10 August 2021

**DECISION**

**RACING VICTORIA**

**and**

**BEN THOMPSON**

**Date of hearing:** 14 July 2021

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Jonathon Manning instructed by Mr Daniel Bolkunowicz appeared on behalf of the Stewards.

Mr Paul O’Sullivan represented Mr Ben Thompson.

**Charges:** Australian Rule of Racing (“AR”) 232(i) states:

A person must not:

1. (i) give any evidence at an interview, investigation, inquiry, hearing and/or appeal which is false or misleading.

(“AR”) 228(b) states:

A person must not engage in:

1. (b) misconduct, improper conduct or unseemly behaviour;

**Particulars of charges: Charge One**

1. You are, and were at all relevant times, a jockey licensed by Racing Victoria.
2. On 3 May 2020 during the course of Stewards Inquiries, you gave evidence to the Stewards to the effect that you had not ridden *No Frontiers* in a jump out on 20 April 2020.
3. You did ride *No Frontiers* in a jump out on 20 April 2020.
4. The evidence you provided to the Stewards (as outlined in particular 2) was false and/or misleading.

**Charge Two**

1. You are, and were at all relevant times, a jockey licensed by Racing Victoria.
2. On 3 May 2020*, No Frontiers* ran in and won The Long Paddock 3YO Maiden Plate over 1000 metres at the Bairnsdale Racecourse.
3. Sometime between 3 May 2020 and 11 May 2020, you deleted from your mobile phone messages and/or call records between you and:
   1. Licensed Trainer Francis Finnegan; and/or
   2. punter Mark Hunter,

that were or could be relevant to the inquiry being conducted by the Stewards into *No Frontiers’* race on 3 May 2020 and/or its previous jump outs*.*

1. Your conduct, as outlined in particular 3, constitutes misconduct and/or improper conduct.

**Plea:** Guilty

**DECISION**

Mr Ben Thompson, you have pleaded “guilty” in respect of two offences. The first charge is a breach of AR 232, which could be summarised as the giving of false or misleading evidence. The second charge is a breach of AR 228(b), which could be summarised as misconduct.

The charges arise from a jump out at Cranbourne on 20 April 2020. In relation to the first charge, you told Stewards on 3 May 2020 that the horse that you had ridden had not been No Frontiers, but Getembel. Both horses were trained by Mr Francis Finnegan. In fact, the horse had been No Frontiers, although it did not participate in the jump out under that name. It ran second in the jump out, under the incorrect name. It then ran at Bairnsdale, under its correct name and ridden by you, on 3 May 2020. It won that race. Ultimately, you admitted that you had given the Stewards false evidence on 3 May 2020 in relation to the identity of the horse in the jump out on 20 April 2020.

The second charge, being one of misconduct, relates to the removal by you of data in the form of calls to and from your mobile phone, this occurring between 3 May 2020 and 11 May 2020. These included calls between yourself and Mr Finnegan and you and another person. Again ultimately, you admitted that this removal had occurred. Not all the missing material could be recovered.

In arriving at penalties, we take into account your pleas of guilty, which, although not spontaneous, were made a relatively short time after the offences. We also take into account your very good record.

Your circumstances are that you are 24 years of age and have been a jockey for seven years. You have had a successful career, including a 12 month contract in Singapore, which you were invited to extend, but declined. You and your partner are currently residing in Brisbane. You have been riding there and at some meetings outside Brisbane with great success. As we understand it, you have ridden 104 winners for the season.

These are serious offences. We say now that we regard them as being quite separate and deserving of separate penalties, even though they involve, amongst other things, the same horses, the same jump out and the same race. There is the misleading evidence given on 3 May 2020. There is then the subsequent deletion of the mobile phone material. It may be that you were somewhat flustered when interviewed on 3 May, but the deletion of the phone material occurred subsequently and can scarcely be attributed to you being flustered or confused.

As has been said in previous cases of this nature, the work of the Stewards is difficult enough without having to deal with wilfully false and misleading evidence, much less misconduct in the nature of deletion of material from mobile phones. Each of these offences goes back to the need for maintaining a level playing field and the appearance of a level playing field. These are matters that are of critical importance to the industry. Weighing all of the above matters up, including your pleas of guilty and your remorse, we find as follows.

On the charge of the breach of AR 232 – the misleading evidence – you are suspended for a period of two months. On the charge of the breach of AR 228(b) – the misconduct – you are also suspended for a period of two months. The penalties are cumulative, so that the overall period of suspension is four months.

Mark Howard  
Registrar, Victorian Racing Tribunal