17 November 2020

**DECISION**

**RACING VICTORIA**

**and**

**MR JAMES MCDONALD**

**Date of hearing:** 4 November 2020

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

**Appearances:** Mr Robert Cram appeared on behalf of the Stewards.

Mr Matthew Hyland appeared on behalf of Mr James McDonald. Mr James McDonald appeared.

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

**Particulars of charge:** James McDonald (Horrifying [(NZ]) was found guilty of a charge of careless riding under the provisions of AR131(a), the careless riding being that passing the 400 metres, he permitted his mount to shift out when not sufficiently clear of Embolism, causing that colt to clip Horrifying's heels and almost fall. James McDonald had his licence to ride in races suspended for a period to commence midnight 3 November 2020 to expire after the conclusion of the day meeting on 13 November 2020, a total of 12 race meetings (3 metropolitan, 9 provincial). In assessing penalty Stewards took into account his record, the fact it was a Group 3 race and that the carelessness was in the mid-range.

**Plea:** Not Guilty

**DECISION**

Mr James McDonald, you have pleaded “not guilty” to a charge of careless riding. It involves your ride on “Horrifying” in Race 1, the Group 3 Carbine Club Stakes at Flemington on Saturday, 31 October 2020. The alleged interference occurred in the straight and about 400 metres from the finish. The horse that suffered from the interference that undoubtably occurred was “Embolism”, ridden by Damien Oliver which clipped your heels or at least stumbled whilst not falling.

Other horses possibly or allegedly involved were ridden by Damian Lane, who was on the rails, Jye McNeil, who was on his outside and Dean Holland, who was on Damien Oliver’s outside. In other words, reading from the rail out, the horses were ridden by Damian Lane, Jye McNeil, yourself, James McDonald, Damien Oliver and Dean Holland. I say now that any role played by Dean Holland was absolutely minor.

Mr Matthew Hyland, on your behalf, placed great emphasis upon what could be seen from the overhead or chopper shot. I agree that this is important, but I am also of the opinion that the Tower 1 or head on footage is also of significance. The side-on shots, including the tracker shot, are not of such great value, although they do show that Damien Oliver could well have fallen, and the tracker shot, in particular, makes that possibility clear.

Your argument, as advanced by Mr Hyland, is that this was just a racing incident. Particularly relying on the chopper video, he argued that Damian Lane was easing off the fence, causing Jye McNeil to move onto you and the gap, which was only there for a second or a split second, closed due to no fault on your part.

Mr Cram, on behalf of the Stewards, argued that you were not even aware that Damien Oliver was there and continued to ride your horse vigorously, although it was shifting out, thus causing the interference. He does not agree with arguments based upon the riding of Damian Lane and Jye McNeil.

I have viewed the video material many, many times, particularly the head on footage and the chopper video. I am of the opinion that the charge has been made out. It all happened very quickly, but in my view, you shifted out away from Jye McNeil whilst riding vigorously and closed the gap into which Damien Oliver was coming. You said later in an interview by the Stewards that, effectively, you did not know that Damien Oliver was there. You also used words to the effect that you did not believe that you were the only culprit – see page 5 of the transcript.

I do not accept that Damian Lane and Jye McNeil played a significant role in what occurred. There was a run there for Damien Oliver. Your horse shifted out under hard riding and closed the gap. Damien Oliver’s horse stumbled and could have fallen. The extent of carelessness as such may not have been greatly obvious, but these things happen very quickly, particularly in the home straight, but the consequences can be severe.

In short, I am comfortably satisfied that the charge has been proven.

**PENALTY**

In relation to penalty, I am of the view that, whilst the careless riding happened very quickly, the outcome could have been quite severe. Damien Oliver’s horse clipped heels, stumbled and could have fallen. I take into account the matters put forward by Mr Cram, namely that this was a Group 3 race. It was the first race in the VRC spring carnival. I also take into account your good record and the matters raised by Mr Hyland. In my opinion, the penalty imposed was fair and appropriate. The appeal is dismissed.

Mark Howard  
Registrar, Victorian Racing Tribunal