



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 0029-19
Applicant's Name:	Joshua King

PART 2: Decision History

Original Decision:	Breach of Rule 131(a) of the Australian Rules of Racing
Original Decision Makers:	J. Williamson, L. Hicks, J. Hackett, B,Connell
Date of Original Decision:	11 April 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – nine (9) day suspension
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	13 May 2019

PART 3: Summary of Internal Review Application

The Applicant, Mr Joshua King, rider of FOLLY OVER in Race 5 at Gatton on 11 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 11 April 2019, the Applicant pleaded guilty to a charge of careless riding under AR. 131(a) in that whilst racing in a 3 wide position approaching the 800m he continued to apply undue pressure on TAKEMEOUTBACK (Shannon Apthorpe) which resulted in that runner being forced inwards onto STRONG DESIRE (Kenji Yoshida) which was checked and lost ground. The Applicants licence to ride in races was suspended for a period of 9 days to commence at midnight on Saturday 20 April 2019 and conclude at midnight on Monday 29 April 2019. In determining penalty, Stewards took into consideration the Applicants guilty plea and his prior good record in relation to this rule.

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

"I feel as though the penalty was too harsh for the incident that occurred.

Didn't come into contact with any other runners.

I have a clean record.

I believe I didn't cause any interference with any other runners.



The outcome sought by the Applicant was *“To reduce suspension severity or to impose the penalty as a fine”*.

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 James Williamson, Stipendiary Steward of the Queensland Racing Integrity Commission provided an observation of the incident stating *“Riders, I viewed the race from the tower near the 1100 metres, so it afforded me a back-on view of the incident. I was aware of Josh King looking to go forward. There had been some minor interference earlier in the race, and I was continuing to watch him as he was trying to go forward, and appeared to be wanting to cross Mr Apthorpe, who was one off the fence. It got this stage near the 800 metres where it appeared that Mr King was placing pressure on jockey Apthorpe at that stage and it got to the stage – to the extent that I felt jockey Apthorpe was taken in on to the running of jockey Yoshida, who was back in and on the fence. Jockey Yoshida appeared to get quite awkward at that stage. I can’t say whether he made contact with the fence or not but his horse became quite awkward and he had to take hold at that point. It appeared that the tightening had come from a shift from the outside”*.¹

Mr Kenji Yoshida rider of STRONG DESIRE which was racing on the fence in evidence stated *“Yes, sir. I was travelling on the fence through the running. I tried to be there behind the leader (inaudible) and I try to get there and push getting to the inside of Shannon Apthorpe on the fence. I was quite happy to be on the fence but from like the 1000 metres just – pressure come from the outside. Kept coming in and about 800 just – Shannon Apthorpe couldn’t hold his line. His horse stepped in probably half a horse and I checked, yeah. I’m not sure hit the running rail or not but I - I grabbed hold, sir”*.²

Mr Shannon Apthorpe rider of TAKEMEOUTBACK which was racing to the outside of STRONG DESIRE in evidence stated *“-- I was travelling okay. I had Josh to my outside. I copped a little bit of a bump about – it was probably about the thousand, and from then on for a couple of hundred metres I was just trying to look after Kenji on the inside and I just had pressure on the outside and couldn’t help any more than I was.”* The Chairman of inquiry questioned *“So that was pressure from your outside from the 1000 to near the 800?”* to which Mr Apthorpe replied *“Pretty much”*.³

The Applicant rider of FOLLY OVER which was racing to the outside of TAKEMEOUTBACK in evidence stated *“– I was pressing forward. I was applying a little bit too much pressure then I should have been, and then when I straightened up – went to straighten out and my horse was racing a little bit greenly. Yeah, so – I did try to keep him off as much as possible. I was aware that Shannon was there. I just tried to give him as much room as I possibly could.”* The Chairman of inquiry questioned *“Mr Apthorpe said that he felt that pressure to his outside for approximately 200 metres”* to which the Applicant replied *“Yes. I didn’t feel it was that far. For probably 5 or 6 strides. Say probably about 50 to 60 metres”*.⁴

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of FOLLY OVER permitted his mount to shift in near the 800 metre mark when not clear of TAKEMEOUTBACK, thereby tightening that horse in onto STRONG DESIRE, resulting in TAKEMEOUTBACK being severely hampered and STRONG DESIRE having to be checked and as a consequence lost ground. The reviewer finds on the evidence of Mr Williamson and the aforementioned riders and taking into account the stewards race footage finds the Applicant applied undue pressure for an extended period to the

¹ Transcript of Stewards inquiry dated 11 April 2019 page 2.

² Transcript of Stewards inquiry dated 11 April 2019 page 2 and 3.

³ Transcript of Stewards inquiry dated 11 April 2019 page 3.

⁴ Transcript of Stewards inquiry dated 11 April 2019 page 3.



aforementioned horses and as a consequence was the sole cause of the incident the subject of review. Accordingly, the reviewer 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 suspension offence was in September 2017.

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 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 mid to high range category, particularly when assessing the Applicants undue degree of carelessness for an extended period, and that of the interference suffered to the aforementioned horses. Accordingly, the reviewer finds the penalty to be extremely 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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