3 June 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**ANTHONY BUTT**

**Date of hearing:** 17 May 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Brett Day appeared on behalf of the Stewards.

Mr Anthony Butt represented himself.

**Charge:** Australian Harness Racing Rule (“AHRR”) 163(1)(a)(iii) states:

(1) A driver shall not –

 (a) cause or contribute to any

 (iii) interference.

**Particulars of charge:** Anthony Butt, driver of “Zoliver”, was found guilty of a charge under AHRR 163(1)(a)(iii) in that passing the 500m he failed to make sufficient effort to prevent Zoliver from shifting out resulting in “Yorkshire” NZ being checked and breaking gait. In assessing penalty Stewards considered the relevant factors as outlined within the HRV Stewards Minimum Penalty Guidelines placing weight on Mr Butt’s very good recent record and that the racing manners of Zoliver contributed. Stewards accordingly imposed a 7 day suspension of Mr Butt’s licence to drive in races.

**Plea:** Not Guilty

**DECISION**

Mr Anthony Butt, you have pleaded not guilty to breaching Rule 163(1)(a)(iii), which states that a driver shall not cause or contribute to any interference in a race.

The particulars of the charge are that in Race 6 at the Melton harness race meeting held on 21 January 2022, you allowed your horse, “Zoliver”, to shift out when passing the 500 metre mark and, as a consequence, you made contact with Mr James Herbertson’s horse, “Yorkshire”, causing that horse to be checked.

We have heard submissions from Mr Brett Day, the Chairman of the Stewards, and from yourself and we have looked at the film of the race taken from several different angles.

At the inquiry held on 21 January 2022, Mr Herbertson stated that, going down the back straight, he was racing three wide on the outside of Mr Butt’s horse. He stated that Mr Butt’s horse was pulling throughout the back straight and was running up the track. He stated that Mr Butt did correct his horse from going wider and he had to check his horse a bit. He said that he did not think that the full blame was on Mr Butt. Mr Herbertson stated that his horse was tracking really well at the time.

Mr Butt told the inquiry that his horse was running out all the way down the back straight and was hanging out. Mr Butt stated that, as he was coming around the corner, Mr Herbertson was on his outside, but not making much ground. Mr Butt said that he did not allow his horse to shift out, but he acknowledged that his horse was running out a little bit down the back straight. Mr Butt stated that he felt that he had done everything in his power to stop his horse shifting out.

After seeing videos of the race today, Mr Butt stated that his horse was racing two and a half wide all the way down the back and that he did not shift out from that position. Mr Day submitted that, at the relevant time, Mr Butt’s horse’s head was turned inwards, however, that Mr Butt’s horse’s head then straightens and that it is at this point that Mr Butt’s outside wheel got inside the line of Mr Herbertson’s sulky, causing that horse to be checked. Mr Day also submitted that Mr Butt then took some corrective measures, as Mr Butt’s horse’s head was then turned inwards again. Mr Day was of the view that Mr Butt allowed his horse’s head to be straightened and that this was indicative of releasing pressure on the inside reign.

Having heard submissions from both parties and having viewed the video, we are of the opinion that although Mr Butt’s horse’s head straightened, his horse did not shift out from the line which it had been travelling on.

In all the circumstances, we find that Mr Butt is not guilty of the charge. Accordingly, the appeal by Mr Butt is upheld and the charge is dismissed.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal