10 February 2021

**DECISION**

**RACING VICTORIA**

**and**

**MITCH AITKEN**

**Date of hearing:** 2 February 2021

**Panel:** Judge John Bowman (Chairperson) and Mr Des Gleeson.

**Appearances:** Mr Robert Cram appeared on behalf of the Stewards.

Mr Des O’Keeffe represented Mr Mitch Aitken.

**Charge:** Australian Rule of Racing (“AR”) 129(2) states:

A rider must take all reasonable and permissible measures throughout the race to ensure that the rider's horse is given full opportunity to win or to obtain the best possible place in the field.

**Particulars of charge:** 1. You are, and were at all relevant times, a jockey licensed by Racing Victoria.

2. On Saturday 19 December 2020, you rode Heavenly Emperor (NZ) (the Horse) in Race 4, the #Lovethehorse Trophy 1600m BM84 at Flemington (the Race).

3. During the Race:

1. From the start to passing the 1400m, you rode the Horse vigorously at an extremely fast pace to a three wide position without cover outside the two leading horses.
2. Between approximately the 1400m and 1200m, you continued to ride your Horse along in a three wide position without cover outside the two leading horses at an extremely fast pace, during which time you failed to restrain the Horse and position it behind Skiddaw to give it cover and respite (which was a reasonable and permissible measure to take).
3. Between approximately the 1200m and 1000m, you continued to ride the Horse along in a three wide position without cover outside the two leading horses at an extremely fast pace, without making any attempt to slow your speed to a more sustainable pace to give the horse some respite and enable it to finish the Race off (which was a reasonable and permissible measure to take).

4. As a result of your conduct in the Race as outlined in particulars 3(b) and/or 3(c), you did not ensure you gave the Horse full opportunity to win or to obtain the best possible place in the field.

**Plea:** Guilty

**DECISION**

Mr Mitch Aitken, you have pleaded guilty to a breach of Australian Rule of Racing (“AR”) 129(2). The charge involves your ride on “Heavenly Emperor” at Flemington in Race 4 on 19 December 2020.

In light of your guilty plea, the Stewards have indicated that a penalty of 3 weeks suspension is appropriate. We would acknowledge that this is in accordance with penalties imposed in recent cases. We would emphasise that you have pleaded “guilty” from the outset, from as soon as you were notified of the charge.

You have had the benefit of the experience and wisdom of Mr Des O’Keeffe, who has been assisting you and who appears on your behalf. He is of the view that a penalty of suspension for 3 weeks is fair and reasonable and reflects an appropriate reduction or discount for a guilty plea. We agree.

There is no suggestion or question of integrity in relation to your ride on Heavenly Emperor. We bear that in mind. AR 129(2) is a very important Rule. Breaches of it can impact upon the image of racing. It is a Rule which relates to the image of racing generally and to the concept of a level playing field.

However, we accept that what occurred was a poor ride, perhaps because you had not ridden for a period and you were “rusty” and lacked confidence. However, we repeat that no issue of integrity is involved.

Bearing in mind the circumstances generally and particularly in relation to your situation as you re-establish yourself in South Australia, we agree with the Stewards and Mr O’Keeffe that a penalty of 3 weeks suspension is appropriate. The suspension is to commence immediately.

Kathleen Scully  
Assistant Registrar, Victorian Racing Tribunal