



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 0042-17
Applicant's Name:	D McMullen
PART 2: Decision History	
Original Decision:	Breach of rule 231(2) of the Australian Harness Racing Rules
Original Decision Makers:	J Elliott, K Lathopolous, R McCrae
Date of Original Decision:	6 June 2017
Internal Review Decision:	Original decision on charge confirmed. Original decision on penalty amended.
Internal Review Decision-Maker:	Mr Ross Barnett APM, Racing Integrity Commissioner (on advice from Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission)
Date of Internal Review Decision:	5 July 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Ms Danni-elle McMullen, is a licensed trainer and driver with the Queensland Racing Integrity Commission (QRIC). On 6 June 2017, a stewards' inquiry was conducted in relation to the Applicants' conduct at the Albion Park Racing Club on 14 May 2017.</p> <p>This resulted in the Applicant being charged with a breach of Australian Harness Racing Rule 231(2).</p> <p>Australian Harness Racing Rule 231(2) states: "A person shall not misconduct himself in any way."</p> <p>The stewards report states: "The specifics being; That on 14 May 2017 at Albion Park, in the opinion of Stewards, Ms McMullen was guilty of misconduct by referring to a Steward inappropriately."</p> <p>"Ms McMullen pleaded not guilty to the charge."</p> <p>"Stewards were satisfied that Ms McMullen had breached the above-mentioned rule and formally found her guilty of the charge."</p> <p>"In considering an appropriate penalty, Stewards were mindful of Ms McMullen's personal circumstances and her disciplinary history. Stewards were also mindful of the need for any penalty to act as a deterrent to ensure all licensed individuals conduct themselves in a professional manner."</p> <p>"Ms McMullen was subsequently suspended for a period of three (3) months to commence immediately on 6 June 2017, and to expire on 6 September 2017."</p> <p>"Stewards fined Ms. McMullen \$500 for this breach. In addition, a further \$200 was imposed in lieu of a previously suspended penalty for misconduct."</p> <p>The Applicant sought a review of charge and penalty. The Applicant submitted that the charge be set aside, the finding is contrary to the evidence and inconsistent with the facts. Further submissions in respect of the finding being based on inferences not open on the evidence and failing to have proper regard for the whole of the evidence led at the inquiry. It was submitted that the finding was made despite no factual basis supported by the evidence and the</p>	



evidence before the stewards supported the Applicants innocence. Further, the finding had no regard to the burden of proof and the decision maker erred in finding that the charge was made out to the requisite standard.

PART 4: Reasons for Internal Review Decision

The Applicant was subjected to a stewards' inquiry on 6 June 2017 into alleged misconduct at Albion Park on 14 May 2017. The Applicant attended the aforementioned race meeting in her capacity as Marketing Coordinator at Albion Park.

The reviewer finds there is a standard of conduct required by participants and officials in the course of their respective duties. The Applicant recently offended acting in an improper manner towards a head steward during a stewards' inquiry. The Applicant was fined \$500. \$200 of the fine was suspended for a 12 month period on the condition the Applicant did not breach any similar rule regarding conduct in the next 12 months. Effectively, this is the Applicants third related conduct offence in 7 years as a licensed person under the rules. Although not condoning the Applicants actions, the reviewer acknowledges the penalty imposed was on the excessive side, having considered the precedent scale in totality. Therefore, in considering all the evidence, including submissions and mitigating circumstances, the reviewer amends the original decision on penalty to a 3 month suspension with 2 months wholly suspended for a period of two years on the condition the Applicant does not reoffend in that period. The fine of \$700 is confirmed.

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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