11 November 2019

**DECISION**

**RACING VICTORIA**

**and**

**MR DAMIEN OLIVER**

**Date of hearing:** 8 November 2019

**Panel:** Judge John Bowman (Chairperson)

**Appearances:** Mr Wade Hadley appeared on behalf of the Stewards.

Mr Matthew Hyland appeared on behalf of Mr Oliver.

**Charge:** Australian Rule 131(a) states a rider must not, in the opinion of the Stewards: (a) engage in careless, reckless, improper, incompetent or foul riding;

**Particulars of charge:** Damien Oliver (Highland Jakk (NZ)) pleaded guilty to a charge of careless riding under the provisions of AR131(a), the carelessness being that passing the 300m he permitted his mount to shift ground outwards when insufficiently clear of Galaxy Glen which was checked to avoid Highland Jakks heels. Damien Oliver’s licence to ride in races was suspended for a period to commence at midnight 9 November 2019 and to expire at end of the day meeting on 16 November 2019. (9 meetings, 2 metropolitan, 7 provincial). In assessing penalty Stewards deemed the incident to be in the low range and took into account his guilty plea and record.

**Plea:** Guilty

**DECISION**

Mr Damien Oliver, you have pleaded “guilty” to a charge of careless riding. The charge is that in race 4 over 2015 metres at Seymour on 31 October 2019 on the home turn you permitted your mount, Highland Jakk, to shift out when insufficiently clear of Galaxy Glen, ridden by Daniel Stackhouse, causing that horse to be checked to avoid your heels. You pleaded guilty to the offence on the day. The Stewards took into account your guilty plea and your record and deemed the interference to be towards the upper end of the low range. A period of suspension of 9 meetings was imposed. You are appealing against the severity of the penalty, arguing that an 8 meeting penalty is appropriate.

We have viewed the video material several times. Your shift out from the rails and the interference to Daniel Stackhouse’s mount is clear to see. We agree that his mount was unlikely to feature in the finish and your mount was going strongly. Indeed, it went on to win. Nevertheless, you pushed out and Stackhouse had to check his mount to avoid clipping your horse’s heels. It is quite noticeable interference. There has been mention of Jason Baldock’s mount, but we are of the view it played no part in what occurred.

You described your record as ”neutral”, which may perhaps be flattering it just a little. You have been suspended for careless riding for 10 meetings on 6 July 2019 and for another 10 on 14 September 2019. Both incidents were considered to be mid-range offences.

You have drawn attention to the penalty of 8 meetings imposed on Luke Currie on 12 October 2019, arguing that your offence and records are similar. We do not entirely agree. Currie had not had 2 recent 10 meeting suspensions. He had one of 9 meetings and one of 8 meetings. Further, while consistency is highly desirable, each charge and each penalty is to be considered on its individual merits and upon the basis of the actual interference caused. The bottom line is that we are of the view that the penalty of a suspension of 9 meetings is a fair and reasonable one. The appeal is dismissed.

Mark Howard  
Registrar, Victorian Racing Tribunal