



## 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 0032-19
Applicant's Name:	Clayton Gallagher

### PART 2: Decision History

Original Decision:	Breach of Rule 131(a) of the Australian Rules of Racing
Original Decision Makers:	I. Brown, C. Albrecht, J. Hackett, R. Hanson
Date of Original Decision:	17 April 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – seventeen (17) day suspension
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	21 May 2019

### PART 3: Summary of Internal Review Application

The Applicant, Mr Clayton Gallagher, rider of ENTERPRISE LOUISE in Race 7 at Ipswich on 17 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 17 April 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a) in that he permitted his mount to shift in near the 800 metre mark, resulting in the interference to SHE ZA BOSS and DIARIST.

In determining penalty, stewards took into account the high degree of both carelessness and interference. Stewards subsequently suspended the Applicant's license for 17 days to commence at midnight on Monday 22 April 2019 and to expire at midnight on Thursday 9 May 2019.

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

*"Nearing the 800m in which point T. Marshall (Diarist) was obliged to check his mount, I believe that I maintained a three-wide line, with sufficient room for two horses to my inside. This will be evidenced in the head-on patrol footage. I don't believe that the stewards' patrol footage provides enough evidence to show that my actions were careless."*

The Outcome sought by the Applicant is that the charge be dismissed.



#### PART 4: Reasons for Internal Review Decision

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 800 metre mark of the race.

Mr Chris Albrecht, Stipendiary Steward of the Queensland Racing Integrity Commission provided an observation of the incident stating “-- Riders, as stated, I had an observation of this incident which occurred approaching and passing the 800 metres. I was at that tower right at the 800 metres, which afforded me a head-on view to the start, and I also had a lateral view to this incident, which occurred, as you say, near the 800 metres. At that stage racing 3 wide was apprentice Clayton Gallagher, rider of Enterprise Louise, and back to his inside was Jockey McGillivray, rider of She Za Boss, and back to his inside on the fence was Taylor Marshall, rider of Diarist. At that stage, I do feel Mr Gallagher has shifted in when insufficiently clear of Jockey McGillivray, and as result jockey McGillivray has been tightened for room, resulting in Mr Marshall, back racing on the fence, being severely tightened for room and had to be severely checked as well and lost significant ground that stage”.<sup>1</sup>

Mr Taylor Marshall rider of DIARIST which was racing on the fence in evidence stated “--sir. My horse didn't muster a great deal of speed early. I established a spot tucked away on the fence, where I had Matt McGillivray to my outside, and to his outside Clayton. Yeah, they were just coming across. Yes, there was obviously a lot of pressure to my outside and I was eventually out of room (inaudible) mount taken. Yes, flushed out the back”.<sup>2</sup>

Mr Matthew McGillivray rider of SHE ZA BOSS which was racing to the outside of DIARIST in evidence stated “---sir. It got pretty tight, especially for jockey Marshall. I've actually yelled out to jockey Gallagher but still seemed to be just in that tight position there for a few strides until eventually when – when he did relieve the pressure the damage was already done”.<sup>3</sup>

The Applicant rider of ENTERPRISE LOUISE which was racing to the outside of SHE ZA BOSS subsequent to viewing the race footage in evidence stated “--I was looking at trying to get in. I did receive a call. I directed – I angled my horse out again after I received the call. Just looking at that film there, sir, like Taylor Marshall's horse has rolled off the fence a good half a horse there, which probably didn't help Matthew McGillivray at this stage on my heels. I'm still in a 3-wide position there, and I did relieve – I did have my horse's head turned out while they – while they were still calling to remain 3 deep. The Applicant added “ – I heard the call from Matthew McGillivray and that's when I had my horse's head angled out. I was trying to relieve the pressure off him. Like I said it didn't help the situation with Matthew McGillivray because Taylor Marshall's horse to the inside – well, it – it wasn't really on the fence. He was sort of putting pressure on Matthew McGillivray's horse, and it has hit Matthew McGillivray's hind end, which has turned its arse out. The front end of Matthew McGillivray's horse was angled in when Taylor Marshall did have to grab hold. I had pressure relieved from Matthew McGillivray – jockey McGillivray's on the film that I saw, sir”.<sup>4</sup>

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of ENTERPRISE LOUISE permitted his mount to shift in near the 800 metre mark when insufficiently clear of SHE ZA BOSS, thereby tightening that horse in onto DIARIST, resulting in SHE ZA BOSS becoming unbalanced when tightened for room, and DIARIST being tightened onto the running rail and as a consequence was severely checked. The reviewer acknowledges the Applicant initially shifted in and tightened the running of the aforementioned horses, before attempting to straighten his mount. However, subsequent to straightening his mount the Applicant again permitted ENTERPRISE LOUISE to shift in when not clear of the aforementioned horses and as a consequence was the sole cause of the incident the subject of review.

<sup>1</sup> Transcript of Stewards inquiry dated 17 April 2019 page 2.

<sup>2</sup> Transcript of Stewards inquiry dated 17 April 2019 page 2 and 4.

<sup>3</sup> Transcript of Stewards inquiry dated 17 April 2019 page 3.

<sup>4</sup> Transcript of Stewards inquiry dated 17 April 2019 page 5 and 6).



The reviewer rejects the Applicants submissions that in part stated “—*I maintained a three-wide line, with sufficient room for two horses to my inside.*” The reviewer finds the race footage compelling and demonstrates the Applicant looked to his inside on several occasions and despite not being clear of the aforementioned horses permitted ENTERPRISE LOUISE to shift in regardless to a position directly behind BOOM COUNTY (which was racing one off the fence) and as a consequences failed to leave sufficient galloping room for the aforementioned horses racing to his inside. The reviewer having considered the evidence and aforementioned factors, including the evidence of Mr Albrecht and the riders of the aforementioned horses that sustained the interference is completely satisfied the charge the subject of review is proven.

The stewards deemed the incident to be in the high-range. The standard penalty for a high-range offence is a seventeen (17) day suspension. The Applicant’s disciplinary history demonstrates the last careless riding offence was in September 2018.

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 reviewer, in considering the evidence and taking into account the aforementioned factors finds the penalty is consistent with high-range careless riding offence 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  
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