



INTERNAL REVIEW DECISION

(Internal Review Decision Notice in response to an Application for Internal Review)

| PART 1: Details of Internal Review | |
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| Internal Review Number: | Internal Review 0084-17 |
| Applicant's Name: | S Doherty |
| 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: | 20 October 2017 |
| Internal Review Decision: | Original decision set aside |
| Internal Review Decision-Maker: | Mr Kane Ashby, Internal Adjudicator, Queensland Racing Integrity Commission |
| Date of Internal Review Decision: | 10 November 2017 |
| PART 3: Summary of Internal Review Application | |
| <p>The Applicant, Mr Steven Doherty, driver of BET IM SPECIAL in Race 4 at Albion Park on 13 October 2017, was found guilty of a charge under Australian Harness Racing Rule 149(2) at an adjourned stewards' inquiry on 20 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 specifics of the charge were that the Applicant actions in failing to drive BET IM SPECIAL with any vigour in the first 100m of the event was, in the opinion of the Stewards, unacceptable.</p> <p>In pleading not guilty to the charge, the Applicant submitted BET IM SPECIAL's racing manners during the score up and immediately prior to the start prevented him from driving the gelding forward so as to challenge the lead in the early stages. The Applicant further submitted that whilst he had been issued with instructions to attempt to hold the lead, he was mindful that Ms Shannon Price, trainer of BET IM SPECIAL, tempered those instructions by advising him not to become involved in an extended contest for the lead, bearing in mind BET IM SPECIAL was first up from a spell. Ms Price confirmed those instructions.</p> <p>In considering the evidence, Stewards were not satisfied that the racing manners of BET IM SPECIAL prevented the Applicant from driving forward from the gate in an effort to hold the lead in the first instance. Stewards were also mindful that BET IM SPECIAL's usual racing pattern, when drawn inside on the front gate, had been to obtain the lead and that the Applicant's actions on that occasion were in contrast to BET IM SPECIAL's usual racing pattern, despite instructions from Ms Price to that effect.</p> <p>Stewards subsequently found the Applicant guilty of the charge as specified.</p> | |



In considering an appropriate penalty, Stewards were mindful of the Applicant's unblemished record regarding this particular rule along with his personal circumstances. Stewards were also mindful of similar penalty precedents and the detrimental effect such breaches have on the confidence of the wagering public and the integrity of the industry.

The Stewards subsequently suspended the Applicant's licence for a period of four weeks to commence at midnight on 24 October 2017 and to expire at midnight on 21 November 2017.

The Applicant sought a review of charge and penalty on the basis the decision failed to have any or any proper regard for the evidence, the decision was not consistent with the evidence and the charge was not made out.

PART 4: Reasons for Internal Review Decision

Stewards' opened an inquiry into the Applicant's driving tactics on BET IM SPECIAL following Race 4 at Albion Park on 13 October 2017. Subsequent to receiving initial evidence from the Applicant and trainer Ms Shannon Price, the inquiry was adjourned to analyse wagering information and BET IM SPECIAL's previous racing patterns. The inquiry resumed on 20 October 2017 and the Applicant was subsequently charged under Rule 149(2), in that the Applicant's actions in failing to drive BET IM SPECIAL with any vigour in the first 100m of the race was, in the opinion of stewards, unacceptable.¹

During the initial inquiry conducted on 13 October 2017, the Applicant confirmed the below instructions issued by Ms Price. The Applicant stated *"Just still steering the horse. Because he was hanging out so bad in the score up - like he sort of never - you know, never sort of picked the bit up and was ready just to go when the barrier was released. I suppose he was just sort of balancing himself. He was - like I had straightened up, but he sort of just didn't feel like he was sort of revved up and ready to go, and ----."* In response to a question *"What were you doing on him, bearing in mind the instructions that Ms Price has told us that you thought the horse might lead"* the Applicant stated *"Well, my main concern was to make sure he stays in his gear. It was sort of discussed that if we were going to be crossed then we're gonna be crossed ----- my main concern was to make sure he was balanced and going forward and being tractable. Mr Graham has come out, you know, very -----."*² The Applicant added *"As soon as we go off the gate, Mr Graham has got the momentum on me, so I know if I do have to hunt through - and we are going to be running - we are going to be running for a long way."*³

Ms Price, in brief, confirmed the instructions and stated *"I said to him (the Applicant) I thought the 2 (CATCH THE BREEZE) would have too much speed and would be able to cross us, but I said that it was our intention to lead but if you got crossed by the 2, that's - so be it, because seen the 2 - Catch The Breeze - get off the arm very quick, but after speaking to Steve after the race he said to me he had a bit of trouble getting the horse - as you can see on the frame there - up to the gate to get out as good as you can. Before the race it was - the plan was to come out under not - being first up from a spell we weren't going to drive him out with the whip and come out in a 26 first quarter because it's detrimental to the horse, but the plan was, yes, to come out and look to obtain the lead, and if we got crossed, then so be it and -----."*⁴

¹ Stewards' Report Albion Park 13 October and adjourned inquiry 20 October 2017

² Transcript of Stewards' Inquiry dated 13 October 2017, page 4

³ Transcript of Stewards' Inquiry dated 13 October 2017, page 13

⁴ Transcript of Stewards' Inquiry dated 13 October 2017, page 2 and 3



In response to a question *“Out of the gate did you pay close attention to the actions of your driver”* Ms Price stated *“Not particularly, but I did notice the horse was hanging because he had a gear change on today for the first time. And I don’t know whether one of them may have been sitting a little funny - the one on the inside - during the run but I did notice - and I pointed it out to Scott Miller as well that the cup on the inside looked to be sitting a bit funny during the run, and I did notice that the horse was actually getting out a little bit, and it does wear a rein burr on the inside and a bit burr and he usually gets in, so I don’t know whether he was a bit uncomfortable.”* Ms Price added *“I don’t know exactly how many runs ago, but Catch The Breeze - the 2 horse - when it led from barrier 5, I think it was, and it won - it would be 2 runs ago - I had a funny feeling it would cross us. That it had too much speed.”*⁵ Ms Price further added *“I believe that he probably didn’t drive him out as hard for the reason (a) that he was half - Shane was half a length in front of him, and (b) because the horse was first up from a spell. I’m not disappointed with the horse or the drive. I’m a little bit disappointed that the horse did hang out, but whether that is because the cup half came down, or what it was I don’t know, but----.”*⁶

During the resumed inquiry conducted on 20 October 2017, the Applicant’s evidence was consistent with the initial inquiry, that being, the reason for not contesting the lead was largely due to BET IM SPECIAL hanging out in the score up and did not balance up and pick up the bit and that CATCH THE BREEZE had a long neck advantage on him when the starter released the field. The Applicant added while he was instructed to lead if possible, he was mindful the instructions included not to get into an extended contest for the lead, bearing in mind the horse was first up.

The inquiry heard BET IM SPECIAL’s most recent racing pattern since 9 January 2017 when drawn one or two was that BET IM SPECIAL had either led or contested the lead. On two of those occasions, BET IM SPECIAL positioned in the trail.⁷

The chairman of the inquiry questioned *“Did you give any thought to a variation of tactics given that the 2 horse always comes out and goes hard off the gate”* to which Ms Price responded *“Well, I’ve come into the stewards room and I have asked before races and said, “What do you think?” You know, usually the stewards say, “Well, each race we take into a different - like every race is a different circumstance. I have come over on previous times over the years and I’m like, “I’ve got a horse that leads because everybody thinks it’s going to lead but I’d like to take a sit on it if it gets crossed by a suitable horse. Do I need to notify that?” And I’ve been told, “Yes, if you want to be safe you could probably notify that that would happen”, and I would be like - but then you are leaving yourself open that every horse would come out but I only want to take a sit on a particular horse. So therefore, yes, it is probably a grey area as to what you do or don’t do. I mean, I may vary tactics. I’ve put in may vary tactics before and had other drivers laugh and say, “You’re not changing anything”, or come to you in the parade ring and say, “We don’t believe you.””* Ms Price added *“No, not really.”*⁸

Australian Harness Racing Rule 44 ‘Tactics’ effectively deals with a person that fails to inform stewards as soon as practicable of a change in tactics contrary to a horses usual racing pattern. No action was taken against Ms Price.

⁵ Transcript of Stewards’ Inquiry dated 13 October 2017, page 2 and 3

⁶ Transcript of Stewards’ Inquiry dated 13 October 2017, page 7

⁷ Transcript of Stewards’ Inquiry dated 20 October 2017, page 32

⁸ Transcript of Stewards’ Inquiry dated 20 October 2017, page 41 and 42



The inquiry further heard there was no unusual betting activity on the subject race.

In essence, the contentious issue is whether BET IM SPECIAL's racing mannerisms during the score up and immediately prior to the start of the race prevented the Applicant from attempting to contest the lead in the early stages of the race. The other relevant factors include the previous racing patterns of BET IM SPECIAL and CATCH THE BREEZE (the eventual leader), noting the respective horses usually lead or race in the trail when drawn on the front row. That CATCH THE BREEZE had a long head advantage on BET IM SPECIAL when the starter released the field. The addition of the 'slide down cups' to BET IM SPECIAL's racing gear, noting the near slide cup was not sitting correctly during the race which potentially contributed to the horse hanging out, and BET IM SPECIAL being first up from a spell.

The Applicant's submissions in defence of the charge in brief state *"the decision fails to have any or any proper regard for the evidence; decision is not consistent with the evidence."* The Applicant is seeking the *"conviction be set aside and a finding of not guilty made."*⁹

The reviewer finds, after viewing the race footage, the Applicant, driver of BET IM SPECIAL which started from the one position on the front row, hung out in the score up and prior to the starter releasing the field. The race footage shows in the early and latter part of the score up the Applicant had BET IM SPECIAL's head turned inwards to prevent the horse from shifting out. The reviewer notes CATCH THE BREEZE, the eventual leader, scored up nicely and had an approximate long neck advantage on BET IM SPECIAL as the starter released the field. The reviewer acknowledges from this point BET IM SPECIAL raced tractable and the Applicant failed to drive with any genuine vigour to contest the early lead. Subsequent to this, the Applicant positioned BET IM SPECIAL in the trail behind the leader for the duration of the race, before moving down to the sprint lane and gaining an uninterrupted passage to the finish. The reviewer is not completely satisfied the Applicant's drive was unacceptable when objectively assessing the context of the race in totality. By not contesting the lead for the aforementioned reasons, BET IM SPECIAL received the run of the race in the trail behind the leader, and was provided with a clear passage and every opportunity in the sprint lane. In weighing up the evidence and aforementioned factors, in particular, the context of the race in totality, the reviewer is not completely satisfied the drive was unacceptable in the circumstances and therefore sets aside 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:

⁹ Internal Review Application dated 20 October 2017



Queensland Civil and Administrative Tribunal

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