

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 0033-19
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:	C. Albrecht, B. Cooke, J. Childs, L. Carvosso, T. Preston
Date of Original Decision:	22 April 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – thirteen (13) 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	
<p>The Applicant, Mr Clayton Gallagher, rider of TE RAPA in Race 1 at Toowoomba on 22 April 2019, was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a).</p> <p>Australian Rule of Racing 131(a) states:</p> <p>“A rider must not, in the opinion of the Stewards: (a) engage in careless, reckless, improper, incompetent or foul riding”</p> <p>At the Stewards’ inquiry conducted on 22 April 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a) in that leaving the 900m he permitted his mount to shift in when insufficiently clear of C’MOME PADDY REILLY which clipped heels and blundered. In this incident, HUGHSTAAD clipped the heels of C’MOME PADDY REILLY and blundered.</p> <p>Stewards subsequently suspended the Applicant’s license for thirteen (13) days to commence at midnight on Wednesday 1 May 2019 and expire at midnight on Tuesday 14 May 2019.</p> <p>The Applicant sought a review of the charge and penalty and submitted the following in support of his Application:</p> <p><i>“Pleaded not guilty.</i></p> <ul style="list-style-type: none"> <i>• Near the 900m when the horse shifted in, I believe that it was of the horses own accord.</i> <i>• The horse at this point changed stride very quickly and shifted in abruptly.</i> 	



•*My horse was weakening very quickly and I believe that when I made attempt to correct my mount it was intractable and resistant to my attempts to correct.*"

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 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 did report the incident, sir. Just from my observation leaving the 900 metres we had Clayton Gallagher on Te Rapa racing in a 3-wide position. Back to his inside racing in a one-wide position was C'mome Paddy reilly, ridden by Ron Goltz. It did appear to me leaving the 900 metres Clayton Gallagher pushed his mount along to try and clear Ron Goltz, and as he pushed his mount along he shifted in and didn't appear to be clear of Ron Goltz's mount and Ron Goltz's mount has clipped his heels and blundered"*.¹

Mr Ron Goltz rider of C'MOME PADDY REILLY which was racing to the inside of the heels of TE RAPA in evidence stated *"Yes, well, Clayton got himself into a 3-wide position going up the back. My horse was pretty keen and he came back. Clayton's horse was off the bridle hard. He was riding along and just come in a little bit and I just took his heel, but mine was over-racing too, as I said. He sort of give me a look at the run and my bloke got a bit keen again and I just sort of got (inaudible). But his horse was gone. He wasn't going forward. He was riding it hard, and he had ridden it hard for a fair bit, but I wasn't ready to sort of expose my bloke 3 deep so I just sort of kind of stayed in behind him for a bit longer"*.²

The Applicant rider of TE RAPA which was racing to the outside of C'MOME PADDY REILLY in evidence stated *"I'm not aware of the incident. I was – I was aware once the horse shifted 3 deep my horse pulled the pin. I was constantly trying to push it. It was racing very ungenerously to me. Like it – it didn't know whether it wanted to go forward, backwards, left or right. It was just – very, very - to me as a green horse with minimal starts, you know. Like it sort of – wasn't much control. The more I got hold of its head the more it through it up. I didn't have a lot of control, but I wasn't aware of any incident"*.³

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of TE RAPA permitted his mount to shift in near the 900 metre mark when insufficiently clear of C'MOME PADDY REILLY, resulting in that horse clipping the heels of TE RAPA and blundered. As a consequence HUGHSTAAD which was following clipped the heels of C'MOME PADDY REILLY and also blundered. The reviewer rejects the Applicant submissions stating *"Near the 900m when the horse shifted in, I believe that it was of the horses own accord"*. The reviewer finds the race footage compelling and demonstrates the Applicant was racing in a three wide position without cover and looked to his inside on several occasions, and despite not being clear of C'MOME PADDY REILLY permitted TE RAPA to shift in regardless and as a consequence was the sole cause of the interference. The reviewer is not satisfied TE RAPA was racing *very ungenerously* as submitted in evidence by the Applicant. The onus remains on the rider shifting ground, in this instance the Applicant, to ensure he is sufficiently clear of other horses beforehand to avoid causing interference. The reviewer accepts the safety of horse and rider is paramount and finds it was extremely fortunate that the aforementioned horses

¹ Transcript of Stewards inquiry dated 22 April 2019 page 2.

² Transcript of Stewards inquiry dated 22 April 2019 page 2 and 3.

³ Transcript of Stewards inquiry dated 22 April 2019 page 3.



did not fall as a consequence of the Applicants actions. Accordingly the reviewer is 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 offence was in April 2019.

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 totality of the incident and taking into account the aforementioned factors, finds it can be reasonably argued that the incident falls into the high range category, particularly when assessing the Applicants degree of carelessness and that of the interference suffered to the aforementioned horses. Accordingly, the reviewer finds the penalty to be considerate in the circumstances and 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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