



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 0095-17
Applicant's Name:	K Gates
PART 2: Decision History	
Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	K Daly
Date of Original Decision:	18 November 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:	8 December 2017
PART 3: Summary of Internal Review Application	
<p>The Applicant, Ms Kelly Gates, rider of SAIL THE STARS in Race 5 at the Mount Perry Race Club on 18 November 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 18 November 2017, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a) in that near the 400 metres the Applicant permitted SAIL THE STARS to shift in when not clear of SPARKLING GIFT, resulting in that runner being taken in onto NAVILLUS REXTED which in turn shifted in and tightened the running of SNITZIOLA which was checked.</p> <p>The stewards considered the Applicant's good record and not guilty plea and subsequently imposed a suspension period of nine days to commence at midnight on 25 November 2017 and to expire at midnight on 4 December 2017.</p> <p>The Applicant sought a review of charge and penalty.</p>	



PART 4: Reasons for Internal Review Decision

The Applicant submitted a review of the aforementioned steward's decision which, in summary, stated *"At the time that Snitzola was checked it was racing in restricted room on the fence with runners in front and to its outside. I made a forward run from behind Sparkling gift to be in a 5 wide position outside of sparkling gift and remained 5 wide until I was clear of Sparkling gift and runners to its inside which is evident in the video footage. At the time that I did shift in from a 5 wide position to one off the fence, no runners were tightened or inconvenienced. At the time Snitzola checked there is no video footage that indicates I have shifted in from a 5 wide position or forced Sparkling Gift inwards onto Navillus Rexted. There is no contact, brushing or bumping evident between my mount and sparkling gift. My mounts head remains straight and is not being turned inwards to force or dictate Sparkling Gift inwards. The video footage is inconclusive to the charge as there is no angle that proves that I have shifted in when Snitzola was checked, the footage available does not show any shift from my runner until I am forward of the runners to my inside, which caused no inconvenience to any runners."* The Applicant added *"the charge to be dismissed due to insufficient video evidence to support the ruling. The matter into the reason Snitzola was checked to be recognised a racing incident and no one rider can be held accountable."*¹

During the stewards' inquiry conducted on 18 November 2017, Mr Jason Hoopert, rider of SNITZIOLA which had been racing on the fence, in brief stated *"Just settled in behind the leaders. Approaching this stage of the race, I've actually rolled out to make a run outside the horse directly in front of me. I can't remember exactly who that was. Once I did so, I started receiving pressure from my outside. I was already outside the heels of the runner in front of me so I was just in very restricted room for a very long time and it never really seemed to ease until the horses outside me got forward."*²

Ms Hannah Phillips, rider of NAVILLUS REXTED which was racing to the outside of SNITZIOLA, in brief stated *"I know that I was getting a fair bit of pressure from the outside. And I just - I was quite hard up against Jason and I had his horse quite hard - Billie quite hard against me and I'm on a smaller horse than all of them so I was just in a bit of trouble there."*³

Ms Billy Rose Derbyshire, rider of SPARKLING GIFT which was racing to the outside of NAVILLUS REXTED, in brief stated *"Yeah, there was a bit of pressure there from the outside and my horse might have got a little bit on an angle -- It got a bit of pressure from the outside --- Yeah, like, for a couple of strides ----."* In response to a question *"were you tightened from the inside"* Miss Derbyshire stated *"Oh, well, there was a bit of movement there but I don't - I wouldn't say I got pushed out, no."*

In response to a further question *"But when you say you got turned sideways, was that from the outside --"* Ms Derbyshire stated *"Well, I didn't think ---- I didn't think it was Kelly's (the Applicants) horse. I don't know."*⁴

¹ Internal Review Application dated 23 November 2017

² Transcript of Steward's Inquiry dated 18 November 2017, page 2

³ Transcript of Steward's Inquiry dated 18 November 2017, page 2

⁴ Transcript of Steward's Inquiry dated 18 November 2017, page 3 and 4



The Applicant, rider of SAIL THE STARS which was racing to the outside of SPARKLING GIFT, in brief stated “Ah, yeah, I seen it. There was a (inaudible) I was on the outside just trying to hold my line. When I could see the trouble that was there, I elected to go forward and try and get out around it to just give them some room. That’s not really where I wanted to take off from but ----- I can just see it there, there was quite a bit of trouble there. I don’t know where the shift’s come from or whether it’s just happened where you’ve got the turn. I don’t know. I felt a shift from the inside as well, sir.”⁵

The aforementioned riders were questioned in response to the Applicant’s evidence stating “I felt a shift from the inside as well.” Mr Hoopert and Ms Phillips denied there was any shift from the inside. Ms Derbyshire stated “Oh, well, there was a bit of movement there but I don’t - I wouldn’t say I got pushed out, no --- .” Ms Derbyshire added “Well, I didn’t think ----- I didn’t think it was Kelly’s (the Applicant) horse. I don’t know.”⁶

Subsequent to viewing the race footage, the reviewer finds Mr Hoopert, rider of SNITZIOLA which had been racing on the fence (in the box seat behind the leaders), permitted his mount to shift out into a three wide position around the two leaders to improve his position. The reviewer finds the race footage inconclusive, in particular, to determine whether there was sufficient galloping room for Mr Hoopert to shift out into a three wide line without forcing or pressuring NAVILLUS REXTED and SPARKLING GIFT out towards SAIL THE STARS, which potentially contributed to the interference. The race footage shows at this stage of the race (when Mr Hoopert shifts out into a three wide line) the Applicant had commenced to improve to the outside of SPARKLING GIFT, however the race footage is inconclusive to determine whether the Applicant had commenced to shift in at this point or had any direct bearing on the incident.

The reviewer accepts the evidence of Mr Hoopert, in particular stating “Approaching this stage of the race, I’ve actually rolled out to **make** a run outside the horse directly in front of me. I can’t remember exactly who that was. Once I did so, I started receiving pressure from my outside.” The reviewer further accepts the evidence of the Applicant, which stated “I felt a shift from the inside as well, sir” and that of Ms Derbyshire’s evidence stating “Well, I didn’t think ----- I didn’t think it was Kelly’s (the Applicant) horse. I don’t know.”

In weighing up the relevant factors and, in the absence of conclusive race footage or any live steward’s observation of the incident, the reviewer is not completely satisfied the Applicant is fully responsible for the incident and therefore is afforded the benefit of the doubt in the circumstances and, for the aforementioned reasons, 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.

⁵ Transcript of Steward’s Inquiry dated 18 November 2017, page 3

⁶ Transcript of Steward’s Inquiry dated 18 November 2017, page 4



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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