7 April 2020

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MS KATE GATH**

**Date of hearing:** 26 March 2020

**Panel:** Judge John Bowman (Chairperson) and Judge Graeme Hicks (Deputy Chairperson).

**Appearances:** Mr Mark Hill appeared on behalf of the Stewards.

Ms Kate Gath represented herself.

**Charge:** Australian Harness Racing Rule (AHRR) 149(2) states “A person shall not drive in a manner which in the opinion of the Stewards is unacceptable”.

**Particulars of charge:** Ms Kate Gath, driver of Arden Voyager was found guilty of a charge under rule 149(2) in that when driving Arden Voyager Kate Gath failed to shift wider on the track to obtain clear running before being covered by Tiwanaku (Greg Sugars) at approximately the 450m, and then directing her drive inwards towards the peg line resulting in Arden Voyager being held up losing momentum, before then directing her drive outwards into clear running near the 300m. In assessing penalty Stewards took into account the relevant matters as per the HRV Minimum Penalty Guidelines, and Kate Gath’s not guilty plea. Stewards accordingly imposed a 4 week suspension of her licence to drive in races to commence at midnight 29th January 2020.

**Plea:** Not Guilty

**DECISION**

Ms Kate Gath, you have pleaded “Not Guilty” to a breach of rule 149(2). It concerns your drive of Arden Voyager in Race 7 at Melton on 20 January 2020. The Stewards have alleged that you drove in an unacceptable manner.

The essence of the charge is this. Your horse was a short-priced favourite. It originally settled one off the peg line towards the rear of the field. After passing the winning post with a lap to go and on the turn out of the straight, you improved. In the back straight you were sitting fourth or fifth one horse off the peg line and behind a horse driven by Mr Caldow, which was in the breeze. You maintained this position for almost the length of the back straight. It may be Mr Caldow’s horse was a little wider than it might have been, but you continued to be virtually directly behind it and with no sign of your horse hanging to any noticeable extent. Mr Sugars was behind you and, for most of the back straight, not much wider. There was ample space for you to pull out from behind Mr Caldow without causing interference to Mr Sugars. However, you did not do this. When it seemingly became apparent to Mr Sugars that you were not going to move out, he went past you, leaving you behind Mr Caldow and the horse on his inside. We might add that, by this time, your horse was in fact on the peg line.

After Mr Sugars had got to the outside of the horses ahead of you and swinging for home, you pulled out very sharply, virtually to 4 or 5 horses wide. It was too late. Mr Sugars had broken away. Your horse finished strongly to be narrowly beaten by Mr Sugars by a margin of 1.2 metres, with 7.9 metres to the third horse.

The essence of the Stewards case is that by sitting behind two horses for most of the back straight and not pulling out and by allowing Mr Sugars to go past you in full flight, you effectively cost your horse the race.

Your explanation and evidence today focussed quite considerably on the allegation that your horse hung throughout the race and was found the next day to be lame. We do not consider these to be adequate excuses. Your horse may have hung at times, but not to any great extent. It ran in a straight line down the back straight and was able to be turned very sharply and effectively to get around Mr Caldow and another driver, approaching and on the home turn, and then finished very strongly and virtually in a straight line. For much the same reason, we do not accept that lameness detected the following day played any great role in things. A veterinary examination after the race detected no lameness and there was no obvious evidence of it during the race.

In summary, we are comfortably satisfied that the charge has been made out. We shall hear the parties on the question of penalty.

**PENALTY**

In relation to penalty, we have heard the submissions of the parties. Ms Gath, we accept that you have an outstanding and exemplary record in harness racing, having had in excess of 7,000 drives, and you have had many, many winners, some of major races.

With offences such as this, general deterrence must be born in mind. Drives must be of an acceptable nature. Public confidence in harness racing is very important.

For these reasons a penalty of suspension must be imposed. However, referring again in particular to your outstanding record, we are of the view that a deduction of 1 week is appropriate. Accordingly, the appeal is upheld and the penalty varied to one of 3 weeks suspension.

Mark Howard
Registrar, Victorian Racing Tribunal