



## 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 0070-17
Applicant's Name:	B Grylls
Original Decision:	Breach of rule 135(b) of the Australian Rules of Racing
Original Decision Makers:	I Brown, C Albrecht, P Zimmermann
Date of Original Decision:	21 August 2017
Internal Review Decision:	Original decision of charge and penalty confirmed
Internal Review Decision-Maker:	Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission
Date of Internal Review Decision:	11 September 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Ms Bridget Grylls, rider of ALASTRIONA in Race 8 at the Gold Coast Turf Club on 12 August 2017, was found guilty of a charge under Australian Rule of Racing 135(b).</p> <p>Australian Rule of Racing 135(b) states:</p> <p><i>"The rider of every horse shall take all reasonable and permissible measures throughout the race to ensure that his horse is given full opportunity to win or to obtain the best possible place in the field."</i></p> <p>The Stewards alleged the Applicant failed to ride ALASTRIONA with any purpose or vigour between the 500m and 400m and again, on straightening, failed to ride with sufficient purpose or vigour to improve into a run between THEY CALL ME ROSE and CUSHTY PRINCESS when it was reasonable and permissible to do so on each occasion and, as such, has denied ALASTRIONA the opportunity to finish in the best possible place in the race.</p> <p>The Applicant pleaded not guilty to the charges</p> <p>The Stewards considered the Applicant's submissions in support of her plea, however were of the view that the charge could be sustained and formally found her guilty of the charge as issued. Under the circumstances, the Stewards deemed the appropriate penalty to be a suspension of the Applicant's licence to ride in races for a period of four weeks.</p> <p>The Applicant sought a review of charge and penalty.</p>	
PART 4: Reasons for Internal Review Decision	
<p>The Applicant, rider of ALASTRIONA, was subjected to a stewards' inquiry following her ride on the horse in race 8 at the Gold Coast Turf Club on 12 August 2017.</p>	



The stewards' in summary allege the Applicant failed to ride with any purpose or vigour between the 500m and 400m and again, on straightening, failed to ride with sufficient purpose or vigour to improve into a run between THEY CALL ME ROSE and CUSHTY PRINCESS when it was reasonable and permissible to do so on each occasion. The inquiry was adjourned until 21 August 2017 to enable stewards to review ALASTRIONA's previous race starts, betting records and obtain the post-race veterinary report on the horse.

During the stewards' inquiry conducted on 12 August 2017, the Applicant in summary stated *"Well, she's a bit of a tricky horse, like, I know last start I was very unlucky on her, but a couple of starts back when I won on her, I just put that ride back, she's the sort of horse that needs to really get a suck run into a race, like, she doesn't have a very long sprint so ..... When I rode her at Ballina I got going on here - it was the second time I rode her - and she sort of hit the front and didn't really continue on, she's just got a really short sprint. And they just said today - well, obviously I was three wide - but they said, "Just try and get a suck run and follow something into it and save her for the last bit." And when I was back there, she wasn't really travelling as good as what I thought she was and having a hard run. But I still - I didn't really come outside of that horse in the straight, I didn't feel, anyway, I just stayed in a straight line."*

In response to a question from the Chairman *"I thought earlier you could have got to the outside of Wallace's horse (CUSHTY PRINCES) and push forward"*, the Applicant stated *"Yeah, I was just trying to sit and hold my horse for as long as I could because, as I said, it's only sort of got a 300, 200 metre sprint -- So I was trying to get the suck run, until I got into the straight, anyway."*<sup>1</sup>

Subsequent to viewing the race footage the Applicant stated *"It probably would have been fine if I was on the outside of them."* The Applicant stated *"yeah"* in response to a question was there room for two horses upon straightening to improve into a run between THEY CALL ME ROSE and CUSHTY PRINCESS and added *"I was just seeing what Jason (Taylor rider of THEY CALL ME ROSE) was sort of doing."*<sup>2</sup>

Mr David Joice, trainer of ALASTRIONA, in summary stated *"Well, it was her first go at 1400, so the instructions were to ride her quiet and hope to get in somewhere. The horse pulled pretty hard early and she was out three deep. But, yeah, we found with her before if we take off before the turn that she doesn't finish the race off ---- So we've sort of got the idea that she's got about a 300 metre sprint on her ----. Mr Joice agreed there were options available to the Applicant stating *"Yeah, probably waited a bit too long ---- Yeah. And I agree with you that, you know, there were options. Yeah, we supported the horse you know, in the betting."*<sup>3</sup>*

Subsequent to viewing the race footage Mr Joice stated *"Yeah. I agree there was definitely an opportunity to get there. ---- Ah, yeah. It's probably played on her mind that - the idea was that if she could have something to trail in -- rather than exposing the horse. Because when you expose that horse, like she was early with her head pulling up, like, she just charges and does a sprint like that. ---- And then it's finished. So, she needed something to trail in. And, yeah, probably should have trailed Wallace's and peeled off to the outside of it ---- rather than the inside. But, that's probably where she's made the error, for me. Because she had it in front of her. Peel off to its outside rather than back to its inside."*

<sup>1</sup> Transcript of stewards' inquiry dated 12 August 2017, page 2 and 3

<sup>2</sup> Transcript of stewards' inquiry dated 12 August 2017, page 4 and 5

<sup>3</sup> Transcript of stewards' inquiry dated 12 August 2017, page 6



Mr Joice confirmed ALASTRIONA pulled up well following the race stating *"I haven't been back to the stalls, but she seemed okay in the yard."*<sup>4</sup>

During the resumed inquiry conducted on 21 August 2017, Mr Joice produced a betting ticket of \$200 on ALASTRIONA to win with Ubet and a \$1000 multi bet by Mr Kevin Pitstock owner of ALASTRIONA.<sup>5</sup> The betting reports on the race noted approximately \$10K was invested on ALASTRIONA with Ubet, Victoria and NSW win totes and approximately \$1500 in lay bets with Betfair.<sup>6</sup>

The post-race veterinary inspection of ALASTRIONA revealed no significant findings on clinical examinations, other than a possible slightly higher heart rate.<sup>7</sup>

The Applicant, in response to a question *"would it be fair to say that passing the 500 the only reason you haven't come to the outside of Cushty Princess to improve - I'm not saying place it under full pressure at the 500 ----- but just shift out and allow the horse to improve of its own accord to the outside of that runner, the only reason you haven't done that is because of your instructions to wait for the last 300"*, stated *"Mmm, yes, sir. Well, and the fact that that's the point where I said, like, you could see the heels of pretty much two to three groups and I've got all this space in front and inside of me, that's when I've opted to come in instead of to go out after being three deep the trip."*<sup>8</sup>

During the inquiry, the race-footage of ALASTRIONA's previous race starts at the Gold Coast on 1 July 2017, Ballina on 18 July 2017 and Gold Coast on 5 August 2017 were shown to determine the horse's usual racing pattern, and in particular, the evidence by the Applicant and Mr Joice at the initial inquiry, stating the horse only has a 300m sprint. Subsequent to viewing the aforementioned race footage, the reviewer accepts ALASTRIONA generally settled in a midfield position which was consistent with the race subject of this review. The reviewer notes on each occasion at the Gold Coast on 1 July 2017 (when the horse won) and at Ballina on 18 July 2017 (when beaten 6.8L) the horse sustained a minimum run/sprint of 400m when placed under pressure by the Applicant. In the race at the Gold Coast on 5 August 2017, the horse was held up rounding the home turn and had difficulty obtaining clear running in the straight.

The Applicant's review submissions in summary state: *"I contend that I am not guilty of the charges. I contend that I rode my horse to the instructions provided to me by the trainer. These instructions were that my horse races best when it is given a 'short sprint' to the finish line rather than exerting the horse throughout the race. Further, I rode my mount with sufficient vigour at all material times throughout the race. There was no evidence before the stewards for them to determine that had I ridden my mount in any different manner that it would have made any material difference to the position that my horse finished. This is a requirement of applying the rule objectively. This requirement was not met by the stewards. The stewards erred in finding that my ride lacked sufficient vigour. The rule is not designed to punish jockeys for a mere error of judgment, in any event I do not concede that any error of judgment was made. The stewards misapplied the principles that are relevant to the rule, namely the following:*

*(i) It is the quality of the ride in the circumstances of the particular race which has to be judged;*

<sup>4</sup> Transcript of stewards' inquiry dated 12 August 2017, page 7 and 8

<sup>5</sup> Exhibit 3 and 4

<sup>6</sup> Exhibit 2

<sup>7</sup> Exhibit 5 and 9

<sup>8</sup> Transcript of steward's inquiry dated 21 August 2017, page 27



(ii) *That judgment must be based on an objective assessment of the jockey's ride in [the] particular race;*

(iii) *A mere error of judgment by a jockey is not a sufficient basis for an adverse finding that [Rule 135(b)] has been breached;*

(iv) *The rider's conduct must be culpable in the sense that, objectively judged, it is found to be blameworthy.*

The Applicant added *"Having regard to the Applicant's instructions, the racing manners of the horse, the racing pattern of the race, and the position the horse finished, it was not reasonably open to the stewards to find that the Applicant breached AR135(b). The decision of stewards to suspend my licence be set aside and no penalty imposed."*<sup>9</sup>

Subsequent to viewing the race footage, the reviewer finds ALASTRIONA began well from the barrier, before commencing to over race in the early stages when being restrained by the Applicant towards the tail of the field. Near the 900m, the Applicant positioned ALASTRIONA slightly worse than midfield, approximately six lengths off the leader in a three wide position with cover trailing CUSHTY PRINCESS. The Applicant remained in that position until approaching the 200m, before shifting to the inside of that horse to gain clear running. The reviewer finds ALASTRIONA travelled well between the 600m and entrance to the straight, when clear opportunity presented to attempt to improve her position to the outside of CUSHTY PRINCESS and remain within striking distance of the leaders. At this vital stage of the race near the 600m, STELLA JEWEL the eventual winner was racing in advance (approximately two lengths) of ALASTRIONA, and had commenced a run by shifting off the fence into a four-wide position approaching the 400m. This move provided the Applicant with further opportunity to attempt to trail that horse into the race with cover, however elected not to capitalise on such opportunity, despite travelling well and continued to remain in a position approximately six lengths off the leaders approaching the 400m. The Applicant subsequently shifted to the inside of CUSHTY PRINCESS approaching the 200m to obtain clear running and the horse made late ground to finish 2.5 lengths from the winner. The reviewer finds the race-footage compelling and supportive that the Applicant failed to ride with any genuine purpose or vigour between the 600m until approaching the 200m when clear opportunity presented that was reasonable and permissible to do so in the circumstances, and as such, ALASTRIONA was not given full opportunity to win or obtain the best possible placing in the field.

The reviewer finds if connections are of an opinion ALASTRIONA is limited to a sprint of 200-300m, then a responsibility lies with the connections and rider to ensure the horse is positioned within striking distance of the leaders to capitalise on such sprint and obtain a full opportunity to win or obtain the best possible place in the field. Notwithstanding, the reviewer is satisfied ALASTRIONA is capable of a minimum 400m sprint, which is supported by the race-footage at the Gold Coast on 1 July 2017 when successful.

The reviewer accepts riders generally attempt to ride to instructions, however due to the many complexities that evolve throughout a race, this is not always possible. In such circumstances there comes a time when the (riding instructions are thrown out the window) and the rider is obligated to revert to plan B and capitalise on opportunities that present throughout the race that leaves no room for query. The Applicant's submissions, in particular, stating *"the rule is not designed to punish jockeys for a mere error of judgment"* must be assessed against many aspects of the evidence, including the quality of ride, context of the race and the Applicant's seniority and experience.

<sup>9</sup> Internal Review Application dated 28 August 2017



The 'degree' of error is important when objectively assessing a rider's actions to be blameworthy or not in the circumstances. The reviewer finds the Applicant's actions in not improving her position at a vital stage of the race, between the 600m and approaching the 200m when opportunity presented was more than a mere error of judgement, considering the way the horse was travelling at the time and the manner in which it finished off the race. The reviewer finds, in the context of the race, this was an extended period of time (approximately 400m) as opposed to an error that may involve a significant less period of time. The reviewer does not accept submissions the Applicant rode with sufficient vigour at the relevant sections of the race, subject to this review, and is satisfied the race-footage is compelling and supportive of such a finding.

The Applicant is a licensed senior metropolitan jockey with significant experience across New Zealand and Australia. The reviewer acknowledges each case is treated on its merits, and in weighing up the evidence, including submissions, is satisfied it was unreasonable in the circumstances for the Applicant not to attempt to improve her position near the 600m to approaching the 200m when it was reasonable and permissible to do so in the circumstances. The reviewer is satisfied the Applicant's actions are blameworthy to the extent that prevented ALASTRIONA be given full opportunity to win or obtain the best possible place in the field and therefore confirms the original decision on charge.

In weighing up the matter of penalty, consideration was provided to the Applicants submissions, precedents for similar related offences, the Applicant's disciplinary history, not-guilty plea and race riding experience. The precedents for an offence under Rule 135(b) in Queensland have incurred penalties between three weeks' and six months' suspension. The Applicant's disciplinary history notes a previous charge under this rule in September 2016 that was subsequently confirmed at Internal Review before being upheld on further appeal to the Queensland Civil Administration Tribunal, and as such, is not taken into account when determining penalty.

The reviewer acknowledges the serious nature of the rule and the effect it has on the racing industry. Racing is a sport that survives on wagering and punters and connections are entitled to obtain a fair run for their money invested. The reviewer finds in the circumstances, the original penalty imposed is at the lower end of penalty scale, and considering the quality of ride, context of the race and seniority of the Applicant is not satisfied a reduction in penalty in the circumstances 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**



**QUEENSLAND RACING  
INTEGRITY COMMISSION**

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