

# TASMANIAN RACING APPEAL BOARD

## Appeal No 20 of 2024-25

<b>Panel:</b>	<b>Ms Amber Cohen (Chair)</b>	<b>Appellant:</b>	<b>Mr Jackson Radley</b>
<b>Adviser:</b>	<b>Mr Chris Taylor</b>	<b>Rules:</b>	<b>AR 131(d) Excessively reduce the speed</b>
<b>Appearances:</b>	<b>Mr Micheal Castillo on behalf of Stewards</b>		<b>Mr Dean Cooper on behalf of the appellant</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 race date</b>
<b>Date:</b>	<b>9 May 2025</b>	<b>Result:</b>	<b>Upheld</b>

### REASONS FOR DECISION

1. On 9 May 2025, the Board heard this appeal.
2. The appellant, Mr Radley, was the rider of CAUGHT ALIGHT. This appeal concerns race 2 on 16 February 2025, at a meeting held by the Tasmanian Racing Club.
3. Stewards held an inquiry on 16 February 2025 (the Inquiry), at which the race footage was reviewed and Stewards heard from the appellant, as well as Mr Bulent Muhcu, who was the rider of the horse MISTER MANIHI. Mr Stephen Maskiell, Manager – Tasmanian Apprentice Jockey Programme, assisted Mr Radley at the Inquiry.
4. After the Inquiry, Stewards charged Mr Radley under Australian Rules of Racing 131(d), which provides:

A rider must not in the opinion of the Stewards:-

...

- (d) Excessively slow, reduce or check the speed of the rider's horse and in doing so, cause direct or indirect interference to any other horse in the race.

5. Stewards gave the following particulars:

... today when riding CAUGHT ALIGHT, at Hobart the 16<sup>th</sup> of February 2025, near the 700 metres when crossing, you've reduced the speed of your mount, thereby causing MISTER MANIHI to restrain and check and get its head in the air...

## Evidence at Stewards Inquiry

6. In order to understand the context of the race, the perspective of each of the riders and the focus of the Inquiry, it is useful to note some of the key parts of the evidence given at the Inquiry, taken from the transcript. The Inquiry began with Stewards explaining the Inquiry related to “an incident at the 700 metres in Race 2”. Stewards said to Mr Muhcu:

... at that stage of the race, you appear to be in some difficulty and restraining consistently...

7. Mr Muhcu responded:

Yeah, like, obviously my mount jumps good and (**inaudible**) races. The instruction was if something want to go crazy, just let it sit behind it you know. I was happy to lead and then I saw [the appellant] was trying to lead the race. I sort of let him, let him cross me. And then in the meantime, just slow down and my horse was sort of just like, was difficult to come back (**inaudible**).

8. Stewards went on to ask:

So, are you, you're saying that when [the appellant] did attain the lead, are you saying the pace eased?

9. Mr Muhcu responded “yeah... that's what he sort of (**inaudible**) didn't want to settle down in behind them.”

10. Stewards then ask the appellant what he had to say. He responded:

Just as my horse has jumped, she's jumped the gates really well, and I elected to press forward and just when I hit the front we were going a pretty hot tempo so I just elected to slow it up a little bit and obviously put Mr Muhcu in a little bit of trouble behind me.

11. When asked by Stewards if he had consciously steadied the pace up, the appellant responded:

Yeah, I've, I rolled over, I rolled into it. I didn't hit the front and slam the brakes on or anything, but I was always going to come back, because we were going a nice pace and I think Mr Muhcu's horse in the past has led and then if it doesn't lead, its (**inaudible**), so I think he's had a tendency to, probably the horses manners, but I think when I have hit the front and eased back, it's probably put Mr Muhcu in a bit of difficulty.

12. Stewards then direct questioning again to Mr Muhcu:

CHAIRMAN: Alright, Mr Muhcu when [the appellant] crossed, was he clear?

Mr MUHCU: Yes Sir, he was.

CHAIRMAN: You've got no issue with that? He was clear. It was after obtaining the lead, and then...

MR MUHCU: Yeah.

CHAIRMAN: ... (**inaudible**) easing of the pace.

MR MUHCU: That's the thing, like, I just didn't hear him do that sort of thing, like, no, but. But (**inaudible**) jump and led on him, but today I sort of jump and go probably quick in front and lead. But then I was instruction just to

come back. If there's something going crazy, just take a sit behind it. Just don't let him go all the way. Because he seems like he just wants to keep going on fast but like I said (**inaudible**), just didn't want to come back, he just wanted to keep trying forward.

13. The race footage was viewed and when asked if the appellant had anything further he wanted to add, he maintained "just as I've eased the pace back its put Mr Muhcu in a little bit of trouble."

14. The Chairman responded:

Well, that's your observations. My observations are that you've made it clear that your intention is to lead and you're riding your mount along, you cross over, you cross Mr Muhcu just clear of him and then shortly after, you can see that you've eased the pace, you've steadied the pace, in consequence comes back onto Mr Muhcu who's mount then commences to over-race.

15. The Chairman then goes on to ask the appellant "are you aware of the Rule in relation to easing the pace?"

16. The appellant responds that he has never really read the Rule "...but I know you can't hit the front, then slam on the brakes."

17. When invited to comment, Mr Maskiell, who assisted the appellant, makes a number of comments in respect to the racing manners of the horse Mr Muhcu rode, summarising that if Mr Muhcu had been riding a "normal horse", he would not have had any problems and the Inquiry would not be taking place. As to pace, Mr Maskiell says:

... there's no doubt that when you see side on, that when [the appellant has] gone to the front, he went to just steady, steady, and I agree with you, the pace has slowed marginally, but I think the horse has over-relaxed. Not so much the rider wanting to restrain to that level...

Mr Maskiell goes on to conclude:

I'd say ten percent was [the appellant], ninety percent was the animal, not, that [Mr Muhcu] was riding.

18. Stewards then ask Mr Muhcu what his response to that was. He said:

My horse, but that's enough for him to do just that. Obviously like horse (**inaudible**) perfect world, horse should just relax. (**inaudible**) like he's not coming back like three lengths. He's only coming back a half a length and that's half a length probably enough just for the horse to do that...

19. There was some further discussion between Mr Maskiell and Stewards clarifying Stewards position:

MR MASKIELL: I think in [Mr Muhcu's] defence, he's, he admitted that it was more his horse than, than the little bit of speed that slowed up and that might put them in perspective.

CHAIRMAN: Yes, I think Mr Muhcu (*two-way radio interruption*) he said that the overall effect of it was that horse does, it can, it can over-race.

MR MASKIELL: Yeah.

CHAIRMAN: But what we're saying, in that the first instance with crossing and steadying is not what should have happened.

MR MASKIELL: Yep.

CHAIRMAN: That's what we're saying. Reducing the speed, as to cause the initial restrain.

20. After the charge was read, Mr Radley reserved his plea.
21. After Stewards had considered the charge and plea, the Chairman stated that Stewards believed the appellant was guilty of the charge. He said Stewards had taken into account the evidence in total, which they said included the appellant having acknowledged that after obtaining the lead, he "did reduce the speed of [his] horse". The Chairman went on to say:

that was also stated by [Mr Muhcu] and, importantly, the Stewards in their reading the film and viewing the vision of it, also believe that you clearly have reduced the speed of your horse after obtaining the lead...

22. Stewards then invited any submissions as to penalty. The appellant spoke of the racing manners of MISTER MANIHI (the horse ridden by Mr Muhcu), submitting that played a big part in the incident and had it not been for that horse's racing manner, it would not have over-raced in the course of the incident. Mr Maskiell said that there was an acceptance that there was "some form of pace slowed up" but the task was to identify how much it slowed up and how much the nature of the affected horse contributed. He noted that Stewards had put a bar on that horse being ridden by an apprentice jockey given its nature. He went on to say that this is the appellant's first time charged with this offence and that as a rider, when you get to the front, you do want to give the horse a bit of a breather and it's a skill not to overdo it. Ultimately, Mr Maskiell asked Stewards to consider a reprimand.
23. Stewards considered the submissions and said that although they did not "pile all the problems of MISTER MANIHI" on to the appellant, it was the appellant's

initial restrain or steady or reduce of the speed of the horse, in our opinion, has set the horse off and that shouldn't happen... When you cross and lead its very important from a safety point of view... that you've got to set a reasonable pace. Causing some horses behind you grief in restraining is quite a dangerous situation. So, under those circumstances we believe that a suspension should apply...

24. Stewards gave the penalty of one Tasmanian race date.

### **Appeal Against Conviction and Penalty**

25. The appellant has appealed against the conviction and penalty, and in his notice of appeal says the following:

As instructed, I took my horse to the front and when well clear of MR MANIHI, crossed to take the lead and then marginally relaxed. In my opinion, I was well clear of MR MANIHI and was not the reason for the horse having to be checked after commencing to over-race. It is also my opinion after watching replays, MR MANIHI did not commence to over-race until GET 'EM WARRIOR (C Wells) moved up beside MR MANIHI.

As recorded in Stewards Reports for 23/06/24 & 07/07/24, Mr Manihi has a tendency to over-race and the [sic] in Stewards Report for the race in question on 16/02/25, it was noted the horse had to be constantly restrained from heels, with Stewards advising that a Senior Rider was to be maintained for all future starts.

26. The Board considered the transcript of the Stewards' Inquiry and noted the matters outlined above at paragraphs 6 to 24.
27. Mr Cooper represented the appellant at the hearing of the appeal. Mr Cooper made submissions consistent with the position taken by the appellant at the Inquiry and the additional issue raised in the grounds of appeal. That is, that MISTER MANIHI had over-raced due to a combination of the presence of CAUGHT ALIGHT (ridden by the appellant) and GET 'EM WARRIOR (ridden by Ms Chloe Wells). He described the actions of the appellant as "marginally easing". Mr Cooper also submitted that the speed of the race was a factor. Mr Cooper noted, and Mr Castillo confirmed, that sectional timings for the race were not available to be tendered in evidence. However, Mr Cooper pointed to several parts of the transcript of the Inquiry in which both the appellant and Mr Muhcu comment on the speed of the race. Mr Cooper also pointed to the evidence of Mr Muhcu that the racing manners of MISTER MANIHI were not what he would ordinarily expect and also that his horse did not want to come back but rather "keep trying forward". Mr Cooper submitted that the evidence of Mr Muhcu, and confirmed in the Stewards Reports of 23 June 2024 and 7 July 2024, included in the appeal package, all confirmed that MISTER MANIHI had a particular tendency to over-race.
28. At the hearing, Mr Castillo on behalf of Stewards said that this was a 1000 metre race. He said Stewards had no problem with the way the appellant came across, they accepted that he was fully clear when he crossed. However, Stewards were in no doubt that the appellant had "eased". Mr Castillo said he eased his mount, "it wasn't a lot". He pointed to the appellant's statement at the Inquiry that he had put Mr Muhcu in "a little bit of trouble". Mr Castillo also submitted that MISTER MANIHI was not over-racing until he got on the heels of the appellant's horse. Mr Castillo pointed to evidence of this on the race film which showed that MISTER MANIHI's front legs were "in the vicinity" of the heels of CAUGHT ALIGHT after the appellant had crossed him. As to the submission that GET 'EM WARRIOR had caused interference to MISTER MANIHI, he said Stewards' position was that the actions of that horse, or rider, had no bearing on the incident. Mr Castillo submitted that whilst it was accepted that MISTER MANIHI "had a history", on this occasion, MISTER MANIHI was checked as a result of the horse in front (the appellant's horse). Mr Castillo said the race was a sprint and there wasn't any need to slow the pace.
29. 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.*

### **Race Film**

30. The Board had available to it the film of the race. Both the appellant's representative and the Stewards referred to that footage within their submission to the Board.
31. The Board had the benefit of advice from the adviser Mr Chris Taylor and carefully considered the race film.

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

32. The Board has considered the submissions of each of the parties to this appeal and all of the evidence available.
33. The Board observes that riders are not regularly charged under this rule and as that is the case, it may be useful to comment on the elements of the charge. Rule 131(d) requires both that the rider must not **excessively** slow, reduce or check the speed of the rider's horse **and in doing so**

cause direct or indirect interference to any other horse in the race (the Board's emphasis). To be clear, it is an essential element of this rule that the reduction in speed be excessive.

34. In the course of the appeal, the Board received evidence and heard submissions as to whether or not the appellant slowed or "eased" and whether the appellant's actions were the cause of interference to the horse behind the appellant, MISTER MANIHI. Much was made of the racing manners of MISTER MANIHI. Both parties and, indeed, the rider of MISTER MANIHI, agreed that that horse has a tendency to over-race. Stewards view was that on the occasion of the race in question, however, the cause of MISTER MANIHI over-racing was the reduction of speed by the appellant.
35. The Board observes that the rule does not require the rider who is alleged to have slowed his or her horse to have been the sole cause of the interference or, in this case, the sole reason for the horse to have reacted as it did. The Board is not required to determine or accept whether or not MISTER MANIHI has a tendency to over-race. If the appellant's horse caused it, or any other horse in the race, interference then that second part of the rule has been satisfied. An argument was put forward by the appellant that it was the actions of another horse that caused MISTER MANIHI to react as it did. The Board does not accept that to be case. The race footage demonstrates that MISTER MANIHI raises its head and commences to over-race when its front legs are in the vicinity of the back legs of the appellant's horse, CAUGHT ALIGHT. Interference by GET 'EM WARRIOR is not clearly seen on the footage and that suggestion was not put to Mr Muhcu, the rider of MISTER MANIHI at the Inquiry to ascertain his view. There is, therefore, no evidence on which to base a finding that GET 'EM WARRIOR caused interference to MISTER MANIHI.
36. The race footage leaves no doubt that MISTER MANIHI has been checked by the appellant's horse. The appellant admits that to be the case, albeit, the appellant maintains that the horse would not have reacted in the way it did had it not been for the unusual manner of the horse. The rider of that horse, Mr Muhcu, stated that his horse "just didn't want to come back, he just wanted to keep trying forward." Before being required to determine whether direct or indirect interference was caused by the appellant, or for some other reason, however, the question for the Board is whether that is caused by the appellant having *excessively* slowed or reduced or checked the speed of his own horse.
37. In considering the Stewards decision to charge the appellant with a breach of this rule, and indeed, find him guilty of it, the Board has considered the particulars of the offence put at the Inquiry. The particulars are stated at paragraph 5 above and the Board notes that importantly, the particulars do not include that the appellant has slowed his horse *excessively*, only that he "reduced the speed" of his mount. The difference in the wording of the rule and the particulars of the charge is significant. A rider is entitled to ease the speed of his mount and might do so for a number of reasons. The most obvious being that he does not consider his horse to be able to maintain the speed or finish the race well if it were to continue at that speed. A rider is not entitled, however, to *excessively* reduce the speed and in doing so cause interference to other riders. The appellant put this in terms of it not being permissible to "slam on the brakes". The Board does not consider it necessary for a rider to have "slammed on the brakes" for the reduction of speed to be excessive, but does consider it necessary that the rider does more than reduce the speed in some insignificant way. That is, more than "slightly", "marginally", or "a little bit".
38. The evidence before the Inquiry from the appellant was that he "marginally relaxed". The evidence from Mr Muhcu, the rider of MISTER MANIHI, was that the appellant was not coming back "like three lengths. He's only coming back half a length...". That is a reasonably clear statement that Mr Muhcu did not consider the reduction in speed to be excessive, particularly taken in the context of his evidence that his horse's reaction was unexpected. When asked specifically whether, after the appellant attained the lead, the "pace eased" and he agreed it did. Through the Chairman, Stewards said, after watching the race footage, that it could be seen that the appellant had "eased the pace, ... steadied the pace". The Chairman goes on to ask the appellant if he is aware of the rule "in relation to easing the pace". The Board observes that at

all times, Stewards referred to the appellant “easing” the pace or “reducing the speed” and that the appellant was in agreement that he did reduce the speed. The appellant did not, however, agree that he did so in an excessive way saying variously that he did not “slam on the brakes” and did not “come back three or four lengths in matter of two or three, in two strides”. He said that he “eased the tempo out of the race because if I keep going the speed I was going, I was going to run last”.

39. At the appeal, Mr Castillo submitted said the appellant had eased his mount but it “wasn’t a lot”. When asked by the Board about the requirement that the reduction in speed be excessive, he said it was excessive. He also submitted it wasn’t necessary for the pace to be reduced at all given the short distance of the race, describing it as a “sprint”.
40. The Board viewed the footage of the race and observes that the reduction in speed was perceptible, without being obvious or jarring. The reaction of MISTER MANIHI was visibly clear, whereas the actions of the appellant in slowing were not so noticeable.
41. Finally, the Board notes the lack of availability of sectional timings of the race to consider.
42. It appears to the Board that Stewards have taken evidence that there was a reduction in speed as being evidence of the charge without consideration of whether the reduction in speed was excessive. This is supported by the Chairman of Stewards having asked the appellant if he was aware of the rule against “easing”.
43. The evidence establishes that there was a reduction in speed but does not establish that there was an excessive slowing or reduction in speed. The mere fact that a horse following a rider who slows his horse reacts, is not evidence of a breach of this rule unless it is established that the slowing of the horse is excessive. Whilst this is a question of context within the race, the Board does not accept Stewards submissions that given that it was a short distance race, any slowing was unnecessary or unreasonable. Without sectional timings, the only evidence available to the Board is that the speed the appellant’s horse was going was too fast to be maintained.<sup>1</sup>
44. Accordingly, the Board accepts the submission put by the appellant that Stewards have insufficient evidence to establish, to the requisite standard that the appellant engaged in excessive slowing or reduction in speed as alleged.
45. Taking into account the requisite standard of proof and the evidence available, the Board cannot attain a comfortable level of satisfaction that the appellant engaged in a breach of the rule as not all essential elements of the rule have been satisfied.
46. The appeal against conviction is upheld – and the orders of the Stewards are quashed per s 99(1)(a) *Racing Regulation and Integrity Act 2024*. (As such there remains no need to further consider or determine the related appeal against penalty).
47. As the decision of the Stewards has been quashed, the Board orders pursuant to ss 99(5)(e) of the *Racing Regulation and Integrity Act 2024*, that the appellant’s prescribed deposit be refunded in full.

**DATED: 28 MAY 2025**

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<sup>1</sup> For example, see statement of Mr Muhcu at paragraph 7 above, and statement of the appellant at paragraph 10 and 38 above.