



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 0078-17
Applicant's Name:	G Dixon
Original Decision:	Breach of Rule 149(1) of the Australian Harness Racing Rules
Original Decision Makers:	S Shinn, K Daly, R McCrae
Date of Original Decision:	26 September 2017
Internal Review Decision:	Original decision of charge confirmed, original decision on penalty amended
Internal Review Decision-Maker:	Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission
Date of Internal Review Decision:	24 October 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Grant Dixon, driver of CHILLA BREEZE in Race 8 at Redcliffe on 10 August 2017, was found guilty of a charge under Australian Harness Racing Rule 149(1) at an adjourned stewards' inquiry on 26 September 2017.</p> <p>Australian Harness Racing Rule 149(1) states:</p> <p><i>"A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field."</i></p> <p>The Stewards' Report of 26 September 2017 states the specifics of the charge as:</p> <p><i>"Mr Dixon as the driver of Chilla Breeze in Race 8 at Redcliffe on 10 August 2017, when it was reasonable and permissible for him to do so:</i></p> <p><i>a) between the 1100m and 900m failed to shift out from a one wide trailing position to a three wide position resulting in Chilla Breeze being held up rather than being in the clear to improve its position.</i></p> <p><i>b) between the 800m and 500m elected not to ease Chilla Breeze into a three wide trailing position resulting in Chilla Breeze being held up for clear running.</i></p> <p><i>c) between the 400m and 200m elected not to ease Chilla Breeze wider on the track into clear running resulting in the gelding being held up for clear running."</i></p>	



In pleading not guilty, the Applicant stated he was reluctant to shift out to a three wide position between the 1100m and 900m as he did not believe that CHILLA BREEZE would be able to sustain a run from that position. Further, between the 800m and 500m, the Applicant stated he anticipated that WEEDONS EXPRESS (NZ), which was racing forward of him, would shift out to improve thereby affording him room to improve to the inside of that runner. Once that run failed to appear, the Applicant did not believe that it was suitable to ease CHILLA BREEZE out wider on the track between the 400m and 200m.

The Stewards were of the view that throughout all of the points specified in the charge, the Applicant had every opportunity to shift CHILLA BREEZE wider on the track to improve its position. The Stewards were therefore satisfied to the requisite standard that the Applicant's failure to improve the position of CHILLA BREEZE when it was reasonable and permissible for him to do so was culpable under the abovementioned Rule and subsequently found him guilty of the charge as specified.

In determining an appropriate penalty, Stewards considered the Applicant's recent breach under sub-section (2) of this Rule for an 'unacceptable' drive and his previous good record. However, Stewards also considered the detrimental impact such actions have on the integrity of the racing industry which, compromises the confidence of the wagering public and the subsequent requirement for penalties to provide a deterrence.

The Stewards imposed a suspension period of five weeks to commence upon the expiration of a suspension the Applicant was currently serving being midnight Friday 29 September 2017 and expiring midnight Friday 3 November 2017.

The Applicant sought a review of charge and penalty.

PART 4: Reasons for Internal Review Decision

Stewards' opened an inquiry into the Applicant's driving tactics on CHILLA BREEZE following Race 8 at Redcliffe on 10 August 2017. The stewards, in summary, alleged the Applicant failed to shift from a one-out-three back trailing position to a three wide position when it was reasonable and permissible to do so, between the 1100m to 900m, the 800m to 500m, and again between the 400m to 200m. This resulted in CHILLA BREEZE being held up for clear running. The inquiry was subsequently adjourned until 26 September 2017 to enable stewards to investigate other aspects of the race including the race betting history.¹

During the initial stewards' inquiry conducted on 10 August 2017, four sections of the race were debated, that being:

1. down the back straight the first time when the horse in the death WEEDENS EXPRESS (NZ) eased into a trail, whether there was an opportunity for CHILLA BREEZE, which was racing in the one-out-three back position, to move into the death, however the horse in front of him, RUATO BAY (NZ) capitalised on that opportunity and CHILLA BREEZE remained in the one-out-three back position;
2. entering the front straight with a lap to go, DOLLARBILL, which was racing on the back of CHILLA EXPRESS, moved up outside that horse to lead up the three wide line pocketing CHILLA BREEZE, who elected not to lead up the three wide line. At this point, KUTET, the eventual winner, moved onto the back of DOLLARBILL and trailed that horse into the race;

¹ Stewards' report dated 10 August 2017



3. down the back straight the last time was there an opportunity to again move into a three wide line onto the back of KETUT; and
4. further rounding the final turn whether there was an opportunity to move wider on the course to obtain clear running.

The Applicant, in brief, stated *"When I went to go around to the death, I was happy enough to go there, and I thought they would spurt a little bit and I would get around there and sort of try and camp there a bit steady (inaudible) Mr Petroff come out. I wasn't sure whether he would hand over, so I elected not to take the chance, and I just followed - lead up the 3-wide line at the bell. It's particularly hard to win from that point unless you've sort of got a lot on the field. Then I tried to get on to Ketut's back but the horse was covered with my wheel, and then I thought about going - going wider again, but at the same time the horse that was leading the 3 wide line was starting to stop. It looked like Weedons Express was going to get out, but then they sort of all - Ruato Bay started to tire at the same time so they all sort of came back at the same point, so all I was left with was only ducking back to the inside. It was too late to go wide, and too hard to make ground coming wide at Redcliffe."* The Applicant added *"In the - in the initial move when I get (inaudible) Mr Petroff went and I just wasn't - I wasn't game enough to follow him around and test whether he was actually going to let that go. And the second opportunity in the front straight with a lap to go when ----- Oh, he's never been a horse that has led up the 3 wide line and won. I don't find over the years, so - so I elected to stay in. I just find it is very hard to lead that line up and win anywhere these days, unless particularly you think the horse has got a bit on the field."*²

In electing not to come out entering the front straight with a lap to go, the Applicant stated *"Well, I just - yeah, I just think it's - it's just particularly hard to do to lead that 3 wide line up and stay competitive. If I had the race over again, I probably would have preferred to go 3 the fence. But it's hard when they're favourite. Like in the end, that's where I ended - having to go (inaudible)." In response to a question "So that being said, you prefer to go 3 the fence. You don't think he's too strong; is that what you are saying" the Applicant replied "No. Like he can do work, but just the way the race panned out, once I wasn't able to move around to the death - yeah, about this point here I thought that Weedons Express was going to be able to push out Mr Diebert then I was going to get through there somewhere, but then - but that didn't eventuate, and they - the death horse stopped and they all - all sort of stopped around the same - the same time altogether, and by then it was too late to sort of go wide because they were off and gone. Oh, he had clear running all the way down the line. He finished off okay, but I wouldn't say he savaged the Judge."*³

During the resumed inquiry conducted on 26 September 2017, the Applicant was questioned further as to whether an opportunity existed to move out onto the back of the eventual winner, KETUT, turning out of the straight the last time and again down the back straight. The Applicant stated *"Well, around this area just here the pace of the race did really quicken up. I didn't really think like as we sort of got further along here, just as I started - like I did ease back a fair bit to angle out, and Projectile just got to the outside of my wheel, and then just about now she is just to the outside of my wheel. But the pace of the race had got really quick, and at that time I thought the death-seat horse was going a fair bit better than the horse 3 wide, so instead of trying to come out underneath Projectile and shift in, I elected to wait until the inside, but I thought Weedons Express was going to be able to shift out Mr Diebert's horse a*

² Transcript of stewards' inquiry dated 10 August 2017, page 2 and 3

³ Transcript of stewards' inquiry dated 10 August 2017, page 4



little bit further into the race, and as you know our record for the inside is so valuable in comparison to trying to go - go wide."

In response to a question "So just to clarify, at this point just leaving the turn to enter the back straight, there may have been an opportunity for you to ease wider to get on the back of Ketut - the horse that was one-out-of-one back - however your decision not to attempt to get onto its back was based on you felt that the horses you were trailing were probably travelling well enough, and at Redcliffe you felt that ahead of you they were going to get out and you were going to be able to run through" the Applicant replied "Well, that's what I felt. Just the fact that they - they hadn't gone that hard off the gate and then I got a steady quarter in, and then they were really going to - or I felt they were really going to zap a half, which was going to make it hard for horses wide on the track."⁴ The Applicant accepted there was an opportunity to ease wider onto the back of KETUT after passing the stewards stand down the back stating "Oh, I probably could have. Could have went wide."⁵

The Applicant in evidence stated CHILLA BREEZE's "fastest last half winning at Redcliffe leading on the fence was 57.9." The Applicant added "His own half in this particular race then was 57.5. So he's actually run a quicker last half than he ever has winning at Redcliffe. And as the race has all panned out - like ideally I would have liked to have got him around to where Mr Petroff went to ---- And he has won several races doing that. Not burning around there and working hard to there, working there on the bit, and camped there. I don't think he would have beaten Ketut, I don't know whether he would have, but he may have run in the first 4."⁶ The inquiry heard the last half time was **56.9** and the Applicant stated his horse "cannot do it. (run such times) He physically cannot do it."⁷

The reviewer notes CHILLA BREEZE was held up and not tested for the majority of the race and despite this ran his fastest last half time of 57.5. The race times note the lead time was 11.6, the first quarter 30.9, second quarter 32.5, third quarter 28.7 and fourth quarter 28.2. The overall race time was 1.59.3.

The Applicant added if RUATO BAY "runs a bit better of a race it changes the whole consequence of the race and me getting through and getting clear running and I'm not sitting here. But, in saying all that, like I still beat all the wider runners. He's had - if I was to go the first horse 3 wide, he's had - he's covered an extra 10 metres, and he's had to go 56 his first half and he's never done that, and he - and staying where I did not going wider on the track he still gone 57.5 his own half sitting one off the track, which is still 4 tenths of a second quicker than he has ever done actually winning on the fence. So if I'm to go wider on the track I'm covering more ground and that means he is going to go slower, and he's still gone 57.5 staying down in the running line."⁸

Subsequent to viewing the race footage the reviewer finds the Applicant driver of CHILLA BREEZE settled into a one-out-three back position shortly after the start and remained in that position for the majority of the race. Upon entering the front straight with a lap to go, the Applicant elected not to shift out into a three wide position. This allowed DOLLARBILL, which was trailing CHILLA BREEZE, to improve outside that horse into the three-wide line and in turn KETUT improved into a trailing position onto the back of DOLLARBILL, thereby pocketing CHILLA BREEZE. Turning out of the straight the last time, the Applicant was provided with an opportunity to shift out onto the back of KETUT

⁴ Transcript of stewards' inquiry dated 26 September 2017, page 9 and 10

⁵ Transcript of stewards' inquiry dated 26 September 2017, page 11

⁶ Transcript of stewards' inquiry dated 26 September 2017, page 11

⁷ Transcript of stewards' inquiry dated 26 September 2017, page 15

⁸ Transcript of stewards' inquiry dated 26 September 2017, page 18



and gain a trail into the race but failed to capitalise on such opportunity. After passing the 400m when KETUT improved to commence his run into a four-wide position, the Applicant failed to make any attempt to shift out to improve his position. By not capitalising on the aforementioned runs, CHILLA BREEZE was held up for a considerable distance when unable to obtain clear running. The reviewer accepts the Applicant's evidence for not moving into the death position earlier in the race, and to a lesser extent the reason for not shifting into the three-wide line with a lap to run. However, the reviewer finds by failing to improve and lead the three-wide line, this placed the Applicant in a position where he was relying on luck in running to gain a clear run. The reviewer does not accept the Applicant's evidence for failing to either improve onto the back of KETUT turning out of the straight or again near the 400m when it was reasonable and permissible to do so in the circumstances. The reviewer finds, due to the early moderate tempo of the race and soft run CHILLA BREEZE received in transit by not capitalising on any of the aforementioned runs, it deprived CHILLA BREEZE an opportunity to win or obtain the best possible placing in the field and as a consequence the horse was effectively held up and not tested for the duration of the race.

The Applicant provided detailed submissions in defence of the charge, in summary stating *"I am Australia's leading trainer and history shows a leading driver. I have arguably driven more winners than any Queensland licence and believe that this decision should be amended or substituted. While my status affords me no free kick in front of the posts, I believe that it puts into perspective my experience not only in Queensland, but also interstate and internationally. Mistakes happen, but the matters brought up by the conducting stewards were no mistake: they were considered options. Split second decisions happen as often in horse racing as they do when driving a motor vehicle. But these decisions I made were considered ones, and not taken lightly. So, while at first viewing these decisions I made would leave the way open to the stewards perhaps considering that I had blatantly thumbed my nose at the above charge, nothing could be further from the truth. I believe I provided stewards with ample reasons that my drive did not breach the rule, and that the race times - the tempo of the race - which governed my decisions, also subsequently backed up those choices I made. I train a team of about 70 horses, the biggest in Queensland. The horse in question, Chilla Breeze, is one of the worst in my stable. As such, I advised the owner of the horse months earlier that he had a limited future with me. Based on that, the owner agreed to nominate this horse for a claiming race a fortnight before the race in question. I thought so little of the horse that I was anxious to have him sold out of my stable, and thus negate any opportunity I had to further earn from that horse, either through training fees, driving fees or prizemoney commissions. There can be no question, then, that Chilla Breeze is a horse of sub-standard ability: and that's the way I drove him. There wouldn't be a driver in Queensland who gives their horses more fresh air wide on the track than me. Most times I would have pulled into the three wide line to start 'the train' at the bell with a lap to go. But you can't do that with Chilla Breeze and expect him to be live at the finish. Stewards alleged that I should have taken other positions in the race. But the horses who filled those positions subsequently finished behind me. I cite as an example Projectile, who filled the three wide line with a trail in the back straight, a position stewards suggested I should have aimed for. Place Chilla Breeze in Projectile's place in the back straight and Chilla Breeze would not have finished as close to the winner as he did. But watch the race and you will see that to do that would have meant that I had failed in my obligation under another rule - 149 (1) in that I would have failed to provide all reasonable and permissible measures during the course of the race to ensure that Chilla Breeze was given "full opportunity to win OR OBTAIN THE BEST POSSIBLE PLACING IN THE FIELD." That's what was his future at those stages - the best possible placing, which probably would not have included a win placing. Had I taken the trail three wide in the back straight as Projectile did to make any run I would have been forced at least five wide, into banked corners on a track which is best-suited to front-runners. Statistics prove absolutely that horses in front or behind the*



*leader have the most potent win strike rates at Redcliffe. I should know: I have driven thousands of winners there. This penalty has not only affected me and my family, but has also forced me to halve the wages I pay myself and my wife. I am a taxpayer who lives up to his obligations, on the track and off. I am the largest employer of staff in Queensland harness racing (12 people), and I am faced with huge monthly overheads and mortgage and loan repayments to keep things ticking over at this level. In 28 years of driving, tens of thousands of drives and thousands of winners, I have been charged only three times under the rule, once being almost a quarter of a century ago. I have averaged 1000 or so drives a year for the past 12 years, so the penalty imposed will cost me in the vicinity of 100 drives over those five weeks of suspension. In terms of driving fees alone, this equates to some \$5000, plus of course the anticipation of winning and placed commissions. The old saying 'Don't Preach Me A Sermon, Show Me One,' applies to my excellent driving record, behavior on-and-off the track and in steward's rooms for more than a quarter of a century. I seek no special favours, just a fair go when this matter is looked at impartially.'*⁹

The reviewer accepts it's not in dispute the Applicant runs a large training operation and is an experienced leading horseman. The Applicant submitted "*CHILLA BREEZE is a horse of sub-standard ability: and that's the way I drove him.*" CHILLA BREEZE's race history shows from 128 starts the horse has recorded 18 wins, 30 seconds and 22 thirds for a total prizemoney of \$145,981.00. CHILLA BREEZE was the fixed price favourite at \$3.00 and second favourite at \$4.10 with Ubet.

The Applicant submitted had he taken the positions in the race the stewards alluded to he would not have finished as close to the winner as he did. The reviewer finds several opportunities existed for the Applicant to either lead up the three wide line or shift onto the back of KETUT and gain a nice trail into the race. By not taking advantage of either of these opportunities, CHILLA BREEZE was subsequently held up at vital stages and essentially for the majority of the race. The reviewer notes WEEDENS EXPRESS (NZ), the horse the Applicant trailed for the majority of the race, started at \$26.70 (second biggest outsider) as opposed to trailing KETUT, the eventual winner which started at \$6.50.

The reviewer finds race times can vary considerably from race to race due to the many variables that unfold throughout a race, including but not limited to a particular horses draw, the sectional times of the race, interference sustained, track and weather conditions. Therefore, drivers are obligated under the Rules to drive all their horses as the race presents in a manner that provides their horse full opportunity to win or obtain the best possible placing in the field. 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 satisfied 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. CHILLA BREEZE started a fixed price favourite at \$3.00 and second favourite at \$4.10 with Ubet.

The Applicant's disciplinary history under Rule 149(1) is unblemished. The disciplinary history notes two prior offences under Rule 149(2) (unacceptable drive) with the most recent in July this year receiving a three-week penalty and the other dating back to 2000. The reviewer finds such record is commendable considering the amount of drives the Applicant encounters each year. The standard penalty for a breach of Rule 149(1) in Queensland is between a four-week suspension and a six-week suspension.

⁹ Internal Review Application dated 7 October 2017



In weighing up the matter of penalty, consideration was provided to the Applicant's submissions, not-guilty plea, unblemished disciplinary history under Rule 149(1) and penalty precedents. Notwithstanding the seriousness of the offence, the reviewer finds, in considering the aforementioned factors, in particular the Applicant's unblemished disciplinary history under this Rule over an extended period, is deserving of a reduction in penalty and therefore amends the penalty to a four-week period of suspension.

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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