

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-128	
Name	Boris Thornton	
Panel	Mr K J O'Brien AM (Chairperson) Mr K Waller (Panel Member) Ms J Overell (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-011128	
Appearances & Representation	Applicant	Self-represented
	Respondent	G Goold Queensland Racing Integrity Commission
Hearing Date	31 January 2025	
Decision Date	31 January 2025	
Decision	Pursuant to 252AH(1)(a) the Racing Decision is Confirmed <i>(delivered ex tempore)</i>	
Case References	<i>Rawiller v Racing NSW – Racing Appeal NSW – 1 April 2021</i>	

Reasons for Decision

- [1] This is an application by licenced jockey Boris Thornton for the review of a decision made by Stewards on 27 January 2025 to suspend his licence for a period of nine days.
- [2] The decision followed an inquiry conducted by Stewards into the Applicant's riding of the horse Mercian in race five at Doomben on 27 January. The Applicant subsequently pleaded guilty to a charge of careless riding contrary to Australian Rule of Racing 131(a) and the nine-day suspension penalty, operative from midnight 2 February 2025 until midnight 11 February 2025, was imposed.
- [3] The careless riding charge against the Applicant was in the following terms¹:

...in that leaving the 800m, he directed his mount inside the heels of LIMAHULI, when insufficiently clear of TRY EVERYTHING, crowding TRY EVERYTHING and DON'T BE DRAMATIC, causing the rider of TRY EVERYTHING to take hold and lose their rightful running.

- [4] The penalty of nine days suspension was determined through the application of the careless riding template which appears as Annexure A to the Queensland Racing Integrity Commission's Thoroughbred Penalty Guidelines. The level of carelessness was assessed as falling within the medium range, with level one consequences involving hampering or crowding. In accordance with the template, this conduct attracted the starting penalty of a 10-day suspension of licence which was then reduced by a period of one day to reflect the Applicant's plea of guilty.
- [5] The Applicant now contends that the penalty was excessive and that his conduct warranted no more than a reprimand. He refers to two incidents involving other jockeys, which he contends were similar in nature to this matter and in which no suspensions were imposed. The first such incident involved Jockey Emily Lang in race three on the same Doomben programme. Ms Lang was issued with a severe reprimand for her offence of careless riding. The second incident relied on by the Applicant concerns Jockey Nikita Beriman at the Sunshine Coast meeting of 1 January 2025. Ms Beriman also received a severe reprimand after being found guilty of a charge of careless riding.
- [6] It did initially appear from the Applicant's Application Notice that he sought to change his plea from one of guilty to one of not guilty, but it is clear that his sole issue before this Panel is the that of the severity of the penalty imposed by the Stewards.
- [7] During the Stewards' hearing evidence was taken from a number of riders involved in the incident, as well as from Steward Mr Clayton Warren, who observed the incident from the Stewards tower located at the 800-metre mark. Mr Warren's evidence was as follows²:

I was situated in the 800-metre tower which afforded me a head on into slightly lateral view of an incident believed to have occurred at a point leaving the 800 metres. Approaching that point of the race it did appear to me that leading into it jockey Wilson-Taylor's mount was racing in about a three wide line and to his outside and slightly back was jockey Thornton's mount. Just getting to

¹ PN-011128

² Transcript of Stewards' Hearing, lines 17-32

that point it did appear to me that jockey Thornton's steadied his mount and endeavoured to shift in, back into the inside of where jockey Wilson-Taylor's mount was. I don't really feel that jockey Wilson-Taylor's mount's [sic] deviated from that three wide line. If it has, I don't feel it's deviated much. In doing so, jockey Thornton when he's shifted in and gone to the inside of jockey Wilson-Taylor has shifted across the running of apprentice Lang when I believe to be insufficiently clear. As a result, Ms Lang's had to check her mount and apprentice Hampson racing to the inside of apprentice Lang on the fence has also been crowded as a result.

- [8] Evidence was also taken from Apprentice Jade Hampson, the rider of Don't Be Dramatic. Miss Hampson's account is as follows³:

[Jade Hampson]: I was just sort of tracking up. My horse was slow away and it got quite tight there from my outside. Jockey Emily Lang was also tightened. We both sort of had to ease back a little bit there, at that point.

[Steward]: Miss Lang was racing to your outside?

[Jade Hampson]: Yes.

[Steward]: Do you have an opinion of why it got tight at that point?

[Jade Hampson]: I did see some, I believe – like forward from us, jockey Thornton's mount might've gotten a bit tight around the corner and shifted in slightly. [Obviously I've] on the fence gotten tight as Emily Lang's mount was also tightened.

[Steward]: So, Emily Lang's mounts come in on top of you?

[Jade Hampson]: Yes.

- [9] Later in the Hearing, following the playing of the video footage of the race, Ms Hampson, having observed that footage, was asked if she wished to add anything to her earlier evidence, she said⁴:

Yes, sir, as I can see in the footage Mr Thornton's mounts come across quite abruptly tightened Miss Lang's horse which, as I said before, hers has obviously tightened from that and mine's reacted as well. I don't believe she's shifted in on me. We're both holding our line as much as we can. We're quite tight on the fence.

- [10] Apprentice Lang, the rider of the horse Try Everything gave evidence in these terms⁵:

There was sort of a gap between me and the horse in front of me. I'm not sure who that was at this stage. As I was coming round to the corner and I was just trying to fill up that space sir, and as that happened, we were coming into the corner, out a little bit tight and Mr Thornton's mount's just sort of come in and I've had to ease back. I think at this stage Jade was racing forward of me and she was able to continue on with her run, but I just had to come back out of it sir.

³ Transcript of Stewards' Hearing lines 38-50

⁴ Ibid, lines 127-131

⁵ Ibid, lines 57-64

[11] After viewing the footage of the race, Ms Lang was asked if she had any further observations and provided the following⁶:

Yeah, probably the same as what Jade said sir. There wasn't quite enough room for another horse there with us all trying to track up to the [unclear] in front of us, being [off the bridle] and the other [unclear] to come out sir.

...I'd already started restraining prior to Mr Thornton coming across, so just had to sort of keep pulling my mount back out of it.

[12] The evidence given by Jockey Kyle Wilson-Taylor, rider of the horse Limahuli, is that he was racing in a three wide position and was attempting to come back to a one-off position to obtain cover when he observed the Applicant had eased and attempted to get underneath him so he had maintained his three wide line.

[13] The evidence of the Applicant is also well summarised in the Respondent's outline of argument as follows:⁷

"During the Stewards' Inquiry, the Applicant, prior to viewing the footage of the race gave evidence that he was looking to obtain some cover and observed a good gap between the two previous runners behind him, presumably Apprentice Lang and Apprentice Hampson, so he has then attempted to ease back to obtain a position closer to the fence. His mount did not handle the corner well and despite being aware that Apprentice Lang Apprentice Hampson were making good ground behind him, he shifted in to obtain the one-off position when he thought he was clear and believed that he might have "shaved her a little bit". Upon reviewing the footage of the race, the Applicant gave evidence that there wasn't really much margin for error at that point in the race and that he was looking to come across the line to a one off position, but there was not really room for him to come across in front of apprentice Lang's Mount, but he has then shifted in and put Apprentice Lang's mount in an awkward and inconvenient situation, causing her to take hold for a couple of strides."

[14] After considering the evidence, the Stewards charged the Applicant with the offence of careless riding to which he pleaded guilty. On the issue of penalty, the Applicant argued that they were contributing factors and other similar incidents on the day where reprimands were imposed.

[15] One such incident was that in race three involving Apprentice Lang, an incident which the Applicant has relied on before this Panel today. The Stewards did not accept this argument from the Applicant. They considered that his offending was not sufficiently similar to the Lang incident where the level of carelessness was assessed as being in the low range and a severe reprimand issued. The Stewards' view is set out in the following passage from the penalty hearing⁸:

⁶ Ibid, lines 133-139

⁷ Ibid, paragraph [9]

⁸ Transcript of Stewards' Penalty Hearing lines 42-47

As stated in the reasons, the decision is that we feel that carelessness shown by you is in the mid-range. You've elected to come from a position, as you've stated, from four wide on the track into an awkward position three wide under Mr – behind Mr Wilson-Taylor and then elected to go inside his heels with two runners back to your inside.

- [16] This Panel has had the opportunity to consider the evidence from the Stewards' Hearing, and to view all of the available race footage. We have also had the opportunity to review and consider the footage of the two so-called comparable cases to which the Applicant has referred, those involving apprentice Lang in Race three at Doomben on 27 January and apprentice Jockey Nikita Beriman at the Sunshine Coast on 1 January 2025.
- [17] Mr Goold, who appears for the Respondent, has submitted, each case falls to be assessed according to its own individual circumstances. It does appear to this Panel that there are a number of differences between the cases to which the Applicant has referred and the present case. These have been referred to by Mr Goold in his submissions. In the case of Apprentice Jockey Lang's riding in Race three, the Stewards took the view that involved a gradual shifting, and that there are other features involved in that case, including evidence taken from affected riders that warranted the degree of carelessness being assessed in the low range.
- [18] In the second incident involving Jockey Beriman Stewards also had regard to the degree of shift as well as the apparently contributing conduct of other horses in the race⁹. There are therefore some differences to be drawn between those cases and that of the Applicant. It is important to remember that each case does indeed fall to be assessed according to its own individual circumstances.
- [19] Although Stewards are no doubt conscious of the need for consistency in their assessment of careless riding it can often be no easy matter to make determinations in relation to degrees of carelessness. In *Rawiller v Racing NSW*, the NSW Racing Appeals panel made the following comments¹⁰:

Making a decision on grading carelessness as "low" or "medium" is not a precise art. Experience and judgment come into it, but even two experienced and reasonable judges of horse racing (including those with race riding experience) might respectfully disagree over whether a ride is in breach of the rule or not, or if in breach, whether the carelessness should be graded as "low" or "medium".

- [20] This Panel respectfully agrees with the views expressed in that matter. Grading the level of carelessness as medium in this case. Mr Goold has submitted that the conduct involves shifting initially from a four wide position, the Applicant has directed his mount to the inside of Jockey Wilson-Taylor to a one-off position with two horses on his inside. Both horses were hampered or crowded by that manoeuvre. By the Applicant's own admission, there was not much margin for error. The evidence given by Mr Warren before the Stewards' Hearing, which we accept, is

⁹ Respondent's Index of Documents Sunshine Coast race day report 1-25

¹⁰ *Rawiller v Racing NSW* - Appeal Panel of Racing NSW - 1 April 2021, paragraph [6]

essentially supported by the evidence of the two apprentice riders and confirms to our satisfaction the accuracy of that submission.

- [21] We acknowledge that assessing the level of carelessness in cases such as this can be no easy matter, but we consider in this case that the level of carelessness involved was properly assessed at the medium range.
- [22] The level of consequences is also, in the Panel's view, as determined by the Stewards, that is one of crowding or hampering, and we consider otherwise the penalty imposed to be in accordance with the application of the template.
- [23] In accordance with Section 252AH(1)(a) of the *Racing Integrity Act 2016* the decision of the Stewards in this matter is confirmed.

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