

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 0065-19
Applicant's Name:	Matthew McGillivray
PART 2: Decision History	
Original Decision:	Breach of Rule 131(a) of the Australian Rules of Racing
Original Decision Makers:	P Chadwick, D Aurisch, N Boyle, P Zimmermann, R Hanson
Date of Original Decision:	20 July 2019
Internal Review Decision:	Original decision of charge and penalty confirmed - Eleven (11) day suspension
Internal Adjudicator:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	13 August 2019
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Matthew McGillivray, rider of AZURO in Race 7 at the Eagle Farm Racecourse on 20 July 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><i>"A rider must not, in the opinion of the Stewards:</i></p> <p><i>(a) engage in careless, reckless, improper, incompetent or foul riding.</i></p> <p>At the stewards' inquiry conducted on 20 July 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a) in that near the 1500 metre mark the Applicant permitted AZURO to shift in when insufficiently clear of DOUKHAN, which was crowded for room and taken inwards, tightening SOCIAL ELEMENT (NZ) who had to be checked.</p> <p>Stewards subsequently suspended the Applicant's licence for eleven (11) days to commence at the expiration of his current suspension period at midnight on 6 August 2019 and to expire at midnight on 17 August 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>"I wish for the Internal Reviewer to review the charge of AR131(a) that I received on Saturday, 20 July 2019 for an 11 day suspension.</i></p> <p><i>The footage that the stewards based the charge on does not sustain the charge against me.</i></p>	



When the incident happened, I circled the field and went to the lead and I have shaved the runners to the inside and as Ron Stewart looked back to Robbie Fradd it was his actions that initiated the tightening of Robbie Fradd's rightful running.

Therefore, I want the Internal Reviewer to overturn the suspension I face."

The outcome sought by the Applicant was that the Applicant be exonerated from the suspension of eleven (11) days.

PART 4: Reasons for Internal Review Decision

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 1500 metre mark of the race.

Mr Robbie Fradd, rider of SOCIAL ELEMENT (NZ) which was racing to the inside of DOUKHAN, in evidence stated *"Um, sir, yeah, I just - I run out of room. I thought the horse on the outside kind of come in a bit and I just completely ran out of room and I (inaudible) back."*¹

Mr Ron Stewart, rider of DOUKHAN which was racing to the inside of AZURO, in evidence stated *"Yeah, at that point I was rolling forward, and in fact Matty also was rolling forward with me and, yeah, just as he sort of was coming across he just sort of had us a bit tight and sort of, you'll probably see, it's put me onto Robbie a bit. I called a couple of times but it got to a point where I sort of just had to end up on Robbie."*² The chairman of the inquiry questioned *"And you said you were calling him. Why were you calling him?"* to which Mr Stewart replied *"As the horse outside of me was on an inward path at that point."* The chairman of the inquiry further questioned *"Were you able to relieve the pressure to Mr Fradd at that stage?"* to which Mr Stewart replied *"Not at that point."*³

The Applicant, rider of AZURO which was racing to the outside of DOUKHAN, in evidence stated *"Sir, I'm not sure how much room I did give them. It wasn't my intention to come in that quick. I'd probably have to look at the footage to see - to look at the incident. It was never my intention to tighten any runners inside me. I do remember, as I went around the field at the 1500, I did remember Ronnie coming with me. When I heard the call I believe I was around abouts the three-wide line when I was in front. I thought - I thought I was clear but, look, I wasn't - I wasn't trying - I wasn't trying to squeeze them or nothing. There was no need for it, anyway, as my horse was picking up momentum quite quickly. I'd probably have to view the footage, sir, to know exactly. I did feel my horse change stride a little bit, too. He was sort of half running around when he got to the front. Whether he was stargazing a little bit when he's hit the front, I wasn't sure. But I did feel my horse sort of rolled in a bit. Whether that was the point. I did hear the call as well. I believe I - I felt like I've relieved the pressure. Whether I did or not, that's why I probably need to see the film, sir."* The chairman of the inquiry questioned *"You mentioned in your evidence there that you were three wide. Does that mean that you felt there were two runners to your inside?"* to which the Applicant replied *"Ah, yes, sir."*⁴ Subsequent to viewing the race footage the Applicant added *"In all honesty, sir, it's probably - it's probably a bit of an awkward angle, you can't see it right on the back-on or the head-on. But as you can see there - I don't know. I believe there's - obviously it was tight for room. I did shift in, you know, a touch. I wasn't trying to angle in. I heard the call, I relieved the pressure quite quickly."*

¹ Transcript of Stewards' Inquiry dated 20 July 2019, page 2

² Transcript of Stewards' Inquiry dated 20 July 2019, page 2 and 3

³ Transcript of Stewards' Inquiry dated 20 July 2019, page 5

⁴ Transcript of Stewards' Inquiry dated 20 July 2019, page 3



Just looking at that, like, I thought as Ronnie was looking sort of back, his horse maybe rolled in a fraction more than he had to. Like, I don't know. By the looks of that angle, there is a little bit of space, not much, but enough to probably help Robbie a little bit. I know I didn't help the cause, I was the main cause, obviously. But just as he's looking back there, he's shifted in quite abruptly. Oh, I didn't - it's not like he is facing forward and shifted in, he's actually looking back and shifted in at the same time. If you want to roll back just a touch and go slow motion, sir.”⁵

Subsequent to viewing the race footage, the reviewer finds the Applicant, rider of AZURO, permitted his mount to shift in near the 1500 metre mark when not sufficiently clear of DOUKHAN, thereby tightening that horse in onto SOCIAL ELEMENT (NZ), resulting in DOUKHAN becoming unbalanced when tightened for room and SOCIAL ELEMENT (NZ) having to be checked and as a consequence lose its rightful running.

The Applicant submitted *“When the incident happened, I circled the field and went to the lead, and I have shaved the runners to my inside and Ron Stewart looked back to Robbie Fradd, it was his action that initiated the tightening of Robbie Fradd’s rightful running.”* The reviewer finds the race footage demonstrates Mr Stewart had no option but to shift in due to being tightened for room by the Applicant when shifting in when not clear. This is supported by the evidence of Mr Stewart when questioned by the Chairman of the inquiry *“Mr Stewart, why did you look back at that point of the race?”* to which Mr Stewart replied *“Robbie was calling at that point and I was also calling and I knew, I can see Robbie, you know, where he was. And, like I said, that's when the pressure was happening.”* The Chairman of the inquiry further questioned *“And you said you were calling him. Why were you calling him?”* to which Mr Stewart replied *“As the horse outside of me was on an inward path at that point.”* The Chairman of the inquiry then questioned *“Were you able to relieve the pressure to Mr Fradd at that stage?”* to which Mr Stewart replied *“Not at that point.”⁶*

The reviewer rejects the Applicant’s submissions and finds the race footage and particularly the evidence of the aforementioned riders compelling of such findings and accordingly 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 two careless riding offence this year in May and 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 the incident falls into the mid to high-range carelessness considering the Applicant’s degree of carelessness and interference suffered to the aforementioned horses. Accordingly, the reviewer finds the penalty 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.

⁵ Transcript of Stewards’ Inquiry dated 20 July 2019, page 4 and 5

⁶ Transcript of Stewards’ Inquiry dated 20 July 2019, page 5



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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