



**INTERNAL REVIEW DECISION**  
**(Internal Review Decision Notice in response to an Application for Internal Review)**

**PART 1: Details of Internal Review**

<b>Internal Review Number:</b>	Internal Review 0002-19
<b>Applicant's Name:</b>	Baylee Nothdurft

**PART 2: Decision History**

<b>Original Decision:</b>	Breach of Rule 137(a) of the Australian Rules of Racing
<b>Original Decision Makers:</b>	L Hicks, R Hitchener, E Barron, B Cooke, S Heidke
<b>Date of Original Decision:</b>	8 January 2019
<b>Internal Review Decision:</b>	Original decision of charge and penalty confirmed - Nine (9) day suspension
<b>Internal Adjudicator:</b>	Mr Kane Ashby, Queensland Racing Integrity Commission
<b>Date of Internal Review Decision:</b>	29 January 2019

**PART 3: Summary of Internal Review Application**

The Applicant, Mr Baylee Nothdurft, rider of ONE OF THE BEST in Race 7 at the Lockyer Valley Turf Club on 8 January 2019, was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a).

Australian Rule of Racing 137(a) states:

*"Any rider may be penalised if, in the opinion of the Stewards, he is guilty of careless, reckless, improper, incompetent or foul riding."*

At the stewards' inquiry conducted on 8 January 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 137(a) in that approaching the 900 metre mark the Applicant permitted ONE OF THE BEST to shift in abruptly when insufficiently clear of LEICA CELEBRE, resulting in LEICA CELEBRE being checked and losing ground.

Stewards subsequently suspended the Applicant's licence for nine (9) days to commence at midnight on 16 January 2019 and to expire at midnight on 25 January 2019.

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

*"I was charged under AR 137(a) and received a 9 day suspension and I believe I am innocent of the charge.*

*I was charged with "in that approaching the 900m he permitted his mount to shift in abruptly when insufficiently clear of LEICA CELEBRE resulting in that runner being checked and losing ground."*



*I do not believe this to be correct as I didn't make contact with Fiona Jervis's mount. Her horse just over reacted badly while racing one off the race when I came over from a wide gate and I believed she would go over to the fence but before I got there she took hold of her mount and checked it out of the contest. I am not guilty of this charge and the stewards' footage does not substantiate the charge. Steward Mr Hitchener said in the inquiry that my mount came across from the wide barrier abruptly but he did not believe that I did not cause Fiona Jervis's mount to lose that ground that she did.*

*I request the Internal Reviewer to overturn the suspension I have received and clear me of the charge."*

The outcome sought by the Applicant was that the decision of the stewards to suspend the Applicant's licence be overturned and that the Applicant be cleared of the charge.

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

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 900 metre mark.

Evidence was provided by the Applicant, rider of ONE OF THE BEST, Ms Fiona Jervis, rider of LEICA CELEBRE, and Mr Shane Scriven, jockey advocate for the Applicant. Subsequent to being issued with the aforementioned careless riding charge, the Applicant, in evidence stated *"I would just like to put forward that there was, like - as I was coming across, like, I didn't cause her to check, like, there was enough room for her to sort of come across with me. I didn't cause her to grab hold. But when she - she's grabbed hold, I don't know what it was out of, but I have come across, like, abruptly and I think she might have thought I was coming across the whole way, but I haven't caused her to, um, check her mount, and there was enough room for her to just sort of go with me to get her to the fence. I'll be one off so she'd be on the fence. I don't think it should be, like, a charge."*

Mr Scriven added *"Only that that's the way I read it, too. I think - well, Baylee admitted it, he come over at an acute angle. Had there been horses to her inside, well, she's obviously not entitled to move inwards. But if she did think that Baylee was to continue on that path, I would have thought or expected the natural course that she should have taken was on an inward motion where there was ample room. It is certainly not evident that she's near Baylee's heels. Obviously she takes hold. I don't think she had to. But then once that's happened, the amount of ground that that horse lost is certainly of no fault of apprentice Nothdurft, in my opinion."*

Subsequent to viewing the race footage, the reviewer finds that near the 900 metre mark the Applicant, rider of ONE OF THE BEST, permitted his mount to shift in on an acute angle when not sufficiently clear of LEICA CELEBRE, resulting in LEICA CELEBRE being tightened in off its rightful running line and having to be severely checked to avoid the heels of ONE OF THE BEST. The reviewer finds that irrespective of whether there was room to the inside of LEICA CELEBRE as submitted, this in no way provides a 'green light' for riders, in this instance the Applicant, to shift another horse in off its rightful running line. The onus is on the rider shifting ground to ensure they are sufficiently clear of other horses beforehand to avoid causing unnecessary interference. The reviewer finds the evidence compelling and is completely satisfied the charge the subject of review 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 four (4) careless riding suspensions in 2018.



In weighing up the evidence particular to penalty, consideration was provided to the Applicant's submissions, degree of carelessness, severity of interference, not-guilty plea and disciplinary history. The reviewer, in considering the totality of the incident and taking into account the aforementioned factors, finds it can be reasonably argued that the incident falls into the mid to high range category, particularly when assessing the degree of carelessness and interference suffered to LEICA CELEBRE. Accordingly, the reviewer finds the penalty to be considerate in the circumstances and 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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