9 September 2019

**DECISION**

**HARNESS RACING VICTORIA**

**and**

**MS MONIQUE BURNETT**

**Date of hearing:** 2 September 2019

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall, (Deputy Chairperson) and Mr. Robert Abrahams

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

 Ms Burnett represented herself.

**Charge:** Australian Harness Racing Rule 165 (1)(b) states “From the start till the first turn, and until reaching the next straight, a driver shall not move the driver’s horse towards the inside running line unless the rear of the driver’s sulky is at least one metre clear of the extended front legs of the horse racing in the next position closer to the inside running line.

**Particulars of charge:** The particulars of the charge being that she allowed Cheeky Major to shift in approaching the first turn when not sufficiently clear of the extended front legs of Highview Starzzz (Kevin Weidenbach Jnr) resulting in that gelding being checked by its driver when tightened for racing room and shifting inwards onto Yeah Tiz (Tony Xiriha) which was tightened and racing over marker pegs. In assessing penalty in accordance with the HRV Minimum Penalty Guidelines, Stewards took into account the degree of carelessness in this case which was considered to be low-range, Ms Burnett’s driving experience, the frequency in which Ms Burnett drives in races and that Ms Burnett had never previously offended under this rule. Ms Burnett licence to drive in races was suspended for a period of 2 weeks with the commencement date to be advised.

**Plea:** Not Guilty

**DECISION**

Ms Monique Burnett, you are appealing against a decision of the Stewards concerning Race 2 at Kilmore on 8 August 2019. You were driving Cheeky Major. Other relevant drivers of horses were Mr Kevin Weidenbach Junior, driving Highway Starzzz and Mr Tony Xihira, driving Yeah Tiz.

The Stewards allege that you breached AHRR 165 (1)(b) in that after the start and before the first turn you moved your horse towards the inside running line when your sulky was not at least one metre clear of the extended front legs of Highway Starzz, which was racing in the next position close to the running line. In turn, this caused tightening to Yeah Tiz, resulting in it going over the marker pegs.

You are contesting this. We have viewed the video several times and read the transcript of the Stewards interview with you.

We are of the opinion that the charge has been made out. The video clearly shows that you crossed Highway Starzzz when not the required distance clear of it, causing the driver to take hold and restrain his horse. Yeah Tiz was tightened and forced inside the marker pegs as a result. All of this occurred before the horse reached the next straight.

Further, in your interview with the Stewards on the day, you admitted that at the relevant time you were not a metre clear. We would refer to page 10 of the transcript.

In short, we find the charge proven and the appeal against conviction is dismissed. We shall hear the parties in relation to the penalty. This was then heard.

Unfortunately, it is a bit late for you to change your plea to “Guilty”. Whilst it is not automatic, such a plea may have resulted in a different penalty. You could have pleaded guilty to the charge and appealed the penalty only. However, any discount for such a plea is not available. We have heard what you have had to say and consider that, in all the circumstances, the penalty imposed by the Stewards was a fair and proper one. The appeal against the penalty is dismissed and the penalty stands. The suspension will start at midnight 2 September 2019.

Mark Howard
Registrar, Victorian Racing Tribunal