18 February 2022

**DECISION**

**RACING VICTORIA**

**and**

**KYLE HOCKING**

**Date of hearing:** 14 February 2022

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

**Appearances:** Mr Sam Cochrane appeared on behalf of the Stewards.

Mr Kyle Hocking represented himself.

**Charge:** Australian Rule of Racing (“AR”) 211(1) states:

(1) A rider must ensure that his or her horse does not carry more than 0.5kg in a race over the weight that it is required to carry.

**Particulars of charge:** Kyle Hocking was fined $300.00 under the provisions of AR 211(1) for weighing in excess of 0.5kg over his permitted weight.

**Plea:** Guilty

**DECISION**

1. On 5 September 2021, Mr Kyle Hocking rode “Stately Star” in Race 3 at Casterton. The horse finished second in the event and was beaten by half a length.

2. Before the race, Mr Hocking weighed out at 56.3 kgs. After weighing out, Mr Hocking altered his boots in order to ride with spurs. This resulted in an extra 0.7kgs of weight that the horse carried in the race. After the race Mr Hocking weighed in at 57kgs.

3. Australian Racing Rule (“AR”) 211(1) states that a rider must ensure that he or she does not carry more than 0.5 of a kilogram in a race over the weight the horse was required to carry. In the race, Stately Star was required to carry 56kgs.

4. After conducting an inquiry on the day of the race, the Stewards charged Mr Hocking with breaching AR 211(1). He pleaded guilty without hesitation. In mitigation of the sentence he referred to his unblemished record in offences of this kind. Stewards fined him $300, which appears to be the most common penalty given for cases of this kind by Stewards.

5. Mr Hocking has appealed against the severity of the sentence. He referred to his early guilty plea and good record. In addition, he was remorseful before the Tribunal, and we note that he is a person who has had difficulties re-establishing his career after trauma arising from a race day injury.

6. Mr Hocking was correct in assuming that his early guilty plea and good record were relevant to his penalty. The Stewards were also correct in taking the matter seriously, as Stately Star finished second in the race. However, the Stewards did not address the particular circumstances of Mr Hocking or the effect on him of any financial penalty.

7. Mr Hocking submitted that the penalty was too high in all circumstances, given that it was his first offence of this nature, that he pleaded guilty at the first opportunity and that he co-operated with the Stewards. He also referred to his dire financial circumstances, including his spartan living arrangements.

8. The Stewards referred to the importance of the fact that the horse was placed second and was beaten only a half length. The standard penalty in Victoria for an offence of this type was said to be $300. Higher penalties have been imposed in other cases where the horses concerned were placed. Penalties for this offence appear to be higher in Victoria than elsewhere.

9. In all the circumstances, particularly given Mr Hocking’s strained financial situation, the Tribunal is of the view that the penalty imposed by the Stewards should be set aside. The new penalty will be a $300 fine, $150 of which is suspended for a period of 12 months pending no further transgression of Rule 211(1) in that period. This penalty more appropriately reflects the unusual and possibly unique financial circumstances of Mr Hocking.

Mark Howard
Registrar, Victorian Racing Tribunal