31 March 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JASON LEE**

**Date of hearing:** 18 March 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Mr Greg Childs.

**Appearances:** Mr Daniel Borg appeared on behalf of the Stewards.

Mr Lance Justice represented Mr Jason Lee.

**Charge:** Australian Harness Racing Rule (“AHRR”) 165(1)(b) states:

(1)From the start through the first turn, and until reaching the next straight, a driver shall –

(b) not move the driver’s horse towards the inside running line unless the rear of the driver’s sulky is at least one metre clear of the extended front legs of the horse racing in the next position closer to the inside running line.

**Particulars of charge:** Jason Lee, driver of “Miradero” was found guilty of a charge under AHRR 165(1)(b) which reads “From the start through the first turn, and until reaching the next straight, a driver shall not move the driver’s horse towards the inside running line unless the rear of the driver’s sulky is at least one metre clear of the extended front legs of the horse racing in the next position closer to the inside running line” with the particulars of the charge being as the driver of Miradero, Mr Lee directed his horse inwards racing towards the first turn, without the required clearance in advance of “Crime Boss” (Chris Walsh) resulting in that runner racing in extremely tight confines and inside the line of at least two marker pegs, then ultimately racing roughly when being restrained to trail Mr Lee’s drive. In assessing penalty in accordance with the relevant factors outlined in the HRV Minimum Penalty Guidelines Stewards noted that whilst a reduction of penalty is not generally afforded for a not guilty plea, Mr Lee’s record under this rule (4,233 drives without a breach) and for interference related matters in general has been exemplary over a ten-year period and as such imposed a suspension or Mr Lee’s license to drive for a period of two weeks. Mr Lee was advised of his rights of appeal

**Pleas:** Guilty

**DECISION**

1. On 7 December 2021, registered harness racing driver Mr Jason Lee, drove “Miradero” in Race 7 at Ararat. After the race, Harness Racing Victoria (“HRV”) Stewards held an inquiry into the race and subsequently charged Mr Lee with a breach of Australian Harness Racing Rule (“AHRR”) 165(1)(b).
2. During the race, Mr Chris Walsh, a registered harness racing driver, drove a horse called “Crime Boss”. Crime Boss drew the inside. Miradero was alongside in position two. Each driver competed for the lead shortly after the start. As the horses approached the turn at the 400 metre mark, Mr Lee’s horse crossed Mr Walsh’s horse. At the time, Mr Lee was not a metre clear of the extended front legs of Crime Boss. That was the uncontradicted evidence of Steward, Mr Adrian Crowther, who was in the Stewards’ tower at the 400 metre mark. Mr Crowther gave that evidence to the investigation.
3. In his evidence in the investigation, Mr Lee admitted that he probably was not a metre clear when he crossed Crime Boss, although he said that, at the time of the race, he felt that Mr Walsh considered that he was clear by a metre. At one point Mr Walsh considered his horse was hanging in and needed restraint. Mr Lee then pressed on for the lead. Mr Lee further admitted that he was not a metre clear. He said that “it got tight but there was not any contact”. Mr Lee considered that he gave Mr Walsh enough room.
4. The Stewards then laid a charge under AHRR 165(1)(b). Mr Lee pleaded not guilty. Again, he conceded that he had breached the Rule. He said effectively that he was forced into the situation he was in because of the lack of competency of another driver.
5. The Stewards found Mr Lee guilty of the charge. They held that at no stage was Mr Lee a metre clear of the front legs of Crime Boss when crossing that horse and in doing so tightened Crime Boss, causing that horse to go over at least two inside marker pegs. The Stewards offered Mr Lee the opportunity to make submissions on penalty. He declined to do so.
6. HRV Stewards imposed a penalty of a two week suspension, taking into account the not guilty plea on the one hand and Mr Lee’s exemplary record on the other hand and imposed the minimum penalty available under penalty guidelines issued by HRV.
7. Mr Lee originally appealed to the Tribunal against the finding of guilt by the Stewards. That plea was changed this morning to guilty and the appeal remained only on the question of penalty.
8. Given the change in plea and Mr Lee’s exemplary record in having 4,233 previous drives without transgressions against the AHRR, the Stewards submitted that a reduction in penalty to a 10 day suspension is appropriate. Mr Lee, through his representative, Mr Lance Justice, agreed to that reduction in penalty.
9. It is common in civil proceedings regarding penalty in Courts for there to be acceptance of the agreement made at arms length between the parties on a penalty, provided that it is within the appropriate range. We respect the agreement of the Stewards and Mr Lee. We consider it is a proper one in the circumstances. We also consider that it is the right result. The penalty shall operate immediately. In this regard, we were referred to a recent case involving Mr Greg Sugars. We understand Mr Greg Sugars obtained a deferment of his penalty in a matter concerning interference to be able to drive in the Miracle Mile. However, that race was postponed due to weather and in circumstances where Mr Sugars was due to drive in that race prior to the hearing of his appeal.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal