



## 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 0042-18
Applicant's Name:	Wanderson D'Avila
PART 2: Decision History	
Original Decision:	Breach of Rule 137(a) of the Australian Rules of Racing
Original Decision Makers:	P Gillard, P Lane, B Farrell, P Warren
Date of Original Decision:	19 April 2018
Internal Review Decision:	Original decision of charge and penalty confirmed - Eight (8) day suspension
Internal Adjudicator:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	16 May 2018
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Wanderson D'Avila, rider of SPACE TIME in Race 4 at the Townsville Turf Club on 19 April 2018, 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 19 April 2018, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a) in that the Applicant permitted SPACE TIME to shift in under pressure when not sufficiently clear of CRUISE POWER, which had to relinquish its position and alter course to the outside of that horse.</p> <p>Stewards subsequently suspended the Applicant's licence for a period of eight (8) days to commence at midnight on 26 April 2018 and to expire at midnight on 4 May 2018.</p> <p>The Applicant sought a review of the charge and penalty, specifically that the Applicant's sentence to be reduced if not relinquished, with the Applicant submitting the following in support of his Application:</p> <p><i>"I believe that the film looks more severe than the actual incident that occurred as my horse only shifted in slightly and Jockey N Day pulled his mount up abruptly around my heels causing it to look more worse for me, this fine is quite severe considering the actual events that occurred and I'm looking to defend myself against."</i></p>	



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

The Applicant submitted an Application for an Internal Review as outlined in Part 3 of this Decision.

Mr Paul Gillard, Chairman of the inquiry, provided evidence stating *"Riders, there was an incident I wish to inquire into I believe at approximately the 150 metre mark. I was taken by the front two riders at that time, and particular notice taken of Space Time, which I believe was shifting in under pressure at that time, and at the same time I believe Cruise Power had improved to the inside of that runner, and I believe had secured an inside run at that time, however Space Time continued to shift in under pressure at that time, and while I don't believe that jockey Day has had to check his mount, I don't believe he was able to stay where he was and has had to skip his horse over the heels of that runner and come to the outside. As I say, I don't believe there was sufficient room for him to stay there at that time."*<sup>1</sup>

Mr Nathan Day, rider of CRUISE POWER which was racing to the inside of SPACE TIME, stated *"Yes, sir. It just was one of them incidents. I was going into tight room early and I got the run, and I was going inside Wanderson. I gave him a yell. He's pulled off. I actually pulled out of it. I knew what was going on. His horse was running around a bit. I give him a yell and he pulled out. I came around his heels and I - I wasn't going as good as I thought I was, put it this way, but I just had to ease of his heels. I did yell to him. He did look at me and stopped and straightened, sir. It was just one of them ---- I didn't check. I had to stop my momentum. If I was going any good it might have got a bit dangerous but I wasn't going good enough, if you know what I mean, sir."* The chairman of the inquiry questioned *"Do you believe you could have stayed there?"* to which Mr Day replied *"Well, Wanderson come over. I thought I was a struggle to stay there. I was going be fighting for third or second. He was always going to beat me. Me pulling over his heels made it look worse than what it was, but - put this way, sir: if I was going any good I would have charged through and pushed him out of the road and won anyway. But to his credit, I did yell. He come over. I did yell. He looked, he stopped and that was it."*<sup>2</sup>

The Applicant, rider of SPACE TIME which was racing to the outside of CRUISE POWER, stated *"This horse usually does lay in all the time and in every single start. I'm not saying he didn't lay in but when I got a call on Nathan day on the inside, I look and check and stop riding largely. The reason why I sort of keep - keep him riding because I could see at the same time he pulled him back went around me. I believe if he - look, if he - if he would have kept coming inside I definitely would have just stop completely, but, like I say when he called I stopped, looked and then saw him trying to come back and go around. So that's why I sort of like keep riding."* The chairman of the inquiry questioned *"How far in advance do you believe you were of jockey Day at that time?"* to which the Applicant replied *"Sir, I never cross him. I didn't cross. Like he said, maybe if - maybe if he - it could - if he would have (inaudible) inside, he could maybe happen with me crossing because my horse wasn't helping me. But, as you can see, I stop riding and looking - trying to look after him as much as I can. I would probably say at that time I wasn't in front; I was probably right beside him like half a horse but no crossing yet."*<sup>3</sup>

<sup>1</sup> Transcript of Stewards' Inquiry dated 19 April 2018, page 2

<sup>2</sup> Transcript of Stewards' Inquiry dated 19 April 2018, page 2 and 3

<sup>3</sup> Transcript of Stewards' Inquiry dated 19 April 2018, page 3



Subsequent to viewing the race footage, the reviewer finds the Applicant, rider of SPACE TIME, was riding forward with the whip and permitted his mount to shift in near the 150 metre mark when not sufficiently clear of CRUISE POWER, which resulted in CRUISE POWER being tightened for room and having to change course across the heels of SPACE TIME to gain clear running. The reviewer finds, leading into the incident, CRUISE POWER had obtained clear running to the inside of SPACE TIME, at which time the Applicant permitted SPACE TIME to shift in for several strides taking CRUISE POWER in off its rightful running before tightening that horse and placing it in restricted room. The reviewer acknowledges Mr Day's actions and ability to read the play limited the degree of interference to CRUISE POWER. Taking into account the aforementioned factors, the reviewer is satisfied the charge is proven.

The stewards deemed the incident to be in the low-range. The standard penalty for a low-range offence is a ten (10) day suspension. The Applicant's disciplinary history notes three (3) careless riding offences in the last 12 months.

In weighing up the evidence on penalty, consideration was provided to the Applicant's degree of carelessness, interference caused, not-guilty plea and disciplinary history. The reviewer finds the Applicant was not entitled to any dispensation for his not-guilty plea and, considering the Applicant's careless riding history, finds the penalty imposed is more than considerate in the circumstances and is not satisfied a further reduction in penalty is proven and therefore 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  
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