

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

| | | |
|--|--|---|
| Review application number | RAP-138 | |
| Name | Darren McCall | |
| Panel | Mr K J O'Brien AM (Chairperson) Mr D Kays (Panel Member) Ms L Hicks (Panel Member) | |
| Code | Harness | |
| Rule | Australian Harness Racing Rules AHR163(1)(a)(iii) <i>A driver shall not – cause or contribute to any - interference</i> | |
| Penalty Notice number | PN-011282 | |
| Appearances & Representation | Applicant | Self-represented |
| | Respondent | W Barr Queensland Racing Integrity Commission |
| Hearing Date | 24 March 2025 | |
| Decision Date | 24 March 2025 | |
| Decision <i>(delivered ex tempore)</i> | Pursuant to 252AH(1)(a) of the Racing Integrity Act 2016 the Racing Decision is Confirmed | |

Reasons for Decision

[1] This is an application by licenced harness racing driver Mr Darren McCall for the review of a suspension order made against him by Stewards on 14 March 2025. On that date following a Stewards' Inquiry conducted after the running of race 4 at Albion Park Paceway the Applicant was found guilty of an offence of having caused interference to another runner contrary to Australian Harness Racing Rule 163(1)(a)(iii). The penalty imposed on him was a 12-day licence suspension operative from 24 March 2025 until 4 April 2025.

[2] In the race in question, the Applicant had driven the horse More Surprises and the penalty notice identifies the following particulars of the charge against him:

Interference caused to another runner approaching the home turn when More Surprises hung out allowing Kyvalley Finn room to improve forward on the peg line. More Surprises was then directed back down by the driver resulting in Kyvalley Finn being severely checked and broke gait.

[3] The Applicant maintains now, as indeed he did before the Stewards, that he is not guilty of the charge.

[4] At the Inquiry, evidence was taken from Steward R McCrae who would seem to have had a good view of the incident. Her evidence was as follows¹:

I was positioned at the 400-metre tower and had a head-on lateral and then rear-on view of the incident. Approaching my tower at approximately the 500-metre point of the race, Mr Shane Graham on Agent Black was leading the race and Mr McCall on More Surprises was on his back, and Jonah Hutchinson was improving forward to his outside. Mr Graham's horse just was racing probably off the peg lines, about half a cart, and then behind him was Mr McCall whose horse was commencing to hang out at that point. Probably 50 metres before the home turn. At that point, when Mr McCall's horse had hung out to the point where there was a whole cart-width to his inside, Mr Hutchinson commenced to improve forward into that position on the peg line. However, Mr McCall, who was forward of him, was appealing to Mr Hutchinson at that point as his horse commenced to then hang back down. However, Mr Hutchinson had already established a run to the inside there, which resulted in his horse contacting a number of marker pegs and then breaking gait for some distance.

[5] The driver of Kyvalley Finn, Mr Jonah Hutchinson, also gave evidence saying² that what Ms McCrae had said was "spot on". Mr Hutchinson said³:

I thought there was about a cart and a half for me to go up through, and I'd establish a run. Then I seen (sic) Mr McCall look down and tell me there was no room, but I felt like I was already inside him. He started steering back down. I said, no, I'm here, I'm here. Then he said, no, and then I said, yes, I'm still here, I'm still here. It sort of just - that's just the way it progressed and, yeah. I felt, like, if Mr McCall just stayed where he was, there was no incident. His horse had just shifted up a good cart and a half from the pegs.

[6] The Applicant's account differed from that given by Steward McCrae and driver Hutchinson. His evidence was that there had not been enough room for Mr Hutchinson to take the run which he took. The Applicant's account was that it was inevitable that either he or Mr Hutchinson was going to get

¹ Transcript of Stewards' Hearing lines 13-29

² Ibid line 36

³ Ibid lines 36-44

checked, and he argued that he was entitled to hold his position⁴. During the Steward's inquiry, the Applicant strongly denied any wrongdoing and attributed the blame for the interference to Mr Hutchinson. He stated that he believed he was entitled to hold his position and that if Mr Hutchinson had taken hold, the incident would have been avoided and, in the Applicant's opinion, the only reason for the incident was that driver Hutchinson took a run where there was not sufficient room for him to do so⁵.

- [7] Ultimately, the Stewards having considered the matter, rejected the explanation provided by the Applicant and were satisfied that the charge had been established. The penalty of 12 days suspension of licence was then imposed.
- [8] This Panel has had the opportunity of considering the submissions which have been made, the evidence given before the Stewards Inquiry, and we have closely examined the race footage on numerous occasions. We are satisfied having regard to this material that the following observations could properly be made of this race: Approaching the mile marker with approximately 500 metres until the end of the race, More surprises, driven by the Applicant, appears to hang out, shifting wider on the track, moving from a position following Agent Black to a position one to one and a half cart-widths from the peg line. As a result of this shift and the now available gap to the inside of More Surprises, Kyvalley Finn, driven by Mr Hutchinson, improves somewhat quickly into that position and subsequently establishes a run to the inside of the Applicant. Some distance after, and at the point of the turn the applicant has then directed More Surprises back down the track towards the peg line appearing to follow the racing line of the leader Agent Black, who was clear to shift ground, resulting in the racing room of Kyvalley Finn being restricted, and that runner receiving interference and subsequently being severely checked, contacting a number of market pegs and breaking gait.
- [9] Mr Hutchinson's move might be considered by some to have been a bold one at that point of the race, but it is one which, in our opinion, he was entitled to make. He had established a straightforward run along the peg line with ample room to do so. The Applicant was the one who changed position and shifted ground in our assessment. There was ample opportunity and ample time for the Applicant to have maintained his racing line or to correct any movement of his horse. The Panel is satisfied that the Applicant did cause the interference that was alleged, and in our view, it was severe interference caused to Kyvalley Finn. Responsibility was on the Applicant to ensure, as a driver shifting ground, that he was sufficiently clear beforehand to avoid causing the interference.
- [10] So far as the issue of penalty is concerned, the Applicant is an experienced driver. He has in the past had some disciplinary breaches for rules of this sort, but in recent times his record should be considered a good one. This was recognised by the Stewards. The starting point penalty for this offence is one of 14 days suspension of licence, which the Stewards reduced by two days to reflect the Applicant's generally good record. We consider that that was an appropriate outcome in the circumstances. It is an outcome which is consistent with penalties imposed in other similar cases⁶.
- [11] In the result, pursuant to section 252AH(1)(a) of the *Racing Integrity Act 2016*, the decision of this panel is to confirm the racing decision the subject of the application.

racingappealspanel.qld.gov.au

⁴ Ibid lines 71-84

⁵ Ibid line 97

⁶ See Respondent's index of documents, document #16

