



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 0080-17
Applicant's Name:	E Smith
Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	P Gillard, N Boyle, M Heath
Date of Original Decision:	7 October 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:	27 October 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Ms Elyce Smith, rider of CSARDAS in Race 2 at the Mackay Jockey Club on 7 October 2017, was found guilty of a charge under Australian Rule of Racing 137(a).</p> <p>Australian Rule of Racing 137(a) states:</p> <p><i>"Any rider may be penalised if, in the opinion of the Stewards, he is guilty of careless, reckless, improper, incompetent or foul riding."</i></p> <p>At the stewards' inquiry conducted on 7 October 2017, the Applicant pleaded guilty to the charge of careless riding under Australian Rule of Racing 137(a) in that near the 200m the Applicant permitted her mount to shift out when insufficiently clear of TIME FOR LILLI, which had to be restrained and forced wider, resulting in both JUSTALAD and STARENA being forced wider.</p> <p>The stewards imposed a suspension period of eight days to commence midnight 14 October 2017 and to expire midnight 22 October 2017.</p> <p>The Applicant sought a review of charge and penalty on the basis the resulting interference was not caused by the Applicant's shift as there was a shift from TELLOFF on the Applicant's inside at the 400m mark. This resulted in CSARDAS moving further outwards than what the Applicant had asked of CSARDAS, therefore the penalty should be downgraded to a reprimand due to the outward shift by a number of horses, not just the Applicant on CSARDAS.</p>	



PART 4: Reasons for Internal Review Decision

The Applicant submitted a review of the aforementioned stewards' decision which, in summary, stated *"I am applying for an Internal Review on my penalty as after reviewing the footage I have more evidence as to why my mount Csardas shifted at the 400m. I believe the penalty of an eight-day suspension should be downgraded to a reprimand for my actions. The first shift that my mount made was caused by a shift from the inside mount which resulted in my mount and myself becoming unbalanced. As a result, the horse shifted outwards causing jockey Day's mount Time for Lilli to also shift outwards which I believe over reacted in the event. I am seeking the penalty be downgraded to a severe reprimand."*¹ The Applicant subsequently provided further submissions in an amended review application, which in summary consisted of a screenshot that allegedly depicts that the inside horse dictated to the Applicant's horse's outwards movement and CSARDAS shifted out further than the Applicant intended.²

Mr Paul Gillard, Chairman of the inquiry, provided live evidence of the incident stating *"My observation head-on to this incident, that I believe was at approximately the 150 metre mark, I did note - I thought originally Miss Smith, rider of Csardas, I might call it - and there might be a better pronunciation - and I felt had shifted out getting onto 150 metre mark, and I must say that I felt Miss Smith might have been a bit unbalanced initially, however then went for the stick on the horse as it was shifting out, and in that time has, I believe, forced Nathan day - Time For Lilli - out at that time, and I believe the actions of its rider has probably forced the filly to shift out a bit more than was required at that time, however has interfered with Just A Lad, ridden by Justin Stanely, being forced wider at that time, the same as Lochlan Dodds on Star Arena having to be shifted wider at that time as a result of the initial shift from the inside horse, being Csardas."*³

Mr Nathan Day, rider of TIME FOR LILLI, which was improving to the outside of CARDAS, in summary stated *"Yes, pretty much how you explained it. Sort of - the first one getting around the corner and she sort of popped out and my thing has spotted it, and then another 5 metres on sort of popped out more and my girl sort of over-looked at it. But she did come out, but my horse didn't help matters. But in saying that, it was sort of a lead up and I couldn't get - I was sort of right on heels in a bad spot, and I never had (inaudible) there, and I just sort of - I needed to be another half up to help —"*⁴ Mr Justin Stanely, rider of JUSTALAD, which was racing outside TIME FOR LILLI, in summary stated *"Yes, pretty much as you said, sir. I was just sort of - popped off the (inaudible) and started to improve just outside his (Mr Day) heels. I noticed he just got a bit of a bump and shifted out and just give me a bump and forced me wider on the track, sir."*⁵ Mr Lachlan Dodds, rider of STARENA, which was racing to the outside of JUSTALAD, in summary stated *"I was wide coming around the corner anyway. He did get carted a little bit wide, and that's all I - just got carted wide."*⁶

¹ Internal Review Application dated 7 October 2107

² Internal Review Application dated 10 October 2107

³ Transcript of Stewards' Inquiry dated 7 October 2017, page 2

⁴ Transcript of Stewards' Inquiry dated 7 October 2017, page 3

⁵ Transcript of Stewards' Inquiry dated 7 October 2017, page 3

⁶ Transcript of Steward's Inquiry dated 7 October 2017, page 3



The Applicant, in summary, stated *“I was a little bit off balance when I did straighten and I probably should have balanced myself before I went for the horse.”* The Applicant added *“I have shifted at least a horse, may be a horse and half where it probably wasn’t needed.”* In response to a question *“Do you think it was a good idea to pull the stick at the time when you are shifting like that”* the Applicant stated *“No, I should have been keeping straight.”*⁷

Subsequent to viewing the race footage, the reviewer finds the Applicant, rider of CSARDAS, when riding forward permitted her mount to shift out (approximately two horses) near the 200m when insufficiently clear of TIME FOR LILLI, thereby taking that horse out onto JUSTALAD and STARENA. This resulted in TIME FOR LILLI being hampered and becoming unbalanced and in turn taken out onto JUSTALAD and STARENA, which were inconvenienced and forced wider on the course. The reviewer finds the Applicant was urging her horse forward and shifted out on two occasions when not clear. Notwithstanding, the race footage shows that TIME FOR LILLI overreacted in the incident and shifted out further away from CSARDAS. The Applicant’s submissions, in particular, stating *“The first shift that my mount made was caused by a shift from the inside mount (TELLOFF)”* is not accepted. The reviewer finds, although TELLOFF was racing to the inside of the Applicant, the race footage shows the Applicant turns her horse’s head out and directs CSARDAS on an outwards course when urging forward and drawing the whip, and as a consequence, shifts out when not clear of the aforementioned horses. The reviewer is satisfied TELLOFF had no direct bearing on the Applicant shifting out and therefore, in the circumstances, finds the charge proven.

The stewards deemed the carelessness to be low range. The standard penalty for a low range offence is ten days’ suspension. The Applicant’s disciplinary history notes one prior careless riding offence. The Applicant is an inexperienced apprentice and only commenced race riding in March this year.

The reviewer is not satisfied a severe reprimand is an appropriate form of penalty when considering the incident in totality. In weighing up the evidence on penalty, consideration was provided to the Applicant’s inexperience, the degree of carelessness, guilty plea and disciplinary history. In considering the aforementioned factors, the reviewer is satisfied the charge and penalty is proven and therefore confirms the original decision.

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

⁷ Transcript of Stewards’ Inquiry dated 7 October 2017, page 3 and 4