



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 0111-18 |
| Applicant's Name: | Brett Baker |
| PART 2: Decision History | |
| Original Decision: | Breach of Rule 59 of the Australian Rules of Racing |
| Original Decision Makers: | E Barron, J Childs, T Preston, T White |
| Date of Original Decision: | 24 November 2018 |
| Internal Review Decision: | Original decision of charge confirmed, penalty amended to a \$750.00 fine wholly suspended for a period of two (2) years |
| Internal Adjudicator: | Mr Kane Ashby, Queensland Racing Integrity Commission |
| Date of Internal Review Decision: | 9 January 2018 |
| PART 3: Summary of Internal Review Application | |
| <p>The Applicant, Mr Brett Baker, is a registered licensed trainer within the thoroughbred racing industry in Queensland who presented the incorrect horse to compete in Race 2 at Toowoomba on 24 November 2018. The Applicant was charged under Australian Rule of Racing 59 and pleaded guilty to the charge at a stewards' inquiry conducted on 24 November 2018.</p> <p>Australian Rule of Racing 59 states:</p> <p><i>"(1) The trainer of the horse and/or the trainer's authorised representative must ensure, including by reference to the horse's Thoroughbred Identity Card, that where a horse is engaged to run in any race or official trial the horse that -</i></p> <ul style="list-style-type: none"><i>(a) is brought to the racecourse;</i><i>(b) is presented to start in the relevant race or official trial; or</i><i>(c) starts in the relevant race or official trial</i> <p><i>is the correct course.</i></p> <p><i>(2) A trainer and/or the trainer's authorised representative who fails to comply with AR.59(1) commits an offence and may be penalised."</i></p> | |



At the stewards' inquiry conducted on 24 November 2018, the Applicant was charged pursuant to Australian Rule of Racing 59 with the specifics of the charge being that the Applicant did present the incorrect horse to compete in Race 2 at Toowoomba on 24 November 2018, which resulted in WOLF TALES being scratched from the race.

The Applicant entered a plea of guilty to the charge and the stewards subsequently imposed a fine in the amount of \$750.00.

The Applicant sought a review of the original charge and penalty and provided the following submissions in support of his Application:

"On Thursday 22nd November 2018, acceptances were released for Toowoomba race meeting 24th November. I had two runners engaged, Halfetti in the BM 62 and Wolf Tales in the CL 1.

At acceptance time on Thursday the RISA mobile app showed the acceptances with the BM62 as the 2nd race on the program and the CL1 race as the 5th, however the race times were missing.

Believing this to be an oversight from RISA I at no stage questioned the order of races and continued to check the site to see if the times were updated.

Checking again on Saturday morning and finding no updates, I simply checked another betting site SKY RACING (which as a non-punter, is unfamiliar to me) for the race times still believing the order of races to be as per RISA.

I arrived at the track with HALFETTI for race 2, leaving WOLF TALES at home as I had plenty of time to collect him for his later race.

I went to collect the saddle for race 2 and was confronted by Justin Stanley in WOLF TALES colours.

It was only then that I was made aware that the second race was in fact the CL 1 and not the BM62.

I immediately brought the matter to the attention of the stewards. You can appreciate my total confusion at the situation. I again checked my RISA mobile app which was still showing the "incorrect" order of races, which I then also brought to the attention of the stewards.

I was subsequently charged with breaching rule AR 59 of bringing the wrong horse to the racecourse for race 2.

I am only guilty of an honest and unintentional mistake brought about by misinformation given to me via RISA a usually reliable and industry recommended provider. I have been a user of the RISA app since its inception and have never had any reason to doubt the information it provides."

The outcome sought by the Applicant was for the original decision to be reversed.

PART 4: Reasons for Internal Review Decision

The stewards opened an inquiry into the reason for the Applicant, trainer of HALFETTI which was engaged in Race 5 and WOLF TALES which was engaged in Race in 2, incorrectly presenting HALFETTI to compete in Race 2 at the Toowoomba Turf Club on 24 November 2018 instead of WOLF TALES which was engaged to race in Race 2.

During the stewards inquiry conducted on 24 November 2018, evidence was provided by the Applicant and Mr Tom White, Stipendiary Steward of the Queensland Racing Integrity Commission.



Mr White, in evidence, stated *“On inspection of the horse I was expecting Wolf Tales - number 7 in Race 2 - and after checking the brands and scanning the horse it was clear that Halfeti was present and I just notified the stewards.”* The chairperson of the inquiry questioned *“Okay. At that point you explained to whoever was looking at the horse that in fact it was Halfeti? Not Wolf Tales. The wrong race”* to which Mt White replied *“Yes.”*¹

The Applicant was asked to explain the reason for presenting HALFETI instead of WOLF TALES for Race 2 at the Toowoomba Turf Club on 24 November 2018. The Applicant, in evidence, stated *“Just a mistake. I'm terribly sorry. I've trained horses for 25 years. I've had 15 runners on days. I have had 10 times more pressure than what I'm under today. I had a horse in the second race and a horse in the second-last race and I've sent my wife out to get it. I told her the horse. I told her to bring Halfeti and it was the wrong horse. I'm terribly sorry.”*²

The chairperson sought a further explanation that led to the Applicant presenting the incorrect horse on course for Race 2, to which the Applicant replied *“I have not got a lot of battery in this but I'll do my best, and I will show you personally rather than just wave it around the table. Go into RISA. Now what this was coming up in was form because results don't come up until your first race comes up. Let's presume that's Race 1, 2, 3, Race 4, Race 5. Wolf Tales, Race 5. Why would I bring him over for Race 2?”* to which the chairperson replied *“At the time - I see what you are saying there.”*

The chairperson questioned *“Did you have any query for it - just to saying race zero all the way down start times”* to which the Applicant replied *“I brought that - my evidence in the first time. The results don't come up until after the first race. Usually that comes up Race 1 and Race 2 and what time they are on and in the actual order of the race, which I presume they would because they weren't in order from - like from the open down to the maiden like they do in the norms and the weights. Acceptances come out in order of what they are going to race. This is Race 5.”*

The inquiry heard there was no race number or race times allocated on the Racing Australia mobile website. The chairperson questioned *“Just for our own benefit. Did you query - did you know what time the start”* to which the Applicant replied *“No, I didn't, no. To find what time the race - because I didn't buy a paper today, which I don't usually buy the paper anyway. Well, you could be misled to believe it was Race 5, yes. That's all I can add to my evidence. As I said before, I was in a hurry because I had honestly mistaken the times through daylight saving. The only times I had was what was on Sky Racing.”*

The Applicant added *“I went into Sky Racing. I can give you that as evidence too if you like. Toowoomba, Race 6 it says 9 o'clock, which is not right. Race 6 was actually 8 o'clock. In the hustle of getting the horse here, I had it pictured in my mind that that horse was in the 5th race. I brought Halfeti over expecting that she was in the second race.”* The chairperson questioned *“But on Sky Channel they have actually got the Class 1 Race 2”* to which the Applicant replied *“I wasn't looking at that; I was looking at the starting times. I trusted Queensland Racing with the order of races.”*

The Applicant was questioned *“Initially when you showed me - and also Mr Preston showed me that website - which I don't go into that website at all - it had all races were 12 o'clock”* to which the Applicant replied *“That's correct.”* The Applicant was further questioned *“Surely that would have - well, if I was looking at that and seen all races were 12 o'clock - did you say they had a zero beside each race? Surely that would have rang a bell to say, “Wait on, this is not right”* to which the Applicant replied *“That rang a bell for me to check Sky Racing to see what time the first race was.”*

¹ Transcript of Stewards' Inquiry dated 24 November 2018, page 2

² Transcript of Stewards' Inquiry dated 24 November 2018, page 2



And that's what I did." The Applicant was questioned "Yes, but then it's got on Sky Racing it's got the Class 1 Race 2" to which the Applicant replied "Yes. But I didn't read into that. All I went to Sky Racing was to look at the times."³

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

The inquiry heard the discrepancy was brought to the steward's attention by Mr White, subsequent to inspecting the identity of the horse HALFETI which the Applicant incorrectly presented on course for Race 2 on the program.

Racing Australia and its mobile website/app is a national industry database used by stakeholders, in this instance the Applicant, to manage race fields, form and results as part of their training operations. The reviewer finds that on the evidence, the Racing Australia mobile website inadvertently displayed Race 2 at the Toowoomba Turf Club on 24 November 2018 as the BM62 Handicap over 1625 metres, being the race HALFETI was engaged to race and not the Class 1 over 1200 metres which WOLF TALES was engaged to race. The mobile website further inadvertently displayed the race number and times as Race 0 - 12:00am for all six (6) races on the program. The inadvertent errors remained on the mobile website from the time of final acceptances until the commencement of the first race for the aforementioned race meeting.

The reviewer acknowledges the Applicant sought additional advice from the SKY Racing website on the morning of the race to establish the accurate race times for the aforementioned races, at which time it would be reasonable to accept the Applicant would identify the discrepancy between the two websites, particularly with the race programming and times for the respective horses' races.

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

The reviewer accepts that the Racing Australia mobile website inadvertently displayed Race 2 at the Toowoomba Turf Club on 24 November 2018 as the BM62 Handicap over 1625 metres, being the race HALFETI was engaged to race and not the Class 1 over 1200 metres which WOLF TALES was engaged to race. The reviewer acknowledges the seriousness of the offence the subject of review, however finds such offence was primarily a consequence of the inadvertent program error on the racing mobile website considering the Applicant was a regular user of the mobile website and reliant on such information for racing purposes. Notwithstanding, the Applicant is responsible for presenting the correct horse on course for the correct race pursuant to Australian Rule of Racing 59(1)(a).

The reviewer, in considering the evidence in totality and taking into account the aforementioned factors, accepts the Applicant's guilty plea for incorrectly presented HALFETI instead of WOLF TALES for Race 2 at the Toowoomba Turf Club on 24 November 2018 and accordingly is satisfied the charge the subject of review is proven.

The Applicant has held a trainer's licence for approximately twenty-five (25) years and in that period has an exemplary disciplinary history and no prior offence pursuant to Australian Rule of Racing 59(1)(a). The precedent for an unintentional offence pursuant to Australian Rule of Racing 59(1)(a) is a monetary penalty of \$1,000.00.

In weighing up the evidence particular to penalty, consideration was provided to the Applicant's submissions, mitigating factors, guilty plea, disciplinary history and penalty precedents. Further consideration was provided to the fact the Applicant sought additional advice on the SKY RACING website on the morning of the race which demonstrated the accurate race programming and importantly was in contrast to Racing Australia mobile website.

³ Transcript of Stewards' Inquiry dated 24 November 2018, page 3, 4, 5 and 6



The reviewer, having considered the evidence and aforementioned factors, finds the appropriate penalty in the circumstances is to amend the original penalty of a \$750.00 fine to be wholly suspended for a period of two (2) years under the provisions of Australian Rule of Racing 196(4) on the condition the Applicant does not reoffend during that period.

For reference, Australian Rule of Racing 196(4) states:

(4) Any person or body authorised by the Rules to penalise any person may in respect of any penalty imposed on a person in relation to the conduct of a person, other than a period of disqualification or a warning off, suspend the operation of that penalty either wholly or in part for a period not exceeding two years upon such terms and conditions as they see fit.

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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