14 April 2023

**DECISION**

**RACING VICTORIA**

**and**

**MICHAEL DEE**

**Date of hearing:** 29 March 2023

**Panel:** Judge John Bowman (Chairperson).

**Appearances:** Mr Robert Cram appeared on behalf of the Stewards.

Mr Peter Jurkovsky represented Mr Michael Dee.

**Charge:** Australian Rule of Racing (“AR”) 132(7)(a)(ii) states:

 (7) Subject to the other requirements in this rule:

(a) prior to the 100 metre mark in a race, official trial or jump-out:

(ii) the whip must not be used on more than 5 occasions except where there have only been minor infractions and the totality of the whip use over the whole race is less than permitted under subrules (7)(a) and (b) and also having regard to the circumstances of the race, including distance and context of the race (such as a staying race or a rider endeavouring to encourage the rider’s horse to improve).

**Particulars of charge:** Rider Michael Dee was reprimanded under the provisions of AR 132(7)(a)(i), in that he used his whip in consecutive strides prior to the 100 metres. Further, Michael Dee pleaded guilty to a charge under the provisions of AR 132(7)(a)(ii) in that he used his whip 10 times prior to the 100m which is 5 more than permitted. Michael Dee had his licence to ride in races suspended for a period to commence midnight 1 April 2023 and to expire midnight 8 April 2023, a total of 8 race meetings (1 metropolitan and 7 provincial). In assessing penalty, Stewards took into account his guilty plea, excellent record, number of strikes prior to the 100 metres, totality of whip strikes (14), consecutive whip use, that it was a Listed race, he placed 5th and the Victorian Penalty Guidelines.

**Plea:** Guilty

**DECISION**

Mr Michael Dee, you are appealing against the penalty imposed upon you in relation to a breach of Australian Rule of Racing (“AR”) 132(7)(a)(ii).

This breach arises from your ride on “Curran” in Race 4, the Bob Hoysted Handicap over 1,000 metres at Flemington on Saturday, 25 March 2023. The Stewards found that you had used the whip 10 times prior to the 100 metre mark.

There was also one use of the whip in consecutive strides, but it is the number of strikes that is at the centre of this appeal. The effective penalty imposed was suspension for eight meetings. It is that upon which the appeal is centred. I thank Mr Cram and Mr Jurkovsky for their assistance in the matter.

The timing of the penalty is such that you will miss seven provincial meetings of what could be described as being of a standard nature, but one Saturday meeting. There are major carnival type meetings being conducted in Sydney on each of the upcoming Saturdays. You are a very successful jockey and much in demand, particularly in top level races. You had rides booked in Sydney for each of those upcoming Saturday meetings. The eight meeting suspension means that you must miss one of those meetings.

The guidelines in relation to whip use are just that – guidelines. They were arrived at after consultation with and in conjunction with the Australian Jockeys Association (“AJA”). They are not binding, but obviously they are an important consideration. The eight meeting penalty imposed is in accordance with the guidelines, which, as pointed out by Mr Cram, is a starting point in relation to relevant penalties.

This race was a listed event and part of the Autumn carnival. It is at a time of group events and large prizemoney and of public attention on racing. As I stated, some two and a half years ago in the matter of Mr Daniel Moor, it is a time when racing is in the spotlight, and that includes whip use.

The guidelines, whilst just that, have an important role to play and I would repeat that they were reached in conjunction with the AJA.

I repeat that you are a highly talented jockey and, in recent months, have been riding at the very peak of you career. It is little wonder that you are in demand for the big meetings in Sydney.

The calendar has not come to your assistance with the timing of things. Also, I appreciate that you are not only highly talented, but have an excellent record.

However, the penalty imposed by the Stewards seems to me to be a fair and appropriate one, invoking guidelines that are now very well known to all in the industry and made in conjunction with the AJA. They are guidelines with which you are familiar and which help in achieving known and consistent penalties.

The appeal is dismissed. I shall leave the matter of the starting date of any suspension to the parties.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal