



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 0084-18
Applicant's Name:	Patrick O'Toole
PART 2: Decision History	
Original Decision:	Breach of Rule 175(t) of the Australian Rules of Racing
Original Decision Makers:	D Aurisch, I Brown, B Connell
Date of Original Decision:	14 August 2018
Internal Review Decision:	Original decision charge and penalty confirmed - \$300.00 fine
Internal Adjudicator:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	18 September 2018
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Patrick O'Toole, is a registered licensed trainer within the thoroughbred racing industry in Queensland. The Applicant was charged under Australian Rule of Racing 175(t) and was subsequently found guilty of the charge at a stewards' inquiry conducted on 14 August 2018.</p> <p>Australian Rule of Racing 175 states:</p> <p><i>"The Principle Racing Authority (or the Stewards exercising powers delegated to them) may penalise:</i></p> <p><i>(t) Any person who obstructs or hinders the Stewards or other official in the exercise of their powers or duties."</i></p> <p>At the stewards' inquiry conducted on 14 August 2018, the Applicant was charged pursuant to Australian Rule of Racing 175(t) with the specifics of the charge being that the Applicant did hinder the sample collection official, Mr Michael Newman, in the exercise of his duties when he attempted to obtain a urine sample from the Applicant's horse TEN GOAL POLO, which won Race 2 at the Alpha Jockey Club on 30 June 2018. The hindrance being that the Applicant attempted to stop TEN GOAL POLO from urinating when the sample collection official was attempting to obtain the sample.</p> <p>The Applicant was found guilty of the charge and the stewards subsequently imposed a fine in the amount of \$300.00.</p> <p>The Applicant sought a review of the original charge and penalty and provided the following submissions in support of his Application:</p>	



"I am wanting an Internal Review for this matter because I believe I have enough evidence and witnesses to prove that I did not hinder a Sample Collection Official during the course of the Vets duties when attempting to obtain a urine sample from Ten Goal Polo after winning Race 2 at Alpha on the 30th of June 2018. I want an Internal Review because at this race meet I recall having 6 witnesses who were at the stable of Ten Goal Polo when the Vet arrived to take the sample whom 3 have prepared statements of what was seen on the day. I and my witnesses can strongly agree that I did not hinder the Sample Testing during the course while the Vet was with us. My Daughter, Sharni O'Toole, who was the strapper for Ten Goal Polo was present with him during the whole process from the race at 1:40pm until the next race at 2:20pm and any time during before and after. A photo is attached to identify where we were all standing during the time in the open stable straight after the race. This is an exact photo of the Alpha stables where we were standing, the horse pictured and initials of everyone identifies where we were all standing.

I note from a phone call about this matter that it was stated I was making loud noises on the back wall to distract the horse. I state that I was leaning on the back wall which is identified as old and rusted which did push out and give way when I would lean against it when I was standing on the far back corner of the next stable. I also note from the phone call that it was noted that I was kicking up dirt to distract the horse. I would like this reviewed also because as I have stated I was leaning on the back far corner of the next stable beside 3 other people, if I were kicking up dust I would have dirtied their clothing, which didn't happen as they can state they don't recall getting dirt on them, the Vet had no dust on him and I would have had to kick up a fair bit to reach the horse. I would also state that if I was kicking up dust the horse would have been moving and distracted which we can prove he was not. Also, the Vet was standing in front of me in the next stall so if I was doing this the horse would not have felt it anyway. It was about 10 minutes of this time where we were standing in the HOT SUN with the Vet when he and Sharni then took him into the enclosed swab room together to see if he would urinate in there for the testing. I would like this evidence to be reviewed because if you are accusing me to distract the horse for 10 minutes from urinating then why did the horse not urinate in the enclosed swab room when it was only my daughter and the Vet in there with the horse for the remainder of about half an hour or so. During this time, I was at my campsite with other members of my group that day waiting for our next race. It wasn't until after the next race that they come out of the enclosed swab room and back to the open stable when I approached the Vet seeking when he would be finished with the horse and how long does he have to keep him as we had other horses to get ready and my daughter had been standing in the heat waiting for a drink to cool down. I will say I spoke with a frustrated tone as I was not happy with the procedure that was being taken to test the horse. He had not been given a chance to cool down and relax from the race, he had only been washed once straight after the race and had only been given one drink after his race before entering the enclosed swab room. The Vet and I discussed the matter and he then proceeded to arrange for a male assistant to take blood swabs as he had to attend to the next horse that had just won the previous race.

From my point of view, I want my views taken into consideration for my Internal Review to identify that I did not hinder the testing as I was only standing in the next stable during the 10 minutes they were in the open stable where I was talking to my Partner and two other friends. My daughter was the only one closely associated with the Vet and the horse during this process. I want this reviewed when there was one Vet standing with 6 of us during only a short time and proof to identify how I could have possibly hindered the situation when I have witnesses to identify what happened on this day. I am hopeful that I have provided enough proof and evidence to prove that I did not hinder this sample testing process and I would like the Penalty removed from my name and the QRIC."



PART 4: Reasons for Internal Review Decision

The stewards inquired into a statement received from Mr Michael Newman, a Sample Collection Officer with Queensland Racing Integrity Commission relating to an alleged incident that occurred when Mr Newman attempted to obtain a urine sample from TEN GOAL POLO, a horse trained by the Applicant, subsequent to winning Race 2 at the Alpha Jockey Club on 30 June 2018.

Mr Newman's statement provided the following:

"I am Michael Newman. I am a Sample Collection Officer for the Queensland Racing Integrity Commission (QRIC).

On Saturday 30th June 2018, I was working at Alpha Jockey Club for QRIC in my role as a sample collection officer collecting pre-race and post-race blood or urine samples from horses.

In race two Patrick O'Toole's horse, Ten Goal Polo won that race. As the winner, I was required to attempt a post-race urine sample on the horse. I followed the horse back from the enclosure to the tie up stalls where at that point Patrick O'Toole and his strapper (unknown name) put a head collar and a lead on the horse and told me the horse was ready to take blood. I then stated to Patrick O'Toole that I would be attempting to take post-race urine today, which at this stage he did not appear to be happy with this decision. He stated that out in the bush they only take blood and not urine. I then stated today when I or another collection official are on course we are going to try for urine.

He asked if he could take the horse to be hosed which I replied yes and followed the horse to the hose bay where it was hosed and also had a drink from the hose. I then followed them back to the tie ups where they tied the horse back up and went to give the horse a drink out of a half full metal bucket. I then asked them to dispose of that water, rinse the bucket and refill it before giving it to the horse in which he did comply with. From where I was standing, I witnessed him wash the bucket and fill it back up. When he returned the bucket was only half-full. He attempted to give the horse a drink but the horse did not drink so he put the metal bucket beside the pole in front of the horse.

I was standing with his strapper on the horse's near side (left side) waiting for the horse to urinate. Patrick O'Toole, his wife and two other persons (one male, one female, appeared to be in their 30s) were standing on the horses off side (right side). At this time, I noticed they were all drinking alcohol.

The horse looked like it was going to stretch out and urinate when Mr O'Toole kicked dirt at the metal bucket, which resulted in the horse standing back up. I let that go as I thought it might have been a mistake. We then stood there for roughly 2-3 minutes and again the horse went to stretch out and Mr O'Toole again kicked dirt at the bucket. I asked him at this time to stop kicking dirt at the bucket please. He gave me a blank look but continued to talk to the other people who were with him. Then the third time the horse went to stretch out Mr O'Toole then banged the back of the tie-ups with his hand, which again resulted in the horse standing up.

I decided to take the horse to the swab room (which was not ideal for the sample process as it had carpet on the floor and no windows or air-conditioning but thought I'd give it a try because of Mr O'Toole's behaviour). So Mr O'Toole's strapper (his daughter) went to the swab room with the horse, but the horse played up soon after entering. I kept the horse in the room for approximately 5 minutes and race three was over so we took the horse back to the tie up for the vet to take over and take blood.



On arrival back at the tie up's Mr O'Toole was aggressive towards me by raising his voice and pointing his finger at myself. This was due to in his opinion I held his horse for too long, said that it was classed as animal cruelty and he was going to put in a formal complaint about Mr Luke Collins and myself because he thought we are picking on him and we shouldn't hold the horses for as long as we are. I calmly stated to Mr O'Toole that the horse was not in distress and under the stewards request we can hold your horse for as long as we require the horse to provide a sample, in which he replied that is "fucking bullshit cause out in these bush tracks they only take blood as soon as the horse is finished the race". I then again tried to explain to Mr O'Toole the process but with his aggression and intoxication. (I could tell he was intoxicated because I observed him drinking earlier on and I could also smell the alcohol on his breath and on his person). I proceeded to hand everything over to the vet and walked away for the vet to finish the sample process. I only held the horse from the end of race two until the end of race three. I then collected the winner of race three.

After his continued attempt at distracting the horse it is my opinion Mr O'Toole was intentionally trying to obstruct the process of taking urine from his horse."

During the stewards' inquiry conducted on 14 August 2018, the Applicant in evidence stated "My daughter and my wife, the people that were there, the owners, they cannot recall that ever happening - me getting abusive and pointing the finger out of it and me kicking dirt at the bucket, which the bucket was standing beside my daughter and the vet, and I - I was in the next stall with my other horses, and which I did have a beer because the owner - as I said, the owners had just walked up and shouted me a beer. In no way did them 10 people change any story to say that the vet told me to stop kicking the dirt - he was - it was - it was very hot where we were standing and my daughter, she was very (inaudible) in the hot sun, and I walked to the back of the stall in the next stall there to get out of the beating sun, and the bit of shade that I had was probably up from my head up sort of thing getting out of the sun, and then when my daughter did go - that's when I did walk to the back of the stall there, and I was leaning against the stall there and I fell through the back wall there because all the white ants had eaten all the stalls there, and which I said to the President later on that night - because I had one of his horses there - and I said, "Why don't you" - "It's about time you get rid of those stalls down there and (inaudible) made more new stalls now because I fell through the stalls down the back there."¹

The chairman of the inquiry questioned "What Mr Newman says though about you I guess trying to stop the horse from urinating - is that correct?" to which the Applicant replied "Definitely not. No one (inaudible) standing with me. My wife and the other people were standing there. I did not attempt to do anything like that. The bucket was standing beside my daughter, which you said previously beside the pole beside the vet. Now I was standing in the other stall in the back corner with my other horses there waiting for their race - was in Race 4 or something. I did not attempt to do anything, and I - they swear on their lives that they did not hear that vet say to them "Would you stop kicking dirt at that." And nothing - he did not say that one thing." The chairman of the inquiry then stated "It wasn't a vet. It was the sample collection official. So he was trying for urine. The vet comes and takes blood. He's not a vet per se - Michael Newman. He is employed by QRIC as a - to try and collect urine at those meetings" to which the Applicant replied "Well, I only seen the big tall bloke and a girl there, then the vet - then some other bloke come over later on to get me to sign the paperwork for the thing. But I can't recall anything being said like that to me, and everyone standing there they say the same thing, that he - he never told me once to stop kicking dirt. I was never, ever doing that."²

¹ Transcript of Stewards' Inquiry dated 14 August 2018, page 3 and 4

² Transcript of Stewards' Inquiry dated 14 August 2018, page 4 and 5



The Applicant, in evidence, added TEN GOAL POLO was in a distressed state following its race.

The Applicant's complete review submissions are outlined in Part 3 of this decision.

The Applicant further submitted a diagram of the stable area and witness statements from Ms Sharni O'Toole (daughter of the Applicant), Ms Michelle Oliver (partner of the Applicant) and Mr Ian Rhoden particular to their version of events on the subject day.

The reviewer accepts that it is common knowledge that horses are regularly subjected to urine testing to ensure horses are presented to race free of prohibited substances and importantly provides a vital mechanism to protect the integrity of the thoroughbred racing industry. The reviewer acknowledges urine samples provide racing laboratories with more scope in its analysis of detecting prohibited substances.

The reviewer acknowledges the importance that each case is treated on its merits and set of circumstances.

The reviewer is mindful of the weight placed on the witness statements considering their close alliances with the Applicant. Mr Newman is an official Sample Collection Officer of the Queensland Racing Integrity Commission with a specific purpose of collecting urine samples when required. The reviewer finds no evidence or reason to dispute the evidence provided in Mr Newman's statement and of particular concern was the Applicant's actions hindered Mr Newman on three occasions in his attempt to obtain a urine sample. The reviewer, in considering the evidence and aforementioned factors, is satisfied the charge is proven.

The Applicant's disciplinary history is clear of any prior offence pursuant to Australian Rule of Racing 175(t). The standard penalty for an offence pursuant to the aforementioned rule and set of circumstances is a fine of \$400.00.

In weighing up the matter of penalty, consideration was provided to the nature of the incident and its implications on the integrity of the thoroughbred racing industry, the Applicant's not guilty plea, disciplinary history and penalty precedents. The reviewer, having considered the aforementioned factors, finds the penalty imposed is considerate in the circumstances and accordingly 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

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