

## DECISION

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

<b>Review application number</b>	RAP-113	
<b>Name</b>	Emily Lang	
<b>Panel</b>	Mr K J O'Brien AM (Chairperson) Ms S Bogenhuber (Panel Member) Mr K Waller (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-010540	
<b>Appearances &amp; Representation</b>	Applicant	Self-represented
	Respondent	Queensland Racing Integrity Commission K Daly instructed by E Ballard
<b>Hearing Date</b>	24 September 2024	
<b>Decision Date</b>	24 September 2024	
<b>Decision</b>	Pursuant to 252AH(1)(a) the Racing decision is Confirmed <i>(delivered ex tempore)</i>	
<b>Case References</b>		

## Reasons for Decision

- [1] This is an application brought pursuant to the provisions of the *Racing Integrity Act 2016* for the review of a decision made by Thoroughbred Racing Stewards on 14 of September 2024. The Applicant is licenced apprentice jockey Miss Emily Lang.
- [2] On 14 September 2024, Stewards conducted an inquiry into an incident which occurred during the running of race four at Eagle Farm Racecourse. On that day, the Applicant who had ridden the horse Kokonotsu in that race was found guilty of an offence of careless riding contrary to Australian Rule of Racing 131(a). By way of penalty, she received a licence suspension of eight days operative from midnight 21 September 2024 until midnight 29 September 2024. So far as that suspension is concerned the Applicant has been granted a stay until the determination of these proceedings.
- [3] The charge against the Applicant alleged that approaching the 1200 metre mark in the race she had allowed her mount Kokonotsu to shift in when insufficiently clear of Jockey Castle's mount Linda's Magic. As a result, that horse was carried inward tightening the running of another horse, Flying Rothe, ridden by jockey Thalia Fenlon, causing her to take hold and check from heels.
- [4] In her Application for Review of the Stewards' findings of guilt, the Applicant maintains that she was not in breach of AR 131(a). She argues that there is "insufficient video evidence" to support a finding of guilt and that there was a half horse gap between her horse and Ms Castle's mount. Her contention is that she applied no pressure to Ms Castle, who moved to the fence, thereby applying pressure to Ms Fenlon's mount, of her own accord.
- [5] The Stewards' Inquiry heard evidence from senior steward Mr Kim Daley, who gave evidence of his race observation as follows<sup>1</sup>:
- I was at the 1100 meters, I had a clear head on view of the incident that took place probably leading (to) the 13 just as the runs come off that dog leg turn. I've got, leading up to the incident, Thalia Fenlon on Flying Rothe she was racing on the fence. To her immediate outside I believe was Linda's Magic, Melea Castle, she was probably racing three-quarters of a length in advance of Ms Fenlon and further out three deep Apprentice Lang on Kokonotsu. At the point of the incident there was a shift from Emily Lang's mount inwards that resulted in Melea Castle's horse being taken in closer to the rail and Ms Fenlon, who was racing on the fence at that point, she's had to grab up.*
- [6] Evidence was taken also from riders Castle and Fenlon. In summary, Ms Castle's account was that she had received pressure from the Applicant to her outside<sup>2</sup> and Miss Fenlon described receiving subsequent pressure from Ms Castle, causing her to take hold<sup>3</sup>.

---

<sup>1</sup> Transcript of Stewards' Inquiry lines 20-30

<sup>2</sup> Ibid lines 70-76 and lines 222-224

<sup>3</sup> Ibid lines 46-54

[7] The Applicant in her evidence before the inquiry described events in these terms<sup>4</sup>:

*My horse sort of began while I was looking to obtain sort of first four position. I was inside the heels of Taylor Marshall, and I had quite a steady tempo as they were crossing. I stayed inside of his heels for the majority of the shift. I sort of knew that I had one to my inside, but I definitely didn't think there was enough room for two in there. As Ms Castle said, I think it was her intentions to be where she was, but once I sort of got brought in a little bit, it made things a bit tight and [an unclear passage] charging up there, which as a result Tahlia Fenlon lost her rightful running.*

[8] After being charged with the offence and entering her plea of not guilty, the Applicant said<sup>5</sup>:

*I'm just really going to stick to my statement, sir, that I'm outside the heels of Taylor Marshall as the two girls stated [unclear] charging up into room where it was tight and you can clearly see as we round the corner I'm still outside of his heels, sir. [Unclear] open space in between Ms Castle and I, I don't see how I could have pushed her across into Tahlia.*

[9] During the Stewards' Inquiry, although there was initially, some suggestion that the Applicant may have received some inward pressure from Jockey Marshall on his mount Spills, this suggestion was not subsequently maintained by the Applicant<sup>6</sup>. Such a suggestion is not supported by the race footage, but it is to be noted that, in the first passage from her evidence set out above, the Applicant appears to acknowledge that she did move in "a little bit" making "things a little bit tight" in the lead up to jockey Fenton losing "her rightful running".

[10] The Applicant asserted elsewhere however that the race footage did not show her leaving her three wide position<sup>7</sup> and that she did not apply pressure to Ms Castle's mount.

[11] The Stewards, having considered the whole of the evidence, were satisfied of the Applicant's guilt. Their findings were summarised in these terms<sup>8</sup>.

*When looking at the films, we do believe that at a point prior to that point of the turn, we do believe that your mount does shift inside that three wide line. We don't believe the films indicate that you're dictated to at any point by Mr Marshall. We do believe that your mount has shifted in at that critical point and we are also of the belief as the evidence that Ms Fenlon put forward to the panel, we do believe that the mannerisms of Ms Fenlon's horse has contributed to the incident as a whole, but we believe that your shift inwards has caused Ms Castle to shift in, tightening the running of Ms Fenlon, so as such, we formally find you guilty.*

[12] In determining a penalty, the Stewards had regard to the Careless Riding Template which appears Annexure A to the penalty guidelines. They assessed the degree of carelessness as

---

<sup>4</sup> Ibid lines 89-98

<sup>5</sup> Ibid lines 401-406

<sup>6</sup> Ibid lines 279-306

<sup>7</sup> Ibid lines 310-311

<sup>8</sup> Ibid lines 447-456

falling within the low range with a category one consequence of causing Ms Fenlon, the rider of Flying Rothe, to take hold and check. That provided a starting point of a ten-day suspension of licence.

- [13] In accordance with the Template the Applicant received a one-day discount for her riding record, two suspensions in the previous 12 months with more than 300 rides, and a further one day discount by reason of her being an apprentice rider. The result was a licence suspension of eight days.
- [14] As the Respondent has submitted<sup>9</sup>, Jockeys are required to exercise due care. In exercising due care, it is the obligation of jockeys to at all times make every effort to ensure that their horse is under control and that they do not interfere with the rightful running of other competitors in the race. The onus is on the rider, in this case the Applicant, to ensure prior to shifting ground she is sufficiently clear of other runners beforehand to avoid causing interference.
- [15] This Panel has had the opportunity of viewing the race footage on numerous occasions and we have considered also the evidence given at the Stewarts hearing and of course, the submissions that have been made to the Panel today.
- [16] So far as the evidence is concerned, the evidence of both Jockey Castle and Jockey Fenlon at the Stewards' Inquiry was consistent, that being that pressure was received from the outside. There was also the evidence given by Mr Daly, an experienced Steward, who describes seeing the Applicant's mount move inward resulting in Jockey Castle's horse being taken in closer to the rail, resulting in Jockey Fenlon having to take hold of her mount.
- [17] As Panels and Tribunals such as this have said on many occasions, Stewards are experienced in making such observations and assessments and their evidence should not be lightly discounted.
- [18] Mr Daly's observations are, in the Panel's view, consistent with the race footage, which to the Panel's satisfaction, shows the Applicant shifting, however slightly, when not sufficiently clear of Ms Castle's mount Linda's Magic.
- [19] The Applicant, with the able assistance of Mr Prentice from the Queensland Jockeys Association, presented her arguments in a careful and reasoned manner. However, her claim that she was not inside the three wide line is, in our view, not borne out by the totality of the evidence-the oral testimony and the race footage. This Panel is satisfied that her movement did have the effect of dictating to Ms Castle, carrying her inwards and ultimately causing Jockey Fenlon to take hold as the charge alleged. The Panel accepts the race analysis provided by Mr Daly.
- [20] We are satisfied, therefore, that the charge of careless riding is established.

---

<sup>9</sup> Outline of Respondent's Submissions paragraph 16

- [21] On the issue of penalty, there is no specific Application before the Panel. However, we are satisfied with Stewards' analysis and the application of the Template to the circumstances of this case, such that the at licence suspension of eight days should be upheld.
- [22] Pursuant to section 252AH(1)(a) the decision of the Panel is to confirm the racing decision.
- [23] The suspension will commence at midnight on 28 September 2024 and end at midnight on 6 October 2024.

[racingappealspanel.qld.gov.au](http://racingappealspanel.qld.gov.au)