

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-129	
Name	Tasha Chambers	
Panel	Mr K J O'Brien AM (Chairperson) Mr D Kays (Panel Member) Mr E Wilkinson (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-011136	
Appearances & Representation	Applicant	Self-represented
	Respondent	S. Larkins - Queensland Racing Integrity Commission
Hearing Date	6 February 2025	
Decision Date	11 February 2025	
Decision	Pursuant to 252AH(1)(c) the Racing Decision is set aside and a finding of Not Guilty is substituted	
Case References	<i>Briginshaw v Briginshaw & Anor</i> 1938 60 CLR 336 <i>Appeal of James Innes</i> (Unreported), Racing NSW Appeal Panel 19 February 2016 <i>Jockey Chad Schofield</i> Racing Appeals and Disciplinary Board Victoria 26 September 2014 <i>Thomas v Queensland Racing Integrity Commission</i> 2023 QCAT 106 <i>Wilson-Taylor v Queensland Racing Integrity Commission</i> 2025 17	

Racing New South Wales v Bullock Racing Appeals Panel New South Wales 8 February 2022

Racing New South Wales v Holland Racing New South Wales Appeal Panel 5 October 2018

In the matter of the Appeal of James Innes New South Wales Racing Appeals Panel 19 February 2016

Reasons for Decision

Background

- [1] On 23 January 2025 the Applicant in this matter, licenced jockey Tasha Chambers, was the rider of the horse Sweet Fantasy in Race seven at the Rockhampton Jockey Club meeting at Callaghan Park.
- [2] One week later, on 30 January 2025, Stewards conducted an inquiry into the Applicant's use of the whip in the home straight of that race.
- [3] At the inquiry, evidence was taken from Jockey Meehan, the rider of the horse Gettin' Lippy, and from the Applicant. At the conclusion of that evidence, the Applicant was charged with an offence of improper riding contrary to Australian Rule of Racing 131(a). The particulars of the charge were as follows¹:

As the rider of SWEET FANTASY in race 7 you rode in a manner which in the opinion of stewards was improper in that at a point leaving the 300m and then leaving the 200m you used your whip in an action which saw your arm extend outward and forward inconsistent with your usual whip action, which resulted in the whip possibly contacting Jockey Chris Meehan and the rump or hind quarter region of his mount GETTING' LIPPY

- [4] The Applicant pleaded not guilty to the charge but was found guilty by the Stewards and a penalty of six weeks suspension of licence operative from midnight on 9 February 2025 until midnight on the 22nd of March 2025 was imposed.

Stewards' Findings

- [5] In finding the Applicant guilty, the Stewards expressed the view² that there had been a clear change in the Applicant's whip action "in comparison to the remainder of your use in the race". Irrespective of any shift by Gettin' Lippy, the action had changed to an outward and forward action "which results in contact from (the Applicant's) whip to the rump or hind quarter region of Gettin' Lippy". The Stewards then found³ that the contact with Gettin' Lippy at two specific points of the race was "neither accidental or (sic) incidental".
- [6] It may be observed that this finding of actual and deliberate whip contact with Jockey Meehan's mount goes beyond the charge levelled against the Applicant at the Inquiry, which asserts that the whip "appears to make contact with (Jockey Meehan) or his mount"⁴.
- [7] As noted above the Penalty Information Notice, which contains the actual charge the subject of this review refers only to possible contact with Jockey Meehan or his mount. The Respondent's Outline of Argument Invites this Panel to draw an inference that the Applicant's actions, which appear to have resulted in her whip contacting Jockey Meehan's mount, were intentional. The essence of the charge against the Applicant is that she used the whip with an intention of making contact with Jockey Meehan and or his mount.

¹ Index of Documents Document #1 – Penalty Notice PN-011136

² Transcript of Stewards' Hearing lines 414-419

³ Transcript, lines 452-454

⁴ Ibid, lines 385-389

The Evidence

- [8] Jockey Meehan, the rider of Gettin' Lippy was adamant in saying that he was completely unaware of any issue with the Applicant's whip use during the race. His account of events is sufficiently well illustrated by the following passage from his evidence⁵:

Having kept a straight line, I then felt at one point early in the straight, Jackson Murphy's horse just drifts out, steps out, while he has a stick pulled. My horse has shied away and probably drifted half a horse's width and come a bit tight with Tash. At the time, I do remember Tash giving me a shout. Straightaway, I put my hand on my reins, straightened my mount and continued on, on a true line. I then, further on up the straight - my ride, as well, shifts a second time, possibly that half a horse's width, in towards Tash's line, and we made contact. I think straightaway, she's giving me a shout. I put my hands on the reins again and straightened and tried to keep it on a true line. At the same time, I think [Raul] on Kerrod Smyth's horse from the outside comes in at the time of the second encounter with me and Tash, Raul on Kerrod Smyth's horse comes in and drifts in to meet us, and I think it just put Tash in a bit of an awkward spot. Just we got a bit tight. As far as Tash's stick goes, I didn't feel that it hit me. Okay, maybe it connected with the horse that I was riding. I didn't feel that it paid me any advantages, but at the same time, I was fairly laboured at that point, and I don't think that it caused me any disadvantages in my run, either. But yeah, I think that's pretty much it.

- [9] Jockey Meehan said on several occasions that he was, "completely unaware"⁶, of the whip use and would have known if he had been struck with the whip. He said⁷:

I definitely - she definitely didn't make contact with me at any stage, on both the [unclear]. That's because I didn't - I was completely unaware of the situation. I've been caught in tussles and bustles before, and I've - somebody's caught me with a stick, and even with the back pad on, you still feel it. You still feel it, so I was completely unaware of the situation because Ms Chambers' stick never made any contact with me, but I feel from the replay it's probably just caught the top of the hindquarters of the horse.

- [10] Jockey Meehan was directed to the race footage and asked whether the Applicant's whip action was directed to the area of himself or his horse. He could not say one way or the other whether it was a deliberate act or not⁸. When regard is had to the whole of Jockey Meehan's evidence, it is clear that he was unaware during the race of the Applicant having made contact with himself or with his horse. It is only after viewing the race footage that he makes the observation that it appears to strike the hindquarters of his mount. Certainly, there is nothing in Jockey Meehan's account which serves to establish any deliberate or intentional effort by the Applicant to strike either him or his mount with her whip.

⁵ Transcript lines 62-80

⁶ Ibid lines 24-25, 90-92, 97

⁷ Ibid lines 143-150

⁸ Ibid lines 162-171

- [11] The Applicant in her evidence rejected any suggestion that she had deliberately struck at Jockey Meehan or his mount. If there was contact, she said, it was accidental⁹. Her evidence included the following¹⁰:

I've made some kind of contact, but it was accidental. I'm trying to keep my horse - I'm trying not to fall. I've been yelling for at least 100 metres, maybe 150 metres, calling to hold my line. Chris Meehan's mounts rolled out under my neck I think maybe three times. You can just see, I had nowhere to put the stick. So, I'm trying to wave the stick at my horse to straighten it up, to make more room for Chris Meehan. I've tried to release the pressure here, and then his horse has rolled out and tightened me up or whether - it's hard to say whether Raul has tightened me up to start off with. But that horse has definitely rolled out in front of me, and I've just got nowhere to put the stick. I've attempted to give my horse a slap up the shoulder to move it out further, but the horse is gaining momentum. She gets home, and I've just ran out of room with my stick. The horse has run into my whip. That's what's happened.

...If I have, it's accidental - if I have. I didn't think I did. Yeah, but his horse has shifted out into my stick. I literally had nowhere to put my stick, but I've ran out of room. I'm on top of that - the next step is I fall. That's why he's looked around, to see if I'm still on my feet, because I was yelling for quite a long time to keep it straight, and I was running out of room, and my horse is making ground to the line, as it does.

- [12] She said¹¹ that she had been tightened for room in a bad spot- "I was trying to ride through it...I'm not going to give it up when I have a chance ... I was trying to do the best I could on my horse." She said¹² "I continued to pull the whip because my horse was making ground to the line, and I'm entitled to have my line. I'm entitled to get the best out of my horse and hold my line."

- [13] The Stewards pressed the Applicant on what they perceive to be the two critical whip motions evident at times 4:12 and 4:18 of the race footage when, it was suggested, she "appears to strike or make contact with Mr Meehan or his horse"¹³ the Applicant insisted that she had been endeavouring to hit her horse on the shoulder and any contact with Jockey Meehan or his horse was "incidental contact because of the tightness the horses were racing... I was trying to hit my horse on the shoulder"¹⁴. She said¹⁵:

That's because I'm attempting to hit my horse up the shoulder to straighten it up to give him more room, because you're referring to me hitting the horse on the hindquarter. The two whip strikes that you're talking about, I'm attempting to hit it up the shoulder to straighten it up, to get it off his horse's legs, basically. I understand what you're saying, but I'm telling you, I'm trying to hit my horse up the shoulder to give him even more room...I was attempting to hit it up the shoulder.

- [14] After being charged with the offence, the Applicant repeated her explanation as follows:¹⁶

I've said, if I did make contact with him, it was accidental. He's run into my whip. I've got nowhere to go. There's no room. There's nowhere to go with my whip. I'm trying to ride my mount out to the

⁹ Transcript lines 177 and 398

¹⁰ Ibid lines 177-198

¹¹ Ibid lines 240-245

¹² Ibid lines 253-255

¹³ Ibid lines 302-339

¹⁴ Ibid lines 305-308 and 336-339

¹⁵ Ibid lines 351-359

¹⁶ Ibid lines 397-410

line, and he's shifting into my-taking my line away from me, coming out under my neck, three times in the straight. I'm calling for 200 metres. There's nowhere for me to put my whip. Yes, I've tried to hit my horse down the shoulder. Yes, my whip action did change, because I've gone from a backhand to a forehand, and he's run out into my whip. There's nowhere for me to put my whip. There's no room. He's underneath me.... that's what happening there. Yeah, I've done my best to give him as much room as I can, and he's continuously coming out under my neck. Yeah, I've just got nowhere else to put the whip. He ran into it.

The Charge

- [15] The meaning of the expression 'improper riding' was discussed in Schofield¹⁷ by the Chair of the Victorian Racing Appeals Panel, Judge Lewis, who said:

The initial question in this appeal is whether the Stewards have satisfied the Board that the appellant's riding was improper, rather than an example of competitive riding. The standard of proof is that laid down in the well-known case of Briginshaw v Briginshaw, that is, the Board must be comfortably satisfied that the charge has been proved, taking into account inter alia the gravity of the charge and the consequences which flow from the conviction.

There is no definition of 'improper riding' in the Rules of Racing. However, the Board accepts Dr Pannam's characterisation that it involves an element of deliberate or intentional conduct which creates danger or potential for danger.

The stewards took the view that in all the circumstances, the Appellant's riding took him outside the boundaries of competitive riding and represented an egregious example of improper riding.

The appellant argues that what he did was simply an example of competitive riding involving himself and an experienced rider, Ms Payne, who he has alleged for the first time today was partly responsible for the first bump and fully responsible for the second bump.

It is clear that the Rules of Racing as they apply to riders are primarily about safety. They are not penal. The safety of horse and rider in the conduct of racing is paramount. Riders have an obligation to observe the rules of safety which include not to interfere with the right of another horse to its running, as well as the rules under which they ride and are licensed.

The standard of care is that of a rider of reasonable competence, skill and ability. Whether a rider rides improperly will depend upon the extent to which that rider departs from the standard of care imposed on him.

The question of whether a right[sic] is improper will be answered by an examination of and an evaluation of all the circumstances of the case.

- [16] These comments from Schofield have been referred to and applied in numerous other cases involving charges of improper riding¹⁸.

¹⁷ Racing Appeals and Disciplinary Board Victoria, 26 September 2014 – Jockey Chad Schofield

¹⁸ See for example *Thomas v Queensland Racing Integrity Commission* 2023 QCAT 106, *Wilson Taylor v Queensland Racing Integrity Commission* 2005 QCAT 17, *Racing NSW v Bullock P* NSW Racing Appeals Panel 8 February 2022

- [17] The distinction between competitive riding and improper riding is one of judgement. Horse racing is by nature competitive, and the horses and riders travel at high speed in close proximity. There is an accepted level of danger in that situation. There is, however, a line between conduct of a rider that is safe within the nature of horse racing and conduct that “crosses the line” to be potentially, or actually, dangerous.
- [18] Once the conduct of a rider involves deliberate or intentional contact which creates danger or potential for danger, it becomes improper riding as described by Judge Lewis in Scofield¹⁹.

Discussion

- [19] As indicated above the charge here is somewhat confusing. The Penalty Notice alleges that the Applicant used her whip in an action inconsistent with her usual whip action. That of itself is not necessarily an offence. It is further said that that use resulted in “possibly contacting” Jockey Meehan or his mount. It may be doubted whether such an allegation can of itself amount to “improper riding”.
- [20] However, as noted, the Stewards went on to find that contact with Jockey Meehan’s mount “was neither accidental or (sic) incidental” and therefore clearly regarded the contact as being deliberate and intended. If that can be established, then the quality of the riding assumes a different and more serious character. It seems clear that that finding of non-accidental or incidental contact informed not only the charge, but also the penalty imposed on the Applicant. The charge can only be made out if that allegation can be established to the necessary standard.
- [21] To establish its case of intentional conduct the Respondent relies on the drawing of certain inferences. It contends that the “only available inference on the evidence”²⁰ is that the Applicant’s actions “which appear to have resulted in her whip contacting Jockey Meehan’s mount, were intentional and for the purpose of taking correctional measures to prevent interference caused by Jockey Meehan’s mount drifting out.” The Respondent relies upon the race footage, particularly as it shows the whip action of the Applicant which, it is argued, shows the Applicant’s right shoulder reaching forward and outward in her attempt to strike Meehan and a second incident where the whip action, using a “more outward and straight arm motion,” is said to be again consistent with an attempt to strike Meehan or his mount. The Respondent also relies on the race situation, from which, it is argued, an inference might be drawn that the Applicant deliberately used her whip to overcome Jockey Meehan’s interference.²¹
- [22] The Applicant’s submissions do not vary from those presented before the Stewards. She did alter her whip grip on one occasion from backhand to forehand, but her action remained consistent with her usual action. There had been abrupt shifting and resulting interference from Jockey Meehan to her inside, their whip actions were close, but any contact she may have made with Meehan’s horse was accidental. She did no more than engage in competitive riding and at no time intended to strike either Jockey Meehan or his mount. Jockey Meehan had no issue with her whip use. He was unaware of any incident at the time. Although not determinative of the matter, there is no suggestion that he felt in any particular danger at the time of the incident.

¹⁹ *Thomas supra* at [64]-[65]

²⁰ Respondent Outline of Submissions Para 22

²¹ Respondent Outline of Submissions Paras 25 and 26

- [23] Intention is a state of mind and one which, absent an admission, can usually only be inferred from established facts. Moreover, so far as the drawing of inferences concerned, there must exist some logical connection between facts that have been established and any deductions or conclusions that are sought to be drawn from those facts. In the matter of James Innes²² the New South Wales Racing Appeals Panel observed:

This Panel has regard to observations made by the Queensland Racing Disciplinary Board in the Appeal of Chris Munce (1 October 2013) which was a case involving a charge of improper riding and an allegation of a deliberate use of the whip to strike another horse or rider. In that case the Board observed that "Legal authority leads clearly to the view that if a person is charged with an offence and intention has to be inferred, then intention must be inferred clearly and persuasively before the tribunal can, in accordance with the appropriate standard of proof which is applicable in these matters, be sufficiently satisfied for that inference rather than any other to be drawn.

- [24] This Panel must form its own view of the circumstances of the incident. We have had the opportunity of considering the evidence and the submissions and have viewed the race footage on numerous occasions from the several angles available.
- [25] Firstly, from the official race footage it is apparent that inside the 400-metre mark, the two runners to the outside of the Applicant shift in approximately three quarters of a horse, taking her in with them. The inward pressure is more notable coming from the horse Big Shooter (Jockey O'Donnell), which has its head turned out and is laying in. Inside the 300-metre mark, Jockey Meehan on Gettin' Lippy shifts out, encroaching onto the Applicant's line. Jockey Meehan then straightens his mount. It appears the Applicant's whip may have struck the side of Gettin' Lippy or Jockey Meehan's boot. This occurs at a point where the two runners are in tight proximity. Running into and past the 200-metre mark, Big Shooter shifts in and Gettin' Lippy shifts out where the Applicant, riding with the whip, is put in an awkward position, turning her mount's head out to avoid Gettin' Lippy's heels. At this point, it appears the Applicant's whip may contact the hindquarters of Gettin' Lippy. This has happened at a time when Jockey Meehan moves into the Applicant's line. Jockey Meehan looks back, possibly hearing a call from the Applicant.
- [26] Watching the rear-on Stewards' footage, there is a shift inside the 400-metre mark from the two runners outside of Jockey Chambers which takes her in approximately a horse. At this point, Jockey Meehan shifts out, encroaching on the Applicant's line. It is possible at this time that the Applicant's whip comes into contact with either Jockey Meehan or Gettin' Lippy. However, importantly, in the Panel's view there is no apparent change in the Applicant's whip action. Further on, inside the 200 metre mark the rider of Big Shooter (Jockey O'Donnell) shifts in, taking the Applicant in slightly, and Jockey Meehan moves out. At this stage the Applicant is tight on the hind quarter of Gettin' Lippy and possibly contacts that runner with her whip. However, again, in the Panel's view, there is no real change to her whip action. Her action appears to be impeded by the horse coming into her line.
- [27] Finally, watching the head on Stewards' footage, inside the 400-metre mark where the two runners come together it appears the Applicant's whip may have come into contact with either Jockey Meehan or his mount. At this stage, the two runners are tight together and there is no room for the Applicant to use her whip freely without the possibility of either striking Jockey Meehan or his mount. The same applies inside the 200-metre mark where the Applicant is taken in across Gettin' Lippy's hind quarter.

²² In *The Matter of the Appeal of James Innes* New South Wales Racing Appeals Panel 19 February 2016 at pp4-5
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- [28] It is to be accepted that there are many occasions when riders, in using their whip, may make accidental contact with one another. This can be especially so in when two runners are racing tight and there is insufficient room for the whip to be used in the usual manner. The footage in this case shows the riders coming together, Jockey Meehan on the inside with the whip in his left hand and the Applicant on the outside, whip in her right hand, in close proximity. The potential for accidental whip contact in such a situation is high. It is also accepted also that a rider will sometimes change whip action when horses come together causing restricted room. This may be especially so as the race nears its conclusion. In this case Jockey Meehan's mount shifting out, making contact with the Applicant's mount, likely unbalancing her, may appear to cause a change in her whip action. The Applicant's account of events is by no means improbable in circumstances where she was clearly suffering interference from horses to both her inside and outside.
- [29] This Panel has looked closely at the footage of the race and in particular the two incidents which are identified by the Respondent. As far as the first incident is concerned, it is clear that there is a change from a back hand to a forehand action, as she acknowledges and explains, but we are not satisfied of any deliberate intention at that point to strike either Jockey Meehan or his mount. As to the second incident, we are not satisfied that there has been any deliberate alteration in the Applicant's whip action, only another horse coming into her line, which impedes her whip action, possibly resulting in contact with the hindquarters of Gettin' Lippy. In our view she becomes unbalanced not because of her whip action but because of the interference by Meehan. Given the level of interference suffered by the Applicant, the intrusion into her line, and the close proximity of the horses involved we cannot infer "clearly and persuasively" any deliberate intention by the Applicant to strike Jockey Meehan or his mount.
- [30] A breach of the rule involving improper riding is a serious matter, particularly when a lengthy suspension results. That being the case, in applying the Briginshaw test²³ the standard of proof is higher by reason of the seriousness of the charge.
- [31] Though she bears no responsibility of proof, the Applicant has been consistent throughout in her account. There is nothing in the evidence of Jocky Meehan to support a finding of a deliberate or intentional attempt to strike either him or his horse. The Applicant has provided explanations for her use of the whip, which we consider to be consistent with the race footage or, as that should be stated, have not been shown to our reasonable satisfaction to be inconsistent with the footage. It has not been proved to our satisfaction that the Applicant here has engaged in any improper riding.
- [32] In accordance with section 252AH(1)(c) of the *Racing Integrity Act 2016*, the order of this Panel is to set aside the racing decision and to substitute a finding of not guilty.

²³ *Briginshaw v Briginshaw & Anor* 1938 60 CLR 336