



## 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 0081-17
Applicant's Name:	C Sneddon
PART 2: Decision History	
Original Decision:	Breach of Rule 149(2) of the Australian Harness Racing Rules
Original Decision Makers:	I Brown, K Daly, R McCrae
Date of Original Decision:	13 October 2017
Internal Review Decision:	Original decision of charge and penalty confirmed - four (4) week suspension
Internal Review Decision-Maker:	Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission
Date of Internal Review Decision:	1 November 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Clinton Sneddon, driver of EL SWAVO in Race 2 at Albion Park on 6 October 2017, was found guilty of a charge under Australian Harness Racing Rule 149(2) at an adjourned stewards' inquiry on 13 October 2017.</p> <p>Australian Harness Racing Rule 149(2) states:</p> <p><i>"A person shall not drive in a manner which in the opinion of the Stewards is unacceptable."</i></p> <p>The Stewards' Report of 13 October 2017 states the Applicant failed to wait until straightening to shift to the inside of the leader, LOVE THE MOMENT, in order to utilise the sprint lane which, in the opinion of the stewards, was unacceptable.</p> <p>The Applicant entered a plea of not guilty to the charge and submitted to the inquiry that EL SWAVO is not suited when required to sit and sprint and for this reason he elected to shift off the pegs approaching the home straight instead of waiting to utilise the sprint lane. The Applicant further submitted that the racing manners of EL SWAVO did not suit the sprint lane as the horse is better suited when able to improve to the outside of other runners. Ms Karen Bennett, the trainer of EL SWAVO, also made submissions in support of the Applicant.</p> <p>Stewards were of the opinion that, given the Applicant only commenced to shift out approaching the 200 metre point, it was not unreasonable to wait a further 15 metres to ensure EL SWAVO had an unimpeded run to the finish. The Applicant's decision to shift off the pegs instead of utilising the sprint lane resulted in EL SWAVO being unable to obtain clear running in the home straight. Furthermore, the racing manners displayed by EL SWAVO on the day did not indicate the horse was hanging to the extent by which it could not race truly once it obtained the sprint lane.</p>	



The Stewards subsequently found the Applicant guilty of the charge. In considering penalty, Stewards were mindful of the Applicant's disciplinary history and personal circumstances, however the Stewards were also mindful of previous penalty precedents and the negative implications such breaches have on the confidence of the wagering public.

The Stewards subsequently suspended the Applicant's licence for a period of four weeks to commence midnight 13 October 2017 and to expire midnight 10 November 2017.

The Applicant sought a review of charge and penalty and provided detailed submissions in defence of the original charge. The Applicant's submissions, in summary, stated EL SWAVO has had 21 starts in Queensland, of which the Applicant had driven EL SWAVO in 20 of those starts. The Applicant submitted EL SWAVO is not an easy horse to drive as he hangs in on the turns and will hang out in the straights. In support of his submission, the Applicant stated of his 21 QLD starts, EL SWAVO has been placed with warnings at LCRT and SD to trial 5 times and, since the inquiry, EL SWAVO started on 13 of October 2017 in which he broke at the start, a warning was issued and he again broke at the 2000m mark. The Applicant submitted EL SWAVO was placed on his last chance to race truly and that supported the Applicant's submissions that EL SWAVO is not an easy horse to drive and not the most reliable horse.

The Applicant made the following further submissions:

1. In the 20 starts the Applicant has driven EL SWAVO, the Applicant has never driven EL SWAVO as a sit and sprint horse and has never driven him into the sprint lane, therefore confirming EL SWAVO's racing pattern.
2. EL SWAVO's only time in the sprint lane was on 8 September 2017 when driven by Mr Frank, not the Applicant. In that race, EL SWAVO was held up for a run and was unable to get to the outside. When EL SWAVO he goes to the sprint lane he fails to run on beaten 19.9m. In that race, EL SWAVO received a warning for breaking after hanging out and coming in contact with another runner in the back straight leaving the 1500m mark.
3. Two starts back on 15 September 2017, the Applicant's driving tactics were questioned and the Applicant again explained the horse is not a sit and sprint horse and is more a stayer and best when taken to the outside where he feels more comfortable. Stewards noted the Applicant's comments.
4. EL SWAVO's owner and trainer, Ms Karen Bennett, has always instructed the Applicant to take EL SWAVO to the outside as he hangs out in the straights and she feels he will run on better if taken to the outside. The Applicant filed a statement from Ms Bennett in support of this submission.
5. The Applicant questioned the stewards' knowledge of harness racing regarding the pattern of racing of the horses and the commencement of the sprint lane, being the fourth yellow peg when there is enough room to pass inside another runner (not the first yellow peg). The Applicant presented a statement as to why the Applicant elected to follow OLE SUN (NZ) and why he didn't want to stay behind LOVE THE MOMENT (NZ), of which the Applicant alleges the stewards did not review the performance history of these horses.
6. The Applicant further questioned the ability of the stewards' ability to read a race again regarding the commencement of the sprint lane. The Applicant filed a statement from Mr Gavin Wright, who discussed the sprint lane matter with the stewards. The Applicant submitted he was positioned behind the leader, LOVE THE MOMENT (NZ), on the home turn, who was giving ground and the Applicant had the opportunity to get



behind OLE SUN (NZ), which was travelling better at the last blue peg (approximately 15m before the start of the sprint lane and 50m before a horse can travel inside another runner along the sprint lane). The Applicant submits this was not unreasonable as OLE SUN (NZ) (winner of 12 races and a safe and consistent trotter) went on to beat LOVE THE MOMENT (NZ) (winner of only 2 races and a horse with a poor record of breaking when giving ground) by 10.10m and LOVE THE MOMENT (NZ) at its last start when giving ground broke. The Applicant submitted he was concerned that LOVE THE MOMENT (NZ) would give ground quickly and cart the Applicant back or break and, as previously stated by the Applicant, going to the outside is EL SWAVO's racing pattern. A driver has only a split second to make this decision and sometimes it might not work out how he hopes. The Applicant submitted a driver is not a clairvoyant and cannot predict the future. When the Applicant followed OLE SUN (NZ), the Applicant submits he thought he would go straight past LOVE THE MOMENT NZ and would be able to go straight through.

7. The Applicant requested his submissions be taken into consideration, particularly:
  - a) the Applicant moved to the outside to travel behind a horse that was travelling better;
  - b) the Applicant did not want to stay behind a horse that was giving ground and has a history of breaking when giving ground; and
  - c) going to the outside is staying consistent with EL SWAVO's racing pattern.

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

Stewards' opened an inquiry into the Applicant's driving tactics on EL SWAVO following race 2 at Albion Park on 6 October 2017. The Applicant was subsequently charged under Rule 149 (2), in that he moved to the outside of LOVE THE MOMENT (leader) at the entrance to the home straight, as opposed to waiting to take advantage of the sprint lane to gain an uninterrupted passage to the finish. The inquiry was subsequently adjourned following a request by the Applicant for an adjournment. The inquiry resumed and concluded on 13 October 2017.<sup>1</sup>

During the initial inquiry conducted on 6 October 2017 the Applicant, in summary, stated *"Oh, well, he's - he's - oh, well, he's still green and he's still learning to race and, well, that - like - like, one day he could be, like - he'll go down there and the next day, like - like I'm trying to tell, it's pretty hard to sort of explain to Karen but, like, one day he will want to hang that way and now they've sort of put, like - I think they're called blinkers, aren't they? Yeah, like that. And now he's - like, he'll just - he doesn't - like, one day he'll go down there and the next day he won't and, like, you could be steering him down there and the more you're steering the more he wants to run off, so he's sort of opposite. And, like, he's - like, I - like I said to Karen, I most probably have to drive him in a few trials just to sort of get the thing because I just don't know what he's going to do, like."* In response to a question what was preventing you from moving into the sprint lane, the Applicant stated *"Well, I would - I would have liked to have sort of go down there but ----- Oh, he was steering - like, you look at the steering."*<sup>2</sup>

During the resumed inquiry conducted on 13 October 2017, the Applicant provided submissions in writing to the inquiry which were consistent with the Applicant's submissions for Internal Review. In summary, the Applicant stated the horse is not a *"sit and sprint horse more a stayer and best taken to the outside and never driven in the sprint lane*

<sup>1</sup> Stewards' Report Albion Park 6 October and Adjourned Inquiry 13 October 2017

<sup>2</sup> Transcript of Stewards' Inquiry dated 6 October 2017, page 3



---- I moved to the outside to travel behind a horse that was travelling better and not behind a horse that was giving ground.” The Applicant’s submissions included EL SWAVO “hangs in on turns and hangs out in the straights” and has received “five warnings” for such racing mannerisms. Further submissions in support of the Applicant were provided by Ms Karen Bennett, trainer of EL SWAVO and Mr Gavin Wright (Employee at Albion Park).

Ms Bennett’s submissions state “Clinton has been driving our trotters for about six years and we are happy with his driving. El Swavo is not an easy horse to train or drive in races. He is a badly mouthed horse. He will hang in on the turns and hang out the further you go down the straight. For that reason, I instruct Clint where possible to drive El Swavo to the outside where he is more comfortable. I have always felt if he was to go to the inside he might hang out and contact another runner and break. I have no problem with his drive on 6 October 2017. That is the way I would have expected him to be driven.”<sup>3</sup>

The resumed inquiry heard EL SWAVO previously used the sprint lane at Albion Park on 8 September 2017.<sup>4</sup> EL SWAVO’s race record shows 32 starts for 3 wins and 7 minor placing with \$25,666.00 in prizemoney. The reviewer is satisfied the race footage of the subject race is compelling, in that it shows no evidence of EL SWAVO racing intractable throughout the race.

The reviewer finds, after considering all the evidence and race footage, the Applicant, driver of EL SWAVO, started from the one position on the front line and found the lead relatively easy. Near the 1400m, LOVE THE MOMENT challenged EL SWAVO for the lead and the Applicant eased into a trail behind that horse. The Applicant remained in that position until shifting to the outside of LOVE THE MOMENT rounding the final turn near the 200m when that horse commenced to weaken. The reviewer finds the Applicant was provided with two clear options in running 1) that ample opportunity existed to ease to the outside of LOVE THE MOMENT at any time, in particular, near the 500m to gain an unimpeded run or 2) wait and take advantage of the sprint lane to again obtain clear running. The Applicant failed to capitalize on either opportunity and as a result was held up and impeded for clear running in the straight.

The Applicant, in his own submissions, states EL SWAVO is not a “sit and sprint horse” and that “Mrs. Bennett has always instructed him to take El Swavo to the outside as he hangs out in the straights and she feels he will run on better if taken to the outside.” The reviewer does not accept the Applicant’s submissions it was a “split second decision.” The reviewer finds EL SWAVO received a soft run in transit trailing LOVE THE MOMENT from the 1400m and the Applicant had several distinct looks to his outside down the back straight and allowed OLE SUN to take up a position outside LOVE THE MOMENT, thereby placing him in a pocket behind that runner. This was contrary to Ms Bennett’s instructions stating “I instruct Clint where possible to drive El Swavo to the outside where he is more comfortable” and evidence submitted by the Applicant that EL SWAVO is not a “sit and sprint horse.” By not capitalizing on such run, the Applicant was held up behind LOVE THE MOMENT and subsequently shifted to the outside of that horse upon straightening into a wall of horses as opposed to moving into the sprint lane to gain an uninterrupted passage to the finish. In considering all the evidence, the reviewer is satisfied it was unacceptable to shift to the outside of LOVE THE MOMENT, which placed EL SWAVO with an impeded run to the finish, as opposed to obtaining a clear passage by taking advantage of the sprint lane.

<sup>3</sup> Transcript of Stewards’ Inquiry dated 6 October 2017, page 16

<sup>4</sup> Transcript of Stewards’ Inquiry dated 6 October 2017, page 24



The reviewer acknowledges drivers attempt to drive to instructions where possible, however when this is not possible, drivers are obligated under the Rules to drive all their horses as the race unfolds, in a manner that is acceptable and leaves no room for query. Each case is determined on its merits and, in weighing up the evidence in totality, including the Applicant's submissions and context of the race, the reviewer is completely satisfied the charge is proven.

The Applicant's disciplinary history notes two prior offences under this Rule, the latest in October 2016 which incurred a four (4) week suspension. The standard penalty for a breach of this rule is a four (4) week suspension.

In weighing up the matter of penalty, consideration was provided to the Applicant's submissions, not-guilty plea, disciplinary history and penalty precedents under the subject Rule. In considering the aforementioned factors, the reviewer is satisfied the penalty imposed is consistent with precedent penalties and therefore confirms the 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  
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