that Mr Parnham did move his mount gradually out across the track from the 600m mark. Mr Parnham claimed that he was entitled to do so to make his run to the finish, and that this manoeuvre was in all the circumstances legitimate, safe and did not interfere with other runners.
50. At the hearing I was provided with a document which became Exhibit 1, outlining previous penalties for careless riding since 2012 which resulted in a rider being dislodged. Of note, each of the instances noted in Exhibit 1 were penalised after a finding that the rider involved shifted "*when not fully clear*".
51. In Mr Parnham's case, I am concerned that it is not particularly clear from the Stewards' decision what particular part of Mr Parnham's riding was careless. To put it another way, at what point in the race did Mr Parnham's riding tactics deteriorate to the point of becoming unacceptable conduct that was worthy of penalty? This question was

particularly pertinent when considering penalty and giving appropriate notice to the other jockeys of the particulars of the careless riding.

52. The reason for this is threefold. Firstly, it gives Mr Parnham certainty as to what tactics and style of riding he may employ in the future to prevent further inquiries and possible charges. Secondly, this message will also clearly go out to other riders of thoroughbred racehorses and will hopefully result in a higher quality of riding. Thirdly, it goes without saying that clear expectations of riders as to their standard of riding and acceptable manoeuvres and tactics will improve safety in the industry for riders or horses alike, which must be a positive outcome.
53. In *Luciani*, at page 3, Mr Mossenson noted that it had been submitted that:
- *racing is a contest;*
 - *tactics form a major part;*
 - *all riders are expected to give their mounts the best possible chance in the race;*
and
 - *racing should not be sanitised.*
54. It is not uncommon in a race to see movement across the track. Indeed, horses commencing a race from a wide barrier will need to do so to give themselves the best chance to finish strongly in a race. Gradual movement either outward or inward is commonplace. In Mr Parnham's case it was agreed by all that there was not a sudden or abrupt movement.
55. What was, of course, unfortunate and unusual was that at approximately the 400m mark in the race, BURGER TIME blundered and fell, dislodging Mr Johnson- Porter and injuring him.
56. Following a race fall, it is of course to be expected that Stewards will hold an inquiry into the reasons for the fall. Often those reasons are obvious. In this case the evidence of the three jockeys involved was that they were unable to adequately explain the reason for this fall. Extensive viewing of the video footage led Stewards to conclude that there was a "gradual shift outwards, which has dictated DARK MUSKET outwards causing the runner's hindquarters to bump with BURGER TIME which has blundered and fell dislodging jockey Clint Johnson-Porter at the 400m".
57. Notwithstanding that, it was of course not necessary to find that Mr Parnham 's actions had directly caused the fall, it was incumbent upon the Stewards to find that, in their opinion, Mr Parnham's riding during the course of the race was careless.
58. At the hearing of the appeal, I raised with both parties whether the charge and the finding was sufficiently particularised in this matter. Mr Davies QC submitted that the reasons were "quite adequate for a matter like this". Mr Percy QC submitted that "inferentially (Stewards are) saying he dictated in this circumstances (sic) where there

wasn't enough room, when it was inappropriate to do it". Mr Percy QC reiterated his submission that this finding was not open to the Stewards.

59. On balance, I am satisfied that the charge is, albeit marginally, sufficiently particularised and substantiated.
60. Stewards found that the manoeuvre by Mr Parnham "dictated" DARK MUSKET, causing that horse to bump into the hindquarters of BURGER TIME who fell. In so doing, they "took into consideration" the evidence of the jockeys, and rejected Mr Parnham's suggestion that DARK MUSKET was laying outwards or that BURGER TIME had shifted inwards. It is unfortunate, in my view, that the Stewards did not enunciate which evidence of the jockeys they had accepted or rejected, as that would have added clarity to their finding.
61. The patrol films were of course available to the Tribunal and were interpreted by the Stewards who are trained and experienced in their interpretation.
62. Neither party to this appeal applied for leave to call any expert witness to give evidence as to any alternative, or other, interpretation of what can be seen on the footage.
63. I am therefore left in the position that even if I was to form an opinion contrary to the Stewards, I am not in a position to find that no reasonable body of Stewards could have reached the decision that they did in relation to this incident. Ground 1 of the appeal must be dismissed.

Penalty

64. Under Rule 283 ARR, a number of penalties are available for careless riding, including suspensions or fines.
65. Following the Stewards finding of guilty in relation to careless riding in this matter, Stewards inquired of Mr Parnham if he had anything to put forward in relation to penalty. He did not avail himself of that opportunity.
66. Stewards were aware of Mr Parnham's prior riding record, which they describe (p47 transcript) as an "overall fair" record in relation to careless riding.
67. Stewards specifically asked Mr Parnham if he had anything to put forward in relation to the "level of carelessness and interference in the incident". Mr Parnham advised that he already had. By this comment it is to be understood that Mr Parnham had already given evidence that his gradual outward shift was legitimate, and therefore was not careless. The Stewards had, by their finding, rejected the conclusion urged upon them by Mr Parnham (that his riding was not careless) but, by their comments, accepted his evidence (which received support from his fellow jockeys) that his shift outward from the 600m point to the 400m point in the race was "only a gradual shift" and therefore at the lower end of the scale.

68. Stewards had advised Mr Parnham that in settling upon an appropriate penalty they would have regard to the “level of carelessness and interference in the incident”.
69. Stewards found the “level of interference” to be “at the higher end of the scale”.
70. I have some issue with the Stewards referring to a “level of interference” in the way which they did, as they refer immediately in their reasons to the *consequences* of the riding the found to be careless, namely a horse falling.
71. This was not the “interference” caused by this passage of riding. The “interference” caused by Mr Parnham was not to the horse that fell (BURGER TIME. It was to DARK MUSKET and was described by the jockeys as a “slight bump” at best. The level of interference could not be said to be at the higher end of the scale. It too was at the lower end of the scale.
72. What was more serious was the ultimate consequence of Mr Parnham’s “gradual shift”, that being (as the Stewards found) that there must have been some consequent contact between DARK MUSKET and BURGER TIME which caused the latter to fall, injuring Mr Johnston-Parker.
73. Whilst it was appropriate for Stewards to have regard to the consequences of his careless riding in setting penalty, it appeared that more weight was given to that consequence than to the actual level of carelessness, which was low.
74. At the hearing of the appeal, Mr Percy QC tendered Exhibit 3 in the appeal, being a summary of Mr Parnham’s taxable income for the financial years 30 June 2017 and 30 June 2018. This information was not before the Stewards.
75. Mr Percy argued that Stewards should have considered the effective financial penalty to the Appellant, who is a leading jockey and relies solely on racing for his income, as opposed say to a country part timer (I was referred to the matter of Sheehy (Appeal 684 – 20/05/2008). Stewards did not have regard to, or comment upon the financial impact of the suspension, or consider whether to make allowance for that in their penalty.
76. Mr Davies SC submitted that the Stewards would have been “well aware” that Mr Parnham was a leading jockey and would have been affected. He also tendered Exhibits 1 and 2 being Schedules of penalties imposed where riders have been dislodged, and for careless riding generally, respectively. These schedules indicate that no fines (simpliciter) have been imposed since 2008. The penalties have all involved suspension, or suspension and fine. I note also that Exhibit 1 appears to cover matters all of which are instances where the carelessness has directly caused a rider to be damaged. Some involved obviously poor riding.
77. It is not apparent to see from the transcript how the Stewards settled upon a penalty of 23 days in the circumstances of this case. Whilst the penalty is broadly within the range of similar penalties imposed, this was an unusual situation involving a low level of carelessness. Had Stewards been aware of the financial circumstances of Mr Parnham

and had they correctly considered the immediate impact of his riding, they may well have considered a different form of penalty, perhaps encompassing a lower period of suspension coupled with a suitable fine (in so doing taking into account the comments of Tribunal member Mr Hogan in Purdon (Appeal 807- 22/12/17)). In so suggesting, it is not my intention to fetter the Stewards discretion in relation to penalty.

78. Penalties for careless riding must reflect the behaviour exhibited. In Mr Parnham's case, the riding that he engaged in could only be said to be at the lower end of the scale of seriousness, if not at the lowest.
79. Careless riding of course involves no degree of recklessness or wilfulness. Although in this instance a horse fell and a jockey was injured, that appeared to be the sole aggravating factor. On the other hand, Mr Parnham was a leading rider with an overall fair record as to careless riding.
80. Stewards found that the "level of interference" was at the higher end of the scale. I cannot agree with that. Whilst I have found that it was open to the Stewards to find that Mr Parnham's riding was careless in that his horse made contact with or dictated the line of DARK MUSKET, any such interference was minimal at worst. It was the consequences of that interference that were severe- that of BURGER TIME falling. Mr Parnham could have had no intention of, or control of, that being the outcome, and to punish him for that fall without more would be unfair. In this regard, not much assistance can be found from Exhibit 1 in this Appeal, as my understanding is that the matters therein were all situations in which the careless riding directly resulted in a rider being dislodged.
81. For these reasons, I would determine the Appeal by:
 - a) Confirming the finding of careless riding, and therefore dismissing the appeal against that finding.
 - b) Setting aside the penalty imposed of 23 days suspension;
 - c) Referring the consideration of penalty in this matter to RWWA Stewards for Thoroughbred Racing for rehearing in light of the comments made by me in these reasons and the additional relevant information now available.



KAREN FARLEY SC, CHAIRPERSON