

## Appeal decision

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**Date:** 18 March 2014

**Code of racing:** Thoroughbred

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**Appeal panel:** Judge W Carter (chair), Mr B Miller and Mr P James.

**Appearances:** Jockey Bobby El-Issa appeared on his own behalf.  
Mr C Albrecht, stipendiary steward, appeared on behalf of the stewards.

**Decision being appealed:** Suspension of licence to ride in races for a period of seven race meetings – AR135(a).

**Appeal result:** Appeal dismissed.

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### **Extract of proceedings – in the matter of the Bush ‘n’ Beach Fishing Magazine CG&E Class 1 Handicap over 1000 metres at Kilcoy on 6 March 2014. Jockey: Bobby El-Issa**

THE CHAIRMAN: This appeal arises out of an incident which occurred at and from the 1000 metre mark in Race 4 at Kilcoy on Thursday, 6 March 2014. The stewards, after inquiry, charged jockey El-Issa with a breach of Rule 137(a) on account of what was alleged to be careless riding on his part. It is alleged against the appellant that at or about the 1000 metre mark he moved his horse towards the fence, he then being at least four wide, forcing the horse to his immediate inside, ridden by apprentice Fawke, which ultimately made contact with the horse on its inside, ridden by apprentice Orman, and that this was the cause of the horse ridden by jockey Geran, an experienced jockey, to severely check his mount.

The considerable problem which presents itself to us in this case is the film evidence. The film of the race which we have seen was apparently produced by a commercial organisation at the course on that day and which was broadcast to the public. We are concerned with the limitations of the film. There is no head-on view of the relevant incident. There is a side-on view, or at least a view taken from a significant angle. But it is quite impossible, in our view, to make an accurate assessment of the relevant position of the horses at the relevant time.

Accordingly, we are not prepared to make any determination in this matter by reference to the film which was quite indecisive and which fails to give a sufficiently accurate view.

The other evidence before the stewards was the evidence of steward Gillard, who was the steward so positioned that he had a clear head-on view of the incident. He gave evidence that the appellant had ridden hard up to the first corner and had shifted in and was dictating to the apprentice jockey to his immediate inside. He did not consider that the jockey was

sufficiently clear of the horse to his immediate inside ridden by apprentice Fawke. The steward saw that Fawke's mount was effectively taken in onto Orman's horse, which was one off the fence, and that the pressure from the outside was the cause of the interference to Geran's horse.

This is disputed by the appellant, who relies essentially on the film. There was no challenge by the jockey to steward Gillard's evidence and there doesn't seem to us to be any substantial reason why we should not accept it. Certainly there is nothing on the film, given the angle from which it was taken, that would give us cause to be concerned about the accuracy of Gillard's observation

Accordingly, on that basis, we consider that the stewards were competent and able to find that the interference was originally caused by jockey El-Issa's movement from at least a four-wide position.

So far as the conviction is concerned, we would dismiss the appeal.

We have considered the appeal against penalty, and we have concluded after some consideration that we will not interfere with it, and that the suspension of seven meetings will stand.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)