

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-62	
Name	Andrew Mallyon	
Panel	Mr Kerry O'Brien (Chairperson) Mr Ken Waller (Panel Member) Ms Skye Bogenhuber (Panel Member)	
Code	Thoroughbreds	
Rule	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>	
Penalty Notice number	PN-009083	
Appearances & Representation	Applicant	Self-represented
	Respondent	Queensland Racing Integrity Commission Geoff Goold
Hearing Date	6 November 2023	
Decision Date	6 November 2023	
Decision <i>(delivered ex tempore)</i>	Pursuant to 252AH(1)(a) the Racing decision is confirmed.	

Reasons for Decision

- [1] This is an application by licensed Jockey Mr Andrew Mallyon for the Review of a Racing Decision made on the 28 of October 2023. On that date, Mr Mallyon received a 17-day suspension of license following a Stewards Inquiry into his riding of the horse Rowainers Dance in Race 7 at Doomben.
- [2] The Applicant was charged with an offence of careless riding, contrary to AR131(a). The particulars of the charge to which he pleaded guilty were that he, as the rider of Rowainers Dance, had shifted in, near the 1100 metres when insufficiently clear of Try Everything, as a consequence, that runner became awkward and shifted inwards, taking the rightful running of Golden Decade, causing that horse to be checked and shift in on to the rightful running of Within Reason, causing that horse to be checked.
- [3] This application is brought pursuant to Section 252AB(1) of the *Racing Integrity Act 2016*. The Applicant does not dispute that he is guilty of the offence of careless riding but contends that the incident warranted a mid range rather than a high range penalty.
- [4] He states "I plead guilty to checking a horse, but not a severe check while Angela Jones is not required to call, it is common courtesy for jockeys to give a call when they look like they are in trouble. I looked inward and Angela Jones was not there and as I crossed, she 'punched' up into the position which caused the incident. Which then had a concertina effect on others losing their position."
- [5] The chain of events surrounding the incident is largely uncontroversial. The Stewards heard evidence from a witnessing Steward, Mr Williamson, who was positioned near the 800 metres, and had a head on view of events.
- [6] He described seeing the Applicant shifting in to obtain a position closer to the fence going forward at the time, directly to the inside was Jockey Jones mount Try Anything, which was taken in at that point on quite an acute angle. Jockey Orman on Golden Decade was also taken in onto the rightful running of Jockey Byrne on Within Reason. Both Jockey's Orman and Byrne were placed in quite precarious positions and had to take hold. The Byrnes mount was also forced to shift in.
- [7] The Stewards also heard evidence from Jockey's Thornton, Byrne, Ormond and Jones, as well as the Applicant. Their collective evidence effectively compliments the observations of Steward Williamson
- [8] Jockey Jones, the rider of Try Everything described making her way forward and the Applicant attempting to come in, she gave him a call expecting him to relieve the pressure, but he came in quite suddenly.
- [9] Jockey Jones riding Try Anything described making her way forward with Jockey Orman's mount to her inside. She had pressure from the Applicant on her outside and gave him a call expecting him to relieve the pressure. He came in "quite suddenly," she didn't have time to check, "just got carted across with him."
- [10] Jockey Orman stated that they incident happened "fairly quickly". He was working forward when he was carried in by Jockey Jones mount, causing him to check and lose his running.
- [11] Jockey Byrne described the outside horses coming in at an acute angle. He called to Jockey Orman on his outside, who endeavoured to relieve the pressure. He felt that without those efforts the situation would probably have "ended up a lot worse". As it was both he and the rider to his outside had to take "severe action".

- [12] Jockey Thornton describes some contact from Jockey Byrne's mount in this concertina effect, though he didn't have to take hold himself.
- [13] The Applicant in his evidence before the Stewards described striding forward intending to lead. His horse shifted abruptly. He did look when he began to shift and saw only the one runner on the fence, not aware that Jockey Jones was still racing back in behind him. He did not hear any call from her, but felt his horse shift abruptly and unexpectedly.
- [14] He looked again and saw the head of Jockey Jones mount, he tried to veer out, "but the damage was done". Had he known Jones was there, he would have reacted sooner.
- [15] When formally charged by the Stewards, the Applicant reiterated that there was no call from Jockey Jones. Had there been such a call, or had he been aware that she was there, he "would have reacted quicker to (his) horse shifting".
- [16] As indicated the Applicant entered a plea of guilty to the charge and the Stewards proceeded to apply the careless riding template developed in September 2023 to provide Stewards with a framework to determine a penalty calculation for careless riding by categorising the incident based on certain criteria, those being the grade of charge, the riders previous record and feature meeting loadings.
- [17] This template operative from the 1 of October 2023 involved a new methodology to determine the appropriate penalty for careless riding breaches of AR131(a).
- [18] Based on this template, the Stewards arrived at the penalty of 17 days suspension of licence determined as follows.
- [19] Step 1, involved a determination of the grade of the charge. The Applicant's carelessness was determined to be high (3) resulting in a number of horses being forced to check and inconvenienced or interfered with as a result of the shift in from the Applicant's mount on the acute angle (3), thus providing a starting point of an 18-day suspension.
- [20] Step 2, the Applicant was not able to be afforded any discount for his disciplinary history as he had three careless riding suspensions over the past 12 months. Absent such suspensions he would have been entitled to as much as two days discount. Those previous offences were a careless riding breach at Eagle Farm on the 4 January 2023, for which he was suspended for eight days; a careless riding breach of the 29 June 2023 at Ballina, when he was suspended for four days and a further careless riding breach on the 30 August 2023 at Doomben for which he was suspended for eight days.
- [21] Steps 3 did not apply to the Applicant, nor was step 4 of application in the circumstances.
- [22] In relation to Step 5, regard was had to the Applicants plea of guilty and he received the discount of one day for that plea.
- [23] The Applicant before this panel does not dispute his carelessness. He submits, however, that the incident warranted a mid-range rather than a high range finding of careless riding.
- [24] The only additional evidence that's been placed before this Panel comprises statements from Jockey Byrne and Jockey Orman, neither of whom can recall any call being made by Jockey Jones.
- [25] This supports the account of the Applicant that there was no call from Jockey Jones.
- [26] It should be noted, however, importantly, that there was no obligation on Jockey Jones to call for room or to provide a warning. In any event in the circumstances of this case where the incident occurred so suddenly, the opportunity of any such call was limited.

- [27] This Panel has had the opportunity of seeing the race footage and in particular the Panel has found the front on angle to be very telling and to confirm the observation of Steward Williamson, to which I have already referred, describing the acute angle of movement of the Applicants horse.
- [28] The evidence of Stewards in such situations should not be lightly discounted. They are experienced in these matters and full weight should be given to their observations, confirmed here by the Panel's viewing of the race footage.
- [29] Jockeys are required to exercise due care. The Panel acknowledges that horses do shift, however, 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.
- [30] It is not enough to place reliance on a call from other riders. The safety of other riders is a paramount consideration as is of the entitlement of all owners, trainers and the public, to expect that horses will compete without interference of this nature.
- [31] The Panel have found the race footage to be particularly helpful in this case.
- [32] The critical moment in the Panel's view, was when the Applicants horse moved in an acute angle from an outside position, at a time when there are several runners positioned to his inside. It is clear from the footage that several of those runners were checked by that maneuverer.
- [33] In the Panels view, this does serve to place the offending careless riding in the high range. The Panel must form its own view in this regard and we are satisfied that the penalty was appropriate in the circumstances of this case and that it is consistent with the template.
- [34] Therefore, pursuant to section 252AH(1)(a) of the act the decision of the Panel is to confirm the racing decision.