

**INTERNAL REVIEW DECISION**  
**(Internal Review Decision Notice in response to an Application for Internal Review)**

**PART 1: Details of Internal Review**

<b>Internal Review Number:</b>	Internal Review 0068-17
<b>Applicant's Name:</b>	A Sanderson
<b>Original Decision:</b>	Breach of Rule 149(2) of the Australian Harness Racing Rules
<b>Original Decision Makers:</b>	S Shinn, K Wolsey, K Daly
<b>Date of Original Decision:</b>	22 August 2017
<b>Internal Review Decision:</b>	Original decision on charge and penalty confirmed
<b>Internal Review Decision-Maker:</b>	Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission
<b>Date of Internal Review Decision:</b>	11 September 2017

**PART 3: Summary of Internal Review Application**

The Applicant, Mr Adam Sanderson, driver of TIMMO TIME in Race 9 at Albion Park on 15 August 2017, was found guilty of a charge under Australian Harness Racing Rule 149(2) at an adjourned stewards' inquiry on 22 August 2017.

Australian Harness Racing Rule 149(2) states:

*“A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.”*

The stewards' report of 22 August 2017 states:

*“... Mr Sanderson’s drive was unacceptable in that he failed to take the opportunity to shift TIMMO TIME from the back of BLAZING VC (NZ) and progress forward between approximately the 1300m and 1100m points and further that he failed to shift out from behind BLAZING VC (NZ) to improve into the race between the 600m and 400m. Mr. Sanderson’s licence to drive in races was suspended for a period of six weeks. Stewards deemed the suspension commence midnight August 22, 2017.”*

The Applicant sought a review of charge and penalty.

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

Stewards' adjourned an inquiry into the Applicant's driving tactics on TIMMO TIME following Race 9 at Albion Park on 15 August 2017 due to the Applicant exiting the course prior to the 30-minute deadline. The inquiry resumed on 22 August 2017.



The stewards in summary allege the Applicant's drive was unacceptable, in that he failed to shift to the outside of BLAZING VC (NZ) and progress forward between approximately the 1300m and 1100m and again failed to shift to the outside of BLAZING VC (NZ) to improve into the race between the 600m and 400m.

During the initial inquiry conducted on 15 August 2017, the Applicant was questioned as to why he restrained TIMMO TIME in the early stages of the race which was contrary to the horse's usual racing pattern. The Applicant stated "*As you say, he works forward and that is true. Usually he lets the speed settle and usually I find that position's - you know, whoever's in front, and if I can work forward and whatnot. But on this occasion, as you say, I restrained at the start, let the - I think I was drawn 5 and 1, 2, 3 and 4 all come out underneath, so I've restrained and got a position on the back of the 4 (BLAZING VC (NZ)) who was initially going forward. At that point the horse - the horse 3 got to park and that was Earl Jujon who is, you know, a noted out - death seat horse and has parked me three wide before, so I believe there's an adjourned inquiry into that, that horse parking me out, which is still to be resolved. So, working forward to get to park was not an option so I've restrained onto the back of the three wide horse, which in turn was easing back, so I've eased back with it. As the race unfolded, he's restrained all the way to the rear, which was fine, I've got into the running line and at that point everything was fine. I just thought it was going to ease back but it's just got to there and sat outside me, so, for one reason or another, he's just sat there and then gone forward. So I'm not sure, you know, what was - what was the driver - I can't comment on his driving tactics, but he was three wide for the majority. As I say, I couldn't improve in front of him (BLAZING VC (NZ)) because he just sat outside me, and then he's eventually gone forward, which I've got onto the back of that runner and ---- he (VICTORY VC (NZ)) sat three wide the whole way, so pretty much for (inaudible) he blocked me the whole way from easing out. So once he eventually, after initially restraining he's gone forward and a runner's come out in front of that - in front of him - and I've got onto his back and he's sort of gone forward and then they've gone, you know, an exceptionally quick quarter from the 800 to the 400, which has left me quite flat-footed. In fact, I was very flat the whole way down the back----*"  
*The Applicant added "But unfortunately, as I say, I couldn't do much about that from the runner (BLAZING VC (NZ)) in front of me, the way it was driven, I couldn't do anything about it."*<sup>1</sup>

Mr Grimsey, trainer of TIMMO TIME, explained the driving instructions by stating "*Well, with Earl Jujon drawn inside us, he was going to be in the death, so there was no death there, so I said we've got to go back, like he does every start, and work into it when he can, which is what he did.*"<sup>2</sup>

A post-race veterinary examination of TIMMO TIME revealed no apparent abnormalities.<sup>3</sup>

The inquiry heard TIMMO TIME's general racing pattern was to go forward and race on the speed. At his previous start at Albion Park, TIMMO TIME started from a seven-wide position on the front line and worked forward to race outside the leader. There was no application by the connections of TIMMO TIME under Rule 44(1) to adopt race tactics that was contrary to its most recent starts. Betting records on the race showed no unusual betting activity.

The Applicant's submissions in defence of the charge in summary state "*I do not believe my drive was unacceptable and I gave my horse every opportunity to finish in the best possible position. I believe if I had pulled 4 wide at the 1200m as suggested that it would have placed my horse at a severe disadvantage. I was a victim of circumstances*

<sup>1</sup> Transcript of steward's inquiry dated 22 August 2017, page 3 and 4

<sup>2</sup> Transcript of steward's inquiry dated 22 August 2017, page 31

<sup>3</sup> Stewards Report for Albion Park dated 15 August 2017

*in the poor draw that my horse received meant that I had to restrain at the start and then was disadvantaged when runners in front of me were unable to take me further into the race.*" The Applicant was seeking a retraction of the charge and penalty and further stated "*If the charge is sustained, the severity of the penalty is unfair and unreasonable.*"<sup>4</sup>

Subsequent to viewing the race footage, the reviewer finds the Applicant driver of TIMMO TIME started from a five-wide position on the front line and restrained the horse back to last in the early stages of the race. Turning out of the straight TIMMO TIME stood the leaders approximately 30m at which time the Applicant shifted TIMMO TIME onto the back of BLAZING VC (NZ) into a three wide position with cover and remained in that position until near the 200m. The Applicant then shifted TIMMO TIME to the outside of BLAZING VC (NZ) to gain clear running and the horse made substantial ground to the winning post beaten 2.3m from the winner. The Applicant was afforded an opportunity at any stage between the 1300m and 400m to shift to the outside BLAZING VC (NZ) to improve his position, however elected to wait until near the 200m. The reviewer acknowledges shifting to the outside of BLAZING VC (NZ) between the 1300m and 1100m, as identified in the charge, may be considered an unusual move in the circumstances. Notwithstanding, when BLAZING VC (NZ) commenced to weaken in front of TIMMO TIME near the 600m, the Applicant was obligated to come to the outside of that horse in an attempt to improve his position. By not capitalizing on the run to the outside of BLAZING VC (NZ) earlier, TIMMO TIME lost ground at a vital stage of the race when that horse commenced to weaken in front of him near the 600m. Bearing in mind the moderate early tempo (first quarter 29.7 second quarter 32) the reviewer finds this was all the more reason the Applicant was obligated to commence his run on TIMMO TIME earlier when opportunity existed to the outside of VICTORY VC (NZ). The reviewer finds the race footage compelling and not supportive of the Applicant's evidence he was left "*flat-footed*" from the 800m to 400m. The reviewer finds the Applicant's actions in not improving to the outside of VICTORY VC (NZ) earlier was unacceptable in the circumstances and detrimental to TIMMO TIME's chances of winning the race considering the way the horse finished.

The reviewer does not accept the Applicant's submissions he was a "*victim of circumstances*" from a "*poor draw*" and "*was disadvantaged when runners in front of (him) were unable to take (him) further into the race.*" The Applicant at no stage attempted to go forward in accordance with TIMMO TIME's usual racing pattern and from the outset was more content on restraining the horse at the start to the rear of the field. Irrespective of whether the horses ahead of TIMMO TIME were going to take him into the race or not, it does not remove the driver's obligation to make every attempt to improve his position, when on this occasion clear opportunity existed to the outside of VICTORY VC (NZ) that leaves no room for query.

In weighing up the evidence, including the Applicant's submissions and context of the race, the reviewer is satisfied the drive was unacceptable in the circumstances and therefore finds the charge is proven.

The reviewer acknowledges racing is a sport that survives on wagering and the punter and connections are entitled to obtain a fair run for their money invested. TIMMO TIME started a \$1.60 favourite and considering the context of the race and the way the horse finished, the reviewer is satisfied the Applicant's actions in not shifting to the outside of VICTORY VC (NZ) earlier cost TIMMO TIME any chance of winning.

<sup>4</sup> Internal Review Application dated 23 August 2017



The Applicant's disciplinary history notes the last offence under Rule 149(2) was in May 2013 which incurred a four week suspension. The standard penalty for a breach of Rule 149(2) in Queensland incur penalties between three and eight weeks' suspension.

In weighing up the matter of penalty, consideration was provided to the precedent penalty scale, the Applicant's recent disciplinary history under this rule and the not-guilty plea. The reviewer finds the original six week penalty falls into the higher mid-range of the penalty scale and, in considering the context of the race and the Applicant's actions, is not satisfied a further reduction in penalty is proven and therefore 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  
Postal Address: GPO Box 1639, BRISBANE QLD 4001  
Phone: 1300 753 228  
Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)