



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

**PART 1: Details of Internal Review**

<b>Internal Review Number:</b>	Internal Review 0035-19
<b>Applicant's Name:</b>	Matthew McGillivray

**PART 2: Decision History**

Original Decision:	Breach of Rule 131(a) of the Australian Rules of Racing
Original Decision Makers:	P. Chadwick, I. Brown, N Boyle, P Zimmerman, R Hanson
Date of Original Decision:	27 April 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – eight (8) day suspension
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	30 May 2019

**PART 3: Summary of Internal Review Application**

The Applicant, Mr Matthew McGillivray, rider of EURO BELLE in Race 5 at Eagle Farm on 27 April 2019, was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a).

Australian Rule of Racing 131(a) states:

*“A rider must not, in the opinion of the Stewards: (a) engage in careless, reckless, improper, incompetent or foul riding”*

At the Stewards' inquiry conducted on 27 April 2019, the Applicant pleaded guilty to a charge of careless riding under AR131(a) in that near the 400 metre mark he permitted his mount to shift out. Stewards subsequently suspended the Applicant's license for eight (8) days to commence at midnight on Monday 6 May and expire at midnight on Tuesday 14 May 2019. In determining penalty, stewards took into account the Applicants good record, plea of guilt and the degree of interference.

The Applicant sought a review of the charge and penalty and submitted the following in support of his application:

*“I plead guilty to the charge as I believed the incident was very minor and I expected to receive a reprimand rather than a suspension as the incident was at the very low end and it had been nearly 12 months since my last suspension for this charge.”*

The outcome sought by the Applicant is that the suspension 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 400 metre mark of the race.

Mr Jeff Llyod rider of REEF RUG which was racing between DEEP SEA and EURO BELLE in evidence stated *“Yes, I – shortly before straightening I came off the bridle and Gillian Heinrich's horse – jockey McGillivray – started to come off the fence, and I wasn't travelling well enough to hold my spot. He came out, and shortly on straightening Blake's horse quickened very quick. I felt Blake went past me and kept his line. Matty's horse seemed to get away – he got away but from the horse on the inside, but, yeah, at the time Blake came past me and his horse came away from the other horse and I got – you know, I was sort of put onto Blake's heels.”*<sup>1</sup>

Mr Blake Shinn rider of DEEP SEA which was racing to the outside of REEF RUG in evidence stated *“Look, I – I rode very competitively at that point because I didn't want to be covering any excess ground. I made a searching run from the 600. I witnessed Matthew McGillivray looking to come out underneath Jeff, and I was just trying to hold a firm line. I didn't feel I shifted. I was unaware that Jeff got actually checked because I was going past him that quickly.”*<sup>2</sup>

Mr Taylor Marshall rider of OH FIVE GLORY which was racing ahead of EURO BELLE in evidence stated *“--Just that I was following Jim Orman in the run. Obviously I felt I stayed on his back. He was probably rolling out. That was probably after the interference had occurred. Yeah, I don't have much further to add to it, sir.”*<sup>3</sup>

The Applicant rider of EURO BELLE which was racing to the inside of REEF RUG in evidence stated *“Yes, sir. I did look to angle off – off the heels of jockey Marshall just approaching straightening – just before straightening. I thought I did have – I thought I did go on a straight line. After we straightened up my horse seems to want to duck – duck in – duck out a bit. I had the whip on the right. Last start it sort of – it was hanging in down the straight, so I kept my whip on the right side. At that moment where I gave it a slap on the shoulder, I think that's when it sort of overreacted a bit. So I sort of straightened – did my best to straighten and look after jockey Lloyd that was inside. I didn't realise that jockey Shinn was on the outside of him as well.”*<sup>4</sup>

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of EURO BELLE permitted his mount to shift out near the 400 metre mark when insufficiently clear of REEF RUG, thereby tightening that horse out onto DEEP SEA, resulting in REEF RUG having to be checked and as a consequence lost its rightful running. The reviewer finds the race footage compelling and demonstrates the Applicant permitted his mount to shift out for some strides prior to the incident the subject of review occurring which caused tightening to REEF RUG, before attempting to shift to the outside of OH FIVE GLORY to gain clear running and as a consequence was the sole cause of the aforementioned interference. Accordingly, the reviewer accepts the Applicants guilty plea and is completely satisfied the charge the subject of review is proven.

The stewards deemed the incident to be in the low-range. The standard penalty for a low-range offence is a ten (10) day suspension. The Applicant's disciplinary history demonstrates the last careless riding offence was in May 2018.

The Applicant submitted *“I believe the incident was very minor and I expected to receive a reprimand rather than a suspension as the interference was at the very low end—”*

In weighing up the evidence particular to penalty, consideration was provided to the Applicant's submissions, degree of carelessness, severity of interference, guilty plea and disciplinary history. The Applicant received a two (2) day

<sup>1</sup> Transcript of Stewards inquiry dated 27 April 2019 page 2.

<sup>2</sup> Transcript of Stewards inquiry dated 27 April 2019 page 3.

<sup>3</sup> Transcript of Stewards inquiry dated 27 April 2019 page 3.

<sup>4</sup> Transcript of Stewards inquiry dated 27 April 2019 page 4.



reduction in penalty for his respectable disciplinary history and guilty plea. The reviewer, in considering the evidence and taking into account the aforementioned factors, finds the Applicant's degree of carelessness and interference suffered to REEF RUG was bordering on mid-range, and therefore is not satisfied a reprimand as submitted by the Applicant or a reduction in penalty is proven in the circumstances 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**

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001  
Postal Address: GPO Box 1639, BRISBANE QLD 4001  
Phone: 1300 753 228  
Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)