



## 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 0079-17
Applicant's Name:	J Byrne
PART 2: Decision History	
Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	M Knibbs, A Reardon, P Zimmerman, L Hicks
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:	24 October 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Jim Byrne, rider of VASSAL in Race 5 at the Gold Coast Turf 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>The Stewards' Report of 7 October 2017 states the specifics of the charge as:</p> <p><i>"... the Applicant for some distance approaching the 150m allowed his mount to shift in whilst riding it along resulting in MONTEUX being inconvenienced and carried in making heavy contact with METEOROLOGIST which as a result blundered."</i></p> <p>The stewards imposed a suspension period of nine days to commence midnight 15 October 2017 and to expire midnight 24 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 and that at no stage had the Applicant interfered with any rider.</p>	



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

The Applicant, Mr Jim Byrne, submitted a review of the aforementioned stewards' decision, which in summary stated *"The resulting interference was not caused by my shift. I left plenty of room for the runners to my inside. I believe at the same time Stanley, which was racing underneath Meteorologist and in advance of this horse, has shifted out half a horse - further reducing the amount of room I had left available. Whilst I concede my horse has shifted, at no stage had my horse interfered with any rider. From what I can recall everyone acknowledged that Meteorologist does not clip heels, he just trips himself up. I believe that when my shifting had ceased there was still room for the horses inside me. I stay on a straight path, and at this point it is then that Stanley also shifts out half a horse and this is when the incident occurred. I believe that the stewards have not taken Stanley's shift into account."*<sup>1</sup>

Mr Martin Knibbs, chairman of the inquiry, provided a live observation of the incident stating *"I observed from the Chairman of Stewards' tower, which is head-on past the winning post. It gives me a head-on view of the finish. Leading up to that point prior to the 200 metres I observed a number of runners, and the widest of those was Vassal, and it appeared to me looking head-on for a run which presented itself between Vassal and Meteorologist, which was obtained by Monteux, which shifted to the inside of Vassal and through that run. From my view, coming to the 100 metres it appears as though Vassal was being ridden out with the whip and may have shifted slightly. I thought that Monteux clearly established running inside that horse. It was taken in. Meteorologist, which I thought was weakening, from head-on then ran out of racing room between Monteux and Stanley and eventually, in my opinion, appeared to clip the heels of Michael Cahill's mount and dipped."*<sup>2</sup>

Mr Robert Fradd rider of METEOROLOGIST which was racing between STANLEY and MONTEUX in brief stated *"it was exactly how you said. My horse was tiring badly. It was trying to get in a bit, and then I have just kind of run out of a bit of room (inaudible)." In response to a question "When you say you ran out of room, why was that" Mr Fradd stated "I wasn't sure of the move - from where it was, to be honest. I was just concentrating on trying to keep my horse up, yes. So I wasn't sure if it was from an outward move or an inward move, sir. I'd have to look at the video. I don't know. I was just concentrating on keeping him up."*<sup>3</sup> Mr Fradd, after viewing the race footage, stated *"Sir, yes, I ran out of room and it got a bit tight. If it was a decent size horse it probably would - I probably would have come back enough, but not being a big horse he's clumsy, and I just caught a heel there."*<sup>4</sup>

Mr Jag Guthmann-Chester, rider of STANLEY, which was racing inside of METEOROLOGIST, in brief stated *"I believe my horse was wanting to get in. I was down the running always trying to correct my mount. At the time of the incident I was aware that jockey Fradd to my outside was weakening. I thought there was pressure coming from the outside."*<sup>5</sup>

Mr Guthmann-Chester, after viewing the race footage, stated *"I was aware that jockey Fradd to my outside was weakening. I believe I have kept my line pretty straight. I do believe the winner has maybe come out just a touch, but I believe I still kept my line and I'm pretty positive it was the pressure from the outside."*

<sup>1</sup> Internal Review Application dated 11 October 2017

<sup>2</sup> Transcript of stewards' inquiry dated 7 October 2017, page 2

<sup>3</sup> Transcript of stewards' inquiry dated 7 October 2017, page 2 and 3

<sup>4</sup> Transcript of stewards' inquiry dated 7 October 2017, page 5

<sup>5</sup> Transcript of stewards' inquiry dated 7 October 2017, page 3



In response to a question *“were you still to the outside of the heels of Ric McMahon”* Mr Guthmann stated *“Yes, but right at the initial bump, the winner had cleared me, sir, where I just sort of ended up in behind it.”*<sup>6</sup>

Mr Michael Cahill, rider of MONTEUX, which prior to the incident had obtained clear running between METEOROLOGIST and VASSAL, in brief stated *“I established a run between Meteorologist and Jim Byrne’s mount, Vassal. Shortly after, Vassal got in slightly. I was obliged to shift marginally inwards to a point where I probably almost (inaudible). I might have made contact with Meteorologist. From then on, my mount wanted to - I’m not sure if he felt the pressure of Meteorologist on his hindquarters. He may have come out a little bit to meet him, but my horse didn’t really want to go on with it then, to the point where I have had to stop and straighten him.”*<sup>7</sup> Mr Cahill, after viewing the race footage, stated *“My mount became very unbalanced there, sir, when he brushed Meteorologist.”* In response to a question *“did you brush with that horse for any reason, or for what reason --- Do you shift of your own accord or did Vassal have an impact on your shift”* Mr Cahill stated *“I thought Vassal had an impact on my shift. I had to - I was obliged to go with that runner, sir.”* In response to a further question *“how far in, looking at the film, do you believe that horse (VASSAL) shifts”* Mr Cahill stated *“Oh, he’s probably shifted a half, would it be, or three-quarters.”*<sup>8</sup>

The Applicant, which was racing to the outside of MONTEUX, in brief stated *“Yes, sir. My horse definitely did shift in. I didn’t think I got in to a stage where I had riders without insufficient room. I thought I - my horse shifted in. I knew Michael Cahill had established a run underneath me and I just basically - just held that line. I thought that I gave him room underneath me.”* In response to a question *“Without seeing the head-on, how far do you believe that shift may have been from your horse”* the Applicant stated *“From when - when it became critical I would have said within half a horse sort of scenario.”*<sup>9</sup> The Applicant, after viewing the race footage, stated *“Obviously all the fingers are being pointed at me, but the reality is is that whilst I do shift in, the inside horse (STANLEY) has definitely come out and continued out. I think my ----- He comes out and you just have to watch the mower lines, and starts to dictate Meteorologist outwards. Whilst I agree we haven’t - whilst I agree that it isn’t a great shift, there is definitely a shift from the inside out.”*<sup>10</sup>

Subsequent to viewing the race-footage, the reviewer finds the Applicant, rider of VASSAL, was under hard riding for some distance prior to permitting his mount to shift in near the 100m, when insufficiently clear of MONTEUX, thereby tightening that horse in onto METEOROLOGIST. This resulted in MONTEUX being severely hampered and becoming unbalanced when brushed on the hindquarters by METEOROLOGIST and METEOROLOGIST having to be checked and knuckled. The reviewer finds the Applicant dictated to MONTEUX running line for several strides prior to the incident occurring, which in turn tightened that horse in onto METEOROLOGIST. The reviewer accepts the evidence of Mr Cahill, in that he was *obliged* to shift in when tightened for room by VASSAL. The reviewer acknowledges it is debatable as to whether STANLEY has shifted out and contributed to the incident as submitted by the Applicant. Notwithstanding, the reviewer finds any shift is extremely minimal and has no direct bearing on the incident. Therefore, in considering all factors is satisfied the charge is proven.

<sup>6</sup> Transcript of stewards’ inquiry dated 7 October 2017, page 5

<sup>7</sup> Transcript of stewards’ inquiry dated 7 October 2017, page 3 and 4

<sup>8</sup> Transcript of stewards’ inquiry dated 7 October 2017, page 6

<sup>9</sup> Transcript of stewards’ inquiry dated 7 October 2017, page 4

<sup>10</sup> Transcript of stewards’ inquiry dated 7 October 2017, page 6



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 two low-range careless riding offences this year.

In weighing up the evidence on penalty, consideration was provided to the Applicant's not-guilty plea, recent disciplinary history, the degree of carelessness and interference caused and precedents for low range careless riding offences. In considering the aforementioned factors, the reviewer finds the original penalty is more than reasonable in the circumstances, considering the degree of interference caused and the Applicant's careless riding record, and therefore in the circumstances 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)