23 October 2019

**DECISION**

**RACING VICTORIA**

**and**

**MR JAMES McNAMARA**

**Date of hearing:** 21 October 2019

**Panel:** Judge John Bowman (Chairperson), Magistrate John Doherty and Mr Greg Childs

**Appearances:** Mr Justin Hooper instructed by Ms Charlotte Landy appeared on behalf of the Stewards.

Mr James McNamara represented himself.

**Witnesses:** Mr Craig Durden appeared as a witness.

Mr Wade Hadley appeared as a witness.

 Mr Paul Hamblin appeared as a witness.

**Charges:** Charge 1 AR 129 (4) A rider must take all reasonable and permissible measures throughout the race to ensure that the rider's horse is given full opportunity to win or to obtain the best possible place in the field. If, in the opinion of the Stewards, this rule has been breached: (a) any person who was a party to the breach may be penalised.

 Charge 2 LR 94A A person must not, at any time or for any purpose: (a) engage in any form of intimidation or abusive conduct (either physical, verbal or otherwise), in any way related to racing, of: (i) any Steward, official or employee or officer of Racing Victoria.

**Particulars of the charges:** Charge 1

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria and the trainer of Hornets’ Nest.
2. You engaged Paul Hamblin to ride Hornets’ Nest in race 2, the Davis Blinds BM120 Hurdle over 3480 metres at Casterton.
3. Prior to the race, you provided Paul Hamblin with riding instructions for the race.
4. Paul Hamblin’s riding of the horse in the race was contrary to AR 129 (2) on the following basis:
	1. Between approximately the 1200m and the 800m marks of the race Mr Hamblin failed to improve his position and maintain contact with the body of the field in circumstances where it was reasonable and permissible for you to do so; and
	2. Between approximately the 800m mark of the race and jumping the last obstacle of the race Mr Hamblin failed to ride his mount with sufficient vigour to improve your position in circumstances where it was reasonable and permissible for you to do so.
5. Hornets’ Nest placed fourth of seven starters in the race and was beaten by approximately ten lengths.
6. Paul Hamblin rode Hornets’ Nest in the race in accordance with your instructions.
7. Your instructions caused and/or contributed to Paul Hamblin’s conduct as set out in particulars (1) and (2) above, you were a party to Paul Hamblin’s breach of AR 129 (2).
8. Your conduct, as set out above was in breach of AR 129 (4).

Charge 2

1. You are, and were at all relevant times, a trainer licensed by Racing Victoria.
2. On 2 September 2019, Stipendiary Steward Sam Cochrane called you and asked you to call him back. Later that day, you telephoned Mr Cochrane (the Call).
3. During the Call, Mr Cochrane informed you that the Stewards were issuing a charge against you with respect to Hornets’ Nest’s race at Casterton on 29 June 2019, when you then engaged in verbally abusive conduct towards him.
4. Your conduct, as set out above, was in breach of LR 94A(a)(i).

**Plea:** Charge 1 Not Guilty

Charge 2 Guilty

**DECISION**

Mr James McNamara, you are the trainer of Hornets’ Nest. You are charged with a breach of AR129(4). You have pleaded “Not Guilty” to the charge. By reason of AR129(4) the additional allegation against you in that, in the opinion of the Stewards, you were a party to the breach of AR129(2). That is based upon the riding instructions allegedly provided to Mr Hamblin prior to the race. It is alleged that Mr Hamblin rode Hornets’ Nest in accordance with your instructions which caused or contributed to his breach of AR 129 (2). As stated, you pleaded “Not Guilty” but opted to give no evidence.

We are troubled by this charge and the evidence supporting it. True it is that, when interviewed by the Stewards on the day, you referred to the races as being “a paid trial” and that you told Mr Hamblin not to pull the whip on it. You told him not to knock the horse about. However, your evidence on the day was that your instruction went on “If he is in a position to win, you go for it, absolutely go for it” You said that you told Mr Hamblin to jump him out, but if they go too hard, “just sit in behind them” don’t break his neck. “He’s got 12 stone on his back”

You claimed you also said that “If you’re in a position to win, yeah you win”.

Instructions are the key to this charge. We are not comfortably satisfied, applying the Briginshaw test, that your instructions to Mr Hamblin resulted in a breach of AR129 (2). Certainly, he did not knock the horse about, but we are not comfortably satisfied that you were a party to the beach of AR129(2). The charge is dismissed.

Charge LR94A

Certainly, the Stewards should not be abused in this fashion, it was over the phone, it doesn’t appear to have been seriously threatening, as I say the Steward should not have to put up with this kind of behaviour and it is appropriate that Mr McNamara is fined and we fix that fine at $500.

Mark Howard
Registrar, Victorian Racing Tribunal