16 June 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JOE PACE**

**Date of hearing:** 8 June 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Dr Andrew Gould.

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

Mr Anthony Butt represented Mr Joe Pace.

**Charge:** Australian Harness Racing Rule (“AHRR”) 149(1) states:

(1)A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field.

**Particulars of charge:** The particulars of the charge were that Mr Pace as the driver of Mia Regazza NZ had, towards the 400m, directed his drive down the track into the one out line when the reasonable and permissible opportunity was available to him to remain in the three wide line following Lils Nightmare NZ which would have  afforded his drive every opportunity to gain a clear and uninterrupted run to the finish, whereas after moving down the track to take up a position between runners his drive was then held up for clear running for a considerable distance, only gaining clear running nearing the finish, actions which Stewards allege was detrimental to his horse’s opportunity to win the race. Mr Pace pleaded not guilty to the charge however after giving due consideration to all the evidence Stewards sustained the charge against Mr Pace. In determining penalty stewards considered Mr Pace’s good driving record with only one previous offence in his long driving career, his not guilty plea, the HRV Minimum Penalty Guidelines and the level of culpability in this instance which was determined to be mid-level. Stewards imposed a four week suspension of Mr Pace’s licence to drive in races with a nine day deferment granted.

**Plea:** Not Guilty

**DECISION**

Mr Joe Pace, you, are appealing against the decision of the Stewards of 1 March 2020 as set out above. You are appealing in relation to the finding of guilty and to the penalty imposed.

The particulars of the charge involved are that you, being the driver of Mia Ragazza in Race 6, have towards the 400m mark, directed your horse down the track onto the one out line. At that time, a reasonable and permissible opportunity was available to you to remain three wide following Lil’s Nightmare. This would have afforded you every opportunity to gain a clear and uninterrupted run to the finish. As a result of moving down the track, your horse was then held up for a considerable distance and only gained clear running nearing the finishing line.

We have watched video replays of the race from several different angles and we have heard submissions from the Stewards and also, from Mr Butt on your behalf.

At the Stewards inquiry held on 1 March 2022, you stated that you tried to give your horse a good trail into the home straight and took an inside run, thereby giving your horse every possible chance to win. You stated that your horse is not a strong horse and that, in your opinion, if you had gone out four wide, you would not have finished in the first three.

You told the Stewards at the inquiry that your horse’s recent form showed that she is not very strong. You tried to place your horse in the best possible position. You told the Stewards that you had been training the mare for the last 6 to 7 months and that you are aware of the horses capabilities. At at one stage during the race you had to hit your horse to make sure she kept up.

During the hearing we had cause to look at your horse’s previous start at the Geelong harness race meeting held on 15 February 2022. We are satisfied that your horse’s recent racing history does not explain why you did not hold your position racing three wide following Lil’s Nightmare. This then would have given you, at the appropriate time leading into the straight, a clear and uninterrupted drive. This was rather than going down to the one line position, where there were horses in the race in front of you, resulting in you being held up and not having a clear and uninterrupted drive to the finishing line.

**CONCLUSION**

In our opinion, there was no need to go back inside to the one out line. Your horse was following Lil’s Nightmare three wide approaching the home turn. Lil’s Nightmare was making ground in front of you. In those circumstances you could easily have remained three wide entering the home straight behind Lil’s Nightmare and then pulled out giving you a clear drive to the finishing line.

We are comfortably satisfied that the charge has been proven and we find you guilty. The appeal is dismissed.

**PENALTY**

We now turn to your appeal against penalty. We have taken into account your history within the harness racing industry which in our opinion has been excellent over a long period of time.

Bearing in mind your plea of not guilty, we are of the opinion that you are not entitled to a reduction in penalty that might have been available had you pleaded guilty.

We have considered HRV minimum penalty guidelines in arriving at an appropriate penalty. Such guidelines are not mandatory, they are guidelines only. In assessing the culpability of your drive, we find that is in the mid-range.

In all circumstances we consider that the penalty of four weeks suspension, imposed by the Stewards is appropriate. The appeal in relation to penalty is dismissed.

Mark Howard
Registrar, Victorian Racing Tribunal