18 October 2022

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**JOHN GARNAUT**

**Date of hearing:** 12 October 2022

**Panel:** Judge John Bowman (Chairperson) and Mr Robert Abrahams.

**Appearances:** Mr Stephen Svanosio appeared on behalf of the Stewards.

Mr John Garnaut represented himself.

**Charge:**  Australian Harness Racing Rule (“AHRR”) 173(1) states:

(1) A driver shall not bet in a race in which the driver participates.

**Particulars of charges:** **Charge 1**

1. At all relevant times, you were a licensed driver and trainer with Harness Racing New South Wales, and a person bound by the Australian Harness Racing Rules.
2. On 5 April 2022, you placed a bet on your Sportsbet account for “Rojenbye” to win Race 3 at the Mildura harness racing meeting on the same date.
3. As the driver of Rojenbye in Race 3 at the Mildura harness racing meeting on 5 April 2022, you did bet in a race in which you participated.

**Charge 2**

1. At all relevant times, you were a licensed driver and trainer with Harness Racing New South Wales, and a person bound by the Australian Harness Racing Rules.
2. On 5 April 2022, you placed a bet on your Sportsbet account for “Rojenbye” to place in Race 3 at the Mildura harness racing meeting on the same date.
3. As the driver of Rojenbye in Race 3 at the Mildura harness racing meeting on 5 April 2022, you did bet in a race in which you participated.

**Pleas:** Guilty to both charges

**DECISION**

Mr John Garnaut, you have pleaded guilty to two breaches of Australian Harness Racing Rule (“AHRR”) 173(1). The charges arise out of bets you had on the horse, “Rojenbye”, trained by you and driven by you in Race 3 at Mildura on 5 April 2022. Rojenbye is the only horse that you train or drive.

It is apparent, and we accept, that two separate breaches of the Rule did occur, albeit that the bets were placed in quick succession and within an overall time frame of approximately two minutes. We accept, and there was no challenge to this, that betting in this way occurred because of the nature of your betting account. You cannot place one each way bet, but have to make two separate bets, one for the win and one for the place. You did place the bets in quick succession. You placed a $40 win bet on Rojenbye and then reconnected with the betting agency to place a $20 place bet.

Rojenbye, which is the only horse you have, won at odds of 50/1 for the win and paid $6.50 for the place. Thus, you collected a total of $2,170, a profit in excess of $2,100. We might add that the horse started at $126 on the New South Wales TAB and apparently paid in excess of $90 on the South Australian TAB. Be that as it may, you had a handsome collect for a small outlay.

Your explanation for the breaches of the Rule is that you thought that you could have such a bet as long as you were backing your own horse. You did not realise that you could do this as a trainer, but were prohibited from backing your own horse if you were driving it. The Stewards did not challenge this explanation. Indeed, Mr Svanosio, appearing on behalf of the Stewards, described you as a person who was first licensed in 1979 and who has a very good record. We accept that you had the mistaken belief described.

Nevertheless, these were breaches of the Rule, which you should be familiar with. General deterrence is a factor which must be taken into account. Licensed participants are expected to know and understand the Rules.

Your situation is that you are a 69 year old widower. Your only income is a government age pension of approximately $940 per fortnight. You live in premises in the vicinity of Broken Hill and are making house and car payments totalling $250 per fortnight.

Rojenbye is the only horse that you train and/or drive. You normally compete at Broken Hill, where there is only one TAB meeting per year and approximately 10 non-TAB meetings, with limited prize money. You take your horse to Mildura from time to time if you consider it to have a chance.

You have various expenses associated with your horse, such as renting stables, paying for feed, shoeing, veterinary expenses and the like. You have very little money left over after this, but obviously the horse is a great interest for you. As stated, you have been in the industry a long time, are clearly well thought of by the Stewards and have a very good record. You should have known the Rule. We are of the view that a financial penalty should be imposed.

On Charge 1, the straight out bet, you are fined the sum of $500. On Charge 2, the place bet, you are fined the sum of $500, but that penalty is to be concurrent with the fine on Charge 1, the two charges overlapping to a considerable extent.

In other words, the end result is that you are fined the total sum of $500. A discussion with the Stewards may assist in relation to the method of payment.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal