

# TASMANIAN RACING APPEAL BOARD

Appeal No 14 of 2024/25

<b>Panel:</b>	<b>Ms Amber Cohen (Chair)</b>	<b>Appellant:</b>	<b>Mr Mehmet Ulucinar</b>
<b>Adviser:</b>	<b>Mr Chris Taylor</b>		
<b>Appearances:</b>	<b>Mr Michael Castillo (on behalf of the Stewards) Mr Stephen Shaw (on behalf of the appellant)</b>	<b>Rules:</b>	<b>AR 131(a) Careless riding</b>
<b>Heard at:</b>	<b>Conference Room Office of Racing Integrity Prospect Government Offices 171 Westbury Road Prospect TAS</b>	<b>Penalty:</b>	<b>Suspension of 1 Tasmanian rate date</b>
<b>Date:</b>	<b>3 March 2025</b>	<b>Result:</b>	<b>Dismissed</b>

## REASONS FOR DECISION

1. On 3 March 2025, the Board heard this appeal.
2. The appellant, Mr Ulucinar, was the rider of MATERIAL MADAM. This appeal concerns race 4 on 10 January 2025, at a meeting held by the Tasmanian Turf Club.

### Steward's Inquiry

3. Stewards held an inquiry on 10 January 2025 ("the Inquiry"), at which they reviewed the race footage and heard from the appellant and one other rider in the race, Ms Erica Byrne-Burke, who rode ADA WAY.
4. After the Inquiry, Stewards charged Mr Ulucinar under Australian Rules of Racing 131(a), which provides:

A rider must not in the opinion of the Stewards:-  
(a) engage in careless, reckless, improper, incompetent or foul riding;  
...

5. Stewards gave the following particulars:

... Mr Ulucinar, you the rider of MATERIAL MADAM at about the 900, in the, at the Tasmanian Turf Club meeting on 10<sup>th</sup> January 2024 [sic] in race number 4, which was the Book Into The Kreglinger Corporate Marquee to Win a Brand New Car Class 1. At about the 900 metres allowed your mount to shift in when not fully clear of ADA WAY resulting in ADA WAY's rider having to take hold and check her mount.

6. Stewards heard first from Ms Byrne-Burke as follows (taken from the transcript):

CHAIRMAN: ...Just coming I think at about the 900 metres Miss Byrne-Burke you were in a little bit of difficult [sic] and taking hold.

MS BYRNE-BURKE: Yes, so my horse jumped nicely, and I just went and, I just wanted to ride (inaudible) for a back off pace and so I was just letting them travel there, the pace was quite quick so there was maybe a gap for [Mr Ulucinar] coming off. But he just cut me a bit short there and when he attempted to come in.

CHAIRMAN: So when you say he's cut you a bit short, did you have to check your mount, or?

MS BYRNE-BURKE: Like I just took hold and like called at [Mr Ulucinar] and it just got a little bit tight there for a little while.

7. Stewards then heard from the appellant, who said "... my horse has ducked in a bit, but I believe is maybe one or two stride, I corrected." When asked if he relieved the pressure straight away, he said "I tried as soon as possible". He said he did not hear a call from Ms Byrne-Burke.
8. Stewards put to Mr Ulucinar that Ms Byrne-Burke could be heard calling "as clear as anything". Mr Ulucinar maintained he had not heard it.
9. Stewards put to Ms Byrne-Burke that it was clear on the film that she had to steady, draw her horse's head up and check out of it. Ms Byrne-Burke agreed and said that she was running out of room. Ms Byrne-Burke's evidence was not challenged.
10. Mr Ulucinar did not challenge the particulars of the charge put to him at the Inquiry but he did reserve his plea. He then said, as to penalty, that it was open to Ms Byrne-Burke to have moved into the space to her inside rather than to check. He said he was often put in this sort of position and that Ms Byrne-Burke could have taken action to ease the pressure, rather than to check her horse as she had enough room in his view. The Board understands these comments were made to address the question of whether the incident caused interference with Ms Byrne-Burke's ride, or caused a safety incident. Further as to penalty, Mr Ulucinar stated that it had been two or three years since his last suspension and that he had run 2500 races with only seven suspensions.
11. Stewards made the charge and gave the particulars at paragraphs 4 and 5 above.
12. Stewards stated they had taken into account Mr Ulucinar's reserved plea, the level of interference and Mr Ulucinar's exemplary record, and record under this rule. Stewards gave the penalty of suspension of one Tasmanian race date.
13. The appellant has appealed against the conviction and penalty, and in his notice of appeal says the following:

I believe the stewards [sic] in error in their decision on my suspension, I don't believe i should have been suspended in that matter, I do believe penalty is harsh I haven't suspended almost 3 years and didn't reprimanded more then [sic] year and half under this rule [sic]

## Appeal Hearing

14. Mr Stephen Shaw represented Mr Ulucinar, the appellant, at the appeal. In his submission, Mr Shaw said it was accepted that Ms Byrne-Burke checked her horse but said that she had over-reacted. He said she had room to move to her inside. He also said that the incident took place within a window of approximately three seconds. He said the appellant had checked Ms Byrne-Burke's position before he moved in. He also said that the appellant had taken steps to correct the horse immediately upon it changing course.
15. Mr Shaw said the interference was not to the level that Stewards deemed it to be and that Ms Byrne-Burke had not lost her position. She in fact held her position and did not lose any ground. He said this was not reckless or intentional and that it was corrected as soon as the appellant knew it had occurred. He said this should have been a reprimand, or a severe reprimand, to serve as an effective warning to the appellant for the next several races than any other conduct of that nature would result in suspension but should not have been suspension on this occasion.
16. Mr Castillo, on behalf of Stewards, reiterated that the charge was for "careless" riding, not "reckless" riding. He said the appellant went from a four-wide position to a two-wide position. He said when shifting ground, riders must be two lengths clear. He said the appellant definitely was not two lengths clear in this case. He said Ms Byrne-Burke was checked because her room had been taken and as a result, she lost her rightful position. He accepted that the appellant had tried to relieve the pressure by turning his horse's head out, but it was far too late. The incident was over, Ms Byrne-Burke was yelling to him and she had been checked. He said that if she had not done so, she could have clipped heels with Mr Ulucinar and come down. He said Stewards have a duty to ensure that every horse and every rider goes home safely, without having suffered interference in a race. He said this was a clear case of careless riding. Regarding the suggestion that Ms Byrne-Burke had over-reacted, he said that in a pressure situation, it's the rider's life and she had to check. He said she was calling for room for some time.
17. Mr Shaw, in response, said he agreed with the importance of safety in a race but did not agree with the two-lengths rule. He said this is generally adopted but it depends on every rider's reaction, which might differ. He also said there are a number of occasions when this does not occur, including at other times during this race.
18. The Board considered the transcript of the Inquiry and noted the matters outlined above at paragraphs 6 to 16.
19. Prior to the appeal hearing, following a direction made at a directions hearing held on 31 January 2025, the appellant filed a short written submission in respect to his grounds of appeal, together with two short videos of the race. Within that material, the appellant submitted that he had left enough room for the horse to his inside and also that at the same time his horse was coming across, the horse to his inside horse [ADA WAY] was rolling out marginally onto his horse's heels. At the hearing, Mr Shaw maintained this was the case but accepted that it could not really be seen on the video footage of the race.
20. The Board notes the standard of proof in these matters was outlined in the Victorian Racing Appeals and Disciplinary Board case of Oliver (30 October 2017), page 2, as follows:

*The Standard of Proof is that laid down in the well-known case of Briginshaw v Briginshaw. We 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.*

### **Determination of Appeal against Conviction**

21. The Board has carefully considered the submissions of each of the parties to this appeal. The Board has also viewed very carefully the footage and has had the benefit of the assistance of the thoroughbred racing adviser, Mr Taylor, in relation to this matter.
22. The Board observes that the footage clearly shows the appellant coming across his line to his inside, in a sharp motion, causing the rider to his inside to “check”. That is, to pull her horse back to ensure there was sufficient room between her horse and the appellant’s horse as it came across her line.
23. The Board accepts that the appellant did not intend to cause interference, and quickly took corrective action, but intention is not a necessary element of this charge.
24. Based on the footage and the evidence of the riders and the submissions received prior to and at the hearing, the Board accepts the submissions put by Stewards that the appellant crossed his line before being sufficiently clear of the inside rider to do so, thereby taking that rider’s room and causing her to check. The Board is comfortably satisfied that this was an occasion of careless riding by the appellant.

### **Determination of Appeal Against Penalty**

25. This incident is described by Stewards as mid-range interference, causing a risk to the safety of other riders. The Board agrees with that summation.
26. Throughout the course of the Inquiry, and then the appeal hearing, there was some discussion about whether the appellant had been suspended in 2022. Stewards were of the view that although the record indicated that it had been a reprimand, one of the Stewards recalled that the appellant had in fact been suspended. The appellant disagreed and recalled clearly that he had not been suspended. Stewards said it did not ultimately make a difference to the penalty given of one week suspension as that was a very low penalty for this conduct. For the purpose of the determination of this appeal, it is not necessary for the Board to determine whether there had been a suspension in 2022.
27. The Board notes the matters taken into account by Stewards as to penalty at the Inquiry and as further explained at the hearing. These were the appellant’s exceptional record, including a long period since his last suspension, and the level of interference which Stewards determined to be “mid-range”, given the inside rider was forced to check. The Board considers those matters appropriate considerations and finds no error in the penalty imposed based upon those factors and the plea entered.
28. Pursuant to ss 99(4) and (5)(a) of the *Racing Regulation and Integrity Act 2024* (the Act), the appellant is ordered to forfeit fifty percent of the prescribed deposit. Further, pursuant to ss 99(8) and (9)(a), the appellant is ordered to pay fifty percent of the costs incurred in the preparation of the transcript prepared in relation to this appeal.

**DATED: 31 MARCH 2025**