31 March 2021

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**LISA MILES**

**Date of hearing:** 19 March 2021

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Michael Ross appeared on behalf of the Stewards.

Ms Angela Eeles represented Ms Lisa Miles.

Ms Lisa Miles appeared.

**Charge:** Australian Harness Racing Rule (“AHRR”) 231(2) states:

A person shall not misconduct himself in any way.

**Particulars of charge:** Stewards inquired into an altercation and verbal exchange between drivers Laura Crossland and Lisa Miles subsequent to the running of Race 9 when exiting the track and entering the stabling area. After considering the evidence, Ms Miles pleaded guilty to a charge under AHRR 231(2) for misconduct, in that she misconducted herself by engaging in a loud verbal exchange that involved inappropriate language with Ms Crossland and despite two interjections from the starter, continued that exchange into the stable complex. When assessing penalty stewards took into account Ms Miles’ relatively clear record in relation to conduct breaches over a long period of time, her guilty plea and the circumstances surrounding the incident and accordingly imposed a fine of $1000 of which $500 was fully suspended for 2 years on the condition that Ms Miles does not breach the conduct rules in that period of time.

**Plea:** Not guilty

**DECISION**

1. Ms Miles is a registered harness racing driver. She competed in Race 9 at Shepparton on 24 September 2020. After the race she had a discussion with another driver, Ms Laura Crossland, about her driving tactics. Ms Miles was in the one out and one back position and Ms Crossland attempted to force her horse between the horse on the inside and Ms Miles’ horse. Ms Miles communicated to Ms Crossland words to the effect that there was no room to which Ms Crossland replied “who the fuck do you think you are”? Ms Miles responded with the word “pardon” and used that word each time Ms Crossland continued her diatribe of foul abuse directed at Ms Miles.
2. The “discussion” between Ms Miles and Ms Crossland continued after they exited the track, all the way to the stabling area. Near the stabling area, Ms Crossland said to Ms Miles “I will stab you between the legs and kill you, you fucking whore”. Ms Crossland claims Ms Miles called her a “slut”. Ms Miles denies that she used foul language in return and says that at all times she was trying to defuse the situation.
3. Stewards conducted an inquiry into the incident between Ms Miles and Ms Crossland at Shepparton on 30 September 2020. Harness Racing Victoria (“HRV”) starter, Mr Jason Fino, who was present on 24 September 2020 at Shepparton and observed Ms Miles and Ms Crossland having words, gave evidence before the Stewards. He said that after the running of the race he was positioned where the horses exit the track. He observed the two drivers speaking to each other as they progressed to the weigh in area and observed the discussion to be “a little bit heated”. He said that all he heard was Ms Crossland talking to Ms Miles and that it got to the stage that there was swearing and he screamed out to Ms Crossland to “stop” and “calm down” as they approached the stabling area. He then asked Ms Crossland to tone it down. He said that he then went over to Ms Miles and said the same to her. Ms Miles become short with Mr Fino because she had not said anything other than words to attempt to defuse the situation. Ms Crossland’s evidence that Ms Miles called her a “slut” is questionable as Mr Fino did not hear it and Ms Crossland’s evidence in that regard has no independent support and should be treated with caution.
4. Mr Fino gave evidence that Ms Crossland called Ms Miles a “whore” and that Ms Crossland was doing “all the talking”. He said that there was a verbal exchange which was loud enough for him to hear. There is no evidence, apart from Ms Crossland’s claim that Ms Miles called her a “slut”, that Ms Miles part in the exchange included any misconduct. When someone is abusing you, you are entitled to engage in conversation in reply without getting into the gutter with the abuser. To merely stand up for yourself in the situation without using appalling language is not misconduct. Clearly it would have been better for Ms Miles to ignore Ms Crossland, but her actions in contributing to a verbal exchange did not, on the evidence, amount to misconduct.
5. HRV representative, Mr Michael Ross, noted that there was an exchange and that Ms Miles pleaded guilty before the Stewards. That guilty plea was based on a misunderstanding by Ms Miles as to participation in a verbal exchange constituting misconduct. She was within her rights to withdraw her guilty plea on appeal.
6. We find that Ms Miles is not guilty of an offence of breaching Australian Harness Racing Rule (“AHRR”) 231(2) which says that a person must not misconduct himself in any way. Ms Miles did not misconduct herself. The appeal is allowed. The finding of guilty in relation to the charge under Rule 231(2) is set aside and the $1,000 fine penalty with $500 suspended is set aside.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal