

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-70	
Name	Andrew Mallyon	
Panel	Mr Kerry O'Brien (Chairperson) Ms Julianne Overell (Panel Member) Ms Lyndsey Hicks (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-009197	
Appearances & Representation	Applicant	Self-represented
	Respondent	Queensland Racing Integrity Commission Paul Zimmerman
Hearing Date	28 November 2023	
Decision Date	28 November 2023	
Decision	Pursuant to 252AH(1)(a) the Racing Decision is confirmed.	
	<i>(Delivered ex tempore)</i>	

Reasons for Decision

- [1] On the 22 of November 2023 following the running of race 5 at Doomben, Stewards conducted an inquiry into the riding of the horse Classic Deal in that race. As a result of that inquiry, the rider of Classic Deal licensed jockey Andrew Mallyon, who is the present Applicant, was found guilty of the offence of careless riding contrary to Australian Rules of Racing AR131(a).
- [2] In imposing penalty on the Applicant, the Stewards applied the careless riding template, a document developed in association with the Jockeys Association, and determined a penalty of nine days suspension of license commencing at midnight 25 November 2023, and ending at midnight 4 December 2023.
- [3] The particulars of the charge against the Applicant were as follows:
- “Near the 250m, whilst riding your mount along, you permitted your mount to shift wider, causing Only Love (M. Du Plessis) being taken outwards and contacting the hind quarters of Bella Tivaci (D Thornton), which was turned inwards at that point, resulting in Only Love having to be checked by its rider and lose ground.”*
- [4] Although the Applicant had pleaded not guilty to the charge, he seeks this review on the ground that the penalty imposed was excessive. He contends he was not the sole contributor to the interference, that “the outside runner was hanging in badly on top of the effected horse and has significantly more of an impact on the incident than the Stewards allege”.
- [5] This Panel has the video footage of the race in question as well as the audio recording of the evidence given at the Stewards hearing.
- [6] In his evidence before the Stewards, the Applicant accepted that his actions had a bearing on the interference caused to Jockey Du Plessis mount Only Love. He contended, however, that the actions of Jockey Thornton’s mount Bella Tivaci in hanging in and making contact with Only Love and bumping that horse inwards was as much a contributing factor to the interference as was his own action in angling outwards.
- [7] The Stewards accepted that bumping had occurred between the horses Only Love and Bella Tivaci, but they accepted also that the Applicant had shifted out, thereby causing a Jockey Du Plessis to shift out and contacting the hind quarters of Bella Tivaci, resulting in Only Love checking and losing ground.
- [8] In his submissions, presented before this Panel, Mr Mallyon has essentially repeated the arguments that he mounted before the Stewards. He has amplified those submissions and arguments by reference to the footage of the relevant race.
- [9] He has also tendered for the Panels consideration footage of another race conducted at Doomben on the 15 November 2023 which he submits involved a similar issue to that involved in this case. There, the outcome was a penalty of a severe reprimand being administered to the jockeys involved.
- [10] The Panel has had the opportunity to view footage of that race. It is enough to say that each case falls to be assessed according to its own circumstances and upon the evidence that was presented at the stewards hearing. We do not feel that we could attach any great weight to the outcome in that case.
- [11] We have, however, reviewed the footage of the race in question in this Application.
- [12] We must form our own opinion of the circumstances surrounding the incident.

- [13] The front on footage in the Panel's opinion provides the greatest assistance. It shows to our satisfaction Jockey Du Plessis, riding along, on his mount Only Love is clearly in a tight position but does at the relevant time have an uninterrupted run.
- [14] The Applicant's mount does move out, though gradually, and it is that movement that causes Jockey Du Plessis mount to be taken outwards, contacting the hind quarters of Jockey Thornton's mount, which was turned inwards at that point, resulting in Only Love having to check and lose ground.
- [15] Jockeys are required to exercise care in all circumstances. They should be aware of the situation of other runners around them.
- [16] There was an obligation when shifting ground to do so in a manner which not only has full regard to the safety of other riders, but which also does not interfere with the rightful running of other competitors in the race.
- [17] It is the assessment of this Panel that the charge of careless riding is established, and we accept that it should be categorized as falling within the low range.
- [18] In relation to the issue of penalty, which is the prime issue before this Panel, the Stewards found low grade carelessness with the consequence that another horse was checked and lost its rightful running.
- [19] We have mentioned earlier the template for careless riding that now forms part of the Queensland Racing Integrity Commission Thoroughbred Racing Penalty Guidelines. That template was introduced, to provide Stewards with a framework to determine a penalty calculation for careless riding by categorising the incident based on several criteria- the grade of the charge, the riders previous record, and feature meeting loading.
- [20] On the 29th of September 2023 the Penalty Guidelines were amended to update the AR131 table of penalties and insert the annexure to which we have referred. This came into effect on the 1st of October 2023.
- [21] In effect, the template introduced a new methodology to determine the appropriate penalty for careless riding breaches of AR131(a).
- [22] Based on the template, the Applicants low grade careless riding, resulting in a checking of another horse or resulting in another horse losing its rightful run would attract a penalty of 10 days suspension of licence.
- [23] The Applicant's record did not entitle him to any discount under Step two of the template, but his record of four suspensions and more than 300 rides in the past 12 months did attract a further one day suspension, resulting in a total of 11 days.
- [24] Under step five of the template the Stewards applied at 20% contribution to another runner, that being Jockey Thorntons mount, to reduce the penalty by two days to one of a nine-day suspension.
- [25] The template does allow for some contribution to be attached to another runner when determining penalty, but the fact that there may have been carelessness by more than one rider should not of itself mean that the penalty must be reduced to apportion responsibility for the outcome.
- [26] There is no reason why, in principle at least, several riders could not be each liable for an incident that results when each rider is guilty of careless riding.
- [27] Nevertheless, the template does allow for some discount by way of contribution attributed to another runner- in this case the racing manners of Bella Tivaci.

- [28] It is the Panel's view that the reasoning of the Stewards in this case was entirely appropriate, and we are content to adopt that reasoning so far as penalty is concerned as being consistent with our own view of this matter.
- [29] The consequence is that pursuant to section 252AH1(a) of the *Racing Integrity Act 2016*, the decision of the Panel is to confirm the racing decision.

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