



INTERNAL REVIEW DECISION
(Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review

Internal Review Number:	0012-19
Applicant's Name:	Skye Bogenhuber

PART 2: Decision History

Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	R Hitchener, J Childs, T Preston, T White
Date of Original Decision:	16 February 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – Ten (10) day suspension
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	12 March 2019

PART 3: Summary of Internal Review Application

The Applicant, Ms Skye Bogenhuber, rider of SOGNI in Race 4 at the Toowoomba Turf Club on 16 February 2019 was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a).

Australian Rule of Racing 137(a) states:

"Any rider may be penalised if, in the opinion of the Stewards, he is guilty of careless, reckless, improper, incompetent or foul riding."

At the Stewards' inquiry conducted on 16 February 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a) in that she permitted her mount to shift in near the 1000m when insufficiently clear of DREAMTIMER (Beau Appo) resulting in that runner clipping heels and losing ground.

Stewards subsequently suspended the Applicant's license for ten (10) days to commence at midnight on 23 February 2019 and to expire at midnight 5 March 2019. When considering penalty the stewards took into consideration the Applicants excellent riding record and accordingly gave a three (3) day reduction to the standard mid-range penalty of thirteen (13) days.

The Applicant sought a review of the charge and penalty and submitted the following in support of her Application:

"Would appreciate a review of my suspension in Race 4 Toowoomba where I was aboard Sogni. I believe the charge is in the reprimand range, I crossed neat but believe the incident didn't occur until one – two strides after I had positioned onto the fence. I had already crossed and covered Dreamtimer when I believe it has charged onto the bridle. I believe If I was not clear of Dreamtimer would have clipped my heels before I even got to the fence."



I would appreciate my exemplary careless riding record to be taken into account. I have not been charged for careless riding of any rule since September 2016. Previous to that it had been 2 years without a suspension. I believe 10 days quite harsh considering the factors I outlined so would request a reprimand if that. Also the fact I have an exemplary careless riding record.

The outcome sought by the Applicant was that the decision of the Stewards be set aside or that the penalty be reduced to a reprimand.

PART 4: Reasons for Internal Review Decision

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 1000 metre mark of the race.

Prior to correct weight being declared Mr Beau Appo, rider of second place-getter, DREAMTIMER lodged an objection against SOGNI being declared the winner on the grounds of alleged interference near the 1000 metres.

Mr Appo in evidence stated *"I got barrier 1. My instructions were to box seat just in behind where we thought the original leader was going to be - Star Of Columbia. I was always calling out to Sky just letting her know like I'm holding my spot. I wasn't giving up to her at all. She just came straight across and I've caught her heels, and, to be fair, I've made it look a lot easier than what it was, you know. Just go back a couple of strides, sir. Like can you get the lateral just as she's crossed me. I was always going to be in the box seat, but I had to restrain my horse, cop the check. You know, 60 kilos and I'm back a length further than I want to be. I would have originally been in Sky's spot and she would have been one-out-one-back and I would have been a length closer than what I was, but I have had to get motoring again and mow her down within three-quarters of a length. To be generous, I copped every bit of at least a length of a check. She is definitely not clear there. I've caught her heels and thankfully there was no blundering or anything, but I've definitely had to relinquish my spot, which was always my spot. I should have been where she was and she should have been where Matty Palmer was, and I really do think it's a different – it's a different result, hence me being a length closer than what I wanted to be"*¹.

Miss Skye Bogenhuber rider of SOGNI in evidence stated *"For one, I always had plenty more speed than Bo out of the gates. I was always going to cross him. Whether I crossed him neat like I did or whether I crossed him – keep going and crossed him. He's singing out, "Go, go, go" to me. "Go". So I take that as, "Oh, yeah, he's sitting there." No, I'm not asking a question. He sitting there holding his horse and he expects to hold his spot in a race. That (inaudible) nothing. -- I went for a number of strides. I was happy to stay out there because there was nothing in front of me. The front 2 are flying along. I had plenty of time. I didn't have to cross straight away. I crossed neat, and I believe He's grabbed – grabbed the bridle as soon as I have given him cover. I was always going to cross him. Doesn't matter if I crossed him there or a bit further up. He always stays in the same spot. I believe the margin makes – like it – it makes no difference what he's saying happened to the margin. My horse won well. Held them strong, and, yeah, whether I crossed him then or crossed him another 2 lengths later, he's still in the same position"*².

Subsequent to viewing the race footage, the reviewer finds the Applicant, rider of SOGNI permitted her mount to shift in near the 1000 metre mark when not sufficiently clear of DREAMTIMER, resulting in that horse clipping the heels of SOGNI and as a consequence lost ground. The onus is on the rider, in this case the Applicant to ensure prior to shifting ground she is sufficiently clear of other runners beforehand to avoid causing interference. The reviewer in considering the evidence and aforementioned factors and taking into account the lateral race footage of the incident is completely

¹ Transcript of Stewards inquiry dated 16 February 2019 page 3.

² Transcript of Stewards inquiry dated 16 February 2019 page 3 and 4.



satisfied the Applicant was never sufficiently clear of DREAMTIMER and therefore was the sole cause of the aforementioned interference and accordingly is satisfied the charge the subject of review is proven.

The stewards deemed the incident to be in the mid-range. The standard penalty for a mid-range offence is a thirteen (13) day suspension. The Applicant's disciplinary history demonstrates the last careless riding suspension was in June 2016.

In weighing up the evidence particular to penalty, consideration was provided to the Applicant's submissions, degree of carelessness, severity of interference, not-guilty plea and disciplinary history. The Applicant received a three (3) day reduction in penalty for her recent exemplary disciplinary history. The reviewer finds the penalty is consistent with a mid-range offence and is not satisfied a further reduction in penalty is proven and accordingly confirms the original decision on charge and penalty.

PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

Queensland Civil and Administrative Tribunal

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