



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

PART 1: Details of Internal Review

Internal Review Number:	Internal Review 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:	Mr 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 BELASTRO in Race 6 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 leaving the 900m she permitted her mount to shift in when insufficiently clear of RAINGURL and EMOTIVE MOUNTAIN resulting in both of those runners being tightened for room, becoming unbalanced 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 stewards took into consideration the Applicants excellent race riding record and accordingly gave a three (3) day reduction to the standard mid-range careless riding penalty of thirteen (13) days suspension.

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

"Firstly I was 3 deep and content to be. I believe Perudo (rider charged for shifting in) shifted in onto Point of Happiness the tightening to the inside of Raingurl was exacerbated. Point of happiness gets pushed into fence and comes back onto Emotive Mountains. At same time I am and holding my ground 3 deep. Secondly the rail comes out at the same point making emotive Mountain less room and have to shift out more. Thirdly when Stewart is outside leader and



interference occurs I am always outside his heels keeping my 3 deep line. Lastly when I heard a call I immediately relieved any pressure which you can see by my horses head turned outwards. I also believe the fact that these were a bunch of unraced 2 year olds should be taken into account.

I would appreciate my exemplary careless riding record be taken into account. I have not been charged with a careless riding charge since September 2016. Previous to that it had been 2 years clear of a charge.

I am confident I could not do any more than I had done to avoid the interference. I believe I am worthy of a clear record on this charge.”

The outcome sought by the Applicant was that the decision of the stewards to suspend the Applicant’s license be set aside.

PART 4: Reasons for Internal Review Decision

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 900 metre mark of the race.

Mr J Childs, stipendiary steward of the Queensland Racing Integrity Commission, provided an observation of the incident stating *“I was stationed on the stand near the 800 metres. Just my observation, this incident happened leaving the 900 metres. We had Emotive Mountain, ridden by Matthew Palmer, racing to the inside of Beau Appo's mount, Raingurl. To their outside was Skye Bogenhuber on Belastro. It appeared near the 900 metres that Belastro has shifted in, taking Raingurl in onto Emotive Mountain, resulting in both of those horses being tightened for room, and Emotive Mountain became very unbalanced in the incident, and Matthew Palmer and Beau Appo had to take hold of their mounts at that stage”*.¹

Mr Matthew Palmer, rider of EMOTIVE MOUNTAIN which was racing on the fence in evidence stated *“Yes, sir. I just got hampered getting to that point of the race by Beau. There wasn't very much I could do, sir.”* The Chairman of inquiry questioned *“Did you lose your spot?”* to which Mr Palmer replied *“Yes, in the end I did, yeah”*²

Mr Beau Appo, rider of RAINGURL which was racing to the outside of EMOTIVE MOUNTAIN in evidence stated *“Yes, look, I was just trying to hold my spot one-out-and-one-back. Skies horse did make it a bit uncomfortable. Yeah, that's all I can put forward, sir.”* The Chairman of inquiry questioned *“What's a bit uncomfortable mean?”* to which Mr Appo replied *“I had to take hold”*.³

The Applicant rider of BELASTRO which was racing to the outside of RAINGURL in evidence stated *“Yes, sir. I was 3 deep and happy to stay there. I wasn't looking to get in, so I was surprised when I heard screaming on my inside. Beau was singing out to me, but all I can take is that he has laid on Beau's horse or it touched it. I think in the replay you can see Beau's horse actually resented – like it's trying to turn its head away from it – 2-year-olds. One on the fence got tightened. A 2-year-old again. Like they are going to overreact as well. But I honestly had not moved. I was just happy there because I could see them sorting themselves out in front. I was is gonna cruise up then, and I couldn't believe it when Beau was singing out. So he got me by surprise – that he must have leaned in on Beau's and made it tight”*.⁴

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of BELASTRO permitted her mount to shift in near the 900 metre mark when insufficiently clear of RAINGURL, thereby tightening that horse in onto EMOTIVE

¹ Transcript of Stewards inquiry dated 16 February 2019 page 2.

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

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

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



MOUNTAIN, resulting in RAINGURL and EMOTIVE MOUNTAIN being tightened for room, becoming unbalanced and as a consequence lost ground. The reviewer finds the race footage demonstrates the Applicant permitted her mount to shift into a position that did not leave sufficient galloping room for the aforementioned two horses to her inside, which is supported by the evidence of Mr Palmer, Mr Appo and Mr Childs. The reviewer is therefore completely 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 and such penalty (for this offence) was ordered to be served concurrently with the careless riding penalty imposed from race four (4) on the aforementioned program. The reviewer finds in all circumstances the penalty is consistent with a mid-range offence and taking into account the two careless riding penalties were ordered to be served concurrently 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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