29 March 2023

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**RYAN SANDERSON**

**Date of hearing:** 21 March 2023

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Mr Robert Abrahams.

**Appearances:** Mr Daniel Borg appeared on behalf of the Stewards.

Mr Neale Scott appeared on behalf of Mr Sanderson.

**Charge:** Australian Harness Racing Rule (“AHRR”) 149(2) states:

(2) A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.

**Particulars of charge:** Mr Sanderson was the driver of Beartastic Writer in race 5, Mildura on 28 November 2022. After the beginning from barrier 6 he drove his horse forward and continued with an extended challenge for the lead all the way around the first turn which contributed to a lead time of 40.49 seconds, which is 2.75 seconds faster than the 5 year average and 0.7 of a second outside the fastest lead time at this track over the last 5 years. Given his horse’s wide draw (barrier 6), the significant gate speed of the runners drawn to his inside and the very fast sectionals through this section of the race and the driver to his immediate inside at no stage displaying any willingness to surrender the lead – in our opinion, his actions in this early part of the race were unacceptable and were the significant contributing factors in Beartastic Writer tiring from the 650 m to finishing in last place beaten 175 metres.

**Plea:** Not Guilty

**DECISION**

**The Race**

The race started in the back straight. The trainer of Beartastic Writer, Mr Brendan Tune, had given Mr Sanderson instructions to try and lead. Beartastic Writer ($51) started from barrier 6, the outside barrier on the front row. At the start, Mr Sanderson drove Beartastic Writer vigorously with the whip and it responded showing a lot of speed. However, four horses inside of Beartastic Writer also showed a lot of speed, being Micton Mouse (favourite $2.50) from barrier 5 (Luke Watson), Rainbow Rain ($5.50) from barrier 3 (Michael Francis), Triplets ($34) from barrier 2 (Jordan Leedham) and Sonny’s Amazing ($11) barrier 1 (Connor Clark), all of which contested for the early lead. As a result, Beartastic Writer was initially forced to race five wide in the back straight, then three wide into the first turn and eventually two wide on the outside of Micton Mouse, which had crossed over to the pegs. Further around the turn, with Mr Sanderson continuing to urge it forward, Beartastic Writer was able to race three quarters of a length in advance of Micton Mouse but this horse, with the advantage of the peg line, continued to hold it out.

At some stage during approximately the latter part of the first turn or when the horses had turned into the front straight, Mr Sanderson started to restrain his horse. It was then forced to continue racing outside Micton Mouse until in the back straight, when two horses raced past Beartastic Writer, giving it cover in the one out two back line for the first time in the race. Beartastic Writer continued to race in this position until approximately halfway down the back straight for the last time, when it started to lose ground, weakening badly and eventually finishing in last place, 175.4 metres from the winner. Micton Mouse fought on well to run fourth 3.6 m from the winner.

**The Lead Time**

A very fast lead time of 40.49 was recorded, which is 2.75 seconds faster than the 5 year average and 0.7 of a second outside the fastest lead time at this track over the last 5 years.

**Excerpts from the transcript of evidence of the Stewards’ interview with Mr Sanderson on 28 November 2022**

During the Stewards’ interview with Mr Sanderson after the running of the race, he was asked by Mr Borg, “*So, you acknowledge the quick* *lead time may have had some bearing on*.” To which Mr Sanderson replied, “*Oh huge, after that he was yeah, I knew he had no chance*.” (Page 5, lines 7 – 11)

When the charge was laid by the Stewards, Mr Sanderson pleaded not guilty and submitted in his defence that he was just following the trainer’s instructions to attempt to lead.

On page 10 of the transcript the following exchange took place between Mr Crowther, Senior Steward, and Mr Sanderson took place:

Mr Crowther: “*Given the speed of the race and we’ve already read sectional times in, and they’re going very, very quickly*.”

Mr Sanderson: “*I understand that*.”

Mr Crowther: “*And the horse is to be able to finish off the race in a competitive manner and it hasn’t*.”

Mr Sanderson: “*Well, that’s the trainers fault, sir. Not my fault*.”

Mr Crowther: “*Instructions are all well and good but as the driver at some point that you’re not going to get the lead and come up with a plan B, rather than just continuing to press on when you’re going so fast.”*

**Veterinary report**

The HRV veterinarian reported that his examination of the horse after the race indicated that there were no significant clinical findings.

**Career performance**

This document recorded that on the horses’ first race on 23 December 2022 to 14 February 2023, it had won 4 races. In each of these races the horse had very favourable barriers, in chronological order barrier 1, barrier 3, barrier 2 and barrier 1. In each race the horse had shown gate speed and had led.

**Mr Scott spoke in defence of Mr Sanderson**

Mr Scott took us through 12 exhibits which he had prepared and which we had previously read. We will refer to some of these exhibits. Exhibit 4 was a statutory declaration made by Mr Shane Sanderson, the father of Ryan Sanderson. In the declaration he stated that on the morning after the race he contacted the trainer of Beartastic Writer and sought permission to have a veterinarian examine the horse and carry out blood tests and a scope. However, as no veterinarians were available, these tests were not carried out.

Mr Sanderson also stated that, in the declaration that in his experience as a licensed trainer over 28 years, “*horses don’t drop out being beaten very large distances if there isn’t an under lying problem with the horse.”*

We do not accept this statement. Horses drop out and get beaten by very large margins when they have been driven very aggressively in the early stages of races and veterinary examinations have not revealed any abnormalities. We also refer to Mr Scott’s Exhibit 10, where he pointed out five races in which Beartastic Writer had been beaten by margins varying from 60 to 139 meters.

Mr Sanderson also stated in his declaration that the trainer of Beartastic Writer had another registered trainer administer a DMSO drench and antibiotics to the horse on the day after the race.

In Mr Scott’s exhibit 5 a veterinarian, Dr Michael Whiteford, expressed the view that these treatments would likely be used if the prescribing veterinarian was suspicious of a bacterial infection.

However, no explanation was obtained from the trainer as to why these treatments were carried out. Mr Sanderson did not state that the trainer told him that the horse had bled or that he suspected that the horse may have bled.

We also refer to Mr Scott’s Exhibit 11, which is a statement from a Mr Darren Carroll who described himself as a form analyst and professional punter of 13 years experience. We did not find his statement helpful. In addition, he referred to the race won by Beartastic Writer on November 8, 2022 when the lead time was 41.4 seconds, 0.9 seconds slower than the lead time in the subject race.

However, in that race Beartastic Writer, started from barrier 2, showed gate speed and lead throughout the race. We do not consider that this race bears any resemblance to the subject race in which Beartastic Writer started from barrier 6 and was driven very vigorously with the whip from the start. It fought for the lead initially five wide, then four wide and eventually two wide and continued in this position for at least another half of the track.

**Conclusion**

We refer to the decision of this Tribunal on 27 November 2022 in the case of Harness Racing Victoria and Mr Alex Ashwood.

In paragraph 4 the Tribunal stated:

“*ln order for an appeal against a decision made under rule 149 (2) to succeed it must be shown that the decision of the Stewards was not reasonably open to them. The professional assessment of the Stewards must be open to serious challenge for the appeal to succeed. It is not for the tribunal to merely substitute its view of how a horse was driven for that of the Stewards. For the appeal to succeed the tribunal is required on the evidence before it to find that the decision of the Stewards was not one which was reasonably available to them.”*

We are comfortably satisfied that the decision of the Stewards in finding that Ryan Sanderson had breached rule 149 (2) due to the manner in which he drove Beartastic Writer as described above was reasonably open to them. Ryan Sanderson was instructed by the trainer to attempt to lead, which he did. However, the manner in which he did so deprived Beartastic Writer of any chance of winning or running a place. As an A grade driver, he has an obligation to sum up races quickly and to change plans when so required for the benefit of the horse, notwithstanding the instructions he has been given by the trainer.

Accordingly, we dismiss the appeal and confirm the decision of the Stewards.

In relation to the penalty, we note that Ryan Sanderson is 19 years of age and is now living in his own house and paying off a mortgage and a car. Although he works at his father’s stables, he derives the bulk of his income from race driving. In these circumstances we reduce the penalty from 4 weeks to 3 weeks suspension of his driver’s licence to start from midnight on 28 March 2023.

Mark Howard
Registrar, Victorian Racing Tribunal