

DECISION

Racing Integrity Act 2016, sections 252AH, 252BM

Review application number	RAP-154	
Name	Jamiee-Lee Devine	
Panel	Mr K J O'Brien AM (Chairperson)	
	Mr E Wilkinson (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-011642	
Appearances & Representation	Applicant	Self-represented
	Respondent	S Larkins - Queensland Racing Integrity Commission
Hearing Date	23 June 2025	
Decision Date	23 June 2025	
Decision <i>(delivered ex tempore)</i>	Pursuant to 252AH(1)(b) the Racing Decision is Varied	
Case References	<i>Oliver v Racing Victoria Limited (Review and Regulation) [2016] VCAT 1794</i>	

Reasons for Decision

- [1] The Applicant in this matter is apprentice rider, Ms Jamiee-Lee Devine. On 8 May 2025, she was the rider of Booming Lad in Race 7 at the Mackay Turf Club Race Meeting. Following a Stewards' Inquiry into her ride in that race, she was charged by Stewards with an offence of reckless riding, contrary to the provisions of Australian Rule of Racing 131(a). She pleaded guilty to that charge and by way of penalty/ received a licence suspension of 49 days, operative from midnight on 15 June 2025 and concluding on 2 August 2025.
- [2] The Applicant now seeks a review of that decision, contending that the period of suspension involved is excessive. The particulars of the charge against the Applicant allege¹ that she:
- "...recklessly directed and permitted (her) mount to shift inwards at a point near the 1100m, resulting in DIVINE OKAY clipping heels, blundering and dislodging Apprentice Erin Molloy. Then continued to shift inwards, resulting in ENABLER, ridden by Jockey Jason Missen, being checked for a number of strides, losing its rightful running, and as a consequence of Apprentice Molloy being dislodged, both BRAD and FROM THIS MOMENT being checked noticeably"*
- [3] There has been in the course of this hearing some reference to the circumstances of the offence. We have had the opportunity of reviewing the race footage now on numerous occasions. Having done that, there are certain conclusions which we are satisfied can be drawn.
- [4] the first available angle of the footage shows that approaching the 1100 metre mark, the Applicant is beginning to roll forward of the runners to her inside, albeit under a strong hold. It then appears that while the Applicant is three quarters of a length to a length in front of Apprentice Malloy her mount shifts in, causing Ms Malloy to clip heels and become dislodged. Jockey Missen on the fence also takes hold for two or three strides, checking slightly where his mount flips its head a couple of times. Further back, Brad, ridden by Jockey Taylor and From This Moment, ridden by Jockey Sewell also appear to take hold, checking and steering their respective mounts outwards. It does appear that Jockey Devine does not look to her inside before allowing her mount to shift in when she ends up ultimately on the fence.
- [5] The second angle, which is more of a head on shot, shows that as the Applicant begins to roll forward of Apprentice Malloy, she attempts to change her hold on a couple of occasions. At this point, her mount rolls in and across Apprentice Malloy, where she clips heels and is dislodged from her mount, with Jockey Missen taking hold and checking slightly for two or three strides. Further back, Jockey's Taylor and Sewell also check their amounts, steering out in an attempt to avoid the incident.
- [6] Although the Applicant had said at the time of the Inquiry (conducted on 6 June 2025, approximately one month after the incident) that her then recollection was that her amount had "ducked in", that does not in fact appear to have been the case.
- [7] In the opinion of the Panel, it is clear that the Applicant, on Booming Lad has allowed her mount to shift in when insufficiently clear of Divine Okay (Apprentice Malloy's mount) and Enabler, ridden by Jockey Missen, to her inside.
- [8] The evidence before the Stewards' Inquiry establishes to our satisfaction that Booming Lad has a habit of wanting to get in and over-race. The Applicant appeared to be concentrating on trying to restrain her mount as the instructions were not to lead. In doing so, she has not looked to the runners on her

¹¹ Penalty Information Notice – PN011642

inside, and has allowed her mount to cross them, causing severe interference to Apprentice Malloy, who is dislodged, and further consequential interference to other runners.

- [9] In the view of this Panel, this incident is clearly attributable to the Applicant's lack of experience and the fact that the horse was a difficult ride. We are satisfied that the Applicant had no intention to cut the runners short to her inside, but her lack of effort to ensure the safety of the runners to her inside, in the circumstances, establishes the charge.
- [10] The Applicant gave some indication at the outset of this hearing that she was seeking to change her plea of guilty to the charge of reckless riding. It does appear from the Stewards' Hearings that she clearly indicated she understood the charge and entered her plea.
- [11] We accept that although the Applicant had her Master, Mr Williams, present with her at the time of the hearing, there can be a significant power imbalance in situations such as this, where the Applicant is a young apprentice rider of teenage years. Notwithstanding that, consistent with relevant authority, we are satisfied that this is not an appropriate case in which a change of plea should be allowed. There is no reason to suppose that her plea was other than a voluntary one in the relevant sense.
- [12] So far as the issue of penalty is concerned, the penalty guidelines provide that the purpose of penalty in these matters is essentially threefold. Firstly, to maintain standards of integrity and animal care in the Thoroughbred code. Secondly, to provide general deterrence to the industry by ensuring that the penalty imposed on an individual for a rule breach is sufficiently serious to discourage other participants from breaching the rule, and thirdly, to provide specific deterrence to an individual contravening the rule- that is, the penalty imposed on the individual who breaches the rule must be sufficiently serious to discourage the particular individual from engaging in similar conduct.
- [13] The penalty guidelines go on to make reference to some of the considerations that are relevant to the determination of penalty. They include:
- The circumstances of the offence and any facts or details about the offence.
 - The degree of culpability involved, the degree of personal or moral blameworthiness of the person accused of the breach.
 - An early plea of guilty is considered a relevant factor.
 - Regard is had to the frequency of participation in the industry of the person involved and,
 - The disciplinary record of the individual.
 - In an appropriate case, race status may also be a relevant factor.
- [14] It is at once to be noted that the Applicant cooperated thoroughly with the Stewards Hearing and entered a plea of guilty in a most timely way. She is a young apprentice rider and her inexperience was undoubtedly the single most relevant contributing factor in this offence. These are matters of relevance in considering the circumstances of the offence itself, and they most certainly bear upon the degree culpability and of personal or moral blameworthiness that is involved in the offence.
- [15] The degree of culpability involved in the Applicant's conduct does not begin to compare with that involved, by way of example, in the case of *Oliver*² to which we have been referred. In *Oliver's* case, a period of 16 days suspension of licence was imposed for a charge of reckless riding in a Group 3 race, where the appellant had pleaded not guilty. That suspension did involve 25 race meetings and the

² *Oliver v Racing Victoria Limited (Review and Regulation)* [2016] VCAT 1794

number of races encompassed in the suspension would be considerably greater than that involved here. *Oliver's* action, however, had been considered by the Tribunal to be "calculated and intentional"³. He had deliberately ridden his mount into the mount of another jockey, the second favourite in the race"⁴, and had maintained that that was something "jockeys will commonly do try to do"⁵. Unsurprisingly, the Tribunal found in that case that Oliver had "consciously and deliberately chosen to breach the Rules"⁶ by forcefully taking another rider's legitimate pathway. The degree of culpability involved far exceeded that involved here.

- [16] Accepting, consistent with her plea, that the present Applicant was guilty of an offence of recklessness in her riding, it does not begin to involve the same degree of seriousness as was present in cases such as *Oliver*. She acted without caution, and careless of the consequences of her conduct, but we are satisfied that her conduct did not involve the level of calculated and deliberate behaviour that was present in the case of *Oliver*, and which may often be a characteristic of a charge of this type.
- [17] In determining penalty, the Stewards commenced with the starting point penalty of 28 days suspension of licence as provided in the Guidelines. They deducted seven days to reflect the Applicant's status as an apprentice rider and for her plea of guilty, and, presumably, her cooperation with the Inquiry. That seven days was immediately re-applied because of her disciplinary record, which included an offence of careless riding involving a fall.
- [18] The Applicant's disciplinary record is a matter of relevance, but it is not immediately clear to this Panel how the fact that there was a fall in a previous race some 10 months or so earlier, where the charge was careless riding, was properly considered as a circumstance of aggravation in a charge where recklessness was alleged.
- [19] In any event, the Stewards then added a further 14 days for what was termed a circumstance of aggravation because the Applicant had failed in her duty of care to the other competitors. A further seven days was then added by the Stewards to reflect the consequences of the offence. This led to the total of 49 days suspension of licence. The addition of the 14 days, in the Panel's view, is not properly a circumstance of aggravation. It is a particular of the reckless riding itself and is that very conduct which creates the offence.
- [20] These proceedings are not penal in nature. They do not involve considerations such as punishment or retribution that are features of the criminal justice system. When regard is had to the relevant considerations to which we have referred, we consider that the penalty imposed upon this Applicant of seven weeks suspension of licence is totally disproportionate to the offending behaviour.
- [21] If one begins with the starting period of 28 days suspension of licence, we consider that it may not be inappropriate to reduce that by seven days to reflect the Applicant's inexperience, her status as an apprentice and a plea of guilty, but that must be tempered by her disciplinary history, which does include a number of prior entries for careless riding. We consider that this should then result, so far as these matters are concerned, in a two-day reduction in the starting penalty.
- [22] As indicated, we see no basis for adding 14 days in the manner which the Stewards adopted. However, we accept that the consequences of the offending are relevant to the determination of penalty. The Stewards applied 7 days in this regard, and we would not consider that to be inappropriate. This would

³ *Oliver v Racing Victoria Limited (Review and Regulation)* [2016] VCAT 1794 at paragraph [48]

⁴ *Ibid* at paragraphs [49] and [55]

⁵ *Ibid* at paragraph [51]

⁶ *Ibid* at paragraph [52]

result, in our calculation, in a period of 33 days suspension of licence. Calculation of penalty is not simply a mathematical exercise, but when regard is had to all relevant factors, we consider a 33-day licence suspension to be an appropriate outcome.

- [23] In the result, it is the order of this Panel, in accordance with section 252AH(1)(b) of the *Racing Integrity Act 2016* that the racing decision the subject of this application be varied, and that a suspension of 33 days suspension of licence be imposed, commencing from midnight 15 June 2025 and ending midnight 17 July 2025.

Addendum

[24] We do note that the Stewards have referred the incident to the Queensland Racing Riding Skills Advisory panel and the Chief Steward, Mr Josh Adams for review, and we felt it appropriate to comment that as we consider inexperience to have played such a role in this whole affair, that there may be some scope here for the Applicant to receive some guidance or mentoring by a senior rider. I don't know how possible that is in Emerald. Perhaps Mr Prentice, I'll assist. Maybe someone in Rockhampton who can provide some guidance that's not formally part of our determination, but in the view of this thing, we'll have to build an appropriate course of action.

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