10 July 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MR IAN MONTGOMERY**

**Date of hearing:** 8 July 2020

**Panel:** Judge John Bowman (Chairperson) and Magistrate John Doherty.

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

Mr Ian Montgomery represented himself.

**Charge:** Australian Harness Racing Rule (AHRR) 163(1)(c)(iii) states a driver shall not cause or contribute to any interference.

**Particulars of charge:** The particulars of the charge being that racing into the first turn Mr Montgomery permitted his horse to shift down the track when insufficiently clear of Shez Elite resulting in that runner being initially tightened before contacting marker pegs and then being checked and breaking. Mr Montgomery’s licence to drive in races was suspended for 4 race meetings commencing midnight 21 April 2020 and expiring midnight 8 May 2020. In determining penalty stewards considered the extent of the interference which resulted in Shez Elite breaking, the Harness Racing Victoria Minimum Penalty Guidelines, Mr Montgomery’s not guilty plea and his driving record and frequency.

**Plea:** Not guilty

**DECISION**

Mr Ian Montgomery, in this appeal you are pleading ‘not guilty’ to a breach of AR163(1)(a)(iii). The matter involves your drive of Ellenkate in Race 4 at Shepparton on 21 April 2020. It is alleged that shortly after the start you crossed Shez Elite, driven by John Newberry, when insufficiently clear of that horse, resulting in it being tightened, contacting marker pegs, being checked and breaking. It is alleged that you commenced to cross when in the vicinity of the winning post the first time, and continued to cross when not clear, causing the interference and causing Shez Elite to break. You started from gate position 3 and Mr Newberry was in 1.

You assert that you were sufficiently clear at all times and when crossing to the pegs. You believe that Mr Newberry miscalculated the distances, thinking that he was further up than he actually was, panicked and effectively put himself over the marker pegs. You emphasised that you made no contact with Shez Elite or with Mr Newberry and that there was plenty of clearance.

When interviewed after the race, Mr Newberry stated that he was actually pushed down over the top of the marker pegs and that you were not clear of his horse’s extended front legs.

We have viewed the video several times. We are of the opinion that the Stewards case has been made out. We accept their evidence and the evidence given by Mr Newberry when he was interviewed. In our opinion, the video shows that you were not clear of Shez Elite when you crossed that horse, forcing it onto the marker peg and causing it to break. We are of the opinion that you did cause or contribute to the interference. The appeal against conviction is dismissed. We shall hear the parties on the question of penalty.

In the circumstances Mr Montgomery did not challenge the penalty.

Mark Howard
Registrar, Victorian Racing Tribunal