

## DECISION

*Racing Integrity Act 2016, sections 252AH, 252BM*

<b>Review application number</b>	RAP-115	
<b>Name</b>	Trudy Thornton	
<b>Panel</b>	Mr K J O'Brien AM (Chairperson) Ms D Condon (Deputy Chairperson) Mr E Wilkinson (Panel Member)	
<b>Code</b>	Thoroughbreds	
<b>Rule</b>	Australian Rules of Racing 131(a) <i>A rider must not, in the opinion of the Stewards engage in careless, reckless, improper, incompetent or foul riding</i>	
<b>Penalty Notice number</b>	PN-010712	
<b>Appearances &amp; Representation</b>	Applicant	Self-represented
	Respondent	Queensland Racing Integrity Commission Geoff Goold
<b>Hearing Date</b>	23 October 2024	
<b>Decision Date</b>	23 October 2024	
<b>Decision</b>	Pursuant to 252AH(1)(a) the Racing decision is Confirmed <i>(delivered ex tempore)</i>	

## Reasons for Decision

- [1] This is an application brought pursuant to Section 252AB of the *Racing Integrity Act 2016* by licensed jockey Ms Trudy Thornton for the review of the decision of Stewards made on the 17th of October 2024 finding her guilty of an offence of careless riding pursuant to Australian Rule of Racing AR131(a) and suspending her license to ride for a period of 16 days.
- [2] The charge against the Applicant arose from an incident that occurred during the running of Race 8 at Doomben on 16 October 2024. The incident occurred when, approaching the 800-metre mark of the race, the horse Kemi Zabi, ridden by Apprentice Jockey Emily Lang was severely checked and blundered, resulting in Ms Lang becoming unbalanced, with the consequence of her mount shifting out and bumping another runner Salt Lake Betty ridden by Jockey Robbie Dolan<sup>1</sup>
- [3] Evidence was taken from the Observing Steward, the Applicant and from Apprentice Jockey Lang, and the Stewards subsequently issued a charge of careless riding pursuant to AR131(a) against the Applicant as the rider of the horse Dealing's Done.
- [4] The Inquiry was adjourned until the following day at the Applicant's request in order that she might provide further evidence in defence of the charge. At the resumed hearing, at which Jockey Dolan and Jockey James Orman, the rider of horse Miss Emma were present, the Applicant was found guilty of the charge "in that as the rider of Dealing's Done approaching the 800 meters, she allowed her mount to shift in from a position four wide on the track to a three wide position when insufficiently clear of Emily Lang, the rider of Kemi Zabi. As a consequence of that shift, the racing room became severely restricted for Kemi Zabi, resulting in Emily Lang having a severely check Kemi Zabi from the heels of Dealing's Done, becoming severely unbalanced and losing its rightful running".
- [5] In determining penalty, the Stewards applied the Template, which appears as Annexure one to the Penalty Guidelines for Thoroughbred Racing. The degree of carelessness was assessed to be in the high range with the consequence of severe checking. This attracted a penalty of 18 days suspension of license, which was reduced by two days to reflect the Applicant's record, having incurred no suspensions in the preceding 12 months<sup>2</sup>.
- [6] At the Steward's hearing on the 16th of October evidence was taken from Observing Steward Mr Paul Zimmerman who recounted his observations as follows<sup>3</sup>:

*I had a head-on view of the incident. I will note that leading up to the incident, I felt that Ms Lang on Kemi Zabi was racing three-wide. To her outside was Robbie Dolan on Salt Lake Betty three and four-wide, respectively. As the runners got towards the 900, it was evident that the superior speed in the race was coming from the outside three*

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<sup>1</sup> Document 3, Steward's Race Report, race 8

<sup>2</sup> Document 18 Careless Riding Template

<sup>3</sup> Transcript of Steward's Inquiry lines 15-38

runners, which was Huxtable (Miss Bayles), Dan McGillivray (Treasurer), and the widest runner being Trudy Thornton on Dealing's Done.

*As those runners got closer to leaving the 900 and approaching the 800, I felt that Huxtable had crossed both Dolan and Lang satisfactorily. McGillivray likewise had managed to cross those runners that were three and four-wide. I did feel at the time, as Ms Thornton has continued to come down the track following those two other runners that had appeared from where I was positioned, that the racing room of Emily Lang and Kemi Zabi was cut down to the point where I felt that apprentice Lang had to take quite severe action on her mount to avoid the shift that was coming from the outside which she appeared to be insufficiently clear at that time, Ms Thornton, resulted in Emily Lang severely checking her mount, she did become unbalanced in the saddle. There was contact made to Robbie Dolan, who was still racing in a four-wide position to the outside of Emily Lang at that time. I believe as a second effect of the tightening to Ms Lang that she's come out, made contact to Mr Dolan's mount also, which had become unbalanced.*

[7] Apprentice Lang described the horses to her outside crossing and described that the Applicant "comes across, it just got awfully tight for me. I just had nowhere to go with the horses outside me to relieve the pressure off myself"<sup>4</sup>.

[8] The Applicant seems to have accepted at the Steward's Inquiry that that she did follow the other horses in crossing, but "thought it was clear to do so"<sup>5</sup>. She went on to say<sup>6</sup>:

*Like I said, sir, I did look, and I felt it was, but I think the biggest issue with my horse is when he's got there, I've just relaxed on him a bit, and he's just come back to me for three strides, which that probably doesn't help Emily's horse racing a bit aggressively.*

[9] After viewing the race footage however, the Applicant contended that on the bend Jockey Orman's mount, Miss Emma had "come out at least half a width of the inside fence, bumped into the horse outside of it, which has actually hit my shoulders and turned me a little bit"<sup>7</sup>

[10] She said that she believed she was clear of Apprentice Lang and that the incident was caused by inside runner, Miss Emma, failing to take the bend correctly and forcing tightening everywhere<sup>8</sup>. Her evidence is summed up in the following passage from the hearing<sup>9</sup>:

*Geoff Goold: Are you saying that the inside horse, Mr Orman's horse, is not taken the bend well and made contact and forced Jasper Franklin the horse to his outside wider on the track, and that's carried Ms Lang out towards your horse as opposed to any shift from your horse inwards? Is that what you're putting forward to the panel?*

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<sup>4</sup> Transcript lines 51-53 and lines 123-129

<sup>5</sup> Transcript line 88

<sup>6</sup> Transcript lines 98-101

<sup>7</sup> Transcript lines 174-176

<sup>8</sup> Transcript lines 199-200

<sup>9</sup> Transcript lines 206-210

*Applicant: Yes sir*

[11] At the resumed hearing on the 17th of October 2024 neither Jockey Orman, nor jockey Dolan, accepted the account given by the Applicant as to the inside movement. The Stewards, in finding the Applicant guilty of the charge provided the following reasons<sup>10</sup>:

*What the panel finds is that we don't believe that the video evidence or the rider evidence shows that Mr Orman's horse, Miss Emma, shifting out at that point that you state, entering that turn at the leaving the 900 and approaching the 800 causing any runners to be taken out towards your horse or Ms Lang's, we don't believe that.*

*As I said, the video evidence or the rider's evidence bears that out. We also do not believe that any of the evidence indicates any contact to your horse from Mr Dolan. Due to any shift from inside runners. We feel that the video evidence and the rider's evidence support that your horse Dealing's Done when shifting from the four-wide position down to a three-wide position in front of Emily Lang's mount, Kemi Zabi, that we would say that your runner was barely a length clear of Ms Lang. At that point, we feel that the evidence certainly shows that you follow Mr Huxtable and Mr McGillivray down towards the rail from a four-wide to a three-wide position.*

*Whilst those two runners were cleared across and inside horses, at that point, we feel that your positioning at that point the evidence shows that you were probably three-quarters of the length behind Mr McGillivray at that point. As a consequence of your positioning at three-quarters and the length back, that has resulted in you not being clear of Emily Lang when you've crossed down to that three-wide position.*

*While stewards do note that Ms Lang's horse, due to the evidence provided during the inquiry in the statement that you made the defence of the charge that her horse Kemi Zabi was over racing at that point and leading up to the incident. Stewards note that the evidence does support that. However, prior to you crossing into Ms Lang's line, we don't believe that the evidence bears out that there is any issue that's caused the incident other than you shifting into her line.*

*Whilst her horse is over racing, she's been crossed by two other runners without incident. While she's over racing, we feel that you haven't been sufficiently clear when you've crossed into her line, and that has brought about the incident. Whilst, as you state, that her horse was over racing, we feel that sufficient racing room afforded to her would've been a better option. It wouldn't have caused the incident. For those reasons, stewards do formally find you guilty of the charge issue.*

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<sup>10</sup> Transcript 577-616

[12] In her application for review the Applicant states that "The whole incident was caused by various shifts of runners to my inside."<sup>11</sup>She contends<sup>12</sup>:

*...this incident is caused by the initial tightening by MISS BAYLES ridden by Justin Huxtable to STRAPPASI ridden by Jasper Franklin, who in turn puts pressure on MISS EMMA by James Orman which shifts out marginally putting STRAPPASI on an outward path, which in turn puts KEMI ZABI ridden by Emma Lang on an outward path across my heels.*

[13] She contends that she maintained a four wide position throughout the incident and that she is not guilty of a charge of careless riding. She maintained, she said, a true line throughout. Before this Panel Miss Thorburn's contentions have been argued very competently by Mr Byrnes, the President of the Queensland Jockey's Association.

[14] This Panel must of course form its own view of the circumstances of the incident. In forming that view we have the benefit of the submissions made today and have regard to all of the evidence that was before the Stewards, including video footage of the race which we have had for the opportunity to view and review on numerous occasions.

[15] An important consideration here is the eyewitness account of the observing steward, Mr Paul Zimmerman. We have set out Mr Zimmerman's observations above, and as has been said on many occasions by Panels and Tribunals of this nature, Stewards are experienced and trained in these matters and their observations should not be lightly discounted.

[16] The official race footage indicates what might be described as a bunched field approaching the 800-meter mark. It is evident that Apprentice Lang, the rider of Kemi Zabi takes hold and severely checks her mount. This continues for approximately 100 meters. The angle of this particular footage does not give a clear view however, of how that interference comes about.

[17] Watching the rear view of the footage, Apprentice Lang appears to begin well and race on terms with the three runners to her outside. To her outside is Salt Lake Betty, ridden by Jockey Robbie Dolan and to his outside going forward is Miss Bales, the eventual winner, ridden by Jockey Justin Huxtable.

[18] Jockey Huxtable rolls forward crossing Apprentice Lang and further out the rider of Treasurer, Jockey McGillivray, also rolls forward following Jockey Huxtable across. As the two runners are crossing, Apprentice Lang already begins to take hold and start checking her mount. Wider out, a length or so back is Jockey Thornton on Dealing's Done, who appears to follow Jockey McGillivray across.

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<sup>11</sup> Attachment to Applicant's application for review 18 October 2024

<sup>12</sup> Ibid

- [19] At this point, as noted, Apprentice Lang is already checking her mount and looks to be in an awkwardly tight position but is now severely checked off the heels of Jockey Thornton's mount, losing a considerable amount of ground.
- [20] Watching the head-on footage, running into the corner at the 800-metre mark, apprentice Lang is racing in a three wide position. As Jockey Huxtable, followed by Jockey McGillivray, commences to cross in front of her, Apprentice Lang's mount begins to over race and she begins taking hold and checking her mount. Jockey Thornton, then from a five wide position, is rolling forward of Apprentice Lang and appears to look back at the unfolding incident.
- [21] Running into the point of the turn and still over racing, Apprentice Lang has shifted a further horse away from the two runners inside of it to be approximately four wide. It then appears, in the Panel's view, that Jockey Thornton begins to roll forward of Apprentice Lang and follows jockey McGillivray across.
- [22] It is clear that Apprentice Lang is only a length back to the Applicant's inside and is running out of room, checking severely losing her rightful running. Jockey Thornton had been in a five wide position but rolls forward to a four wide crossing in front of Apprentice Lang to eventually be outside of Miss Emma on the fence and Strapparsi to the outside. Strapparsi does appear to roll out marginally.
- [23] The Panel considers that there are a number of factors which had led up to this incident. Apprentice Lang does take hold of the mount and begins to check as Jockeys Huxtable McGillivray cross in front of her, Kemi Zabi Racing in blinkers for the first time, commences to resent being restrained and starts over racing, shifting out from a three wide position to four wide. In the Panel's view, this is not brought about by the runners to the inside of Apprentice Lang. The critical question then becomes why it was that Apprentice Lang had to severely check her mount and lose ground as she did.
- [24] It is evident to the Panel watching the Steward's head on footage in particular, that while Apprentice Lang is already having trouble with her mount over racing, once the Applicant's mount rolls in from a five wide position to what the Respondent contends to be a three wide position Apprentice Lang has run out of room and has no option but to severely check her mount.
- [25] Whether her movement was to a three wide position or to a neat four position is not, in the view of this Panel, to the point. The essence of the charge, established by the evidence, is that the Applicant has crossed in front of Apprentice Lang when insufficiently clear, causing Lang to check to check her mount severely.
- [26] It is to be noted that in her initial account before the Steward's Inquiry, the Applicant stated that she had shifted in thinking there was that she was clear of Apprentice Lang. That is contrary to the position that she subsequently adopted. She also said before the Stewards that it is evident that she was in a four wide position and had remained in that position when regard is had to the position of Jockey Dolan's mount behind her. That may be so at that particular

point in the race, but it is shortly after that that she commenced to roll in and caused the interference that is the subject of the charge.

- [27] Having regard to the race footage and to the evidence of Mr Zimmerman, the Panel is satisfied that the charge of careless riding is established. These findings are consistent with the Steward's race analysis which the Panel finds to be sound.
- [28] So far as the issue of penalty is concerned it is submitted for the Respondent that careless riding is a well-accepted safety rule, which is paramount in racing. As with other competitive sports which occur at high speeds with participants in close confines, horse racing is an activity which carries considerable risk and danger to horses and rider. The consequences arising from a careless ride can range from minor to impacting on the safety of riders, horses, and the outcome of the race. It can have a detrimental impact on the sport. The Panel accepts this submission.
- [29] The Applicant is a senior jockey of considerable experience who would be fully aware of these matters. The rule is one which is designed not only to provide confidence in the industry, but also to promote safe competition within the industry.
- [30] The appropriate penalty is determined by the application of the careless riding Template to which we have previously referred.
- [31] In the Panel's view that the analysis conducted by the Stewards is appropriate, with a starting point of 18 days suspension for this particular offence, reduced by two days to reflect the Applicant's record. In the result then that would be a suspension of 16 days
- [32] Pursuant to section 252 AH(1)(a) of the Act, the racing decision the subject to the application is confirmed.