13 May 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR BORIS DEVCIC**

**Date of hearing:** 7 May 2020

**Panel:** Judge John Bowman (Chairperson) and Ms Maree Payne.

**Appearances:** Mr Shane Larkins appeared on behalf of the Stewards

Mr Lance Justice appeared on behalf of Mr Devcic.

**Charge:** Australian Harness Racing Rule 149(1) states:

A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field.

**Particulars of charge:** Boris Devcic (Renaissance Art) was found guilty of a charge under for failing to take all reasonable and permissible measures on his drive to finish in the best possible placing in the field.

Stewards felt that Mr Devcic’s decision to race forward in close proximity to Regardless during the running of the first quarter of the final mile which was recorded in 27.9 seconds, which equated to 2.8 seconds faster than the five year average and then persist with racing in that position during the running of the second quarter, which was recorded in 30.4 seconds which equated to 1 second faster than the five year average when there was both a reasonable and permissible opportunity to either restrain or attempt to take some restraint to reduce the tempo and offer his own drive some respite.

Stewards were of the opinion that the driving actions of Mr Devcic did not allow his horse any respite and as a result were the major contributing factor to Renaissance Art being beaten 21.9m into second last placing. Stewards also considered the driving tactics adopted by Mr Devcic were a contributing factor to Regardless being beaten 18m into 7th place.

The licence to drive of Mr Devcic was suspended for 6 weeks to commence midnight 5 March 2020. In assessing penalty, Stewards took into account the HRV Minimum Penalty Guidelines, the driver’s not guilty plea, the minimum frequency with which he is currently driving, his clear record and his culpability, which was deemed to be mid-range at minimum. Stewards further considered that the actions of the driver affected the chances of not only his own drive but also the chances of Regardless.

**Plea:** Not Guilty

**DECISION**

Mr Boris Devcic, you have pleaded ‘not guilty’ to a breach of Rule 149(1). The charge concerns your drive on Renaissance Art in Race 8 over 1790 metres at Mildura on 25 February 2020. In summary form, it is alleged by the Stewards that you adopted tactics through the course of the race which did not allow your horse to continue to compete. We have watched the video many times. You drove your horse hard early, but you were passed by Regardless, driven by Matthew Horsnell. You had come from gate position 2 and Regardless from gate 5. You drove hard, but Regardless began faster and you had clearly given up the lead by about half a length at the winning post the first time.

Mildura is a smallish track with quite a sharp turn out of the straight. You were two off the pegs and continued to push up. Your horse did race roughly for a couple of strides and Regardless was able to get fully past you and cross to the pegs after entering the back straight. This left you in the death seat. You may then have given your horse some respite, but it was a very fast first quarter. However, turning out of the back straight, you again kicked up and gave your horse a flick across the rump with the whip at least once and possibly twice. In other words, effectively you made another run. By the time the horses got to the winning post on the bell lap, you were almost on term with Regardless. You had pulled out the deafeners. You continued to contest for the lead, but your horse tired going down the back straight for the final time. Regardless, not surprisingly, had also had enough and both horses finished at the tail of the field.

In our opinion, the charge had been made out. We find that during the course of the race you did not ensure that your horse was given full opportunity to win or obtain the best possible placing in the field. After a very fast lead time and first quarter, you gave your horse a brief respite, but then again pushed forward to the outside of the leader when there was still more than a lap to go and, as stated, you were flicking it with the whip.

We were referred to the well-known words of Judge Goren in the case of Honan. However, this was no brief error of judgement in the present situation. We appreciate that you are a vigorous driver, but effectively your tactics deprived your horse of the chance of winning or doing the best that it could in the circumstances.

It may be that Mr Horsnell also contributed to the very fast first quarter, quick race and the way the race was run, but that does not excuse your drive. In short, we find the charge proven.

**PENALTY**

Mr Larkins on behalf of the Stewards has suggested a penalty of suspension for 6 meetings, as due to the COVID-19 situation, penalties are being imposed in terms of meetings rather than weeks. Mildura has approximately 5 meetings a month at the moment. You with the assistance of Mr Justice and Mr Briggs, have asked for a lesser penalty. At the moment, you are training 11 horses, all of which are owned by people other than yourself. Whilst driving forms an important part of your income, your income should not disappear completely. This was a contested matter. There is no discount for a guilty plea. In any event, in all the circumstances we are of the opinion that a suspension for 6 meetings is appropriate.

Mark Howard
Registrar, Victorian Racing Tribunal