16 June 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**BAILEY McDONOUGH**

**Date of hearing:** 6 June 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Maree Payne.

**Appearances:** Mr Adrian Crowther appeared on behalf of the Stewards.

Mr Chris Voak represented Mr Bailey McDonough.

**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:** Mr Bailey Mcdonough was found guilty of a charge pursuant to Rule 163(1)(a)(iii) for causing interference, in that he permitted his drive to shift up the track and contact Brallos Pass, causing that runner to be checked, in turn checking Mymatethomo. Mr McDonoughs licence to drive in races was suspended for ten days with a commencement date to be advised.

**Plea:** Not Guilty

**DECISION**

1. Mr Bailey McDonough is a licensed harness driver who drove a horse called “Franco Jolto” in Race 6 at Boort on 6 March 2022.
2. After the race Stewards held on inquiry into the reasons for a horse called “Brallos Pass” breaking in the back straight on the final occasion. Mr McDonough is appealing in relation to their decision.
3. The Stewards heard evidence from the driver of Brallos Pass (Ms Ellen Tormey) and from Mr Bailey McDonough. They also considered the official race replay and took into account their own observations of the race.
4. Stewards then charged Mr McDonough with an offence under Australian Harness Racing Rule 163(1)(a)(iii) namely causing interference by permitting Franco Jolto to shift up the track and make contact with Brallos Pass. This caused that horse to be checked and in turn to check a horse called My Mate Thomo, driven by Mr Denbeigh Wade. The interference was contact of the sulky wheel of Franco Jolto to a leg or legs of Brallos Pass.
5. After hearing submissions on penalty, the Stewards imposed a 10 day suspension on Mr McDonough which has been stayed pending the outcome of the current appeal by him against the decision of the Stewards.
6. In order to help determine the appeal, the Tribunal observed the official race replay. The vision shows, at the critical point, Brallos Pass travelling three wide and making up ground. Brallos Pass was directly on the outside of Franco Jolto when Mr McDonough went wider and checked Brallos Pass. Brallos Pass was in the three wide lane following the eventual second place getter, Stateoffortress, driven by Ms Kerryn Manning.
7. Mr McDonough told the Stewards that a drift out by Mr Sutton on Onetoomany contributed to him shifting out. The Stewards accept that there was a small shift only, indeed a quote “very minimal one”. The video evidence bears that out. It appears to us that the cause of contact with the leg or legs of Brallos Pass was Mr McDonough gradually angling out into the three wide lane from the two wide lane and making contact with Brallos Pass.
8. In our view the video evidence supports the conclusion of the Stewards that the relevant interference occurred as alleged by them. We confirm the finding of the Stewards and dismiss the appeal. There was no challenge to the decision on penalty. The 10 day suspension shall commence at midnight on Wednesday, 8 June 2022.

Mark Howard
Registrar, Victorian Racing Tribunal